

Twin Lake Subdivision Extension - April 2021

Presented To:	Planning Committee
Meeting Date:	May 26, 2021
Type:	Routine Management Reports
Prepared by:	Glen Ferguson Planning Services
Recommended by:	General Manager of Growth and Infrastructure
File Number:	780-6/03001

Report Summary

This report provides a recommendation regarding a request to extend a conditional approval on a draft plan of subdivision, Twin Lake Subdivision, Sudbury - Dalron Construction.

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 Parcel 49532 SES, Lots 163-165, Plan M-423, Lot 2, Concession 2, Township of McKim, File # 780-6/03001, as outlined in the report entitled "Twin Lake Subdivision Extension - April 2021", from the General Manager of Growth and Infrastructure, presented at the meeting of May 26, 2021, as follows:

1. By deleting Condition #20 and replacing it with the following:

"20. That this draft approval shall lapse on March 24, 2023.";

2. By deleting Condition #29 and replacing it with the following:

"29. The owner shall provide to the City, as part of the submission of servicing plans an erosion and sediment control plan detailing the location and types of sediment and erosion 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 erosion and sediment 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 erosion and/or sediment problem is addressed."; and,

3. By deleting the introductory and first paragraph in Condition #45 and replacing it with the following:

- “45. A storm-water management report and associated plans must be submitted by the owner’s consulting engineer for approval by the City to the satisfaction of the General Manager of Growth and Infrastructure and the Nickel District Conservation Authority. The report must address the following requirements:”.

Relationship to the Strategic Plan, Health Impact Assessment and Community Energy & Emissions Plan (CEEP)

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 draft approved plan of subdivision approval is extended, staff estimates approximately \$482,000 in taxation revenue in the supplemental tax year only, based on the assumption of 72 single detached dwelling units at an estimated assessed value of \$500,000 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 \$1.3 million based on the assumption of 72 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 (ie. roads, water/wastewater linear pipes, etc).

Report Summary

The owner has requested an extension to the draft plan of subdivision approval for the Twin Lakes Subdivision in the community of Sudbury for a period of two years until March 24, 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 two 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 erosion and sediment control, as well as storm-water management be revised in order to reflect current standard draft approval condition verbiage. Conservation Sudbury has also requested new conditions 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. Staff has reviewed the proposed additional conditions 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 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 two years until March 24, 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:

Dalron Construction Ltd.

Location:

Parcel 49532 SES, Lots 163-165, Plan M-423, Lot 2, Concession 2, Township of McKim (Twin Lakes Subdivision, Sudbury)

Application:

To extend the draft approval conditions for a plan of subdivision which were approved initially by Council on March 24, 2004. The draft approval was most recently extended by Council on June 23, 2020, until March 24, 2021, for a plan of subdivision on those lands described as Parcel 49532 SES, Lots 163-165, Plan M-423, Lot 2, Concession 2, Township of McKim (ie. Twin Lakes Subdivision). There was an administrative extension issued by the Director of Planning Services having the effect of establishing a new lapsing date of July 24, 2021, in order to allow for agencies and departments to complete their review of the request. The most recent administrative extension was also granted in order to also afford staff the opportunity to schedule the item to a meeting of Planning Committee that is appropriate given the emerging and changing best practices for scheduling meetings due to the Covid-19 global pandemic.

Proposal:

The owner is requesting that the draft approval conditions for the above noted lands be extended for a period of two years until March 24, 2023.

Background:

The City received a written request via email from Dalron Construction Ltd. on February 17, 2021, to extend the draft approval on a plan of subdivision for a period of three years on those lands described as Parcel 49532 SES, Lots 163-165, Plan M-423, Lot 2, Concession 2, Township of McKim. The draft approved plan of subdivision was initially approved by Council for a total of 72 urban residential lots to the north of South Bay Road and to the south of Bethel Lake in the community of Sudbury. The lots are to be accessed from Lakewood Drive and South Bay Road. Staff notes that no phases of the draft approved plan of subdivision have been registered since the initial draft approval granted by Council on March 24, 2004.

The draft approval is set to expire again on July 24, 2021, following the issuance of an administrative extension. Staff has circulated the request to relevant agencies and departments and is now bringing forward this report to extend the draft approval to March 24, 2023.

Departmental & Agency Circulation:

Active Transportation, Building Services, the City's Drainage Section, Fire Services, Leisure Services, Operations, Roads, Transportation and Innovation, and Transit Services 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 noted that a floodplain associated with Bethel Lake present on portions of the subject lands. Those portions of the lands that are within said floodplain are therefore regulated by [Ontario Regulation 156/06](#). The owner is advised that development will not be permitted within the floodplain as there is sufficient land outside of the flood hazard to accommodate the development proposal. Conservation

Sudbury has requested that Condition #29 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 in part of Conservation Sudbury. Conservation Sudbury is also requesting that Condition #45 be amended to add the Nickel District Conservation Authority (NDCA) as a review and approval body as it relates to the required storm-water management report and associated plans. Conservation Sudbury is also requesting that several 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.

Development Engineering has no concerns with the current draft approval extension request, but has noted that no construction drawings have been received with respect to the draft approved plan of subdivision since May 2013. Development Engineering would further note that all required changes from their areas of interest were addressed in the last draft plan approval extension request that was approved by Council previously on June 23, 2020.

Environmental Initiatives noted in the most recent (ie. June 2020) draft plan approval extension request that there are no significant environmental concerns arising from this application that are not already addressed by the existing draft approval conditions for the Twin Lakes Subdivision. Environmental Planning Initiatives further noted at that time and advised the owner that they are 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](#).

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 (eg. 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 March 24, 2004, and at the time of writing this report, there have been no phases or lots registered within the Twin Lakes Subdivision. Staff therefore advises that all 72 lots that were originally draft approved by Council remain unregistered within the draft approved Twin Lakes Subdivision.

The owner did note in their draft approval extension request that they remain committed to fully developing the subdivision and that they are engaged in ongoing talks with the landowner to the east with respect to cost-sharing the required extension of municipal services along South Bay Road in order to accommodate the development of the Twin Lakes 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. Staff through this process 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 #20 should be deleted entirely and replaced with a sentence referring to March 24, 2023, as the revised date on which the subject draft plan of subdivision approval shall lapse.

Conservation Sudbury has requested that Condition #29 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 NDCA. Conservation Sudbury is also requesting that they be added to Condition #45 as a reviewing and approval body with respect to those standard storm-water management report and associated plans that are required for the proper development of the Twin Lakes Subdivision. Conservation Sudbury is also requesting that several 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. Staff has reviewed the proposed additional conditions 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. The requested changes to Condition #29 and #45 that were requested by Conservation Sudbury and these changes are incorporated into the Resolution section of this report.

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 \$2,335.85. This amount was calculated as per [By-law 2020-26](#) being the indexed 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 have reviewed the request to extend the subject draft approved plan of subdivision and have no objections to the requested extension for a period of two 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 Twin Lakes Subdivision for a period of two years until March 24, 2023, be approved as outlined in the Resolution section of this report.