



Staff Report PDA2025-01

January 22, 2025

Standing Committee N/A

Council N/A

Amendments

Submitted To: Summer Valentine, Director, Planning, Building, and Economic Development

Submitted and

Prepared By: Lindsay Ayers, Manager, Planning

Subject: Amendments to Conditional Site Plan Approval to Add Lapsing Provisions

Recommendation

THAT Report PDA2025-01 “Amendments to Conditional Site Plan Approval to Add Lapsing Provisions” be received;

AND THAT the existing conditional approvals for Site Plan Control Files D11217; D111619; D111819; D11521; D111422; D110223; D110623; and D11224, which have not received final Site Plan approval to date, be amended to include the following lapsing provision:

“In accordance with Section 41 (7.1-7.3) of the *Planning Act*, this conditional site plan approval will lapse three years from the date that the conditional approval was issued. The conditional approval shall not lapse if, before the lapsing date, a permit is issued under the *Building Code Act* to implement the site plan approval.”; and

AND THAT the owners and/or authorized agents for the aforementioned files be notified of the change to their respective conditional Site Plan approvals.

AND THAT in further accordance with the *Planning Act*, conditional site plan approvals received subsequent to the effective date of the enabling legislation shall include a

lapsing date of no less than three years, or as otherwise outlined or exempted by Provincial regulations.

Amendments

None.

1. Executive Summary

In accordance with the Province’s Housing Supply Action Plan, “use it or lose it” approach, and recent changes to the *Planning Act*, municipalities may now provide that the approval of a Site Plan lapses at the expiration of a specified time period, currently not less than three years, to support the efficient allocation of housing-enabling infrastructure. In November 2024, Planning Services began applying a three-year lapsing provision to conditional Site Plan approvals to ensure that developments progress to the building permit stage within a reasonable timeframe, augmenting housing supply and contributing to a complete and sustainable community. Planning Services is also recommending that existing Site Plan Control decisions conditionally approved prior to November 2024 that have not received final Site Plan approval to date be amended to also include a lapsing provision.

2. Analysis

Background

Bill 185: Cutting Red Tape to Build More Homes Act (Bill 185) proclaimed amendments to the *Planning Act* to align with a “use it or lose it” philosophy toward increasing housing supply across the Province to achieve construction of 1.5 million units by 2031. Through the consultation on *Bill 185*, the Province recognized that “*Stalled developments can limit a municipality’s progress in meeting provincial housing targets. For example, seven municipalities have reported that 70,000 units have remained inactive for at least two years. Ontario has made changes to create a new “use it or lose it” tool to enhance and expand a municipality’s ability to address this obstacle and to support the efficient allocation of housing-enabling infrastructure.*” One of the new tools available to municipalities to accelerate housing development and other

uses that support a complete community is the introduction of enhanced lapsing authority for Site Plan approvals. The Minister also gained regulation-making authority to set timelines for lapsing provisions and establish exemptions from lapsing provisions.

More specifically, the amended Section 41 of the *Planning Act* states the following:

Lapse of approval

(7.1) Subject to the regulations, in approving the plans and drawings referred to in subsection (4), the authorized person referred to in subsection (4.0.1) may provide that the approval lapses at the expiration of the time period specified by the authorized person, in accordance with subsection (7.2), and the approval shall lapse at the expiration of the time period. However, the approval shall not lapse if, before it has lapsed, a permit is issued under section 8 of the *Building Code Act, 1992* to implement the site plan approval.

Same, time period

(7.2) For the purposes of subsection (7.1), the time period specified by the authorized person shall not,

- (a) be less than such prescribed time period as may be applicable to the development;
- (b) exceed such prescribed time period as may applicable to the development; or
- (c) be less than three years, if a prescribed time period under clause (a) or (b) does not apply with respect to the development. 2024, c. 16, Sched. 12, s. 8 (3).

Same, approval

(7.3) Subject to the regulations, if an authorized person has approved plans or drawings referred to in subsection (4) before the day subsection 8 (3) of Schedule 12 to the *Cutting Red Tape to Build More Homes Act, 2024* comes into force, the authorized person may provide that the approval lapses in accordance with subsections (7.1) and (7.2) of this section and, if the authorized person does so, the municipality shall notify the owner of the land of the change to the approval.

