
HALDIMAND COUNTY

Report PDD-12-2022 Planning Act Changes

For Consideration by Council in Committee on March 1, 2022



OBJECTIVE:

To notify Members of Council of recent *Planning Act* changes made through two provincial Bills and to provide staff recommendations and next steps.

RECOMMENDATIONS:

1. THAT Report PDD-12-2022 Planning Act Changes be received;
2. AND THAT the concept of additional planning approval authorities is/is not supported;
3. AND THAT, should Council support the consideration of additional delegated authorities of planning matters outlined in Report PDD-12-2022, staff be directed to develop enabling policies as part of the Official Plan Update Phase 2;
4. AND THAT, upon approval of any enabling policies described in clause 3, staff be directed to provide a report that lays out the detailed delegated authority options and parameters for Council to consider.

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EXECUTIVE SUMMARY:

The Province recently passed two Bills that made changes to the *Planning Act* (Attachment 1). Schedule 19 of Bill 13 now permits Council to delegate its authorities for Temporary Use By-laws, Removal of Holding (H) Provisions, Minor Variances, and other minor Zoning By-law Amendments to a Committee of Council or staff to help streamline and shorten planning timelines for decisions. Staff are looking for direction in terms of whether Council supports the principle of further delegation of various planning approvals to staff.

Schedule 24 of Bill 276 made changes to control the division of land, including subdivision control, plans of subdivision, consents, and validations of title. Planning staff have shared these highlights with the Committee of Adjustment. Council is not required to make a decision on changes resulting from Schedule 24 of Bill 276 given they are operational and have been implemented by Planning staff as part of the day to day.

ANALYSIS:

Schedule 19 of Bill 13, Supporting People and Businesses Act, 2021

Bill 13 was introduced on October 7, 2021 and sought to amend many Provincial Acts. On December 2, 2021, Schedule 19 of Bill 13, came into force upon Royal Assent. Schedule 19 made changes to the *Planning Act* to expand matters that a local Council may delegate to a Committee of Council or staff to help streamline and shorten planning timelines for decisions. Schedule 19 added Section 39.2 (Attachment 2) to the *Planning Act*, which allows Council to delegate planning decisions for the following applications:

- Temporary Use By-laws,
- Removal of Holding (H) Provisions,
- Minor Variances, and
- Other minor Zoning By-law Amendments.

These changes are discretionary and up to each individual municipality; Council is not required to delegate its authority. However, if Council chooses to delegate its authority, it must do so via by-law, and only after the Official Plan is amended to specify that delegation may occur for these planning matters. Council may also place conditions in the delegation by-law to list the circumstances or conditions under which a Committee of Council or staff can make a decision and when the application must come to Council for decision. Council is also allowed to withdraw its delegation by by-law. It is important to note that delegation does not alter any notice or public meeting requirements or limit appeal rights. It also does not change the requirements under the *Planning Act* for land use planning decisions to be consistent with the Provincial Policy Statement and to conform or not conflict with provincial plans.

Council has previously delegated some authorities to staff for straight forward technical planning matters with the aim of streamlining and supporting development objectives. In terms of zoning, Council currently delegates variance approvals to the Committee of Adjustment and authorizes staff to lift Holding (H) Symbols via by-law when this type of zoning is put in place. In both cases the effect has been to streamline processes, and it is unlikely given the requirements set out above, further time savings would result.

The key area not already addressed in Haldimand is whether these new authorities could or should be applied for minor Zoning By-law Amendments and Temporary Use By-laws. Although Council meets regularly (approximately every two weeks), there are times when due to the Council Meeting schedule or when Council meetings are rescheduled, deleted, during summer recess, or election cycles that minor planning matters can be delayed. The delegation of such approvals to staff in these circumstances would still allow public meetings and decisions to move forward; however, pragmatically these situations would be very limited. It would be important for accountability purposes for the Official Plan policies and delegation by-law to set out a clear description of what constitutes a minor matter, clear parameters for when a matter needs to come to Council for a decision (i.e. if objections are received), and that any staff decisions are reported to Council. Current delegated approval authorities to Staff relate to largely technical matters (i.e. subdivision, site plan approvals, Holding Symbol removals, and related administrative matters) associated with implementing an already approved land use decision, whereas the new authority to delegate moves into the realm of making actual land use (albeit minor) decisions.

