

## Whitson Lake Subdivision, Val Caron

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:	780-7/98002

## Report Summary

This report provides a recommendation regarding an application to extend a draft approved plan of subdivision approval, Whitson Lake Subdivision, Val Caron – Consbec Inc.

## 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 Part of Parcels 2433 & 9436, Parts 1 to 3, Plan 53R-15429 and Parts 1 & 3, Plan 53R-16637, Lot 3, Concession 5, Township of Blezard, File # 780-7/98002, as outlined in the report entitled "Whitson Lake Subdivision, Val Caron" from the General Manager of Growth and Infrastructure, presented at the meeting on September 13, 2021, as follows:

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

"9. That 5% of the land included in the plan of subdivision be deeded or 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 #13 and replacing it with the following:

"13. 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 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."
3. By deleting Conditions #16 and #30 entirely;
4. By adding a new Condition #16 as follows:

- “16. 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;
  - b) The reduction of the permissible minor storm to pre-development levels may be alleviated by providing a drainage route via City owned blocks within the proposed subdivision out-letting into the lake;
  - c) Any resulting post development runoff in excess of this permissible discharge rate must be controlled and detained within the plan of subdivision unless directed via City owned blocks within the proposed subdivision to the lake body;
  - d) 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;
  - e) The reduction of the permissible major storm to pre-development levels may be alleviated by providing a drainage route via City owned blocks within the proposed subdivision out-letting into the lake;
  - f) “Enhanced” level must be used for the design of storm-water quality controls as defined by the Ministry of the Environment, Conservation and Parks;
  - g) Storm-water management must follow the recommendations of the Whitson River Sub-watershed Study;
  - h) The drainage catchment boundary including external tributary catchments and their respective area must be clearly indicated with any storm-water management plan;
  - i) 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;
  - j) Minor storm drainage from the plan of subdivision shall not be drained overland onto adjacent properties;
  - k) Existing drainage patterns on adjacent properties shall not be altered unless explicit permission is granted; and,
  - l) 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.

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

“21. That this draft approval shall lapse on June 16, 2024.”;

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

“29. That prior to any vegetation removal or other site alteration on the subject lands, the owner shall demonstrate to the satisfaction of the Director of Planning Services that all requirements set out by the Ministry of the Environment, Conservation and Parks under the Endangered Species Act have been satisfied.”

7. By deleting Condition #31 and replacing it with the following:

“31. Prior to the submission of servicing plans, the owner/applicant shall, to the satisfaction of the Director of Planning Services and the Nickel District Conservation Authority, provide an updated Geotechnical Report prepared, signed, sealed, and dated by a geotechnical engineer licensed in the Province of Ontario. Said report shall, as a minimum, provide factual information on the soils and groundwater conditions within the proposed development.

Also, the report should include design information and recommend construction procedures for any proposed storm and sanitary sewers, stormwater management facilities, watermains, roads to a 20 year design life, the mass filling of land, surface drainage works, erosion control, slope stability, slope treatment and building foundations. The geotechnical information on building foundations shall be to the satisfaction of the Chief Building Official and Director of Planning Services. 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. A soils caution agreement, if required, shall be registered on title to the satisfaction of the Chief Building Official and the City Solicitor.”;

8. By deleting the word “Services” at the end of Condition #36; and,

9. By adding the following new Condition #41:

“41. That the applicant/owner prepare a development plan that includes the limit of the regulatory flood elevation of 292 metres and is consistent with the required lot grading/drainage plan. Development (as defined by the *Conservation Authorities Act*) must occur outside of the regulatory floodplain. This includes placement or removal of fill, lot grading, and the erection of buildings or structures.”

## **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 to extend a draft approved plan of subdivision is approved, staff estimates approximately \$92,000 in taxation revenue in the supplemental tax year only, based on the assumption of 19 single detached dwelling units at an estimated assessed value of \$375,000 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 \$360,000 based on the assumption of 19 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 Whitson Lake draft approved plan of subdivision in the community of Val Caron for a period of three years until June 16, 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.

Building Services has requested that the current draft approval condition addressing geotechnical report requirements be amended in order to add standard wording with respect to the possible requirement for a soils caution agreement being registered on-title to the satisfaction of the Chief Building Official and the City Solicitor.

Conservation Sudbury has requested that Condition #13 be updated to reflect current standard condition verbiage relating to the requirement for the owner to prepare an erosion and sediment control plan. Conservation Sudbury is also requesting to be added as a reviewing agency to Condition #31, which requires the submission of a geotechnical report. Conservation Sudbury is further requesting a new condition requiring that the owner prepare and submit a development plan that includes the limit of the regulatory flood elevation of 292 m (958.01 ft) and is consistent with the required lot grading/drainage plan. The owner is also advised that works within an area regulated by Ontario Regulation 156/06 may require a permit pursuant to Section 28 of the Conservation Authorities Act.

The City's Drainage Section has requested that the draft approval be amended in order to provide for one overall comprehensive and modernized condition addressing the requirement for a storm-water management report and associated plans within the Whitson Lake 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 Condition #29 should be updated to reflect current standard condition verbiage relating to the ensuring the development complies with applicable environmental law.

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.

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 June 16, 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:**

Consbec Inc.

**Location:**

Part of Parcels 2433 & 9436, Parts 1 to 3, Plan 53R-15429 and Parts 1 & 3, Plan 53R-16637, Lot 3, Concession 5, Township of Blezard

**Application:**

To extend the draft approval conditions for a plan of subdivision which were approved initially by Council on June 16, 2000. The draft approval was most recently extended by the City's Planning Committee on September 10, 2018, for a period of three years through [Resolution PL2018-158](#) (see Pages 9 to 11), which was ratified by Council on September 25, 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 June 16, 2024.

