



## Staff Report

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<b>Report To:</b>	<b>General Government Committee</b>		
<b>Date of Meeting:</b>	December 4, 2023	<b>Report Number:</b>	PDS-068-23
<b>Submitted By:</b>	Carlos Salazar, Director of Planning and Infrastructure Services		
<b>Reviewed By:</b>	Mary-Anne Dempster, CAO	<b>Resolution#:</b>	
<b>File Number:</b>		<b>By-law Number:</b>	
<b>Report Subject:</b>	Land Division Process - Recommendation		

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### Recommendations:

1. That Report PDS-068-23, and any related delegations or communication items, be received;
2. That the By-law attached to Report PDS-068-23, as Attachment 1, to delegate the authority to grant consents to the Committee of Adjustment and to revise the Committee of Adjustment establishing By-law 2021-009 effective January 1<sup>st</sup>, 2024, be approved;
3. That the By-law attached to Report PDS-068-23, as Attachment 2, to amend Schedule 'E' of the Fee By-law 2023-044 to introduce applicable consent applications fees effective January 1<sup>st</sup>, 2024, be approved;
4. That Brad Whittle be appointed to the Committee of Adjustment effective January 1<sup>st</sup>, 2024, for a term ending December 31<sup>st</sup>, 2026 or until a successor is appointed;
5. That the Committee of Adjustment compensation be increased from \$53.66 to \$100.00 per hearing, effective January 1<sup>st</sup>, 2024; and,
6. That all interested parties listed in Report PDS-068-23, and any delegations be advised of Council's decision.

## Report Overview

On September 5th, 2023, at the Region's Planning and Economic Development Committee Meeting, Regional Staff brought forth a recommendation to transfer the approval authority for consent (land division) applications to the Region's area municipalities effective January 1<sup>st</sup>, 2024 (Report [#2023-P-22](#)). As proposed, the Municipality of Clarington will be taking on the responsibility of consent granting authority with its existing financial and staff resources.

On October 23<sup>rd</sup>, 2023, at the Municipality of Clarington's Planning and Development Committee Meeting, Staff brought forth an information report that introduced and summarized the basis for the transition of land division and provided preliminary considerations for Council's review (Report [#PDS-058-23](#)).

The transition of consent granting authority to the Municipality of Clarington will strengthen decision-making in the local context as it relates to land division and will provide opportunities for efficiency when processing consent applications.

The purpose of this report is to recommend the delegation of consent granting authority to the Committee of Adjustment and introduce the necessary by-laws to facilitate the Municipality exercising its consent granting authority effective January 1<sup>st</sup>, 2024.

## 1. Background

- 1.1 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. A proposal to create a limited number of new lots (generally three new lots or less) may proceed by way of a consent application, whereas proposals to create more than three new lots may require an application for a draft plan of subdivision.
- 1.2 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.
- 1.3 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 divisions, and part lot control exemptions. Until proclamation has occurred (at a date still to be determined), the Region's planning function generally remains unchanged. In anticipation of this change, 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.

- 1.4 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, imposes any necessary conditions of approval and prepares a Section 53 agreement, as needed. Taking on the consent granting authority at the municipal level will result in increased workload for existing Legal, Planning and Infrastructure and CofA resources.
- 1.5 Taking on the consent granting authority at the municipal level will also allow for land division to be considered in the local context, strengthening local government decision-making. As proposed, the CofA can expect an average of two (2) consent applications per month, the vast majority (92% based on a three-year review) of which are severance applications to facilitate lot creation.

## **2. Staff Considerations**

### **Committee of Adjustment Accommodations**

- 2.1 In order to ensure knowledge transfer from the Region's Land Division Committee to the CofA, Staff recommend that Brad Whittle, a Clarington resident and Clarington-appointed member of the Region's Land Division Committee, be appointed to the CofA. Mr. Whittle has expressed an interest in joining the CofA.
- 2.2 In order to ensure the CofA members are compensated for the additional work associated with reviewing an average of two (2) consent applications per month, Staff recommend an increase in the remuneration from the existing \$53.66 to \$100.00 per meeting, effective January 1<sup>st</sup>, 2024. The Municipality of Clarington has historically paid its CofA less than other municipalities in the Region of Durham and has only increased the compensation annually based on a percentage equivalent to the increases in the CUPE Collective Agreement. The proposed increase is representative of other municipalities in the Region of Durham and the GTHA beyond. Following the proposed increase, beginning January 1<sup>st</sup>, 2025, the compensation will be increased annually based on a percentage equivalent to the increases in the CUPE Collective Agreement.

