

City of North Bay Report to Council

Report No: CSBU-2022-033

Date: May 31, 2022

Originator: Peter Carello, Senior Planner – Current Operations

Business Unit:

Department:

Community Services

Planning & Building Department

Subject: Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Condominium Applications - 215 Ross Drive

Closed Session: yes ☐ no ☒

Recommendation

1. That the proposed Official Plan Amendment by Miller and Urso Surveying Inc. on behalf of David Richardson and John Edwin Richardson Estate – 215 Ross Drive in the City of North Bay to amend the Official Plan Designation from “Rural” to “Rural Residential Lakefront” for the property legally described in Appendix A to Report to Council No. CSBU 2022-033 be approved; and
2. That the proposed Zoning By-law Amendment by Miller and Urso Surveying Inc. on behalf of David Richardson and John Edwin Richardson Estate – 215 Ross Drive in the City of North Bay to rezone the property from a “Rural (A)” zone to a “Rural Residential Lakefront (RRL)” zone and an “Open Space (O)” zone for the property legally described in Appendix A to Report to Council No. CSBU 2022-033 be approved; and
3. That the proposed Plan of Condominium (3 Residential Units and 1 Common Element Block, Condominium File No. 48CDM-21101) by Miller and Urso Surveying Inc. on behalf of David Richardson and John Edwin Richardson Estate in the City of North Bay for lands described in Appendix A to Report to Council Number CSBU 2022-033, shown as on Schedule “B” attached hereto, be given Draft Approval subject to the conditions in Appendix C to Report to Council Number CSBU 2022-033 prepared by Peter Carello dated May 31, 2022; and
4. 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 with frontage on Trout Lake. The property gains road access via a private driveway over separate properties to the south of the subject lands that connects to Ross Drive, as shown below and on attached Schedule A.

It is designated "Rural" by the Official Plan and is zoned "Rural (A)" 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 17.07 hectares and has irregular lot frontage along Trout Lake, as shown on attached Schedule B. The property is currently developed with two existing cottages with some related accessory structures and decks.

Surrounding Land Uses:

The immediately abutting properties are mostly developed with rural residential uses or are vacant. There are other homes with frontage on Trout Lake to the south on Ross Drive. Further to the south is Highway 17.

Proposal

Miller & Urso Surveying Inc., on behalf of the property owners, David Richardson and John Edwin Richardson Estate, has submitted applications for an Official Plan Amendment to change the Official Plan designation from "Rural" to "Rural Residential Lakefront", a Zoning By-law Amendment to

rezone the property from a "Rural (A)" zone to a "Rural Residential Lakefront (RRL)" zone and for Draft Approval of a Plan of Condominium for a property located at 215 Ross Drive.

Staff is recommending an amendment to the request which would include rezoning the proposed common element block to "Open Space (O)" to limit any potential development of the property.

The purpose of the application is to allow the creation of three vacant land condominium units that would be residentially developed and one common element block for the exclusive use of the condominium owners.

Summary

The subject property is an existing lot of record with frontage on Trout Lake. It gains road access via private access over neighbouring properties onto Ross Drive. The lot is a large parcel that is currently developed with two existing cottages (including accessory structures).

The proposed applications would subdivide the property into three vacant land condominium units for residential use. There would also be a common element block that would be undeveloped and for the exclusive shared use of the proposed three residential units.

The overall direction from the Official Plan prevents new development and lot creation on Trout Lake and its inflowing streams. However, the Official Plan has provisions for the creation of up to twenty-three (23) new lots under restricted circumstances. Lots created under these policies are considered "Minimal Impact Lots" in the Official Plan.

The primary objective for Minimal Impact Lots from the municipality's perspective is to better gauge the level of impact human activity on the health of Trout Lake and to identify methods and technologies that might help achieve the objective of reducing the effect of residential uses on the natural environment and specifically Trout Lake. This is achieved by implementing new septic technologies, implementing restrictive development conditions and ongoing testing and monitoring of phosphorus levels in the area.

In support of the applications, the property owners submitted a "Stormwater Management (Phosphorus Reduction) Study and Landscaping Plan" prepared by Michael Michalski, a limnologist with Michalski Nielsen Associates. The applicants also provided a Preliminary Ecological Site Assessment prepared by FRi Ecological Services.

Planning Services commissioned Neil Hutchison Ph.D. of Hutchison Environmental Services to provide a peer review of the Michalski study. The peer review largely agreed with the conclusions reached by Mr. Michalski, with some exceptions and clarifications. The peer review provided a list of nine (9) recommendations of items to be addressed or clarified prior to the

development proceeding. These nine recommendations and the context for which they are made are outlined in full detail in Dr. Hutchison's correspondence, which is attached as an appendix to this report.

The Conditions of Approval attached as Appendix C includes a requirement that the owner meet the recommendations made by Dr. Hutchison. Subject to the property owner meeting these recommendations, it is Planning Services' opinion that the subject property is able to meet the criteria established by the Official Plan for the creation of Minimal Impact Lots.

It is my professional opinion that the proposed Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Condominium 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).

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 Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Condominium 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).

Excerpts of the Provincial Policy Statement (PPS 2020) applicable to this application are outlined below.

The Provincial Policy Statement generally seeks to direct development into a community's Settlement Area, which in turn limits the amount of development within a community's Rural Area.

The Provincial Policy Statement provides a list of permitted uses that are considered limited in scope of development and generally appropriate for a Rural Area. Section 1.1.5.2 states that:

On rural lands located in municipalities, permitted uses are:...

