



Staff Report

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Report To:	Planning and Development Committee	
Date of Meeting:	October 23, 2023	Report Number: PDS-058-23
Submitted By:	Carlos Salazar, Director of Planning, and Infrastructure Services	
Reviewed By:	Mary-Anne Dempster, CAO	Resolution#:
File Number:		By-law Number:
Report Subject:	Proposed Land Division Process	

Recommendations:

1. That Report PDS-058-23, and any related delegations or communication items, be received for information.

Report Overview

On October 25, 2022, the Ontario Government introduced legislation under the More Homes, Built Faster Act (Bill 23), which put forward fundamental changes to the land use planning system in Ontario. Bill 23 achieved Royal Assent on November 28, 2022. For more information regarding the implications of Bill 23 and the Municipality's corresponding comments, refer to the previously prepared report [PDS-054-22.pdf](#).

Under Bill 23, the Region of Durham and six other regional governments were defined as "Upper-Tier Municipalities without Planning Responsibilities". One aspect of this change relates to local municipalities having approval authority over subdivisions, condominiums, land division, and part lot control exemptions. Accordingly, the Region of Durham has recommended the transfer of the approval authority for consent (land division) applications to the Region's area municipalities effective January 1, 2024.

The purpose of this report is to (i) introduce and summarize the basis for transitioning the responsibility of land division from the Region of Durham to the Municipality of Clarington, (ii) present the Region's recommended transition plan and (iii) provide Staff's preliminary considerations and options for Councils consideration.

1. Background

Legislative Background

- 1.1 Bill 23 achieved Royal Assent on November 28th, 2022. Proclamation of certain aspects of Bill 23 pertaining to several Planning Act amendments, including "Upper-Tier Municipalities without Planning Responsibilities," remain outstanding. Until proclamation has occurred (at a date still to be determined), the Region's planning function generally remains unchanged.
- 1.2 Bill 97, the "Helping Homebuyers, Protecting Tenants Act" was introduced on April 6, 2023, following which the former Minister of Municipal Affairs and Housing proposed that provincial facilitators be assigned to undertake an assessment of regional programs and services. The current status of the regional assessments, including the nature of the facilitators and the start date(s) is unknown. The Minister's eventual assessment of the Region may result in further changes to the Region's land use planning responsibilities.
- 1.3 On September 5th, 2023, at the Region's Planning and Economic Development Committee Meeting, Staff brought forth a recommendation to transfer the approval authority for consent (land division) applications to the Region's area municipalities effective January 1, 2024 (Report [#2023-P-22](#)).

- 1.4 The Region is of the opinion that under the current legislative and operational circumstances, it is appropriate that the Regional Land Division responsibilities be delegated to the Region's area municipalities at this time. The Region reports that the area municipalities have advised that they are equipped to assume the role.

Existing Land Division Process

- 1.5 For clarity, "consent" is the term used in the *Planning Act* when referring to the creation of new lots (i.e., severances), lot line adjustments, easements, rights-of-way, and permission for mortgaging or leasing parts of lots for more than 21 years.
- 1.6 Currently, the Regional Land Division Committee has the delegated authority for the granting of consents. Durham is unique within the Greater Toronto and Hamilton Area (GTHA) whereby Land Division responsibilities are assumed by the Regional Land Division Committee, with area municipalities simply commenting on applications. In other jurisdictions in the GTHA, consent responsibilities are assumed by local Committee of Adjustments (CofAs), with minor variances and related consent applications considered concurrently.
- 1.7 Regional Planning Division staff currently provide administrative support and technical advice to the Regional Land Division Committee through the Secretary-Treasurer and the Assistant Secretary-Treasurer. These duties currently include:
- 1.7.1. Assisting landowners and agents in submitting consent applications and administering the consent process in accordance with the provisions of the *Planning Act*,
 - 1.7.2. Scheduling of public meetings, giving Notice of Hearings, preparing and circulating meeting agendas and materials, taking minutes, recording decisions, processing appeals, overseeing clearance of conditions, and issuing consent certificates (stamping deeds);
- 1.8 Providing liaison among commenting agencies, the public, applicants, agents, and others involved in the process; and,
- 1.9 Technical review of consent applications and provides the Land Division Committee with an assessment of the application's conformity with Regional and provincial policy to assist the Committee in making its decision.
- 1.10 The Municipality currently has a commenting role in the land division process and strictly provides an assessment of the applications conformity with local policy, to assist the Committee in making its decision and impose any necessary conditions of approval.

