

A GUIDE TO CONSENTS



Infrastructure and Planning Department

June 2018

1.0 Introduction

This document is intended to provide guidelines for the public, property owners, consultants, builders and the municipality that will assist in the preparation, submission, review, and approval of new developments in the City of Clarence-Rockland.

A “consent” or “severance” is required before a parcel of land can be divided to create a new lot, to enlarge an existing lot, register certain easements, etc. Consent approval gives the City of Clarence-Rockland a way of ensuring that new lots that are created are consistent with the planning policies of the Official Plan of the Urban Area of the City of Clarence-Rockland, the Bourget Official Plan, the Official Plan of the United Counties of Prescott and Russell, and other Provincial planning documents.

NOTE: An applicant should verify with a City Planner to determine whether or not a property can be severed.

2.0 Consent Approval Process

2.1 Major Steps

2.1.1 Pre-Consultation with the City’s Planning Staff

Applicants are advised to request a pre-consultation meeting with a municipal planner prior to the submission of an application. During the pre-consultation meeting, the planner will advise the applicant of applicable policies and zoning provisions such as lot size requirements, environmental concerns, and required studies. Applicants may also use the pre-consultation meeting to ask any questions they have regarding the severance process and request assistance to fill out their application form.

2.1.2 Submit a Complete Application

The applicant submits a complete application including a cover letter or planning rationale, a sketch of the proposed severance, the required fees, a copy of the Deed of Land, and any required plans or studies determined at time of pre-consultation. The applicant should consider retaining an Ontario Land Surveyor (OLS) and lawyer to assist them through this process. The application will then be reviewed by the Secretary Treasurer to ensure that the application is complete (all required information was provided).

2.1.3 Circulation of Application

Once the application is deemed complete, and at least 14 days before the Committee of Adjustment meeting, the Secretary-Treasurer of the Committee of Adjustment will send a notice of the application to neighbours within 60 meters of the subject property, and any person or public body that made a written request to be notified. A notice sign will also be placed on the property by a company, and will be removed by the company after the public meeting.

The application will also be circulated to a prescribed list and to the City's Departments in order to obtain comments and conditions to take into consideration when making a recommendation to the Committee of Adjustment on the application.

2.1.4 Approval by the Committee of Adjustment

The Committee of Adjustment meets once a month and is the approval authority for consents and minor variances. The Committee carefully considers all aspects of the application, which includes but is not limited to:

- The effect on public health and safety of present and future inhabitants;
- The impact on Provincial interests;
- Whether the application is in the public interest;
- The suitability of the land for a severance;
- The size and shape of the lots;
- The impact on the environment;
- Whether the request is supported by existing municipal infrastructure;
- Whether the request conforms to the applicable planning documents and is compatible with adjacent land uses.

A report and presentation will be prepared by a municipal planner and presented at the public meeting, followed by a recommendation to the Committee based on whether any concerns have or can be addressed. If the application is approved, the Committee of Adjustment will impose conditions (provisional consent) as part of the decision.

2.1.5 Notice of Decision

A notice of decision will be mailed to the applicant and anyone who filed a written request to be notified of the decision and provided written comments within 15 days of the date on which the Committee of Adjustment made a decision.

NOTE: There is a 20 day appeal period following the notice of decision, where any agency or public body who opposes the Committee's decision (letter of objection supported by a planning justification) can appeal the decision to the Local Planning Appeal Tribunal (LPAT).

2.1.6 Final Decision

If no appeals are made by the end of the 20 day appeal period, the decision is final and binding. The applicant may proceed to fulfill the conditions of provisional consent.

NOTE: Section 53 of the *Planning Act* states that:

- Where consent is granted with conditions, the conditions must be fulfilled within one year of the "giving of notice of a decision" or the consent is deemed to be "refused", and,
 - Where a conditional consent has been certified as to the fulfillment of the conditions, the consent itself "lapses" after two years from the date of the certificate if the land is not transferred.
- * Conditions need to be fulfilled before one year, or else the application lapses and the applicant must resubmit the application (repaying application fees, another public meeting, etc.).
- * It is the applicant's responsibility to ensure that all conditions are completed, and that all studies are approved before the lapsing date.

