

South Bay Road, Sudbury

Presented To:	Planning Committee
Meeting Date:	September 13, 2021
Type:	Public Hearing
Prepared by:	Mauro Manzon Planning Services
Recommended by:	General Manager of Growth and Infrastructure
File Number:	701-6/21-01

Report Summary

This report provides a recommendation regarding an application to amend the City of Greater Sudbury Official Plan by providing a site-specific exception to the lot creation policies of Section 20.5: South Peninsula of the Ramsey Lake Policy Area - Dalron Construction Limited.

This report is presented by Mauro Manzon, Senior Planner.

- Letter(s) of concern from concerned citizen(s)

This item is referred from the City Council meeting of September 28, 2021.

Resolution

THAT the City of Greater Sudbury denies the application by Dalron Construction Limited to amend the City of Greater Sudbury Official Plan to provide a site-specific exception to the lot creation policies of Section 20.5: South Peninsula of the Ramsey Lake Policy Area in order to remove a deeming by-law and permit three (3) single detached dwellings on lands described as Part of PINs 73592-0053 & 73592-0403, Lots 63, 64, 203 & 204, Plan M-423 in Lot 2, Concession 2, Township of McKim, as outlined in the report entitled "South Bay Road, Sudbury", from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting on September 13, 2021.

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

The application to amend the Official Plan is an operational matter under the Planning Act to which the City is responding. The subject lands are located within settlement area boundaries in an area designated for future development. There is no conflict with the Strategic Plan and the Community Energy & Emissions Plan.

Financial Implications

This report has no financial implications as staff recommends this amendment to the Official Plan request be

denied.

Report Overview

An application for an Official Plan Amendment (OPA) has been submitted for lands located on South Bay Road in order to provide a site-specific exception to the lot creation policies of Section 20.5: South Peninsula of the Ramsey Lake Policy Area. The owner is requesting the removal of a deeming by-law on four (4) residential lots, two (2) of which will be consolidated, in order to permit three (3) single detached dwellings.

Planning Services recommends that the application be denied and that the policies applied to the South Peninsula be maintained based on environmental considerations and the potential for additional lot creation in advance of the extension of municipal sewer and water services. The application is also felt to be premature until such time as the servicing requirements for the University Park development are resolved.

Staff Report

Proposal:

An application for an Official Plan amendment has been submitted in order to provide a site-specific exception to the lot creation policies of Section 20.5: South Peninsula of the Ramsey Lake Policy Area.

The owner is requesting the removal of a deeming by-law on four (4) residential lots being Lots 63, 64, 203 & 204, Plan M-423 in order to permit three (3) single detached dwellings. The application proposes to consolidate Lots 63 and 64.

As part of a complete application, the owner provided a Planning Justification Report in support of the proposal (J.L. Richards & Associates Limited – February 5, 2021).

Existing Land Use Designation: “Living Area 1”

The subject lands are designated as Living Area 1, which permits a range of residential use including the proposed housing type (single detached dwellings).

Requested Land Use Designation:

The owner is not seeking to redesignate the subject lands. A site-specific exception to the special policies of Section 20.5 is being requested.

Location and Site Description:

Part of PINs 73592-0053 & 73592-0403, Lots 63, 64, 203 & 204, Plan M-423 in Lot 2, Concession 2, Township of McKim (South Bay Road, Sudbury)

The subject properties comprise four (4) lots in a deemed plan of subdivision on South Bay Road. The area is not currently serviced by municipal sewer and water. South Bay Road is constructed to a rural standard at this location. The closest public transit stop is located at the driveway entrance to St. Joseph's Villa, approximately 500 metres from Lot 64. All subject lots are located in a vulnerable area defined as Ramsey Lake Intake Protection Zone 3 (IPZ 3) under the Source Protection Plan.

Lots 63 and 64 are intended to be consolidated for development. Total combined lot area is 3,334 m² with 48 metres of frontage and 76 metres of depth. The site has been partially cleared and a concrete box culvert

has been installed at the street line. A watercourse traverses the southerly portion of the lots, both of which fall within the regulated area of Conservation Sudbury.

Lots 203 and 204 are located on the south side of South Bay Road further to the east. Each lot is intended to be developed separately. Lot 203 has 2,196 m² of lot area and 55.5 metres of frontage. Lot 204 has 2,749 m² of lot area and 57.4 metres of frontage. The lots are unimproved and no site alteration had occurred as of the site visit. There is extensive tree cover and rock outcropping typical of local conditions. The northerly portions of the subject lots fall within the regulated area of Conservation Sudbury due to the proximity to the watercourse and wetland area on the opposite side of the road.

