

1789682 Ontario Ltd.

Presented To:	Planning Committee
Meeting Date:	March 18, 2024
Type:	Routine Management Reports
Prepared by:	Eric Taylor Planning Services
Recommended by:	General Manager of Growth and Infrastructure
File Number:	780-6/89019E

Report Summary

This report provides a recommendation regarding an extension to the lapsing date to February 6, 2027 on Subdivision File # 780-6/89019E south of Moonrock Avenue and east and north of Brenda Drive in Sudbury.

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 Parcel 1446 SES, Lots 7 & 8, Concession 1, Township of McKim, File # 780-6/89019E, in the report entitled "1789682 Ontario Ltd.", from the General Manager of Growth and Infrastructure, presented at the meeting of March 18, 2024, as follows:

1. By deleting Condition #23 and replacing it with the following:
"23. That this draft approval shall lapse on February 6, 2027.";
2. By amending Condition #28 to insert the following:
"c) A hierarchical approach to stormwater management must be followed as described by the Ministry of the Environment, conservation and Parks and as amended by City of Greater Sudbury most recent Stormwater Management Guide and Engineering Design Standards;
and re-lettering the existing Conditions 28 c), d), e), f), g), h) and i) to Conditions 28 d), e), f), g), h), i), and j);
3. By amending Condition #39 to add at the end of the condition the following:
"f) The geotechnical engineer will be required to address the On-site and Excess Soil Management in accordance with Ontario Regulation 406/19 under jurisdiction of Environmental Protection Act, R.S.O. 1990, c. E.19."
4. By adding the following as Condition #52:

“52. The wetlands(s) must be mapped by a qualified professional (OWES-certified with experience in wetland mapping). The wetlands must be mapped within the location of the proposed subdivision. All mapping must include the wetland boundary and areas of potential interference shown at 12 metres, 30 metres and 120 metres from the wetland boundary. Development must comply with Conservation Sudbury’s wetland guidelines. A permit from Conservation Sudbury will be required if the proposed development will result in interference with the wetland.”

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 proposal is consistent with the goals and objectives of the Strategic Plan by increasing the supply of new housing within settlement area boundaries. The proposed subdivision is contiguous with an existing built-up area and aligns with the goal to create compact, complete communities under the Community Energy & Emissions Plan.

Financial Implications

If approved, staff estimates approximately \$696,000 in taxation revenue, based on the assumption of 93 single detached dwelling units based on an estimated assessed value of \$500,000 at the 2023 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 \$2.06 million based on assumption of 93 single detached dwelling units 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

1789682 Ontario Ltd. has requested an extension to the draft approved plan of subdivision referred to as the Moonglo East plan of subdivision in the community of Sudbury for a period of three years until February 6, 2027. The Planning Services Division has reviewed the request to extend the draft approval 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 approval. 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:

1789682 Ontario Ltd.

Location:

Part of Parcel 1446 SES, Lots 7 & 8, Concession 1, Township of McKim, (Moonglo East Subdivision, Sudbury)

Application:

To extend the draft approval conditions for a plan of subdivision which were approved initially by Council on March 9, 1990. The draft approval was most recently extended by the City's Planning Committee on February 8, 2021, through Resolution PL2021-33, which was ratified by Council on March 9, 2021.

Proposal:

The owner is requesting that the draft approval conditions for the above noted lands be extended for a period of three years until February 6, 2027.

Background:

The City received a written request from the owner's agent dated December 15, 2023, to extend the draft approval on a plan of subdivision for a period of three years on those lands described as Part of Parcel 1446 SES, Lots 7 & 8, Concession 1, Township of McKim. The draft approved plan of subdivision was initially approved by Council for a total of 557 urban residential dwelling lots with one block of land being to west of Nova Drive and the other block of land being to the south of Moonrock Avenue in the community of Sudbury. The separate blocks of land described above are under separate ownership. For the purposes of clarity and convenience, the draft approval now carries two file numbers with each having an alphabetic letter assigned to it (i.e. 780-6/89019E & 780-6/89019W) in order to distinguish between Moonglo West and Moonglo East. The lands forming the Moonglo East draft approved plan of subdivision are intended to be accessed via Moonrock Avenue.

