

# Request for Decision CITY COUNCIL



Type of Decision					
Meeting Date	August 12, 2014			Report Date	July 25, 2014
Decision Requested	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/> Closed Meeting Category Reviewed with City Solicitor		
	Direction Only				

Applicable Category	
A meeting or part of a meeting may be closed to the public if the subject matter being considered is pursuant to the Municipal Act, 2001. Please indicate the applicable category:	
<input type="checkbox"/> Security of Property	<input type="checkbox"/> Litigation or Potential Litigation
<input type="checkbox"/> Personal Matters (Identifiable Individual)	<input type="checkbox"/> Solicitor-Client Privilege
<input type="checkbox"/> Acquisition or Disposition of Land	<input type="checkbox"/> Education or Training
<input type="checkbox"/> Labour Relations / Employee Negotiations	
<input type="checkbox"/> Closed meeting under another Act - Specify Act:	

Report Title	
Implementation and enforcement of completed infrastructure works on development projects	
<b>Budget Impact</b> <input type="checkbox"/> This report has been reviewed by the Finance Division and the funding source has been identified. Financial Implications:	<b>Recommendation</b> <p>That the City of Greater Sudbury receive the report from the General Manager of Growth and Development dated July 25, 2014 respecting the completion of infrastructure works by developers;</p> <p>And, that the General Manager of Growth and Development be directed to consult with the City's Development Liaison Advisory Committee on to the City's development practices/procedures as set out in the report dated July 25, 2014;</p> <p>And, that following consultation with the Development Liaison Advisory Committee a report be prepared for consideration by the Planning Committee.</p>
<b>Recommended by the Department</b> Name: Paul Baskcomb Title: Acting General Manager	<input type="checkbox"/> <b>Recommendation Continued</b> <b>Recommended by the C.A.O.</b> Doug Nadorozny Chief Administrative Officer

### Report Prepared By

Name: Jonathan Clark  
Title: Subdivision/Site Plan Control Engineer

### Division Review

Name: Mark H. Simeoni  
Title: Acting Director of Planning Services

## **BACKGROUND**

On June 24, 2014 City of Greater Sudbury Council adopted the following resolution.

WHEREAS land developers are responsible for certain infrastructure works as part of their developments;

AND WHEREAS certain infrastructure works are undertaken at different times or phases of the development, as required;

AND WHEREAS specific timelines are not necessarily imposed on the completion of those infrastructure works;

AND WHEREAS, on occasion, certain deficiencies in the infrastructure works undertaken and/or completed by the developers are identified;

THEREFORE BE IT RESOLVED that the City of Greater Sudbury Council direct staff to provide a report to Council at the August 12<sup>th</sup> Council meeting, providing recommendations on how the City can implement and enforce timelines for the completion of required infrastructure work, particularly when deficiencies in the works conducted are identified, and have a negative impact on neighbouring properties.

In response to this resolution a review of the City of Greater Sudbury's existing subdivision approval practices was undertaken. In addition staff contacted other municipalities to consider best practices. The following municipalities were contacted.

- North Bay
- Sault Ste. Marie
- Ottawa
- Kingston
- Hamilton

Generally, all municipalities contacted indicated that they have experienced a range of response times with respect to development proponents addressing deficiencies; however, they further indicated overall satisfaction with their existing subdivision approval policies which are very similar to those in Greater Sudbury, and that only on very rare occasions have they invoked a standard subdivision agreement clause to use securities to complete deficient work.

Some municipalities noted in particular that compliance with the approved lot grading plan, on the part of the builder, was an ongoing issue and that existing policies could be improved in this area. Municipalities which experienced fewer lot grading issues typically use some form of lot grading security to enforce compliance.

The Subdivision approval process for all municipalities contacted was generally similar to the process adopted by the City of Greater Sudbury as described in Appendix A. The main policy differences between municipalities are as follows:

- 1) Amount of inspection time provided by the municipality. (I.e. some municipalities provide fulltime inspection, whereas others rely on the consultant for full-time inspection and the municipality inspects only during the approval process.)
- 2) Requirements for municipal approval and assumption of the work. (I.e. some municipalities require rear yard swales to be completed prior to issuing permits, whereas others require this to be completed as part of the lot grading and retain security deposits for this work.)
- 3) Percentage of securities retained prior to any site alteration/pre-servicing.
- 4) Percentage of securities retained during the maintenance period.
- 5) Duration of the maintenance period.

Notwithstanding the above, the general strategies to enforce compliance on the part of the developers are as follows:

- 1) Obtaining securities from Developers prior to the start of any site alteration/pre-servicing.
- 2) Reducing securities for completed work and retaining securities for deficient work, uncompleted work, and completed work under a maintenance period.
- 3) Requiring major deficiencies noted during the municipalities inspection to be corrected prior to the start of the maintenance period.
- 4) Where deficiencies are not corrected and adversely affect neighbouring properties, warning letters are provided and in rare cases securities are used to correct the deficiencies.

### **CURRENT CITY OF GREATER SUDBURY SUBDIVISION APPROVAL POLICY**

The City of Greater Sudbury's Subdivision Approval policy is incorporated into two documents. The standard Subdivision Agreement, & Off-site Servicing Agreement and the document entitled Certification Packages Issued for Initial and Final Acceptance provided to developers during preconstruction meetings to ensure they are aware of what certification materials need to be submitted prior to acceptance of the subdivision.

The subdivision approvals policy noted in the above documents are attached as appendix A.

