

Sugarbush Subdivision, Sudbury

Presented To:	Planning Committee
Meeting Date:	June 12, 2023
Type:	Routine Management Reports
Prepared by:	Glen Ferguson Planning Services
Recommended by:	General Manager of Growth and Infrastructure
File Number:	780-8/08011

Report Summary

This report provides a recommendation regarding an application to extend the draft plan approval pertaining to the Sugarbush Subdivision for a period of two years until May 8, 2025.

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 PIN 73377-1463, Part of Parcel 22159 A SWS, Lot 8, Concession 5, Township of Waters, File # 780-8/08011, as outlined in the report entitled "Sugarbush Subdivision, Lively", from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting on June 12, 2023, as follows:

1. By deleting Condition #3 and replacing it with the following:

"3. 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 adding the following at the end of Condition #4:

"The geotechnical engineer will be required to address on-site and excess soil management in accordance with Ontario Regulation 406/19.";
3. By deleting the words "Union Gas" and replacing them with "Enbridge Gas" in Condition #15;
4. By deleting the words "Coordinator of the Surveying and Mapping Services" and replacing them with "Manager of GIS Operations" in Condition #16;
5. By deleting Condition #29 and replacing it with the following:

"29. That this draft approval shall lapse on May 8, 2025.";
6. By adding a new Condition #40 as follows:

- “40. The wetland(s) within the subdivision must be mapped by a qualified professional having OWES-certification with experience in wetland mapping to the satisfaction of Conservation Sudbury. The wetlands must be mapped within the location of the proposed subdivision and also within 30 metres of the proposed subdivision. All wetland mapping must include the wetland boundary, a 12 metre setback and a 30 metre setback to the wetland(s). All development within the subdivision must comply with the Conservation Sudbury Wetland Guidelines and development within 30 metres of the wetland will require a permit from Conservation Sudbury.”

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.

The application to extend an existing draft plan of subdivision approval does not either directly align with or negatively impact any of strategic goals and objectives that are identified within the City's Strategic Plan.

The application to extend an existing draft plan of subdivision approval is not expected to have any direct negative impacts on stated goals and recommendations contained within the CEEP.

Financial Implications

If approved, staff estimates approximately \$242,000 in taxation revenue, based on the assumption of 47 single detached residential units based on an estimated assessed value of \$400,000 per dwelling unit at the 2022 property tax rates.

If there is additional taxation revenue, it 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 would result in total development charges of approximately \$1.04 million based on assumption of 47 single family dwellings and based on the rates in effect as of the date of this report.

Once development has occurred and the subdivision infrastructure has been transferred to the City, there will be additional on-going costs for future annual maintenance and capital replacement of the related infrastructure (ie. roads, water/wastewater linear pipes, etc).

Report Overview:

The owner has requested an extension to the draft plan approval for the Sugarbush Subdivision in the community of Sudbury for a period of three years until May 8, 2025. The Planning Services Division has reviewed the request to extend the draft approval and have no concerns with respect to the requested extension for a period of two years. The request was also circulated to relevant agencies and departments for comment and no concerns were identified with respect to extending the draft approval.

Staff advises that Condition #29 should be amended to reflect a new lapsing date of May 8, 2025. Building Services is requesting that Condition #4 be updated to reflect provincial regulatory requirements for on-site and excess soil management. Conservation Sudbury is requesting the addition of a now standard condition for all draft approved plans of subdivisions where wetland(s) are present.

Other administrative and housekeeping changes where necessary are also included and outlined in the Resolution section of this report.

The Planning Services Division is recommending approval of the application to extend the draft approved plan of subdivision for a period of two years until May 8, 2025. Amendments to the conditions of draft approval where necessary have been identified and are included in the Resolution section of the report.

STAFF REPORT

Applicant:

Dalron Construction Ltd.

Location:

PIN 73377-1463, Part of Parcel 22159 A SWS, Lot 8, Concession 5, Township of Waters (Sugarbush Subdivision, Lively)

Application:

To extend the draft approval conditions for a plan of subdivision (ie. Sugarbush) which were approved initially by Council on March 18, 2009. The draft approval was last extended by Planning Committee on June 22, 2020, which was then ratified by Council on June 23, 2020. There was a recent administrative extension issued by the Director of Planning Services having the effect of establishing a new lapsing date of August 8, 2023, in order to allow for agencies and departments to complete their review of the request to extend the draft approval of the Sugarbush Subdivision.

Proposal:

The owner is requesting that the draft approval conditions for the above noted lands be extended for a period of two years until May 8, 2025.

Background:

The City received a written request via email and letter from Dalron Construction Ltd. on February 14, 2023, to extend the draft approval on a plan of subdivision for a period of three years on those lands described as PIN 73377-1463, Part of Parcel 22159 A SWS, Lot 8, Concession 5, Township of Waters. The applicable processing fee was not included along with the initial draft approval extension request and was later provided to the City on March 1, 2023.

The draft approved plan of subdivision was initially approved by Council for a total of 69 urban residential lots to the north of Niemi Road and Santala Road in the community of Lively. The remaining lots (ie. 47 lots) within the draft approved plan of subdivision are to be accessed from Chinaberry Drive and Sugarbush Drive.

The draft approval was set to expire again on May 8, 2023. It is noted however that a temporary administrative extension to the draft approval was granted until August 8, 2023, in order to have the extension request considered by Planning Committee and a decision ratified by Council. Staff has circulated the request to relevant agencies and departments and is now bringing forward this report to extend the draft approval to May 8, 2025.

