

## Removal of Flood Plain Designation – Dominion Drive

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Recommended by:	General Manager of Growth and Infrastructure
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## Report Summary

This report provides a recommendation regarding an amendment to the Official Plan to reflect the revised flood plain adjacent to the Paquette-Whitson Drain once this project has been completed.

## Resolution

THAT the City of Greater Sudbury directs staff to initiate an amendment to the Official Plan to reflect the revised Flood Plain adjacent to the Paquette-Whitson Municipal Drain once this project has been finalized and Conservation Sudbury has approved the revised delineation of the flood plain, as outlined in the report entitled, "Removal of Flood Plain Designation – Dominion Drive", from the General Manager of Growth and Infrastructure presented at the Planning Committee meeting on September 27, 2021.

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

The City of Greater Sudbury's goal is for all citizens to have access to safe, affordable, attainable and suitable housing options. Specifically, strategic objective 5.3 seeks to improve services/housing for all those living or seeking to live in Greater Sudbury.

The recommended amendment provides an opportunity to maximize the use of infrastructure investment by the City, which is consistent with achieving energy efficiency and emissions reductions by creating compact, complete communities.

## Financial Implications

There are no financial implications associated with the report.

## Background

Completion of the Paquette-Whitson Municipal Drain is expected by late 2021. This Drain involved the construction of 2400 metres of new and improved drainage channel, 670 metres of improved branch channel and a total of 30 hectares of stormwater management ponds (see Figure A). The total project cost is \$12.743 million. The Paquette-Whitson Municipal Drain drains 725 hectares of land that includes approximately 1300 existing residences as well as schools, business areas, parks, roads, recreational facilities, and several residential and commercial developments at various stages in the planning process.

Originally conceived in the late 1990s to improve local drainage concerns, the Paquette-Whitson Municipal Drain design was subsequently expanded in the 2000s to include two very large stormwater ponds engineered to control flooding and improve the quality of urban stormwater runoff before entering the Whitson River. Enhanced flood control reduces the extent of the flood plain, the limits of which are established by Conservation Sudbury through Ontario Regulation 156/06. In this instance, a reduction in the flood plain affects: 1) land that is already developed, 2) land in various stages of development approval, and 3) land that, with the removal of the flooding hazard, is now eligible for development consideration. In the latter two groups are four properties owned by different land development companies. These properties, henceforth referred to as 'the four properties' in this report, are shown in Figure B as properties A through D. Properties identified as 'E' on Figure B contain existing development, but would also be subject to flood plain alteration, designation changes or settlement area adjustment.

The owners of the four properties had previously indicated their interest in developing the properties for residential and commercial purposes, which would require the owners to bear some of the costs of the Paquette-Whitson Municipal Drain (Properties B, C, and D). In 2012, City Council approved a front-end financing program that allows a portion of the cost of the Paquette-Whitson Municipal Drain to be recovered from developers by a per lot or per lot equivalent at the time of registration of specific developments or portions of developments (By-law 2012-192). The developers' share of the Drain is thus spread out over the duration of the individual development projects.

The following table provides a chronology of events related to the drain and surrounding developments:

Date	Description
1990s	Identification of need for drainage improvements
1999	Ontario Drainage Act Petition approved by former City of Valley East
2004	Drain Petition Submitted by the owners of property in Lot 6, Concession 1 and Lots 5 and 6, Concession 2 in the Township of Hanmer and Lot 6, Concession 6 in the Township of Blezard in the City of Greater Sudbury
2004	Application for Plan of Subdivision – Saddle Creek
2007	OPA and ZBLA for commercial development adjacent to MR 80
2009	Application for Plan of Subdivision – Lifestyle Homes
2012	Engineers Report on the construction of the Paquette-Whitson Drain
2019	RFP Issued, Bid Awarded, Drain construction started

Although the four properties just mentioned may no longer be subject to flooding hazard, their development is still limited by the following constraints:

- 1) Existing delineation of the regulated flood plain;
- 2) Existing boundary of the Settlement Area and Official Plan Policies; and,
- 3) Existing water supply capacity.

These constraints are discussed in the following sections.

