



TO: GENERAL COMMITTEE

SUBJECT: PART LOT CONTROL EXEMPTION POLICY

WARD: ALL

PREPARED BY AND KEY CONTACT: J. FOSTER, RPP, SENIOR PLANNER, EXT. 4517

SUBMITTED BY: A. BOURRIE, RPP, DIRECTOR OF PLANNING AND BUILDING SERVICES

GENERAL MANAGER APPROVAL: D. FRIARY, ACTING GENERAL MANAGER OF INFRASTRUCTURE AND GROWTH MANAGEMENT

CHIEF ADMINISTRATIVE OFFICER APPROVAL: M. PROWSE, CHIEF ADMINISTRATIVE OFFICER

RECOMMENDED MOTION

1. That the Part Lot Control Exemption Policy as contained in Appendix "A" to Staff Report PLN019-18 be approved.
2. That the Part Lot Control Exemption Policy be utilized by the Planning and Building Services Department in their consideration of applications; and be included in the Official Plan, Section 6.2, Lot Creation, through the Municipal Comprehensive Review and Official Plan Update. (PLN019-18) (File: D23-PAR)

PURPOSE & BACKGROUND

Report Overview

3. The purpose of this Staff Report is to recommend a Part Lot Control Exemption Policy for use by the Planning and Building Services Department, which will also inform the public as to what types of applications would be supported when making an application for Part Lot Control Exemption.

Background

4. Bylaw 2012-183 was approved by Council on October 22, 2012, which provided delegated approval authority to the Director of Planning and Building Services, or designate (Director) for the approval of draft plans of subdivision, including extensions, revisions, and draft plans of condominium, as well as part lot control exemption.
5. The Bylaw included that the part lot control exemption provide the opportunity for referral or "bump up" to General Committee and City Council by the applicant, any member of Council or the Director, in the event that a decision cannot be finalized through delegated staff approval.
6. Further to the passing of the Bylaw delegating approval authority to the Director, a policy regarding Part Lot Control Exemption was not prepared in order to guide decision making. In order to guide the Planning and Building Services Department in their decision making and to inform the public of the policy when contemplating or applying for approval for part lot control exemption, staff are now proposing to introduce a policy on the matter.

ANALYSIS

What is Part Lot Control?

7. A property owner may sell a whole lot or block within a registered plan of subdivision. However, the *Planning Act* provides that “part” of a lot or block on a registered plan of subdivision cannot be transferred without the approval of the municipality. Part lot control has the effect of preventing the further division of land in a registered plan, other than that allowed for in the approved plan of subdivision, without further approvals.
8. Subsection 50 (5) of the *Planning Act* regulates Part Lot Control. It states that part of a lot or block on a registered plan of subdivision cannot be sold, mortgaged or transferred separately from the rest of the lot or block without the municipality’s approval. This includes a transfer of easement (maintenance and access easements). Part lot control prevents the division and conveyance of land by deed or transfer, other than whole lots or blocks that were created through an approved and registered plan of subdivision. With part lot control in effect, parts of whole lots or blocks can only be created and legally conveyed when approved by the municipality, through a consent (severance) application.
9. However, the part lot control provisions of the *Planning Act* also allow a municipality to pass bylaws to remove or exempt part lot control from all or any part of a registered plan of subdivision. Such a bylaw has the effect of allowing the conveyance of a portion of a lot without requiring the approval of the Committee of Adjustment for land division. Approval is given by the approver of draft plans of subdivision, in this case, delegated to the Director of Planning and Building Services, where the approval authority deems the application to be satisfactory.

When is Exempting Land from Part Lot Control Appropriate?

10. The approval of part lot control exemption is generally a routine and administrative process where a Bylaw is passed by Council exempting the lot or block from part lot control. As part lot control exemptions can only be sought for land already contained within an existing registered plan of subdivision, Council would have already had the opportunity to review and approve the principle of development as part of the original plan of subdivision and zoning approval process.
11. Part lot control exemption applications can only be considered when the overall development has already been subject to a public meeting and the appropriate zoning is already in place. Any required conditions of approval would have been secured through the associated subdivision agreement. Accordingly, the scope of the review undertaken with respect to such applications is essentially for the purpose of verifying that the application is in compliance with the previously approved subdivision and rezoning applications, and that there are no outstanding planning matters.
12. Exemption from part lot control is appropriate when a number of land transactions are involved, but the resulting changes will not affect the nature or character of the subdivision. For example, exemption from part lot control is used to facilitate the development of industrial subdivisions, where large blocks are further subdivided to accommodate the needs of purchasers.
13. Part lot control exemptions are most commonly requested to facilitate the division of a single lot or block zoned for multiple-unit development such as a semi-detached house or street townhouses, into multiple lots for each separate dwelling unit to allow for their individual sale. This approach is used because of the difficulty the builder may have in ensuring that the common centre wall between two dwelling units was constructed exactly on the property line.