At this time, staff are providing information on the new *Planning Act* delegation authorities to Council. Staff are not requesting that Council make a decision whether or not to delegate its authority under Section 39.2 of the *Planning Act* at this time. Staff are looking for direction in terms of whether Council supports the principle of further delegation of the approval of minor Zoning By-laws and Temporary Use By-laws to staff given the above. Should Council be supportive of looking at further delegation of approvals for minor planning matters to staff, the following steps are necessary:

1. Include policy in the Haldimand County Official Plan as part of Phase 2 of the Official Plan Update program that would permit Council, should it wish, to amend its existing delegation by-law, or pass a new delegation by-law to delegate its authority on any/all of the above noted matters to staff.
2. Engage with the Province to better understand the decisions and circumstances that Council can delegate to staff under Section 39.2 of the *Planning Act* and how to implement or condition the delegation.
3. Following steps 1 and 2, bring a more detailed recommendation report forward for Council's consideration.

While delegation of these items could assist in streamlining and shortening the planning process while still allowing for public interest to be upheld and public consultation to be undertaken, the exact details of what the process would look like and how it would function, still need to be worked through and will require future consideration by Council as noted.

Bill 276, the Supporting Recovery and Competitiveness Act, 2021

Bill 276 was introduced on April 15, 2021 and received Royal Assent on June 3, 2021. Schedule 24 of Bill 276 and associated regulations came into force on January 1, 2022 and implemented changes to the *Planning Act* related to control of the division of land, including subdivision control, plans of subdivision, consents, and validations of title. To highlight some of the most significant changes, Schedule 24 amends the *Planning Act* to:

- Prevent lots from merging where lands were previously owned by, or abutting land previously owned by, joint tenants where the ownership would have otherwise merged as a result of the death of one of the joint tenants (including abutting agricultural and rural residential lots).
- Permit a purchaser of land or the purchaser's agent to apply for consent. Previously, the current owner would have had to apply for consent or authorize the purchaser to apply for consent.
- Provide a standard two-year period during which the conditions of consent must be satisfied. This time limit has been increased from one-year to two-years to provide applicants with more time to fulfill conditions of provisional consent.
- Require the County to issue a certificate for the retained lands in addition to a certificate for the severed lands provided the applicant provides a legal description for the retained lands. Previously, the Secretary Treasurer, Committee of Adjustment only issued a certificate for the severed lands.
- Allow owners, etc. to apply to the County for a certificate of cancellation in respect of land previously conveyed with a consent that, if approved and registered, would remove the application of specified exemptions from subdivision control in relation to the land (and thereby, potentially merging the lots involved). Essentially, an owner could apply to cancel a previous consent to merge lots.
- Require that a decision regarding a validation of title application must conform to the same criteria which are applicable to consents.

Planning staff are aware and, where necessary, have made appropriate arrangements to ensure operational compliance (i.e. extending the lapsing date of consent applications to two years as new standard practice). Planning staff have shared these highlights with the Committee of Adjustment and are preparing a more detailed memo to explain changes to the Committee with the intention to distribute the memo at the next Committee meeting. There are no decisions required to be made by Council on these changes given they are operational and have been implemented as part of the day-to-day.

FINANCIAL/LEGAL IMPLICATIONS:

Not applicable.

STAKEHOLDER IMPACTS:

Not applicable.

REPORT IMPACTS:

Agreement: No

By-law: Yes

Budget Amendment: No

Policy: No

ATTACHMENTS:

1. Notification Letter.
2. Section 39.2 of Planning Act.