## **Flood Plain and Parks & Open Space Designation: Impact of the Drain on Development**

The flood plain currently shown on Schedule 6 of the City's Official Plan and the Flood Plain overlay as per Zoning By-law 2010-100Z reflects flooding hazard conditions that precede the construction of the Paquette-Whitson Municipal Drain (see Figure A). The Parks & Open Space designation on Schedules 1a and 1c of the Official Plan reflects the extent of the flood plain. In accordance with the Official Plan (Section 10.2) and Zoning By-law (Section 4.9.2), no new buildings and structures (other than flood control structures) are permitted within the flood plain. To permit additional development in the area, including on the four properties mentioned above, the regulated flood plain must be revised by Conservation Sudbury. To assist in their review, the City will provide Conservation Sudbury with the revised, modeled flood plain map as well as the 'as-builts' based on actual conditions once the Municipal Drain construction is completed.

Revision of the mapping for both the flood plain is expected to remove approximately 41.3 ha of land from the flood plain on the four properties, with flood plain also being removed from other lands with existing development in the surrounding area.

The realignment of the flood plain would mean that the Parks & Open Space designation no longer represents a hazard as the designation was originally intended to recognize. In order to realize any development potential from the drainage works and flood plain removal those lands would need to be redesignated.

## **Existing Settlement Area Boundary and Official Plan Policies**

Development of the four properties must consider a number of sections of the Official Plan, including: land use designation, settlement area policies, flood plain policies, interpretation policies and phasing policies. Each will be reviewed in the following paragraphs.

Three of the four properties are currently partially within the Settlement Boundary (portion designated Living Area 1 and Mixed Use Commercial) and the fourth property (property A) is located outside of the Settlement Area as shown on Schedule 3 of the Official Plan and Figure B. The Provincial Policy Statement (PPS) states that "Settlement areas shall be the focus of growth and development." In keeping with the PPS, Policy 2.3.2.1 of the Official Plan states that "Future growth and development will be focused in the *Settlement Area* through intensification, redevelopment and, if necessary, development in designated growth areas." As such, an expansion of the Settlement Area to include the four properties would be required to be consistent with the Provincial Policy Statement (PPS) and the Official Plan. Therefore, such an expansion will be subject to a detailed assessment of consistency with the various conditions outlined in the PPS and the policies of the Official Plan.

Property A, is largely Parks & Open Space and outside of the Settlement Boundary. The easterly portion of the lands lie within the Urban Expansion Reserve of the Valley East Policy Area (Section 20.3 of the Official Plan) and, as such, is deemed to be in the path of urban growth although not intended for development until after the Plan period (20 years from 2006 to 2016). Currently, there is an existing supply of residential land in the City of approximately 43 years, including existing vacant lots, lots in existing draft-approved plans of subdivision, and lands designated for residential development.

Amendments to both the Official Plan and the Zoning By-law would be required to redesignate portions of the four properties from Parks & Open Space to Living Area 1 and to rezone them to ensure proper zoning is in place.

Section 10.2 of the Official Plan contains policies related to Flooding and Erosion Hazards. Development on lands affected by flooding or erosion hazards are restricted as those hazards may cause loss of life or result in property damage. Conservation Sudbury is responsible for preparing mapping showing lands that are subject to flooding hazards and for re-mapping such lands should infrastructure such as the Paquette-Whitson Drain occur.

Once the Drain is constructed and the floodplain mapping revised, the lands described in this report would no longer be subject to the policies of this section of the Plan.

Section 19.9 – Interpretation, of the Official Plan allows for the interpretation of boundary designations with policies that state that they are general guidelines only, except where such areas or boundaries coincide with existing roads, railways, rivers, waterbodies or other defined features. Minor adjustment to the Plan are permitted without a formal amendment, provided the general intent and purpose of the Plan is maintained. In this case, the completion of the Paquette-Whitson municipal drain results in approximately 41.3 ac of land west of the drain and outside the Settlement Boundary being removed from the flood plain. Consideration must be given to the current Parks & Open Space designation and realignment of the Settlement boundary to coincide with a defined feature being the Paquette-Whitson Drain.

Section 3.2.2 of the Official Plan contains policies related to the phasing of development in order to achieve efficient use of land and desired land use pattern. New development is to occur adjacent to existing built-up urban areas and expansion onto vacant undeveloped lands is to consider the following: achievement of intensification targets, contiguous expansion within the Living Area 1 designation, represent a logical use of infrastructure and public service facilities, completion or rounding out of existing neighbourhoods and the available supply or lots within existing plans of subdivision.

## **Water Supply Capacity: Tier 3 Water Budget Model**

The Greater Sudbury Source Protection Plan was created under the *Clean Water Act*, 2006 to protect the City's municipal drinking water sources. The Plan sets out policies to protect sources of municipal drinking water against drinking water threats that have the potential to affect the quality or quantity of a drinking water source.

