

Date: December 7, 2020

## Staff Report

### Applicant:

Alom Corporation

### Location:

Part of Parcel 9502 SES, Lot 2, Concession 3, Township of Broder (Raft Lake Subdivision)

### Application:

To extend the draft approval conditions for a plan of subdivision which were approved initially by Council on March 14, 1997. The draft approval was most recently extended by the City's Planning Committee on September 10, 2018, through Resolution PL2018-159, which was ratified by Council on November 20, 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 March 14, 2024.

### Background:

The City received a written request via email and letter mail from Alom Corporation on November 2, 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 9502 SES, Lot 2, Concession 3, Township of Broder. The draft approved plan of subdivision was initially approved by Council for a total of 28 single-detached dwelling lots to south of South Lane Road and to the north of Raft Lake and Little Raft Lake in the community of Sudbury. At the time of writing this report, there have been no phases completed or lots registered within the draft approved plan of subdivision. The lands are intended to be accessed via South Lane Road, which is situated to the north of the subject lands.

The draft approval is set to expire again on March 14, 2021. Staff has circulated the request to relevant agencies and departments and is now bringing forward this report to extend the draft approval to March 14, 2024.

### Departmental & Agency Circulation:

Active Transportation, 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.

Building Services has requested that the geotechnical requirements set out in Condition #25 be updated to reflect the development having regard for [Ontario Regulation 406/19](#) with respect to on-site and excess soil management. The owner will be required to address on-site and excess soil management as per above noted O.Reg. 406/19 when it comes into full force and effect.

- To be added to the geotechnical requirements of Condition #25: "The geotechnical engineer will be required to address On-site and Excess Soil Management when *O. Reg. 406/19* comes into force.

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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 for reference purposes.

Conservation Sudbury has requested that Condition #27 be updated to reflect the current standards 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 also advises if the owner should discover a regulated natural hazard as the site is developed, the applicant must halt works immediately and contact Conservation Sudbury directly. Regulated natural hazards include floodplains, watercourses, shorelines, wetlands, valley slopes. 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](#).

Development Engineering has noted that no phases of the Raft Lake Subdivision have been registered since the initial draft approval was granted on March 14, 1997. Development Engineering further advises that no submissions relating to the registration of part, or the whole, of the draft approved plan of subdivision have been received for review.

The City's Drainage Section has requested that Condition #16 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. It is noted that existing Condition #36 addresses arrangements for the provision of any required storm-water management facilities and the dedication of land associated with said facilities.

Environmental Initiatives has requested that Condition #37 be amended to specifically require that an Ecological Site Assessment be completed prior to registration of the draft plan or a portion thereof in order to determine if the Eastern Whip-poor-will, an endangered species, is present and occurring on the subject lands. If the presence of the Eastern Whip-poor-will is detected, the owner would be required to satisfy the City that all requirements set out by the Ministry of the Environment, Conservation and Parks under the [Endangered Species Act](#) have been satisfied prior to any site alteration or development taking place on the subject lands. Environmental Initiatives further 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 further advised to consult with the Province's Ministry of the Environment, Conservation and Parks (MECP).

## **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.

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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 once they are approved, development 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 14, 1997, and at the time of writing this report, there have been no phases or lots registered within the Raft Lake Subdivision. Staff advises therefore that all 28 lots that were originally draft approved by Council on March 14, 1997, remain as such at this time within the draft approved Raft Lake Subdivision.

The owner did note in their draft approval extension request that they remain committed to fully developing the subdivision and are optimistic that market conditions will allow them to soon proceed with the development of the Raft Lake Subdivision.

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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 #22 should be deleted entirely and replaced with a sentence referring to March 14, 2024, as the revised date on which the subject draft plan of subdivision approval shall lapse.

Building Services has requested that Condition #25 be updated to reference the development having regard for [Ontario Regulation 406/19](#) with respect to on-site and excess soil management.

Conservation Sudbury has requested that Condition #27 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.

The City's Drainage Section has requested that Condition #16 be deleted and updated as a modernized and comprehensive drainage condition addressing storm-water management infrastructure needs for the Raft Lake Subdivision. This requested change is reflected in the Resolution section of this report through the deletion of Condition #16 in favour of the above noted modernized draft approval condition.

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 \$1,804.50. 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.

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**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 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 Raft Lake Subdivision for a period of three years until March 14, 2024, be approved as outlined in the Resolution section of this report.