

STAFF REPORT

THE CORPORATION OF THE TOWN OF COBOURG



Report to:	Mayor and Council Members	Priority:	<input type="checkbox"/> High <input checked="" type="checkbox"/> Low
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Meeting Date:	November 20, 2023		
Report No.:	Planning and Development-175-23		
Submit comments to Council			

Subject/Title: Request to Delegate Certain Planning Functions to Staff

RECOMMENDATION:

THAT Council receive this report for information; and,

FURTHER THAT the By-law included as **Attachment 1** be presented to Council for approval to delegate certain planning functions to Staff as noted in the By-law.

1. STRATEGIC PLAN

The recommendation in this report aligns with the strategic priority areas of the 2023-2027 Council approved Strategic Plan. Specifically, delegation of certain planning functions will assist in creating a “Thriving Community” by getting units through the approval processes more quickly and efficiently. Staff delegation is also an example of “Service Excellence” whereby minor and technical planning functions are completed at a staff level thereby removing lengthy reporting and approval processes that are routine in nature. The delegation of these items will build capacity to deliver Planning functions more efficiently.

2. PUBLIC ENGAGEMENT

This staff report was published on the Committee of the Whole Agenda the required minimum of 48 hours before the meeting date and available to the public for viewing.

3. PURPOSE

The purpose of this report is to request certain planning services be delegated to the appropriate planning staff to assist in service delivery.

4. ORIGIN AND LEGISLATION

Sections 9, 10, 11 and 23.1 of the *Municipal Act, 2001*, S.O. 2001 c. 25, as amended, authorize a municipality to delegate its powers and duties under this or any other Act to a person or body and set out certain restrictions under which a municipality may delegate its powers and duties.

5. BACKGROUND

Delegation of straightforward and simple staff activities has been a topic of discussion within the Planning & Development Division, and across the organization, in recent years.

Staff delegation recommendations were contained in KPMG's Service Delivery Report from November 2020 (specifically the delegation of Site Plan Approval) and touched on in the Organizational Review from October 2021.

KPMG noted constraints and capacity issues related to the ways of working at the Town, and while the proposed staffing additions are intended to address the capacity gaps and issues, there were also changes recommended to the Town's internal processes and Policies to right size decision making processes and improve the operating processes and ways of working. The review recommended a delegation of authority by-law. While a corporate wide delegation of authority by-law was anticipated to be brought forward in 2022, staff have not had the capacity and resources to do so.

As an interim measure and given current development pressures and legislative changes faced within the Development Review portfolio, Planning Staff are recommending these 5 measures now, while the broader corporate delegation project continues.

In February 2022, the Province of Ontario released recommendations from the Housing Affordability Task Force, including 55 high-level recommendations to help address housing supply and affordability issues in Ontario. One of the recommendations, which later became legislated through Bill 109, is to delegate authority to municipal staff for Site Plan approval. Town By-law #064-2022 was passed to implement this, outlined further below.

Further, recommendation #19 from the Housing Affordability Task Force was to implement fee refunds as part of Bill 109, which became in effect as of July 1,

2023. Bill 109 and the *More Homes for Everyone Act, 2022* amended the *Planning Act* to require municipalities to refund Zoning By-law Amendment and Site Plan Approval application fees in a phased approach if no decision is made or no approval is issued within the legislated timelines. Zoning By-law Amendment applications are required to have a decision made within 90 days (or 120 days if concurrent with an Official Plan Amendment application) and Site Plan approval is required within 60 days or refunds of application fees are required. Any applications received after July 1, 2023 are subject to these regulations.

[Housing Affordability Task Force report | ontario.ca](#)

In June 2023, the Ontario Professional Planners Institute (OPPI) provided their “Top 13” recommendations as a planning profession in an effort to tackle the housing supply and affordability crises. Recommendation #6 calls for increased delegation to Planning Staff. The recommendation specifically notes removal of holding provisions and part lot control, which Cobourg Staff are requesting as part of the delegated services.

[OPPI Provides Solutions to Get Housing Built Faster in Ontario | OPPI \(ontarioplanners.ca\)](#)

Increasing the use of delegation has several benefits for municipalities, including but not limited to:

- Freeing up Council time to focus on strategic priorities;
- Freeing up municipal staff time preparing detailed Council reports on routine approvals;
- Avoiding unnecessary delays on planning applications that implement council-approved policies and regulations;
- Allowing Council to defer to judgement of professional staff for matters which are straightforward and technical in nature; and,
- Maintaining accountability through delegation and reporting criteria outlined in delegation by-law.