- b) resource-based recreational uses (including recreational dwellings);*
- c) residential development, including lot creation, that is locally appropriate;...*

If approved, the proposed applications would create two additional rural residential lots (condominium units). The lakefront nature of these lands would imply that the lands could also be used for recreational purposes. It is staff's opinion that the proposed development is limited in nature and as a result is consistent with Section 1.1.5.2 of the PPS 2020.

The Provincial Policy Statement also includes policies that protect water sources. Section 2.2 of the PPS 2020 is as follows:

2.2.1 Planning authorities shall protect, improve or restore the quality and quantity of water by:

- a) using the watershed as the ecologically meaningful scale for integrated and long-term planning, which can be a foundation for considering cumulative impacts of development;*
- b) minimizing potential negative impacts, including cross-jurisdictional and cross-watershed impacts;*
- c) evaluating and preparing for the impacts of a changing climate to water resource systems at the watershed level;*
- d) identifying water resource systems consisting of ground water features, hydrologic functions, natural heritage features and areas, and surface water features including shoreline areas, which are necessary for the ecological and hydrological integrity of the watershed;*
- e) maintaining linkages and related functions among ground water features, hydrologic functions, natural heritage features and areas, and surface water features including shoreline areas;*

f) implementing necessary restrictions on development and site alteration to:

- 1. protect all municipal drinking water supplies and designated vulnerable areas; and*
- 2. protect, improve or restore vulnerable surface and ground water, sensitive surface water features and sensitive ground water features, and their hydrologic functions;*

g) planning for efficient and sustainable use of water resources, through practices for water conservation and sustaining water quality;

h) ensuring consideration of environmental lake capacity, where applicable; and

i) ensuring stormwater management practices minimize stormwater volumes and contaminant loads, and maintain or increase the extent of vegetative and pervious surfaces.

2.2.2 Development and site alteration shall be restricted in or near sensitive surface water features and sensitive ground water features such that these features and their related hydrologic functions will be protected, improved or restored.

Mitigative measures and/or alternative development approaches may be required in order to protect, improve or restore sensitive surface water features, sensitive ground water features, and their hydrologic functions.

The overall intention of these policies is to protect water sources, particularly drinking water sources. Trout Lake is both the municipal supply of drinking water for the City's public water services, as well as the source of water for many residents on Trout Lake.

In support of this application, the property owner has submitted a study by a limnologist that provides direction on steps to be taken by the owner to ensure the health of Trout Lake, should these applications be approved by City Council. The study was peer reviewed, with further recommendations made. This study and the peer review are discussed in further detail elsewhere in this report. It is staff's opinion that, subject to the implementation of the measures recommended by this study and the peer review, the proposed development is consistent with Section 2.2 of the PPS 2020.

The Provincial Policy Statement contains policies that provide protection to habitat for species at risk. Section 2.1.7 of the PPS 2020 states that *"development and site alteration shall not be permitted in habitat of endangered species and threatened species, except in accordance with provincial and federal requirements."*

The applicant has submitted a "Preliminary Ecological Site Assessment" study prepared by FRi Corp Ecological Services. The study concluded that there is potential for five different species of risk and gave recommendations for how

the potential for habitat can be further examined. The FRi study also identified the presence of fish habitat. It provides development measures that would protect the fish habitat.

The FRi study was reviewed by the North Bay Mattawa Conservation Authority (CA), who reviews Planning Act applications from an environmental perspective on behalf of the City of North Bay.

The CA recommended that the conclusions of the FRi Study be incorporated into the Conditions of Approval. They further made some recommendations regarding the manner that development is undertaken (discussed in further detail in the Correspondence section of this report). The recommendations made by the Conservation Authority have been added as Conditions of Approval.

It is my professional opinion that the proposed Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Condominium are 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.

The applicants are proposing to amend the Official Plan to "Rural Lakefront Residential". This Official Plan designation permits the residential development of properties on Trout Lake.

The protection of Trout Lake is one of the Official Plan's core objectives. There are multiple policies stating this goal. Section 3.5 of the Official Plan contains numerous policies that discuss the value of Trout Lake to the community, including strict development controls and the importance of property owners in maintaining and improving the lake water quality, lake aesthetics, fisheries etc. The Owners will be required to enter into a Site Plan Control Agreement with the City that strictly regulates lot development. The Owners of the property will be required to enter into an ongoing monitoring program with the City to ensure the septic system is achieving the required phosphorus removal.

Section 3.5.1 and 3.5.2 provide a comprehensive summary of the reasons for the protection of Trout Lake:

3.5.1 This Official Plan recognizes that Trout Lake is a valuable community resource in that it is the sole source of drinking water for the City of North Bay as well as for private systems which draw their water directly from the lake; that this water body is a significant recreational resource at the fringe of the urban area which offers unique opportunities not found in such close proximity to most Canadian communities; that the shoreline of this water body has a special

aesthetic appeal for the development of seasonal and permanent residential uses; and that the general population of North Bay wishes to see that special care is taken through strict lake and watershed development controls to maintain or improve its existing level of water, aesthetic and fishery quality.

3.5.2 This Plan recognizes that all lands located within the Trout Lake watershed are connected to Trout Lake by surface and ground water drainage, and that all uses in the watershed directly or indirectly influence Trout Lake. It is the intent of this Plan to strictly control or limit the nature and extent of development along the shoreline of Trout Lake, including second tier or back lot development, development on islands in Trout Lake, development along major inflowing streams to Trout Lake, and development in the Trout Lake watershed in general. The objectives of these controls are to maintain or improve the existing level of water quality, to maintain or improve the existing level of aesthetic and recreational qualities and to improve the lake's fishery.

