



Report to: Development Services Committee

Meeting Date: May 3, 2021

SUBJECT: City of Markham Comments on *Planning Act* Changes regarding Subdivision Control and Consents in Bill 276

PREPARED BY: Francesco Santaguida, Assistant City Solicitor, Ext. 3583
Bradley Roberts, Manager – Zoning and Special Projects, Ext. 2800

RECOMMENDATION:

- 1) That this report be forwarded to the Minister of Municipal Affairs and Housing as the City of Markham’s Comments with respect to ERO Number 019-3495;
- 2) That this report be forwarded to the Provincial Standing Committee on General Government as the City of Markham’s Comments with respect to Bill 276, *Supporting Recovery and Competitiveness Act, 2021*;
- 3) That Council for the City of Markham does not support the following changes to the *Planning Act* related to:
 - a. the Proposed Minister’s Consent Order; and
 - b. allowing purchasers of land to apply for a consent;
- 4) That Council for the City of Markham supports the proposed one-year extension for an applicant to fulfill conditions of a consent, and that the *Planning Act* be amended to allow the extension to be delegated to staff;
- 5) That Council for the City of Markham request an additional change to the *Planning Act* that allows for land to merge automatically where it is required by a condition of the consent; and
- 6) That Staff be authorized and directed to do all things necessary to give effect to this resolution.

EXECUTIVE SUMMARY:

On April 15, 2021, the Provincial Government released [Bill 276, the Supporting Recovery and Competitiveness Act, 2021](#) and released a request for comments through the Environmental Registry of Ontario ([ERO number 019-3495](#)). Comments are due through the ERO by May 25, 2021.

The proposed changes to the *Planning Act* relate to Section 50 (Subdivision Control), Section 51 (Plans of Subdivision) and Section 53 (Consents). Many of the changes are “housekeeping” changes, related to legal issues that have arisen over the years. However, there are a few proposed changes that would affect the City’s interests:

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1. The creation of a “Minister’s Consent Order” to issue a Consent or a Certificate of Validation without the matter being considered by Council or the Committee of Adjustment.
 2. Allowing purchasers of a property to apply for a consent to sever land.
 3. A one-year extension of the initial one-year timeframe to fulfil any conditions for a consent.

Staff have concerns about the introduction of a new “Minister’s Consent Order” as it has the ability to override local planning decisions related to land divisions. Staff also have concerns about allowing purchasers to apply for a consent to sever land, as it presents implementation challenges for the City in dealing with these types of applications.

Staff are supportive of the proposed one-year extension to comply with any conditions of a consent. Staff request that the Province provide Council with the express authority to delegate the power to extend the compliance timeframe to staff in order for the process to operate most efficiently.

Lastly, for consents that seek to add land to another parcel, staff request that the Province consider adding an amendment that allows properties to merge automatically if the municipality applies a condition requiring the land to merge.

PURPOSE:

This report is to advise Council of the recent proposed changes to the *Planning Act*, and to seek instructions to provide comments on these changes to the Minister of Municipal Affairs and Housing and the Provincial Standing Committee of General Government.

BACKGROUND:

On April 15, 2021, the Provincial Government released Bill 276, the *Supporting Recovery and Competitiveness Act, 2021* and released a request for comments through the Environmental Registry of Ontario (ERO number 019-3495). Through the ERO posting, the Province has asked for comments to be provided by May 25, 2021.

The proposed changes to the *Planning Act* relate to Section 50 (Subdivision Control), Section 51 (Plans of Subdivision) and Section 53 (Consents). Several of the changes relate to “housekeeping” changes that many real estate, legal and conveyancing practitioners have sought for a number of years, and do not affect the City’s administration of Consent applications.

There are some proposed changes that would affect the administration of Consent applications, including:

1. The creation of a “Minister’s Consent Order” to issue a Consent or a Certificate of Validation without the matter being considered by Council or the Committee of Adjustment.
2. Allowing purchasers of a property to apply for a consent to sever land.

