



Subject: Recommendation Report for a Draft Plan Extension to the Rosedale Estates Subdivision

To: Council

From: Development and Legislative Services Department

Report Number: 2022-257

Meeting Date: December 13, 2022

Recommendation:

That Development and Legislative Services Department – Planning Division Report 2022-257 be received; and

That Council approve a one-year extension to the Rosedale Estates Draft Plan of Subdivision; and

That Council delegate their authority to the Manager of Planning to consider a further one-year extension to the Rosedale Draft Plan of Subdivision.

Purpose:

The purpose of this report is to provide Council with a recommendation regarding a request for an extension of Draft Plan of Subdivision Approval for the Rosedale Plan of Subdivision. The property is legally recognized Part of Lot 30, Concession 3, being Part 1 on Plan 59R-2446, municipally known as 100 Oxford Boulevard.

Background:

The Rosedale Draft Plan of Subdivision was approved by the Region of Niagara (being the approval authority at the time) in June 1988. The plan is located east of West Side Road (Hwy 58), south of Stonebridge Drive and north of Oxford Boulevard (Hawthorn Heights) (Figure 1). The development is located on 32 acres of land and contains 119 single detached dwellings, a block for approximately 57 apartment units, a commercial block and a park block (Figure 2). The Draft Plan had a 4-year lapsing date in 1992 to meet all conditions of draft plan approval.

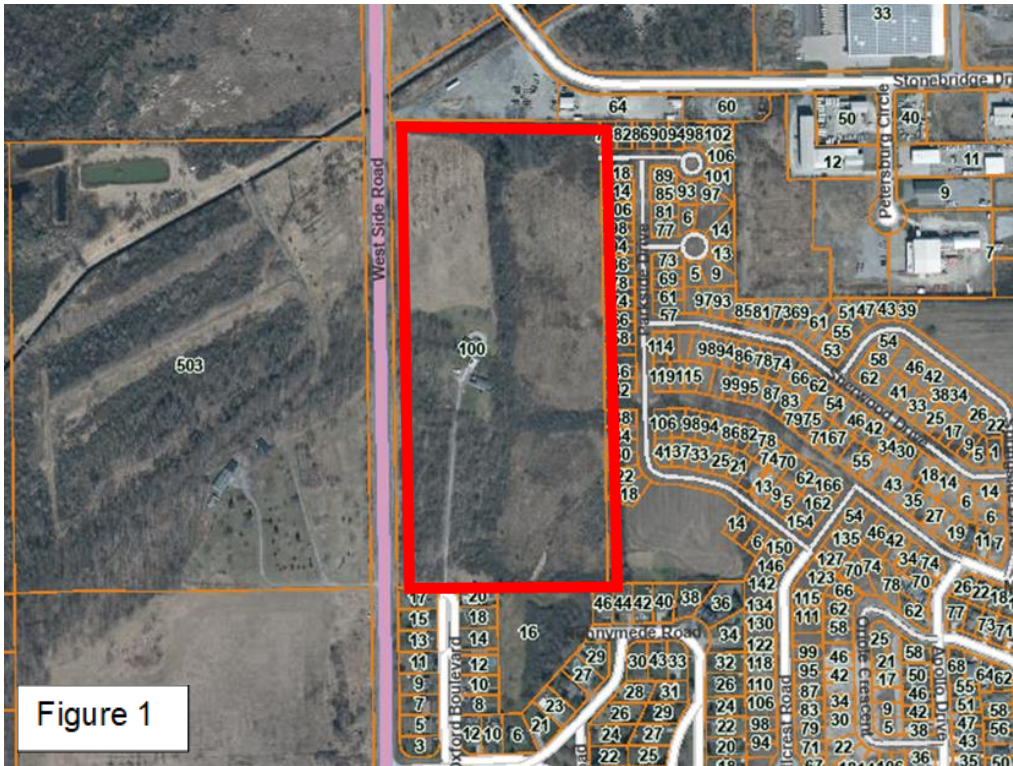


Figure 1



Figure 2

Over the years since the plan's draft approval, the Region, and now City, have received numerous requests to extend the lapsing date of the proposed subdivision. Most recently, extensions were granted in 2013 (two years), 2015 (two years), 2017 (two years), 2019 (one year) and 2020 (two years) by City Council.

On June 28, 2022, Planning staff received a letter from the owner's planning consultant requesting a further extension to the Draft Plan of Subdivision for a period of one year. The letter cites archaeological studies and transportation access to be the leading causes of the delay with the subdivision proceeding (Appendix A). Due to staffing changes, staff recommended through Report 2022-176 that a four-month extension be given in order for internal staff and external agencies to review the request. A temporary four-month extension was granted by City Council on August 9, 2022, to set a new lapsing date of December 16, 2022.

Based on discussions with Planning staff, Upper Canada Consultants submitted a subsequent letter to the City on November 15, 2022. The letter details the reasons why the subdivision has not developed, extent of the work that has been done to date to advance the development, the plan to move the subdivision forward, and a request for a two-year extension rather than the original one-year requested (Appendix B).