Section 3.5.15 of the Official Plan goes on to state that "(t)his will be achieved by generally prohibiting the creation of new lots which front on Trout Lake or on a stream flowing into Trout Lake".

This means that, for the most part, there is to be no new lots created on Trout Lake or its inflowing streams.

The Official Plan also contains policies which allow for the creation of a limited number of new lots. These policies are as follows:

3.5.27 As of January 8, 2001, the City may allow the creation of up to 23 new minimal impact lots within the watershed of Trout Lake to facilitate the studying of phosphorus abatement septic technology or technologies through municipal pilot testing. The City may contribute resulting information from the City's pilot testing to the Province for the Province's use, if appropriate, for the Provincial Phosphorus Removal Technology Pilot Program. The new minimal impact lots must meet other rural or lakefront residential policies as set out in this Plan and all development approvals must be obtained.

3.5.28 A "minimal impact" lot under this policy is defined as a conventional lot that is developed using best management practices, to the satisfaction of the City, in an effort to reduce the phosphorus impact of the development. These best management practices include, but are not limited to, the following:

- a) A surface drainage plan that mitigates increased erosion and sedimentation for the purposes of significantly reducing phosphorus output due to increases in lot coverage, new driveways and entrances, roof drains and loss of vegetation;*

- b) installation and monitoring of phosphorus removal septic technology;*
- c) maximum available setbacks for tile beds and mantles;*
- d) provision of 30 m vegetative buffers/nutrient uptake zones; and*
- e) site plan control agreements to incorporate the best practices, including a prohibition against fertilizing lawns.*

3.5.29 The objective of the City's best management practices is to achieve development where the total phosphorus impact of the whole development would be equivalent to or less than the total phosphorus impact if the original parcel were developed as a single lot serviced by a conventional septic system in the Rural or Lakefront Residential designation.

The City has approved a total of 19 new lots under the Minimal Impact Lot Creation Policy. Four lots are remaining under this policy.

The above noted policies aim to allow development on Trout Lake in a highly controlled fashion. It puts the onus on the owner to demonstrate positive actions to ensure that the new residential units have minimal impact on Trout Lake. To achieve this objective, the property owner has submitted a "Stormwater Management (Phosphorus Reduction) Study and Landscaping Plan" prepared by Michael Michalski, a limnologist with Michalski Nielsen Associates. The applicants also provided a Preliminary Ecological Site Assessment prepared by FRi Ecological Services.

The study by Mr. Michalski concluded that the units could be developed as proposed with minimal impact on Trout Lake, subject to the recommendations made throughout his study. The principal recommendations from the study are as follows:

- Septic System: Mr. Michalski's study suggested that using a specific type of soil (B-horizon soils) in the construction of a new septic system greatly attenuates phosphorus.
- Monitoring: The study stated that the property owner should monitor the septic system to ensure that it is functioning as described in the report for a period of five years. The specific performance target of 93% phosphorus reduction was suggested.
- Site Design: The study made reference to specific design of the units to reduce the impact on Trout Lake. This includes a 30 metre natural vegetative buffer, use of French drains or soakaway pits and where the septic system is located.

The City engaged the services of Dr. Neil Hutchison of Hutchison Environmental Services to review the study provided by Mr. Michalski. Dr. Hutchison is an expert in water quality and has the expertise to comment on the findings and conclusions made by Mr. Michalski.

To summarize, Dr. Hutchison largely agreed with Mr. Michalski's conclusions, with some relatively minor exceptions. Dr. Hutchison provided nine (9) recommendations of additional measures that could be put in place to address the shortcomings in Mr. Michalski's report. Some examples of Dr. Hutchison's concerns and recommendations:

- Recommendation 1: Mr. Michalski took soil depth samples, which stated that their augers encountered "refusal" at depths of 0.3m-0.4m (i.e. likely encountered bedrock). Mr. Michalski's study concluded that *"While the site has localized slope constraints and shallow soils throughout, it is large enough to accommodate two new shoreline lots, with negligible or non-detectable impacts on surface water"*.

Dr. Hutchison disagreed with this conclusion and stated that "Shallow soil depths on site do not support the construction of tile fields with solely native soils. Tile fields for the three proposed units must be built with sufficient imported fill to meet OBC requirements of 0.9m depth."

Planning Services agreed with Dr. Hutchison's conclusion. The implementation of the recommendations forthcoming from Dr. Hutchison's peer review is a Condition of Approval attached to this report as Appendix C.

- Recommendation 4: Dr. Hutchison noted that there would be development potential for the common element block that the applicant. It was Dr. Hutchison's opinion that the City of North Bay should consider the development potential of these lands at this time.

Planning Services agreed with Dr. Hutchison's comments. In the absence of positive action by the City at this time, the lot would be a large parcel that would be zoned for development that the Owners could take steps to develop in the future, effectively creating an additional lot over and above those that are proposed through this application. Creating an extra lot is notable, because there are a limited number of lots that can be created through the Minimal Impact Lot provisions of the Official Plan. The additional lot would put the City in a situation where we would exceed the number of lots created through this policy than what is permitted by the Official Plan.

In order to prevent the creation of a lot at this time, it is Planning Services recommendation that the Common Element block be rezoned to an "Open Space (O)" zone at this time. This zoning would prevent the development of these lands. Should municipal policy change in the future and it becomes appropriate to consider the development of these lands, the owner could apply for a rezoning in the future.

