



City of North Bay Report to Council

Report No: CSBU 2021-39

Date: July 14, 2021

Originator: Peter Carello, Senior Planner – Current Operations

Business Unit:

Department:

Community Services

Planning & Building Department

Subject: Proposed Zoning By-law Amendment by Robert Alan Burke on behalf of Michael Burke – Highway 11 North (unaddressed)

Closed Session: yes ☐ no ☒

Recommendation

1. That the proposed Zoning By-law Amendment by Robert Alan Burke on behalf of Michael Burke – Highway 11 North (unaddressed) in the City of North Bay to rezone the property from a “Rural Commercial (RC)” zone to a “Rural Special No. 23 (A Sp.23)” zone for the property legally described in Appendix A to Report to Council No. CSBU 2021-39 be approved; and
2. That the subject property be placed under Site Plan Control pursuant to Section 41 of the Planning Act, R.S.O., 1990 as amended.

Background

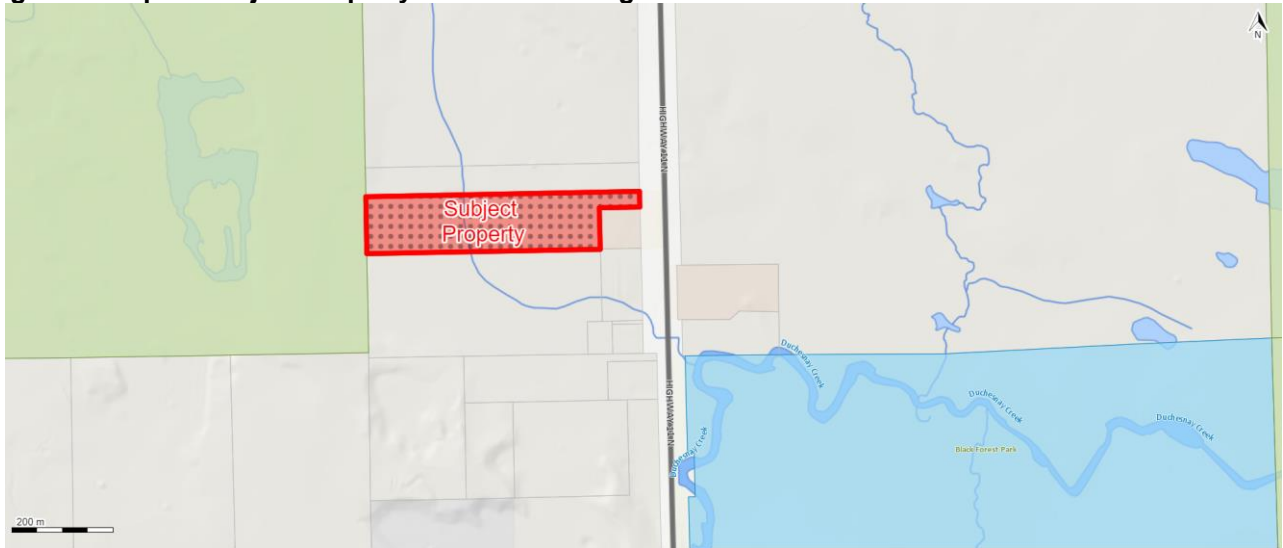
Site Information

Legal Description: See Appendix A

Site Description: The subject property is an existing lot of record on Highway 11 North. It is located near the City’s northern limits, on the west side of Highway 11N, north of Cooks Mills Road and south of Bomarc Road, as shown in Figure 1 below and on attached Schedule A.

It is designated "Rural" with an "Aggregate" overlay by the Official Plan and is zoned "Rural Commercial (RC)" under the City's Zoning By-law No. 2015-30.

Figure 1: Map of Subject Property and Surrounding Area



The property has an existing lot area of approximately 2.5 hectares and lot frontage of approximately 22 metres on Highway 11 North. The property is currently vacant.

Surrounding Land Uses: The surrounding area is mixed use. There are several large aggregate pits in the area, including one immediately to the north. There are a number of rural residential properties. There are some rural commercial uses, including a transportation depot. The City's Black Forest Park is a short distance to the south.

Proposal

Robert Alan Burke on behalf of Michael Burke has submitted a Zoning By-law amendment application to rezone an unaddressed property located on Highway 11N from a "Rural Commercial (RC)" zone to a "Rural Special No. 23 (A Sp.23)" zone.

The purpose of the application is to allow the development of the property as a single detached dwelling. The Special Zone request would recognize the existing frontage of 22 metres.

