

## **Cavdon Subdivision, Lively**

Presented To:	Planning Committee
Meeting Date:	April 12, 2021
Type:	Routine Management Reports
Prepared by:	Glen Ferguson Planning Services
Recommended by:	General Manager of Growth and Infrastructure
File Number:	780-8/95006

## **Report Summary**

This report provides a recommendation regarding approval of an extension to the draft plan of subdivision at Cavdon Subdivision, Lively – Cavdon Developments Ltd.

## **Resolution**

THAT the City of Greater Sudbury's delegated official be directed to amend the conditions of draft approval for a plan of subdivision on those lands described as PIN 73375-0863, Parcel 1880, Lot 6, Concession 4, Township of Waters, File # 780-6/96003, as outlined in the report entitled "Cavdon Subdivision, Lively", from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting on April 12, 2021, as follows:

1. By deleting Condition #10 and replacing it with the following:
  - "10. That the draft approved plan described in this document be revised in order to provide an appropriate temporary turnaround incorporating a 0.3 metre reserve on Street "A" and Street "B" to the satisfaction of the General Manager of Growth and Infrastructure.";
2. By deleting Condition #11 and replacing it with the following:
  - "11. The owner shall prepare and submit a storm-water management report that has been prepared by a professionally qualified engineer all to the satisfaction of the Nickel District Conservation Authority and the General Manager of Growth and Infrastructure. The storm-water management report must address the following requirements:
    - a) The underground storm sewer system within the plan of subdivision must be designed to accommodate and/or convey the minor storm flow, that is, the rainfall runoff resulting from the subject site and any external tributary areas using the City's 2 year design storm. The permissible minor storm discharge from the subject development must be limited to the existing pre-development site runoff resulting from a 2 year design storm. Any resulting post development runoff in excess of this permissible discharge rate must be controlled and detained within the plan of subdivision;

- b) The overland flow system within the plan of subdivision must be designed to accommodate and/or convey the major storm flow, that is, the rainfall runoff resulting from the subject site and any external tributary areas using the City's 100 year design storm or Regional storm event, whichever is greater, without causing damage to proposed and adjacent public and private properties. The permissible major storm discharge from the subject development must be limited to the existing pre-development runoff resulting from a 100 year design storm or Regional storm event, whichever is greater;
- c) "Enhanced" level must be used for the design of storm-water quality controls as defined by the Ministry of the Environment, Conservation and Parks;
- d) Storm-water management must follow the recommendations of the Junction Creek Sub-watershed Study for the areas of the development located within Junction Creek sub-watershed;
- e) The drainage catchment boundary including external tributary catchments and their respective area must be clearly indicated with any storm-water management plan;
- f) The final grading of the lands shall be such that the surface water originating on or tributary to the said lands, including roof water from buildings and surface water from paved areas, will be discharged in a manner satisfactory to the Nickel District Conservation Authority and the General Manager of Growth and Infrastructure;
- g) Minor storm drainage from the plan of subdivision shall not be drained overland onto adjacent properties; and,
- h) Existing drainage patterns on adjacent properties shall not be altered unless explicit permission is granted.";

3. By deleting Condition #12 and replacing it with the following:

"12. The owner/applicant shall provide, to the satisfaction of the General Manager of Growth and Infrastructure, the Director of Planning Services and the Nickel District Conservation Authority, a detailed Lot Grading and Drainage Plan prepared, signed, sealed, and dated by a professional civil engineer with a valid Certificate of Authorization from the Association of Professional Engineers of Ontario, for the proposed lots as part of the submission of servicing plans. This plan must show finished grades around new houses, retaining walls, side yards, swales, slopes and lot corners. The plan must show sufficient grades on boundary properties to mesh the lot grading of the new site to existing properties. A lot grading agreement shall be registered on title, if required, to the satisfaction of the Director of Planning Services and City Solicitor. The owner/applicant shall be responsible for the legal costs of preparing and registering the associated lot grading agreement.";

4. By deleting Conditions #14 and #15 entirely;

5. By deleting Condition #21 and replacing it with the following:

"21. That this draft approval shall lapse on December 31, 2023.";

6. By adding the following words at the end of Condition #25:

"The geotechnical engineer will be required to address *Ontario Regulation 406/19: On-Site and Excess Soil Management* when the regulation comes into force. Included in this report must be details regarding removal of substandard soils (if any) and placement of engineered fill (if required) for the construction of new homes.";

