



Committee Report

To: Warden Janice Jackson
Members of the Planning and Development Committee

From: Mark Paoli
Land Use Planning Manager

Date: December 17, 2020

Re: County Council Planning Approval Authorities

Staff Recommendation:

That County Council retain the planning approval authorities for which it is currently responsible for under the Planning Act; and,

That staff produce a monthly report on the status of planning applications for Local and County Councils.

Background:

Through the Land Use Service Delivery Review, the role and structure of County land use planning services was reviewed.

The first piece to come forward was the “Review of Bruce County Land Use Planning Division: Structure, Service Delivery Model, Roles and Responsibilities” report that was prepared by Stantec, and endorsed at County Planning Committee in July, 2020 “as a foundation to further advance the Land Use Planning Transformation”. Informed by comparisons to other Counties (Grey, Huron, Wellington, and Oxford), it recommended a number of improvements but did not recommend structural change to the overall service delivery model or current decision-making responsibilities.

More recently, following up on one of Stantec’s recommendations, StrategyCorp were retained to develop an update to the agreement under which the County provides planning services for local planning (referred to as the Memorandum of Agreement, or MoA). At its November 5, 2020, meeting, Planning and Development Committee received the interim report on the MoA for information, and passed recommendations including that the Memorandum of Agreement be endorsed as an initial draft for circulation to local municipal Councils for comment and feedback and that staff be directed to seek a legal opinion on the County’s ability to delegate decisions to local municipalities.

This report responds to the direction to seek a legal opinion and provides additional context and conclusions on the merits of delegating County decision-making to local Councils.

Legal Opinion:

A legal opinion on the scope of County Council's ability to delegate decision-making for the Planning Act matters, is attached. The opinion from Legal Counsel notes that County Council's delegation powers are limited to Subdivision/ Condominium Plans, Part Lot Control By-Laws and Consents.

- Delegation of Subdivision/Condominium approvals is possible. The transfer of that responsibility would need consent of both upper- and lower-tier parties and would be subject to the approval of the Province
- A proposal for transfer of Part Lot Control authority would only occur with a transfer of authority for Subdivision and Condominium approvals noted above.
- Delegation of Consent approvals is within the County's authority by passing a by-law.

Discussion:

In light of the legal opinion provided, it is anticipated that interest in this topic would be focused on consents. With that in mind, the following is offered for consideration:

1. The 5-Year averages (2015-2019) of consent applications in each municipality are:

Northern Bruce Peninsula	- 9
Arran-Elderslie	- 10
South Bruce	- 10
Huron-Kinloss	- 10
South Bruce Peninsula	- 11
Brockton	- 12
Kincardine	- 16
Saugeen Shores	- 25
Bruce County	- 103
2. A review of two years of Planning Committee Agendas (January 2019 through to the current December 2020 meeting), compared to applications received over that time frame, found that:
 - 5 applications, or 2%, were approved at Planning Committee; and,
 - 198 applications, or 98%, were approved by staff.

Due to the delegation of Council's authority to approve undisputed consents to staff, the vast majority of consents are approved in an expeditious way by staff through a process that does not require the applicant to be present, unlike a Committee meeting. This process improvement has saved the applicants on average 6 weeks of process time in moving forward consent approvals.

3. Almost all consent applications are accompanied by rezoning or minor variance applications and/or local official plan amendments. Public meetings for these related applications are held at local Council meetings where neighbours and the applicant have an opportunity to provide input on and ask questions about the proposal. These meetings include a report and presentation by the County hub planner or senior planner, who are very familiar with the community, local planning documents, and typically make site visits to the property. In response to concerns raised around applicants having to address two processes, it is offered that the consent process is essentially a local process through its coordination locally and staff approval.
4. If the concern is around convenience for applicants, it is offered that the points above raise a question as to whether the efforts to transfer responsibility and implement related process changes are warranted to avoid having 2-3 hearings a year at County Planning Committee, while 98 percent of applicants are being served by the delegated staff approval process that is in place now.
5. If, on the other hand, the main concern is lack of Local Council awareness of applications being processed by County staff, there is an alternative to the County delegating its authority. As noted above, the land use service delivery review has been healthy and productive, including, through local delegations and conversations, the idea that County planning should provide regular application status reports to local Councils. This would avoid local Council members having a communication disconnect with the process which can put them in a difficult position when approached with residents' questions about a proposal; instead, they would be aware earlier in the process of all applications, County and Local. With the improvements made through the transformation to move to an online and digital platform with land use applications, this type of reporting can be advanced in 2021 to support increased awareness and communication on files.

Conclusion:

Based on the combination of:

- Stantec's review that did not recommend a structural change to the service delivery model that is in place;
- the small number of consent applications that require decisions at County Planning Committee;
- the administrative effort that would be involved at both levels of government to implement a delegation of consent powers; and,
- the essentially local nature of the public process associated with most consents that is already in place,

the recommendation is that the County should maintain the responsibility structure that is in place and implement communication improvements with Local Councils.

Should County Council wish to pursue delegation, it is noted that the delegation of County Council's consent approval authority:

- would involve further investigation and development of implementing measures at both levels of government, including potentially a separate agreement; and,
- would be beyond the scope of the Memorandum of Agreement for County Planning Services that is under consideration as that would be a delegation of County responsibility vs. the MOA which is addressing local service delivery by the County.

Accordingly, further legal and process review of this opportunity would need to be completed before it could be advanced.

Financial/Staffing/Legal/IT Considerations:

There could be financial, staffing, legal or IT considerations associated with delegation of County planning authorities discussed in this report.

Interdepartmental Consultation:

None.

Link to Strategic Goals and Elements:

None.

Report Author:

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Approved for Submission:

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