



City of North Bay Report to Council

Report No: CSBU-2023-003

Date: December 15, 2022

Originator: Peter Carello, Senior Planner

Business Unit:

Department:

Community Services

Planning & Building Department

Subject: Proposed Zoning By-law Amendment Application – McGruthers Road
(unaddressed)

Closed Session: yes ☐ no ☒

Recommendation

That the proposed Zoning By-law Amendment by Miller & Urso Surveying Inc. on behalf of the property owner, 2708432 Ontario Inc. – McGruthers Road (unaddressed) in the City of North Bay, to rezone the property from a “Rural Extractive Industrial (RME)” zone to a “Rural (A)” zone for the property legally described in Appendix A to Report to Council No. CSBU 2023-003 be approved.

Background

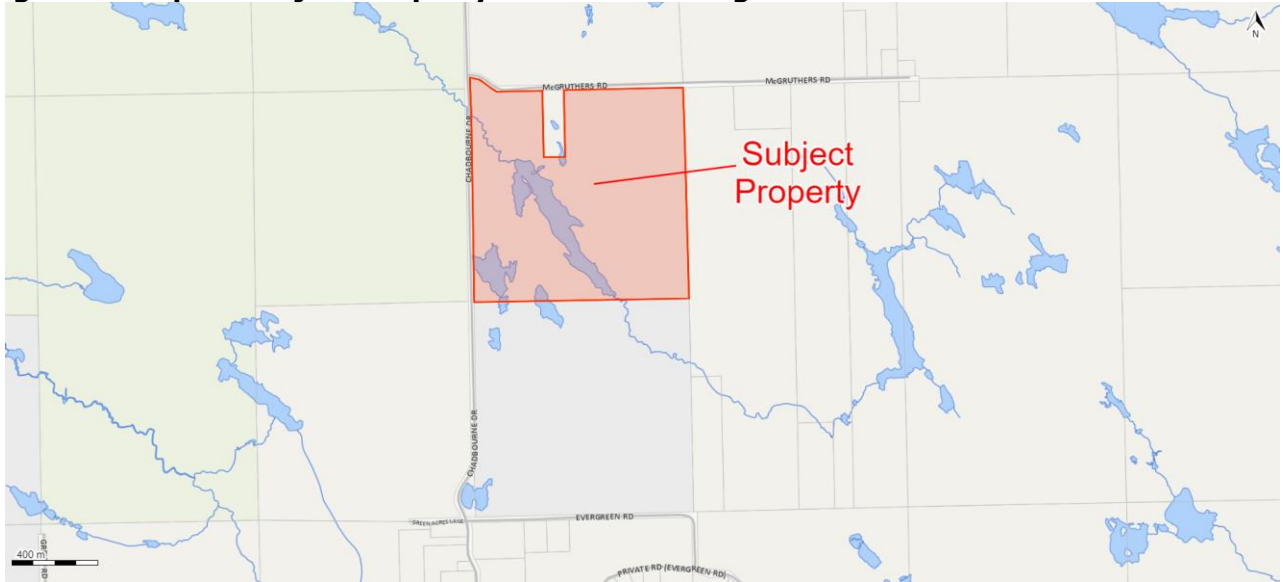
Site Information

Legal Description: See Appendix A

Site Description: The subject property is an existing lot of record on McGruthers Road. The property is located on the south-east corner of the intersection of McGruthers Road and Chadbourne Drive, as shown below and on attached Schedule A.

It is designated “Rural” by the Official Plan with an “Aggregate” overlay. The property is zoned “Rural Extractive Industrial (RME)” 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 62.76 hectares and lot frontage of 728.3 metres. This frontage is non-continuous, as there is a lot that was previously severed from this lot and is separately owned. There is also frontage of 806.9 metres along Chadbourne Drive. This layout is shown on attached Schedule B. The property is currently mostly vacant, with what appear to be small accessory buildings on the site.

There is a watercourse and Provincially Significant Wetland located in the centre of the property.

Surrounding Land Uses:

McGruthers Road is a short, rural, dead-end road that and is developed with several rural residential dwellings. There are two adjacent aggregate operations, to the south and to the west. To the north are more rural residential dwellings.

