

Title: Roy Gareau

Date: July 3, 2020

STAFF REPORT

PROPOSAL:

An application for Official Plan Amendment has been submitted in order to redesignate the subject land from "Mining/Mineral Reserve" to "Rural" in order to permit the severance of a rural lot. The proposed 3.64 ha lot would have approximately 90 metres of frontage on MR80.

As part of a complete application, the owner provided the following background materials in support of the application:

- Planning Justification Report, Official Plan Amendment, 2099 Municipal Road 80 (Tulloch Engineering – February 2020)
- Habitat Assessment and SAR Studies (Tulloch Environmental – July 23, 2018 and addendum dated May 14, 2020)

Existing Land Use Designation: "Mining/Mineral Reserve"

The Mining/Mineral Reserve is primarily geared to mineral extraction and processing. Permitted uses may include mining and mining-related uses, mineral aggregate uses, smelting and refining uses, pits and quarries and related uses, and accessory uses and structures associated with mining.

Requested Land Use Designation: "Rural"

Rural residential development consistent with the character of surrounding existing uses is permitted in Rural designations, provided no additional public services would be required. The minimum standards for a non-waterfront rural lot are 90 metres of road frontage and 2 hectares of land area.

Location and Site Description:

PIN 73498-0267, Parcel 28779 S.E.S., in Lot 7, Concession 4, Township of Blezard (2099 Highway 69 North, Val Caron)

The subject land comprises a rural parcel located in the McCrea Heights section of Valley East. The area is serviced by municipal water but there is no sanitary sewer. The road is constructed to an urban standard with a sidewalk on the west side. The closest public transit stop is located at Hubert Street, approximately 300 metres to the east.

Total area of the subject land is 6.17 ha, with approximately 291 metres of frontage. The developed portion of the parcel is occupied by a single detached dwelling, several accessory buildings including a large warehouse-type building, and associated outdoor storage. An extensive wetland area including an open water marsh encompasses the entire northerly portion of the parcel.

Disturbed lands located southeast of the existing dwelling comprise a former wetland area that has been filled subject to Conservation Sudbury approval. The filled area along the street line is the proposed location for a new dwelling on a severed lot. The remainder of the parcel, which presents a varied topography including large rock outcrops, has been left in a natural state, including a wetland feature in the southeast portion of the site described as a moderately rich fen.

Low density residential housing comprises adjacent uses to the north, east and south.

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Surrounding Land Uses:

The area surrounding the site includes:

North: low density residential uses

East: low density residential uses on opposite side of MR80

South: undeveloped rural lands

West: undeveloped rural lands

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 120 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.

The application indicates that notices will be mailed to adjacent property owners. As of the date of this report, no phone calls or written submissions have been received by Planning Services.

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 2.4 of the PPS addresses mineral resources which shall be protected for long-term use. Known mineral deposits and significant areas of mineral potential shall be identified and development and activities in these resources or on adjacent lands 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.

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.

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Section 2.3.8 of the GPNO contains policies related to the development of the Minerals Sector and Mining Supply and Services in Northern Ontario. The main focus relates to expanding the capacity and competitiveness of the mining sector. There are no specific land use policies related to the mineral reserve.

Official Plan for the City of Greater Sudbury:

Mining/Mineral Reserve

The core policies under Section 4.6.1 of the Official Plan essentially mirror the Provincial Policy Statement. Mining/Mineral Reserve areas will be protected from development that would preclude or hinder the establishment of new operations or access to the resource unless:

- a. the 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.

New lot creation for rural residential development is not permitted. An Official Plan Amendment is therefore required.

Policies applied to Species at Risk under Section 9.2.2

Development and site alteration are not permitted in habitat of endangered species and threatened species except in accordance with provincial and federal requirements.

Development and site alteration are not permitted on lands adjacent to habitat of endangered species and threatened species unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural feature or their ecological functions. Adjacent lands to endangered species and threatened species may vary depending on general habitat descriptions. Habitat descriptions can be obtained through the Ministry of Natural Resources and Forestry. This area can be modified if justified by a study completed by a qualified professional.

Zoning By-law 2010-100Z:

The existing Rural zoning would permit a residential use in the form of a single detached dwelling or a mobile home on a permanent foundation.

