

## **SECTION 16 - POLICY FOR THE DIVISION OF LAND**

### 16.1 **INTRODUCTION**

This section of the County Official Plan provides policies that are to be applied when dealing with proposals to divide or create land through the plan of subdivision process and through the consent or severance process. It is the intent of this Plan that these policies be adhered to by local municipal Councils, their Planning Advisory bodies (e.g. Planning Advisory Committees), the County of Perth Land Division Committee, and all other agencies, committees, and boards that may be involved in the consent granting process for lands situated within the County of Perth.

It is a policy of this Plan that all lots created for new development in the County be created through one of two processes that are legislated through the Planning Act, R.S.O. 1990. The first is the plan of subdivision approval process as established in Section 51 of the Planning Act while the second is the consent or severance approval process as established in Section 50 of the Planning Act.

### 16.2 **PLANS OF SUBDIVISION**

#### 16.2.1 **Introduction**

Policies for the division or creation of lots through the plan of subdivision process are contained in Section 51 of the Planning Act, R.S.O. 1990. In accordance with the provisions of Section 51(9) of the Planning Act, the County of Perth shall be the approval authority for plans of subdivision involving lands within the County effective the date that this Official Plan receives Provincial approval.

Under Section 51(16) of the Planning Act, an owner of land or the owner's authorized agent may apply to the County of Perth for approval of a plan of subdivision. An application for plan of subdivision approval must provide all of the information that is identified in Section 51(17) of the Planning Act and any other information that may be required by the approval authority pursuant to Section 51(18) of the Planning Act. When considering a plan of subdivision, the County may consult with municipal, Provincial, or Federal officials and with such other officials, bodies, or persons which the County considers may have an interest in the approval of the plan of subdivision. Section 51(24) of the Planning Act sets forth various matters that must be regarded when dealing with a plan of subdivision. Under Section 51(31) of the Planning Act, the approval authority may approve or refuse to approve a draft plan of subdivision. In giving its approval, the approval authority may impose whatever conditions it considers are reasonable (Section 51(25)). Where draft plan approval has been given, the approval authority may give final approval to the plan of subdivision once it is satisfied that the Plan is in conformity with the approved draft Plan and the conditions have been or will be fulfilled (Section 51(58)).

### 16.2.2 **Policies**

When reviewing a proposal for a draft plan of subdivision, a local municipal Council, its Planning Advisory bodies, and all other agencies, committees, and boards that are involved in the review/approval process are to have regard for the following policies:

- (a) Except in the case of lot creation proposals involving lands served by full municipal services (e.g. road, sanitary sewage, water, storm drainage), all proposals involving the division or creation of more than three lots (including the remnant land) shall be dealt with through the plan of subdivision process;
- (b) All information that is required under the Planning Act must be submitted with the application and made available for review purposes;
- (c) Proposed plans of subdivision will be reviewed to ensure that the proposed development is not premature. Consideration shall be given to matters such as expected population growth, the number of lots proposed, the number of undeveloped lots and draft approved lots, and the availability and capacity of required servicing for the area in which the development is proposed;
- (d) Development through the plan of subdivision process should be orderly and contiguous to existing development;
- (e) Proposed plans of subdivision are to be carefully examined to ensure that they do not "land-lock" any adjacent undeveloped lands which have future development potential. Where "land-locked" areas will result from a subdivision proposal, such proposal shall not be approved;
- (f) Proposed plans of subdivision are to be reviewed to ensure the proposed development has regard for applicable Provincial policy as set forth in the Provincial Policy Statement and shall be consistent with the land use policies of the applicable Official Plan document. Subdivision proposal which do not meet this criteria shall not be approved;
- (g) Where a watershed study has been completed, the plan of subdivision shall give consideration to the recommendations of the subwatershed plan;
- (h) Plan of subdivision proposals should be consistent and compatible with land uses in the immediate vicinity;
- (i) Where a proposed plan of subdivision involves a large parcel of land, consideration shall be given to incorporating a mixture of housing types into the development;

