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Municipality of East Ferris
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MUNICIPALITY OF EAST FERRIS

SEP 12 2024

RECEIVED

September 12, 2024
SB-2018-02 (5264)

Delivered via email to: greg.kirton@eastferris.ca

Re: Draft Plan of Subdivision – One Mile Road, Municipality of East Ferris,
Part of Lots 11, 12, 13 and 14, Concession 15, District of Nipissing

Please accept this application for a Draft Plan of Subdivision for Phase II of the One Mile Road Subdivision in East Ferris. This application is in lieu of our request to deem the Draft Approval of the One Mile Road Subdivision to not have lapsed, as per Section 51(33.1) of the *Planning Act*.

The Draft Plan of Subdivision of Part of Lots 11, 12, 13 and 14, Concession 15 on One Mile Road in the District of Nipissing was originally approved by the Council of the Municipality of East Ferris in May of 2019. Council's decision was appealed to the Local Planning Appeal Tribunal (LPAT) shortly after the approval. The appeal hearing and decision was delayed multiple times due to the COVID pandemic, in fact, the LPAT did not issue their decision until April 23, 2021 (Case No. PL190278). The Tribunal ordered that the Appeal was dismissed and the Draft Approval decision by East Ferris Council was upheld. A three (3) year lapsing provision was put in the original decision, so as per Section 51(32) of the *Planning Act*, the lapsing date was April 23, 2024, which has now passed.

Section 51(33) of the *Planning Act* does not permit an extension to an approval that has already lapsed. However, Section 51(33.1) of the *Planning Act* permits the Municipality to deem the approval to have not lapsed at their discretion. The relevant sections of the *Planning Act* include:

(33.1) If an approval of a plan of subdivision lapses before an extension is given, the approval authority may deem the approval not to have lapsed unless,

- a) five or more years have passed since the approval lapsed;
- b) the approval has previously been deemed not to have lapsed under this subsection; or

- c) *an agreement had been entered into for the sale of the land by a description in accordance with the draft approved plan of subdivision. 2022, c. 12, Sched. 5. s. 9 (2).*

Our request to deem the draft approval to not have lapsed does not meet these tests under Section 51 (33.1). Although the first two tests have been met (i.e. it has been less than 6 months since the Draft Approval has lapsed; and we have not previously requested, or have been granted, an extension to the Draft Approval), we cannot meet the final test.

Phase 1 of the One Mile Road subdivision received final approval and was registered in March of 2023 and a number of lots have either been sold or are in the process of being sold. Blocks identified as Blocks 26-29 on the Draft Plan of Subdivision (attached) have also been transferred, therefore Section 51(33.1)(c) is not met. Section 33.2 expands on this a little further:

(33.2) Before an approval is deemed not to have lapsed under subsection (33.1), the owner of the land proposed to be subdivided shall provide the approval authority with an affidavit or sworn declaration certifying that no agreement had been entered into for the sale of any land by a description in accordance with the draft approved plan of subdivision. 2022, c.12, Sched. 5.s9 (2).

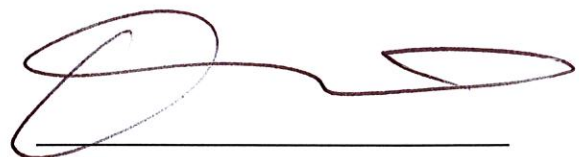
It is therefore necessary to re-apply for Draft Approval for the remainder of the lands that formed part of the original approval, namely: Lots 7 to 18 on the Draft Plan of Subdivision attached. There has been no change to the size or configuration of these proposed lots, and there has been no change in terms of Provincial or Municipal policy that would affect this new application. The original application for a Draft Plan of Subdivision went through two (2) full public processes – approval of the Official Plan and Zoning By-law amendments and Draft Plan of Subdivision in April of 2019, and the subsequent Appeal Hearing before the Local Planning Appeal Tribunal (LPAT). Under the Planning Act there is no requirement for circulation or a public meeting process for Council to consider Draft Approval, as the Official Plan designation and Zoning are in place.

Therefore, in summary, we are formally and respectfully requesting that the Municipality of East Ferris Council:

1. Grant Draft Approval for Phase II of the One Mile Road for a further five (5) years; and
2. That Council waive the \$2,000 fee as it was previously collected for this application.