The surrounding area is largely comprised of single detached dwellings on private services and vacant lands designated for residential use.

Surrounding Land Uses:

Lots 63 and 64 on the north side of South Bay Road:

North: vacant residential lands owned by the applicant and single detached dwellings on Arlington Boulevard;

East: vacant residential lands owned by the applicant;

South: vacant residential lands owned by the applicant;

West: single detached dwellings.

Lots 203 and 204 on the south side of South Bay Road:

North: vacant residential lands owned by the applicant;

East: vacant land zoned "FD", Future Development and single detached dwellings on South Bay Road and Keast Drive;

South: vacant institutional lands owned by Laurentian University;

West: vacant residential lands owned by the applicant.

Public Consultation:

The notice of complete application was circulated to the public and surrounding property owners on March 16, 2021. The statutory notice of the public hearing was provided by newspaper along with a courtesy mail-out circulated to the public and surrounding property owners within 240 metres of the property on August 26, 2021.

The applicant was advised of the City's policy recommending that applicants consult with their neighbours, ward councillor and key stakeholders to inform area residents on the application prior to the public hearing.

The applicant indicated that a neighbourhood mail-out would be distributed prior to the hearing with appropriate contacts provided for questions and concerns.

As of the date of this report, several phone calls have been received seeking clarification. Three (3) written submissions have been received and are attached for review.

Policy & Regulatory Framework:

The property is subject to the following policy and regulatory framework:

- [2020 Provincial Policy Statement](#)
- [2011 Growth Plan for Northern Ontario](#)
- [Official Plan for the City of Greater Sudbury, 2006](#)

- [Zoning By-law 2010-100Z](#)

Provincial Policy Statements and geographically specific Provincial Plans, along with municipal Official Plans, provide a policy framework for planning and development in the Province. This framework is implemented through a range of land use controls such as zoning by-laws, plans of subdivision and site plans.

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 Provincial Policy Statement.

a) Housing

Under Section 1.1.1, municipalities shall accommodate an appropriate affordable and market-based range and mix of residential types (including single-detached, additional residential units, multi-unit housing, affordable housing and housing for older persons) to meet long-term needs.

b) Settlement areas

As outlined under Section 1.1.3.6, new development taking place in designated growth areas should occur adjacent to the existing built-up area and should have a compact form, mix of uses and densities that allow for the efficient use of land, infrastructure and public service facilities.

c) Servicing

Under Section 1.6.6.2, municipal sewage services and municipal water services are the preferred form of servicing for settlement areas to support protection of the environment and minimize potential risks to human health and safety.

Where municipal sewage services and municipal water services or private communal sewage services and private communal water services are not available, planned or feasible, individual on-site sewage services and individual on-site water services may be used provided that site conditions are suitable for the long-term provision of such services with no negative impacts. In settlement areas, individual on-site sewage services and individual on-site water services may be used for infilling and minor rounding out of existing development.

d) Source protection

Section 2.2.1 addresses water resources. Planning authorities shall protect, improve or restore the quality and quantity of water by implementing necessary restrictions on development and site alteration to:

1. protect all municipal drinking water supplies and designated vulnerable areas; and,
2. protect, improve or restore vulnerable surface and groundwater, sensitive surface water features and sensitive groundwater features, and their hydrologic functions.

Growth Plan for Northern Ontario:

Municipalities in the Province of Ontario are required under Section 3 of the *Planning Act* to ensure that decisions affecting planning matters conform with the Growth Plan for Northern Ontario.

The GPNO encourages a broad range of housing in support of the City's designation as an Economic and Service Hub.

Official Plan for the City of Greater Sudbury:

South Peninsula of Ramsey Lake: Area-specific policies

The subject lands are designated as Living Area 1 and are subject to the area-specific policies applied to the South Peninsula of Ramsey Lake under Section 20.5 of the Official Plan.