1.11 The Region has indicated that municipalities should expect an average of two consent applications per month. The following table provides a breakdown of the Municipality’s consent applications by quantity and type in recent years:

Year	Severance (Lot Creation)	Lot Boundary Adjustment	Easement	Total
2023 (to date)	11	1	0	12
2022	20	1	1	22
2021	28	1	1	30
Total	59	3	2	64

2. Transition of Land Division

Regional Transition Plan

- 2.1 Under Section 54 of the Planning Act, the Council of an upper-tier municipality may by by-law delegate to the Council of a lower-tier municipality the authority to grant consents. Further, the Council of a lower-tier municipality may, by by-law, delegate the authority for granting consents to a committee of council, appointed officer or CofA.
- 2.2 The Region has proposed to convene its final Land Division Committee meeting in December 2023 and recommends that local CofAs be in a position to consider new consent applications at their regularly scheduled meetings as early as January 2024.
- 2.3 The Region has proposed that the last day for accepting applications to the Region’s Land Division Committee will be October 20th, 2023. New applications for consent will need to be filed with the area municipality commencing on December 1st, 2023. The by-law to delegate the authority to grant consent will be presented at the October 25th, 2023, Regional Council meeting.
- 2.4 Regional staff plan to transfer various documents to each of the area municipalities including sample letter templates, forms, and standard notices, etc. Additionally, Regional staff plan to provide training and support to area municipal staff commencing in October 2023, and then to local CofA members. Regional staff have confirmed they

- 2.5 will be available for ongoing support should any questions arise through the transition period.

Options for Council Consideration

- 2.6 The transition of consent granting authority to the Municipality constitutes a significant change to the existing land division process. There are several implications that this report does not evaluate and that Staff will continue to explore in consultation with Regional and neighbouring municipal staff.
- 2.7 Based on the available information and Staff's preliminary review, there are three available directions for the new land division process.
- 2.8 The first option is consistent with Regional direction and will require Council to delegate the consent granting authority to the existing Committee of Adjustment.
- 2.9 Contrary to Regional direction, Staff are considering a second option which would consist of Council delegating consent granting authority to the existing Planning and Development Committee (PDC). Historically, Council has only delegated functions and / or authority to committees after exercising the authority and deeming it to be a function that is better suited to the respective committee. This secondary option would allow Council an opportunity to appreciate the scope of land division prior to delegating it to the CofA.
- 2.10 Lastly, Section 54 of the *Planning Act* allows for an appointed officer identified in the by-law by name or position to be delegated all or part of the consent-granting authority. Staff are exploring the potential efficiencies of delegating part of the consent granting authority to the Director of Planning and Infrastructure.

3. Financial Considerations

- 3.1 The transition of the responsibilities noted in Section 1.7 of this report indicates an increase in the workload of the Planning and Infrastructure's Development Review team. Additional review is required to determine whether existing resources can accommodate this change.
- 3.2 The transition of consent granting authority to Council and subsequently the PDC and/or CofA and/or appointed officer will increase the responsibilities of the relevant committee and/or officer and its supporting staff. Additional review is required to determine whether existing resources can accommodate this change.
- 3.3 Following the transition of consent granting authority, consent application fees will be determined and collected by the Municipality. Additional review by Staff with respect to application fees and revisions to the Municipality's fee by-law (Schedule E, By-law 2023-044) is required.

4. Concurrence

- 4.1 This report has been reviewed by the Deputy CAO/Treasurer who concurs with the recommendations.

5. Conclusion

- 5.1 The purpose of this report is to (i) introduce and summarize the basis for transitioning the responsibility of land division from the Region of Durham to the Municipality of Clarington, (ii) present the Region's recommended transition plan and (iii) provide Staff's preliminary considerations and options for Councils consideration.
- 5.2 Staff are supportive of achieving efficiencies and reducing unnecessary processes. Staff will continue to work closely with Regional and neighboring municipal staff to ensure efficiencies and knowledge-sharing throughout the transition.
- 5.3 Staff will continue to monitor and review the information on this matter as it continues to become available. We will report back with a detailed analysis of the available options for a new land division process and related costs for Council's consideration.

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