- Recommendation 9: Mr. Michalski's study stated that the property owner could "scavenge" for soils on site and relocated it to the septic, where appropriate depth could not be reached. Dr. Hutchison was not

supportive of this approach, stating that stripping areas of the property of their natural soil would be detrimental. Dr. Hutchison further suggested that all soils used for the tile fields be sourced from a quarry, rather than scavenged from the subject property.

As noted, Dr. Hutchison's recommendations are included as a Condition of Approval.

The above examples are intended to summarize the types of analysis and recommendations made by Dr. Hutchison, and how these recommendations were addressed by Planning Services. The other recommendations by Dr. Hutchison are:

- Recommendation 2: that Mr. Michalski include the Certificate of Analysis for all soils samples as an Appendix to the report.
- Recommendation 3: The combination of shallow B horizon soils and low mineral content of the in-situ B horizon soils means that the existing site characteristics may not provide substantial abatement of phosphorus from a tile field and that the sewage treatment systems will need to be modified to remove phosphorus.

This is supported by the requirement to import soil and testing of the soil to ensure adequate phosphorus removal.

- Recommendation 5: The proponent should support the Richardson application by submission of the extractable aluminum and iron concentrations in the soils used in Kushog Lake/Branson tile field for comparison against a) MOEE requirements and b) the composition of the Callander soils proposed for the Richardson tile beds.

This recommendation ties to Recommendation 2, in that adequate testing is required as part of the septic system design and installation.

- Recommendation 6: Phosphorus retention capability must be established for each of the three proposed tile fields through at least 3 samples of the fill imported for each tile field, sampled from a uniformly mixed source and analysed to confirm a) $\text{CaCO}_3 < 1\%$ and b) extractable iron plus extractable aluminum $> 1\%$.

The owners will be required to conduct soil testing of the fill being imported as part of the septic system construction & installation to ensure it meets the standards identified in the report.

- Recommendation 7: The proponent must confirm the required setback of the septic systems from Trout Lake (30m vs 60m) and meet that requirement.

That the proponent confirm that the location of the septic system be in a

location acceptable to both the City of North Bay and the Conservation Authority

- Recommendation 8: That the tile field be constructed with a minimum of 0.9 metres of imported B-horizon soils with the required characteristic for phosphorus retention.

This is consistent with recommendation 1, in that the septic system is required to be constructed with imported soil that meets minimum requirements for phosphorus retention.

The Conservation Authority also reviewed Mr. Michalski's study. They provided comments and some recommendations, based on their review. Some of the CA's comments overlap with Dr. Hutchison's reply.

Based upon the study provided by the property (prepared by Mr. Michalski) and the subsequent Peer Review (conducted by Dr. Hutchison) and the review by the Conservation Authority, Planning Services are of the opinion that the proposed development is consistent with the City's Official Plan, subject to the recommendations from each of these documents being implemented. The conclusions and comments made by Mr. Michalski, Dr. Hutchison and the Conservation Authority have been added as Conditions of Approval.

In addition to the policies related to development on Trout Lake, the City has strict rural residential lot creation policies. The Owner has applied as for a Plan of Condominium application. Section 3.4.10 (c) of the Official Plan speaks lot creation in the rural area through a Rural Estate Plan of Subdivision. Section 3.4 of the Official Plan identifies *"this section of the Plan does not apply to lot creation on the Trout Lake Shoreline or on any major inflowing stream to Trout Lake"*. Section 3.4.10(c)(xii) states that *"any new rural estate development within the Trout Lake Watershed will be reviewed based on the lot creation policies of 3.5 Trout Lake Watershed..."*

The proposed Draft Plan of Condominium, subject to the conditions contained in Appendix C, complies with the lot creation policies of Section 3.5.

Section 4.6 of the Official Plan speaks to Natural Heritage. The Official Plan states that *"Through the review of development applications, the City shall ensure that all pertinent policies of the current Provincial Policy Statement are considered."*

The applicant has submitted a "Preliminary Ecological Site Assessment" study prepared by FRi Corp Ecological Services. The study concluded that there is potential for five different species of risk and gave recommendations for how the potential for habitat can be further examined and mitigated. The FRi study also identified the presence of fish habitat. It provides development measures that would protect the fish habitat.

The Owners will be required to:

- Hire a qualified consultant to inventory the proposed building envelopes to:
 - Identify and mark trees that could serve as bat maternal roosts;
 - Mark and retain snags that are greater than 50cm in diameter at breast height, that are not a safety risk;
- Conduct a stick nest survey to ensure there are no Bald Eagle nests;
- To protect Fish Habitat, the recommendation was to maintain a 30m shoreline buffer. Any new dwellings be located outside of the 30m buffer.

The Owners will be required to enter into a Site Plan Control Agreement with the City of North Bay related to the individual development of each property. The Site Plan Control Agreement will address all aspects of site development including but not limited to building envelopes, setbacks, vegetative buffers, shoreline development, septic system location, septic system monitoring and all recommendations from the Stormwater Management (Phosphorus Reduction) Study and Landscaping Plan” prepared by Michalski Nielsen Associates Limited dated November 2019 or the recommendations for the Peer Review prepared by Hutchison Environmental Services, at the Owners sole expense.

The City is in the process of completing a Trout Lake Watershed Study which will be presented to Council in July 2022 and may result in updated Official Plan Policies and Zoning By-law regulations which would be presented to Council in early 2023. The subject application was submitted prior to this study being undertaken and is being reviewed under the City’s existing Official Plan Policies.

