



Municipality of Port Hope

Staff Report

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Report Title: Reinstatement of Draft Plan Approval, Talbot Drive Phase 2 (SU03-2018)

Report to: Committee of the Whole

Date of meeting: August 6, 2024

Report Author:

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Department responsible:

Planning & Development

Report Number: PD-18-24

Recommended Action:

That Council approve the reinstatement of the Draft Approval for Plan of Subdivision (File No. SU03-2018) in Part of Lot 2, Concession 1, Part 1 of 39R10543 Except 39M815, for a three-year period ending September 3, 2027.

Highlights:

- Draft Plan approval for Talbot Drive Phase 2 expired on September 1, 2023
- The current owner has requested the reinstatement of Draft Plan Approval for five years under the provisions of Subsection 51(33.1) of the *Planning Act*.
- It is the opinion of planning staff that the proposed reinstatement for three years is necessary for the construction of townhouses in the Urban Area and in conformity with the intent of provincial policy, the Municipal Official Plan, and the Zoning By-law.

Background:

This report will provide a background for the lapsing of the Draft Plan of Approval of Subdivision for Talbot Drive Phase 2 and the recent application for the reinstatement as submitted by Yatinkumar Patel, Director of Mansav Real Estate Investments Inc. It will conclude with staff's professional opinion and recommendation regarding approval of the reinstatement for three years.

Site and Area Description:

The subject lands are located on the the north side of Ward Street, west of Hamilton Road in the Urban Area of the Municipality of Port Hope (See Figure 1). The subject lands,

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legally described as Part of Lot 2, Concession 1, Part 1 of 39R10543 Except 39M815, and locally known as Talbot Drive Phase 2 are currently vacant.

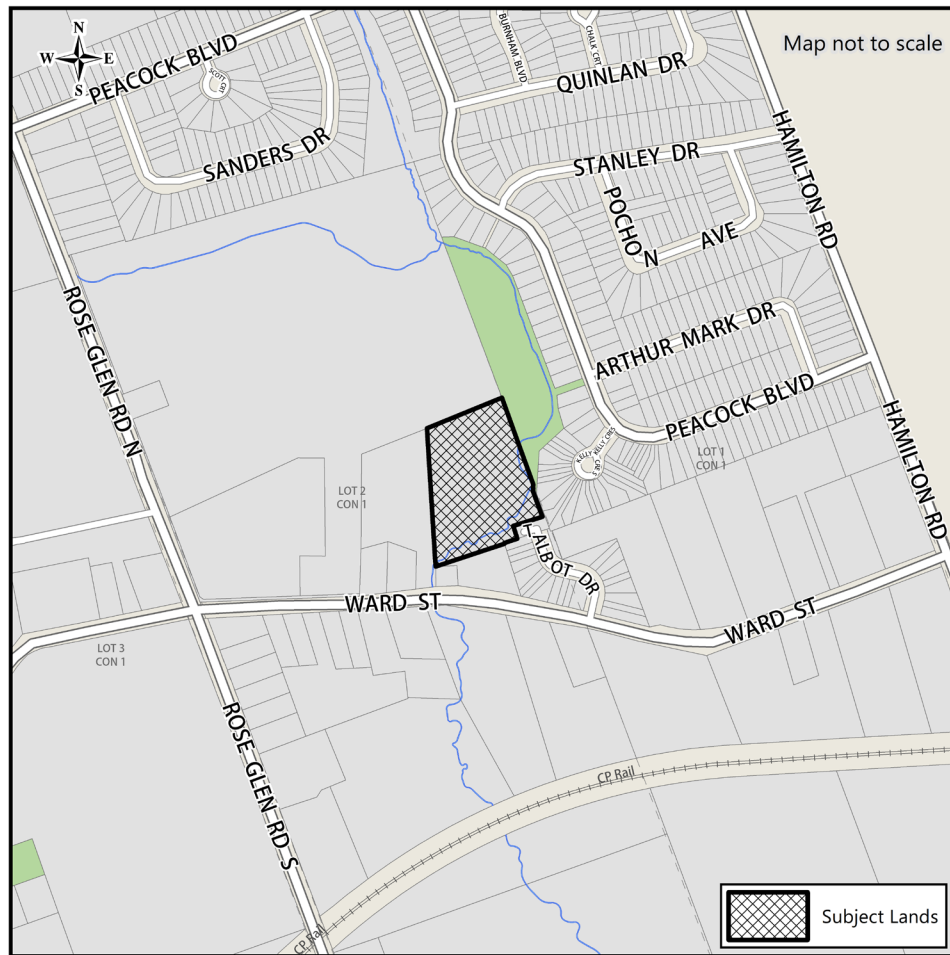


Figure 1: Subjects Lands Map

The subject lands are currently designated “Medium Density Urban Residential”, “Open Space” and “Physical Constraint Area” in the Municipal Official Plan.

The subject lands are zoned Medium Density Residential Exception No. 67 ‘RES3(67)’, Medium Density Residential Exception No. 127 ‘RES3(127)’ and Open Space ‘OS’ Zones with an Environment Protection – Flood Plain ‘EP-F’ Overlay by Zoning By-law 20/2010, as amended. Gages Creek and its respective floodway, which are protected from development, run along the eastern and southern boundaries of the site.