Other notable characteristics of the area include Four Mile Lake, which is a short distance to the south. Jack Garland Airport is also to the south. There are several other major aggregate operations throughout the area.

Proposal

Miller & Urso Surveying Inc. on behalf of the property owner, 2708432 Ontario Inc., has submitted a Zoning By-law amendment application to rezone an unaddressed property on McGruthers Road from a "Rural Extractive Industrial (RME)" zone to a "Rural (A)" zone

The purpose of the application is to allow the development of the property in a manner that is consistent with a rural area.

Summary

The subject property is a large lot located in the rural area, outside of the City's Settlement Area. The surrounding area is primarily comprised of two main uses: rural residential dwellings (mostly on large lots) and aggregate operations.

The property is designated "Rural" with an "Aggregate" overlay. The Aggregate overlay is indicative of the potential presence of aggregate on the property. The Provincial Policy Statement and the Official Plan both contain policies pertaining to aggregate. The general direction of both documents is to ensure the protection aggregate deposits, with exceptions made for instances where deposits are unfeasible.

The applicant has submitted an Aggregate Assessment Report prepared by Pebble Beach Aggregate and Timber Craft Consultation Inc. This study concluded that the aggregate supply on the subject property was reasonably minimal and financially unfeasible to extract.

The application proposes to rezone the property from a zone that permits exclusively aggregate operations to a zone that permits rural uses. The proposed "Rural (A)" zone is the most prevalent zone outside the Settlement Area and is considered by staff to be in character with the existing neighbourhood.

The Ministry of Environment, Conservation and Parks noted that Species at Risk may be present and that a permit may be required from their office. This process is outside of the City's jurisdiction. The owner would be responsible for meeting the requirements under the Province's legislation at the time of development.

The Conservation Authority (CA) identified the Provincially Significant Wetlands that are located on the subject property. Depending on the specific location of future development, the owner may be required to obtain a permit from their office. This is also outside of the City's jurisdiction. The owner would again be responsible for meeting the CA's requirements at the time of the development.

Staff recognizes the proximity of two aggregate operations on adjacent properties. The Provincial Government's D-Series guidelines will apply to future developments. The D-Series Guidelines establishes minimum separation distances and a buffer area whereby mitigation measures are to be put in place. These will apply at the time of development when a specific site plan is proposed. Based on a review of the guidelines it appears that based on the size of the property and distance to the existing aggregate operations that the buffers suggested in the Guideline would be able to be achieved.

Planning Staff received one item of correspondence from a member of the

public. No specific concerns were raised. Staff followed up with a phone call and provided additional information. No further correspondence has been received as of the date of this report.

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).

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

The subject property is located outside of the City's Settlement Boundary in

the Rural Area. The PPS 2020 identifies what types of land uses are appropriate in the Rural Area. Section 1.1.5 of the PPS 2020 states:

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

- a) the management or use of resources;*
- b) resource-based recreational uses (including recreational dwellings);*
- c) residential development, including lot creation, that is locally appropriate;*
- d) agricultural uses, agriculture-related uses, on-farm diversified uses and normal farm practices, in accordance with provincial standards;*
- e) home occupations and home industries;*
- f) cemeteries; and*
- g) other rural land uses.*

1.1.5.3 Recreational, tourism and other economic opportunities should be promoted.

1.1.5.4 Development that is compatible with the rural landscape and can be sustained by rural service levels should be promoted.

1.1.5.5 Development shall be appropriate to the infrastructure which is planned or available, and avoid the need for the unjustified and/or uneconomical expansion of this infrastructure.

1.1.5.6 Opportunities should be retained to locate new or expanding land uses that require separation from other uses.

1.1.5.7 Opportunities to support a diversified rural economy should be promoted by protecting agricultural and other resource-related uses and directing non-related development to areas where it will minimize constraints on these uses.

The application would rezone the property from a "Rural Aggregate Extractive (RME)" zone to a "Rural (A)" zone.

The list of uses permitted in an A zone are outlined in the Zoning By-law section of this report. It is staff's opinion that these permitted uses are consistent with section 1.1.5.2 of the PPS 2020. These uses are also compatible with the rural setting and the existing infrastructure.