It is my professional opinion that the proposed Official Plan Amendment, Zoning By-law Amendment and Draft Plan of Condominium are 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 (A)”, which permits the following land 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 applicant is proposing to rezone the property to a "Rural Residential Lakefront (RRL)" zone, which permits the following land uses:

- Single Detached Dwelling
- Group Home Type 1;
- Park, Public;
- Boat House (as an Accessory Use only);
- Structure (as an Accessory Use only); and
- Home Based Business (as an Accessory Use only).

Planning Services are recommending the rezone a portion of the property to an "Open Space (O)" zone, which permits the following land uses:

- Cemetery;
- Conservation Area;
- Golf Course;
- Library, Museum, or Art Gallery;
- Parking Area;
- Park, Public;
- Recreational Facility;
- Recreational Facility, Public Authority;
- Recreational Facility, Rural; and
- Accessory Buildings or Structures.

The subject property is able to meet all 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, Enbridge, the Building Department, Ministry of Transportation, and Hydro One each offered no concerns or objections.

The Conservation Authority provided a detailed response to the applications. While offering no objections, they did identify a number of mitigation measures that should also be put in place to protect Trout Lake.

The CA identified that the lands close to the shoreline require a Development, Interference with Wetlands & Alterations to Shorelines & Watercourses (DIA) Permit from their office prior to undertaking any site alteration activities and/or any construction or renovation work in the Approximate Regulated Area. Site alteration activities are defined as the placement or removal of fill material of any kind, and/or the alteration of existing grades on the subject property, and/or alterations to the shoreline of Trout Lake.

With respect to the Michalski Study, the CA suggested that a tertiary system be utilised in order to mitigate against the possibility that the B-Horizon soils do not function as well as Mr. Michalski believes. The CA also commented that the septic system should be located as far from Trout Lake as possible and that the existing structures should be outside of 30 metres. The CA also stated that the B-Horizon soils should be imported as opposed to scavenged from within the subject property, similar to Dr. Hutchison.

The CA also reviewed the Preliminary Ecological Site Assessment prepared by FRi Corp Ecological Services. The CA provided the following comments:

- *That a qualified consultant be retained to inventory the proposed building envelopes to:*
 - *Identify and mark trees that could serve as bat maternal roosts;*
 - *Mark and retain snags that are greater than 50cm in diameter at breast height, that are not a safety risk;*
- *Conduct a stick nest survey to ensure there are no Bald Eagle nests;*
- *To protect Fish Habitat, the recommendation was to maintain a 30m shoreline buffer. Therefore, it is recommended that any new dwellings be located outside of the 30m buffer.*

There was no correspondence received from any member of the public.

No other correspondence was received on this file.

Financial/Legal Implications

None to the City at this time

Corporate Strategic Plan

- | | |
|--|---|
| ☒ Natural North and Near | ☒ Economic Prosperity |
| ☒ Affordable Balanced Growth | ☒ Spirited Safe Community |
| ☐ Responsible and Responsive Government | |

Specific Objectives

- Leverage the natural environment to enhance healthy living and recreational opportunities
- Promote and support public and private sector investment
- Facilitate the development of housing options to service the needs of the community

Options Analysis

Option 1:

1. That the proposed Official Plan Amendment by Miller and Urso Surveying Inc. on behalf of David Richardson and John Edwin Richardson Estate – 215 Ross Drive in the City of North Bay to amend the Official Plan Designation from “Rural” to “Rural Residential Lakefront” for the property legally described in Appendix A to Report to Council No. CSBU 2022-033 be approved; and

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4. That the subject property be placed under Site Plan Control pursuant to Section 41 of the Planning Act, R.S.O., 1990 as amended.

Option 2:

To deny the requested applications. This option is not recommended for the reasons outlined throughout this report.

Recommended Option

Option 1 is the recommended option

1. That the proposed Official Plan Amendment by Miller and Urso Surveying Inc. on behalf of David Richardson and John Edwin Richardson Estate – 215 Ross Drive in the City of North Bay to amend the Official Plan Designation from “Rural” to “Rural Residential Lakefront” for the property legally described in Appendix A to Report to Council No. CSBU 2022-033 be approved; and
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4. 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

We concur with this report and recommendation.

Name Beverley Hillier, MCIP, RPP

Title: Manager, Planning & Building Services

Name: Ian Kilgour, MCIP. RPP

Title: Director, Community Development and Growth

Name: David Euler, P.Eng., PMP

Title: Chief Administrative Officer

Personnel designated for continuance:

