



City of North Bay Report to Council

Report No: CSBU 2021-26

Date: May 4, 2021

Originator: Peter Carello

Business Unit:

Community Services

Department:

Planning & Building Department

Subject: Supplemental Report- Proposed Zoning By-law Amendment and Draft Plan of Subdivision by Antech Design & Engineering on behalf of New Era Homes Limited and Millford Development Limited – 719 Ski Club Rd.

Closed Session: yes ☐ no ☒

Recommendation

1. That the proposed Zoning By-law Amendment by Antech Design & Engineering on behalf of New Era Homes Limited and Millford Development Limited – Ski Club Rd. to rezone portions of two properties legally described in Appendix A to Report to Council Number CSBU 2021-26 from a “Residential First Density (R1)” zone and a “Residential Holding (RH)” zone to a “Residential Third Density (R3)” zone be approved, and
2. That the proposed Plan of Subdivision (13 Lots, Subdivision File No. 48T-20101) by Antech Design & Engineering on behalf of New Era Homes Limited and Millford Development Limited in the City of North Bay for lands described in Appendix A to Report to Council Number CSBU 2021-26, shown as on Schedule “B” attached hereto, be given Draft Approval subject to the conditions in Appendix B to Report to Council Number CSBU 2021-26 prepared by Peter Carello dated May 4, 2021.

Background

Antech Design & Engineering on behalf of New Era Homes Limited and Millford Development Limited has submitted an application to amend Zoning By-law 2015-30 and for a Draft Plan Subdivision for both the easterly and westerly lot, as shown on Schedule A attached hereto.

Date: May 4, 2021

Report Number: CSBU 2021-26

Page 1

If approved, the subject lands would be rezoned from “Residential First Density (R1)” and “Residential Holding (RH)” zones to a “Residential Third Density (R3)” zone. The subject applications would also establish a Draft Plan of Subdivision, as shown on Schedule “B” attached hereto, in order to permit the creation of thirteen (13) residential lots (Lots 1-13).

Planning Staff reviewed and processed these applications as per the City’s standard process. This culminated in the preparation of a Planning Report recommending approval of the application through [Report to Council CSBU 2021-13](#).

The Statutory Public Meeting held under the Planning Act occurred on March 29, 2021. Several members of the public made presentations before City Council and asked questions about certain aspects of the proposed Zoning By-law Amendment and Draft Plan of Subdivision. The matter remained on the Committee for further discussion and information.

The following analysis is in response to the questions and comments that were brought forward by both City Council and members of the public during the public meeting held.

Environment Impact Study/Species at Risk

Several members of the public expressed concerns about the potential for Species At Risk (SAR) and their habitat possibly being located either on the subject lands or on neighboring properties. Some of the specific concerns included; the presence of Blanding’s Turtles in the wetlands to the south of the subject lands and fish habitat within the small headwater tributary of Chippewa Creek located adjacent to the westerly portion of the subject lands.

Through their correspondence to the City, the North Bay Mattawa Conservation Authority (NBMCA) had previously raised the possibility of SAR being present in the area. Given this, the NBMCA stated that an Environmental Impact Study (EIS) should be completed prior to development. Planning Staff agreed with this comment and have included a Condition of Draft Approval (#21) that states:

“That the owner acknowledges that the property is in an area where there are environmental considerations and Species at Risk may be present. The owner agrees to engage the services of a third party professional to complete an Environmental Impact Study that shall include a Species at Risk Assessment and that any recommendations from the study shall be incorporated into the final Subdivision site design.”

As referenced within Condition of Draft Approval (#21) above, the findings from the Environmental Impact Study will determine the specific mitigation measures. The above clause obligates the owner to incorporate the Environmental Impact Study’s conclusions into the final design of the subdivision.

It should be noted that the responsibility for matters pertaining to Species at Risk rests with the Provincial Government (and more specifically, the Ministry of Environment, Conservation and Parks). While the City of North Bay takes a proactive role in facilitating development that is compliant with SAR legislation, the municipal government does not have the jurisdiction or the expertise to administer or enforce SAR policy.

