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TO: The Chairs and Members of the Planning and Housing and Agriculture and Rural Affairs Committee

DESTINATAIRE : Présidents et membres du Comité de la planification et du logement et Comité de l'agriculture et des affaires rurales

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FILE NUMBER: ACS2025-PDB-PS-0074

SUBJECT: Update on Legal Agreements

OBJET : Mise à jour sur les accords juridiques

PURPOSE

This IPD updates Council on the steps undertaken by staff to address the Audit of Development Application Review and Housing Acceleration Plan recommendations for legal agreements.

BACKGROUND

The Auditor General's Audit of Development Application Review ([ACS2025-OAG-BVG-010](#)), approved by Council on September 25, 2025 and the Housing Innovation Task Force Report and Housing Acceleration Plan ([ACS2025-SI-SPO-0002](#)), approved by Council on October 8, 2025, included recommendations to expedite legal agreements by Q4 2025.

Staff were directed to complete a review of the development agreement process including expanding the use of scoped Site Plan Agreements, expanding the use of Letters of Undertaking (LOU), developing streamlined templated legal agreements and improving various administrative processes.

This IPD updates Council on the steps undertaken to work towards, or complete, the Audit of Development Application Review and Housing Acceleration Plan recommendations.

Site plan control is a tool that is used by the City to make sure that land development is designed appropriately, is safe, functional and minimizes potential impacts on neighbouring properties. It also ensures that the City's standards for developing land are respected. The City of Ottawa reviews site plan control applications by developers of private property.

Site Plan Approval includes plans and studies that are approved by Managers in Development Review. Approvals can include post-approval conditions to be fulfilled by the developer, such as entering into either a site plan agreement or a letter of undertaking (LOU). In both cases, securities are collected, held and refunded to ensure construction is completed in accordance with the approval.

A Site Plan Agreement is an agreement between the City and another party (or parties) that is registered on title through the Land Registry Office. It sets out the obligations of each party for the development of land and runs with the land if it transfers to future owners. It is a binding document. Failure to act in accordance with the terms can result in enforcement or court action.

A letter of undertaking is a written pledge by a developer to undertake development in accordance with the approval. It is not transferable in the same way as a registered site plan agreement; however, securities can be used as a guarantee in the same manner as an agreement.

Section 11 of the [Site Plan Control By-law](#) states:

A letter of undertaking may be provided as an alternative to a site plan control agreement where:

- a. easements or conveyances are not required to be made to the City after issuance of the building permit,
- b. special measures for the protection of existing private trees, including a requirement for the submission of a tree compensation deposit, and the submission of a post construction tree evaluation report are not required,
- c. the owner is not required to enter into other related development agreements with the City after the issuance of the building permit,
- d. special conditions have not been imposed that require an agreement for purposes of enforcement and notification of subsequent owners of the conditions; and
- e. the total amount of securities to be provided to the City does not exceed \$1,000,000.00 or, on a site-specific basis, a larger amount specified in writing by the General Manager.

DISCUSSION

Housing Acceleration Plan Recommendation 8 - Expand the use of scoped Site Plan Agreements

The use of scoped site plan agreements was a pilot started in Spring 2022. A full agreement was replaced with a Letter of Undertaking (LOU) for most conditions, and an agreement was used only for those conditions that needed to be placed on title. This enabled a development to move more quickly to construction.

This pilot evolved into an expansion of letters of undertaking, as staff found it preferable to do either an LOU or an agreement, rather than both. Staff worked to reduce the need for conditions to be registered on title, meaning there is no longer a

need for a scoped agreement where an LOU is utilized. As a result, the scoped agreement pilot will be discontinued.

Housing Acceleration Plan Recommendation 9 – Expand the use of Letters of Undertaking

As noted above, staff have expanded the use of letters of undertaking by eliminating the need for notices on title, by using the General Manager's authority to specify a higher figure for securities (as permitted by the Site Plan Control by-law), and by avoiding Maintenance and Liability agreements where possible.

Between September and November 2025, 19 approvals were rerouted to an LOU. This represented less than 10 per cent of all site plans at that stage. However, with forthcoming changes to notices on title for noise, this is expected to increase.

Reducing or eliminating Notice on Title conditions

Staff worked with Legal Services to reduce, or eliminate, some notice conditions that were previously placed on title through an agreement. For those deemed essential for health and safety reasons, agreements are still required to create notices on title.