Discussion:

Staff brought forward a report in 2020 (Report 2020-94) recommending that the Rosedale Draft Plan of Subdivision be extended for one year. Council granted a two-year extension. The report stated that if another extension request was received, a thorough review of the subdivision conditions and their status would need to be undertaken to ensure the subdivision is adequately moving forward and that all relevant matters are addressed.

Staff note that since 2015, the City has been in receipt of five separate extension requests by the developer. As noted in the Region's comment letter, the following reasons were provided along with each request:

- 2015 request – Two-year request related to evaluating the possibility of phasing the project for servicing. Council granted a two-year extension;
- 2017 request – Two-year request related to the possibility of phasing the property and in order to finalize and register the subdivision agreement, and completion of detailed engineering drawings. Council granted a two-year extension;
- 2019 request – Two-year request related to getting servicing infrastructure to the Oxford Pumping Station, completion of engineering design, and obtain necessary Ministry approvals and servicing upgrades with the Niagara Region. Council granted a one-year extension;

- 2020 request – Two-year request related to moving engineering design forward, and completion of a Transportation Impact Study. Council granted a two-year extension;
- 2022 request – First, a one-year request related to continuous work being completed as related to archaeology and transportation. More recently, a two-year request was received citing unfavourable market conditions (high servicing costs due to bedrock), an alternative road connection being required, and issues with the approved sanitary sewer and stormwater outlet being the reasons the development has not moved forward. As noted, a temporary extension was granted in August for four-months. Council is now formally considering the request for a two-year extension through this report.

Planning Policies

Staff have completed a review of applicable Provincial, Regional and City policies with respect to this draft plan of subdivision and offer the following analysis. Staff recognize that the draft plan was approved under a different policy context, however it is important to note that policies have changed substantially since 1988 when the plan was draft approved. As it has been noted by the agent and property owner, the goal is to submit a redline revision (re-design of the plan) in which the plan will be brought up to the modern-day standard.

Provincial Policy Statement (2020)

The first *Provincial Policy Statement* (PPS) was introduced in 1996 as a guiding tool to assist with *Planning Act* interpretation. The current PPS (as revised in 2020) directs planning decisions in a more targeted manner. All modern planning decisions must be consistent with the policies set out in the PPS.

The subject lands are within a “settlement area” according to the PPS. Settlement areas are to be the focus of growth and development and land use patterns shall be based on densities and a mix of land uses (including single-detached, additional residential units, multi-unit housing, affordable housing and housing for older persons) and should efficiently use land and resources. Further, the PPS states that the mix of housing and densities shall be provided to meet projected market-based and affordable housing needs of current and future residents.

The Rosedale Estates Draft Plan of Subdivision, as approved in 1988, provides 119 lots for single-detached residential dwellings, one block for multi-unit housing (unit count undetermined at this time), one commercial block, and one park block. While the plan does provide some contrast between low-density (single-detached) and high-density (multi-unit apartment block), staff are of the opinion that the plan could do a better job at achieving the direction of the current PPS. A redline revision could address this policy inconsistency by proposing some missing-middle type housing (semi-detached, duplexes, triplexes, fourplexes, townhouses etc.).

Growth Plan for the Greater Golden Horseshoe (2020 consolidation)

Much like the PPS, the *Growth Plan* also directs and encourages development in settlement areas. The subject lands are located both in the “Delineated Built-up Area” and “Designated Greenfield Area”. The *Growth Plan* encourages proposals in the “Delineated Built-up Area” to be developed in a manner that contributes to complete communities, meaning a range in housing types, park(s), and even small-scale commercial uses. Greenfield developments have similar goals to the Built-up Area in the sense that complete communities are supported and encouraged. The Greenfield policies are more stringent with respect to minimum density, as new developments are required to meet a minimum density threshold of 50 people and jobs per hectare.

Staff have done a rough calculation to determine the overall density of the site, including the area located within the “Designated Greenfield Area”. Using the 119 single-detached lots plus a conservative estimate of 87 apartment units (100 units per hectare) on the multi-unit apartment block, the people and jobs per hectare calculation comes out to 38.7, below the minimum threshold of 50.

Simply looking at the area within the “Designated Greenfield Area”, which is only comprised of single-detached residential lots, people and jobs calculation would be much less than the 38.7 calculated for the entire site. With the redline revision planned for the near future, the plan should be redesigned to accommodate an increase in density and broader dwelling types and sizes.

Niagara Official Plan (2022)

The new *Niagara Official Plan* (NOP) was recently approved by the Ministry of Municipal Affairs and Housing on November 4, 2022. As referenced in the Niagara Region’s comment letter attached as Appendix E, the NOP encourages a maximum of one two-year extension to draft plans unless the draft plan conforms to the policies of the NOP and there has been a concerted effort and progress to satisfy conditions.