Policy 4 of Section 8.3 of the Official Plan requires that the City ensure that water takings and recharge reduction from the Valley aquifer cease to be or do not become significant threats by only permitting expansions to the settlement boundaries (as part of a comprehensive review) where a detailed hydrogeological assessment of the aquifer has been completed, including an update of the current Tier Three Water Budget Model. The assessment must demonstrate that an increased water taking will not adversely impact the aquifer's ability to meet municipal and other water supply requirements.

The City is currently undertaking a Tier 3 Water budget of the Valley aquifer. The modelling for the Tier 3 water budget will likely be completed in the 3<sup>rd</sup> quarter of 2021, with the final report to follow later in 2021. The findings of the water budget will determine whether the additional development on the four properties currently subject to the floodplain could be supported from a water supply perspective. Original modelling included the four properties. Properties B, C and D were included as part of the residential land supply, and property A was included as part of the ultimate build out projection.

## **Summary**

The following actions are required before housing developments could be permitted on the four properties:

- 1) Conservation Sudbury must assess and consider adjusting by regulation the mapped 100-year flood limits (i.e., the 'Flood Plain') affected by the Paquette-Whitson Municipal Drain. To assist in this determination, Conservation Sudbury will compare the City's modelled flood mapping associated with the Paquette-Whitson Municipal Drain to the final 'as-built' drawings;
- 2) Through an amendment to its Official Plan, the City of Greater Sudbury must then consider:
  - a. reducing the extent of the Flood Plain as shown on Schedule 6 of the Official Plan; and
  - b. expanding the Settlement Area to include the portions of properties B, C and D that are currently outside of the Settlement Area and property A which lies entirely outside of the Settlement Area. Expansion of the Settlement Area will be subject to a review of the

conditions set out in the PPS and the Official Plan to permit the expansion. One of the conditions will be an adequate supply of water currently being assessed by the City through the Tier 3 Water budget of the Valley aquifer.

- 3) Finally, through an amendment to its Official Plan, the City must consider redesignation the four properties from Parks and Open Space to Living Area 1, as set out above.

## Options

Subject to the actions identified above, the reduction of flood plain extent following the construction of the Paquette-Whitson Municipal Drain offers opportunities for additional housing and commercial development between Dominion Drive and the unopened road allowance of Yorkshire Drive east of Highway 69 north. Four properties, in particular, have been discussed in this report as benefitting from future development opportunities. These four properties are under different ownership and are at different stages of the planning process and, as such, their suitability for development should be considered individually as outlined in the table below.

Property	Zoning	OP/Settlement	Floodplain	Total Area
A (Portion north of re-aligned Drain only)	RU	Parks & Open Space, Urban Expansion Reserve  Outside of Settlement Boundary	6.8 ha	7.0 ha
B	R1-5 and RU	Living Area 1 and Parks & Open Space  Portion of lands designated Parks & Open Space are outside the Settlement Boundary  Draft Plan approved Plan of Subdivision	15.9 ha	17.4 ha
C (not including lands designated LA1 that will be lost to pond)	H39R1-5, H39R2-1, H39R2-2, OSC	Living Area 1 and Parks & Open Space  Portion of lands designated Parks & Open Space are outside the Settlement Boundary.  Draft Plan approved Plan of Subdivision	13.9 ha	20.8 ha
D	H30C2	Mixed Use Commercial and Parks & Open Space	4.7 ha	10.8 ha
<b>Total</b>			<b>41.3 ha</b>	<b>56.0 ha</b>

\*H39 – zoning applied in 2013. Only to be removed once lands located in the flood plain have been removed from the flood plain.

For sake of simplicity, only three options have been prepared for consideration. The options assume that the reduction in the flood plain area has been finalized and approved. The following table describes each option and their respective implications.

Option	Pros	Cons
A) Leave Parks and Open Space Designation on the Properties	A settlement boundary expansion would not be required.	No development would be permitted. Permitted uses would be limited to active and passive recreational uses, arenas, recreation centers and accessory uses, Conservation Areas and cemeteries.

