

## Mariposa Subdivision, Sudbury

Presented To:	Planning Committee
Meeting Date:	May 8, 2023
Type:	Routine Management Reports
Prepared by:	Glen Ferguson Planning Services
Recommended by:	General Manager of Growth and Infrastructure
File Number:	780-6/88019

## Report Summary

This report provides a recommendation regarding an application to extend the draft plan approval pertaining to the Mariposa Subdivision for a period of three years until March 16, 2026.

## 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 Part of Parcel 10382, Lot 4, Concession 5, Township of Broder, File # 780-6/88019, in the report entitled "Mariposa Subdivision, Sudbury" from the General Manager of Growth and Infrastructure, presented at the meeting of May 8, 2023, as follows:

1. By deleting Condition #11 and replacing it with the following:  
"11. That 5% of the land included in the plan of subdivision be deeded or provided to the City for parks purposes in accordance with Section 51.1 of the Planning Act to the satisfaction of the Director of Leisure Services and the City Solicitor.";
2. By deleting Condition #14 and replacing it with the following:  
"14. That prior to the signing of the final plan, the Planning Services Division is to be advised by the City Solicitor that Conditions #3, #5, #6, #7, #8, #9, #11, #12, and #13 have been complied with to their satisfaction.";
3. By deleting Condition #16 and replacing it with the following:  
"16. That this draft approval shall lapse on March 16, 2026.";
4. By adding the following at the end of Condition #20:  
"The geotechnical engineer will be required to address on-site and excess soil management in accordance with Ontario Regulation 406/19.";

5. By adding the following at the end of Condition #26:

“The remainder of the streets are to have sidewalks constructed as per City of Greater Sudbury development standards.”

6. By deleting Condition #27 entirely;

7. By deleting the words “Union Gas” and replacing them with “Enbridge Gas” in Condition #28;

8. By deleting Condition #45 and replacing it with the following:

“45. The owner shall provide an Erosion and Sediment Control Plan as part of the submission of servicing plans detailing the location and types of sediment and erosion control measures to be implemented during the construction of each phase of the subdivision. The required Erosion and Sediment Control Plan shall be to the satisfaction of the General Manager of Growth and Infrastructure and the Nickel District Conservation Authority. The sediment and erosion control measures shall remain in place until all disturbed areas have been stabilized. All sediment and erosion control measures shall be inspected daily to ensure that they are functioning properly and are maintained and/or updated as required. If the sediment and erosion control measures are not functioning properly, no further work shall occur until the sediment and/or erosion problem is addressed.”;

9. By deleting Condition #49 and replacing it with the follows:

“49. A stormwater management report and associated plans must be submitted by the Owner’s Consulting Engineer for approval by the City. The report must address the following requirements:

- a) The underground storm sewer system within the plan of subdivision must be designed to accommodate and/or convey the minor storm flow, that is, the rainfall runoff resulting from the subject site and any external tributary areas using the City’s 2-year design storm. The permissible minor storm discharge from the subject development must be limited to the existing pre-development site runoff resulting from a 2-year design storm. Any resulting post development runoff in excess of this permissible discharge rate must be controlled and detained within the plan of subdivision;
- b) The overland flow system within the plan of subdivision must be designed to accommodate and/or convey the major storm flow, that is, the rainfall runoff resulting from the subject site and any external tributary areas using the City’s 100-year design storm or Regional storm event, whichever is greater, without causing damage to proposed and adjacent public and private properties. The permissible major storm discharge from the subject development must be limited to the existing pre-development runoff resulting from a 100-year design storm or Regional storm event, whichever is greater. Any resulting post development runoff in excess of this permissible discharge rate must be controlled and detained within the plan of subdivision;
- c) “Enhanced” level must be used for the design of stormwater quality controls as defined by the Ministry of the Environment, Conservation and Parks;
- d) The lands are located within the Algonquin Road watershed. Stormwater management must follow stormwater management approach as per direction of the General Manager of Growth and Infrastructure;
- e) The drainage catchment boundary including external tributary catchments and their respective area must be clearly indicated with any stormwater management plan;