7. By deleting Condition #26 and replacing it with the following:
  - “26. The owner shall provide as part of the submission of servicing plans an erosion and sediment control plan detailing the location and types of erosion and sediment control measures to be implemented during the construction of each phase of the project. Said plan shall be to the satisfaction of the General Manager of Growth and Infrastructure and the Nickel District Conservation Authority. The siltation control shall remain in place until all disturbed areas have been stabilized. All sediment and erosion control measures shall be inspected daily to ensure that they are functioning properly and are maintained and/or updated as required. If the sediment and erosion control measures are not functioning properly, no further work shall occur until the sediment and/or erosion problem is addressed.”;
8. By adding the deleting the words “construction drawings for each phase of construction.” and replacing them with “construction drawings for each phase of construction to the satisfaction of the General Manager of Growth and Infrastructure Services.” in Condition #33;
9. By deleting Condition #37 and replacing it with the following:
  - “37. The owner shall be responsible for the design and construction of any required storm-water management works to the satisfaction of the General Manager of Growth and Infrastructure as part of the servicing plans for the subdivision and the owner shall dedicate the lands for storm-water management works as a condition of this development.”;
10. By adding a new Condition #44 as follows:
  - “44. The owner/applicant shall provide Master Servicing Plans for both the sanitary and storm sewer as well as water-mains as they pertain to the new subdivision layout to the satisfaction of the General of Growth and Infrastructure. Said plans are to show general alignment details, number of units and area serviced by individual runs, pipe diameter and flow direction. Said plan shall ensure that pipe diameters and alignments are established in order to support all phases of development.”; and,
11. By adding a new Condition #45 as follows:
  - “45. That the owner obtain approval from the Nickel District Conservation Authority for the placement of fill, the alteration of existing grades or any construction activity at this location under the NDCA’s Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation (Ontario Regulation 156/06) prior to undertaking the proposed works. Following the completion of these works, the owner shall agree to engage a qualified professional to certify in writing that the works were constructed in accordance with the plans, reports and specifications as approved by the NDCA and the City of Greater Sudbury. The owner shall also agree to carry out or cause to be carried out the recommendations and measures contained within the plans and reports approved by the NDCA and the City of Greater Sudbury.”

## **Relationship to the Strategic Plan / Health Impact Assessment**

The application to extend this draft plan of subdivision approval is an operational matter under the Planning Act to which the City is responding.

## Financial Implications

If the rezoning is approved, staff estimates approximately \$397,000 in taxation revenue in the supplemental tax year only, based on the assumption of 83 single detached dwelling units at an estimated assessed value of \$400,000 respectively per dwelling unit at the 2020 property tax rates.

This additional taxation revenue will only occur in the supplemental tax year. Any taxation revenue generated from new development is part of the supplemental taxation in its first year. Therefore, the City does not receive additional taxation revenue in future years from new development, as the tax levy amount to be collected as determined from the budget process, is spread out over all properties within the City.

In addition, this development would result in total development charges of approximately \$1.5 million based on the assumption of 83 single detached dwelling units based on the rates in effect as of this report.

Once development has occurred and the subdivision infrastructure has been transferred to the City, there will be additional on-going costs for future annual maintenance and capital replacement of the related infrastructure (i.e. Roads, water/wastewater linear pipes, etc).

## Report Summary

The owner has requested an extension to the draft plan of subdivision approval of the Cavdon draft approved plan of subdivision in the community of Lively for a period of three years until December 31, 2023. The Planning Services Division has reviewed the request to extend the draft approval and have no concerns with respect to the requested extension for a period of three years. The request was also circulated to relevant agencies and departments for comment and no concerns were identified with respect to extending the draft approval.

