


TO: GENERAL COMMITTEE

SUBJECT: DELEGATION OF DEEMING BY-LAW APPROVAL AUTHORITY

PREPARED BY AND KEY CONTACT: A. SHAIKH, PLANNER, EXT. 4434

SUBMITTED BY: S. NAYLOR, MES, M.C.I.P., R.P.P., DIRECTOR OF PLANNING 

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GENERAL MANAGER OF INFRASTRUCTURE, DEVELOPMENT & CULTURE

CHIEF ADMINISTRATIVE OFFICER APPROVAL: C. LADD, CHIEF ADMINISTRATIVE OFFICER 

RECOMMENDED MOTION

1. That By-law 2010-166, being a by-law for the delegation of authority to the Director of Planning Services, the Manager of Development Control, and the Manager of Policy Planning for the approval of draft plans of subdivision, draft plans of condominium (including extensions and revisions), and exemption from part-lot control, be further amended under the provisions of the Planning Act to include authority to approve applications for deeming by-laws in accordance with the procedures proposed in Staff Report PLN040-12.
2. That the deeming by-law approval process (including extensions and revisions) provide the opportunity for referral or "bump up" to General Committee and City Council by the applicant, any member of Council, the Director of Planning Services, the Manager of Development Control, or the Manager of Policy Planning, in the event that there are unresolved issues and/or conditions of approval.

PURPOSE & BACKGROUND

Report Overview

3. The purpose of this report is to recommend the delegation of authority for the approval of applications for a deeming by-law to the Director of Planning Services, the Manager of Development Control, and the Manager of Policy Planning. This report also proposes a new procedure for deeming by-law applications under a delegated authority process. For the purposes of this report, reference to the Director of Planning Services also refers to the Manager of Development Control and to the Manager of Policy Planning.

Background

4. On November 8, 2010, City Council enacted By-law 2010-166, delegating decision making authority for certain development applications to the Director of Planning Services. The delegated authority includes the ability to approve draft plans of subdivision and draft plans of condominium, including extensions and revisions.
5. On June 25, 2012, City Council passed motion 12-G-190 to amend By-law 2010-166, further delegating decision making authority of applications for part-lot control exemption to the Director of Planning Services.

6. The intention of the delegated authority for plans of subdivision, plans of condominium, and part-lot control exemptions is to improve the efficiency of processing development applications. The efficiencies are achieved for both the applicant and the City due to a reduction in the processing time required for development approvals, while continuing to maintain a review process that protects the public interest.
7. The objective of this proposal is to amend By-Law 2010-166 to also include delegated authority to approve applications for deeming by-laws, creating further efficiencies for the applicant and for the City.
8. Section 51.2(1) of the Planning Act states that the Council of a municipality that is the approval authority for plans of subdivision may, through an enacting by-law, delegate all or part of that authority to an appointed officer (such as a staff member) of the municipality. At present, the City of Barrie's Director of Planning Services has been delegated part of this authority, including authority for the approval of draft plans of subdivision, draft plans of condominium, and part-lot control exemption. If By-law 2010-166 is amended as per the recommendations of this report, the Director of Planning Services would also become the approval authority of applications for deeming by-laws.

Purpose of Deeming By-laws

9. Section 50(4) of the Planning Act states that the Council of a municipality may pass a by-law to deem any plan of subdivision (or part thereof) that has been registered for eight years or more, to no longer be considered a registered plan of subdivision. As a result, all lot lines and lot configurations within the plan of subdivision (or part thereof) are removed.
10. Deeming by-laws are often requested as part of a process for facilitating intensification. One such example involves the assembly of multiple consecutive adjoining lots for the purposes of facilitating a higher density use. In this situation, a deeming by-law would be used to remove the property lines dividing each of the adjoining lots, producing one single consolidated lot. The consolidated lot would feature a greater lot area, thus allowing for higher density building standards under the Zoning By-law.