Site Plan Control:

A single detached dwelling on a non-waterfront lot is not subject to site plan control.

PLANNING ANALYSIS:

This application is focused on two major land use considerations:

- The removal of the subject lands from the Mining/Mineral Reserve;
- The presence of potential habitat for Species at Risk (SAR).

Mining/Mineral Reserve

The application speaks directly to a matter of Provincial interest, being the Mining/Mineral Reserve identified in the City's Official Plan. Accordingly, the proposal including the Planning Justification Report was circulated to the Ministry of Energy, Northern Development and Mines (ENDM). Detailed comments and mapping are included as an attachment to this report.

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The property is located within the Upper Zone of the Sudbury Igneous Complex (SIC). The Metallic Mineral Potential Estimation Tool (MMPET), which is an assessment tool used to estimate metallic mineral potential, assigns a score of 100 to the subject property given the location within the SIC. However, the site itself is deemed to have lower potential for mineral extraction, and any access to mineral resources would likely be from the Lower Zone of the SIC. It is further noted that there are no Mineral Deposit Inventory (MDI) sites on or within 1000 metres of the property.

Staff is satisfied that the general assessment provided by ENDM is sufficient to support removal of the lands from the Mining/Mineral Reserve. Changing the land use designation to Rural would not have a significant impact on the cohesiveness and viability of the Mining/Mineral Reserve provided it is implemented on a site-specific basis only.

Species at Risk (SAR)

The lands have been identified as potential habitat for several Species at Risk, including Blanding's Turtle, Eastern Whip-poor-will, Bobolink and Barn Swallow. The proponents submitted a Habitat Assessment and SAR Studies as part of a complete application. The study results are largely focused on Blanding's Turtle and Eastern Whip-poor-will, as the lands were deemed unsuitable for Bobolinks and Barn Swallows were not found to be present.

The Ministry of Natural Resources and Forestry indicates that suitable habitat for Blanding's Turtle exists on the subject lands and within the vicinity of the site. Field surveys conducted using appropriate protocols also confirm the presence of Eastern Whip-poor-will habitat on and around the subject lands. The habitat assessment and associated field surveys can be summarized as follows:

a) Blanding's Turtles

Category 2 Blanding's Turtle habitat is identified on two parts of the parent parcel: the northerly portion of the retained lot, which contains an open water marsh located north of the existing dwelling; and, the southeasterly portion of the new lot, which contains another wetland feature identified as a moderately rich fen (flat low-lying area subject to flooding). The remainder of the lands comprise Category 3 habitat.

b) Eastern Whip-poor-will

Acoustic surveys confirmed the presence of Eastern Whip-poor-will both on and off the site. Based on these observations, it was determined that the southerly portion of the parent parcel is Category 2 habitat, with the remainder of the land functioning as Category 3 habitat.

The area proposed for development therefore comprises Category 3 habitat, which can tolerate a higher level of disturbance. The Habitat Assessment recommends that future residential development be restricted to the existing filled area located outside the core habitats of both species. Total area is approximate 0.7 hectare, which is sufficiently large to accommodate a single detached dwelling and accessory uses. The owner is solely responsible for ensuring that activities relating to vegetation removal, site alteration and development undertaken on the subject lands do not result in a contravention of the *Endangered Species Act*.

A site visit revealed that fill is also being placed on adjacent land identified as PIN 73498-0474 on Wendy Street, which is also owned by the applicant. The fill is encroaching onto a wetland area located directly south of PIN 73498-0504. These lands are not subject to the current application. The owner is therefore advised of the following:

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- Site alteration within a regulated area of Conservation Sudbury requires a permit under Section 28 of the *Conservation Authorities Act*;
- A site alteration permit may also be required from Building Services;
- The owner is solely responsible for any contraventions of the *Endangered Species Act*.

CONCLUSION:

The application does not conflict with the 2020 Provincial Policy Statement given the site-specific considerations, which have determined that the proposed development does not significantly impact the Mining/Mineral Reserve. An exception to the Official Plan in order to redesignate the subject lands to Rural to permit a rural residential lot can therefore be supported provided the owner adheres to the recommendations of the Habitat Assessment, which identifies Species at Risk habitat on and around the subject lands.

Planning Services recommends that the application for Official Plan Amendment be approved.