Tree Cutting

The property owner cut a number of trees in 2020. The majority of these trees were on the neighbouring property (the original Angela Court subdivision), though some were on the lands subject to these applications as well as a City-owned road allowance. Furthermore, some of the removed trees were stacked in a ravine. The owner stated that these trees were placed in that location to allow the owners' equipment to travel throughout their property.

Several individuals expressed concerns with the removal of these trees. The concerns centred mostly on the effect on the watercourse and the potential for flooding, the effect on migratory birds and the aesthetic effect of the removal of the trees.

The City of North Bay does not have a by-law that regulates the removal of trees. The owner did not have the right to remove the trees in the City owned road allowance. However, this land is outside the scope of the applications and is therefore not a consideration in the evaluation of the proposed Zoning By-law amendment or the Draft Plan of Subdivision application.

Planning staff and the Conservation Authority attended the property to determine if the trees in the ravine posed a flooding threat to properties in the area. It was determined that the trees in the ravine do not pose a threat. However, the Conservation Authority has requested that these trees be removed in 2021; the owner has agreed to do so.

Should the proposed Draft Plan of Subdivision be approved, no tree removal would be permitted on the subject lands prior to final approval, except in the location of the road allowance. Condition #4 of the Conditions of Approval (Appendix B) confers this obligation onto the owner.

Previous Angela Court Approval

One member of the public felt that the previous Angela Court approval should be reopened and reconsidered by City Council. They felt that the current applications changed the nature of this historical approval and that it should be reconsidered.

The Angela Court subdivision is a registered plan of subdivision. There is no mechanism to reopen the approval process related to this Plan of Subdivision.

It was also suggested at the Public Meeting that perhaps a part of staff's reasoning for recommending the current development was that it would rectify a previous mistake on the original Angela Court approval.

While the initial report recognizes the benefit that the proposed applications would offer the existing subdivision, the City has an obligation to review any and all applications made under the Planning Act on their own merits. The benefit the proposed applications would have on the initial approval is a secondary benefit. The recommendation contained within the initial Planning Report is reflective of staff's opinion of the proposed applications compatibility with applicable policy documents.

Land Use Compatibility/Zoning

One member of the public expressed that the westerly lot should be zoned “Residential First Density (R1)” instead of the “Residential Third Density (R3)” that is proposed because duplexes and semi-detached forms of housing do not fit or positively serve the already existing community due to the fact that the area is predominantly comprised of single-detached homes.

The R1 zone permits single detached dwellings; the R3 zone permits single detached dwellings, semi-detached dwellings and duplexes. Both are forms of low density dwelling.

The Provincial Policy Statement (PPS, 2020) recommends and supports the appropriate range and mix of housing options and densities. There are a fair number of policies advancing this position.

In staff’s opinion, the proposed R3 zone would be compatible with surrounding land uses.

Water/Stormwater Management/Floodplain

Several members of the public expressed concerns regarding stormwater management and floodplain-related concerns, specifically, when stormwater management planning would take place and whether or not the new lots would be within a floodplain.

Regarding the timing of the stormwater management planning and the construction of facilities, the City’s standard practice is that stormwater plans are submitted and approved as part of the servicing agreement and/or subdivision agreement with the City. The stormwater management plan would be approved by Engineering staff prior to development occurring. Conditions of Draft Approval have been included that address these matters.

There were questions about whether or not the development is within a floodplain.

Staff has confirmed with the Conservation Authority that the property is not within a floodplain.

A small portion of the westerly lot is located within the *Approximate Regulated Area*, which are lands that have been identified as being of interest to the Conservation Authority. There are many reasons that a property or portions of a property could be located within the *Approximate Regulated Area*. It is not always associated with flooding hazards. For instance, properties adjacent or close to shorelines of inland lakes, rivers or streams and wetlands are often required to obtain a *Development, Interference with Wetlands and Alterations to Shorelines and Watercourses* (DIA) permit before any work can proceed.

The broad purpose of DIA permits is to regulate development in areas where the control of flooding, erosion, dynamic beaches, pollution or the conservation of lands may be affected by the development. As such, only a portion of the lots to the south and west of the subject lands will require DIA permits through the NBMCA. Condition of Draft Approval (#20) stipulates that any lands located within an area regulated by the North Bay-Mattawa Conservation Authority may be required to obtain a DIA permit. Through correspondence with the North Bay –Mattawa Conservation Authority, they have stated that a DIA permit would be required prior to development taking place.