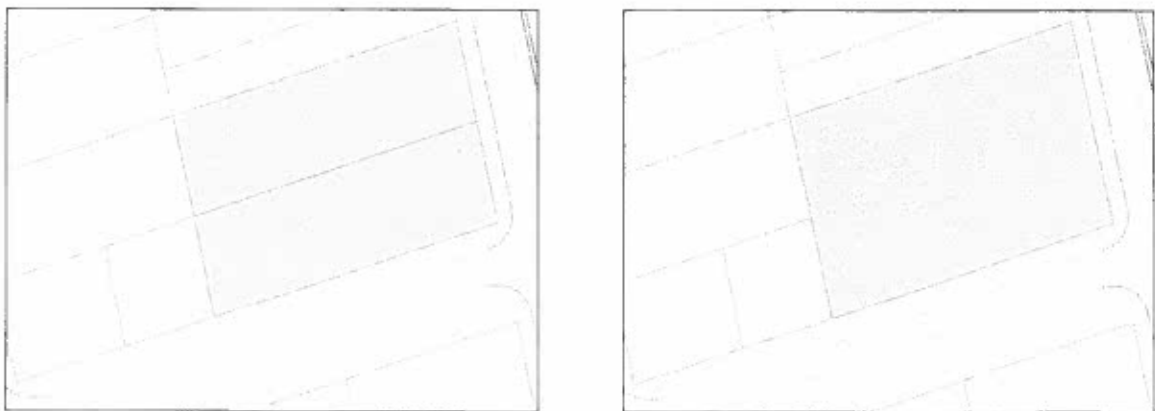


Figure 1: Diagram on the left shows original lot configuration. Diagram on the right illustrates their assembly and consolidation into a single unified lot, ideal for a higher density development.

11. Similarly, deeming by-laws may be requested to facilitate the assembly of multiple consecutive lots for the purposes of an infill development. Following the removal of property lines between the adjoining lots, a part-lot control exemption or consent for severance could be used to

establish new lot lines that would allow for a greater number of smaller lots to be located within the original parcels of land.

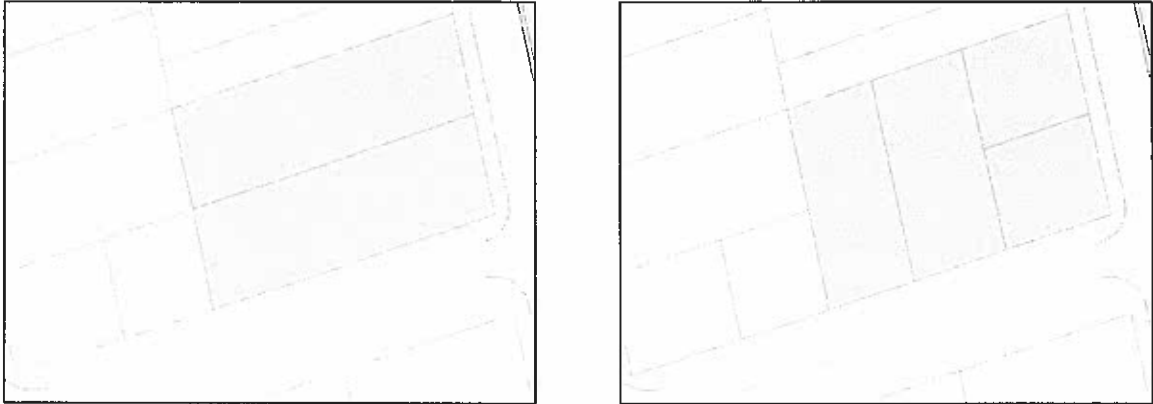


Figure 2: Diagram on the left shows original lot configuration. Diagram on the right illustrates the result of a deeming by-law removing the original lot lines, following the division of land establishing new lot lines ultimately creating two additional infill lots.