Further referenced in the Region’s letter, the property has a split designation under the NOP, with the majority of the lands (roughly 10 hectares) being located in the “Built-up Area” and a smaller portion (roughly 2.7 hectares) being located in the “Designated Greenfield Area”. This split designation is in line with the policies of the *Growth Plan* and will need to be addressed through the redline revision that Upper Canada Consultants and the Owner has acknowledged will be required.

City of Port Colborne Official Plan (2017)

The City’s *Official Plan* (OP) designates the land as “Urban Residential”. The land is further designated within the “Built boundary” and “Designated Greenfield Area”, in line with Provincial and Regional plans. Both lands within the built boundary and Designated Greenfield Areas are encouraged to provide compact developments with a range of dwelling types and sizes. Greenfield areas require a minimum density of 50 people and

jobs per hectare, consistent with the aforementioned plans. Staff acknowledge that the density and dwelling type breakdown will need to be something addressed through a future redline revision.

Planning Analysis

Planning staff have had the chance to sufficiently review this file and its status through the years. Following multiple meetings with the internal staff, the Niagara Region and the applicant, the following main outstanding issues remain:

- Archaeology – Stage One and Two Archaeological Assessments have been completed on site. The conclusions of the reports require further investigation to take place on site, necessitating a Stage Three and potentially Stage Four Archaeological Assessment.
- Transportation – As the Ministry of Transportation has indicated that an entrance to Highway 58 will no longer be a possibility, an alternative solution to the access to the site is required. A redesign of the site through a redline revision will be required, with main accesses coming from Oxford Drive and connecting through the ongoing Meadow Heights development to the east.
- Servicing – through the City's recently obtained Consolidated Linear Infrastructure Environmental Compliance Approval (CLI-ECA), the services (specifically storm infrastructure) will need to be brought up to the current standard, including quantity control, before the stormwater can leave the site. This means that a redesign would need to include stormwater management infrastructure in the form of a pond. The stormwater management pond will also need a sufficient outlet to the Biederman Drain.
- Reliance on Meadow Heights – With the access to Highway 58 not being a possibility, the building out of the remaining approved areas in the Meadow Heights subdivision is essential to the viability of the Rosedale Estates subdivision.

Through the letter received from Upper Canada Consultants, unfavourable market conditions were cited as another leading factor to explain why the development has not moved forward. Staff recognize that there still is a significant amount of work to be done on the subdivision. However, it has also been made clear to staff that the developer is serious about moving this subdivision forward as significant financial commitments have already been made with respect to archaeological work.

Based on staff's extensive review, Planning staff recommend that Council grant a one-year extension to draft plan, with the consideration of an additional year being delegated to the Manager of Planning, provided a complete application for a redline revision be submitted prior to the lapsing date.

Planning staff would like to caution Council with respect to potential outcomes, should the decision be made to allow the draft plan approval to lapse on December 16, 2022,

against staff's recommendation. The applicant retains the right to appeal any draft plan condition to the Ontario Land Tribunal up until the lapsing date. An appeal on this application would significantly delay this file further. Additionally, staff estimate the costs in staff time and legal fees would far surpass the amount of time spent on this file thus far, time which is covered by the \$1,624 draft plan extension request fee.

Internal Consultations:

Staff has held numerous meetings and discussions with internal staff regarding this application. The consensus received from internal staff regarding the potential extension was that there are not any specific concerns with an extension at this time. Recognizing that further revisions will be required to the plan, any issues with respect to servicing, drainage, etc. can be worked out through the redline revision process.

The Niagara Region was also consulted for comments on the proposed extension. The Region acknowledges that there have been numerous challenges that have impacted the approvals process and intended steps to move the file forward. The Region does not object to a two-year extension, recognizing the amount of time and work that is needed to revise the plan and complete archaeological assessment work. The Region also recommended some minor changes to the draft plan conditions. Staff have updated the draft plan conditions (Appendix C) to incorporate the Region's requested changes. The Region's full comment letter can be found in Appendix E.

Financial Implications:

There are no financial implications.

Public Engagement:

Public engagement is not a requirement for the consideration of a draft plan extension. Should the extension be approved, and the applicant submit a redline revision and associated Zoning By-law Amendment in the future, a statutory public meeting will be required.

Strategic Plan Alignment:

The initiative contained within this report supports the following pillar(s) of the strategic plan:

- Service and Simplicity - Quality and Innovative Delivery of Customer Services

- People: Supporting and Investing in Human Capital
 - Governance: Communications, Engagement, and Decision-Making
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Conclusion:

Planning staff recommend that Council grant a one-year extension to draft plan. The additional year will provide the applicant the required time to submit a redline revision to align the plan with current Provincial, Regional, and City policies. Additionally, staff recommend that Council delegate their authority to the Manager of Planning to consider a further one-year extension provided the applicant submits the referenced redline revision.

Appendices:

- a. Original Extension Request Letter, June 2022
- b. Recent Extension Request Letter, November 2022
- c. Proposed By-law and Draft Plan Conditions
- d. Existing Rosedale Draft Plan of Subdivision and Adjacent Meadow Heights
- e. Niagara Region Comment

Respectfully submitted,

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Report Approval:

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