

Title: William Day Construction Limited

Date: August 12, 2020

STAFF REPORT

PROPOSAL:

An application for rezoning has been submitted in order to expand an aggregate pit onto the former Dowling landfill. The lands were sold in 2013 and are subject to an agreement between the City and the owner that requires the documented removal of waste prior to aggregate extraction.

As part of a complete application, the proponents submitted a complete set of site plans, including existing conditions, an operational plan including supplemental cross-sections, and a rehabilitation plan. The owner is requesting relief for a zero setback from the lot lines where a minimum 15 metres is required.

Existing Zoning: "RU", Rural and "H2RU", Holding Rural

The former landfill site pre-dated the implementation of zoning. Rural zoning does not permit aggregate extraction as-of-right.

Requested Zoning: "M5(S)", Extractive Industrial Special and H2M5(S)", Holding Extractive Industrial Special

The subject land currently has a split Rural zoning, which would be carried forward as an M5 Special. The H2 holding provision would be retained on a portion of the property in order to address the proximity to a waste disposal site.

Location and Site Description:

PIN 73353-0403, Parts 7 & 8, Plan 53R-16474, Part 1, Plan 53R-4788 in Lot 7, Concession 3, Township of Dowling (Simmons Road, Dowling)

The subject land is located in an aggregate resource area located off Simmons Road in Dowling Township. The area is not serviced by municipal sewer and water. Simmons Road is constructed to a rural standard. There is no public transit service in this area.

Total area of the lands to be rezoned is 2.08 ha. There is no public road frontage, as the site is essentially surrounded by existing aggregate operations. The exception is the north limit of the property, which abuts a CPR rail corridor. A Vale transmission line corridor abuts the westerly limit of the land.

Aggregate uses are also situated on adjacent lands east, west and south of the subject property. The closest residential dwelling is located at 234 Highway 144, approximately 230 metres to the northeast as measured between lot lines at the closest points. A decommissioned waste disposal site is located southwest of the subject land on lands zoned "EP", Environmental Protection

Public Consultation:

The statutory notice of the public hearing was provided by newspaper along with a courtesy mail-out to property owners and tenants within a minimum of 240 metres of the property.

The applicant was advised of the City's policy recommending that applicants consult with their neighbours, ward councillor and key stakeholders to inform area residents on the application prior to the public hearing.

As of the date of this report, no phone calls or written submissions have been received by Planning Services.

Title: William Day Construction Limited

Date: August 12, 2020

POLICY & REGULATORY FRAMEWORK:

The property is subject to the following policy and regulatory framework:

- [2020 Provincial Policy Statement](#)
- [2011 Growth Plan for Northern Ontario](#)
- [Official Plan for the City of Greater Sudbury, 2006](#)
- [Zoning By-law 2010-100Z](#)

Provincial Policy Statements and geographically specific Provincial Plans, along with municipal Official Plans, provide a policy framework for planning and development in the Province. This framework is implemented through a range of land use controls such as zoning by-laws, plans of subdivision and site plans.

Provincial Policy Statement (PPS):

Municipalities in the Province of Ontario are required under Section 3 of the [Planning Act](#) to ensure that decisions affecting planning matters are consistent with the Provincial Policy Statement.

Section 2.5 of the PPS addresses Mineral Aggregate Resources, which shall be protected for long-term use and made available as close to markets as possible. Extraction shall be undertaken in a manner which minimizes social, economic and environmental impacts.

Growth Plan for Northern Ontario (GPNO):

Municipalities in the Province of Ontario are required under Section 3 of the *Planning Act* to ensure that decisions affecting planning matters conform with the Growth Plan for Northern Ontario.

The GPNO has no applicable policies on aggregate resources.

Official Plan for the City of Greater Sudbury:

Note: This application was submitted in 2014 and is subject to policies which pre-date the Phase 1 amendments to the Official Plan. However, there have been no major changes in applicable policies.

The subject lands are designated as Aggregate Reserve in the Official Plan. In considering an amendment to the Zoning By-law to permit new mineral aggregate operations or expansions of existing operations, the following information will be reviewed:

- a. the location, nature, extent and economic potential of the mineral deposit;
- b. the nature and location of adjacent land uses and the effect the pit and quarry operation could have on:
 - i. natural heritage features, including significant geologic formations on the site and in the area;
 - ii. agricultural resources and activities;
 - iii. the character of the area;
 - iv. the groundwater recharge functions on the site and in the immediate area;
 - v. the built or cultural heritage resources in the area;
 - vi. surface water features in the area; and,
 - vii. nearby wells used for drinking water purposes.

Title: William Day Construction Limited

Date: August 12, 2020

- c. the capability of the existing road network to service the proposed location;
- d. the effect of the noise, odour, dust and vibration generated by the use and the use of haul routes on adjacent land uses; and,
- e. how the impacts of the proposed pit or quarry will be mitigated in order to lessen the impacts.