Where noise studies recommend that notice be given, the onus to notify purchasers and tenants will be shifted to developers to include in their agreements of purchase and sale or lease.

Within site plan approval, the following notices on title have been eliminated:

- That the City will not take responsibility for flooding claims for below grade parking / depressed driveways,
- That parking may not be available on-site, and
- That local schools may not be able to accommodate students, and they may need to be bused outside the neighbourhood.

A condition for Access Easements to the City was moved into the condominium draft conditions.

Staff are currently working to reduce or eliminate noise warnings for road/ traffic noise, which is expected to further expand the use of the LOU process. This change required more research and analysis to ensure conformity with the Official Plan, as well as City of Ottawa and provincial guidelines. It is expected to be fully implemented by Q1 2026.

The following notices on title will continue to be used, where applicable:

- Proximity to light rail transit
- Proximity to parkland
- Noise warnings for industry, airports or other stationary noise sources

No guarantee of water quality and quantity for private wells

Staff will not change the approach to notices on title for plan of subdivision and plan of condominium applications as these applications already require agreements to be registered on title, and including requirements for notices on title does not add administrative burden.

For consent applications, staff continue to study how to balance the time and expense associated with development agreements with protecting future owners. No changes have been implemented yet; however, consent applications may also benefit from changes to noise warning clauses for road / traffic noise as well, which will be rolled out in Q1 2026.

GM approval to exceed the specified amount for securities

The Site Plan Control by-law permits the General Manager to specify on a site-specific basis a larger amount than \$1,000,000.00 for securities. Staff have used this option to enable the use of a Letter of Undertaking, although the current figure is already high compared to past figures and most developments are not posting securities in this range.

Avoiding Maintenance and Liability agreements

Staff have encouraged applicants to remove hard and soft landscaping from the right-of-way to avoid the need for a Maintenance and Liability Agreement, and in doing so, a Letter of Undertaking may be possible.

Staff have also collaborated with Right-of-Way Approvals staff to determine what is acceptable within the right-of-way, such as concrete walkways. A new by-law is expected next year that will further streamline this.

Audit of Development Application Review Recommendation 1 - Resourcing Analysis and the Housing Acceleration Plan Recommendation 10 - Develop streamlined templated legal agreements

Much effort has been spent in recent years to develop templated conditions and streamline legal agreements. This work is informed by the *Planning Act Conditions - Site Plans* report prepared by Municipal Government Wayfinders, dated November 2020. Staff now distribute a Supplementary Development Information at pre-consultation to give early notice of many post-approval and construction requirements. Staff are undertaking another review of conditions for site plan control with the objective to reduce the number of conditions used and to shift, where possible, conditions to be items resolved earlier in the process through comments.

Additionally, City staff are currently working with the development industry to further streamline the content within the following agreements:

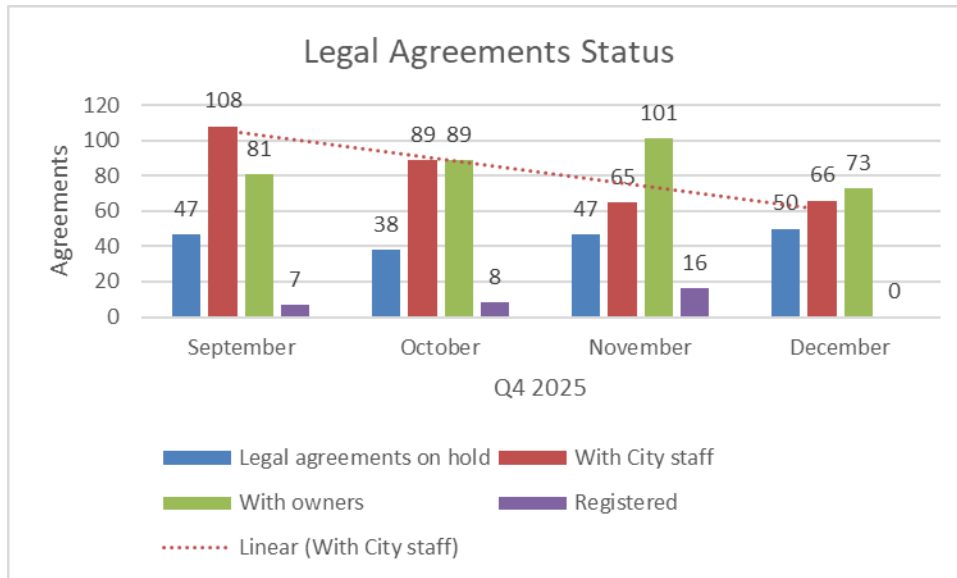
- Maintenance and Liability
- License of occupation
- Encroachment
- Site Plan Control

Feedback is expected in Q1 2026.