### **Application Fees**

- 2.3 The *Planning Act* allows a Municipality to pass a by-law setting out a fee schedule for processing of planning applications. The fees collected are intended to recover the "anticipated cost" to the Municipality for processing development applications. The current fee schedule for Clarington does not consider the direct and indirect cost of processing consent applications.

- 2.4 The Municipality has retained Hemson Consulting Ltd. to assist the Municipality to conduct a comprehensive planning application fees review, in conjunction with the required 5-year Building Permit fees review. The scope of the comprehensive planning Fee By-law review will consider the process changes as presented in this report, pending Council's approval.
- 2.5 Until such time as the comprehensive planning application fee review is complete, Staff recommend an application fee of \$3,175.00 with additional discretionary fees of \$310.00 (pre-application meeting, as required), \$310.00 (tabling of an application), \$750.00 (for any additional circulation) and \$520.00 (for any additional CofA hearing). Given that the proposed fees will take effect January 1<sup>st</sup>, 2024, each of the proposed fees has been inflated by + / - 3% to account for inflationary increase that will also occur on January 1<sup>st</sup>, 2024.
- 2.6 The application fee of \$3,175.00 consists of rounding up Clarington's existing review fee (\$730.00 + 3%) and the Region of Durhams former application fee (\$1,350.00 + 3%) and stamping fee (\$1,000.00 +3%).
- 2.7 The foregoing does not include the existing Land Division 'Preparation of Section 53 Agreement' fee or review fees from external agencies (i.e., conservation authorities, the Region of Durham, etc.).

### **Transition**

- 2.8 The Region of Durham has delegated authority to the Councils of the area municipalities effective January 1<sup>st</sup>, 2024. Accordingly, the recommendations of Staff contained herein are proposed to be effective January 1<sup>st</sup>, 2024.
- 2.9 The Region will continue to be responsible for administering clearances and certificates for all consent applications approved by the Durham Region Land Division Committee prior to or in 2023.
- 2.10 Staff and the existing and proposed new CofA members are undergoing training with the Region of Durham and other area municipalities in anticipation of January 1<sup>st</sup>, 2024.
- 2.11 Staff are working towards having process updates, application materials, fees and other pertinent information updated to the new 'Land Division' webpage (replacing the former severances webpage) for public review and use by the end of December 2023.

### **3. Financial Considerations**

- 3.1 Throughout the proposed transition, Staff will continue to monitor whether additional financial or Staff resources are required to support the additional workload allocated to Legal Staff, Planning and Infrastructure Staff and CofA.

- 3.2 The proposed amendment to Schedule 'E' of By-law 2023-044 will permit the Municipality to collect application fees to facilitate the review and processing of consent applications.
- 3.3 The proposed increase to the compensation of the CofA members from \$53.66 to \$100.00 per meeting to account for the increased type and number of applications they have the delegated authority to approve and to be consistent with other area municipalities.

## **4. Concurrence**

- 4.1 This report has been reviewed by the Director of Planning and Infrastructure and Deputy CAO/Treasurer, who concur with the recommendations.

## **5. Conclusion**

- 5.1 It is respectfully recommended that Council approve the proposed amendments in order to facilitate the transition of consent granting authority to the CofA and implement the necessary changes that will allow the Municipality to begin processing consent applications effective January 1<sup>st</sup>, 2024.

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Attachments:

Attachment 1 – Delegation and amendment to By-law 2021-009  
Attachment 2 – Amendment to Schedule 'E' Fee By-law 2023-044

Interested Parties:

Committee of Adjustment Members