Departmental & Agency Circulation:

Active Transportation, the City's Drainage Section, Fire Services, Operations, Roads, Transportation and Innovation, and Transit Services have each reviewed the request to extend the draft approval and have advised that they have no concerns from their respective areas of interest.

Building Services has noted that Condition #4 pertaining to geotechnical requirements will need to be amended in order to provide direction to the owner's geotechnical engineer that the required geotechnical report(s) must address on-site and excess soil management in accordance with [Ontario Regulation 406/19](#), which is now in full force and effect.

Canada Post has not requested any changes to the draft approval conditions. Canada Post did however provide a letter which is attached to this report for the owner's information and reference purposes.

Conservation Sudbury have advised that there are wetlands and small streams connecting said wetlands on the subject lands that must be mapped by a qualified professional (ie. OWES-certified with experience in wetland mapping). The owner is advised that the applicable [Direction on the Administration of Ontario Regulation 156/06 – Wetlands Guidelines](#) establishes development guidelines around wetlands. The wetlands must be mapped within the draft plan of subdivision and within 30 m (90.43 ft) of the draft approved plan of subdivision. All mapping must include the wetland boundary along with a 12 m (39.37 ft) setback and a 30 m (90.43 ft) setback. Conservation Sudbury advises the development of the subject lands must comply with applicable wetlands guidelines and any development within 30 m (98.43 ft) of the wetland(s) will require a permit from Conservation Sudbury. Conservation Sudbury is requesting that the above be reflected in the draft approval conditions.

Development Engineering has noted that the most recent phase was registered on May 8, 2012 (ie. 53M-1401) which involved the construction of the Dewberry Court. The owner has recently submitted construction drawings for the next phase that they intend on developing and said drawings were reviewed and comments returned to the owner. Development Engineering is currently awaiting the submission of updated construction drawings for the next phase of the Sugarbush Subdivision.

Strategic and Environmental Planning has noted and would caution the owner that it is their responsibility to ensure that they are in compliance with the [Endangered Species Act](#).

Planning Considerations:

[Planning Act](#)

Section 51 of the Planning Act has established two land use planning principles with respect to the initial approval of a draft plan of subdivision and how extensions to an existing draft approved plan of subdivision 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.

Section 51(33.1) of the Planning Act also now allows municipalities to reinstate draft plans of subdivision that have lapsed within the past five years without a new subdivision application being required. This exemption does not apply where the approval has previously been deemed not to lapse using this provision of the Planning Act or if there is an agreement entered into for the sale of the land under which the draft approved plan of subdivision is applicable. If the draft plan of subdivision is deemed not to have lapsed, the municipality must specify a time when the reinstated draft approval lapses.

In practice, staff would note that where a draft plan of subdivision has lapsed there is nothing preventing a landowner from filing another draft plan of subdivision application for consideration. The re-application is treated as a new application and all requirements under Section 51 are applicable (eg. a public hearing would be required).

Lapsing conditions are imposed by a municipality to ensure that development once approved will proceed in an expeditious manner. The municipality is most typically concerned that development takes place within the current policy and regulatory framework and especially where scarce services or capacity to service development have been committed to the draft approved plan of subdivision.

Three years is generally considered to be sufficient time to clear conditions of draft approval and proceed to registering a plan of subdivision. Section 51(33) allows for some flexibility whereby some additional time can be afforded to a landowner where they are actively pursuing the clearing of draft approval conditions.

Second, Section 51(44) on the other hand allows for a municipality to withdraw draft approval of a plan of subdivision at its discretion or to change the conditions of a draft approval at any time before the registration of a plan of subdivision.

Appeal rights in both cases noted above are found 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 March 18, 2009, and at the time of writing this report, there have been 47 urban residential lots registered within the Sugarbush Subdivision. The most recent phase included the development of 22 urban residential lots that was registered on May 8, 2012 as Plan 53M-1401.

The owner noted in their emailed request to extend their draft approval that they fully intend on developing the remainder of the Sugarbush Subdivision and have most recently prepared and submitted construction drawings for the next phase of subdivision for review.

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 #29 should be deleted entirely and replaced with a sentence referring to May 8, 2025, as the revised date on which the draft plan approval for the Sugarbush Subdivision shall lapse.

Condition #4 should be amended to ensure that on-site and excess soil management as it relates to constructing the Sugarbush Subdivision is addressed in accordance with the now in full force and effect Ontario Regulation 406/19.

Condition #40 would form a new condition addressing wetland(s) mapping requirements that are applicable under Conservation Sudbury's Wetlands Guidelines.

Conditions #3, #15 and #16 should be amended for administrative and housekeeping purposes.

No other administrative and housekeeping changes to the draft approval documents are required at this time. No other changes beyond those described in this report to the draft approval documents have been requested either by the owner or by circulated agencies and departments.

The existing draft approval conditions are attached to this report along with a copy of the draft approved plan of subdivision for reference purposes.

Processing Fees

The owner has provided the applicable processing fee in the indexed amount of \$2,269.17. This amount was calculated as per [By-law 2020-26](#) being the indexed Miscellaneous User Fees for Certain Services By-law that was in effect at the time the request to extend the draft approval was made by the owner.

Summary:

The Planning Services Division have reviewed the request to extend the draft approved plan of subdivision (ie. Sugarbush Subdivision) and have no concerns with respect to the requested extension for a period of two years. The request was also circulated to relevant agencies and departments for comment and no concerns were identified with respect to extending the draft approved plan of subdivision.

Appropriate changes where it has been determined to be appropriate are explained within this report and 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 Sugarbush Subdivision for a period of two years until May 8, 2025, be approved as outlined in the Resolution section of this report.