



Committee Report

To:	Deputy Warden McQueen and Members of Grey County Council
Committee Date:	May 12, 2022
Subject / Report No:	PDR-CW-18-22 / Sunvale Subdivision
Title:	Sunvale Subdivision Report – 42T-2018-05
Prepared by:	Scott Taylor
Reviewed by:	Randy Scherzer
Lower Tier(s) Affected:	Municipality of West Grey
Status:	

Recommendation

1. That Report PDR-CW-18-22 be received; and
2. That in consideration of the draft plan of subdivision application 42T-2018-05, for lands described as Part of Divisions 2 and 3 of Lot 24, Concession 1 East of the Garafraxa Road (EGR), (geographic Township of Glenelg) in the Municipality of West Grey, the Grey County Council deems this plan of subdivision not to have lapsed as per section 51(33.1) of the *Planning Act*, subject to the conditions set out in the original notice of decision; and
3. That the draft approval shall lapse after a period of three (3) years from May 26, 2022; and
4. That staff be directed to include amendments to section 9.13.1 of the County Official Plan as part of the County's draft Official Plan Amendment # 11, to address these new *Planning Act* provisions; and
5. That a by-law be brought forward to delegate authority to the Director of Planning or their delegate to deem subdivisions not to have lapsed in accordance with section 51(33.1) of the *Planning Act* where support for doing so is received from the host municipality, and to delegate authority to Committee of the Whole in all other circumstances.

Executive Summary

In 2018 the County draft approved the Sunvale subdivision in the Municipality of West Grey. Phase 1 of that subdivision have since been registered and is under construction. The

remaining phases lapsed on October 25, 2021. Recent changes to the *Planning Act* now allow an approval authority to deem a subdivision not to have lapsed, should specified criteria be met. Staff are satisfied that the criteria have been met and are recommending that this subdivision be deemed not to have lapsed. Staff are also recommending that authority be delegated to allow staff to authorize deemed non-lapses in certain circumstances, and that future changes be made to the County Official Plan to recognize these new *Planning Act* provisions.

Background and Discussion

On October 25, 2018 the County draft approved the Sunvale subdivision (County file number 42T-2018-05) in Durham for up to two hundred and forty-two (242) new residential units. A link to the 2018 staff report and conditions of draft approval has been included in the attachments section of this report.

On October 18, 2019 phase 1 of the Sunvale subdivision was registered for sixty-one (61) single detached residential lots and two multi-residential blocks. The construction of phase 1 is currently on-going and the developer is eager to register future phases. Map 1 below shows the future phases of the Sunvale subdivision in blue, with the first phase immediately to the west.



Map 1: Airphoto of the Subject Lands

On October 25, 2021 the Sunvale subdivision draft approval lapsed.

In the past when a subdivision approval has lapsed, it has required the proponent to re-apply for the subdivision, undertake a new public consultation process, and once again be subject to any potential appeals. However, based on newly passed amendments to the *Planning Act* through Bill 109, municipalities now have a one-time ability to deem a subdivision not to have lapsed, if the lapse date was within the past five years, if the approval was not previously deemed to have lapsed, and if the developer provides a sworn statement that there are no agreements of purchase and sale for the draft approved lots. Once an approval has been deemed not to have lapsed, no further extensions to the lapse date are permissible.

In this case, the lapse date is within the past five years, the approval has not previously been deemed to have not lapsed, and the developer has provided the required sworn statement. The Municipality of West Grey has also supported the County deeming this subdivision not to have lapsed and is willing to consider draft approval for a further three-year period.

County staff have delegated authority through the Delegation of Duties By-law 5093-20 to extend a draft approval (section 2.4), where support has been received from the host municipality. In this case staff do not have the ability to deem a subdivision not to have lapsed, as that ability did not exist until the passing of Bill 109 on April 14, 2022. In accordance with the previously delegated approval to extend draft approval, staff recommend that new powers be delegated to the Director of Planning and/or his/her delegate. This delegation of deeming a subdivision not to have lapsed would be conditional upon support from the host municipality.

Staff further recommend that additional changes to section 9.13.1 of the County Official Plan be considered as part of Official Plan Amendment (OPA) # 11, to add provisions implementing these new *Planning Act* provisions. The changes to OPA 11 will come back before County Council at a later date for consideration.

Legal and Legislated Requirements

Through Bill 109, which amended the *Planning Act*, and other pieces of legislation, the Province has deleted section 51(33) of the Act and replaced it with the following provisions:

“(33) The approval authority may extend the approval for a time period specified by the approval authority, but no extension under this subsection is permissible if the approval lapses before the extension is given, even if the approval has been deemed not to have lapsed under subsection (33.1).”

(33.1) If an approval of a plan of subdivision lapses before an extension is given, the approval authority may deem the approval not to have lapsed unless,

- (a) five or more years have passed since the approval lapsed;*
- (b) the approval has previously been deemed not to have lapsed under this subsection;*
- or*
- (c) an agreement had been entered into for the sale of the land by a description in accordance with the draft approved plan of subdivision.*

(33.2) Before an approval is deemed not to have lapsed under subsection (33.1), the owner of the land proposed to be subdivided shall provide the approval authority with an affidavit or sworn declaration certifying that no agreement had been entered into for the sale of any land by a description in accordance with the draft approved plan of subdivision.

(33.3) If an approval authority deems an approval not to have lapsed under subsection (33.1), the approval authority shall provide that the approval lapses at the expiration of the time period specified by the approval authority.”

Financial and Resource Implications

There are no additional financial or resource implications associated with this report.

Relevant Consultation

- Internal: Planning and Legal Services staff
- External: Municipality of West Grey

Appendices and Attachments

[Addendum to PDR-CW-14-18 Sunvale Staff Report](#)