Summary

The applicant is proposing to rezone the property from a "Rural Commercial (RC)" zone to a "Rural Special No. 23 (A Sp.23)" zone.

The Provincial Policy Statement (PPS 2020) and the Official Plan (OP) each contain policies that seek to limit the size and scale of development in the rural area. The "Rural Commercial (RC)" zone of the City's Zoning By-law has regulations that generally limit the scope of development to ensure that RC zones are appropriate and consistent with the rural character of the City's more outlying areas. However, the regulations of the "Rural (A)" zone are generally more limiting than those of the RC zone. In this regard, the proposed Zoning By-law Amendment would bring the property into closer conformity with these particular policies of the Provincial Policy Statement and the Official Plan.

The PPS 2020 and OP also contain policies that support development that create economic activity and job creation. The RC lands have not and do not provide employment. The feasibility and opportunity to develop these lands for RC purposes demonstrates it is not a viable site for this purpose.

Considering the above, it is staff's opinion that the property is better suited for residential purposes than commercial uses.

The PPS 2020 and the OP each contain policies protecting the development of aggregate operations. Approximately 40% of the property has an aggregate designation towards the rear portion of the lot.

The Official Plan seeks to balance the need to protect aggregate and allow for its extraction with the need to allow individual property owners to develop their lands. The subject property is an existing lot of record. The proposed rezoning alters the type of use that can take place from commercial to residential. This does not preclude the extraction of aggregate any more than the current RC zoning.

It is my professional opinion that the proposed Zoning By-law Amendment is 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).

Provincial Policy

Growth Plan for Northern Ontario (GPNO 2011)

The Growth Plan for Northern Ontario (GPNO 2011) was introduced on March 3rd, 2011. All Planning Applications must consider this Plan as part of the evaluation process. Section 3(5)(b) of the Planning Act requires that decisions made under the Planning Act need to conform to the Provincial Plan or shall not conflict with it, as the case may be.

The GPNO 2011 is broad in scope and is aimed at shaping development in Northern Ontario over the next 25 years. It outlines strategies that deal with economic development, education, community planning, transportation/infrastructure, environment, and Aboriginal peoples. This Plan is primarily an economic development tool that encourages growth in Northern Ontario. Specific Planning related policies, including regional economic planning, the identification of strategic core areas, and targets for intensification have not yet been defined by the Province or incorporated into the Official Plan.

Section 4 of the GPNO (Communities) deals with land use planning matters. This Section speaks to creating a vision for a community's future. The City of North Bay achieves this through the implementation of the Official Plan. As discussed in greater detail later in the report, it is my opinion the proposed development conforms with the City's Official Plan.

In my professional opinion, the proposed Zoning By-law Amendment conforms with the policies and direction provided by the Growth Plan for Northern Ontario (GPNO 2011).

Provincial Policy Statement (PPS 2020)

The current Provincial Policy Statement issued by the Provincial government came into effect on May 1, 2020. This proposal has been reviewed in the context of the Provincial Policy Statement (PPS 2020).

The PPS 2020's general vision for rural lands within a municipality is to largely limit the scope of development, instead encouraging higher levels of concentration to take place in the Settlement Area. The PPS 2020 provides a list of uses that the Province fundamentally considers to be suitable for the rural area. Limited residential development is one of those uses identified. Section 1.1.5.2 of the PPS states that "*On rural lands located in municipalities, permitted uses are:...c) residential development, including lot creation, that is locally appropriate;*"

The proposed development would result in the construction of one single detached dwelling, consistent with this general vision for the Rural area.

The subject property abuts an aggregate operation and a portion of the property is designated aggregate. The PPS 2020 speaks to the protection of aggregate resources, with Section 2.5.1 stating that "*Mineral aggregate resources shall be protected for long-term use and, where provincial information is available, deposits of mineral aggregate resources shall be identified.*"

Considering the other residential uses in the area and the relatively small part of the property with an "Aggregate" overlay, staff is of the opinion that the proposed development will not impede the development of aggregate in the area. The Site Plan Control Agreement will contain a clause that indicates that Aggregate operations exist within the area. This is reviewed in further detail in the Official Plan section of this report.

Planning Services Staff are of the opinion that the end use of the proposed Zoning By-law Amendment is consistent with the Provincial Policy Statement (PPS 2020).

Official Plan

The property is currently designated "Rural" in the City of North Bay's Official Plan, with an "Aggregate" overlay.