Name: Peter Carello, MCIP, RPP

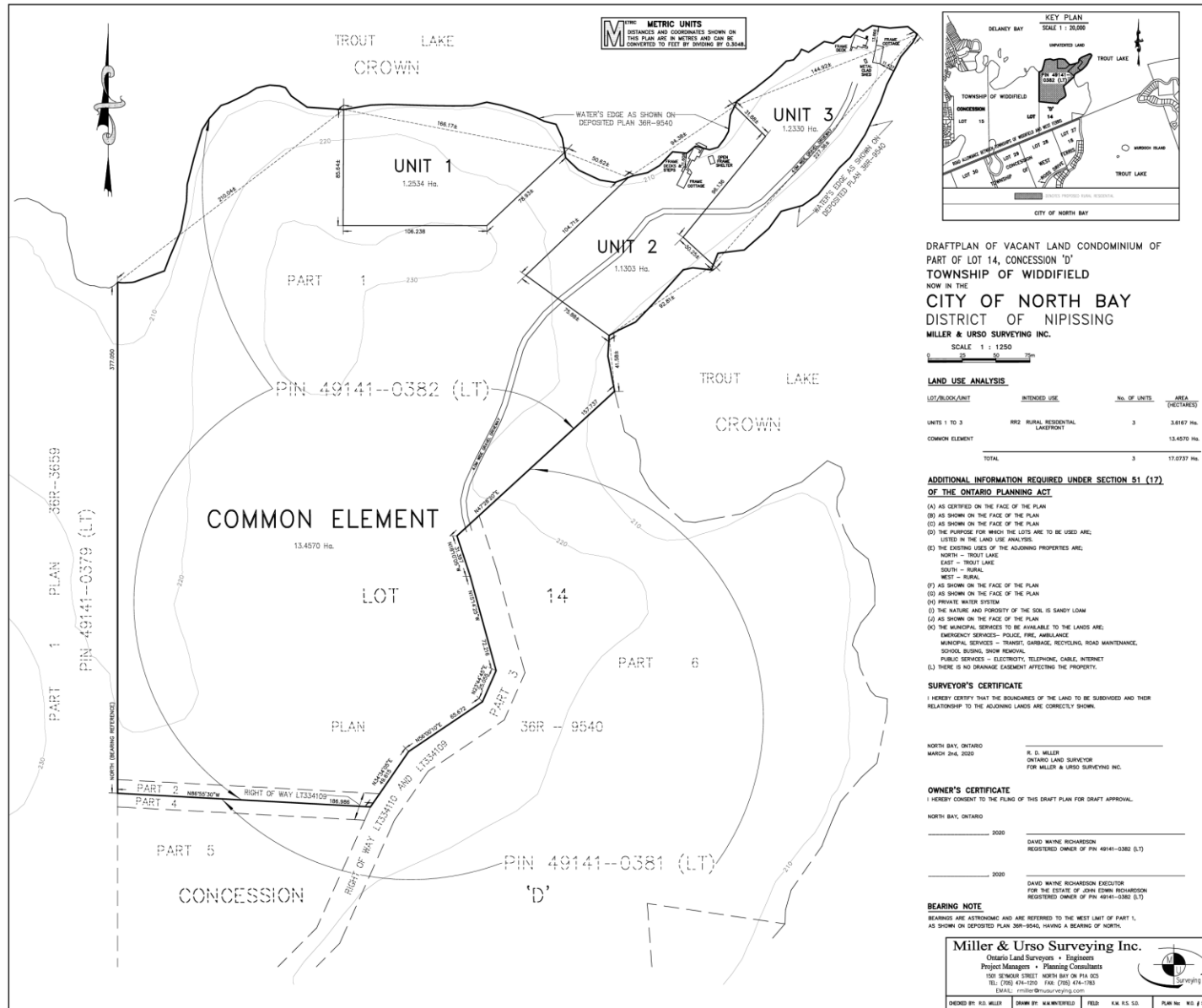
Title: Senior Planner – Current Operations

W:\PLAN\Planning\Reports to Committees & Council (C11)\to Council\2022\CSBU 2022-033 –
ZBLA File #939 – Zoning By-law Amendment – 215 Ross Drive

Schedule A



Schedule B



Appendix A

PIN 49141-0382 (LT)

PCL 2236 SEC WF; PT LT 14 CON D Widdifield PT 1 & 2, 36R9540; S/T PT 2, 36R9540 as in LT334109; T/W PT 3 & 4, 36R9540 as in LT334110; T/W LT128196; North Bay; District of Nipissing

Appendix B – Correspondence

North Bay Mattawa Conservation Authority

September 28, 2021

Corporation of the City of North Bay
200 McIntyre St. E., P. O. Box 360
NORTH BAY, Ontario P1B 8H8

Attention: Peter Carello, Senior Planner-Current Operations

Dear Mr. Carello:

**Re: Official Plan Amendment, Zoning By-law Amendment and
Draft Plan of Condominium
215 Ross Drive
Con. D, Pt. Lot 14; Pts. 1 & 2 of 36R-9540; Rem. Pcl. 2236
City of North Bay
Our File No.: PPOA1-NB-21, PZB14-NB-21 & PPOC1-NB-21**

This office has received and reviewed the proposed Official Plan Amendment, Zoning By-law amendment and Draft Plan of Condominium applications for 215 Ross Drive. The property is currently designated "Rural" under the City of North Bay Official Plan, zoned "Rural (A)" under Zoning By-law 2015-30. The property has irregular frontage along the shoreline of Trout Lake and a total lot area of 17.07ha. It is developed with two cottages and accessory structures.

Miller and Urso Surveying Inc. have submitted applications to amend the City's Official Plan designation of the subject property from "Rural" to "Rural Residential Lakefront and to amend Zoning By-law 2015-30 to rezone the property from a "Rural (A)" zone to a "Rural Residential Lakefront (RRL)" zone. Miller and Urso Surveying Inc. have also submitted an application for a Draft Plan of Condominium to create three (3) residential vacant land condominium units and one common element block for use of the residents of the three condominium units. The purpose of the application is to create a total of three (3) individually transferrable lakefront residential vacant land condominium units, as well as the common element block. The Special Zone requests would recognize the locations of the existing cottages, as shown on the attached Schedule B.