Conservation Sudbury has requested that existing conditions related to lot grading and storm-water management be revised in order to reflect current standard draft approval condition verbiage. Conservation Sudbury has also requested a new condition in relation to the placement of fill, alteration of grades and construction activities on the portion of the subject lands that are regulated under [Ontario Regulation 156/06](#). Development Engineering has requested revisions to existing draft approval conditions that provides clarity around geotechnical report, sanitary capacity and lot grading and drainage requirements. In addition, Development Engineering is requesting a new condition requiring the preparation of a master servicing plan for the Cavdon Subdivision. The City's Drainage Section has also requested that the existing storm-water management condition be updated to reflect current standard verbiage for ensuring storm-water management is properly addressed. Roads, Traffic and Innovation advises the owner that the east-west connecting road within the draft approved plan of subdivision must be designed and constructed in a manner which provides for a 20 m (65.62 ft) wide right-of-way. Other housekeeping changes where necessary are included and outlined in the Resolution section of this report.

The Planning Services Division is recommending approval of the application to extend the draft approved plan of subdivision for a period of three years until December 31, 2023. Amendments to the conditions of draft approval where necessary have been identified and are included in the Resolution section of the report.

# Staff Report

## **Applicant:**

Cavdon Developments Ltd.

## **Location:**

PIN 73375-0863, Parcel 1880, Lot 6, Concession 4, Township of Waters (Cavdon Subdivision, Lively)

## **Application:**

To extend the draft approval conditions for a plan of subdivision which were approved initially by Council on October 30, 1995. The draft approval was most recently extended by the City's Planning Committee on March 5, 2018, through Resolution PL2018-041, which was ratified by Council on April 10, 2018.

## **Proposal:**

The owner is requesting that the draft approval conditions for the above noted lands be extended for a period of three years until December 31, 2023.

## **Background:**

The City received a written request via email from Cavdon Developments Ltd. on January 12, 2021, to extend the draft approval on a plan of subdivision for a period of three years on those lands described as PIN 73375-0863, Parcel 1880, Lot 6, Concession 4, Township of Waters. The draft approved plan of subdivision was initially approved by Council for a total of 83 single-detached dwelling lots to north of Black Lake Road and to the east of Herman Mayer Drive in the community of Lively. At the time of writing this report, there have been no phases completed or lots registered within this particular draft approved plan of subdivision. The lands are intended to be accessed via Black Lake Road, which is situated to the immediate south of the subject lands.

The draft approval is set to expire again on July 30, 2021, following two administrative extensions that were granted in order to afford agencies and departments sufficient time to properly review the draft approval extension request. Staff has circulated the request to relevant agencies and departments and is now bringing forward this report to extend the draft approval to December 31, 2023.

## **Departmental & Agency Circulation:**

Active Transportation, Building Services, Fire Services, Leisure Services, and Operations have each advised that they have no concerns from their respective areas of interest.

Canada Post has not requested any changes to the draft approval conditions. Canada Post did however note in an emailed letter their requirements and expectations for providing mail service to the subdivision. The above noted letter is attached to this report for the owner's information and reference purposes.

Conservation Sudbury has requested that Conditions #15 and #26 be updated to reflect current standard condition verbiage relating to the requirement for the owner to prepare a lot grading plan, storm-water management plan and an erosion and sediment control plan to the satisfaction of Conservation Sudbury. Conservation Sudbury has also noted that Condition #14 can be removed entirely as it duplicates Condition #26 noted above. Conservation Sudbury is also requesting that three conditions be added which would properly address the placement of fill, alteration of grades and construction activities on the portion of the subject lands that are regulated under [Ontario Regulation 156/06](#).

Conservation Sudbury also advises that should a regulated natural hazard be discovered as the site is developed, the applicant must halt works immediately and contact Conservation Sudbury directly. Regulated natural hazards include floodplains, watercourses, shorelines, wetlands, valley slopes. Conservation Sudbury also generally notes that any works occurring within a regulated area will require a permit pursuant to Section 28 of the [Conservation Authorities Act](#).

Development Engineering has noted that no phases of the Cavdon Subdivision have been registered since the initial draft approval was granted on October 30, 1995. Development Engineering has further noted that no submissions relating to the registration of part, or the whole, of the draft approved plan of subdivision have been received for review. Development Engineering has requested that existing Conditions #12, #25 and #33 be updated to reflect current draft approval condition verbiage as it relates to geotechnical report, sanitary capacity and lot grading and drainage requirements for the development of the Cavdon Subdivision. Development Engineering is further requesting that a new condition requiring the preparation and submission of a master servicing plan be added.