- f) The final grading of the lands shall be such that the surface water originating on or tributary to the said lands, including roof water from buildings and surface water from paved areas, will be discharged in a manner satisfactory to the General Manager of Growth and Infrastructure;
  - g) Minor storm drainage from the plan of subdivision shall not be drained overland onto adjacent properties;
  - h) Existing drainage patterns on adjacent properties shall not be altered unless explicit permission is granted; and,
  - i) The owner shall be responsible for the design and construction of any required stormwater management works to the satisfaction of the General Manager of Growth and Infrastructure as part of the servicing plans for the subdivision and the owner shall dedicate the lands for stormwater management works as a condition of this development.”;
10. By adding a new Condition #51 as follows:
- “51. That the owner prepare and submit a Stormwater Management Brief that details compliance with the Algonquin Road Watershed Stormwater Management Class Environmental Assessment Study to the satisfaction of the Nickel District Conservation Authority.”; and,
11. By adding a new Condition #52 as follows:
- “52. The wetland(s) within the subdivision must be mapped by a qualified professional having OWES-certification with experience in wetland mapping. The wetlands must be mapped within the location of the proposed subdivision and also within 30 metres of the proposed subdivision. All wetland mapping must include the wetland boundary, a 12 metre setback and a 30 metre setback to the wetland(s). All development within the subdivision must comply with the Conservation Sudbury Wetland Guidelines and development within 30 metres of the wetland will require a permit from Conservation Sudbury.”

## **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 \$768,000 in taxation revenue, based on the assumption of 107 single dwelling detached units based on an estimated assessed value of \$500,000 at the 2022 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 \$2,370,000 based on assumption of 107 single family detached 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 approval for the Mariposa Subdivision in the community of Sudbury for a period of three years until March 16, 2026. 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 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.

Staff advises that Condition #16 should be amended to reflect a new lapsing date of March 16, 2026. Building Services is requesting that Condition #20 be updated to reflect provincial regulatory requirements for on-site and excess soil management. Conservation Sudbury is requesting the addition of a new standard condition for all draft approved plans of subdivisions where wetland(s) are present. Conservation Sudbury is also requesting that two existing conditions pertaining to erosion and sediment control be amended for clarity purposes and also that a storm-water management brief be provided demonstrating compliance with the applicable Algonquin Road Watershed Stormwater Management Class Environmental Assessment Study. The City's Drainage Section is requesting that the storm-water management condition be amended to reflect current standard practices for subdivisions. Other administrative and housekeeping changes where necessary are also 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 three years until March 16, 2026. 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:**

Primo Titton Construction Ltd.

**Location:**

Part of Parcel 10382, Lot 4, Concession 5, Township of Broder (Mariposa Subdivision, Sudbury)

**Application:**

To extend the draft approval conditions for a plan of subdivision (ie. Mariposa) which were approved initially by Council on March 16, 1989. The draft approval was last extended by Planning Committee on June 8, 2020, which was then ratified by Council on June 23, 2020. There was a recent administrative extension issued by the Director of Planning Services having the effect of establishing a new lapsing date of July 16, 2023, in order to allow for agencies and departments to complete their review of the request to extend the draft approval of the Mariposa Subdivision.

**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 16, 2026.

**Background:**

The City received a written request via email and letter from Primo Titton Construction Ltd. on January 13, 2023, to extend the draft approval on a plan of subdivision for a period of three years on those lands described as Part of Parcel 10382, Lot 4, Concession 5, Township of Broder. The applicable processing fee was not included along with the initial draft approval extension request and was later provided to the City on February 2, 2023.

The draft approved plan of subdivision was initially approved by Council for a total of 107 urban residential lots to the south of Algonquin Road and to the north of Highway #17 in the community of Sudbury. The lots are to be accessed from Maurice Street to the north-east, which then provides access to Algonquin Road. Staff notes that no phases of the draft approved plan of subdivision have been registered since the initial draft approval granted by Council on March 16, 1989.

The draft approval was set to expire again on March 16, 2023. It is noted however that a temporary administrative extension to the draft approval was granted until July 16, 2023, in order to have the extension request considered by Planning Committee and a decision ratified by Council. Staff has circulated the request to relevant agencies and departments and is now bringing forward this report to extend the draft approval to March 16, 2026.