The following comments are based on a review of the application with respect to our delegated responsibility from the Province to represent provincial interests regarding natural hazards identified in Section 3.1 of the Provincial Policy Statement (PPS, 2020); and our regulatory authority under Ontario Regulation 177/06 Development, Interference with Wetlands & Alteration to Shorelines & Watercourses (DIA) and Part 8 (Sewage Systems) of the Ontario Building Code. The Conservation Authority also provides advice as per our Plan Review Agreement with the Municipality regarding Sections 2 (Wise Use and Management of Resources) and 3 (Protecting Public Health and Safety) of the Provincial Policy Statement (PPS) 2020.

As you are aware, this property has frontage on Trout Lake. The floodplain elevation of Trout

Lake is 202.69m.a.s.l. C.G.D. According to our floodplain mapping the floodplain is very close to the shoreline on this property. Flooding is not a concern on this property.

The shoreline of this property is regulated by the Conservation Authority as per Ontario Regulation 177/06. This regulation is pursuant to Section 28 of the Conservation Authorities Act of Ontario. 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 in 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; as well as alterations to the shoreline of Trout Lake.

A search of our sewage system permit database did not find any permits for this property.

A site inspection was undertaken on this property on August 11, 2021. At this time, it was noted that Proposed Lot 1 (Unit 3) consisted of a small cottage and a separate frame deck. The cottage appeared to have a composting toilet and a grey water pit as well as a water tower. There appeared to be sufficient room to accommodate an initial and a replacement Class 4 sewage system based on a 3-bedroom single-family dwelling with a floor area of less than 200m² and 20 fixture units, while meeting a 32m-58m setback to Trout Lake.

Proposed Lot 2 (Unit 2) consisted of a cottage and attached deck. It appeared that perhaps this cottage was serviced with a holding tank. There was, however, adequate room to accommodate an initial and a replacement Class 4 sewage system based on a 3-bedroom single-family dwelling with a floor area of less than 200m² and 20 fixture units, while meeting a minimum 30m setback to Trout Lake.

Proposed Lot 3 (Unit 1) was vacant. It appeared that there was sufficient room to accommodate an initial and a replacement Class 4 sewage system based on a 3-bedroom single-family dwelling with a floor area of less than 200m² and 20 fixture units, while meeting a minimum 30m setback to Trout Lake.

The Conservation Authority has received and reviewed the *Stormwater Management (Phosphorus Reduction) Study and Landscaping Plan* prepared by Michalski Nielson, November 2019 as well as the *Preliminary Ecological Site Assessment* prepared by FRI Ecological Services, November 27, 2019. According to the reports, these lots are being considered as Minimal Impact Lots as described in the Official Plan.

In addition to the recommendations in the *Stormwater Management (Phosphorus Reduction) Study and Landscaping Plan* prepared by Michalski Nielson, November 2019, the Conservation Authority recommends the following:

- That a treatment unit (previously referred to as a tertiary system) which offers level IV treatment well beyond the levels provided by a conventional septic system be utilized in the event that the B-Horizon soils do not function as expected;
- That the septic systems be setback as far as possible from the shoreline of Trout Lake;
- That the sewage systems utilize *imported* B-Horizon soils, as opposed to the soils being “scavenged from within the subject properties.”
- The Stormwater Report does indicate that the two existing structures are within the 30m buffer and do not confirm to the minimum impact lot approach. Our site inspection indicated that there is adequate room to accommodate a dwelling outside of

the 30m buffer. It is recommended that new dwellings be relocated outside of the 30m vegetative buffer and that the special zone request to recognize the locations of the existing cottages be denied.

- Table 9 of the Stormwater Report provides a comment on Section 3.5.30 of the Official Plan. It states that ***“Assuming the phosphorus reduction technology is successful, as predicted, it is logical to assume that additional potential for lot creation could be freed up, and made available on a first come, first serve basis.”*** I realize that the study offers various references to research throughout Ontario regarding phosphorus reduction technology. However, instead of assuming that these systems are successful, it is recommended that the City of North Bay report on the monitoring results of the B-Horizon systems, which are currently in use on Trout Lake, prior to approving additional systems.

It is our understanding that the *Preliminary Ecological Site Assessment* prepared by FRI Ecological Services, November 27, 2019 is a preliminary report, and no species-specific surveys were conducted. In addition to the recommendations in the report the Conservation Authority recommends the following:

- That a qualified consultant be retained to inventory the proposed building envelopes to:
 - Identify and mark trees that could serve as bat maternal roosts;
 - Mark and retain snags that are greater than 50cm in diameter at breast height, that are not a safety risk;
- Conduct a stick nest survey to ensure there are no Bald Eagle nests;
- To protect Fish Habitat, the recommendation was to maintain a 30m shoreline buffer. Therefore, it is recommended that any new dwellings be located outside of the 30m buffer.

The recommendations in the 2 reports, as well as the addition of the Conservation Authority comments and recommendations should be incorporated into the Site Plan Control Agreement.

Trusting this is satisfactory. Should you have any questions, please do not hesitate to contact this office at (705) 471-7636. For administrative purposes, please forward any decisions and resolutions regarding this matter.

Yours truly,

Paula Scott
Director, Planning and Development/Deputy CAO

Encl. (5)

Ministry of Transportation

The Ministry of Transportation of Ontario (MTO) has no comments on the proposed zoning by-law amendment as the subject property is beyond the permit control area of the MTO.

Thank you,

Hydro One

Hello,

We are in receipt of Application 215 Ross Drive dated June 21, 2021. We have reviewed the documents concerning the noted Plan and have no comments or concerns at this time. Our preliminary review considers issues affecting Hydro One's 'High Voltage Facilities and Corridor Lands' only.

For proposals affecting 'Low Voltage Distribution Facilities' please consult your local area Distribution Supplier.