The Official Plan also seeks to limit the scope of development within the City's Rural Area. The preamble to Part 3 of the Official Plan (Rural Area) states that *"It is the intent of this Plan to strictly control development within the rural area and ensure that land use conflicts in the rural area are minimized"*. The intention of this general vision is to direct higher levels of density into the Settlement Area, where public services are available.

The proposed "Rural Special No. 23 (A Sp.23)" zone is a less intense use than the current "Rural Commercial (RC)" zone, consistent with the above cited policy.

The Official Plan also contains policies regulating lands that are identified as having potential for aggregate extraction. The Official Plan recognizes that the locations of aggregate identified in the Official Plan might not be determinative, stating that *"The City notes that the location and quality of the identified deposits from the Ministry documentation may not be accurate and will require additional investigation and verification."*

The Official Plan's general vision for these lands is to balance the need to develop aggregate wherever it is located while still allowing private property owners to develop their lands in a manner that is compatible with the neighbourhood that they are located in. The preamble of Section 3.2 (Aggregate Extraction Designations) includes the following paragraph that summarizes the Official Plan's general vision:

The City recognizes that mineral resources are a fixed location non-renewable resource found throughout the Planning Area and that their effective management is essential. It is also recognized that a balance must be struck between the competing priorities for the protection of

the mineral resource and the need to address the other goals of the Official Plan, such as encouraging growth and prosperity in the City.

The Official Plan provides the conditions that allow development in lands designated "Aggregate". Section 3.2.8 states:

On areas identified Aggregate on Schedule 2 to this Plan, non-farm development (other than passive open space uses) shall only be permitted where it has been demonstrated to the City that:

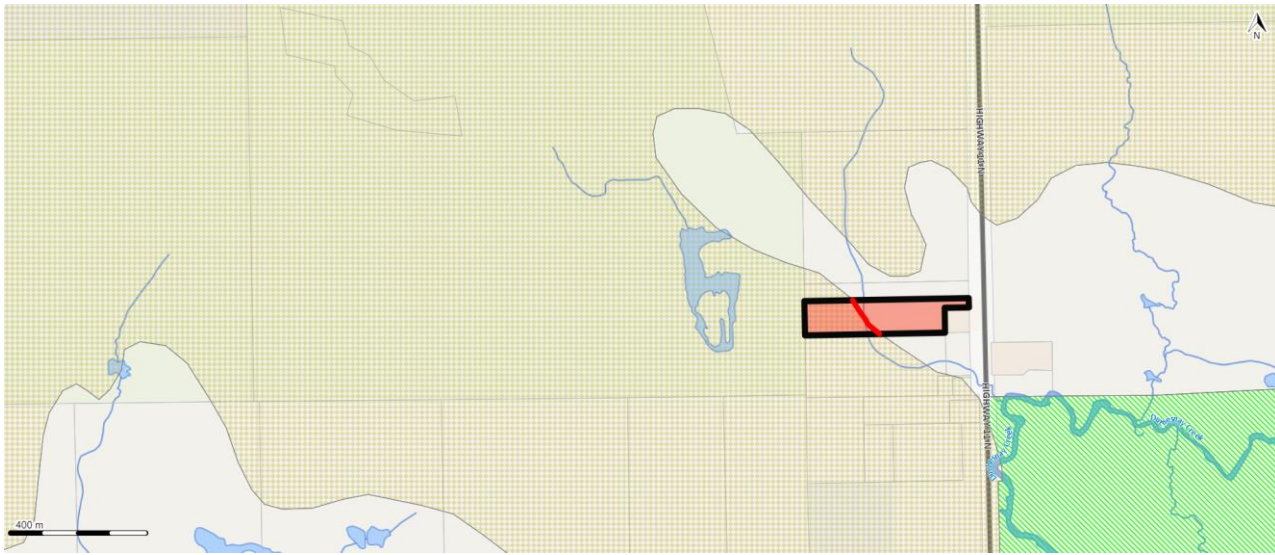
- a) the extraction of the aggregate resource is not feasible due to the quality or quantity of material or the existence of incompatible development patterns;*
- b) that the proposed land use or development serves a greater long term interest of the general public than does aggregate extraction.*
- c) the proposed land use or development would not significantly preclude or hinder future resource extraction; or*
- d) the land use in the area has reduced the feasibility of extraction.*

Section 3.2.9 states:

Non-farm development within 300 metres of areas identified as Aggregate on Schedule 2 to this Plan shall only be permitted if it has been demonstrated to the City that the proposed land use or development would not significantly preclude or hinder future aggregate extraction.