Site Plan Control

Several members of the public asked that the property to be subject to Site Plan Control (SPCA), which is a legal agreement between the City and the property owner that outlines where all items will be located (i.e. structures, driveways, setbacks, etc.).

The City of North Bay has established when and where SPCA can be applied via the City's Zoning By-law. Section 3.50 of the Zoning By-law establishes specific zones where SPCA must be applied at the time of development. The identified zones are:

- Residential Fourth Density (R4, mobile homes)
- Residential Sixth Density (R6, medium density residential)
- All high density residential zones (RM1, RM2 and RM3)
- Rural Commercial (RC)
- Rural Marine Commercial (RMC)
- Rural Institutional (RN)
- Rural Residential Lakefront (RRL)
- All commercial zones
- All industrial zones
- All special zones.

In addition to the above, there are some specifically identified areas that are considered environmentally sensitive that are subject to SPCA. These areas of the City are mapped onto a Schedule that is attached to the Zoning By-law.

The subject property does not meet any of these above noted criteria that would require a Site Plan Control Agreement with the City. The Zoning By-law and Subdivision Agreements have proven to be effective in regulating good planning and development design for low density residential developments.

Financial/Legal Implications

None at this time.

Corporate Strategic Plan

- | | |
|--|---|
| <input type="checkbox"/> Natural North and Near | <input type="checkbox"/> Economic Prosperity |
| <input type="checkbox"/> Affordable Balanced Growth | <input checked="" type="checkbox"/> Spirited Safe Community |
| <input type="checkbox"/> Responsible and Responsive Government | |

Specific Objectives

- Facilitate the development of housing options to service the entire community, with consideration to socio-economic characteristics of the community
- Facilitate the development of housing options to service the needs of the community

Analysis and Options

Option 1

1. That the proposed Zoning By-law Amendment by Antech Design & Engineering on behalf of New Era Homes Limited and Millford Development Limited – Ski Club Rd. to rezone portions of two properties legally described in Appendix A to Report to Council Number CSBU 2021-26 from a “Residential First Density (R1)” zone and a “Residential Holding (RH)” zone to a “Residential Third Density (R3)” zone be approved, and
2. That the proposed Plan of Subdivision (13 Lots, Subdivision File No. 48T-20101) by Antech Design & Engineering on behalf of New Era Homes Limited and Millford Development Limited in the City of North Bay for lands described in Appendix A to Report to Council Number CSBU 2021-26, shown as on Schedule “B” attached hereto, be given Draft Approval subject to the conditions in Appendix B to Report to Council Number CSBU 2021-26 prepared by Peter Carello dated May 4, 2021.

Option 2

Do not approve the proposed Zoning By-law Amendment and Draft Plan of Subdivision.

This option is not recommended. For the reasons outlined in this report and Report to Council 2021-13, it is my professional opinion that the proposed Zoning By-law Amendment and Plan of Subdivision are in conformity with the Official Plan and the Growth Plan for Northern Ontario (GPNO 2011) and the end use is consistent with the Provincial Policy Statement (PPS 2020) and represent good planning.

Recommended Option

Option 1 is the recommended option

1. That the proposed Zoning By-law Amendment by Antech Design & Engineering on behalf of New Era Homes Limited and Millford Development Limited – Ski Club Rd. to rezone portions of two properties legally described in Appendix A to Report to Council Number CSBU 2021-26 from a “Residential First Density (R1)” zone and a “Residential Holding (RH)” zone to a “Residential Third Density (R3)” zone be approved, and
2. That the proposed Plan of Subdivision (13 Lots, Subdivision File No. 48T-20101) by Antech Design & Engineering on behalf of New Era Homes Limited and Millford Development Limited in the City of North Bay for lands described in Appendix A to Report to Council Number CSBU 2021-26, shown as on Schedule “B” attached hereto, be given Draft Approval subject to the conditions in Appendix B to Report to Council Number CSBU 2021-26 prepared by Peter Carello dated May 4, 2021.

