

To: COUNCIL

Meeting Date: 12/5/2023

Subject: Amending and Applying Delegated Authority By-law 42-01

Submitted By: Sylvia Rafalski-Misch, Manager of Development Planning

Prepared By: Laura Dewar, Supervisor of Development Planning

Report No.: 23-260-CD

File No.: C11

Wards Affected: All Wards

RECOMMENDATION(S):

THAT Report 23-260-CD Amending and Applying Delegated Authority By-law 42-01 be received.

AND THAT for the purpose of implementing By-law 42-01, and pursuant to Section 1. f), “in principle” shall mean a conditional approval granted by the Chief Planner, which becomes final upon the adoption of a By-law by Council.

AND THAT all future By-laws brought to Council for adoption under Delegated Authority By-law 42-01 shall not be accompanied by a staff recommendation report.

AND THAT Council delegate approval authority to the Chief Planner for lifting of reserves in principle where the reserve is being opened as public highway, pursuant to Section 207(45) of the Municipal Act, as amended.

AND FURTHER THAT Council approves the proposed By-law in Appendix C to further delegate lifting of reserves in principle, where the reserve is being opened as public highway, to the Chief Planner or their designate.

EXECUTIVE SUMMARY:

Purpose

To recommend that Council delegate approval authority to the Chief Planner for lifting of road reserves in principle only where the lands are being opened as public highway, through an amendment to By-law 42-01.

Key Findings

This recommendation, and the consistent utilization of the Delegation of Authority By-law 42-01, will support the objectives of Bill 109 to streamline approvals and the City's Municipal Housing Pledge by expediting approval timelines to accelerate housing supply across the City of Cambridge.

Financial Implications

All applications fees associated with lifting of road reserves are borne solely by the Applicant.

STRATEGIC ALIGNMENT:

☒ Core Service

Program: Development Approvals

Core Service: Process Applications

The delegation of approval authority for straightforward and technical classes of applications to the Chief Planner results in more efficient use of Council and Administration's time, improved service delivery to the development community, and expedited approval timelines.

BACKGROUND:

In 2001, Cambridge City Council passed By-law 42-01 which delegated approval authority from Council to the Commissioner of Planning Services for a number of applications and requests, governed by the Planning Act, Heritage Act and Municipal Act, including removal of holding provisions in principle and exemptions from part lot control in principle.

Since this By-law was passed, delegation of authority for these applications has rarely been used. The reason is related to the current practice of requiring staff recommendation reports to accompany the adopting by-laws which eliminates the streamlining benefits of the delegated authority, placing the approval authority back with Council.

As a result of legislative changes in 2022 brought about by Bill 23, More Homes Built Faster Act and Bill 109, More Homes for Everyone Act, municipalities are under increased pressure to streamline approval processes, and accelerate housing supply to accommodate future population growth and address affordability. In March 2023, the City of Cambridge affirmed the Municipal Housing Pledge. The Pledge includes 8

actions and initiatives aimed at meeting the targeted goal of supplying 19,000 new homes across the City by 2031.

In alignment with the new provincial legislation and the City's Municipal Housing Pledge, the Chief Planner will be using this pre-existing delegation of authority for all future removal of holding provisions and exemptions from part lot control applications.

For clarification, where "in principle" is referenced in By-law 42-01, it shall mean conditional approval is granted by the Chief Planner, and approval becomes final upon the adoption of a by-law by City Council. The primary difference between approval authority remaining with Council and approval being delegated to the Chief Planner is a staff report will not accompany the adopting by-law where approval authority has been delegated, but rather a simplified staff memorandum. This will shorten approval timelines for those processes with delegated "in principle" approval by approximately 2 weeks.

As another opportunity to expedite approval timelines for new housing construction, staff recommend Council delegate approval authority to the Chief Planner for lifting of road reserves where the reserve is being opened as public highway. A proposed By-law to Amend Delegation of Authority By-law 042-01 is contained in Appendix C to this report.

ANALYSIS:

Current Legislation & Approval Processes

The following is a brief explanation of holding provisions, part lot control and road reserves.