On September 1, 2020 Council passed Resolution 46/2020 providing Draft Approval for Plan of Subdivision (SU03-2018) on the subject lands, subject to the Draft Conditions of Approval to be cleared prior to Final Plan approval and Registration of Subdivision by September 1, 2023. The current owner who bought the property in June 2021 did not apply for an extension to Draft Plan Approval and the draft plan lapsed on September 1, 2023.

In June 2024, Yatinkumar Patel, Director of Mansav Real Estate Investments Inc. formally requested the Municipality to reinstate Draft Plan approval for a period of five years. The letter is included as **Attachment 1**.

The proposal remains the same:

- to facilitate the development of 4 blocks for 21 street townhouses on the subject lands supported by municipal services.
- A northward extension of Talbot Drive will provide access to the dwellings as a 20-metre-wide road allowance across the Gages Creek and terminating in a new temporary cul-de-sac at the north end of the subdivision.

Shown on **Attachment 2** is the proposed Plan of Subdivision dated March 2, 2020 indicating the layout of the proposed roads and blocks.

Discussion:

Subsection 51(33.1) of the *Planning Act*

Previous to recent legislative changes, if a Draft Plan lapsed there was no opportunity to extend if the application to the Municipality was not received prior to lapsing resulting in the requirement for a complete new application for Draft Plan Approval. The *Planning Act* was amended and a new Subsection 51(33.1) was added and it came into effect on April 14, 2022 providing some relief to the previously stringent lapsing provision.

Under the new provision, there is an option for the approval authority deeming it not to have lapsed:

- if the request is within 5 years of lapsing,
- there hasn't been a prior deeming; and
- the property is not subject to an agreement to sell.

Section 51(33.1) requires the proponent to provide an affidavit confirming the property is not for sale.

Staff consulted with legal counsels regarding the authority of the Council for the reinstatement and confirmed that the process is similar to the extension of Draft Plan Approval. If the reinstatement is not granted then, the owner will be required to resubmit a new application for Draft Plan Approval in accordance with Section 51 of the *Planning Act*. If Council concurs with the reinstatement, staff will issue a Notice of Decision advising interested parties of the decision.

Draft Conditions

Draft approval amounts to a commitment to move forward with the subdivision, if all the conditions of draft approval have been met prior to the lapsing date. There are a number of conditions to the Draft Plan Approval and to date few conditions have been met. **Attachment 3** contain the Conditions of Draft Plan approval from 2020.

In their letter, the owner states that the current lapsing was due a misunderstanding on the expiry date. The next steps outlined in the letter are as follows:

- 1) Construct the crossing of the creek August -September 2024 (Owner has recently applied to the Ganaraska Region Conservation Authority for a permit for the watercourse crossing)
- 2) Apply for Final Approval in late 2024
- 3) Servicing by May/June 2025
- 4) Start construction of the townhomes in summer/fall 2025

This timeline is ambitious and staff foresee further adjustments needed. Prior to the installation of servicing further agreements need to be in place.

Since the beginning of this term all members of Council have identified the need to develop diverse housing types rather than single detached. Staff understand and appreciate the critical need for townhouses in the community and are supportive of the current direction from Council and recommend that the reinstatement request be approved for three years.

Financial Considerations:

There are no anticipated negative financial implications imposed on the Municipality as a result of the requested reinstatement. The owner has submitted the required fees.

The development of the proposed residential subdivision is anticipated to yield approximately \$657,000 in Development Charges (on one-time basis) and provide the Municipality with an initial estimated annual property tax contribution of approximately \$60,000. Additionally, the development will generate building permit fees which will be calculated based on the square footage of the proposed townhouses.

Consultation with Other Departments:

In June 2024 staff circulated the request to the applicable agencies and departments. Six comments (Works and Engineering, Parks and Recreation, Building, GRCA, Cogeco and Canada Post) have been received to date with no objections to the reinstatement.

Communication and Public Engagement:

Recent changes to the *Planning Act* do not require a Public Meeting for the Draft Plan of Subdivisions, less for extensions to their approval or reinstatements. Additionally, no third parties can appeal the approval of draft plans or extensions. To that end, no additional communication or public engagement has been proposed. Public engagement took place at the time this proposal was first considered and included a Public Meeting as required.

Conclusion:

Talbot Drive Phase 2 was draft approved from September 1, 2020 to September 1, 2023. The owner did not apply for an extension prior to expiry date and the draft approval lapsed. The owner has requested for the reinstatement of Draft Plan for five years under the provisions of Subsection 51(33.1) of Planning Act.

Staff support the proposed request for reinstatement as necessary to avoid a complete new application for Draft Plan approval in order to support construction of much needed townhouses in the Urban Area. Staff recommends that the reinstatement be granted for only three years (instead of the five years) until September 3, 2027. Attachment 4 contains the Draft Resolution for the reinstatement.

Attachments:

Attachment 1: Request for Reinstatement Letter

Attachment 2: Draft Plan of Subdivision (March 2, 2020)

Attachment 3: Conditions of Draft Plan Approval (2020)

Attachment 4: Draft Resolution