The Aggregate designation affects a portion of the property at the rear, approximately 40% of the lot area. This designation is on the fringe of a larger designation. Figure 2 below shows the limits of the Aggregate designation on the property, as well as some of the Aggregate designation in the area.

Figure 2: Official Plan Schedule B (with Aggregate Overlay)



The limits of the subject property are identified in the thick black line. The beige overlay is the Aggregate designation. The red line bisecting the property identifies the limits of the Aggregate designation on the lot.

The subject property is an existing parcel of record, which confers some development rights. It is staff's opinion that the construction of a dwelling unit would not preclude or represent an additional hindrance on the potential aggregate development in the area any more than a commercial development. The Site Plan Control Agreement will contain a clause that indicates that Aggregate operations exist within the area.

Planning Staff are of the opinion the Zoning By-law Amendment is appropriate and conforms to the City of North Bay's Official Plan.

Zoning By-Law No. 2015-30

The subject property is presently zoned "Rural Commercial (RC)". The "Rural Commercial (RC)" zone permits the following uses:

- Adult Entertainment Parlour
- Automobile Service Station
- Hotel
- Kennel
- Non-Profit Use
- Recreational Facility, Rural
- Restaurant
- Retail Store, Local
- Solar Farm

- Tourist Cabin
- Veterinary Establishments

The applicant is proposing to rezone the property to a "Rural Special No. 23 (A Sp.23)" zone. The "Rural Special No. 23 (A Sp.23)" zone would permit the following uses:

- Single Detached Dwelling
- Cemetery;
- Commercial Agricultural Uses;
- Conservation Area;
- Golf Course;
- Group Home Type 1;
- Hobby Farm (as an Accessory Use to a residential use only);
- Kennel;
- Rural Recreational Facility;
- Solar Farm; and
- Wind Farm

The Special zone regulation would recognize the existing frontage of 22 metres.

The subject property is able to meet all other regulations of the Zoning By-law.

Correspondence

This proposal was circulated to property owners within 120 metres (400 feet) of the subject lands, as well as to several municipal departments and agencies that may have an interest in the application. In terms of correspondence received from these departments and agencies, the Planning Department received the following comments:

Of the agencies that provided comments, the Engineering Department and the Building Department both offered no concerns or objections.

The North Bay Mattawa Conservation Authority provided the following comments:

The Conservation Authority has no objection to this application.

The subject property falls within the Duchesnay Creek subwatershed. A small tributary of Duchesnay Creek and associated wetland areas are found on this property. See attached sketch. These areas are regulated by the Conservation Authority as per Ontario Regulation 177/06. It is required that the property owner(s) obtain a Development, Interference

with Wetlands & Alterations to Shorelines & Watercourses (DIA) Permit from this office prior to undertaking any site alteration activities and/or any construction or renovation work on the subject the Approximate Regulated Area (ARA). Site alteration activities would include: the placement or removal of fill material of any kind, and/or the alteration of existing grades on the subject property. Based on our mapping development is achievable on this property. Pre-consultation with the Conservation Authority is highly recommended.

Prior to any development on the above-mentioned property a Sewage System Permit is required under Ontario Regulation 332/12 of the Ontario Building Code.

The Conservation Authority's comments and requirements will be implemented at the time of the Site Plan Control Agreement.

Union Gas provided the following comments:

Should the proposed site plan impact these services, it may be necessary to terminate the gas service and relocate the line according to the new property boundaries. Any Service relocation required would be at the cost of the property owner.

If there is any work (i.e. underground infrastructure rebuild or grading changes...) at our easement and on/near any of our existing facilities, please contact us as early as possible (1 month in advance at least) so we can exercise engineering assessment of your work. The purpose is to ensure the integrity of our main is maintained and protected.

Confirmation of the location of our natural gas pipeline should be made through Ontario One Call 1-800-400-2255 for locates prior to any activity.

The comments from Union Gas do not affect the proposed rezoning, but will be shared with the property owner for their implementation at the time of construction.

There were no comments received from any member of the public.

Financial/Legal Implications

There are no financial or legal obligations to the City

Corporate Strategic Plan

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

Specific Objectives

- Facilitate the development of housing options to service the needs of the community

Options Analysis

Option 1

To approve the proposed Zoning by-law Amendment

1. That the proposed Zoning By-law Amendment by Robert Alan Burke on behalf of Michael Burke – Highway 11 North (unaddressed) in the City of North Bay to rezone the property from a “Rural Commercial (RC)” zone to a “Rural Special No. 23 (A Sp.23)” zone for the property legally described in Appendix A to Report to Council No. CSBU 2021-39 be approved; and
2. That the subject property be placed under Site Plan Control pursuant to Section 41 of the Planning Act, R.S.O., 1990 as amended.