The lands are subject to the policies of Section 10.6 concerning waste disposal assessment areas as follows:

1. No new development shall be permitted on or within 300 metres of active or closed waste disposal sites. For lands between 300 metres and 500 metres of active or closed waste disposal sites, new development may be permitted provided the following requirements are met:
 - a. studies of gas, leachate, hydrogeology and structural stability, soil and surface and groundwater contamination, presence of hazardous wastes and safety are completed which show that the development is compatible and can safely take place;
 - b. written approval is received from the Province that the provisions of the relevant legislation are met; and,
 - c. measures are taken to the satisfaction of the Province in consultation with the City to control and mitigate any problems identified in the study.
2. In areas subject to these policies, only uses compatible with the identified potential impacts may be permitted by an amendment to the Zoning By-law.

Zoning By-law 2010-100Z:

The subject land is zoned "RU", Rural and "H2RU", Holding Rural. The Rural zoning permits a range of residential and resource-based uses such as agriculture and forestry, but excludes pits and quarries.

The H2 holding provision is applied to lands located between 300 metres and 500 metres of active and closed waste disposal sites. In this case, the subject site is adjacent to a hauled sewage site owned by the City of Greater Sudbury which was decommissioned in 2015. The holding shall only be lifted by Council upon submission of an assessment report prepared by a qualified engineer in accordance with Section 10.6 (Waste Disposal Assessment Areas) of the Official Plan and Guideline D-4 (April 1994) of the Province of Ontario or its successor.

Further to the above, the holding provision shall not apply in a circumstance where a building permit is not required.

Site Plan Control:

The site is not subject to site plan control, as an aggregate extractive use with no buildings or structures would not be defined as development under Section 41 of the Planning Act.

Department/Agency Review:

Commenting departments and agencies have no concerns. CPR advised that there are no concerns related to the reduced setback to the railway along the northerly limit of the lands.

Title: William Day Construction Limited

Date: August 12, 2020

PLANNING ANALYSIS:

Background:

The City of Greater Sudbury sold the subject land to the current owner on July 8, 2013. The site operated as a landfill for the former Township of Dowling and the former Town of Onaping Falls from May 1971 to approximately November 1974. The property was sold based on an “as is, where is” condition. The registered agreement also required the waste to be removed at the buyer’s expense subject to the necessary approvals and prior to any aggregate extraction. Section 4: Disposition of Waste of the agreement stipulates the following:

- (1) The Owner further understands and agrees that waste removed from the Property must be hauled only by a licensed waste hauler, duly licensed for such purpose by the Ministry of the Environment and deposited only in a licensed site.
- (2) Due to the limits on waste which can be accepted at the City’s Azilda landfill site, waste from the Property may have to be hauled to the Sudbury landfill site or other licensed landfill sites for disposition. When delivering waste from the Property to a landfill site operated by the City, the Owner shall identify the source of the waste to the operator at the landfill site. The Owner shall cause any hauler hauling such waste on behalf of the Owner to comply with this obligation.
- (3) The Owner agrees to maintain written records of the volume, type and weight of waste removed and to provide a written report summarizing such information to the City’s Director of Environmental Services, upon completion of the waste removal and before commencing aggregate removal.

On June 17, 2020, Environmental Services was advised by the owner’s representative that approximately 75% of the waste has been removed to date. The majority of waste has been transferred to the Espanola landfill.

Planning Considerations:

Land use compatibility

There are no concerns related to land use compatibility with adjacent uses. The subject site is located in an area noted for its concentration of aggregate uses, a history of use that extends back several decades.

There are no sensitive land uses in close proximity to the site. The closest residential dwellings are located on the north side of Highway 144 and are separated from the subject land by a Provincial highway and an active rail corridor.

Traffic and Transportation Section have no concerns related to this application. Simmons Road and New Cobden Road, which provide access to the site from Highway 144, are not affected by loading restrictions.

Title: William Day Construction Limited

Date: August 12, 2020

Official Plan conformity

The application presents conformity with Official Plan policies applied to expanded aggregate operations based on the following considerations:

- The aggregate deposit is deemed to be viable based on the owner's acquisition of the lands;
- There are no natural heritage features that would constrain extraction;
- The site is located in an area with a concentration of aggregate pits;
- There are no agricultural uses in the immediate area;
- The road network is sufficient to accommodate truck traffic;
- There are no sensitive land uses in close proximity to the site that would be negatively impacted by adverse activities; and,
- Operational matters are addressed through the aggregate licence issued by the Ministry of Natural Resources and Forestry;
- The proposed extractive use is deemed to be compatible with any potential impacts associated with the decommissioned waste disposal site.

2020 Provincial Policy Statement

The proposal is consistent with Provincial policies geared to aggregate resources, as the subject site is located in an area noted for its concentration of aggregate facilities. There are no discernible social, economic and environmental impacts given that the land is entirely surrounding by active aggregate operations. No new uses are proposed which would undermine the viability of the Aggregate Reserve.

CONCLUSION:

The following conditions of approval are recommended prior to the adoption of the amending by-law:

- A portion of the property must retain the H2 holding provision given the proximity to a waste disposal site. As a result, a plan of survey is required in order to enact the amending by-law; and,
- The owner shall also satisfy the requirements of the Environmental Services Division related to waste removal as per the terms of the agreement.

It is further recommended that relief be granted for a zero setback to the lot lines given that the subject land is to be integrated with surrounding aggregate uses. CPR also indicated no objection to a reduced setback.

Planning Services recommends that the application for rezoning be approved subject to the conditions outlined in the Resolution section of this report.