To date, no regulations have been issued under this Section and therefore lapsing provisions that apply to Site Plan approvals shall not be less than three years. Lapsing provisions meeting the above requirements may be applied to new conditional Site Plan approvals or to existing approvals prior to the enactment of *Bill 185*, provided notice of the amended conditions of approval is given to the owner of the land.

In addition to the most recent shifts in Provincial legislation, the Development Process and Fees Review (DAP) Phase One Report received by Council on April 22, 2024 as a guiding document for continuous improvement within the development review and approvals system recommends implementing a "sunset" deadline for clearing conditions/executing development agreements associated with upfront conditional Site Plan approval.

Proposal

With ever-shortening *Planning Act* timeframes and the continued potential for appeals of “non-decision” to the Ontario Land Tribunal (OLT), the majority of Site Plan Control applications are approved with conditions that must be fulfilled by the owner prior to finalizing the approval. The most common condition applied by the Town is related to confirmation of municipal servicing capacity allocation, which is dealt with through a major development batch process in accordance with the Town’s Servicing Capacity Allocation Policy (SCAP). Conditions may also address outstanding minor technical comments, required clearances from agencies, vegetation retention, provision of securities, and other similar matters. While many developments proceed expeditiously to satisfy conditions of approval, execute the required Site Plan Control Agreement, and continue to the Building Permit stage, there are some that do not progress quickly for a variety of reasons including changes of ownership, financing challenges, economic markets, land speculation, and labour shortages. While there may be valid reasons for slowed progress, governments at all levels are under pressure to deliver housing units and targets are often associated with critical infrastructure funding.

Planning Services finds the Province’s “use it or lose it” tools to be reasonable and balanced in the continued drive toward shovel readiness for all types of development

that contribute to complete and sustainable communities. Furthermore, staff concur with the Province that a three year timeframe from the date of the original Site Plan approval is fair and provides a sufficient timeframe for a project to advance to issuance of a permit under the *Building Code Act*, even if the project does experience some delays. As such, in November 2024, Planning Services began applying a three-year lapsing provision to conditional Site Plan approvals and is recommending that existing Site Plan Control decisions conditionally approved prior to November 2024 that have not received final Site Plan approval to date be amended to also include a lapsing provision. Should the Province regulate a different lapsing timeframe or identify certain classes of development that are exempt from lapsing provisions in the future, conditional approvals could be further amended to ensure compliance, pending applicable transition provisions.

The proposed approach would be consistent with the DAP Phase One Report, Tactical Recommendation PI 16, to address the current lack of timelines for condition clearance and execution of a development agreement once an upfront conditional Site Plan approval has been granted. The intent of this Tactical Recommendation is to improve timelines for condition clearance and accelerate construction. While the Phase One Report recommends a lapsing provision of 12 to 18 months, this curtailed timeframe would not currently be permitted under the *Planning Act* but may be revisited if further regulations are enacted by the Province.

Impacted Files

The following Site Plan Control files received conditional approval but have not satisfied the conditions of approval to date. As such, these files are proposed to be amended to include a three-year lapsing provision:

Site Plan File	Address or Project Name	Conditional Approval Date	Original Staff Report
D11217	655 Hurontario Street	April 17, 2023	P2023-09*
D111619	Blue Fairways Phase 5 & 6	July 24, 2023	P2023-22*
D111819	120 Mountain Road	February 27, 2023	P2023-04*
D11521	415 First Street	January 8, 2024	P2023-31*
D111422	25 Sandford Fleming Drive	April 19, 2023	PDA2023-01
D110223	11403, 11453 & 11461 Highway 26	April 19, 2023	PDA2023-02
D110623	Collingwood Quay	October 16, 2023	PDA2023-05
D11224	10045 Highway 26	October 18, 2024	PDA2024-04

**Report available via the provided Council Meeting Agenda.*

Notice of the amendment to conditional Site Plan approval would be provided to each property owner affected by this change. In accordance with Section 41 (12.0.1) of the *Planning Act*, if the owner of the land is not satisfied with the new requirement made by the municipality, the owner may appeal the inclusion of a lapsing provision to the OLT. As a courtesy, property owners and/or the authorized agents of Site Plan applications conditionally approved prior to November 2024 that have not received final approval to date that would be impacted by the proposed amendment to add a lapsing provision were advised of this recommended change prior to advancing this Report for consideration and, although some implementation-related questions were raised, no concerns or objections were received.