2.2 Processing Times (assuming no appeals to the LPAT)

1. Notice of Complete Application and Public Notice
 - a. Time Frame: 1-2 weeks of receiving a complete application
2. Approval by the Committee of Adjustment
 - a. Time Frame: 5-9 weeks

3. Notice of Decision
 - a. Time Frame: within 15 days of the Committee's decision
4. Final Decision
 - a. Time Frame: 21 days after the notice of decision is sent
5. Review of Studies by the South Nation Conservation Authority
 - a. Time Frame: 4-8 weeks
6. Road widening transfer process
 - a. Time Frame: 5-6 weeks

The total timeframe, from submission of a complete application to a final decision is usually between 9-14 weeks (3-4 months). The process is longer if an application is not complete when it is first submitted, if changes are made to the proposal during the process, or if there are delays in producing supporting studies.

2.3 Staff and Agency Roles

Planning

Planners act as the co-ordinator of the consent process. They ensure that the severance conforms with the policies of the Official Plans and meets Zoning By-law requirements. Applications for consent are circulated by the planner to municipal departments, Council, and outside agencies for review and comments. The comments received by these contacts allow the planners to draft a report and create a presentation for approval at the Committee of Adjustment. The Committee of Adjustment may approve, approve with modifications, or refuse an application. Where approved or approved with modifications, the Committee grants provisional consent. The certificate for consent will be given by the Secretary Treasurer once all the conditions are completed by the applicant.

Building

The Building Division provides comments in regards to the building code. Building permits for proposed developments on the new lots are not to be requested until the certificate of consent is issued and the transaction in respect of which the consent was given has been carried out.

Infrastructure

The City's Engineers provide comments regarding septic systems, wells, connection to municipal water/sewer, entrances, drainage and environmental features.

Finance

The Finance Department ensures that all taxes owed on the property are paid before the lot is severed.

Community Services

The Community Services Department may require land to be conveyed to the municipality for park or other public recreational purposes or request 5% cash in lieu of parkland for residential properties or 2% for cash in lieu of parkland for commercial or industrial properties.

Protective Services

The Protective Services Department ensures that there are no safety concerns regarding flood plains, fire routes, entrances and incompatible uses nearby.

The United Counties of Prescott and Russell

As the upper-tier municipality, the United Counties of Prescott and Russell(UCPR) reviews development applications in the City. They will provide comments regarding conformity to the UCPR Official Plan, impacts on County Road(s), environmental issues, etc.

South Nation Conservation

South Nation Conservation reviews consent applications within the South Nation watershed and elsewhere. They provide comments regarding environmental features on or near the properties affected by the severance requested and the location of existing and proposed septic systems. South Nation is also the City's peer review expert for environmental studies, hydrogeological and terrain analysis and any other relevant studies required as part of a severance.

3.0 Conditions

Provisional consent means that you have approval to complete “conditions”, before the Secretary-Treasurer can stamp a deed to finalize the Consent process. You have (1) year to complete these conditions, or your “conditional approval” runs out and you must start over again.

A list of the most common conditions is provided below, with an explanation. The exact conditions imposed by the Committee for any given file depends on the site specific circumstances.

	Condition	Explanation
	<p>2 (two) copies of the deed along with a PDF and DWG copy and one paper copy of the deposited plan of survey (R-plan), or a legal description acceptable to the Registrar of Deeds, being received by the Secretary-Treasurer.</p> <p>(Note to solicitor: Please attach a Schedule as Page 2 to the deed, which names the Transferor, Transferee, the Description of the property to which the Certificate applies and the Application for Consent File No.)</p>	<p>The deeds are prepared by a lawyer, using a deposited plan of survey, which must be prepared by a qualified Ontario Land Surveyor (OLS).</p> <p>The digital copy of the survey is provided by your OLS.</p> <p>The lawyer and OLS are chosen by you.</p> <p>Deeds and surveys are not required until all of the other conditions are met. However, you may need to have the survey completed early in order to meet other conditions such as a rezoning.</p> <p>The paper copies of the survey will be kept in the property file and severance file. The PDF copies will be kept in a digital archive and the DWG copy will be used to update the County’s mapping system “A la Carte”.</p>
	<p>An undertaking from the applicant’s solicitor confirming that the deeds will be registered on title within two (2) years of the date of the certificate.</p>	<p>Your lawyer will provide this undertaking at the same time as the deeds are submitted. This condition ensures that your consent does not lapse after two years.</p>
	<p>Subsection 3 or 5 of Section 50 of the Planning Act R.S.O. 1990, shall apply to any subsequent conveyance or transaction involving the severed land.</p>	<p>This is a condition imposed when you are “adding to a lot” or “adjusting a lot line”. This ensures that the piece that is being severed can never be sold or considered separately from the newly merged lot.</p>