To confirm if Hydro One is your local distributor please follow the following link:
<http://www.hydroone.com/StormCenter3/>

Please select " Search" and locate address in question by entering the address or by zooming in and out of the map

If Hydro One is your local area Distribution Supplier, please contact Customer Service at 1-888-664-9376 or e-mail CustomerCommunications@HydroOne.com to be connected to your Local Operations Centre

Thank you,

Best Wishes,

Dolly Shetty

Real Estate Assistant | Land Use Planning

Hydro One Networks Inc.
185 Clegg Road (R32)
Markham, ON | L6G 1B7

Engineering Department

Engineering has reviewed the above mentioned application and given the location of their condominium proposal, there are no City services available in this area nor does it have frontage on a City maintained roadway. Further comments will be provided upon submission of further details and/or a conceptual/preliminary plan.

Building Services Department

The Building Services department has no concerns with this proposed Zoning By-Law Amendment. Thank you

Enbridge Gas

Thank you for your correspondence with regards to draft plan of approval for the above noted project.

It is Enbridge Gas Inc.'s (operating as Union Gas) request that as a condition of final approval that the owner/developer provide to Union the necessary easements and/or agreements required by Union for the provision of gas services for this project, in a form satisfactory to Enbridge.

Should you require any further information, please contact the undersigned.

Barbara M.J. Baranow
Analyst Land Support

Enbridge Gas Inc.
50 Keil Drive North, Chatham, ON N7M 5M1

Appendix C – Conditions of Approval

- 1) That this approval expires five (5) years from the date of approval. If there is an appeal to the Ontario Land 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 Ontario Land 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 Condominium prepared by Rick Miller, OLS as shown on the attached Schedule A dated March 9, 2020 which is comprised of three (3) Rural Residential Units and one (1) Common Element Block.
- 3) That all streets on the Plan of Condominium 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 signing the Final Plan by the Municipality, the proposed Condominium conform with the Zoning By-law in effect for the Municipality.
- 6) 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.
- 7) That such easements as may be required for utility or drainage purposes shall be granted to the appropriate authority.
- 8) That the Condominium 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 Condominium 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 Condominium site design and implemented to the ongoing satisfaction of, and at no expense to, the Municipality.
- 9) 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.
- 10) 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.

- 11) That the Condominium Agreement between the owner and the Municipality be registered by the Municipality against lands to which it applies once the Plan of Condominium has been registered prior to any encumbrances.
- 12) The Condominium agreement for the subject Condominium application shall include a statement informing the first purchaser of a lot within the subject Plan of Condominium that prior to the issuance of a building permit, the purchaser may be required to pay Development Charges
- 13) That development charges be imposed in accordance with the current applicable Municipal Development Charges By-law.
- 14) 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.
- 15)
 - (a) That the owner acknowledges that the property is in an area where Species at Risk may be present. The owner agrees to engage the services of a third party professional to complete a Species at Risk Assessment and that any recommendations from the study shall be incorporated into the final Condominium site design.
 - (b) That the owner agrees to incorporate all recommendations from the "Preliminary Ecological Site Assessment" study prepared by Fri Corp Ecological Services dated August 15, 2018 and revised November 27, 2019 at the owner's sole expense.
- 16) That the owner agrees to incorporate all recommendations from the "Stormwater Management (Phosphorus Reduction) Study and Landscaping Plan" prepared by Michalski Nielsen Associates Limited dated November 2019 at the owner's sole expense, except where the recommendations by said study are superseded by recommendations from the North Bay Mattawa Conservation Authority or the Peer Review prepared by Hutchison Environmental Services.
- 17) That the owner agrees to incorporate all the recommendations from the Peer Review study prepared by Hutchison Environmental Services at the owner's sole expense into the final site design and through all stages of development.
- 18) That the owner agrees to utilize a tertiary septic system for all private septic systems on the subject property. The owner further agrees to locate the septic system a minimum of thirty (30) metres from the shore of Trout Lake in a location approved by the North Bay Mattawa Conservation Authority.
- 19) The Owner agrees that any third party professional engaged to provide consulting services shall inspect the property following construction to confirm that their recommendations were incorporated into the built form. The third party consultant shall provide a letter to the City with this confirmation at the Owner's sole expense.
- 20) The Owner acknowledges that each of the units of the condominium will be subject to Site Plan Control prior to a building permit being issued for the development and/or redevelopment of the unit(s). The Site Plan Control Agreement will address all aspects of

site development including but not limited to building envelopes, setbacks, vegetative buffers, shoreline development, septic system location, septic system monitoring and all recommendations from the Stormwater Management (Phosphorus Reduction) Study and Landscaping Plan” prepared by Michalski Nielsen Associates Limited dated November 2019 or the Peer Review prepared by Hutchison Environmental Services, at the Owners sole expense.

- 21) 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. 8 has been satisfied.
- 22) That before City Council's Final Approval is given, the Council shall be advised in writing by Canada Post Corporation how Condition No. 10 has been satisfied.
- 23) 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 Nos. 14 and 15 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).
- 8) The Owner/Developer is hereby advised that prior to commencing any work within the Plan, the Owner/Developer must confirm with North Bay Hydro Distribution Ltd that appropriate electrical services infrastructure is currently available along the proposed development to provide delivery of electrical energy to the proposed development. In the event that such infrastructure is not available, the Owner/Developer is hereby advised that the Owner/Developer may be required to pay for the connection to and/or extension of the existing electrical distribution infrastructure, in accordance with North Bay Hydro policies and the Ontario Distribution System Code.