The below approvals have previously been delegated to Planning Staff:

- By-law #067-2009 delegates to the Director of Planning Development and the Manager of Planning Services the authority to:
 - Sign final approvals for plans of subdivision and condominium descriptions or amendment to condominium descriptions upon

- satisfaction of all draft conditions and upon receiving approval from Council; and,
 - Exempt from the provisions of Section 51 and 51.1 of the *Planning Act*, any condominium description, or any amendment to a condominium description upon such terms and conditions as the Director or Manager (as the case may be) deems appropriate.
- By-law #064-2022 delegates to the Director of Planning and Development and the Director of Public Works the authority to grant final approval of a Site Plan Control application.

6. ANALYSIS

To assist with service delivery, the Planning Department is requesting Council delegate the following five (5) planning services to appropriate Planning Staff as outlined in the By-law:

1. Authorization of Mayor and Clerk to enter into agreements to satisfy any conditions of approval for any applications under the *Planning Act* (including severance agreements, pre-servicing agreements and subdivision agreements)
2. Deeming applications complete or incomplete (including Official Plan Amendments, Zoning By-law Amendments, Draft Plans of Subdivision)
3. Approve applications for Part Lot Control Exemption
4. Approve applications for Removal of Holding Provision
5. Approve an extension of a Draft Plan of Subdivision or Draft Plan of Condominium (also known as a Draft Plan Extension)

Schedule 'A' within the **Draft By-law (Attachment 1)** outlines the specific service to be delegated, who the service would be delegated to (the "Delegate"), the legislation where the delegated authority comes from, and the reporting instructions. Below is a breakdown of the five (5) delegation requests including what the delegated service is, what the current process is, and what the changes to the process would be if delegated to staff.

1. Authorization of Mayor and Clerk to Enter into Development Agreements

Currently, planning staff draft a staff report and by-law to authorize the Mayor and Clerk to enter into a variety of development agreements, including severances, subdivisions, pre-servicing, etc. Staff note the authorization to enter into Site Plan Agreements has already been delegated through By-law #064-2022. Although the staff report provides Council and the public with background and history of the approval of the development application in which the agreement applies, the agreement is usually a final step in the development approvals process. The application would have already been presented to Council or the Committee of Adjustment, as the case may be, where the public

would have been notified and had an opportunity to participate in the process through providing feedback, asking questions, etc. Development agreements are legal in nature and are subject to Town Staff and the Town Solicitor's final approval before the applicant is able to sign. A development agreement is required to be executed before site construction works can commence and a building permit can be issued. In some cases, the timing of the Council meeting cycles does not line up neatly with timelines for signing agreements, which can cause delays in the development approval and construction process.

Staff are requesting a delegation to enter into development agreements as required, subject to the reporting criteria outlined in the draft delegation by-law. The Draft By-law, included as **Attachment 1**, provides the authorization for the Mayor and Clerk to enter into development agreements. By approving this delegation item, it would save time in each applicable process since there would no longer be a need to provide a staff report outlining the background and approvals for the development and ensuring internal reporting deadlines are met. It is important to note the development would have already received the appropriate approvals through Council or the Committee of Adjustment, the agreement is the final step for approval, and agreements are vetted through the Town Solicitor for final approval.

2. Deeming Applications Complete or Incomplete

When an application is received, Planning Staff review it for completeness which entails reviewing items such as the Pre-Consultation Checklist, Official Plan policies, zoning provisions, submission materials, etc. Staff draft a report outlining the nature of the application, background information, a checklist of documents received, and provide their professional recommendation for whether the application should be deemed complete. Council reviews and provides a resolution. If the resolution is to deem the application complete, staff move forward in processing the application where the next step is application circulation / notices.

As per the *Planning Act*, a Notice of Complete Application and Notice of Public Meeting are mailed to neighbouring property owners within a certain distance of the subject lands (e.g., 120 metres for Official Plan Amendments, Zoning By-law Amendments and Plans of Subdivisions). A Notice sign is also posted on the property so those passing by are notified as well. In addition, the Notices are emailed to internal staff (who form part of the Development Review Team) and external commenting agencies (such as utilities, school boards, County of Northumberland, etc.). The Notices are also emailed internally to Members of Council and all Directors for information.

