



**Subject: Recommendation Report for a Draft Plan Extension
Request for the Chippawa Estates Subdivision**

To: Council

From: Planning and Development Department

Report Number: 2021-197

Meeting Date: July 12, 2021

Recommendation:

That Planning and Development Department Report 2021-197 be received; and

That the By-law attached as Appendix A of Planning and Development Report 2021-197 be approved, extending the Chippawa Estates Draft Plan of Subdivision for one year; and

That the property owner and agent be notified accordingly.

Purpose:

The purpose of this report is to respond to a request to extend the Chippawa Estates Draft Plan of Subdivision. The property is legally recognized as Part of Lot 26, Concession 2, being Part 3 on Plan 59R-12304.

Background:

On July 12, 2010, Council passed By-law 5494/91/10 to approve the Chippawa Estates Draft Plan of Subdivision. The Draft Plan of Subdivision proposed 19 single detached residential lots on 1.96 hectares.

A lapsing date to meet the conditions of draft approval for July 12, 2014 was put in place. However, staff were unsure if the property owner was also made aware of the lapsing date so a new lapsing date to June 11, 2019 was set by Council.

On June 10, 2019, Council passed By-law 6691/55/19 to extend the Draft Plan approval for two years. This by-law set a lapsing date of June 11, 2021.

A request has been received by Planning staff from the agent, Frank Evangelista, requesting the Draft Plan be extended for two years. Mr. Evangelista provided the following supporting information:

We hereby respectfully request that the fees associated with the extension of Chippawa Estates subdivision be waived for two years.

We are eager to progress the development of the subdivision, bringing an additional twenty-six (26) homes to the community of Port Colborne. However, due to the COVID-19 pandemic, City Hall has only opened infrequently, and with the unavailability of our local contributors to the subdivision, it has been difficult to accomplish routine matters necessary for continued development of the subdivision in a timely manner.

A waiver of any fee associated with the extension of the term of approval of the subdivision would be very much appreciated. Thank you.

On June 7, 2021, Council passed By-law 6897/45/21 in response to Mr. Evangelista's urgent request to extend the Draft Plan of Subdivision. As the request came in too late for proper agency and department review of the request, Council temporarily extending the Draft Plan for 45-days, setting a new lapsing date of July 22, 2021.

Discussion:

Request Letter:

Planning staff would like to take this opportunity to respond to Mr. Evangelista's letter requesting the extension. While COVID-19 has changed how day-to-day operations take place, they have not been halted in the slightest. Planning staff have made themselves available through phone and email and if necessary, through in-person meetings. The Planning and Development industry as a whole and specifically the City of Port Colborne has seen an extreme influx in activity through the pandemic. Throughout the pandemic, staff have been available as necessary and willing to help in any way needed to further the development.

Since the last pre-consultation meeting held in March of 2020 to discuss the proposed redline revision, Mr. Evangelista has not requested any subsequent meetings with staff. Mr. Evangelista is aware of the next steps in the submission process and is responsible for retaining the applicable consultants/professionals to complete the studies/reports.

Further, the applicant has requested that fees be waived/returned to him due to the pandemic. Staff are not supportive of this request and recommend that Council accept and retain the full amount required by the City's Fee By-law.

Comments from the Niagara Region:

In summary of the comments received from the Niagara Region, Regional staff are unable to support the extension citing the development's lack in consistency and conformity with Provincial and Regional density targets. As mentioned in the comments, Regional staff met with the applicant and City staff on March 12, 2020 to discuss the requirements for a redline revision to the Draft Plan. The redline revision has been contemplated by the applicant for a number of years now, however no evidence has been shown that it is actively being worked on.

While the proposal currently may not meet the policies of the Regional Official Plan and Provincial density targets, City Planning staff note that the redline revision will ensure the proposal meets the greenfield density target of 50 people and jobs per hectare. The revision gives the applicant the opportunity to bring the proposal up to the current standards set by the Province, Region and City.