B) Remove Parks & Open Space Overlay and leave Rural Designation/Urban Expansion Reserve	The Urban Expansion Reserve Designation would restrict the use of the lands to those that would not prejudice the sound urban development of those lands in the future.	The subdivision of land is not permitted during the Plan period.  Development of lots would be restricted and would remain without municipal water/wastewater services.
C) Remove Parks & Open Space Overlay and change to Living Area 1 designation	<p>Snapped to physical feature wherever possible. Would provide a firm eastern boundary to Settlement Area.</p> <p>Would add approximately 7.4 ha of land to the supply which could accommodate approximately 266 lots (assuming a density of 36 units per hectare).</p> <p>Would permit the City to extend municipal water/wastewater services to the area per the OP and PPS.</p> <p>Would reflect the actual hazard areas per the OP and PPS.</p> <p>Would be consistent with front ending financing program as set out in by-law 2012-192.</p>	<p>The City currently has an approximate 43 year supply of lands for residential development.</p> <p>Justification for a Settlement Boundary adjustment would be required as per the criteria of the PPS set out below.</p>

\*Note: additional lands north of Dominion will also benefit from the removal of the floodplain overlay, however would not be subject to Settlement Boundary expansion.

Under option C, justification would be required to designate additional lands as Living Area 1. Justification could include the removal of lands that are not suitable for development from the Settlement Area in another location, for example removal of the portion of the lands at the southerly end of Parcel C which were acquired to accommodate the wet pond.

Option C would align the settlement boundary with a physical feature and would be consistent with the front end financing program set out in By-law 2012-192 as well as conditions of draft plan approval of subdivisions affected by the drain.

## Provincial Policy Statement (PPS)

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.

Settlement areas are to be the focus of growth and development, and are to have land use patterns which are based on densities and a mix of land uses which efficiently use land and resources and efficiently use infrastructure and public service facilities.

Section 1.1.3.8 provides guidance on when *settlement area* boundary expansions are permitted. They are permitted only at the time of a comprehensive review and it must be demonstrated that sufficient opportunities to accommodate growth to satisfy market demand are not available through intensification, redevelopment and designated growth areas to accommodate projected needs, infrastructure and public service facilities which are planned or available are suitable and consideration of potential impacts on nearby agricultural operations.

The level of detail in the comprehensive review should correspond to the scale and complexity of the proposal.

New policies were added to the PPS in 2020, allow for settlement boundary adjustments outside of a comprehensive review provided:

- There would be no net increase in land within the settlement areas;
- The adjustment would support the municipalities ability to meet intensification and redevelopment targets established by the municipality;
- Prime agricultural areas are addressed; and
- the settlement area to which lands would be added is appropriately serviced and there is sufficient reserve infrastructure capacity to service the lands.

An amendment to the Official Plan related to the Settlement Boundary must demonstrate that the proposed amendment does not conflict with the above policies of the Provincial Policy Statement, 2020.

## **Growth Plan for Northern Ontario (GPNO)**

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 proposed amendment is consistent with the policies of section 4.2 long range planning for all communities and 4.3 economic and service hubs.

## **Conclusion/Next Steps**

In keeping with previous subdivision approvals and the intention of the drain to enable further development in the area by reducing the floodplain, it is recommended that staff be directed to initiate an Official Plan amendment for properties A, B, C and D upon revision of the flood plain mapping as per Option C in the table above. This process will include the investigation of options for justification for a settlement boundary expansion to reflect the revised flood plain on the westerly side of the Paquette-Whitson Municipal Drain. In order to determine whether there is merit in supporting such a request, the Tier 3 water budget must be completed. If the water budget demonstrates that there is sufficient quantity of water to support the additional development, the City could consider an application to re-designate the properties from “Rural” to “Living Area 1”.

## **References**

1. City of Greater Sudbury Official Plan, <https://www.greatersudbury.ca/city-hall/reports-studies-policies-and-plans/official-plan/official-plan/op-pdf-documents/current-op-text/>
2. City of Greater Sudbury Zoning By-law, <https://www.greatersudbury.ca/do-business/zoning/zoning-by-law-2010-100z/>
3. Greater Sudbury Source Protection Area Source Protection Plan, <https://sourcewatersudbury.ca/en/draft-source-protection-plan.html>

4. Staff Report, Paquette-Whitson and Horizon Municipal Drains – Possible Financing Options, presented July 10, 2012 to Finance and Administration Committee <https://pub-greatersudbury.escribemeetings.com/FileStream.ashx?DocumentId=35105>
5. Staff Report, Paquette-Whitson Municipal Drain, presented October 3, 2012 to Hearing Committee <https://pub-greatersudbury.escribemeetings.com/FileStream.ashx?DocumentId=35007>
6. Staff Report, Awarding of the Paquette-Whitson Municipal Drain, presented July 9, 2019 to City Council <https://pub-greatersudbury.escribemeetings.com/filestream.ashx?documentid=2611>