ANALYSIS

Current Process

12. As per the current process, the Legal Services Department accepts receipt of a request for a deeming by-law, and forwards a copy to the Planning Services Department. Planning staff reviews the application and prepares a report to be received at General Committee and City Council, recommending a decision on the deeming by-law. If Council approves the application, a motion is passed authorizing the preparation of the deeming by-law on the subject lands.
13. The current process does not require the completion of an application form. Instead, a letter is written to the City of Barrie making a request for a deeming by-law, and a land survey reference plan of the proposed new lot configuration is included. As per City of Barrie By-law 2012-088, a fee of \$1,850.00 is charged to the applicant. This fee serves as cost recovery for the processing of the application required by both the Legal Services and the Planning Services Departments.
14. As Planning staff are required to prepare a report for submission to General Committee and City Council, the current process for requesting a deeming by-law requires additional processing time and costs for the City and the applicant. The cost incurred to the City results from the added work hours dedicated by staff on the preparation of the report, while costs incurred by the applicant may result from the delaying of the property development process.

Proposed Process

15. Under the proposed process, upon receipt of a complete application for a deeming by-law from the Legal Services Department, Planning Services staff reviews the application and makes a recommendation for its approval or denial to the Director of Planning Services. At this stage, the Director of Planning Services reviews the recommendation by staff and makes a decision for the approval or denial of the application. If the application is approved, a by-law and location map would be prepared for enactment by City Council as a routine matter. No accompanying staff report would be required.

16. The proposed process will include the completion of an application form to be submitted to the Legal Services Department. This application form will provide clarity to the public with respect to the information necessary to have an application deemed complete. A reference plan will continue to be required along with the application.
17. At this point, no recommendation is being made concerning a change to the fee required for deeming by-law applications, and will continue to serve as cost recovery for the processing required by the Legal and Planning Services Departments. It is recommended that any proposed change to the deeming by-law application fee be considered at such time that an overall review of City of Barrie Fees By-law 2012-035 is conducted.
18. Despite the delegation of authority for the approval of deeming by-law applications, Council remains the sole authority for the enactment of all by-laws, including the deeming by-law itself.
19. The proposed process would also provide the opportunity for referral or "bump up" to General Committee/Council by the applicant, any member of Council, or the Director of Planning Services in the event that there are unresolved issues and/or conditions of approval.
20. The approval of applications for deeming by-laws are typically a routine and administrative process. As deeming by-laws can only be sought for land already contained within an existing registered plan of subdivision that has already been registered for eight years or more, Council would have already had the opportunity to review and approve the principle of development as part of the original plan of subdivision process.
21. For the majority of deeming by-law applications received by the City of Barrie, the overall development has already been subject to a public meeting and has already been approved by Council as part of the original draft plan of subdivision and/or rezoning process. The appropriate zoning would already need to be in place and, if necessary, 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/or rezoning applications, and that there are no other outstanding planning issues.
22. In limited and unlikely situations, a deeming by-law may be requested as part of a process of assembling land with the intention of proposing an unexpected form of development, such as large lot infill. If a rezoning is not required for the proposed development, there would be no requirement for a statutory public meeting. If such a case were to arise, Planning Services may opt to "bump-up" the proposed development to General Committee in order to allow for review by Council and the public.

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 procedure with respect to approval of deeming by-law applications, which require the preparation of a staff report to General Committee and City Council.

This alternative is not recommended as it does not achieve the process improvements and efficiencies that can be attained through delegation of approval authority to staff.

FINANCIAL

25. The delegated authority approval process is not expected to result in any decrease in cumulative annual fees collected for deeming by-law applications.
26. It is expected that savings will result from a reduced staff time requirement for the processing of deeming by-law applications. The savings in staff time would be redirected to other applications and projects, thus increasing department service levels and efficiency.

LINKAGE TO 2010-2014 COUNCIL STRATEGIC PLAN

27. The recommendations included in this Staff Report support the following goals identified in the 2010-2014 City Council Strategic Plan:
 - Manage Growth and Protect the Environment
28. A streamlined approval process will provide an improved environment for land development in the City, and provide greater efficiencies in staff and Council processing procedures.