The City's Drainage Section has requested that Condition #11 be deleted and replaced with one comprehensive and modernized condition addressing the requirement for a storm-water management report and associated plans. The comprehensive condition will act to provide clarity in the draft approval document in terms of what is required from a storm-water management perspective. Condition #37 should also be updated to reflect current standard condition wording as it relates to the design of storm-water management works and the provision of land required in order to properly service the Cavdon Subdivision.

Environmental Initiatives notes that there are no significant environmental concerns arising from this application that are not already addressed by the existing draft approval conditions for the Cavdon Subdivision. Field surveys conducted in 2016 by qualified professionals revealed that the Eastern Whip-poor-will, which is protected under the [Endangered Species Act](#), did not occur on or immediately adjacent to the subject lands. As such, specific environmental studies are not required at this time beyond those that may have been requested previously. Environmental Planning Initiatives further notes and advises that the owner is solely responsible for ensuring that activities relating to vegetation removal, site alteration and development undertaken on the subject lands do not result in a contravention of the Endangered Species Act.

Roads, Traffic and Innovation advises the owner that the east-west connecting road within the draft approved plan of subdivision must be designed and constructed in a manner which provides for a 20 m (65.62 ft) wide right-of-way. It is further noted that traffic calming measures must be integrated into the design of the proposed road network in order to reduce operating speeds within the Cavdon Subdivision.

Transit Services has no concerns with respect to the requested draft plan approval extension. Transit Services notes however that GOVA does not currently operate any public transit routes along Black Lake Road and the nearest available bus stops are located to the north along Municipal Road #55.

## **Planning Considerations:**

### [Planning Act](#)

Section 51 of the Planning Act has established two land use planning principles with respect to the initial approval of a draft plan of subdivision and how extensions to an existing draft approved plan of subdivision can be addressed.

First, Section 51(32) allows for a municipality to provide a lapsing date on a draft approved plan of subdivision of not less than three years and the draft approval is considered to have lapsed at the end of the specified time period. Section 51(33) allows for a municipality to extend draft approval beyond the initial period for a time specified by the municipality.

In practice, where a draft plan of subdivision has lapsed there is nothing preventing a landowner from filing another draft plan of subdivision application for consideration. The re-application is treated as a new application and all requirements under Section 51 are applicable (e.g. a public hearing would be required).

Lapsing conditions are imposed by a municipality to ensure that development once approved will proceed in an expeditious manner. The municipality is most typically concerned that development takes place within the current policy and regulatory framework and especially where scarce services or capacity to service development have been committed to the draft approved plan of subdivision. Three years is generally considered to be sufficient time to clear conditions of draft approval and proceed to registering a plan of subdivision. Section 51(33) allows for some flexibility whereby some additional time can be afforded to a landowner where they are actively pursuing the clearing of draft approval conditions.

Second, Section 51(44) on the other hand allows for a municipality to withdraw draft approval of a plan of subdivision at its discretion or to change the conditions of a draft approval at any time before the registration of a plan of subdivision.

Appeal rights in both cases noted above are found in Section 51 should a landowner or interested party wish to appeal a refusal to extend a lapsing date, a change of conditions or the complete withdrawal entirely of a draft approval by a municipality.

### [2020 Provincial Policy Statement](#)

Municipalities in the Province of Ontario are required under Section 3 of the Planning Act to ensure that decisions affecting planning matters are consistent with the PPS. Settlement areas, employment areas, housing and housing supply, provision of public spaces, sewage and water capacities, transportation, natural heritage areas, natural hazards and human-made hazards are some examples of areas of provincial interest that a draft approved plan of subdivision may impact and should be considered when an initial approval is granted as well as when an extension to an existing draft approval is granted. The PPS is updated from time-to-time by the Province, and any draft approval extension should be considered within the context of the in-force PPS at the time an extension request is made.

### [Official Plan](#)

Section 19.4.2 of the Official Plan for the City of Greater Sudbury addressing draft plan of subdivision approvals outlines that Council will not extend or recommend the extension of a draft plan approval, beyond the statutory limitation of three years, unless the owner has demonstrated to the satisfaction of Council that they are making a reasonable effort to proceed in meeting the conditions of draft approval. At the time of an extension request, Council is to review the draft plan conditions and may make appropriate modifications.

Staff notes that this particular draft plan approval was originally approved by Council on October 30, 1995, and at the time of writing this report, there have been no phases or lots registered within the Cavdon Subdivision. Staff therefore advises that all 83 lots that were originally draft approved by Council remain unregistered within the draft approved Cavdon Subdivision.