1. Notwithstanding the policies of this Plan, the following special policies shall apply to lands designated as Living Area I on the South Peninsula of Ramsey Lake (i.e., all those Living Area I lands on Ramsey Lake Road, the Bethel Peninsula including all lands lying north and south of Bethel Lake, with the exception of lands along South Bay Road and Keast Drive that are designated as Living Area II):
 - a. In order to protect Ramsey Lake as a municipal water supply, no severances or subdivisions are permitted until municipal sewer and water services are available. In the interim, only single detached dwellings are permitted on legally existing lots fronting on public roads, subject to the approval of the appropriate regulatory authorities for a private sewage disposal system.
 - b. In order to preserve the open space character of the neighbourhood, the net density for the South Peninsula shall not exceed 10 units/hectare (equivalent to 1,000 m² or 10,764 ft² of land per unit) even after sewer and water services are available.
2. To maintain the open space character of the south shore of the Ramsey Lake neighbourhood, waterfront lots created by severance on the South Peninsula shall have minimum road and water frontages of 30 metres (100 feet). Backshore lots created by severance shall also have road frontage of 30 metres.

(Note: The policies applied to Comprehensive Planned Unit Development under Section 20.5 are not applicable to the subject application.)

Sensitive Surface Water Features (Source Protection Plan)

The Official Plan contains various policies related to municipal drinking water sources, which are applicable to the subject lands given the location in a vulnerable area (Ramsey Lake Intake Protection Zone 3). The applicable policies are outlined under Section 8.3 of the Official Plan:

1. Development, certain land use activities and public works within the vulnerable areas will conform with the policies on List A of the Greater Sudbury Source Protection Plan.
2. Severances of lots that would require the construction of new septic systems within the WHPA A and B or the IPZ 1 areas are prohibited. Existing registered lots may be developed with an on-site individual septic system and the expansion, maintenance or replacement of existing on-site individual septic systems is allowed.
3. In the vulnerable areas, the City will reduce stormwater runoff volume and pollutant loadings from developments where stormwater management facilities could be a significant threat by:
 - a. encouraging the implementation of a hierarchy of source, lot-level, conveyance and end of pipe controls;
 - b. encouraging the implementation of innovative stormwater management measures;
 - c. considering flexibility in development standards to incorporate alternative community design and stormwater techniques, such as those related to site plan design, lot grading, ditches and curbing, driveway surfaces, and the use of open spaces as temporary detention ponds; and,
 - d. supporting the continued implementation of source control programs, which are targeted to existing areas that lack adequate stormwater controls.

Sewer and water servicing

Section 12.2.2 New Development

Municipal sewer and water services are the preferred form of servicing for all new developments. Municipal sewer and water systems will accommodate all new development, except in unserved or partially served areas where different land use and servicing policies apply.

1. Development in urban areas is permitted provided that existing and planned public sewage and water services have confirmed capacity to accommodate the demands of the proposed development. Alternatively, the proponent of the development will upgrade, at their own expense, the existing sewage and water systems to ensure adequate delivery and treatment facilities consistent with City standards, including the adequacy of fire flows.
2. It is policy of this Plan to ensure that water supply and sewer capacity are adequate to service development without major line or plant expansion. Official Plan amendments, rezonings, severance and subdivision approvals, minor variances and building permits will be denied if a water or sewage facility problems exists.

12.2.3 Individual Systems

Individual systems are privately owned water and wastewater systems, usually taking the form of a well and septic system. Many households also draw water from area lakes. While new development is primarily directed by this Plan to fully serviced areas of the City, developments in the Agricultural Reserve, Rural Areas and certain parts of Living Areas that are either partially serviced or unserved are permitted to use individual systems subject to the policies of this Plan.

1. Where development is proposed outside fully serviced areas, the proponent must prove that the soil conditions of the proposed site are suitable for a waste sewage disposal system and that there is a proven source of potable water available. A hydrogeological assessment is required where the minimum lot size is less than 0.8 hectare (2 acres).
2. The City will work with its partners to encourage that a regular system of inspection of individually-operated water and wastewater systems is carried out throughout the City and that faulty systems are repaired, maintained and upgraded to meet health and environmental standards.
3. Connection to communal water and wastewater systems is prohibited without permission of the City.
4. There are many households throughout the City that are partially serviced by municipal water, most of which are located in Rural Areas. There are relatively few instances where households are partially serviced by municipal sewer.
 - a. Within settlement areas, new development may be permitted to allow for infilling and rounding out of partial services provided that there is confirmed reserve sewage system or reserve water system capacity, whichever is applicable, and that site conditions are suitable for the long-term provision of such services.

