

Mallard's Landing Subdivision, Sudbury - 2023

Presented To:	Planning Committee
Meeting Date:	June 26, 2023
Type:	Routine Management Reports
Prepared by:	Glen Ferguson Planning Services
Recommended by:	General Manager of Growth and Infrastructure
File Number:	780-6/88020

Report Summary

This report provides a recommendation regarding an application to extend the Mallard's Landing draft plan of subdivision approval for a period of two years until April 19, 2025.

Resolution

THAT the City of Greater Sudbury's delegated official be directed to amend the conditions of draft approval for a plan of subdivision on those lands described as Remainder of Parcel 2205 SES, Lot 4, Concession 6, Township of Broder, File # 780-6/88020, as outlined in the report entitled "Mallard's Landing Subdivision, Sudbury - 2023" from the General Manager of Growth and Infrastructure, presented at the meeting on June 26, 2023, as follows:

1. By deleting Condition #16 and replacing it with the following:

"16. That this draft approval shall lapse on April 19, 2025." and,

2. That the following sentence be added at the end of Condition #20:

"20. The geotechnical engineer will be required to address on-site and excess soil management in accordance with Ontario Regulation #406/19."

Relationship to the Strategic Plan, Health Impact Assessment and Community Energy & Emissions Plan (CEEP)

The application to extend this draft plan of subdivision approval is an operational matter under the Planning Act to which the City is responding.

The application to extend an existing draft plan of subdivision approval does not either directly align with or negatively impact any of strategic goals and objectives that are identified within the City's Strategic Plan.

The application to extend an existing draft plan of subdivision approval is not expected to have any direct negative impacts on stated goals and recommendations contained within the CEEP.

Financial Implications

If approved, staff estimates approximately \$75,000 in taxation revenue, based on the assumption of 10 single family residential units based on an estimated assessed value of \$500,000 per dwelling unit at the 2023 property tax rates.

If there is additional taxation revenue, it will only occur in the supplemental tax year. Any taxation revenue generated from new development is part of the supplemental taxation in its first year. Therefore, the City does not receive additional taxation revenue in future years from new development, as the tax levy amount to be collected as determined from the budget process, is spread out over all properties within the City.

In addition, this would result in total development charges of approximately \$222,000 based on assumption of 10 single family dwelling units and based on the rates in effect as of the date of this report.

Once development has occurred and the subdivision infrastructure has been transferred to the City, there will be additional on-going costs for future annual maintenance and capital replacement of the related infrastructure (ie. roads, water/wastewater linear pipes, etc).

Report Overview:

The owner has requested an extension to the draft plan of subdivision approval of the Mallard's Green draft approved plan of subdivision in the community of Sudbury for a period of two years until April 19, 2025. The Planning Services Division has reviewed the request to extend the draft approval and have no concerns with respect to the requested extension for a period of two 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.

Building Services has requested that Condition #20 pertaining to geotechnical requirements will need to be updated in order to provide direction to the owner's geotechnical engineer that the required geotechnical work associated with future phases of Mallard's Landing Subdivision must address on-site and excess soil management in accordance with Ontario Regulation 406/19, which is now in full force and effect. Other housekeeping changes where necessary are included and outlined in the Resolution section of this report.

The Planning Services Division is recommending approval of the application to extend the draft approved plan of subdivision for a period of two years until April 19, 2025. Amendments to the conditions of draft approval where necessary have been identified and are included in the Resolution section of the report.

STAFF REPORT

Applicant:

Dalron Construction Ltd.

Location:

Remainder of Parcel 2205 SES, Lot 4, Concession 6, Township of Broder (Mallard's Landing Subdivision, Sudbury)

Application:

To extend the draft approval conditions for a plan of subdivision (ie. Mallard's Landing) which were approved initially by Council on March 16, 1989. The draft plan of subdivision approval was last extended by Planning Committee on May 30, 2022 (ie. [PL2022-074](#) – see Pages 18-19), which was then ratified by Council on June 16, 2022.

Proposal:

The owner is requesting that the draft approval conditions for the above noted lands be extended for a period of two years until April 19, 2025.

Background:

The City received a written request via email from Dalron Construction Ltd. on March 3, 2023, to extend the draft approval on a plan of subdivision for a period of two years on those lands described as Remainder of Parcel 2205 SES, Lot 4, Concession 6, Township of Broder. The processing fee for the draft approval extension request was later received on March 13, 2023.