**Background:**

The City received a written request via email from the agent for Consbec Inc. on June 2, 2021, to extend the draft approval on a plan of subdivision for a period of three years on those lands described as Part of Parcels 2433 & 9436, Parts 1 to 3, Plan 53R-15429 and Parts 1 & 3, Plan 53R-16637, Lot 3, Concession 5, Township of Blezard. The draft approved plan of subdivision was initially approved by Council for a total of 32 rural estate single-detached dwelling lots in the community of Val Caron. At the time of writing this report, 13 of the 32 draft approved lots have been registered since the draft plan of subdivision was originally approved on June 16, 2000. There are a total of 19 remaining unregistered lots within the draft approved plan of subdivision. The lots are to be accessed from Whitson Lake Drive which provides access to Sandy Beach Road.

The draft approval is set to expire again on July 30, 2021, following the issuance of an administrative extension that was 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 June 16, 2024.

**Departmental & Agency Circulation:**

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

Building Services has requested that the Condition #31 addressing geotechnical report requirements be amended in order to add standard wording with respect to the possible requirement for a soils caution agreement being registered on-title to the satisfaction of the Chief Building Official and the City Solicitor.

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 Condition #13 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 both the City's General Manager of Growth and Infrastructure and Conservation Sudbury.

Conservation Sudbury is also requesting to be added as a reviewing agency to Condition #31, which requires the submission of a geotechnical report. Conservation Sudbury is specifically interested in ensuring that the geotechnical report capably demonstrates that there are no unstable soils within the development and what mitigation measures will be undertaken should there be any unstable soils present on the lands.

Conservation Sudbury is further requesting a new condition requiring that the owner prepare and submit a development plan that includes the limit of the regulatory flood elevation of 292 m (958.01 ft) and is consistent with the required lot grading/drainage plan. It is specifically noted that all development must occur outside of the regulatory floodplain, which extends to and includes placement or removal of fill, lot grading, and the erection of buildings or structures.

Conservation Sudbury also advises the owner 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](#). The owner is advised that works within an area regulated by [Ontario Regulation 156/06](#) may require a permit pursuant to Section 28 of the

Conservation Authorities Act. The owner in this regard is advised that works include, but are not limited to, alteration of a watercourse, grading, placement or removal of fill, and/or the erection of a building or structure. Scientific studies and/or technical reports may be required to support the Section 28 permit application, the cost of which will be borne by the owner. Any permit issued may include conditions of development and permits are not guaranteed.

Development Engineering has noted that the most recent phase of the Whitson Lake Subdivision was registered in August 4, 2000 (i.e. Registered Plan 53M-1286). More recently, a pre-consultation meeting was held on July 15, 2020, with respect to developing the second phase of the Whitson Lake Subdivision. Development Engineering confirms however that the City is not currently in receipt of any construction drawings for the second phase noted above.

The City's Drainage Section has requested that Conditions #16 and #30 be deleted and replaced with one comprehensive and modernized condition addressing the requirement for a storm-water management report and associated plans within the Whitson Lake 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 Whitson Lake Subdivision. In particular, it is noted that Condition #29 should be updated to reflect current standard condition verbiage relating to the ensuring the development complies with applicable environmental law. 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 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 June 16, 2000, and at the time of writing this report, it is noted that 13 of the 32 draft approved lots have been registered. At present, it should be noted then that there are a total of 19 remaining unregistered lots within the draft approved plan of subdivision.

The owner's agent did note in their draft approval extension request that they remain committed to fully developing the subdivision and in particular it was noted that a consultant has recently been retained to carry out the engineering design and preparation of construction drawings for the proposed extension of the public road through the next phase of the subdivision. It was also noted by the owner's agent that discussions with the City's Development Engineering staff has taken place with respect to the above noted work.

The owner's agent further advised that they have retained a consultant to conduct the required environmental impact study and that the necessary field work has been completed with the finalization of the study now taking place.

## **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 #21 should be deleted entirely and replaced with a sentence referring to June 16, 2024, as the revised date on which the subject draft plan of subdivision approval shall lapse.

The City's Drainage Section has requested that both Condition #16 and #30 be deleted and that an updated Condition #16 be introduced as a modernized and comprehensive drainage condition addressing storm-water management infrastructure needs for the Whitson Lake Subdivision. This requested change is reflected in the Resolution section of this report through the deletion of Condition #16 in favour of the above noted modernized draft approval condition.

Condition #29 should be updated to reflect current standard condition verbiage relating to the expectation that the development of the lands do not result in a contravention of the provincial Endangered Species Act and the federal Migratory Birds Convention Act.

Condition #31 addressing geotechnical report requirements should be amended in order to add standard wording with respect to the possible requirement for a soils caution agreement being registered on-title to the satisfaction of the Chief Building Official and the City Solicitor. The update to Condition #31 would also act to ensure that Conservation Sudbury is included as a reviewing agency and that the information they require is incorporated properly into the required geotechnical report.

It is recommended that a new Condition #41 be included that requires the owner to prepare and submit a development plan that includes the limit of the regulatory flood elevation of 292 m (958.01 ft) and is consistent with the required lot grading/drainage plan. This new condition would be to the satisfaction of Conservation Sudbury and would ensure that development takes place outside of the regulatory floodplain.

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 \$1,895.00. 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 Whitson Lake Subdivision for a period of three years until June 16, 2024, be approved as outlined in the Resolution section of this report.