Respectfully submitted,

Name: Peter Carello, MCIP RPP
Title: Senior Planner – Current Operations

I concur with this report and recommendation.

Name: Beverley Hillier, MCIP RPP
Title: Manager, Planning & Building Services

Name: Ian Kilgour, MCIP RPP
Title: Director of Community Development and Growth

Name: David Euler, P.Eng
Title: Chief Administrative Officer

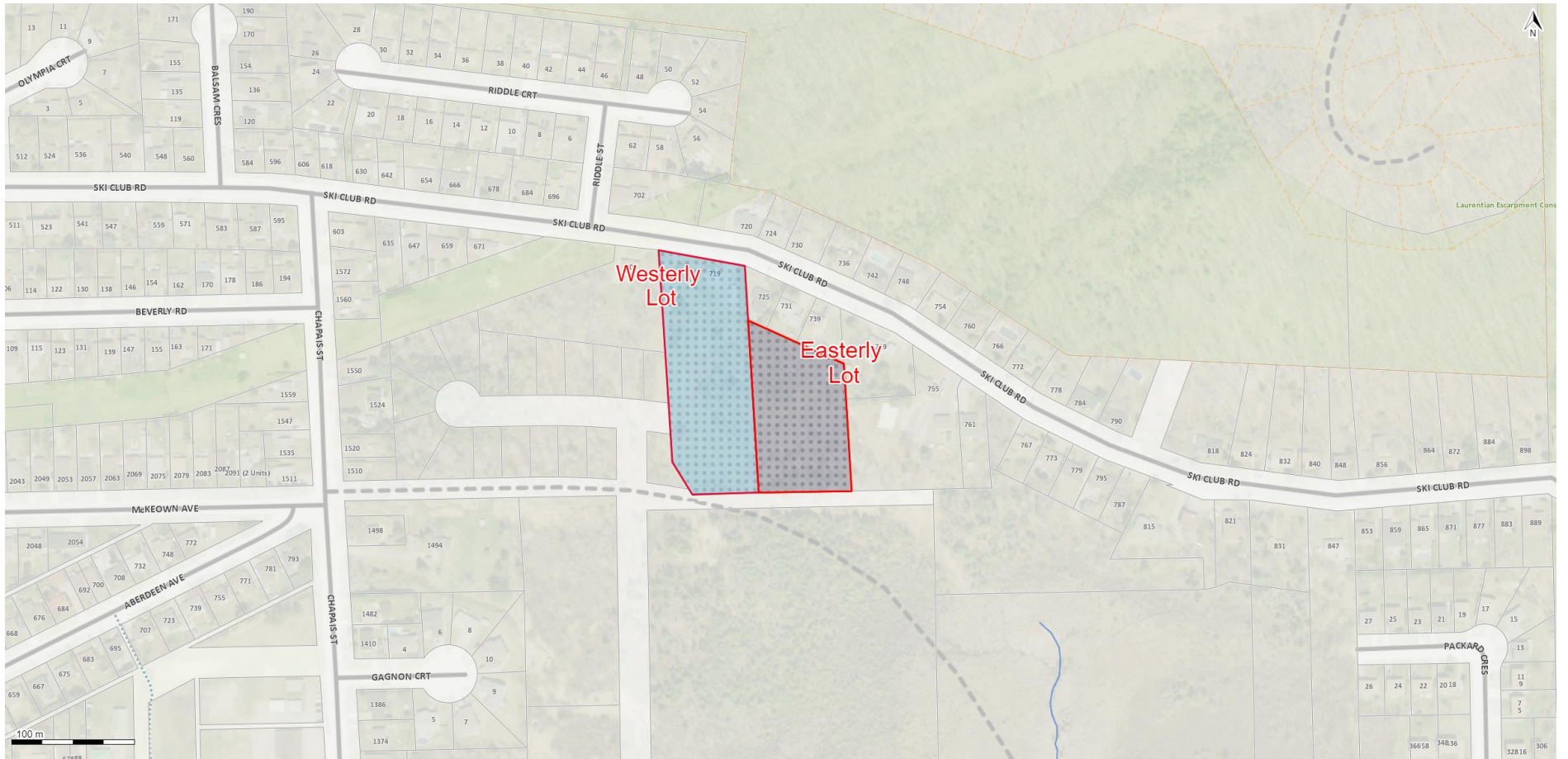
Personnel designated for continuance:

Name: Peter Carello

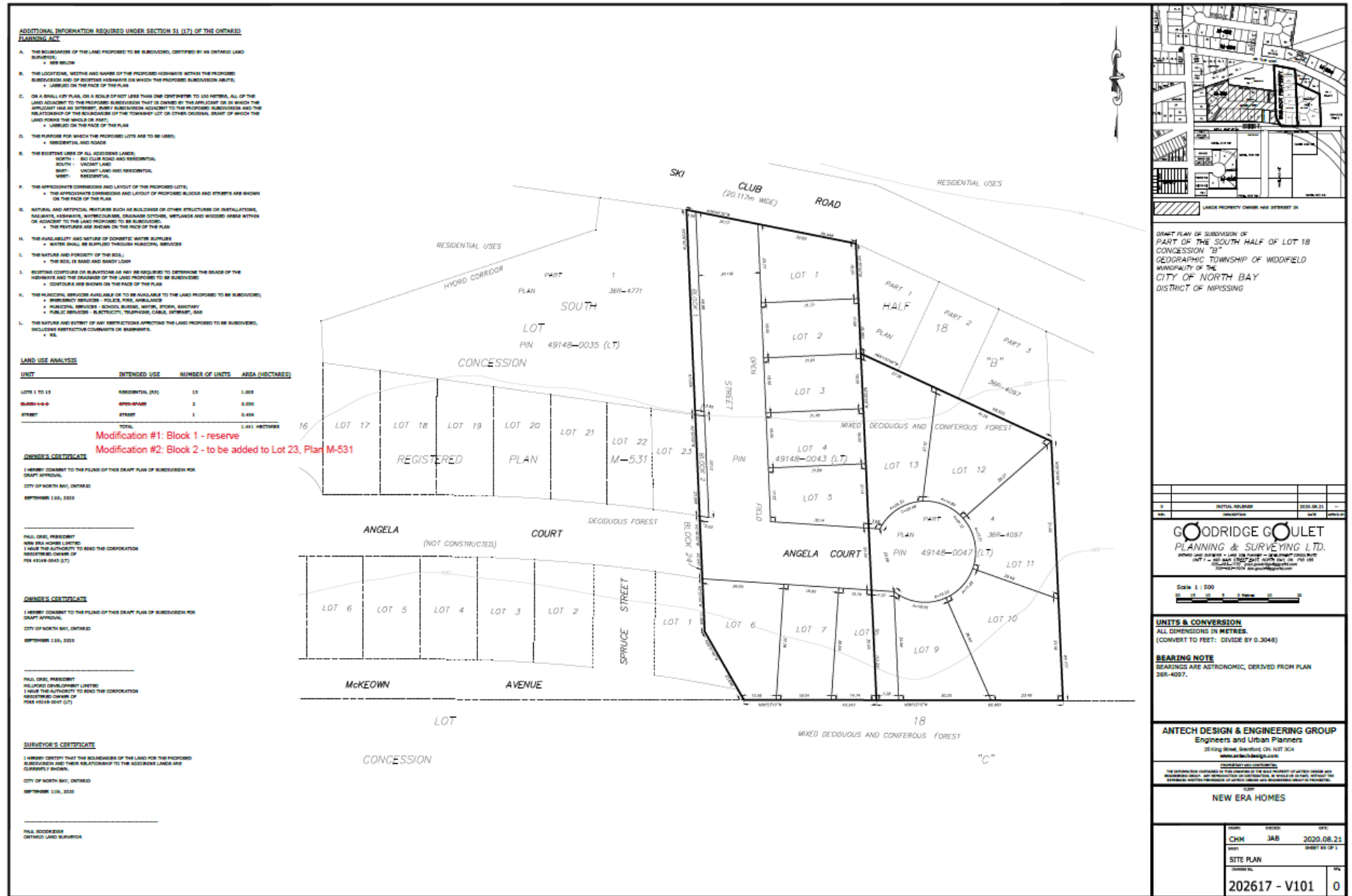
Title: Senior Planner – Current Operations