The Moonglo East draft approval is set to expire again on June 6, 2024. Staff has circulated the request to relevant agencies and departments and is now bringing forward this report to extend the draft approval to February 6, 2027.

Departmental & Agency Circulation:

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

Development Engineering has advised that the most recent phase of construction was the creation of Hidden Ridge Court, registered in January 2012 and the existing subdivision conditions address their concerns.

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 a new Condition be added, given that Conservation Sudbury has approved wetland guidelines since the last draft approval extension was granted in 2021. The condition includes that the wetlands on the property be mapped along with potential interference distances from the wetland boundary to be delineated along with noting that permits from the Conservation Authority as being required for development interfering with the wetlands.

The City's Drainage Section has requested that Condition #28 be amended to insert wording regarding a hierarchical approach to stormwater management to be followed as described by the Ministry of Environment, Conservation and Parks and as amended by the City of Greater Sudbury Stormwater Management Guide and Engineering Design Standards.

Building Services has requested a modification to the geotechnical requirements of Condition #39 to including wording that, the geotechnical engineer will be required to address the On-site and Excess Soil Management in accordance with *Ontario Regulation 406/19* under jurisdiction of *Environmental Protection Act, R.S.O. 1990, c. E.19*.

Strategic and Environmental Planning has not requested any changes to the conditions but has noted for the owner's benefit, that the owner is solely responsible for ensuring that 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 March 9, 1990, and at the time of writing this report, multiple phases of the Moonglo Subdivision have been registered across time with two remnant portions now remaining that are both also now under separate ownership (i.e. Moonglo West and Moonglo East). At present, those lands now known as the Moonglo East Subdivision contain 93 unregistered lots and there have been no phases registered in the Moonglo East Subdivision since the last draft approval extension was granted by Council.

The owner has advised that the request to extend the draft approval is being made to preserve the development rights for the subdivision until such time as a building permit is issued for the retirement home. In this regard, Planning Staff notes that the Ontario Municipal Board issued an Order on October 6, 2017, approving a rezoning of the lands to R3(Special) to permit a retirement home with 144 dwelling units and 108 guest rooms and medical office, subject to the owner making a 2.9 ha parkland dedication. As the parkland dedication has not occurred, the lands remain zoned "R1-5", Low Density Residential One and H20R1-5, Hold Low Density Residential One.

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 in particular has been identified as being a policy requiring an update to address these capacities and demand issues. Staff through this process will consider the embedding of criteria into this section to strengthen the policy position and clarification around what constitutes reasonable effort on behalf of a landowner when they seek to extend a draft approved plan of subdivision. Internal procedures and application requirements for extension requests are also under review and a stronger "landowner onus" approach will be applied to extension requests in the future once said procedures are established.

The owner is cautioned that future draft approval extensions may be subject to review under strengthened criteria embedded in the Official Plan through the City's Phase 2 Official Plan Review.

Draft Approval Conditions

Condition #23 should be deleted entirely and replaced with a sentence referring to February 6, 2027, as the revised date on which the subject draft plan of subdivision approval shall lapse.

The City's Drainage Section has requested that Condition #28 be amended to insert wording to be consistent with the standard drainage conditions being applied to most draft plans. Building Services has requested that Condition #39 be amended to include wording respecting On-site and Excess Soil Management in accordance with *Ontario Regulation 406/19*. Conservation Sudbury has requested that a new condition be included addressing mapping of the wetlands on the property and the requirement for permits to be obtained from the Conservation Authority.

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.

Summary:

The Planning Services Division has reviewed the request to extend the subject draft approval and has 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 approval of the subdivision. 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 Moonglo East Subdivision for a period of three years until February 6, 2027, be approved as outlined in the Resolution section of this report.