

Whitson Lake Subdivision, Val Caron Extension

Presented To:	Planning Committee
Meeting Date:	May 27, 2024
Type:	Routine Management Reports
Prepared by:	Stephanie Poirier Planning Services
Recommended by:	General Manager of Growth and Infrastructure
File Number:	780-7/98-002

Report Summary

This report provides a recommendation regarding an application for an extension to the Whitson Lake draft plan of subdivision (File #780-7/98-002) located in the rural area of Val Caron for a period of one year until June 16th, 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 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 # 780-7/98-002, in the report entitled "Whitson Lake Subdivision, Val Caron Extension" from the General Manager of Growth and Infrastructure, presented at the meeting of May 27th, 2024, as follows:

1. By adding subsection f) as follows to condition #11

"f) Lots containing wetland features must comply with Conservation Sudbury's wetland guidelines and approval by the Nickel District Conservation Authority is required prior to any development taking place.

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

"21. That this draft approval shall lapse on June 16th, 2025."

3. By adding the following to the end of Condition #38:

"That the geotechnical engineer will be required to address On-site and Excess Soil Management in accordance with O. Reg. 406/19."

4. By deleting Condition #41 and replacing it with the following:

“#41. That the applicant/owner prepare a development plan that includes the limit of the regulatory flood elevation of 292 metres above sea level and the mapped wetland boundaries 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 and the mapped wetlands. This includes placement or removal of fill, lot grading, and the erection of buildings or structures.”

5. By adding the following new condition:

“#42. That wetland(s) must be mapped by a qualified professional (OWES-certified with experience in wetland mapping) to the satisfaction of the Conservation Authority. The wetlands must be mapped within the location of the proposed subdivision and within 30 m of the proposed subdivision. All mapping must include the wetland boundary and area of potential interference shown at 12 m and 30 m from the wetland boundary. Development must comply with Conservation Sudbury’s wetland guidelines. 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.”

Relationship to the Strategic Plan, Health Impact Assessment and Climate Action Plans

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 contributes to the 2019-2027 City of Greater Sudbury Strategic Plan goals related to housing by adding to the housing available in this area. The application aligns with the Community Energy and Emissions Plan (CEEP) by supporting the strategy of compact, complete communities.

Financial Implications

If approved, staff estimates approximately \$102,400 in taxation revenue, based on the assumption of 19 multiple dwelling units based on an estimated assessed value of \$375,000 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 \$421,000 based on assumption of 19 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:

The owner has requested an extension to the draft plan of subdivision (File #780-7-98-002) located in the rural area of Val Caron for a period of one year until June 16th, 2025. Planning Services Division is recommending approval of the extension request.

Planning Services Division has reviewed the request to extend the draft approval and has no objections to the requested extension for a period of one year. 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 and Planning Analysis sections of the report.

STAFF REPORT

Applicant:

R F Walker Holdings 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 the Whitson Lake plan of subdivision which were approved initially by Council on June 16th, 2000 and most recently extended in 2021 for a period of three years.

Proposal:

The owner is requesting that the draft approval conditions for the above noted lands be extended for a period of one year until June 16th, 2025.

Background:

The City received a letter from the agent on February 23rd, 2024, requesting to extend the draft approval on the plan of subdivision for a period of one year 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 plan includes 32 rural estate single detached lots, 13 of which have been registered to date. 19 lots remain in draft plan status. The lots are to be accessed from Whitson Lake Drive which provides access to Sandy Beach Road. The draft plan is attached for reference.

The lands within the plan of subdivision are designated 'Rural' in the Official Plan, are zoned 'Low Density Residential One Special R1-1(8)' within the City's Zoning By-law, and are regulated by the Nickel District Conservation Authority (NDCA).

Surrounding uses are residential and rural in nature.

A location map is attached for reference.

Policy & Regulatory Framework:

The extension request is subject to the following applicable policy and regulatory framework:

- [Planning Act](#);
- [2020 Provincial Policy Statement](#); and,
- [Official Plan for the City of Greater Sudbury, 2006](#).

The Planning Act, Provincial Policy Statements, and 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.

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.

In practice, where a draft plan of subdivision has lapsed, a landowner may request the subdivision be deemed not to have lapsed if the criteria listed in Section 51(33.1) can be met. Additionally, 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 under Section 51 of the Planning Act should a landowner 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.

As part of the extension request, the agent provided a status update on the progress of current conditions advising that the revised geotechnical report, abandoned mines report, stormwater management report, and civil engineering works are well underway and are nearing submission to the City.

The agent also advised that conditions related to blasting are in progress. Additionally, the agent advised that the environmental studies and surveying works have been completed. Given the progress made to date, the agent has requested a one year extension to clear conditions.

