

Fabian Crescent Subdivision, Garson

Presented To:	Planning Committee
Meeting Date:	September 13, 2021
Type:	Routine Management Reports
Prepared by:	Glen Ferguson Planning Services
Recommended by:	General Manager of Growth and Infrastructure
File Number:	780-3/90009

Report Summary

This report provides a recommendation regarding an application to extend a draft approved plan of subdivision approval, Fabian Crescent Subdivision, Garson – Zulich Enterprises 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 Parcel 48390 SES, Lot 6, Concession 1, Township of Garson, File # 780-3/90009, as outlined in the report entitled “Fabian Crescent Subdivision, Garson”, from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting on September 13, 2021, as follows:

1. By deleting Condition #9 and replacing it with the following:

“9. That 5% of the cash value of the land included in the plan of subdivision be provided to the City for parks purposes in accordance with Section 51.1 of the Planning Act to the satisfaction of the Director of Leisure Services and the City Solicitor.”;
2. By deleting Condition #20 and replacing it with the following:

“21. That this draft approval shall lapse on September 4, 2024.”
3. By adding the following words at the end of Condition #26:

“The owner shall be responsible for the legal costs of preparing and registering any required lot grading agreement.”
4. By deleting Conditions #27 and #28 entirely;
5. By adding a new Condition #27 as follows:

“27. A storm-water management report and associated plans must be submitted by the owner’s consulting engineer for approval by the City. The 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) "Enhanced" level must be used for the design of storm-water quality controls as defined by the Ministry of the Environment, Conservation and Parks;
- c) Storm-water management must follow the recommendations of the Junction Creek Sub-watershed Study;
- d) The drainage catchment boundary including external tributary catchments and their respective area must be clearly indicated with any storm-water management plan;
- e) 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 General Manager of Growth and Infrastructure;
- f) Minor storm drainage from the plan of subdivision shall not be drained overland onto adjacent properties;
- g) Existing drainage patterns on adjacent properties shall not be altered unless explicit permission is granted; and,
- h) The owner shall be responsible for the design, 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."

6. By deleting the word "Union" and replacing it with "Enbridge" in Condition #30;

7. By adding the following new Condition #39:

"39. The owner shall provide proof of sufficient fire flow in conjunction with the submission of construction drawings for each phase of construction. All costs associated with upgrading the existing distribution system to service this subdivision will be borne totally by the owner."; and,

8. By adding the following new Condition #40:

"40. The owner shall provide proof of sufficient sanitary sewer capacity in conjunction with the submission of construction drawings for each phase of construction. All costs associated with upgrades to the downstream works required to service this subdivision will be borne totally by the owner."

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 application for an extension to the draft plan of subdivision is approved, staff estimates approximately \$110,000 in taxation revenue in the supplemental tax year only, based on the assumption of 22 single detached dwelling units at an estimated assessed value of \$400,000 per dwelling unit at the 2021 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 \$416,000 based on the assumption of 22 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 Overview

The owner has requested an extension to the draft plan of subdivision approval of the Fabian Crescent draft approved plan of subdivision in the community of Garson for a period of three years until September 4, 2024. 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 they be removed as a reviewing body from Condition #25 with respect to the required erosion and sediment control plan. It is noted that the City is responsible for review and approval of said erosion and sediment control plan. Development Engineering has 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. The City's Drainage Section has requested that Conditions #27 and #28 be deleted and replaced with one comprehensive and modernized condition addressing the requirement for a storm-water management report and associated plans within the Fabian Crescent 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 Fabian Crescent Subdivision. 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 September 4, 2024. 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:

Zulich Enterprises Ltd.

Location:

Parcel 48390 SES, Lot 6, Concession 1, Township of Garson (Fabian Crescent Subdivision, Garson)

Application:

To extend the draft approval conditions for a plan of subdivision which were approved initially by Council on September 4, 1990. The draft approval was most recently extended by the City's Planning Committee on January 14, 2019, through Resolution [PL2019-012](#), which was ratified by Council on January 29, 2019.

Proposal:

The owner is requesting that the draft approval conditions for the above noted lands be extended for a period of three years until September 4, 2024.

Background:

The City received a written request via email from Zulich Enterprises Ltd. on May 17, 2021, to extend the draft approval on a plan of subdivision for a period of three years on those lands described as Parcel 48390 SES, Lot 6, Concession 1, Township of Garson. The draft approved plan of subdivision was initially approved by Council for a total of 22 urban residential lots permitting both single-detached and semi-detached dwellings to west of both Sandra Street and an existing portion of Fabian Crescent in the community of Garson. 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 Sandra Street and existing Fabian Crescent, which are both situated to the immediate east of the subject lands.

The draft approval is set to expire again on December 4, 2021, following an administrative extension that was granted in order to afford circulated 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 September 4, 2024.

Departmental & Agency Circulation:

Active Transportation, Building Services, 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 requested that they be removed as a reviewing body from Condition #25 with respect to the required erosion and sediment control plan. It is noted that the City is responsible for review and approval of said erosion and sediment control plan. Conservation Sudbury is also requesting that a new condition be added to the draft approval relating to the permitted volumes of storm-water discharge into any surface waterbody.

Conservation Sudbury also advises the owner should a regulated natural hazard be discovered as the site is developed, the owner must halt works immediately and contact Conservation Sudbury directly. It is noted that 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 submissions relating to the registration of part, or the whole, of the draft approved plan of subdivision have been received for review.

The City's Drainage Section has requested that Conditions #27 and #28 be deleted and replaced with one comprehensive and modernized condition addressing the requirement for a storm-water management report and associated plans within the Fabian Crescent Subdivision. The new comprehensive condition will act to provide clarity in the draft approval document in terms of what is required from a storm-water management perspective.

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 Fabian Crescent Subdivision. 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 provincial [Endangered Species Act](#) and the federal [Migratory Birds Convention 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 are to 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 under Section 51 of the Planning Act 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 September 4, 1990, and at the time of writing this report, there have been no phases or lots registered within the Fabian Crescent Subdivision. Staff therefore advises that all 22 lots that were originally draft approved by Council remain unregistered within the draft approved Fabian Crescent Subdivision.

The owner did note in their draft approval extension request that they remain committed to fully developing the subdivision and are optimistic that improving residential housing market conditions will allow them to soon proceed with the first phase of the Fabian Crescent 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 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 September 4, 2024, as the revised date on which the subject draft plan of subdivision approval shall lapse.

Conservation Sudbury has requested that Condition #25 be updated in order to clarify that the City is solely responsible for reviewing and approving the required erosion and sediment control plan for the Fabian Crescent Subdivision.

The City's Drainage Section has requested that Conditions #27 and #28 be deleted and updated as a modernized and comprehensive drainage condition addressing storm-water management infrastructure needs for the Fabian Crescent Subdivision. This requested change is reflected in the Resolution section of this report through the deletion of the above noted conditions and the inclusion of an updated and new Condition #27 that addresses the above noted modernized draft approval storm-water management requirements.

Staff has also included two new and standard conditions which require the owner to provide proof that both sufficient fire flow and sufficient sanitary sewer capacity exists for each phase of the Fabian Crescent Subdivision. This proof is to be submitted along with construction drawings for each phase. The two added conditions also clarify that all costs associated with upgrading any infrastructure in this regard is to be borne entirely by the owner.

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 \$1,532.50. 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 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 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 Fabian Crescent Subdivision for a period of three years until September 4, 2024, be approved as outlined in the Resolution section of this report.