Water and Wastewater Capacity Allocation

A fundamental component of the “use it or lose it” tenet is that conditionally approved development should not unduly tie-up municipal water or wastewater capacity allocation, rendering it unavailable for other proposals that are proceeding more quickly to shovel-readiness. If a development project with allocated capacity is not progressing reasonably, the capacity allocation should be withdrawn and returned to the available pool for re-allocation. Servicing capacity allocation in the Town is primarily governed by the approved SCAP. While the SCAP already includes sunset provisions to allow

revocation of allocation under certain circumstances, the timelines associated with those clauses begin once a development agreement is executed and after Council confirms capacity allocation through the semi-annual major development batch review process. Unexpectedly, some owners with allocated servicing capacity by Council resolution are not executing Site Plan Control Agreements to start the timeline for the sunset clauses, causing capacity to be unintentionally held for longer than anticipated by the SCAP. The addition of a lapsing provision for conditional Site Plan approvals will assist in continuing to apply pressure on property owners to progress toward construction and to maintain tension in the servicing capacity allocation system.

Planning Analysis

The upper-tier regulatory and policy instruments identified in this Report collectively function to support the development of complete and sustainable communities, where forecasted growth should be accommodated or exceeded through an alignment of land use and infrastructure decisions. Layering on the Province's Housing Supply Action Plan and "use or lose it" approach with clear targets for increased housing and prioritization of shovel ready projects, led to the recent *Bill 185* legislative changes that are clearly anticipated for municipal action and uptake. The *Planning Act* provides the authority and tools for municipalities to include lapsing provisions in existing and future conditional Site Plan approvals.

Staff are also continuing to adjust processes to align with Provincial changes and to facilitate streamlining of development review and approvals systems. No amendments to the Town's recently approved 2024 Official Plan or the 2010 Zoning By-law are required to implement the process change recommended in this Report. Future amendments to the Site Plan Control By-law 2010-082, as amended, though not strictly required, may be advantageous to clearly outline the Town's intent for the development community and property owners. A comprehensive update of the Site Plan Control By-law is anticipated for 2025 as part of the DAP endorsed recommended actions. However, the lapsing of conditional Site Plan approvals that have not progressed to the building permit application stage is an important tool that should be implemented

immediately to assist the Town in meeting housing supply targets associated with infrastructure funding.

Risks and Alternatives

The following risks have been identified:

- The Province has the authority to regulate Site Plan approval lapsing provisions, which could be more or less than the three years currently identified in the *Planning Act*, and could exempt certain classes of development from the imposition of lapsing provisions. To date, no regulations have been proposed to staff's knowledge. However, should those be enacted in the future, existing and upcoming conditional Site Plan approvals may need to be further amended and/or processes and by-laws updated to maintain regulatory compliance.
- The *Planning Act*, as amended by *Bill 185* permits the municipality's "authorized person" that has delegated authority related to Site Plan Control matters to include a lapsing date on existing or future conditional approvals. *Bill 109: More Homes for Everyone Act* required all Councils to designate an authorized person to deal with Site Plan Control matters as of July 1, 2022, which cannot be "bumped up" to Council. With respect to plans and drawings that were submitted for approval prior to that date, the approval authority for those applications remains with Council. This transition provision would not appear to apply to amendments to previous conditional approvals issued by Council. While such authority would seem to fall to the authorized person, the language in the *Planning Act* is not fully clear and OLT case law would not yet exist on this front. Therefore, there is a risk of appeal, which could allege that staff inappropriately used delegated authority to revise conditional Site Plan approvals that were initially granted by Council. It is staff's opinion that should an appeal of that nature be lodged, it could easily be settled through a report brought forward to Council, with limited cost impacts.
- Similarly, amendments to the *Planning Act* through *Bill 185* allow a lapsing date that shall not be less than three years to be applied to existing or future conditional Site Plan approvals. However, the *Act* does not specify if that three-year period

should begin from the original date of conditional Site Plan approval or from the date that the approval is amended. In the context of the Provincial legislation, policies, and housing supply plans, staff would be prepared to implement lapsing provisions of three years from the original date of conditional approval, which could trigger appeals without clear case law. Again, staff envision that such appeals could be settled through altering the starting point for the three-year timeframe, if advised by the Town's Solicitor.