Section 2.5 of the PPS 2020 provides direction related to mineral aggregate management.

2.5.2.1 As much of the mineral aggregate resources as is realistically possible shall be made available as close to markets as possible.

Demonstration of need for mineral aggregate resources, including any type of supply/demand analysis, shall not be required, notwithstanding the availability, designation or licensing for extraction of mineral aggregate resources locally or elsewhere.

2.5.2.2 Extraction shall be undertaken in a manner which minimizes social, economic and environmental impacts.

2.5.2.3 Mineral aggregate resource conservation shall be undertaken, including through the use of accessory aggregate recycling facilities within operations, wherever feasible.

2.5.2.4 Mineral aggregate operations shall be protected from development and activities that would preclude or hinder their expansion or continued use or which would be incompatible for reasons of public health, public safety or environmental impact. Existing mineral aggregate operations shall be permitted to continue without the need for official plan amendment, rezoning or development permit under the Planning Act. Where the Aggregate Resources Act applies, only processes under the Aggregate Resources Act shall address the depth of extraction of new or existing mineral aggregate operations. When a license for extraction or operation ceases to exist, policy 2.5.2.5 continues to apply.

2.5.2.5 In known deposits of mineral aggregate resources and on adjacent lands, development and activities which would preclude or hinder the establishment of new operations or access to the resources shall only be permitted if:

- a) resource use would not be feasible; or*
- b) the proposed land use or development serves a greater long-term public interest; and*
- c) issues of public health, public safety and environmental impact are addressed.*

The overall direction of these policies is to protect aggregate deposits and to facilitate their extraction. Section 2.5.2.5 provides exceptions to this general vision, which includes the concept of resource feasibility.

The property owner included an Aggregate Assessment Report as part of their application submission. This study concluded that the aggregate present on the property is relatively minimal, and that the region has ample aggregate to meet local needs. This report concludes that the aggregate on the subject does not need to be protected.

In my professional opinion 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" with an "Aggregate" overlay in the City of North Bay's Official Plan.

The City's Official Plan generally restricts development in the Rural Area. The Preamble to Part 3 (Rural Area) provides a concise synopsis of the City's general vision for the Rural. This section includes the following passage:

The Rural Area is beyond the area required for urban development and therefore the intent of this Plan will be to protect the rural nature of these lands, by directing new development to the Settlement Area, leaving the rural area largely undeveloped. Uses in the Rural Area will be those uses that are location dependent and do not require urban services, such as but not limited to: aggregate and mineral extraction, limited restricted industrial, highway commercial, waterfront commercial, rural institutional and limited residential development.

Staff notes that the uses permitted both within the current and proposed zones are considered to be appropriate within the Rural Areas of the Official Plan.

The Official Plan also provides more detailed policies that guide land use in the Rural Area. Excerpts relevant to this application are as follows:

- 3.1.2 New residential lot creation will be considered only where there is no undue pressure put upon existing infrastructure, including the extension of road networks.*
- 3.1.3 No new residential development shall be permitted within the Airport Protection Zone, as shown on schedule 1 and 2 of this Plan;...*
- 3.1.6 Designate Aggregate Resource Areas and Mineral Resource Areas to ensure they are protected for the long term.*
- 3.1.7 Any new development proposed in the Rural Area will be reviewed for the presence and protection of provincial interests as described in the Provincial Policy Statement 2005 or any successor policy documents, as well as compliance with the applicable legislation.*

The subject property is located at the intersection of two municipally maintained roads. The development would not necessitate the extension of services.

The property is located outside of the Airport Protection Zone.

Aggregate has identified in the Official Plan and will be discussed in further detail below.

As reviewed in the Provincial Policy Statement section of this report, the development has been considered from the perspective of the PPS 2020 (which is a successor policy document of the Provincial Policy Statement 2005).