Holding Provisions

Section 36 of the Planning Act allows municipalities to apply holding provisions to areas or specific properties to restrict use of land and/or development of land until such time as specific conditions are satisfied. The City's Official Plan is required to set out policies regarding the use of holding provisions. The Act requires a decision to be made on applications to remove holding provisions within 90 days of deeming the application complete, after which time the Applicant may appeal the application to the Ontario Land Tribunal. The review of such applications is typically very technical in nature, requiring specific conditions or criteria as set on in the associated holding by-law to be satisfied, prior to passing a by-law to remove the holding. Examples include filing a Record of Site Condition, completion of technical studies, road improvement, servicing updates and/or securing agreements.

Currently, there are 174 individual properties in the City of Cambridge that are subject to

a holding provision. Delegating By-law 42-01 authorizes the Chief Planner to approve applications for removal of holding provisions, subject to the adoption of a by-law by Council.

Part Lot Control

Section 50(28) of the Planning Act provides that part of a lot on a registered plan of subdivision cannot be transferred from one landowner to another without the approval of the municipality. Part-lot control has the effect of preventing the division of land in a registered plan, other than that allowed for in the approved plan of subdivision, without further approvals.

Municipalities may by by-law, exempt certain lands within a registered subdivision from part lot control, thereby allowing the further dividing of that lot or block. This type of exemption is particularly appropriate and useful for the creation of lots for new semi-detached or townhouse dwellings from a single larger lot or block, avoiding the need to apply to the Committee of Adjustment for approval of multiple consent applications. For example, to subdivide a lot or block to create 6 new lots for adjoining freehold townhouse units would require 5 separate consent applications, whereas a single part lot exemption can have the same affect of lot creation.

The Delegating By-law currently authorizes the Chief Planner to approve applications for exemptions from part lot control, subject to the adoption of a by-law by Council.

Road Reserves

A municipality may require a reserve of land along the street frontage or perimeter of a property that is deeded permanently or temporarily to a municipality, as a condition of a subdivision or site plan approval. This reserve is typically one foot in width and has the effect of denying a property access to a public street, which prevents the issuance of a building permit. The reserve is used to control development until such time as various conditions are met or to prohibit development on lands that are not yet scheduled for development. Once the conditions have been satisfied, an application may be made to request that the City "lift" the requirement for the reserve, by adding it to the public highway lands, giving the property owner direct access to a public street. The lifting of these reserves typically is achieved by dedicating the lands as public highway (i.e. the lands form part of the street), by way of a By-law adoption by Council.

- As another opportunity to expedite approval timelines for new housing construction, staff recommend Council also delegate approval authority to the Chief Planner for lifting of road reserves only where the lands are opened as public highway, through an amendment to By-law 42-01.

Shortened Approval Timelines

The current approval process for removal of holding provisions, exemptions from part lot control and opening a road reserve as a public highway, involves the preparation of a staff report for Council consideration to accompany the adopting by-law. The staff report requires approximately 5 weeks to prepare and approve. Where the Chief Planner utilizes delegated authority to approve these applications “in principle”, only a staff memorandum will accompany the by-law, requiring only 3 weeks to prepare and approve.

EXISTING POLICY / BY-LAW(S):

Official Plan Policies

Section 10.7 of the City’s Official Plan currently includes the following policies regarding the use of holding provisions:

1. By-laws using the holding symbol “(H)” or “(h)” will specify the purpose for the holding symbol and will include a statement outlining conditions under which the holding symbol shall be removed by amendment to the City’s Zoning By-law. An amending bylaw to remove the holding symbol may be considered when the applicable issues are addressed:
 - a) piped municipal water supply and/or sanitary sewers are or will be made available and where arrangement has been made by execution of a servicing agreement;
 - b) sufficient servicing capacity is available and allocated to the property;
 - c) implementation of elements of subwatershed studies, such as natural features enhancement and buffering and natural channel design;
 - d) implementation of elements of Community Plans, Secondary Plans and Master Environmental Servicing Plans;
 - e) transportation analysis leading to improvements including widenings, extensions, interconnected access or new roadworks;
 - f) the implementation of the recommendations of an approved archaeological assessment;
 - g) the implementation of the findings of a Cultural Heritage Impact Assessment as prescribed in Section 4.10 of this Plan;

h) the implementation of the findings of a site specific market impact study demonstrating that there is adequate market available to support the use as a reasonably viable commercial undertaking, taking into account the extent to which the available market may already be served by the existing area;

i) the implementation of the findings of a noise study or acoustical assessment;

j) remediation of environmental contamination in a manner that meets applicable criteria set by the Province in conjunction with the requirements of any other approval authorities and as prescribed in Policy 3.B.6.2.1 of this Plan;

k) the approved recommendations of an Environmental Impact Statement, as prescribed in Section 3.A.8 of this Plan;

l) the implementation of stormwater management; and m) the phasing of land.