		This clause is also used when you are creating a "right-of-way" across your property or establishing an "easement" for a utility such as Bell Canada. In these instances, it ensures that the piece that is being severed can never be sold or considered separately from the original lot.
	If the application is for a lot addition, the documents or instruments, submitted to the Secretary-Treasurer for review and consent endorsement, shall be accompanied by an undertaking from the applicant's solicitor confirming that the lands to be severed will be consolidated on title with the adjacent lands.	This is a condition imposed when you are "adding to a lot" or "adjusting a lot line". This condition requires the solicitor to provide an undertaking confirming that the severed and benefitting lands will be consolidated on title. Your solicitor will provide you with this undertaking.
	A copy of all reference plans associated with this application shall be provided to the City for approval prior to registration.	If you have this type of condition imposed you must ensure that your OLS provided the designated City staff person with a copy of the preliminary survey, <u>prior to it being registered on title</u> , so that it can be reviewed for conformity to the municipal zoning by-law.
	The registered owner shall provide, to the City, certification from an OLS that all buildings and structures comply with the applicable setback requirements to the newly created lot lines.	This is a condition used to ensure that all buildings and structures conform to the minimum zoning setback requirements. In order to clear this condition, you must have your OLS forward a letter of certification to the City.
	Cash-in-lieu of parkland fee be paid to the Municipality.	This is a fee that the City is able to apply to severances as a condition. A "cash-in-lieu of parkland fee" is imposed instead of 5% (residential) or 2% (commercial or industrial) of your property for parkland, which is allowed to municipalities under the Ontario Planning Act. A cash-in-lieu fee is more common than a transfer of land for severance applications. The Owner will be required to hire a market appraiser to evaluate and provide the City with an evaluation of the future lot in order for the City to calculate parkland.
	A Hydrogeological study prepared by a professional engineer hired	Development applications which propose to utilize individual on-site water

	by the applicant. The report will be reviewed by South Nation Conservation at the applicant's expense.	services (well) may be required to include a hydrogeological study.
	A terrain analysis prepared by a professional engineer hired by the applicant. The report will be reviewed by South Nation Conservation at the applicant's expense.	Development applications which propose to utilize individual on-site sewage services (septic system) may be required to include a terrain analysis.
	An Environmental Impact Study for the natural heritage features and areas to be prepared by a professional in the field. The report will be reviewed by South Nation Conservation at the applicant's expense.	If there is a natural heritage feature such as a wetland, fish habitat, significant woodland etc. located within a specified distance of the proposed severed property, an environmental impact study may be required. The report must be completed by a professional hired by the applicant and will be reviewed by South Nation on behalf of the City at the applicant's expense.
	The applicant shall, at his/her own expense, convey to the City sufficient lands, along the frontage on (name of the public road), fronting the applicant's property to meet the requirements of the City and/or County for road widening purposes. Surveys are to be submitted to the City and/or County for review and approval prior to registration. Deeds are to be submitted to the City and/or County, for review and approval, accompanied by a solicitor's certificate indicating that the title is free and clear of all encumbrances to the City and/or County for their records. The City and/or County shall be consulted prior to commencing survey to determine the amount of road widening.	<p>This is a condition which may be imposed by the County or local road authority in order to ensure that the road authority has adequate road width for future road works.</p> <p>If this condition is imposed, you must follow the instructions and ensure that your OLS and solicitor are aware of the requirements. Your survey will need to add the road widening as parts on the survey and your solicitor will need to prepare the additional deed.</p>
	The registered owner shall obtain, from the City or County, any required entrance approvals.	This is a condition which may be imposed by the County or City in order to ensure safe ingress and egress from a newly created lot. Contact the appropriate public road authority to