The Official Plan contains policies that direct permissible activities on lands that have potential for aggregate extraction. The municipal position regarding aggregate is that it is a fixed location resource that has priority to be developed, while giving flexibility for other developments under specific circumstances. Relevant Official Plan policies outlining this direction are as follows:

Preamble of Section 3.2 (Aggregate Extraction Designations)

Primary Aggregate Resource Areas as shown on Schedule 2 to this Official Plan were initially identified through the Ministry of Natural Resources 'Aggregate Resources Inventory' and will be protected from incompatible land uses. An Official Plan amendment will be required however, prior to the establishment of any new additional aggregate areas not shown on Schedule 2. 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 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.

...

3.2.2 Aggregate designations will take precedence over any land use that would prevent their future expansion and extraction, except where previous Official Plan Amendments occurred which established a new designation.

...

3.2.8 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.

The applicant submitted an Aggregate Assessment Study prepared by Pebble Beach Aggregate & Timber Craft Consultation Inc. in support of their application. This study reviewed the feasibility of the aggregate on the property. The Executive Summary of this document stated:

A field examination of the subject property and a review of online aggregate data from the Ministry of Natural Resources and Forestry, Northern Development and Mines has confirmed that there is a minimal amount of aggregate on the property. Based on the availability of quality aggregate from Licensed sources in the general area and in North Bay as a whole, the demand for aggregate in North Bay, the cost to License the property and return value to the owner, this source does not need to be protected for future use.

The deposit is minor in scale and there should be no impact to the local supply of aggregate in the long term, with the development of this property for non-aggregate purposes.

Given this analysis by third party firms, Planning staff are in agreement to consider other non-aggregate uses on the property.

In my professional opinion the proposed 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 Extractive Industrial (RME)". The RME Zone permits the following land uses:

- Asphalt/Concrete Plant
- Pit
- Quarry

The applicant is proposing to rezone the subject property to a "Rural (A)" zone. The A zone 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

There are no special regulations from the standard requirements of the Zoning By-law proposed by this application.

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 Parks Department, Finance Department, and the Ministry of Transportation each offered no concerns or objections.

The Ministry of Environment, Conservation and Parks (MECP) stated that the applicant must consider Species at Risk regulations as part of any development.

The North Bay Mattawa Conservation Authority (CA) noted the presence of Provincially Significant Wetlands and regulated areas on the property. Development is not permitted within the Provincially Significant Wetlands. In the Regulated Area may be permitted, subject to a permit being issued from their office. An Environmental Impact Study may be required in order to obtain this permit.

Both the MECP and the CA comments would be applicable to any development on the subject lands. There are processes with each of these agencies that the applicant will be required to follow. The applicant has been made aware of these requirements and is aware of the appropriate steps to take to engage each agency.

The Conservation Authority also noted the presence of two aggregate operations in the area, one to the south of the subject property and one to the west. The D-Series Guidelines, provincial documents that seek to minimize instances of land use conflict, identifies a buffer of 300 metres from the pit and a total area of influence of 1000 metres. These guidelines will be taken into consideration at the time of development when there is a specific use identified and the proposed built form of the property is known.

One item of correspondence was received by a member of the public. This letter did not identify specific concerns regarding the proposed development. Staff followed up with the member of the public and discussed the application. No concerns were raised.

A complete copy of all correspondence received is attached to this report as Appendix A.

No other correspondence was received on this file.

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 needs of the community

Options Analysis

Option 1:

That the proposed Zoning By-law Amendment by Miller & Urso Surveying Inc. on behalf of the property owner, 2708432 Ontario Inc. – McGruthers Road (unaddressed) in the City of North Bay, to rezone the property from a “Rural Extractive Industrial (RME)” zone to a “Rural (A)” zone for the property legally described in Appendix A to Report to Council No. CSBU 2023-003 be approved.

Option 2:

That the proposed Zoning By-law Amendment by Miller & Urso Surveying Inc. on behalf of the property owner, 2708432 Ontario Inc. – McGruthers Road (unaddressed) in the City of North Bay, to rezone the property from a “Rural Extractive Industrial (RME)” zone to a “Rural (A)” zone for the property legally described in Appendix A to Report to Council No. CSBU 2023-003 be denied.

For the reasons outlined in this report, this option is not recommended.

Recommended Option

Option 1 is the recommended option.