The draft approved plan of subdivision was initially approved by Council for a total of 171 urban residential lots to the west of Regent Street and to north of Algonquin Road in the community of Sudbury. The remaining lots within the draft approved plan of subdivision would have frontage on a future cul-de-sac and would be accessed from the south at Trailview Drive.

The draft plan of subdivision approval was most recently provided with an administrative extension on March 14, 2023, in order to afford sufficient time for the owner to make a request to extend their draft approval and to allow for agencies and departments to properly review and comment on the requested extension.

The draft approval is now set to expire again on April 19, 2023. Staff has circulated the request to relevant agencies and departments and is now bringing forward this report to extend the draft approval to April 19, 2025.

Departmental & Agency Circulation:

Active Transportation, Conservation Sudbury, Distribution and Collection, Fire Services, Leisure Services, Operations, Roads, Transit Services, and Transportation and Innovation have each been advised of the draft approval extension request and they have not identified any concerns from their respective areas of interest.

Building Services has noted that Condition #20 pertaining to geotechnical requirements will need to be amended in order to provide direction to the owner's geotechnical engineer that the required geotechnical report(s) must address on-site and excess soil management in accordance with [Ontario Regulation 406/19](#), which is now in full force and effect.

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.

The City's Drainage Section has noted that storm-water management for the Mallard's Landing Subdivision must follow all applicable requirements for development within the Algonquin Road watershed as required by the General Manager of Growth and Infrastructure. However, no change to the existing comprehensive storm-water management condition already included in the draft approval conditions for the Mallard's Landing Subdivision is necessary.

Development Engineering has no concerns with the draft approval extension request but have noted that the last phase of Mallard's Landing Subdivision was registered in April 2016. At the time of writing this report, Development Engineering has not received any construction drawings to review with respect to the next and anticipated final phase of the Mallard's Landing Subdivision.

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

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 (eg. a public hearing would be required).

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 under Section 51 of the Planning Act 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 16, 1989, and a number of phases have been registered since the initial draft approval was granted. At the time of writing this report, there are 10 remaining lots within the draft approved Mallard's Landing Subdivision. To date, there have been 161 urban residential lots created within the Mallard's Landing Subdivision.

The owner did note in their emailed draft approval extension request that they intend on proceeding shortly with the registration of the next phase in the Mallard's Landing Subdivision. The owner noted that they are currently actively working toward resolving some challenges around a remaining easement on the lands in favour of the Province's Ministry of Transportation (MTO).

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 of the City's Official Plan in particular has been identified as being a policy requiring an update to address municipal infrastructure capacities and demand issues. Staff through this process will consider the embedding of criteria into this section to strengthen the policy position and to better clarify 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.

The owner is therefore 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 #16 should be deleted entirely and replaced with a sentence referring to April 19, 2025, as the revised date on which the subject draft plan of subdivision approval shall lapse.

Condition #20 should be amended to ensure that on-site and excess soil management as it relates to constructing the Mallard's Landing Subdivision is addressed in accordance with the now in full force and effect Ontario Regulation 406/19.

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.

Related Consent Applications

The City's Consent Official issued provisional consent approvals on August 2, 2021 (Files # B0064/2021 & B0067/2021), that would have the effect of reconfiguring Lots #1 and #2 within the Mallard's Landing draft approved plan of subdivision toward Trailview Drive as opposed to the future cul-de-sac extension that will connect the remaining draft approved lots to Trailview Drive. At the time of writing this report, the owner has not satisfied all conditions of provisional consent and therefore no final consent certificates have been issued by the City's Consent Official.

The last date on which final consent can be acquired on the above noted lot creations is August 2, 2023. The issuance of final consent certificates would legally create two urban residential lots and would therefore have the effect of reducing the number of draft approved lots remaining within the Mallard's Subdivision. Staff advises that it would be appropriate to remove these lots from the draft approval document in the future should the two lots be created in accordance with the consent decisions issued by the City's Consent Official. The sketch that was submitted by the owner in support of the two above noted consent applications is attached to this report for reference purposes.

Processing Fees

The owner has provided the applicable processing fee in the indexed amount of \$1,375.00. This amount was calculated as per [By-law 2020-26](#) being the indexed 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 approved plan of subdivision and have no objections to the requested extension for a period of two years.

The request was also circulated to relevant agencies and departments for comment and no concerns were identified with respect to extending the draft approved plan of subdivision. Appropriate changes where determined to be appropriate are explained within this report and 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 Mallard's Landing Subdivision for a period of two years until April 19, 2025, be approved as outlined in the Resolution section of this report.