

Presented To:	Planning Committee
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Type:	Managers' Reports

## Request for Decision

### Rural Consent Policy Options

#### Recommendation

THAT City of Greater Sudbury approve Option \_\_\_\_ as outlined in the October 23, 2013 report from the Acting General Manager of Growth and Development regarding Rural Consent Policy Options and direct staff to include Option \_\_\_\_ as part of the five year review of the Official Plan.

#### **Background:**

*NOTE: All attachments referenced in the report are provided under separate cover.*

The City of Greater Sudbury's Official Plan contains the vision, goals, objectives and policies to manage and direct long term physical change across Greater Sudbury. The Official Plan was developed over a four year time period involving extensive consultation with the community and other stakeholders. The Official Plan was adopted by City Council on June 14, 2006, approved by the Ministry of Municipal Affairs and Housing on March 7, 2007 and upheld by the Ontario Municipal Board in a April 10, 2008 Decision.

On May 20, 2008, Planning Committee agreed that city staff should prepare a report "*outlining the procedures to be taken to lower the acreage, from 5 acres to 2 acres, when splitting property in the rural area*".

On May 5, 2009, Planning Committee considered a report from staff that responded to this request. This report, which is included in Attachment A, presented three options for Planning Committee's consideration:

Option 1: Do not proceed with this request. The existing rural residential lot creation policies would remain in the Official Plan. As outlined in this report, the current policy represents good planning, is consistent with the 2005 Provincial Policy Statement and conforms to the intent of the Official Plan.

Option 2: Defer this request until the first statutory review of the Official Plan. This would permit the request to be considered as part of a full and comprehensive review of the Official Plan. The first

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review will begin in 2013. Subsequent reviews will occur on five year cycles. This option is supported by staff.

Option 3: Proceed with this request, by way of a Council-initiated Official Plan Amendment, according to the enhanced public process described in this report, which includes two public meetings before the Planning Committee.

The Planning Committee, by two-thirds majority, agreed to defer this matter to a public meeting.

On October 15, 2009, the City of Greater Sudbury held a public input session to hear feedback on this matter. A report providing an overview of this session was provided to Planning Committee on February 16, 2010, together with original deferred staff report. This report is included in Attachment B. At this meeting, Planning Committee passed Resolution 2010-36, as follows:

*“Craig – Dutrisac: THAT the Planning Committee approve Option 3, as outlined in the Report dated April 6, 2009 from the General Manager of Growth and Development.”*

This resolution was considered by City Council on February 24, 2010 and March 31, 2010. On March 31, 2010, City Council passed Resolution 2010-128, as follows:

*“Dutrisac – Berthiaume: THAT the Council of the City of Greater Sudbury approve Option 2 as outlined in the report from the General Manager of Growth and Development regarding the Rural Residential Consent Policies. (Option 2 is “Defer this request until the statutory review of the Official Plan. This would permit the request to be considered as part of a full and comprehensive review of the Official Plan. This first review will begin in 2013. Subsequent reviews will occur on five year cycles. This option is supported by staff.”)*

The five year review of the Official Plan (the review) was formally initiated in January, 2012. As part of this review, the City is comprehensively examining its growth management policy framework, including the policies that are used to guide the creation of new non-waterfront residential lots in the rural area.

The proposal to reduce the minimum lot area requirement was considered in the second phase of the growth and settlement analysis, undertaken as part of this review. As part of this process, the City hosted a second public input session on September 27, 2012 to receive feedback on the proposal. This work culminated in the presentation of a comprehensive “*Growth and Settlement Policy Discussion Paper*” to Planning Committee on June 24, 2013. This policy discussion paper is included in Attachment C. The summary of the public input session is included in Appendix G of the discussion paper.

With respect to the proposal, this discussion paper concluded that the existing policies were adequate to meet anticipated long term demand for non-waterfront rural residential building lots and to provide choice within the market place. This paper also concluded that the requested change would significantly increase the potential supply of such lots, is inconsistent with the 2005 Provincial Policy Statement, and could affect the community's ability to realize other Official Plan goals and objectives.