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

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#949 – Zoning By-law Amendment – McGruthers Road (Unaddressed)

Appendix A

PIN 49126-0129 (LT)

PCL 3906 SEC WF; PT N 1/2 LT 14 CON 3 Widdifield as in LT61796; North Bay;
District of Nipissing

Appendix B – Correspondence

Internal Correspondence (via DART)

Finance

Member: Lisa Beaulieu

Status: Approved

No comments

Parks

Member: David Schroeder

Status: Approved

Parks has no comments or concerns with this application.

MECP

Member: Brent Trach, MECP

Status: Approved

MECP is now responsible for the Endangered Species Act. Any work done at the site must consider the Endangered Species Act and a permit/authorization may be required which will be the responsibility of the proponent. If work can be completed around protected species and habitats so that they are not adversely affected, an authorization may not be required or a conditional exemption may be obtained.

Ministry of Transportation

The Ministry of Transportation of Ontario (MTO) has reviewed the Notice of Complete Application for ZBA - McGruthers Road in North Bay and has determined that the subject lands are not within MTO's permit control area. Therefore, the MTO does not have any comments to provide.

Thank you and have a nice day,

Aide

Aide Zarkovich

Corridor Management Planner

Operations Division, Northeast Region

Ministry of Transportation

447 McKeown Ave, Suite 301

North Bay, Ontario, P1B 9S9

T. (705) 669-7705 E. aide.zarkovich@ontario.ca

North Bay Mattawa Conservation Authority



October 11, 2022

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

**Re: Zoning By-law Amendment Application – 2708432 Ontario Inc.
 McGruthers Road
 Pt. Lot 14, Con. 13, Pcl. 3906 W/F
 City of North Bay
 Our File No.: PZB09-NB-22**

This office has received and reviewed the proposed zoning by-law amendment to rezone the property from a "Rural Extractive Industrial (RME)" zone to a "Rural (A)" zone to allow for residential development. The property is currently designated "Rural" with an "Aggregate" overlay under the City of North Bay Official Plan. The applicant is also proposing to create one new lot from the original holdings.

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. The Conservation Authority has no objection; however, it should be noted that there are development constraints associated with this property.

Duchesnay Creek traverses this property. Associated with the creek is a Provincially Significant Wetland (PSW) the Duchesnay Creek Wetland Complex. The creek and the PSW are regulated by the Conservation Authority. Development is not permitted within the PSW. Development may occur in the adjacent lands (120m) or the Approximate Regulated Area, subject to a DIA permit. Depending on the nature of development, an Environmental Impact Study (EIS) may be required. The creek and PSW area mostly affect the west side of the property. See attached mapping.

Due to the size of the severed portion, it has been determined that there is adequate room to accommodate an initial and a replacement Class 4F septic system based on a 3-bedroom single-family dwelling. Although the retained lands are constrained by the PSW, there appears to be adequate room to accommodate an initial and a replacement Class 4F septic system based on a 3-bedroom single-family dwelling.

Portions of this property contain an "Aggregate" overlay as shown on Schedule 2 of the Official Plan. These areas are to be protected from incompatible land uses. It is recommended that the applicant hire a qualified professional to determine whether: the resource is not feasible; the land use serves a greater long-term public interest; and issues of public health, public safety and

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environmental impact are addressed.

There are two active gravel pits in the vicinity of this property: ALPS ID 622541, located just south of this property and ALPS ID 601961 is found on the west side of Chadbourn Drive. See attached. The PPS provides policy direction to protect these resources for long-term use. Section 2.5.2.4 of the PPS states that "Mineral aggregate operations shall be protected from development and activities that would preclude or hinder their expansion or continued use or which would be incompatible for reasons of public health, public safety or environmental impact."

According to MOECC Land use (D-Series) Compatibility Guidelines, a pit and quarry is classified as a class III industrial use. The influence area is described as 1000m with a required minimum separation distance of 300m. Typically, development may be permitted within the influence area where it is clearly demonstrated that impacts such as noise, dust and vibration can be mitigated.