3. A one-year extension of the initial one-year timeframe to fulfil any conditions for a consent.

DISCUSSION:**Staff have concerns with the proposed Minister's Consent Order, and allowing purchasers to apply for a consent prior to closing a sale.**

The Proposed Bill 276 contains changes that would allow the Minister to issue an order, with conditions, that would grant a consent in place of a municipality. The Minister may grant specific consents or certificates of validation, or may require that all consents after the order is made be reviewed and granted by the Minister.

Staff have concerns with this provision, as it allows the Minister to stand in the place of Council/Committee of Adjustment without a public process. There is no provision for members of the public to provide input or comments on an application for a consent to the Minister.

Staff also have concerns with allowing a purchaser of a property to apply for a consent prior to the closing of the transaction. Currently, only the owner of the land, or the owner's agent can apply for a consent. Allowing purchasers to apply for a consent prior to the closing of a transaction would place an additional administrative burden on City staff who would have to determine if an applicant has the authority to apply for a consent. This change could also create administrative issues related to who is responsible for clearing conditions. Consents would also have to be contingent on the sale of the property, resulting in a period of uncertainty prior to closing.

Staff support the proposed one-year extension to fulfil any consent conditions, and request ability to delegate extension to staff

City staff often receive requests to extend the *Planning Act's* one-year deadline to clear conditions on an approved consent. Staff are unable provide any relief due to the *Planning Act* deadline. As a result, Staff support the proposed extension. Staff request that the Province expressly allow for Council to delegate such requests to staff, to ensure that these requests can be addressed quickly and efficiently.

Staff request an additional change in the legislation to require that lot additions merge with the parent lot

Where an applicant seeks to add land to an existing lot, there is often a requirement for the severed parcel to merge with the lot seeking the addition. In order to comply with the requirement in the City's zoning by-laws that a building not be built on a property line, staff seek conditions that require the merger of the severed parcel with the existing lot. Without the parcels merging, the severed parcel can be sold separately from the existing lot. Figure 1 shows an example of this issue.

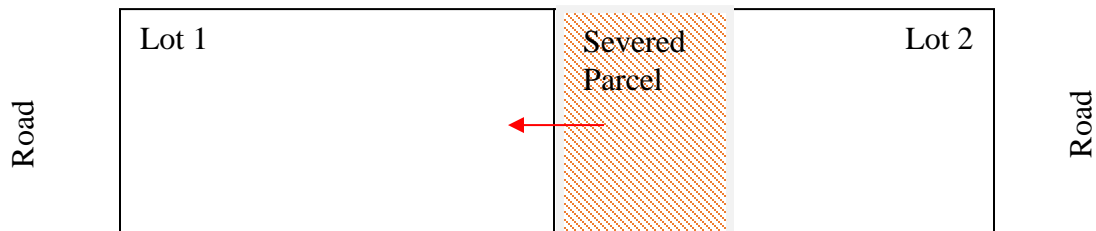


Figure 1: Example of a severance application in a Plan of Subdivision where a merger is required. Lot 2 is requesting to sever part of its land to add to Lot 1.

In the example shown in Figure 1, the City would seek a condition of approval for the consent that would require the Severed Parcel to merge with Lot 1. In order to effect the merger under the *Planning Act*, a deeming by-law would be required, which would require additional time and expense. Without the deeming by-law, the severed parcel could be sold to a third party without proper road access.

To address this situation, staff request that the Province consider an additional amendment to the *Planning Act* that automatically merges the severed lot with the existing lot where required by a condition of a consent.

FINANCIAL CONSIDERATIONS

Not Applicable.

HUMAN RESOURCES CONSIDERATIONS

Not Applicable.

ALIGNMENT WITH STRATEGIC PRIORITIES:

The Report aligns with the City's Strategic Priorities related to Growth Management.

BUSINESS UNITS CONSULTED AND AFFECTED:

The Zoning and Special Projects Team in the Development Services Commission and the Legal Department have been consulted.

RECOMMENDED BY:

Claudia Storto, City Solicitor and
Director of Human Resources

Arvin Prasad, Commissioner of
Development Services