Based on the above, the discussion paper recommended that the existing policy framework not be changed and suggested that any proposal to create new non-waterfront rural residential lots not able to meet the existing policies continue to proceed by way of an Official Plan Amendment, which would allow the unique circumstances and land use planning merits of such proposals to be considered on a case-by-case basis.

These conclusions and recommendations were discussed by the Planning Committee on June 24,

2013. Following the discussion, Planning Committee suggested that city staff prepare a further report with options for the Planning Committee's consideration.

Since this time, the Ministry of Municipal Affairs and Housing provided comments and suggestions on several background reports being undertaken as part of the review, including the *Growth and Settlement Policy Discussion Paper*. With respect to the non-waterfront rural residential consent policies, the Ministry states:

*"... Given the number of amendments to the official plan that have been approved to permit the creation of rural non-waterfront lots, it is expected that the official plan review will result in refined criteria by which to assess whether a proposed severance meets the PPS in terms of limiting residential development in Rural areas.*

*It is suggested that the current official plan policy mechanism which establishes a large lot size and frontage for new lots (policy 5.2.2.2(a)) is a straightforward policy mechanism which serves to reduce the potential for rural sprawl and limit residential development in Rural areas. However, the reported number of lots that could be created under this policy (1,913) far exceeds the projected demand (300-878), and there may be other policy mechanisms that could be used which have the effect of limiting residential development in rural areas. "*

These comments suggest that the Ministry of Municipal Affairs and Housing is encouraging the City to adopt a more stringent approach.

#### **Purpose:**

This report responds to Planning Committee's June 24, 2013 suggestion. It begins by describing the existing policy framework to limit non-waterfront rural residential development in Greater Sudbury. It then summarizes the approach to limiting rural residential development taken in other municipalities that are comparable to Greater Sudbury. Based on this review, it discusses additional policy tools available to plan for rural residential development and presents options for Planning Committee's consideration.

#### **Discussion:**

*What is Greater Sudbury's approach for limiting non-waterfront rural residential development?*

#### **The 1978 Official Plan for the Sudbury Planning Area**

Greater Sudbury's land use planning policy approach to limiting non-waterfront rural residential development is rooted in the formation of regional government in the 1970's. The need to better manage growth and development was a key reason for the formation of regional government.

In his 1970 report on the functions and responsibilities of local government institutions, J.A. Kennedy, the Commissioner of the Ontario Municipal Board, described the Sudbury area as "*showing a sorry lack of any real planning*" and, in a reference to lot creation, reported that "*some development appears to have proceeded notwithstanding the provisions of the Planning Act*".

As a result, the subsequent *Act to Establish the Regional Municipality of Sudbury* required that Regional Council prepare and adopt an Official Plan for the Regional Area, and submit the Official Plan for provincial approval. The Official Plan for the Sudbury Planning Area (the 1978 Plan), which applied to the former

Regional Municipality of Sudbury was adopted by Regional Council on January 11, 1978 and approved by the then Minister of Housing on September 14, 1978.

The 1978 Plan included a two-part strategy to guide the future growth and development of the region.

- First, the 1978 Plan aimed to consolidate the majority of future development into urban areas where they could be appropriately serviced, as the scattered pattern of development up until that time created challenges in this regard. The 1978 Plan identified “growth centres” in each community and directed major investments in public infrastructure and services towards these areas to create the necessary platform to attract the majority of anticipated growth and development, which, in turn, would help establish the critical mass and density necessary to support the evolution of more and better services (public and private).
- Second, the 1978 Plan placed controls on the creation of new residential lots in the rural area. The 1978 Plan prohibited the creation of new lots in protected resource areas (e.g. the mineral mining reserve) and hazard areas (e.g. floodplain). New lots were permitted outside of these areas, provided that:
  - the new lot was at least 2 hectares in size and had at least 90 metres of frontage;
  - the new lot had soil conditions suitable for a private sewage disposal system and the regulations of the Ministry of the Environment regarding private sewage disposal systems were met;
  - the new lot had a proven water supply both in quantity and quality which met the Ministry of the Environment regulations for private water supply systems;
  - the new lot fronted on a public road maintained year round and which was not a Primary or Secondary Arterial Road ... and which could be served by school buses; and,
  - provided that the lands remaining have a condition imposed by the Committee of Adjustment on title preventing further subdivision.