2. Removal of the holding symbol “(H)” or “(h)” will occur following fulfillment of the specified requirements by way of amendment to the City’s Zoning By-law. Notice of intent to remove the holding symbol “(H)” or “(h)” will be given in the manner and to the persons and public bodies and containing the information prescribed, as required by the Planning Act.

3. Interim uses pending removal of the holding symbol “(H)” or “(h)” are permitted in accordance with Policy 8.1.2 of this Plan. Temporary uses permitted prior to the removal of a holding symbol may also be specified provided such use does not adversely impact the intended future use of the land.

The Official Plan does not contain specific policies regarding part lot control or lifting of road reserves, however these controls are granted through the Planning Act and Municipal Act.

Other City By-laws

In 2001, Council passed By-law 42-01, which delegated approval authority pursuant to the Municipal Act to the Commissioner of Planning Services for seven (7) classes of applications/requests, including removal of holding provisions in principle and removal of part lot control in principle.

By-law 42-01 is included as Appendix ‘A’ to this report. The By-law applies regulations to this delegated authority, including that the Commissioner of Planning Services shall:

- a) Consult affected property owners, appropriate City staff, and external agencies
- b) Report all approvals to Council for information

- c) Not be empowered to refuse applications and shall refer recommendations for refusal to Council
- d) Determine conditions of approval
- e) Defer to Council for a decision in the event of an advanced request by the Applicant
- f) Bring forward a By-law for adoption by Council where approval is provided “in principle

In 2019, Council passed By-law 19-186, which consolidates the various by-law passed delegating powers and duties under the Municipal Act from Council to Committees, officers and employees of the City of Cambridge, and includes By-law 42-01. By-law 19-186 is included as Appendix ‘B’ to this report.

FINANCIAL IMPACT:

All applications fees associated with removal of holding provisions, exemptions from part lot control and lifting road reserves are borne by the Applicant.

ADVISORY COMMITTEE INPUT:

N/A

PUBLIC INPUT:

N/A

INTERNAL / EXTERNAL CONSULTATION:

N/A

CONCLUSION:

The purpose of this report is to advise Council that the Chief Planner intends to utilize the approval authority delegated by By-law 42-01 for all future applications for removal of holding provisions and exemptions from part lot control, in principle.

Staff also recommend that Council enact the proposed By-law in Appendix C to this report, being a By-law to amend By-law 042-01 by delegating authority to the Chief Planner for lifting of road reserves in principle, where the lands are being opened as public highway.

For clarification, where “in principle” is referenced in By-law 42-01, it means conditional approval is granted by the Chief Planner, and final approval is granted after a by-law is adopted by Council. All future By-laws brought forward under By-law 42-01 will not be accompanied by a staff recommendation report, but rather a staff memorandum, shortening approval timeline for these applications by approximately 2 weeks.

These expedited approval processes align with new legislation brought forward by Bill 23 - More Homes Built Faster Act, Bill 109 - More Homes for Everyone Act, and supports the City's Municipal Housing Pledge to create 19,000 new homes by 2031.

REPORT IMPACTS:

Agreement: **No**

By-law: **Yes**, Staff recommend Council direct staff to advance an Amendment to By-law 42-01 for consideration at a future Council meeting.

Budget Amendment: **No**

Policy: **No**

APPROVALS:

This report has gone through the appropriate workflow and has been reviewed and or approved by the following as required:

Chief Planner

Deputy City Manager

Chief Financial Officer

City Solicitor

City Manager

ATTACHMENTS:

1. 23-260-CD Appendix A – Delegating Approval Authority By-law 42-01
2. 23-260-CD Appendix B – Consolidation of By-laws Delegating Approval Authority By-law 19-186
3. 23-260-CD Appendix C – Proposed By-law to Amend By-law 042-01