It is important to note the statutory Public Meeting is held before Council, where members of the public are welcome to attend or provide written or oral submissions regarding the application. The applicant presents their application to

Council, and the public, whereby details of the application and supporting documents are presented. Staff also endeavor to post the applicant's presentation on the public meeting agenda ten (10) days prior to the meeting.

Should this item be delegated, it would remove the requirement for a staff report and meeting internal reporting deadlines. Council would be delegating the deeming of complete or incomplete to the appropriate staff outlined in the Draft By-law, included as **Attachment 1**. Through staff's review of a new application, they are already reviewing for completeness in order to draft the staff report and make a recommendation to Council.

Although, if delegated, a staff report would no longer be presented to Council and the public, as part of the application intake process, staff will ensure the new GIS Development Dashboard for development applications, available to the public, is updated when a new application is received and subsequently deemed complete (or incomplete, as the case may be). The GIS Development Dashboard for development applications will provide another avenue of notice to the public. The GIS Development Dashboard also notes upcoming Public Open Houses and Public Meetings.

Further, various sections of the *Planning Act*, including subsection 22(6.1) for Official Plan Amendments, subsection 34(10.4) for Zoning By-law Amendments, and subsection 51(19.1) for Plans of Subdivision, prescribe the step of deeming an application complete or incomplete within a thirty (30) day timeline, or the applicant can file an appeal to the Ontario Land Tribunal (OLT). There have been cases where the timing of Council Meetings and internal reporting deadlines do not line up neatly with the timing of when an application is received. In order to ensure the 30-day timeline under the *Planning Act* is met, staff are requesting the deeming of applications complete or incomplete be delegated to planning staff as outlined in the Draft By-law, included as **Attachment 1**.

3. Approve Applications for Part Lot Control Exemption

Section 50 of the *Planning Act* allows a municipality to pass a by-law that exempts lands within a Registered Plan of Subdivision from the *Planning Act's* Part Lot Control regulations. Part Lot Control is another form of land division in addition to Plans of Subdivision and Consents. Most commonly in Cobourg, Part Lot Control Exemption is used for the division of semi-detached and townhouse lots from a block within a Plan of Subdivision. These requests are usually submitted after foundations are poured since this makes it easier to determine accurate property boundaries between units and their shared walls/foundations.

Currently, the applicant is required to submit an application form, fee, draft Reference Plan, and Lot Area and Frontage Certificate from the Ontario Land Surveyor. Planning Staff review the request and ensure the proposal qualifies for relief from Part Lot Control. Staff ensure the proposed lot areas and frontages

comply with the zoning provisions and are in accordance with the approved lotting plan (i.e., Plan of Subdivision). After Staff are satisfied with the request, a Staff Report and By-law are drafted and presented to Committee of the Whole and Council. This process has structured corporate deadlines to adhere to; otherwise the report and by-law cannot be advanced, which may cause development delays, especially for scheduled transfers/closings of lands to new property owners. Part Lot Control Exemption is among the final steps in the process before land is transferred to the new owner and delays can be both costly and disruptive.

Planning Staff complete their professional review of the application, supporting materials, and its merits for Part Lot Control Exemption. It is important to note the majority of applications for Part Lot Control Exemption have gone through a public process and have been approved by Council (i.e., Plans of Subdivision). So far in 2023, Cobourg has received three (3) applications for Part Lot Control Exemption. Since these applications are administrative and legal in nature, they typically don't garner much discussion at Council.

If Council delegates this service, Staff would draft a By-law for the next available Council agenda for approval. Any applications that are controversial and proposed to be denied by Staff would be presented to directly to Council. Additionally, Staff are able to present a yearly report to Council on the number of Part Lot Control Exemptions requested and approved with high-level details of the applications.

4. Approve Applications for Removal of Holding Provision

Section 36 of the *Planning Act* authorizes municipalities to apply the Holding Provision to an amending zoning by-law to delay development of the site until specific conditions are met. Holding provisions may be applied for items such as ensuring the orderly stage of development, confirmation of adequate infrastructure and community services, ensure the execution of legal agreements, approval of subdivision plans and/or approval of any supporting studies. The most common use of the Holding Provision within Cobourg is to ensure appropriate servicing is available and to ensure appropriate legal agreements are entered into.