Separate policies were established to guide seasonal and waterfront residential development, as well as residential lot creation in the Agricultural Reserve.

This two-part strategy, which was intended to create a planned regional structure consisting of a tiered system of higher density urban areas surrounded by lower density rural areas, guided growth and development in former Region and new City for approximately 30 years. It was effective at directing the majority of residential growth to serviced areas and limiting residential growth in unserved areas. For example, between 1978 and 2003 approximately 7,310 new residential building lots were created across Greater Sudbury. Approximately 80 percent of these lots were created in serviced areas (i.e. settlement areas), while 20 percent were created in un-served areas (i.e. rural and waterfront areas). Of this latter amount, approximately 500 occurred on lands without any water frontage. It is important to note that this two-part strategy was enacted well before the Province of Ontario began to require that municipalities “limit” residential development in rural areas through the 2005 Provincial Policy Statement.

#### The 2006 Official Plan for Greater Sudbury

Given the effectiveness of this two-part growth management framework, it was carried forward by City Council into the new Official Plan, which was adopted by City Council on June 14, 2006, approved by the Ministry of Municipal Affairs and Housing on March 7, 2007 and upheld by the Ontario Municipal Board in a April 10, 2008 Decision.

The Official Plan recognizes three forms of settlement - communities, non-urban settlements and rural areas - and establishes policies to guide future growth and development specific to each of these areas.

- The new Official Plan sees communities as the primary focus of future residential and employment

growth in order to take best advantage of historic infrastructure investments in these areas, complete existing communities and protect the natural environment. The new Official Plan facilitates intensification and redevelopment in these areas. Subdivisions and severances are also permitted subject to certain conditions.

- The new Official Plan sees rural areas as an area whose special qualities, such as waterfront areas, open spaces, natural features and resource potential, should be protected for the benefit of current and future generations. The rural area policies support the policies for communities by permitting limited residential development in rural areas, subject to certain standards.

The Official Plan permits rural residential lots to be created on lands outside of the mining/mineral reserve, the aggregate reserve, the agricultural reserve, the flood plain and significant natural features and areas, provided that:

- the severed parcel and the parcel remaining are at least 2 hectares in size and have at least 90 metres of frontage on a public road; and,
- regardless of the size and frontage of the parent parcel, no more than three new lots may be created from a single parent rural parcel based on the date of the adoption of the Plan.

The new lots must also be able to meet all applicable policies of the Official Plan (e.g. consistent with character of surrounding uses, no additional public services would be required, compliance with the minimum distance separation formula). Separate policies are established to guide rural development on waterbodies.

These rural consent policies in the new Official Plan were determined by City Council and the Ministry of Municipal Affairs and Housing to be consistent with the 2005 Provincial Policy Statement.

The Official Plan's growth management framework has continued to guide the majority of new residential development towards the settlement areas. Between 2006 and 2011, approximately 2,081 new residential lots were created in Greater Sudbury. Of this amount, approximately 86 percent were created in the settlement area and approximately 14 percent were created in the rural area.

Looking ahead, as discussed in the *Growth and Settlement Policy Discussion Paper*, the existing policy framework is more than adequate to meet long term demand for non-waterfront residential building lots in the rural area. Using a household formation and historic share approach, the City of Greater Sudbury could see demand for between 300 to 878 new rural residential building lots by 2036. In terms of land supply, it is estimated that there are 475 existing vacant legal lots of record in the rural area that can be developed, subject to building permit approval. In addition, it is estimated that the existing policies could result in the creation of approximately 1,438 new building lots.

*What approaches do other municipalities use to limit residential development in the rural area?*

City staff examined the approach taken in six municipalities including the City of North Bay, the City of Timmins, the City of Sault Ste. Marie, the City of Thunder Bay, the City of Ottawa and the City of Hamilton.