The owner did note in their draft approval extension request that they remain committed to fully developing the subdivision and are optimistic that market conditions will allow them to soon proceed with the first phase of the Cavdon Subdivision. The owner further noted in their request that they are also the developer for the nearby draft approved Riverdale Subdivision (File # 780-8/89008), which at the time of writing this report has now registered 52 lots out of the total 143 lots that were initially draft approved. The owner also noted in their request that the on-going global pandemic has presented unique challenges related to moving forward with the first phase of the Cavdon Subdivision.



## Planning Analysis:

With respect to the City's Official Plan, staff advises that Phase 2 of the City's Official Plan Review is in part examining issues related to water and waste-water capacities and demands. Section 19.4.2 of the City's Official Plan in particular has been identified as being a policy requiring an update to address municipal infrastructure capacities and demand issues. Through this process, staff will consider the embedding of criteria into this section to strengthen the policy position and to better clarify what constitutes reasonable effort on behalf of a landowner when they seek to extend a draft approved plan of subdivision. Internal procedures and application requirements for extension requests are also under review and a stronger "landowner onus" approach will be applied to extension requests in the future once said procedures are established. The owner is cautioned however that future draft approval extensions may be subject to review under strengthened criteria embedded in the Official Plan through the City's Phase 2 Official Plan Review.

### Draft Approval Conditions

Condition #21 should be deleted entirely and replaced with a sentence referring to December 31, 2023, as the revised date on which the subject draft plan of subdivision approval shall lapse.

Conservation Sudbury has requested that Condition #26 be updated to reflect current standard condition verbiage relating to the requirement for the owner to prepare an Erosion and Sediment Control Plan to the satisfaction of the Nickel District Conservation Authority (NDCA). Conservation Sudbury is also requesting that a condition be added which would properly address the placement of fill, alteration of grades and construction activities on the portion of the subject lands that are regulated under [Ontario Regulation 156/06](#). [Staff has reviewed the proposed additional condition pertaining to the placement of fill, alteration of grades and construction activities on the portion of the subject lands that are regulated and would recommend that they more appropriately be addressed through the subdivision registration process. Other small housekeeping changes were also requested by Conservation Sudbury and these changes are incorporated into the Resolution section of this report.](#)

Development Engineering has requested that existing Conditions #12, #25 and #33 be updated to reflect current draft approval condition verbiage as it relates to geotechnical report, sanitary capacity and lot grading and drainage requirements for the development of the Cavdon Subdivision. Development Engineering is further requesting that a new condition requiring the preparation and submission of a master servicing plan be added. These changes are incorporated into the Resolution section of this report.

The City's Drainage Section has requested that Condition #11 be deleted and updated as a modernized and comprehensive drainage condition addressing storm-water management infrastructure needs for the Raft Lake Subdivision. This requested change is reflected in the Resolution section of this report through the deletion of Condition #11 in favour of the above noted modernized draft approval condition.

No other administrative and housekeeping changes to the draft approval documents are required at this time. No other changes beyond those described in this report to the draft approval documents have been requested either by the owner or by circulated agencies and departments.

The existing draft approval conditions are attached to this report along with a copy of the draft approved plan of subdivision for reference purposes.

### Processing Fees

The owner has provided the applicable processing fee in the indexed amount of \$2,898.16. This amount was calculated as per [By-law 2020-26](#) being the Miscellaneous User Fees for Certain Services By-law that was in effect at the time the request to extend the draft approval was made by the owner.



**Summary:**

The Planning Services Division has reviewed the request to extend the subject draft approved plan of subdivision and has no objections to the requested extension for a period of three years. The request was also circulated to relevant agencies and departments for comment and no concerns were identified with respect to extending the draft approved plan of subdivision. Appropriate changes where identified and explained within this report have been included in the Resolution section of this report and would now form part of the draft plan approval if approved by Council. The owner is also cautioned that future draft approval extensions may be subject to review under strengthened criteria embedded in the Official Plan through the City's Phase 2 Official Plan Review.

The Planning Services Division therefore recommends that the application to extend the draft approval for the Cavdon Subdivision for a period of three years until December 31, 2023, be approved as outlined in the Resolution section of this report.