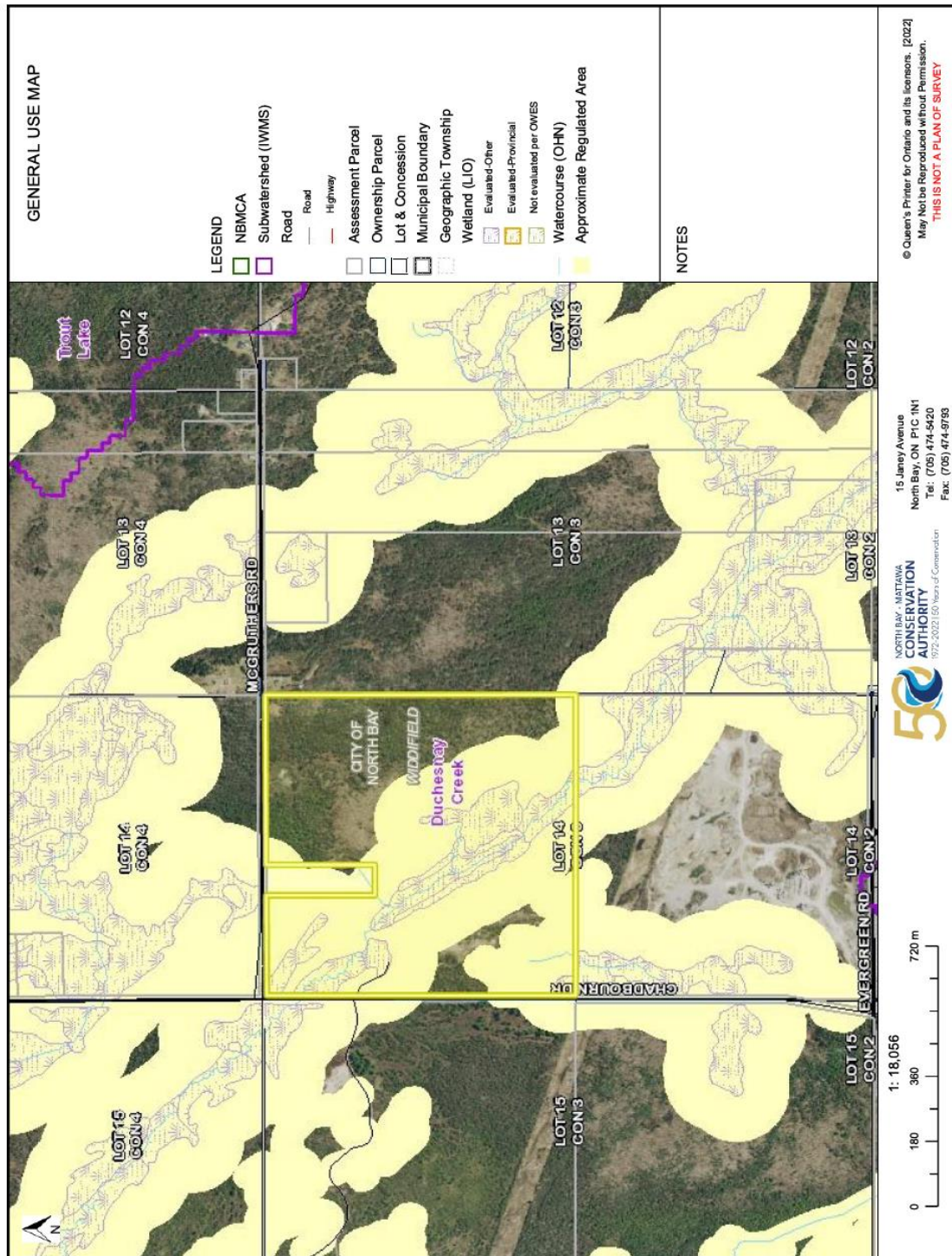
Trusting this is satisfactory. Should you have any questions, please do not hesitate to contact this office at (705) 474-5420. For administrative purposes, please forward any decisions and resolutions regarding this matter.