These municipalities were selected for several reasons. Like Greater Sudbury, they are all single tier municipalities. North Bay, Timmins, Sault Ste. Marie and Thunder Bay are all situated in Northern Ontario. Ottawa and Hamilton, like Greater Sudbury, are amalgamated communities. Timmins and Ottawa are also geographically large municipalities.

As part of this work, city staff reviewed the growth management and rural residential consent policies of each Official Plan and followed up with municipal staff, where necessary, to discuss the policies. The policy approach taken in each municipality is described in Attachment D.

Based on this research, two broad observations can be made:

First, the City of Greater Sudbury’s two-part approach to growth management is consistent with the approach taken in all of the precedent municipalities. Each municipality is using its Official Plan to direct the majority of growth towards their settlement areas and limit residential development in their rural areas.

Second, the City of Greater Sudbury’s approach to limiting rural residential consents fits within the spectrum of approaches taken in all of the precedent municipalities. Each municipality has policies and standards in its Official Plan to limit rural residential development.

In many respects, Greater Sudbury’s policies are similar to those used in the precedent municipalities. Greater Sudbury uses the same policy tools (i.e. minimum lot areas, minimum lot frontages and maximum caps) to limit rural residential development.

In some respects, Greater Sudbury’s standards are similar to those used in the precedent municipalities. For example, most of the surveyed municipalities establish a 2.0 hectare minimum lot area.

In other respects, Greater Sudbury’s standards differ from those used in the precedent municipalities. Greater Sudbury, for example, limits the number of lots that can be created from any parent rural parcel at three. Many other municipalities limit the number of lots that can be created at either one or two. The City of Timmins limits the number of lots that can be created in the rural area annually. The City of North Bay establishes tenure and residency requirements and prohibits further severances on severed and retained parcels. In these respects, Greater Sudbury’s policy framework is more flexible than the precedent municipalities.

These similarities and differences are highlighted in the table below.

**Table 1. Rural Residential Lot Creation Policies**

Municipality	Min Lot Area (ha)	Min Frontage (m)	Other Policies
Greater Sudbury	2	90	A maximum of three new lots may be created from any parent parcel.  The parent parcel is based on the date of adoption of Official Plan (June 14, 2006).
North Bay	2	60	The applicant must own the property for at least 10 years.  The applicant’s principal residence must be situated on the property at the time of application.  The minimum lot area of the parent parcel is 16.2 ha.  A maximum of two contiguous parcels may be created.

			The retained and severed parcels shall not be further severed during the lifetime of the Official Plan.
<b>Timmins</b>	2	100	A maximum of two lots may be created from a legally conveyable lot.  A maximum of 20 lots may be granted annually.
<b>Sault. Ste Marie</b>	0.5	45	A maximum of one lot may be created from a parent parcel.
<b>Thunder Bay</b>	2	60	The date used to establish the parent rural parcel is January 1, 1978.
<b>Ottawa</b>	0.8	-	A maximum of one lot may be created from any lot in existence based on the date of adoption of the Official Plan.  No further severance of retained/severed land will be permitted.  A larger minimum lot size may be required in some areas to ensure no adverse effects on the quality/quantity of groundwater and safe operation of wastewater disposal systems.  The retained land will have a minimum area of 10 ha.
<b>Hamilton</b>	Non-farm rural residential consents are not permitted.		

*What additional policy tools are available?*

The research into the above comparable municipalities suggest that, in addition to the policy tools currently in use in Greater Sudbury (i.e. parent parcel date, minimum lot area, minimum lot frontage and a maximum on the number of consents that may be created from a parent parcel), there are some other tools that can be used to plan for non-waterfront residential development in the rural area. These include:

1. Prohibiting the creation of new, non-farm residential lots. The City of Hamilton currently prohibits the creation of new non-farm residential lots in the Rural Area. Development is allowed on existing, vacant legal lots of record. A similar policy approach was adopted in the City of Sault Ste. Marie between 1996 and 2009. In this latter case, the appropriateness of a proposal to create new rural residential lots was considered on a case by case basis through an Official Plan Amendment.
2. Establishing a maximum cap on the number of lots created annually. This approach is currently used in the City of Timmins, which limits the number of new rural residential lots created each year.
3. Establishing minimum tenure requirements. This approach is currently used in the City of North Bay, where an individual must own a parcel of land for at least 10 years before they are permitted to apply for a consent. A similar approach was used in the 1978 Plan with respect to consents in the Agricultural Reserve.