**Departmental & Agency Circulation:**

Active Transportation, Fire Services, Operations, Roads, Transportation and Innovation, and Transit Services have each reviewed the request to extend the draft approval and have advised that they have no 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 provide a letter which is attached to this report for the owner's information and reference purposes.

Conservation Sudbury have advised that there are wetlands on the subject lands that must be mapped by a

qualified professional (ie. OWES-certified with experience in wetland mapping). The owner is advised that the applicable [Direction on the Administration of Ontario Regulation 156/06 – Wetlands Guidelines](#) establishes development guidelines around wetlands. The wetlands must be mapped within the draft plan of subdivision and within 30 m (90.43 ft) of the draft approved plan of subdivision. All mapping must include the wetland boundary along with a 12 m (39.37 ft) setback and a 30 m (90.43 ft) setback. Conservation Sudbury advises the development of the subject lands must comply with applicable wetlands guidelines and any development within 30 m (98.43 ft) of the wetland(s) will require a permit from Conservation Sudbury. Conservation Sudbury is also requesting a new condition requiring that the owner prepare a Stormwater Management Brief that details compliance with the Algonquin Road Watershed Stormwater Management Class Environmental Assessment Study to the satisfaction of the Nickel District Conservation Authority. Conservation Sudbury has also noted that Conditions #27 and #45 are repetitive and should be collapsed into one comprehensive draft approval condition addressing requirements for erosion and sediment control within the subdivision. Conservation Sudbury is requesting that the above be reflected in the draft approval conditions.

Development Engineering notes that no construction drawings have been submitted in order to proceed with any development on the lands since the original draft approval was granted by Council on March 16, 1989. It is noted that a front ending agreement was registered in 2016 against the lands with respect to the construction of the Algonquin Water Booster Station. Development Engineering has further noted that Condition #26 should be amended to require that streets within the subdivision once development proceeds are to have sidewalks constructed to the applicable municipal standards.

The City's Drainage Section notes that existing Condition #49 should be updated to reflect in detail the applicable and current storm-water management requirements for the Mariposa Subdivision.

Strategic and Environmental Planning has noted and would caution the owner that it is their responsibility to ensure that they are in compliance with the [Endangered Species Act](#).

## **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.

Section 51(33.1) of the Planning Act also now allows municipalities to reinstate draft plans of subdivision that have lapsed within the past five years without a new subdivision application being required. This exemption does not apply where the approval has previously been deemed not to lapse using this provision of the Planning Act or if there is an agreement entered into for the sale of the land under which the draft approved plan of subdivision is applicable. If the draft plan of subdivision is deemed not to have lapsed, the municipality must specify a time when the reinstated draft approval lapses.

In practice, staff would note that 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 at the time of writing this report, there have been no phases or lots registered within the Mariposa Subdivision. Staff therefore advises that all 107 lots that were originally draft approved by Council remain unregistered within the draft approved Mariposa Subdivision.

The owner did not provide any additional information with respect to their development intentions (eg. timing of construction) when they most recently informed staff that they would be pursuing a three-year extension to their draft approval for the Mariposa Subdivision.

### **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 cautioned however 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 March 16, 2026, as the revised date on which the draft plan approval for the Mariposa Subdivision shall lapse.

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

Condition #26 should be amended to note that all roads beyond those identified specifically in the existing condition shall be constructed to applicable municipal standards.

Conditions #27 and #45 are repetitive in nature and should be collapsed into one comprehensive condition outlining erosion and sediment control measures that will be required during construction of the Mariposa Subdivision.

Condition #49 should be updated to reflect currently applicable storm-water management requirements for the Mariposa Subdivision.

Condition #51 would form a new condition requiring that the owner provide a Stormwater Management Brief that details compliance with the Algonquin Road Watershed Stormwater Management Class Environmental Assessment Study.

Condition #52 would form a new condition addressing wetland(s) mapping requirements that are applicable under Conservation Sudbury's Wetlands Guidelines.

Conditions #11, #14 and #28 should be amended for administrative and housekeeping purposes.

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 indexed amount of \$3,338.75. 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 draft approved plan of subdivision (ie. Mariposa Subdivision) and have no concerns with respect 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 approved plan of subdivision.

Appropriate changes where it has been 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 Mariposa Subdivision for a period of three years until March 16, 2026, be approved as outlined in the Resolution section of this report.