- (j) Where a proposed plan of subdivision involves a large number of lots, consideration shall be given to staging or phasing of the development. Consideration shall also be given to multiple access roadways to ensure that adequate vehicle access is provided, including emergency vehicle access;
- (k) All lots within a proposed plan of subdivision must have frontage on a public road which either exists at present or will be developed as a part of the subdivision proposal. Such roads must be constructed to a standard acceptable to the local municipality and must be maintained on a year-round basis. As a general rule, all lots within a subdivision proposal should have access to internal roads which intersect collector or arterial roads. Direct access from individual lots to major roads should be discouraged;

*ADDED BY* (l)  
*OPA # 47*

Proposed plans of subdivision are to be reviewed to ensure that:

- (i) they will not have any adverse effects on public facilities, utilities, and services.
- (ii) natural heritage features are considered and that environmental impact studies may be required in order to assess impact on the natural heritage features;

- (m) Proposed plans of subdivision are to be located and designed to accommodate the contour of the land. All unique natural assets, including watercourses and drainage patterns, forested lands and topographic features, should be preserved and development integrated into them wherever possible. Opportunities to rehabilitate or enhance natural features and functions through development should be explored;

*ADDED BY* (n)  
*OPA # 47*

The proposed method of water supply and sewage disposal for a proposed Plan of Subdivision must satisfy the regulations and requirements of the appropriate regulatory authority. Where the proposed water supply and sewage disposal components of a proposed plan of subdivision are not acceptable to these review agencies, the proposed plan of subdivision shall not be approved;

- (o) Proposed plans of subdivision are to be reviewed to ensure that the plans have an acceptable parkland/open space component. Local municipal Councils may require that parkland/open space be provided as a part of the subdivision proposal and/or that cash-in-lieu of parkland dedication be acquired. Where parkland dedication is being considered, the land which is to be conveyed to the municipality must be suitable for parkland purposes and acceptable to the municipality. Under no circumstances shall the local municipality be obligated to accept parkland which is being offered by an applicant for a proposed plan of subdivision;

- (p) Proposed plans of subdivision shall be subject to a subdivision agreement entered into between the local municipality and the owner/developer of the plan of subdivision. The subdivision agreement shall address various matters pertaining to the plan of subdivision and, without limiting the generality of the foregoing, will set forth the level of services that are to be provided and shall require some form of monetary security to cover the cost of the services as a safeguard that the services will be provided. The subdivision agreement will be required as a condition of approval of a draft plan and must be signed and registered on title prior to any final approval being given; and
- (q) Before recommending to the approval authority that a proposed plan of subdivision be approved, the local municipality shall be satisfied that adequate services such as schools, fire protection, water supply, sewage disposal, storm water drainage and/or management facilities, hydro, solid waste disposal, roads, and road maintenance either are or can be provided and further that the provision of these services will not adversely affect the financial position of the municipality.

## 16.3 **CONSENTS/SEVERANCES**

### 16.3.1 **Introduction**

Provisions for the creation of lots through the consent process, commonly referred to as land severances, are contained in Sections 50 and 53 of the Planning Act, R.S.O. 1990. Pursuant to the provisions of the Planning Act, the County of Perth is responsible for the review and approval of consent applications involving lands within the County.

Under Section 53(1) of the Planning Act, an owner of land or the owner's authorized agent may apply for a consent to sever land. The applicant for a consent shall provide the County with the prescribed information or material (Section 53(2)). When considering a consent application, the County shall consult with the persons or public bodies prescribed (Section 53(10)). Section 53(12) sets forth the matters that must be regarded in reviewing and deciding upon a consent application. In granting provisional approval, the County may impose whatever conditions as it considers are reasonable (Section 53(12)). The types of consent policies contained in this Plan can be categorized in one of two categories. The first category is the general consent policies which are to be applied in the case of all consent applications. The second category is specific policies which are to be applied to consent applications involving lands in specific land use designations. It is a policy of this Plan that the general policies and the specific policies for the appropriate land use designation be applied in the case of each application for consent.

### 16.3.2 **General Consent Policies**

The following policies shall apply to all consent applications. It is intended that they be applied in conjunction with the appropriate consent policies for the specific land use designations as set forth in this Plan.