4. Establish residency requirements. This approach is also used in the City of North Bay, where an individual's principal residence must be located on the parcel of land that is subject to the consent application.
5. Prohibit further severances. This approach is used in the City of North Bay and Ottawa to prevent successive, multiple lot creation from large parent rural parcels.

*What other policy tools or options are available?*

In response to Planning Committee's June 24, 2013 suggestion, city staff developed and examined 45 different non-waterfront rural residential consent policy options. This included nine base options and five variants, as follows:

Base Options:

1. Minimum lot area of 2 hectares and minimum lot frontage of 90 metres
2. Minimum lot area of 2 hectares and minimum lot frontage of 60 metres
3. Minimum lot area of 2 hectares and minimum lot frontage of 45 metres
4. Minimum lot area of 1 hectare and minimum lot frontage of 90 metres
5. Minimum lot area of 1 hectare and minimum lot frontage of 60 metres
6. Minimum lot area of 1 hectare and minimum lot frontage of 45 metres
7. Minimum lot area of 0.8 hectares and minimum lot frontage of 90 metres
8. Minimum lot area of 0.8 hectares and minimum lot frontage of 60 metres
9. Minimum lot area of 0.8 hectares and minimum lot frontage of 45 metres

Variants:

1. Only rely on the minimum lot area requirement to guide lot creation
2. Only rely on the minimum lot frontage requirement to guide lot creation
3. Rely on both the minimum lot area and minimum lot frontage requirement without a cap
4. Rely on both the minimum lot area and minimum lot frontage requirement with a cap at 3
5. Rely on both the minimum lot area and minimum lot frontage requirement with a cap at 6

The results of this analysis are summarized in Attachment E, which describes the total number of parent parcels and the total number of lots that could be created for each scenario. The table also illustrates the difference between the number of lots that could be created for each scenario and the existing policy framework. This difference is expressed as a "%change". The table also translates the results of each scenario into a "year supply". This assumes that 50 new lots will be severed in the rural area each year, which is consistent with annual lot creation trends since the Official Plan was adopted in 2006.

Based on this analysis, one broad observation can be made. All 45 scenarios would significantly increase the rural land supply above the existing land supply. In this respect, none of the options can be supported from a planning perspective.



Notwithstanding the above, three options are presented for Planning Committee's consideration. It should be noted that all of the below numbers exclude existing vacant legal lots of record and the retained parcel. The "year supply" figures assume that 50 new lots will be created in year.

**Option 1:**

Minimum lot area:	1 hectare
Minimum lot frontage:	90 metres
Maximum cap on the number of lots created from parent parcel:	3
Lot creation potential:	1,720 new lots
% increase in number of lots compared to existing policies:	17.5 percent
Year supply:	35 years

**Option 2:**

Minimum lot area:	2 hectares
Minimum lot frontage:	60 metres
Maximum cap on the number of lots created from parent parcel:	3
Lot creation potential:	1,946 new lots
% increase in number of lots compared to existing policies:	33 percent
Year supply:	39 years

**Option 3:**

Minimum lot area:	1 hectare
Minimum lot frontage:	60 metres
Maximum cap on the number of lots created from parent parcel:	3
Lot creation potential:	2,395 new lots
% increase in number of lots compared to existing policies:	64 percent
Year supply:	48 years

Alternatively, Planning Committee could continue with a "status quo" option, as follows:

Minimum lot area:	2 hectare
Minimum lot frontage:	90 metres

Maximum cap on the number of lots created from parent parcel:	3
Lot creation potential:	1,464 new lots
% increase in number of lots compared to existing policies:	0 percent
Year supply:	29 years

## Conclusion

City staff has identified several options to guide non-waterfront rural residential lot creation for Planning Committee's consideration. The recommended option is continuing with the status quo, but should Planning Committee decide to pursue an alternative policy framework, it should give direction to city staff to include the alternative framework in the next steps of the five year review of the Official Plan.