		obtain an entrance approval.
	A mutual access for the benefit of both the Severed and Retained parcel must be installed by the applicant and shown in both the deeds and the survey, to the satisfaction and specifications of the public road authority. Draft documents must be shown to the public road authority before finalizing the Consent.	This is a condition which may be imposed by the public roads authority in order to ensure safe ingress and egress from a newly created lot. If this condition is imposed, you must follow the instructions and include the mutual driveway in your survey.
	That the severed parcel connects to municipal water along the street and that the existing well is decommissioned at the expense of the applicant.	The new and existing properties will be required to connect to municipal water if it is available.
	A written undertaking sent to South Nation acknowledging that the proposed property lines must be at a minimum clearing distance of three (3) metres from all existing private sewage systems for the proposed severed lot.	South Nation may require that a letter be sent directly to them stating that the new lot lines are 3m from an existing septic system to ensure that it conforms to regulations. South Nation is the approval authority for septic systems, and the letter will be kept in their file.
	A written undertaking which acknowledges that South Nation Conservation may conduct a site visit of the proposed severed and retained parcels in the spring of <u>201X</u> .	If South Nation is unable to conduct a site visit on the property due to weather or other factors, they will require a letter stating that they may conduct a site visit at a later date.
	Rezoning of the Severed and/or Retained parcel(s), to the satisfaction of the Municipality. OR The completion of a Minor Variance on the Severed and/or Retained parcel(s), to the satisfaction of the Municipality.	If you have this type of condition imposed, you must attend at the Municipality to apply for rezoning or a minor variance. There will be an application fee and a process similar to the Consent process to go through. It is suggested you attend to this condition early as it can become time-consuming and cost valuable time for the one year time limit for conditions to be met.
	Payment of the balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) to the City.	This is required to ensure that the severed portion does not have any outstanding property taxes owing against it at the time the certificate of consent is granted.
	A requirement that the deeds for one application shall be registered prior to another accompanying application OR an undertaking will	This is a condition that is imposed when more than one new lot is being created, reciprocal lot additions are proposed, or a right-of-way is being created across

	be provided by the solicitor indicated that the deeds will be registered in the appropriate order.	several properties or any other situation where failure to register the deeds for one application prior to those of another will result in a Planning Act violation. This condition is completed by your solicitor.
	The registered owner shall enter into a severance agreement pursuant to Section 51(26) of the Planning Act to address all planning matters, including but not limited to, (items will be listed specific to your proposal). A copy of the registered agreement shall be provided to the City, prior to endorsement of the deeds for this Application for Consent.	This condition is imposed as a way to ensure that matters identified during the severance process can be dealt with in the future. Items included in a severance agreement could be things such as site specific development requirements (e.g. access by private right-of-way, grading, mitigation measures, etc.) The City can provide guidance on who prepares the agreement and the format and content of the agreement. The agreement is signed by the Transferor/Transferee and the City and is then registered on title as notice to any future owners.
	Prior to endorsement of the deeds, the Secretary-Treasurer shall receive a letter, from the (public agency), confirming that conditions #_, #_ have been fulfilled to its satisfaction.	This is a condition which requires the public agency or other which requested a condition to confirm to the City that its condition(s) have been satisfied prior to the Secretary-Treasurer certifying the deeds.
	That each condition be completed within a year.	The applicant has one (1) year to complete all the conditions and get the transfer stamped and signed. If the applicant fails to do so, the request lapses and they will be required to re-apply.

4.0 Fees

4.1 Application Fees

- Lot Creation
\$1,200.00/application* (payable to the City of Clarence-Rockland)

- Lot Enlargement (payable to the City of Clarence-Rockland)
\$850.00
- United Counties of Prescott and Russell Review (payable to the UCPR)
\$350.00/application
- South Nation Conservation (payable to SNC)
\$450.00/application

All application fees are provided to the City of Clarence-Rockland at time of submission.

* A 10% discount is applied if another type of application is submitted concurrently

4.2 Additional Fees

Note: The cost of a study, survey and legal fees varies based on the severance request and the agencies hired to perform the work.

Peer Review Fees by South Nation Conservation (invoice sent by SNC):

- Hydrogeological Assessment
\$400.00 – \$2,600.00
- Environmental Impact Studies
\$400.00 - \$2,600.00

Other Conditions:

- Dedication of Public Highway
\$150.00
- 2% or 5% Cash in lieu of Parkland

* Cash-in-lieu of parkland will be determined by either a market appraisal or letter of opinion obtained by the owner from a certified appraiser, or the most recent land sale record of the subject property no more than 2 years prior to the date of the agreement; provided the sale was at market value.

Note: Review Fees are based on the size of the severed property. Please review SNC's fee schedule for more information.

(http://www.nation.on.ca/sites/default/files/2018%20Approvals%20Fee%20Schedules_EN%20updated.pdf)

Need more information or have any questions?

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