#### 16.3.2.1 **Lot Creation**

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OPA # 47* In designated settlement areas, there is no fixed limit on the number of lots that can be created by consent; however, the consent process is not intended as a substitute for the plan of subdivision process and it is not an accepted method of lot creation for proposals which are more appropriately dealt with through the plan of subdivision process. Lot creation through the consent process will be considered only when the parcel size is such that lot creation through the consent process is appropriate, where the proposal does not require the extension of any major municipal service (e.g. road), where the proposal does not leave residual land that can only be developed by the plan of subdivision process, and where access to abutting lands within the designated settlement area is not negatively impacted. Where it is evident that lot creation through the consent process is not appropriate and that development should occur through the plan of subdivision process, the consent application will not be approved.

#### 16.3.2.2 **Application**

All consent applications must be submitted to the County of Perth Land Division Committee on the proper application form as prescribed by the Land Division Committee. All required information must be included with the application and only those applications which are complete shall be reviewed and considered by the Committee. All applications shall be accompanied with a sketch(s) prepared in accordance with the Committee's requirements.

#### 16.3.2.3 **Land Use Plan**

It is a fundamental requirement of this Plan that all consent applications be in conformity with the land use policies and consent policies for the applicable land use designation(s) as identified on Schedule "A" (Land Use Plan) if an application is to be approved. Those applications that do not meet this fundamental requirement shall not be approved by the Land Division Committee.

#### 16.3.2.4 **Size Requirements**

The lot frontage, depth, and size of any lot created by consent (severed and/or retained parcel) must be appropriate for the use of the lot and consistent, where possible, with adjacent lots. All lots created by consent must meet the minimum lot area and lot frontage requirements as set forth in the local municipality's implementing Zoning By-law.

#### 16.3.2.5 **Public Road Access**

All lots involved in the consent application must front on and have access to an existing public road which is maintained on a year-round basis and which is of a reasonable standard of construction in the opinion of the authority having jurisdiction over the public road.

Consents will not be granted where access to a proposed lot will create a condition hazardous to the movement of traffic along the public road and which access is to be gained due to limited site lines, long curves and grades, proximity to an intersection, or other situations hazardous to traffic movement.

As a general rule, lots created by consent should have access to a local municipal road. Direct access to County and Provincial Roads should be limited in accordance with the policies and regulations established by the agencies having jurisdiction over such roads.

Where a consent application involves the creation of a new access point, all requirements of the agency having jurisdiction over such road must be satisfied. Any required permits or approvals must be obtained or being capable of being obtained prior to finalization of consent approval.

#### 16.3.2.6 **Water Supply**

*ADDED BY OPA # 47* An adequate and potable water supply must be available or capable of being made available to all lots that are created by consent. The method of water supply proposed must be satisfactory to the appropriate regulatory authority. It shall be the responsibility of the applicant to provide all studies and/or reports that may be required by the County and/or the above-noted review agencies in order to assess the adequacy and potability of water supply.

#### 16.3.2.7 **Sewage Disposal**

*ADDED BY OPA # 47* All lots created by consent must be suitable or capable of being made suitable to support an acceptable sewage disposal system (e.g. communal treatment system, septic tank and weeping tile system). The method of sewage disposal proposed must be satisfactory to the appropriate regulatory authority. It shall be the responsibility of the applicant to obtain whatever studies and/or reports that may be required in order to assess the suitability of the proposed sewage treatment system.

#### 16.3.2.8 **Soil and Drainage Conditions**

The soil and drainage conditions of any lot involved in a consent application must be suitable for the proposed use, any construction that is proposed, and for the proper siting of all buildings and structures that are proposed. Consents shall not be permitted where an application will create potential adverse impacts on ground and surface water quality and quantity, adjacent properties and roadways. For some types of development (e.g. commercial, industrial,

institutional), storm water management information may be required in order to properly assess the consent proposal. Where such information is required, it shall be the responsibility of the applicant to provide whatever studies and/or reports as may be required by the County and the appropriate review agencies.

Existing drainage works on lands subject to a consent application are to be considered. Where a consent proposal will negatively affect existing drainage works, the consent application shall be refused or appropriate remedial measures shall be incorporated into the conditions of approval.