Yours truly,

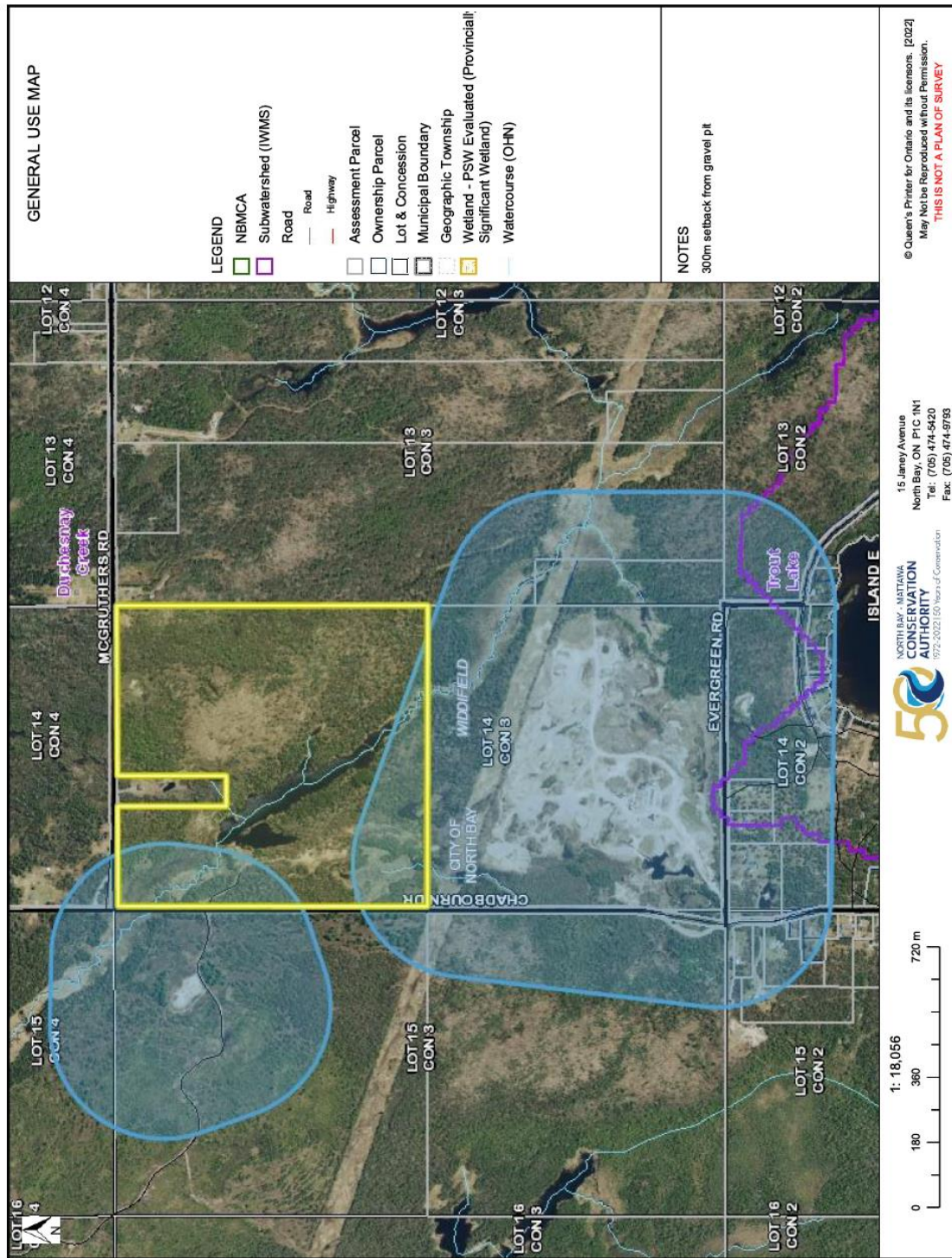
A handwritten signature in blue ink that reads "Paula Scott". The signature is fluid and cursive, with the first name and last name clearly distinguishable.

Paula Scott
Director, Planning & Development/Deputy CAO

Encl. (4)







Public Correspondence

Hello Peter,

My name is Chad Galipeau from 101 McGruthers road in North Bay.

Could you please call me back regarding the rezoning of the lot surrounding my property. I have a few questions I would like to ask you.

For the time being, I would like to appeal the decision for the rezoning to rural class A lots.

I can be reached on my cell at: [REDACTED]-[REDACTED]-[REDACTED] Thank you, Chad Galipeau