Redline Revision:

In order for this development to move forward, a redline revision is required to the Draft Plan. The original plan proposes to provide a municipal road straddling Hubbard Drive to provide access to the property and future residential lots. Due to a consent application in 2014, a new residential lot was created in this proposed right-of-way, which has eliminated this as an option for access. A court order was provided by the applicant showing that the future development has legal right-of-way access via Hubbard Drive. However, this right-of-way access has not solved the issue raised by the Engineering Department with respect to servicing. Municipal services are not permitted to be installed under a private laneway (Hubbard Drive). It is the responsibility of the applicant to determine how the development will adequately meet servicing requirements. Planning staff would like to make Council aware that in order for the City to obtain ownership of Hubbard Drive, an expropriation process will need to be undertaken in conjunction with the City Solicitor. Planning staff have expressed these concerns with the applicant; however, the applicant claims the redline revision will be moving forward with this in mind.

Extension:

The agent for the property has requested a two-year extension to the Draft Plan of Subdivision. City Council has the authority under s. 51(33) of the *Planning Act* to grant extensions to Draft Plan approval.

As mentioned, staff has been working with this property owner since the Draft Plan was approved in 2010. It has been clear for a number of years that a redline revision is required to move the development forward. Through staff's review of previous extensions, it is unclear whether staff set any parameters for the applicant to meet prior to considering further extension requests. Based on this, staff feel that it is suitable for

one last time to allow the applicant to show City Council and Planning staff the work that has been completed to date. A conditional one-year extension is recommended by Planning staff. Staff will not support any future extensions to this Draft Plan of Subdivision unless the applicant moves forward with the redline revision and obtains Council approval prior to the lapsing date expiring one year from today.

Internal Consultations:

As of the date of preparing this report, the following comments have been received:

Niagara Region:

(comments attached in full as Appendix B)

Regional Planning and Development Services staff has concerns with the requested extension of draft plan approval for the Chippawa Estates subdivision, given that no information to clear existing draft plan conditions or to support the proposed modification has been received since the original draft plan of subdivision application in 2010.

Further, Regional staff do not consider the requested extension or modification to be consistent with the Provincial Policy Statement or conform with A Place to Grow: Growth Plan for the Greater Golden Horseshoe or the Regional Official Plan.

Niagara Peninsula Conservation Authority:

The NPCA can be removed as a clearance agency for this file. The NPCA's involvement in this file was limited to reviewing stormwater management on behalf of the Region of Niagara under the previous Memorandum of Understanding (MOU) and Protocol under the MOU. Due to the 2018 update to the Protocol, stormwater management review and clearance for this subdivision is provided by the Region of Niagara.

Fire Department:

Port Colborne Fire has no objection to the extension of the draft plan of subdivision.

Public Works:

- No concerns regarding the extension.
- Main point of concern with the development is clearing up legal ownership of Hubbard Drive. The City infrastructure may only be installed on Hubbard Drive if the City will be the sole owner of the right-of-way upon completion.

Drainage Superintendent:

- No concerns regarding the extension.
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Financial Implications:

Mr. Evangelista has requested that fees required in accordance with the City's Fee By-law be returned to him citing COVID-19 as the reason the development has not proceeded.

Planning staff is not supportive of the required fees being returned to the applicant. For the most part, fees required for various Planning applications are set at full cost recovery. Waiving the fees for this request would put the bearing of the cost on the general ratepayer. As noted in the above "Discussion" section, Planning staff have been frequently working with the applicant and have not been holding the development back.

Public Engagement:

The public is not required to be circulated on requests for extensions to Draft Plan approval.

Conclusion:

Planning staff are willing to support a conditional one-year extension to the Chippawa Estates Draft Plan of Subdivision. A complete application for a redline revision will be required to be submitted and approved by Council prior to Planning staff being able to support any subsequent extensions to this Draft Plan, should any be required. Further, staff is not supportive of the request for fees to be returned and recommend that Council accept and retain the full amount required by the City's Fee By-law.

Appendices:

- a. By-law Extending Lapsing Date
- b. Niagara Region Comments

Respectfully submitted,

David Schulz
Planner
(905) 835-2900 ext. 202
David.Schulz@portcolborne.ca

Report Approval:

All reports reviewed and approved by the Department Director and also the City Treasurer when relevant. Final approval is by the Chief Administrative Officer.