

## Jack Nicholas Business and Innovation Subdivision, Sudbury Extension

Presented To:	Planning Committee
Meeting Date:	August 12, 2024
Type:	Routine Management Reports
Prepared by:	Wendy Kaufman Planning Services
Recommended by:	General Manager of Growth and Infrastructure
File Number:	780-6/10002

## Report Summary

This report provides a recommendation regarding an application for an extension to the draft plan of subdivision approval for the subject lands (File #780-6/10002) in the community of Sudbury for a period of two years until October 26, 2026.

## 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 PINs 73561-0258, 73561-0261 & 73561-0264, Lots 9 & 10, Concession 4, Township of Neelon, File # 780-6/10002, in the report entitled "Jack Nicholas Business & Innovation Subdivision, Sudbury Extension", from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting on August 12, 2024, as follows:

- By replacing Condition #10 with the following:

"10. That this draft approval shall lapse on October 26, 2026."

- In Condition #18, by adding the following to the list of stormwater management report requirements:

"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"

## 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 business attraction, development and retention.

The application aligns with the Community Energy and Emissions Plan (CEEP) by supporting the strategy of compact, complete communities.

## **Financial Implications**

There are no financial implications associated with this report.

## **Report Overview**

The owner has requested an extension to the draft plan of subdivision approval of the Jack Nicholas draft approved plan of subdivision (File # 780-6/10002) in the community of Sudbury for a period of two years until October 26, 2026. The Planning Services Division is recommending approval of the application.

The Planning Services Division has reviewed the request to extend the draft approval and has no objections 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. 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:

1777222 Ontario Ltd. & 1777223 Ontario Ltd.

## Location:

PINs 73561-0258, 73561-0261 & 73561-0264, Lots 9 & 10, Concession 4, Township of Neelon (Kingsway Boulevard, Sudbury)

## Application:

To extend the draft approval conditions for a plan of subdivision which were approved initially by Council on October 26, 2010. Extensions to the draft approval have been provided since 2010 with the current lapsing date being October 26, 2024.

## Proposal:

The owner is requesting that the draft approval for the above noted lands be extended for a period of two years until October 26, 2026.

## Background:

The City received a request from the owner on April 29, 2024 to extend draft approval on a plan of subdivision for a period of two years on those lands described as PINs 73561-0258, 73561-0261 & 73561-0264, Lots 9 & 10, Concession 4, Township of Neelon.

The Jack Nicholas Business & Innovation Subdivision was draft approved on October 26, 2010 to enable development of an industrial/business park. The lands are currently zoned to permit a variety of industrial uses. The lapsing date on the draft approval was extended in 2014, 2016, 2018, 2020, and 2022. The most recent set of draft plan conditions are attached to this report, which include that the plan lapses on October 26, 2024.

Staff has circulated the request to relevant agencies and departments and is now bringing forward this report to extend the draft approval to October 26, 2026.

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 in accordance with subsection 51(33) of the Planning Act.

## Departmental & Agency Circulation:

Infrastructure and Capital Planning Services, Building Services, Development Engineering, Strategic & Environmental Planning Initiatives, Conservation Sudbury, Transit Services, Water/Wastewater, and Fire Services have each advised that they have no concerns from their respective areas of interest. In some cases, they have recommended technical updates or revisions.

Drainage staff has identified an additional criterion to be included in the list of stormwater management report requirements.

The lands are within the Ramsey Lake Intake Protection Zone 3 and Issue Contributing Area. Water/Wastewater staff has advised of upcoming amendments to the Greater Sudbury Source Protection Plan, the new delineation of the IPZ 3 boundary, and that an amendment to the Risk Management Plan for this area may be necessary before activities are established on site.

Strategic & Environmental Planning Initiatives has advised 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 federal Migratory Birds Convention Act, the provincial Endangered Species Act and the provincial Fish and Wildlife Conservation Act.

Conservation Sudbury identified a typographical numbering error in the conditions that has been corrected by staff.

## **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.

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 20.4.2 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.

The owner has advised that since the City's cancellation of the KED Development there has been considerable interest from the private sector for locating their business within the subdivision, which has resulted in an application for rezoning being submitted. Once this application is approved, site work and the design and construction of Street "C" will commence by the 4th quarter of 2024 (pending approvals and purchase agreements).

Staff advises that there has been an application for Official Plan Amendment and Rezoning submitted for a portion of the lands in the subdivision, and are in the process of being reviewed for completeness at the time of writing this report.

Development Engineering has advised that construction drawings for Phase One of the subdivision were submitted in December of 2019 and revisions to these drawings have not been resubmitted. It is our understanding that the developer is redesigning the layout and a new set of drawings will be submitted for review.

Staff is satisfied that the owner is making reasonable efforts towards developing the subdivision.

### **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 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 #10 should be deleted entirely and replaced with a sentence referring to October 26, 2026, as the revised date on which the subject draft plan of subdivision approval shall lapse.

As requested by Drainage Section, Condition #18 is recommended to be updated to include an additional criteria that 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.

No other changes to the draft approval documents have been requested either by the owner or by circulated agencies and departments. The draft conditions are attached to this report along with 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. 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. Appropriate changes, where identified, have been included in the Resolution section of this report and will 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 Jack Nicholas Business & Innovation Park Subdivision for a period of two years until October 26, 2026, be approved as outlined in the Resolution section of this report.