14. Part lot control exemption is an alternative process of allowing lands to be subdivided other than through the Committee of Adjustment land severance process. Part lot control exemption may also be used as a mechanism for minor property line refinements.
15. In the event that the lot or block proposed to be parted, requires minor variances to the Zoning Bylaw in order to facilitate the smaller lots, exemption from part lot control is not appropriate. Staff are recommending that any lot or block which is contemplated for further division which requires zoning variances, that such division of land must be considered by the Committee of Adjustment, as a fulsome application of severance and minor variance.

Proposed Policy

16. Requests for exemption from part lot control to create additional lots will only be considered when the development proposed under the exemption from part lot control has been subject to a previous planning application and public process which clearly indicated the proposed changes to the lot configuration. Such applications include:
 - a. Creation of townhouse lots, identified as a block on an approved plan of subdivision where the intent is to subdivide the block for sale purposes;
 - b. Creation of semi-detached lots identified as a block on an approved plan of subdivision where the intent is to subdivide the block for sale purposes;
 - c. Minor lot realignments within non-residential plans of subdivision;
 - d. Mechanical severances, such as additions to lots and creation of easements.
17. The exemption from part lot control process will not be utilized to re-align lots within existing residential plans of subdivision which will create additional building lots.
18. Any lot or block contemplated for further division which requires variances to the zoning bylaw will not be accepted as an application for exemption from part lot control.
19. Requests for exemption will be processed by the Planning and Building Services department through the passing of a Bylaw.

Expiration and Extension of Exemption Bylaw

20. Section 50 (7.3) of the *Planning Act* identifies that an exempting bylaw can include an expiry date or time period in which the applicant shall complete the transfer of the lands (separate the part(s) and transfer through sale/mortgage). Given that the types of applications being considered for exemption from part lot control include routine and administrative approvals that should be concluded in a short period of time, staff are recommending the inclusion of a one year expiry date from the date of the passing of the Bylaw. On those rare occasions that additional time is required, that decision will be made at the discretion of the Director.
21. Section 7.4 of the *Planning Act* allows for an extension request from the applicant. Such request shall be made in writing to the Director, who may extend the term of the exempting bylaw by amendment to the bylaw.

Policy/Fact Sheet

22. Staff propose that the policy as contained in Appendix “A” be utilized by the Planning and Building Services Department in their review and decision making on applications for Part Lot Control Exemption in the interim until such time as the policy is incorporated into the Official Plan. Also a “Fact Sheet” will be included with the application form for Part Lot Control Exemption, and both will be posted on the City website in order to inform the public prior to making application.

ENVIRONMENTAL MATTERS

23. There are no environmental matters related to the recommendation.

ALTERNATIVES

24. There is one alternative available for consideration by General Committee:

Alternative #1

General Committee could maintain the existing whereby the Director makes decision on the applications as filed without the benefit of a stated policy.

This alternative, while currently being implemented under the delegation of authority to the Director, does not take the form of a policy that provides transparency and clear direction on how to obtain part lot control exemption.

FINANCIAL

25. There are no financial implications as a result of the recommendation.
26. The City provides an application form to request the exemption from Part Lot Control. The 2018 fee for consideration and processing of the application, which includes the preparation of the Bylaw and any legal fees is \$1,212.04 which represents cost recovery.

LINKAGE TO 2010-2014 COUNCIL STRATEGIC PLAN

27. The recommendations included in this Staff Report support the following goals identified in the 2014-2018 City Council Strategic Plan:
- Vibrant Business Environment
28. A streamlined approval process will provide an improved means for public information and land development in the City and provide greater efficiencies in staff and Council processing procedures.

Attachment: Appendix “A” – Part Lot Control Exemption Policy

Appendix "A"

Part Lot Control Exemption Policy

The Planning and Building Services Department will process requests for exemption from part lot control to create additional lots only when the development proposed under the exemption from part lot control has been subject to a previous planning application and public process which clearly indicated the proposed changes to the lot configuration. Such applications would include:

- a. Creation of townhouse lots, identified as a block on an approved plan of subdivision where the intent is to subdivide the block for sale purposes;
- b. Creation of semi-detached lots identified as a block on an approved plan of subdivision where the intent is to subdivide the block for sale purposes;
- c. Minor lot realignments within non-residential plans of subdivision;
- d. Mechanical severances, such as additions to lots and creation of easements.

The exemption from part lot control process will not be utilized to re-align lots within existing residential plans of subdivision which will create additional building lots.

Any lot or block which is contemplated for further division which requires variances to the zoning bylaw will not be accepted as an application for exemption from part lot control and shall be considered by the Committee of Adjustment as a fulsome application for severance and minor variance.