16.3.2.9 **Natural Hazards**

Natural hazards such as flood plains and steep slopes shall be considered when reviewing severance applications to ensure that the new lot does not aggravate existing natural hazards or increase risk to life and property from natural processes.

16.3.2.10 **Land Use Compatibility**

Compatibility with neighbouring land uses shall be considered during the review of all consent applications. Where unnecessary conflicts with and/or constraints on neighbouring land uses will result from a consent proposal, that consent proposal shall either be refused or subject to conditions of approval that are intended to mitigate the land use incompatibility. The minimum distance separation provision of MDS I and II shall apply in accordance with the policies of the specific land use designations.

16.3.2.11 **Agricultural Land**

This Plan strongly supports the protection and preservation of good agricultural land (i.e. lands with an agricultural capability rating of Class 1, 2, and 3 according to the Canada Land Inventory). In order to assist in the protection and preservation of good agricultural land throughout the County, consent applications involving good agricultural land will be restricted and/or limited in accordance with the applicable land use and consent policies contained in this Plan.

16.3.2.12 **Lot Enlargements**

The specific consent/severance policies for several of the land use designations established by this Official Plan make allowance for consents involving lot enlargements. Where an application for lot enlargement is to be approved, conditions shall be imposed requiring that the enlargement area be deeded in the same name as the abutting property being enlarged, that Section 50(3) and/or (5) of the Planning Act apply to all subsequent conveyances involving the enlarged property, and that any mortgages that may be required take into account the lot as enlarged.

16.3.2.13 **Lot Boundary Adjustments/Corrections**

*ADDED BY OPA # 47* Consents involving lot boundary adjustments/corrections may be permitted provided that such adjustments/corrections are minor in nature. Consideration will be given to the lot enlargement matters noted in Section 16.3.2.12 and the provisions of the local municipality's implementing Zoning By-law when dealing with applications involving lot boundary adjustments/corrections.

16.3.2.14 **Easements and Rights-of-Way**

Consents to create easements and/or rights-of-way may be permitted provided that no new lots are created and that the need is substantiated and acceptable to the consent granting authority.

16.3.2.15 **Zoning By-law**

An application for consent must be in conformity with the provisions of the local municipality's implementing Zoning By-law if it is to be approved. Where an amendment or minor variance to the local municipality's Zoning By-law is required in order to establish Zoning By-law conformity and where such amendment or minor variance would be in conformity with the policies of the applicable Official Plan document, it shall be permissible under the policies of this Plan for the consent granting authority to approve the consent application conditional upon the approval of a Zoning By-law Amendment or minor variance and the subsequent coming into force of such amendment or variance.

16.3.2.16 **Conditions of Consent**

When reviewing and considering an application for consent, the local municipal Council and the consent granting authority will give consideration to the following as possible conditions of consent approval:

- (a) That any tax arrears for the subject land be paid in full;
- (b) That land not exceeding 5 percent of the land being severed be conveyed to the local municipality for park purposes or alternatively, the local municipality may require a monetary payment in lieu of conveying land for park purposes to a municipality;
- (c) That the applicant and/or the proposed purchaser enter into an agreement with the local municipality requiring that the owner and/or proposed purchaser plant a sufficient number of trees to replace any trees that will be removed as a result of the consent proposal. The advice of the County of Perth Tree Inspector may be sought when determining the need for tree replacement;
- (d) That any road widening that may be required along the roads abutting a lot that is subject to a consent application be dedicated to the road authority having jurisdiction over the road;

- (e) That any fencing that may be required as a result of a consent application be established;
- (f) Where a consent application involves the removal/demolition of existing buildings or where a consent application involves dilapidated buildings, that such buildings be removed and the subject building area be rehabilitated as appropriate;
- (g) That buildings/structures which are central to the position that an application conforms to the Official Plan, that such buildings/structures be substantially constructed and/or completed; and
- (h) That a survey plan be obtained.

16.3.3

**Consent Policies for Specific Land Use Designations**

The specific consent/severance policies as contained in the various land use designation sections of this Official Plan shall apply in respect to consent applications involving such land. These specific consent/severance policies shall apply in addition to the general consent policies contained in Section 16.3.2 and must be satisfied if an application is to be approved.

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