When the conditions of the Holding Provision have been met, the "H" can be removed and the property developed. Currently, the applicant is required to submit an application form, fee, and supporting documents showing how the conditions have been met. After Staff's review and concurrence that the conditions have been satisfied, a Staff Report and By-law are drafted to remove the Holding Provision and presented to Committee of the Whole and Council. Similar to applications for Part Lot Control Exemption, this process has structured corporate deadlines to adhere to; otherwise, the report and by-law cannot be advanced, which may cause development delays, especially for issuing building

permits. Since each Holding Provision contains specific criteria and conditions to be met, delegating this approval to Planning Staff is one measure Council could take to reduce delays associated with development approvals, while still protecting the interests of the municipality.

Planning Staff conduct their professional review of the conditions, criteria, and supporting material and ensure the timing of the application is appropriate. It is also important to note the majority of applications which contain a Holding Provision have previously been through the public process and approved by Council (i.e., site-specific Zoning By-law Amendment). So far in 2023, Cobourg has received seven (7) requests for Removal of a Holding Provision. Since these applications are administrative in nature, they typically don't garner much discussion at Council.

If Council delegates this service, Staff would draft a By-law for the next available Council agenda for approval. Additionally, Staff are able to present a yearly report to Council on the number of Removal of Holding Provisions requested and approved with high-level details of the applications.

5. Approve Extension of a Draft Plan of Subdivision or Draft Plan of Condominium (Draft Plan Extension Requests)

Section 51(33) of the *Planning Act* authorizes the municipality to extend the lapsing date for draft plan approval provided the extension occurs prior to the expiry of draft plan approval. When an application is received, staff circulate the request and current draft plan conditions to appropriate departments and agencies for their review. Departments and agencies comment on if they have any concerns with the extension request and if their draft plan conditions are to be updated. Staff prepare a report outlining the details of the application, its history, why there is a need for an extension to fulfill the draft plan conditions, details of the updated draft plan conditions and a professional recommendation for if the extension and updated conditions should be granted. Council provides a resolution and if granted, staff circulate the new conditions with the new lapsing date to the application and appropriate departments and agencies.

Staff are requesting Council delegate draft plan extension requests to planning staff. The Draft By-law, included in **Attachment 1**, outlines reporting criteria including presenting controversial applications which are proposed to be denied to Council.

The change to the process would remove the requirement for a staff report and meeting internal reporting deadlines. Staff will maintain the circulation and notification process as well as provide their professional review of the request and determine if the request is appropriate. It is important to note the original Draft Plan Approval for the Plan of Subdivision or Plan of Condominium would have previously been approved by Council, after appropriate public consultation

occurred. Draft plan extension requests are requested due to timing constraints for satisfying conditions through meeting technical requirements. There are very few instances where draft plan extension requests have not been granted. Additionally, the Province has amended the *Planning Act* to permit municipalities to deem draft plan approvals not to have lapsed if certain criteria are met. This means that even if a draft plan approval lapses without final approval being granted, the municipality may reinstate the application to allow it to continue fulfilling conditions of draft plan approval as if the approval did not lapse.

For all of the above proposed delegated services, Planning Staff will bring forward any applications which are proposed to be denied to Council. Additionally, Planning Staff will provide a yearly report on applications to keep Council and the public informed. The GIS Development Dashboard for development applications will also be up and running soon and available to the public.

7. FINANCIAL IMPLICATIONS/BUDGET IMPACTS

Although the Fee By-law is proposed to be updated, staff do not anticipate any significant financial impacts of these processes. By delegating these services, it would provide improved efficiencies in the department and the development approvals processes.

8. CONCLUSION

Staff are requesting the delegation of the five (5) planning services to improve service delivery through various development approvals processes. By delegating services to staff, it frees up Council time to focus on strategic priorities and avoids unnecessary delays on planning applications and routine approvals which implement Council-approved policies and regulations. The delegated services would be subject to the reporting criteria outlined in the Draft By-law, included as **Attachment 1**, including yearly reporting on applications, and presenting controversial applications proposed to be denied to Council. Council also has the authority to change the delegation by-law at any time.