After site plan control conditions have been reviewed, Planning staff will then move to review the subdivision conditions later in 2026.

Audit of Development Application Review Recommendation 1 - Resourcing Analysis and Recommendation 3 - File Tracking

As recommended by the Auditor General, Planning Services and Legal Services staff have worked collaboratively to prioritize the preparation of agreements for projects proceeding to construction. Legal staff have dedicated two lawyers and eight law clerks to the preparation of legal agreements for development review, including housing units. Planning Services and Legal Services staff now work from a shared legal agreement tracking system, which has improved efficiencies and clarified which agreements should be prioritized (based on factors such as closing dates, readiness for registration and construction). Backlogs and delays, both real and perceived, have been addressed by setting clear procedures for when a project is ready to proceed to an agreement. Staff have set a target to have all overdue agreements addressed by Q2 2026 and are on track to meet that target early in 2026.



The graph above shows status for legal agreements within the post-approval stage, and the trend for the most common types of legal agreements associated with housing (site plan, subdivision, condo and demolition control). These are not all the development-related agreements that planning and legal staff work on but are the most common types.

Legal agreements “on hold” cannot proceed without additional information from City staff or owners. In most cases, owners are still clearing other post-approval conditions such as providing survey materials, fees, securities or additional legal information.

Legal agreements “with City staff” are either being prepared by Legal Services staff or reviewed by planners.

The trend indicates more legal agreements are being prepared and sent to owners each month, and more agreements are being returned and registered each month. However, there are significant numbers of agreements being held by owners who are not proceeding to registration and construction.

In early November, the Housing Approvals dashboard indicates that 16.7k units have Severance, Subdivision, Site Plan Control approvals, but have not yet been issued Building Permits. Of these, :

- 8,285 housing units are clearing conditions/have not taken the next step.
- 4,201 housing units are awaiting agreements from Legal Services.

- 4,253 housing units have agreements which the City is waiting for applicants to execute.

Outreach to developers who are not proceeding to construction

The tracking data above shows that many developers with approved site plans are not proceeding to construction. While some factors such as labour and materials costs and availability, interest rates, and market conditions are beyond the influence of the City, staff want to ensure that developers were aware of the incentives within the Housing Acceleration Plan. More than 25 letters from the General Manager will be sent to housing developers in December to offer staff assistance and encourage their projects to move forward.

Time between Approval and Registration

The Audit of Development Application Review observed that the average time for post-approval stages of preparing, advancing and registering agreement was increasing between 2021 and 2024 (see Chart 1 on page 7 of the report). However, the Audit did not drill into whether agreements were in hands of City staff or developers in the overall time in days between approval and registration.

Based on analysis of the bar chart above, along with macro-economic factors noted, it appears developers may not be proceeding to construction as quickly in recent years as in the past. The Planning Act changed in 2024 with Bill 185's "use it or lose it" policies to allow a minimum of three years (1,019 days) to registration for site plans. Plans of subdivision also lapse after three years. Extensions are possible. The improved tracking developed by staff about who is holding agreements and for how long can assist in answering the why of increased timelines. Staff are committed to increasing transparency in agreement timelines and prioritizing agreements closest to project closings and construction.

Asset Management Implications

No direct AMIs. Obligations are secured without adding City assets: increased use of Letters of Undertaking with securities, fewer notices on title with developer disclosure, access easements secured through condominium conditions, and discouraging right-of-way features to limit Maintenance and Liability agreements. Asset condition and service levels remain unchanged.

CONCLUSION

Planning Services and Legal Services staff have worked to improve post-approval processes to streamline the delivery of housing. Better tracking and adjustments to conditions will continue to deliver better experiences for the development industry in future, while ensuring that health and safety matters for residents and legal concerns for the City are mitigated.