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Schedule A



Schedule B



Appendix A

PIN 49148-0043 (LT)

PCL 17450 SEC WF; PT LT 18 CON B WIDDIFIELD AS IN LT281104; NORTH BAY ;
DISTRICT OF NIPISSING

PIN 49148-0047 (LT)

PCL 9779 SEC WF; PT LT 18 CON B WIDDIFIELD PT 1 NR1855 EXCEPT PARTS
1, 2 & 3, 36R4097; NORTH BAY ; DISTRICT OF NIPISSING

Appendix B – Conditions of Approval

Subdivision File 48T-20101

- 1) That this approval expires five (5) years from the date of approval. If there is an appeal to the Local Planning Appeal Tribunal under section 51 (39) of the *Planning Act*, the five (5) year expiration period does not begin until the date of the order of the Tribunal issued in respect of the appeal or from the date of a notice issued by the Tribunal under section 52(51) of the *Planning Act*.
- 2) This Draft Approval applies to the Plan of Subdivision prepared by Paul Goodridge as shown on the attached Schedule C dated September 11, 2020, as modified by the City, which is comprised of thirteen (13) residential lots, two (2) blocks and one (1) street.
- 3) That all streets on the Plan of Subdivision be named to the satisfaction of the City of North Bay.
- 4) That no removal of trees be undertaken prior to final approval except: within the proposed road allowance; for survey purposes around the boundary of the Draft Approved Lands and for exploratory soils investigations for the purpose of estimating servicing costs.
- 5) That prior to any above ground works or below ground works occurring on the subject property the Owner is required to enter into a Pre-Servicing Agreement with the City of North Bay, to the satisfaction of the City Engineer.
- 6) That the road allowance included in this Draft Plan shall be dedicated as public highways.
- 7) That any dead ends and open sides of road allowances created by this Draft Plan shall be terminated in reserves to be conveyed to and held in trust by the Municipality.
- 8) That prior to signing the Final Plan by the Municipality, the proposed subdivision conform to the Zoning By-law in effect for the Municipality.
- 9) That the owner agrees in writing to satisfy all requirements, financial and otherwise of the City of North Bay concerning provision of roads, installation of services, and drainage.
- 10) That such easements as may be required for utility or drainage purposes shall be granted to the appropriate authority.
- 11) That the Subdivision Agreement between the owner and the Municipality contain wording acceptable to the City Engineer to ensure that:
 - a) the owner agrees that a Stormwater Management Plan shall be undertaken by a professional engineer with respect to the Subdivision describing best management practices and appropriate measures to maintain quality storm runoff, both during and after construction; and
 - b) The Stormwater Management report shall also address any slope stability or any hydrogeological issues associated with this development

- c) Any recommendations forthcoming from the Stormwater Management Study shall be incorporated into the final Subdivision site design and implemented to the ongoing satisfaction of, and at no expense to, the Municipality.
- 12) That the Owner provides full engineering drawings showing the provision of full municipal services including storm, sanitary sewers, water and full curb section, including sidewalks if required, prepared by a qualified engineer, to the satisfaction of, and at no expense to the City of North Bay.
- 13) That the Owner agrees to engage the services of a third party professional engineer to evaluate the traffic on Ski Club Road and to design the intersection of the subdivision at Ski Club Road and that the recommendations of such a study be incorporated into the final Subdivision site design.
- 14) That the owner agrees to convey up to 5% of the land included in the plan or cash-in-lieu to the Municipality for park or other public recreational purposes.
- 15) That the owner agrees to provide locations for centralized mail delivery acceptable to Canada Post Corporation or other alternative systems as may be normally required by Canada Post.
- 16) That the owner agrees to include a notice registered on title informing future purchasers of lots within the subdivision that the roads within the subdivision may be used for future transit routes.
- 17) That the Subdivision Agreement between the owner and the Municipality be registered by the Municipality against lands to which it applies once the Plan of Subdivision has been registered prior to any encumbrances.
- 18) The subdivision agreement for the subject subdivision application shall include a statement informing the first purchaser of a lot within the subject Plan of Subdivision that prior to the issuance of a building permit, the purchaser will be required to pay Development Charges
- 19) That development charges be imposed in accordance with the current applicable Municipal Development Charges By-law.
- 20) That the owner acknowledges that a Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Permit may be required from the North Bay-Mattawa Conservation Authority. The subject lands are within an area regulated by the North Bay-Mattawa Conservation Authority under Ontario Regulation 162/90. This regulation is pursuant to Section 28 of the Conservation Authorities Act of Ontario.
- 21) That the owner acknowledges that the property is in an area where there are environmental considerations and Species at Risk may be present. The owner agrees to engage the services of a third party professional to complete an Environmental Impact Study that shall include a Species at Risk Assessment and that any recommendations from the study shall be incorporated into the final Subdivision site design.
- 22) The Owner agrees that should any conflict arise with existing Bell Canada facilities where a current and valid easement exists within the subject area, the Owner shall be responsible for the relocation of any such facilities or easements at their own cost.