Zoning By-law 2010-100Z:

All subject lots are zoned "R1-3", Low Density Residential One, which requires a minimum lot area of 1,000 m², a minimum lot frontage of 30 metres and a minimum depth of 30 metres. The zoning essentially implements the special policies of the Official Plan.

The proposed lot fabric would comply with the minimum standards set out under the R1-3 zoning provided Lots 63 and 64 are consolidated.

Site Plan Control:

A Site Plan Control Agreement is not required.

Department/Agency Review:

Development Engineering has advised that the application is premature until such time as the issue of municipal services is resolved in regards to the approved draft plan of subdivision located to the east (University Park). Staff indicated that the applicant would benefit from the extension of sewer and water services required for the above noted development.

Conservation Sudbury advised that a Section 28 permit is required under the Conservation Authorities Act for any site alteration or development within a regulated area.

Water/Wastewater Services indicated that lot splits on private services are not prohibited in Ramsey Lake IPZ 3 and as such there is no conflict with the Source Protection Plan.

Building Services requires a geotechnical assessment at the building permit stage. The owner must also demonstrate that the lots can support private services (septic system permit and a supply of potable water).

Planning Analysis:

The proposed single residential use does not present any concerns related to land use compatibility, as the surrounding area comprises a low density residential neighbourhood noted for its large lots and open space character. In terms of development activity, new housing in the vicinity has essentially been limited to existing lots of record due to the lack of services. There are two (2) active draft plan of subdivision approvals on South Bay Road that require the extension of sewer and water services: Twin Lakes to the west (2003) and University Park to the east (2020). Neither subdivision has proceeded to the construction phase.

The main considerations related to this file are therefore focused on the following matters:

- Environmental considerations related to the location in a vulnerable area under the Source Protection Plan and a regulated area under the Conservation Authorities Act;
- The extension of municipal sewer and water services as a precondition for development; and,
- Evaluating the potential for unserviced lot creation on lands subject to the area-specific policies applied to the South Peninsula.

Environmental considerations

a) Source Protection Plan (SPP)

The subject lots are located in a vulnerable area defined as Ramsey Lake Intake Protection Zone 3 (IPZ 3). Various uses are restricted, including the application of agricultural and non-agricultural source materials, livestock operations, and the bulk storage of road salt and pesticides. The Source Protection Plan does not prohibit lot creation that would require the construction of new on-site sewage systems within Ramsey Lake IPZ 3, despite the location within the Ramsey Lake Issue Contributing Area (ICA).

It should be noted that the initial risk assessment and subsequent SPP policies applied to the south shore of Ramsey Lake were predicated on Official Plan policies that already restrict unserviced lot creation in the South Peninsula policy area (see [Greater Sudbury Source Protection Area Explanatory Document](#), p. 18). At other locations within IPZ 3, such as the Ramsey Lake Unserved Residential policy area (Living Area 2), there remains little potential for lot creation on private services.

Notwithstanding the above noted context, there is no direct conflict with the Source Protection Plan if the policies are strictly applied. Accordingly, Water/Wastewater Services do not identify the proposal as a significant drinking water threat. However, Staff have indicated that municipal sewer and water services are the preferred form of servicing for the South Peninsula area.

b) Regulated area

The subject lots are partially located within a regulated area based on the proximity to a watercourse that extends along the north side of South Bay Road (Keast Creek). Staff note that the owner has already obtained approval from the Conservation Authority to install a concrete box culvert across Lots 63 and 64 to accommodate access.

Conservation Sudbury staff indicate no objection to the proposal and advise the owner that any site alteration or development within a regulated area requires a permit under Section 28 of the Conservation Authorities Act.

Extension of sewer and water services

a) Proponents' position

The owner's consultant prepared a Planning Justification Report that provides a land use rationale in support of the application. In regards to servicing, specific positions are set forth to justify lot creation on private services in advance of the extension of municipal services, which are summarized as follows:

- The Provincial Policy Statement establishes a servicing hierarchy that allows municipalities to consider individual service arrangements in situations where municipal services are not available or feasible;
- The PPS allows on-site water and sewage services provided that site conditions are suitable for the provision of private services;
- The Official Plan supports a similar servicing hierarchy that allows flexibility to consider individual systems provided that the suitability of the site can be addressed by applying the standard conditions of approval;
- The application would conform to the Source Protection Plan, which does not restrict lot creation requiring the installation of additional septic systems in Ramsey Lake Intake Protection Zone 3;
- The Water/Wastewater Master Plan does not recommend the extension of services to the South Peninsula. Services are to be extended as part of the development of the University Park subdivision, which received draft plan approval in June 2020;
- The above noted development proposes a high pressure sanitary force main to be installed along South Bay Road. Individual connections to sanitary force mains are generally not recommended given the associated risks.

b) Staff response

Development Engineering has reviewed the Planning Justification Report and the proponents' position that private services are warranted in this instance. Following submission of Staff comments, a follow-up meeting was conducted with the proponents on July 26, 2021 in order to review the matter in greater detail.