This is the recommended option, based on the reasons outlined in this report.

Option 2

To deny the proposed Zoning By-law Amendment. This option is not recommended.

Recommended Option

Option 1 is the recommended option

1. That the proposed Zoning By-law Amendment by Robert Alan Burke on behalf of Michael Burke – Highway 11 North (unaddressed) in the City of North Bay to rezone the property from a “Rural Commercial (RC)” zone to a “Rural Special No. 23 (A Sp.23)” zone for the property legally described in Appendix A to Report to Council No. CSBU 2021-39 be approved; and
2. That the subject property be placed under Site Plan Control pursuant to Section 41 of the Planning Act, R.S.O., 1990 as amended.

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

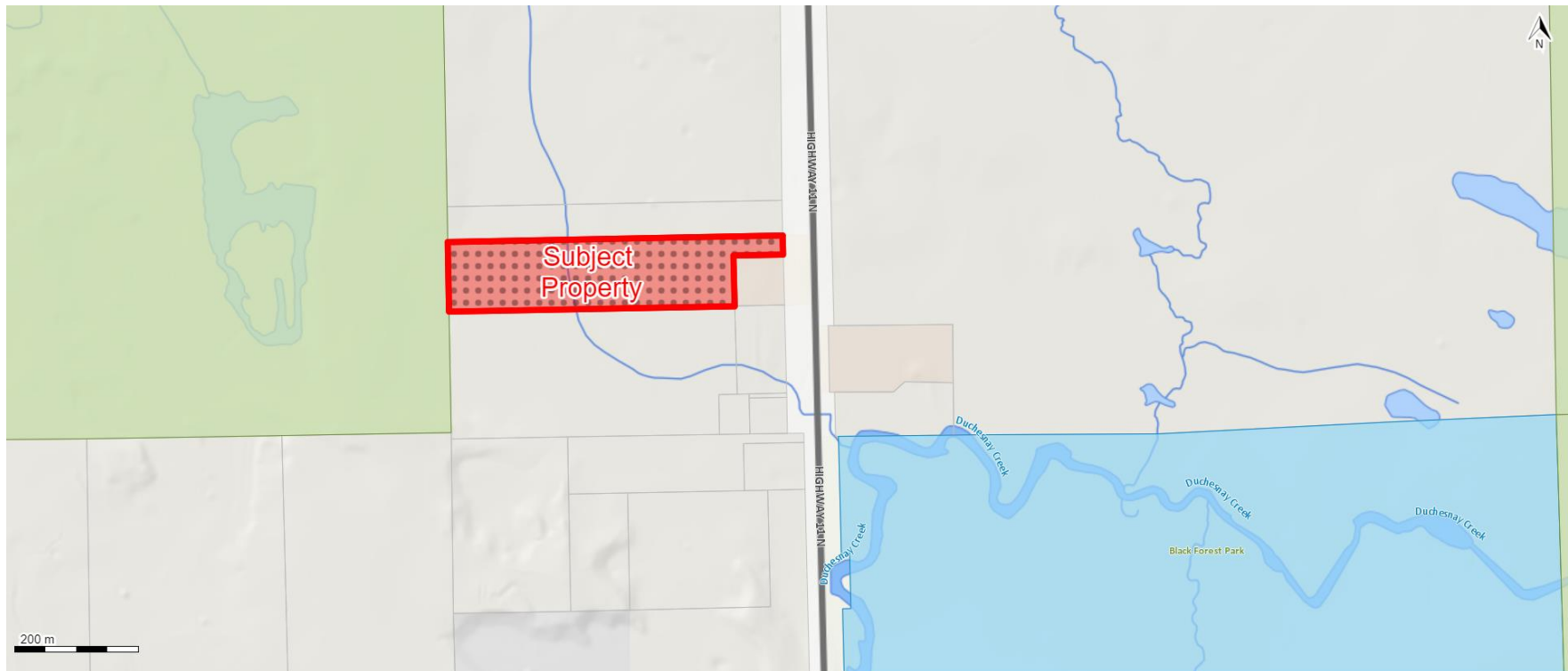
Personnel designated for continuance:

Name: Peter Carello

Title: Senior Planner – Current Operations

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Schedule A



Appendix A

PIN 49126-0055(LT)

PCL 17857 SEC WF; PT E ½ LT21 CON 5 Widdifield PT 1 NR624 Except PT 2 NR1390; North Bay; District of Nipissing