- 23) That the owner/developer provide to Union the necessary easements and/or agreements required by Union Gas for the provision of gas services for this project, in a form satisfactory to Enbridge.
- 24) That Block 1 be identified as a reserve to be conveyed to and held in trust by the Municipality.
- 25) That before City Council's Final Approval is given, the Council shall be advised in writing by the City of North Bay's Engineering and Environmental Services how Conditions No. 11, 12 and 13 have been satisfied.
- 26) That before City Council's Final Approval is given, the Council shall be advised in writing by the Director of Parks, Recreation and Leisure Services how Condition No. 14 has been satisfied.
- 27) That before City Council's Final Approval is given, the Council shall be advised in writing by Canada Post Corporation how Condition No. 15 has been satisfied.
- 28) That before City Council's Final Approval is given, the Council shall be advised in writing by the North Bay-Mattawa Conservation Authority how Condition No. 20 and 21 have been satisfied.

NOTES

- 1) We suggest you make yourself aware of the following:
 - a) Section 143(1) of The Land Titles Act, R.S.O. 1980 as amended, which requires all new plans to be registered in a land titles system.
 - b) Section 143(2) allows certain exceptions.
- 2) Prior to any construction, the Owner should contact the North Bay Mattawa Conservation Authority to discuss specific concerns identified by the Conservation Authority.
- 3) Prior to any construction, the Owner/Developer should contact the Ministry of Environment, Conservation And Parks (MECP) to determine if Species at Risk and/or their habitat is present in the general vicinity of the development area.
- 4) An electrical distribution line operating below 50,000 volts might be located within the area affected by this development or abutting this development. Section 186 – Proximity – of the Regulations for Construction Projects in the *Occupational Health and Safety Act*, requires that no object be brought closer than 3 metres (10 feet) to the energized conductor. It is the proponent's responsibility to be aware, and to make all personnel on site aware, that all equipment and personnel must come no closer than the distance specified in the Act. They should also be aware that the electrical conductors can raise and lower without warning, depending on the electrical demand placed on the line. Warning signs should be posted on wood poles supporting conductors stating "*Danger – Overhead Electrical Wires*" in all locations where personnel and construction vehicles might come in close proximity to the conductors.
- 5) Private water supply and sewage disposal facilities must be approved by the Ministry of the Environment, or its agent in certain areas, in accordance with Ontario Regulations 229/74 as amended, made under the Environmental Protection Act, 1971, as amended.

- 6) We recommend you make yourself aware of applicable Federal and Provincial laws regarding construction in proximity to waterbodies.
- 7) The Developer is hereby advised that prior to commencing any work within the Plan, the Developer must confirm that sufficient wire-line communication/telecommunication infrastructure is currently available within the proposed development to provide communication/telecommunication service to the proposed development. In the event that such infrastructure is not available, the Developer is hereby advised that the Developer may be required to pay for the connection to and/or extension of the existing communication/telecommunication infrastructure. If the Developer elects not to pay for such connection to and/or extension of the existing communication/telecommunication infrastructure, the Developer shall be required to demonstrate to the municipality that sufficient alternative communication/telecommunication facilities are available within the proposed development to enable, at a minimum, the effective delivery of communication/telecommunication services for emergency management services (i.e., 911 Emergency Services).