Departmental & Agency Circulation:

The extension request including relevant accompanying materials has been circulated to all appropriate agencies and departments. Responses received from agencies and departments have been used to assist in evaluating the extension request and to inform and identify appropriate revisions to the draft plan conditions should the extension request be approved. Comments received from departments generally had no concerns with the extension request, however, a few modifications to the draft plan conditions were requested.

Building Services had no concerns with the extension but requested that condition #38 be amended to require that the geotechnical engineer address On-site and Excess Soil Management in accordance with O. Reg. 406/19.

Conservation Sudbury has adopted Wetland Guidelines since the previous extension request and as a result has requested amendments to condition #11 and #42, and has requested that a new condition be added that would require the completion of wetland mapping.

Detailed comments can be found in Appendix 1 to this report.

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 #11 should be updated to add the following subsection in order to make owner's aware of NDCA wetland guidelines:

f) Lots containing wetland features must comply with Conservation Sudbury's wetland guidelines and approval by the Nickel District Conservation Authority is required prior to any development taking place.

Condition #21 should be deleted entirely and replaced with a sentence referring to June 16th, 2025, as the revised date on which the subject draft plan of subdivision approval shall lapse.

Condition #38 should be updated to add 'that the geotechnical engineer will be required to address On-site and Excess Soil Management in accordance with O. Reg. 406/19' at the end of the existing condition in order to reflect current standards.

Condition #41 should be amended to the following in order to be consistent with NDCA's Wetland Guidelines.

#41. That the applicant/owner prepare a development plan that includes the limit of the regulatory flood elevation of 292 metres above sea level and the mapped wetland boundaries 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 and the mapped wetlands. This includes placement or removal of fill, lot grading, and the erection of buildings or structures.

It is recommended that the following new condition to address wetlands be added. This new condition would be to the satisfaction of Conservation Sudbury and would ensure that development meets NDCA's Wetland Guidelines.

#42. That wetland(s) must be mapped by a qualified professional (OWES-certified with experience in wetland mapping) to the satisfaction of the Conservation Authority. The wetlands must be mapped within the location of the proposed subdivision and within 30 m of the proposed subdivision. All mapping must include the wetland boundary and area of potential interference shown at 12 m and 30 m from the wetland boundary. Development must comply with Conservation Sudbury's wetland guidelines. 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.

No other changes 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 for reference purposes.

Owners are advised to contact the Planning Services Division a minimum of four months prior to the lapsing date in order to facilitate the processing time associated with draft plan of subdivision approval extension requests. Applicants must reapply for subdivision approval if a draft plan approval has lapsed as there is no other avenue for relief.

CONCLUSION:

The Planning Services Division has reviewed the request to extend the subject draft approved plan of subdivision and has no objections to the requested extension for a period of one year. 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 were 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 Planning Services Division therefore recommends that the application to extend the draft approval for the Whitson Lake Subdivision for a period of one year until June 16, 2025, be approved as outlined in the Resolution section of this report.

Appendix 1:

Departmental & Agency Comments

a) Building Services

We have no objection to the request for extension, with the following modification:

To be added to Council condition #38:

“The geotechnical engineer will be required to address On-site and Excess Soil Management in accordance with O. Reg. 406/19.”

b) Fire

Fire services has no comments.

c) Infrastructure Capital Planning

No concerns.

d) Strategic & Environmental Planning

No comments.

e) Transit Services

No comments.

f) Nickel District Conservation Authority

Since the last circulation Conservation Sudbury has adopted Wetland Guidelines and would like the following to be added as a new condition:

1. That wetland(s) must be mapped by a qualified professional (OWES-certified with experience in wetland mapping) to the satisfaction of the Conservation Authority. The wetlands must be mapped within the location of the proposed subdivision and within 30 m of the proposed subdivision. All mapping must include the wetland boundary and area of potential interference shown at 12 m and 30 m from the wetland boundary. Development must comply with Conservation Sudbury’s wetland guidelines.

Conservation Sudbury would like to see the following modifications:

Condition #11. Add the following subsection:

f) Lots containing wetland features must comply with Conservation Sudbury’s wetland guidelines and approval by the Nickel District Conservation Authority is required prior to any development taking place.

Condition #41. Add the words ‘above sea level and the mapped wetland boundaries’ after the words 292 m. Add ‘and the mapped wetlands’ after the words regulatory floodplain.

Please note that the development of the plan reference in condition #41 may impact the overall lot layout.

In addition, the landowner should be advised that the placement of fill within the flood hazard or adjacent to wetlands prior to receiving permission from Conservation Sudbury is a violation of the Conservation Authorities Act.