

Date: January 8, 2021

Staff Report

Applicant:

17896832 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 April 23, 2018, through Resolution PL2018-72, which was ratified by Council on May 29, 2018.

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, 2024.

Background:

The City received a written request via email from the owner's agent on November 13, 2020, 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 February 6, 2021. 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, 2024.

Departmental & Agency Circulation:

Active Transportation, Building Services, Development Engineering, Fire Services, Leisure Services, Operations, Roads, Traffic & Innovation and Transit Services have each advised that they have no concerns from their respective areas of interest.

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.

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Conservation Sudbury has requested that Condition #48 be updated to reflect current standard condition verbiage relating to the requirement for the owner to prepare an Erosion and Sediment Control Plan to the satisfaction of the Nickel District Conservation Authority (NDCA). Conservation Sudbury is also requesting that three conditions be added which would properly address the placement of fill, alteration of grades and construction activities on the portion of the subject lands that are regulated under [Ontario Regulation 156/06](#). Conservation Sudbury is also further requesting to be added as a reviewing agency in Condition #27, which requires the owner to provide a geotechnical report to the satisfaction of the Chief Building Official. Finally, Conservation Sudbury also generally notes that any works occurring within a regulated area will require a permit pursuant to Section 28 of the [Conservation Authorities Act](#).

The City's Drainage Section has requested that Condition #28 be deleted and replaced with one comprehensive and modernized condition addressing the requirement for a storm-water management report and associated plans. The comprehensive condition will act to provide clarity in the draft approval document in terms of what is required from a storm-water management perspective.

Environmental Initiatives has noted that Condition #38 is no longer required and should be removed. Environmental Initiatives advises and cautions that the owner is solely responsible for ensuring that activities relating to vegetation removal, site alteration and development undertaken on the subject lands do not result in a contravention of the [Endangered Species Act](#). The owner is advised to consult with the Ontario Ministry of the Environment, Conservation and Parks.

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.

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). Section 51(33) allows for a municipality to extend draft approval beyond the initial period for a time specified by the municipality.

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.

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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 did note in their draft approval extension request that they remain committed to the draft approved plan of subdivision and are generally seeking to preserve existing development rights on the subject lands.

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. It is on the above noted basis that staff is supportive of the current draft approval extension request. 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, 2024, as the revised date on which the subject draft plan of subdivision approval shall lapse.

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Conservation Sudbury has requested that Condition #48 be updated to reflect current standard condition verbiage relating to the requirement for the owner to prepare an Erosion and Sediment Control Plan to the satisfaction of the Nickel District Conservation Authority (NDCA). Conservation Sudbury is also requesting that three conditions be added which would properly address the placement of fill, alteration of grades and construction activities on the portion of the subject lands that are regulated under

[Ontario Regulation 156/06](#). Staff has reviewed the three additional conditions pertaining to the placement of fill, alteration of grades and construction activities on the portion of the subject lands that are regulated and would recommend that they more appropriately be addressed through the subdivision registration process. With respect to the required geotechnical report, staff advises that Conservation Sudbury can be included in the circulation and review of said report but it would not be necessary to amend Condition #27 to explicitly make the geotechnical work to the satisfaction of the NDCA. The owner is however cautioned that the lands are partially within a regulated area and it would certainly be in their interest to address any concerns raised by the NDCA.

The City's Drainage Section has requested that Condition #28 be deleted and updated as a modernized and comprehensive drainage condition addressing storm-water management infrastructure needs for the Moonglo East Subdivision. This requested change is reflected in the Resolution section of this report through the deletion of Condition #28 in favour of the above noted modernized draft approval condition.

Environmental Initiatives advises that Condition #38 should be deleted entirely.

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 amount of \$2,813.75. This amount was calculated as per [By-law 2020-26](#) being the 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 subject 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 of the 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 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, 2024, be approved as outlined in the Resolution section of this report.