Alternatives include taking no action until regulations are introduced by the Province and/or until the grey areas in the amended *Planning Act* are confirmed through OLT decisions. As both of these circumstances could take months to years to unfold, the potential near-term benefits of proceeding as outlined in this Report would not outweigh the risks described above.

Financial Impacts

Maintaining an adequate, appropriate and orderly supply and mix of residential, commercial, and industrial units in anticipation of future development and servicing conditions provides a long-term foundation for stable community growth and results in the generation of growth-related revenue associated with building permit fees, development charges, taxes, and other related fees. Further, financial incentives at both the Provincial and Federal levels for infrastructure and other initiatives that support an increase in housing supply and/or affordability are tied to achieving pre-determined targets. The Town should leverage all of the tools available to ensure that development projects proceed to build-out expeditiously such that if targets are not achieved and funding is at risk, the municipality can demonstrate that everything was done within the Town's jurisdiction to attempt to achieve those targets. Lastly, while there is a risk of OLT appeals, costs can be controlled through settlements rather than engaging in lengthy hearings with uncertain opportunities of success, pending Council direction.

Conclusion

Staff have evaluated the legislative and policy rationale, the risks and alternatives, and recommend proceeding with amending all existing Site Plan Control decisions

conditionally approved prior to November 2024 that have not received final Site Plan approval to date with a three-year lapsing provision from the original date of approval. Further, all conditional Site Plan Control applications received after the legislative effective date have included a lapsing provision and it is further recommended that this practice shall continue for the reasons outlined in this Report.

3. Input from Other Sources

The proposed process changes outlined in this Report are consistent with the DAP Phase One Report recommendations. The DAP project involved substantial consultation with the development industry, partner agencies, peer reviewers, staff involved in DAP, and members of Council. Furthermore, since November 2024, Planning Services has been applying a three-year lapsing provision to all conditional Site Plan approvals with no concerns raised by applicants to date.

As a courtesy, property owners and/or the authorized agents of Site Plan applications conditionally approved prior to November 2024 that have not received final approval to date that would be impacted by the proposed amendment to add a lapsing provision were advised of this recommended change prior to advancing this Report for consideration. Two owners responded with some implementation-related questions. However, no concerns or objections were received in response to the proposed lapsing provision amendment itself.

Staff Report No. PDA2025-01 was forwarded to Department Heads on January 21, 2025, and the content of this report responds to the feedback received.

4. Applicable Policy or Legislation

- *Planning Act* (1991, as amended);
- Provincial Policy Statement (2024);
- Simcoe County Official Plan (2023 Consolidation);
- Town of Collingwood Official Plan (2004, as amended);
- Town of Collingwood Official Plan (2024);
- Town of Collingwood Zoning By-law 2010-040 (2010, as amended); and

- Town of Collingwood Site Plan Control By-law (2010-082), as amended.

5. Considerations

2024-2028 Community Based Strategic Plan: Advances pillar(s) below:

Sustainable Connected Vibrant Responsible

Services adjusted if any

Not Applicable

Climate Change / Sustainability:

No net effect on climate
change/sustainability

Communication / Engagement:

Public Engagement has occurred

Property owners and/or authorized agents impacted by the proposed recommendation have been notified.

Accessibility / Equity, Diversity, Inclusion: Not Applicable

Registered Lobbyist(s) relating to content:

This Report would apply to a variety of existing and proposed/future development projects, some of which may be associated with registered lobbyists. The recommendation is based on impartial professional advice from qualified land use planning staff.

Next steps and future action required following endorsement:

- Undertake administrative activities necessary to amend applicable existing Site Plan Control conditional approvals.
- Provide notice to landowners and/or authorized agents.
- Bring any OLT appeals forward to Council for direction.

6. Appendices and Other Resources

None.

7. Approval

Prepared By:

Lindsay Ayers, Manager, Planning, MCIP, RPP

Delegated Authority Review:

Summer Valentine, Director of Planning, Building and Economic Development, MCIP, RPP

Decision Declaration:

I, Summer Valentine, being the Director of Planning, Building, and Economic Development of the Town of Collingwood render the following decision based on the recommendation(s) made in the above staff report:

- Denied
- Endorsed

Decision Date:

January 23, 2025

Signature:



I affirm that I am authorized to render this decision as the employee appointed by the Town in accordance with applicable legislation.