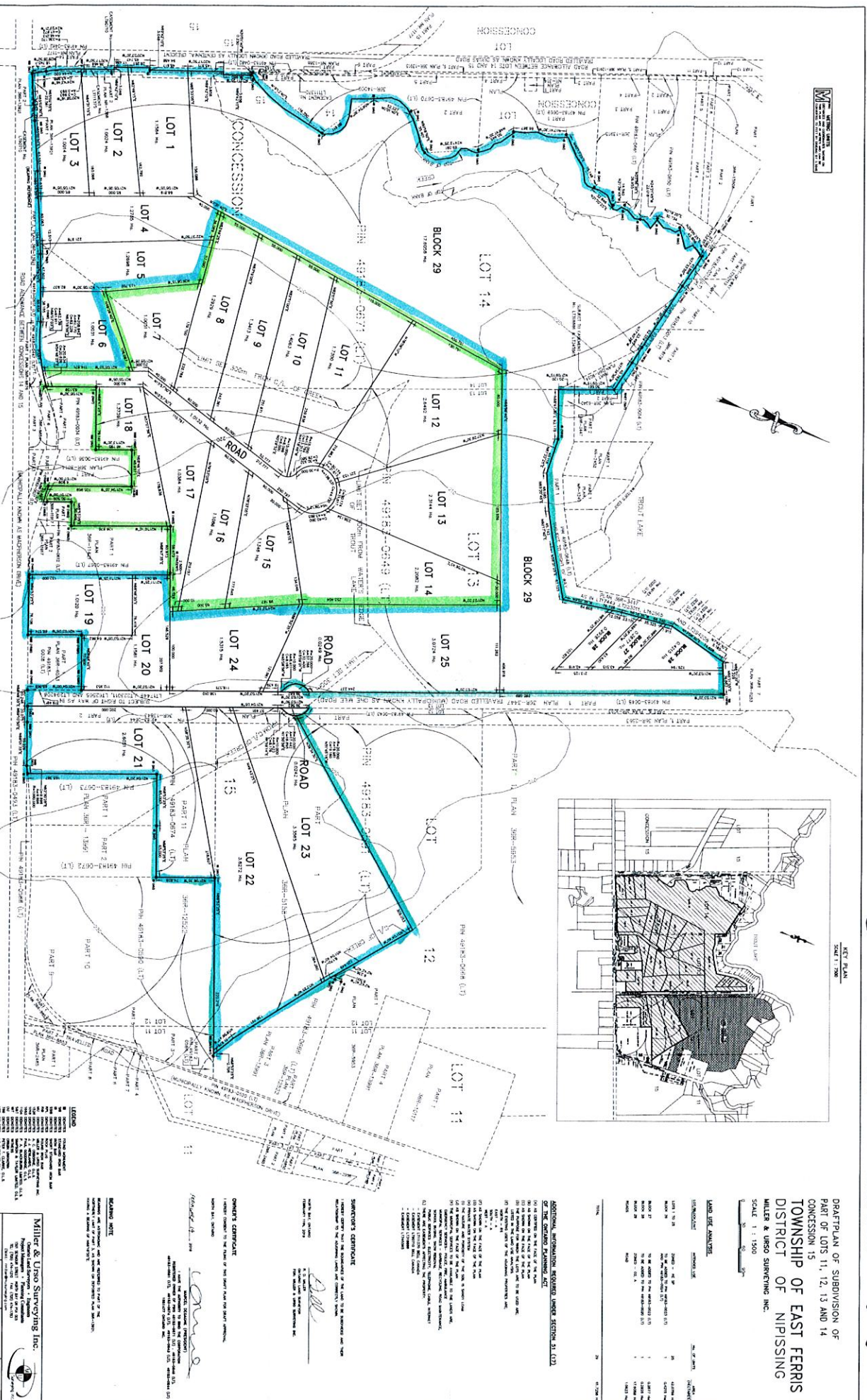
There have been no changes of any kind from the original draft approval that would necessitate another public process. Council has done its full due diligence on the approval of this subdivision and has had its approval upheld via a full appeal process at the LPAT. We have attached the revised Conditions of Draft Approval for your consideration.

Thank you.


Marcel Degagne, 1851477 Ontario Inc.
Dan Degagne, 1851477 Ontario Inc.

ORIGINAL DRAFT APPROVAL (2019)
 PHASE 1- NOW REGISTERED AS SEM-717 MARCH 2023
 LANDS WHERE DRAFT APPROVAL HAS Lapsed
 PHASE 2- SUBJECT OF CURRENT DRAFT APPROVAL APP

SCHEDULE A



PROPOSED CONDITIONS OF DRAFT APPROVAL

Municipality of East Ferris - SB-2018-02

File#5264: One Mile Road Subdivision, Phase 2

- 1) That confirmation is provided that all taxes are paid up to date;
- 2) That this approval expires five (5) years from the from the date of approval by Council.
- 3) This draft approval applies to the Plan of Subdivision prepared by Miller & Urso Surveying Inc., dated March 27th, 2019; as shown on Schedule 'A' and identified on Schedule 'A' as 'Phase 2'.
- 4) That prior to the signing of the final Plan of Subdivision by the Municipality, the proposed subdivision conforms to the Zoning By-law or with respect to any zoning conditions or changes related to this application.
- 5) That the owner agrees in writing, by way of entering into an agreement, to satisfy all requirements, financial and otherwise, of the Municipality of East Ferris concerning provision of roads, installation of services, drainage, and any other aspect of the development proposal.
- 6) That such easements as may be required for utility or drainage purposes shall be granted to the appropriate authority.
- 7) That the Subdivision Agreement between the owner and the Municipality be registered by the Municipality against the lands to which it applies once the Plan of Subdivision has been registered prior to any encumbrances.

Notes

- 1) That the owner is responsible to obtain any required permits from the North Bay-Mattawa Conservation Authority (NBMCA) prior to the issuance of building permits; and
- 2) That the owner is responsible to obtain any required permits from the Ministry of Natural Resources and Forestry (MNR) and follow the legal requirements of the Endangered Species Act, 2007.