The City's current subdivision approval process has served the community well. Subdivision approval authority was granted to the Region of Sudbury in 1978. Since this time the process has continued to change and evolve, based on years of experience, to reflect changes in engineering standards and construction practices. With this in mind we expect that there is always opportunity to revisit current policies and procedures to achieve improved outcomes with the subdivision approval process.

Based on our consultation with other municipalities in consideration of the resolution of Council, staff have identified a few areas which we feel are good starting points for discussion with the local development community. These include but are not limited to:

- 1) Consolidation of current subdivision and site plan approval policies and engineering design standards.
- 2) Security amounts collected for lot grading and approval process for lot grading certificates.
- 3) Security amounts collected prior to subdivision site alterations and pre-servicing.

- 4) Timelines for acceptance of services, roads, and sidewalk installation and grading of rear yard swales and boulevards.
- 5) Frequency of city inspections and timelines for the correction of deficiencies in relation to the start of the maintenance period and subdivision acceptance process.

### **DISCUSSION WITH THE LOCAL DEVELOPMENT COMMUNITY**

Given that any future changes in these areas would affect development processes and proponents, and considering a request from the Sudbury Home Builders Association that this matter be referred to the Development Liaison Advisory Committee (DLAC) to provide City Council with direction from an Industry perspective, we recommend that thorough consultation with DLAC be pursued on the above noted points and any other opportunities arising from those discussions. Upon completion of these discussions a report would be brought back to Planning Committee summarizing the comments and any recommendations.

### **CONCLUSION**

Opportunities to achieve continuous improvement in our development approval process are sought on an ongoing basis. This report provides an overview of existing processes and suggests possible directions for a further response to Council's request.

Consultation with the City's Development Liaison Advisory Committee (DLAC) on the issues raised by the Council Resolution and discussed in this report is recommended to receive their input and ideas. Consultation with DLAC may also identify other actions which would assist in addressing Council's June 24th, 2014 resolution. The next meeting with DLAC is anticipated for September, at which time this matter will be discussed. Following those consultations, a report will be prepared to the Planning Committee on the outcome of that consultation and any revisions to the City's process/practises to address infrastructure deficiencies on development projects.

# APPENDIX A

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## CURRENT CITY OF GREATER SUDBURY SUBDIVISION APPROVAL POLICY

### 1) Pre-servicing of Subdivision

Typically a developer pre-registers the subdivision prior to construction. A subdivision agreement is created and the developer provides a deposit for 100% of the works. However, a developer may choose to forgo pre-registering the subdivision and may grade and install all the services and roads up to base asphalt. The developer must first have the subdivision drawings approved by the City, and provide a pre-servicing letter and Certificates of Approval for Sewer and Water services from the MOE. No security deposits are retained for this approach; therefore this is generally the preferred option by most developers.

Once the pre-servicing requirements have been satisfied a pre-construction meeting with the City is held between the City, the developer, and its agents to review the Construction Approval requirements for Initial Acceptance and Final Acceptance of the works.

### 2) Initial Acceptance of the Work

Upon completion of the sewers, water mains, service laterals, street lighting, road installation to base asphalt, full curb, and completion of all surface features including fencing, noise berms, and drainage ditching (excluding rear yard swales), etc., the following is submitted for Initial acceptance:

- Engineers Certification letters certifying that the works are installed in general conformance with the approved drawings.
- A CCTV inspection of all sewers, laterals, and sub-drains and a letter from the engineer certifying that there are no deficiencies.
- As-constructed drawings.
- Securities are collected in the amount of a 10% maintenance deposit for completed works, and 100% deposit for uncompleted works (i.e. sidewalks, boulevard sod, and rear yard swales).
- Cash contributions are collected for surface asphalt and tree planting, etc.

The review and acceptance of these Initial Acceptance requirements initiates the following:

- The Developer may apply for a conditional building permit to build up to 5 model homes.
- The Developer may start the subdivision registration process. Upon Registration of the Subdivision plans the owner may apply for full building permit and the City legally assumes the road and provides snow removal and residential garbage pick.
- The start of the 2 year maintenance period for all completed works.
- The City will conduct an initial inspection of the site. Any deficiencies noted will be provided to the developer to be corrected prior to the end of the 2 year maintenance period.

### 3) Maintenance Inspection and Final Road Assumption

After the expiration of the 2 years maintenance period, and once the developer has completed the installation of the sidewalks, and sod (boulevard, ditches and rear yard swales) and has corrected any deficiencies noted in the initial acceptance, the following is submitted:

- Engineers Certification letters certifying that the works are installed in general conformance with the approved drawings.

- A CCTV inspection of all sewers, laterals, and sub-drains and a letter from the engineer certifying that there are no deficiencies.

The review and acceptance of the above items initiates the following:

- City will conduct a maintenance inspection of the site. Any deficiencies noted are provided to the developer to be corrected, and securities are retained to address any outstanding deficiencies. Typically an inspection of the sidewalk and sod is completed at this time which starts the 2 year maintenance period for these works.
- Uncompleted works securities are released as warranted.
- All maintenance securities are released except those required to address any deficiencies.
- Where no deficiencies that would affect the paving of surface asphalt are noted a request is sent to the City's Infrastructure Department to place surface asphalt.

4) As-built lot Grading Certificates:

The builder completes the lot grading and provides an as-built lot grading certificate prepared by a lot grading professional to the City for approval. If the as-built lot grading certificate is in general conformance with the approved lot grading plans, then the certificate goes on record as being approved, otherwise the lot grading professional and the builder are notified to correct the deficient lot grading.