In regards to the University Park development, Staff indicated that the owner is working towards addressing the conditions of draft plan approval, which were issued in June 2020 following a decision by the Ontario Municipal Board in 2017. However, there has been no formal submission of construction drawings to date. Staff advised that the subject lands could potentially benefit from the installation of sewer and water services required for the University Park development, including the extension of the watermain and the construction of a lift station. Acknowledging that individual connections to the sanitary force main are not desirable, Staff offered an alternative scenario whereby the subject lots could be serviced by a gravity system that would feed into the lift station and the proposed force main.

Until such time that the servicing requirements for University Park are addressed to the satisfaction of the City, including the potential for a front-ending agreement between the benefitting parties, the current proposal is felt to be premature.

In response to this position, the proponents have indicated that a gravity system is not viable for only three (3) lots, notwithstanding the additional deemed lots along South Bay Road also owned by the applicant, some of which are constrained by encroachments and natural hazards.

Assessing lot creation potential

In order to assess the potential impact of a positive recommendation, Staff conducted an analysis of properties within the South Peninsula policy area to determine the number of unserviced lots that could be created if granted the same development permissions. The following criteria were established for the lands under review:

- located entirely or partly within South Peninsula policy area;
- currently not serviced by municipal sewer and water;
- property has existing public road frontage; and,
- property has the potential for severance based on the minimum standards applied under the Official Plan (minimum lot area of 1,000 m² and minimum public road frontage of 30 metres).

Properties located within the South Peninsula policy area were mapped and categorized by lot creation potential. Lot information for each property was reviewed using assessment data. It was determined that up to 42 lots could be created on unserviced properties located entirely or partly within the policy area if exceptions were granted through site-specific Official Plan Amendments. An additional 20 lots could be created on unserviced lands located just outside the policy area boundaries. The suitability of each individual lot to accommodate private services was not within the scope of the analysis.

Conclusion:

Although the Provincial Policy Statement places an emphasis on development within fully serviced areas, the Planning Justification Report correctly indicates that a hierarchy of services is permitted within settlement areas. However, the locational context including the area-specific policies applied to the South Peninsula should take precedence. The City has approved the University Park development on the basis that the extension of sewer and water services is a necessary and feasible condition of approval that will potentially benefit adjacent landowners.

If Planning Committee determines that an exception is justified in this case, it is recommended that the following conditions of approval be considered in their decision:

That prior to the adoption of the Official Plan Amendment, the owner shall submit a hydrogeological assessment to the satisfaction of the Director of Planning Services in conformity with Section 12.2.3, Policy 1 of the Official Plan.

That the following site-specific provisions be incorporated into the proposed Official Plan Amendment:

- Lots 63 and 64 should proceed by way of the consent process, as the two (2) lots shall remain consolidated in order to meet the minimum requirements under the Official Plan and the applicable zoning. The standard conditions of consent approval shall be applied.
- Prior to rescinding the deeming by-law on Lots 203 and 204, the following conditions shall be addressed to the satisfaction of the Director of Planning Services:

1. That the owner provides comments from Public Health Sudbury & Districts stating that the subject

lots are capable of supporting a subsurface sewage disposal system;

2. That the owner proves to the satisfaction of the General Manager of Growth and Infrastructure that an adequate quantity of potable water is available and, if water can only be made potable by treatment, an agreement must be entered into with the City;
3. That the owner provides a lot grading plan for each lot to the satisfaction of the Director of Planning Services. The owner will also be responsible for the construction of any drainage outlet that may be required, the legal costs of preparing and registering the associated lot grading agreement, and survey costs; and,
4. That the owner apply for and receive a driveway entrance permit for the proposed lots to the satisfaction of the General Manager of Growth and Infrastructure.