

PLANNING JUSTIFICATION REPORT

OFFICIAL PLAN AMENDMENT

2099 MUNICIPAL ROAD 80

PIN 73498-0267

CITY OF GREATER SUDBURY

FEBRUARY 2020

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1. INTRODUCTION

1.1 Purpose

TULLOCH Engineering (TULLOCH) has been retained by Roy Gareau (the 'Owner') to prepare a planning justification report and assist in facilitating a *Planning Act* application to amend the City of Greater Sudbury Official Plan. This report provides both planning analysis and justification to amend the Official Plan designation from 'Mining/ Mineral Reserve' to 'Rural'. The intent of this redesignation is to lift the restriction found in Official Plan policy **5.2.2(1)** which prohibits the creation of a new lot within the 'Mining/Mineral Reserve' designation.

This report reviews the application in the context of applicable policies found within the documents noted below, to determine policy consistency/conformity of the application with:

- *2014 Provincial Policy Statement*
- *Growth Plan for Northern Ontario, 2011*
- *City of Greater Sudbury Official Plan*
- *City of Greater Sudbury Zoning By-law 2010-100Z*

This report concludes that the proposed official plan amendment conforms to and is consistent with the City of Greater Sudbury Official Plan, 2014 Provincial Policy Statement and represents good planning.

1.2 Subject Site

The subject property is located at 2099 Municipal Road 80 in Val Caron (PIN 73498-0267). The subject lands have an area of approximately 15 hectares (39.5 acres) and have approximately 294 metres of frontage along Municipal Road 80. *Figure 2* illustrates the approximate boundary of the subject lands.

The legal description of the property is as follows:

PCL 28779 SEC SES SRO; PT LT 7 CON 4 BLEZARD AS IN LT187194, EXCEPT PT 1 53R6062; S/T LT102847, LT102848 GREATER SUDBURY

Figure 1: Approximate Boundary of Subject Lands



1.3 Proposed Development

This application proposes an official plan amendment (OPA) to amend the Official Plan (OP) designation from 'Mining/ Mineral Reserve' to 'Rural'. The intent is to facilitate a new lot being 3.64 hectares in size, to be used for residential purposes. **Section 5.2.2** of the OP deals with rural and waterfront lot creation. **Section 5.2.2.1(a)** does not permit for the creation of new lots for rural residential development within lands designated Mining / Mineral Reserve.

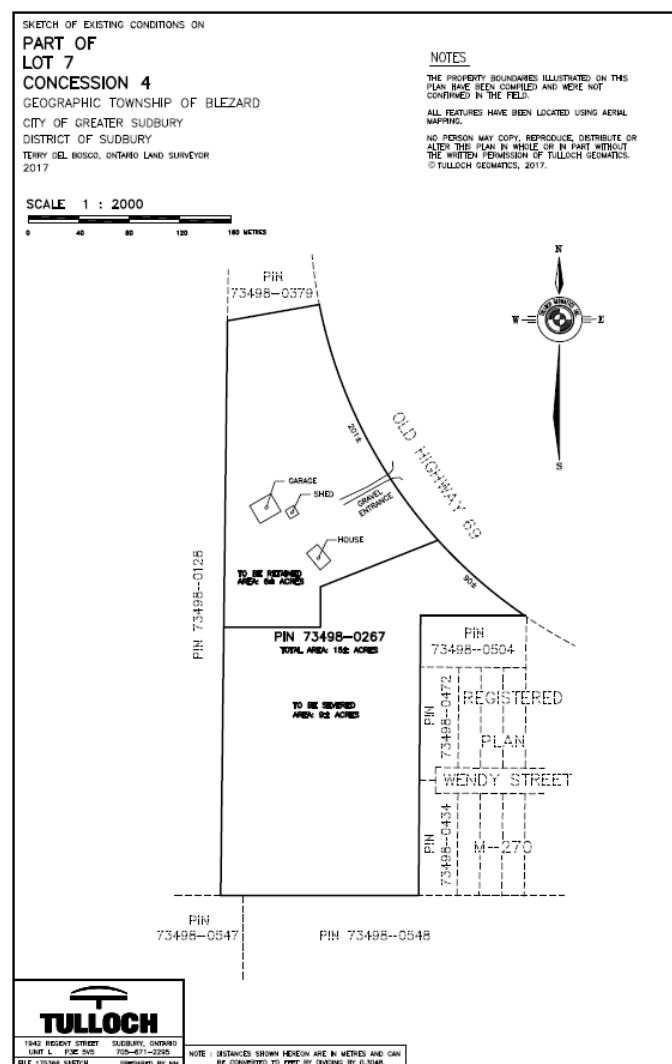
5.2.2 Rural and Waterfront Lot Creation

1. New lot creation for rural residential development is not permitted on those lands restricted by:

- a. the Mining/Mineral Reserve;
- b. the Aggregate Reserve;
- c. the Flood Plain; or
- d. significant natural features and areas

The new lot would have an irregular shape with an approximate lot area of 3.64 hectares (15 acres) with approximately 90 metres of frontage along Municipal Road 80 and an approximate lot depth of 183 metres. The retained lot would also have an approximate area of 2.43 hectares (6 acres) with approximately 201 metres of frontage along Municipal Road 80 and an approximate lot depth of 183 metres. See *Figure 2* for proposed severance sketch.

Figure 2: Proposed Severance



1.5 Surrounding Context

The surrounding area is characterized by rural low-density residential land uses, with significant vacant open space to the west and south. Rural residential development is primarily located in a linear fashion along the Municipal Road 80 corridor. There is also a developed subdivision with approximately two dozen single detached dwellings located directly abutting the subject lands to the east. The subject property is bounded by the following:

- **North:** Low density rural residential development
- **East:** Old Highway 69/ Municipal Road 80, McCrea Lake, low density residential
- **South:** Low density residential development, vacant open space
- **West:** Vacant open space

2. TECHNICAL REPORTS

A endangered species habitat assessment has been prepared regarding the proposed application. A summary of findings can be found below. For further details, please consult the full report.

2.1 Habitat Assessment

TULLOCH Environmental was retained to perform a habitat assessment and targeted surveys studies for Species at Risk (SAR) on the subject property. The study area for these environmental surveys was defined as the Site and all areas within 120 metres. The Sudbury District of the MNRF identified four SAR species associated within the immediate area and requested that the site be assessed for suitability to support habitat for these species. The four species identified by the MNRF were: Blanding's Turtle (*Emydoidea blandingii*), Eastern Whip-poor-will (*Antrastomus vociferus*), Barn Swallow (*Hirundo rustica*), and Bobolink (*Dolichonyx oryzivorus*).

The MNRF has indicated that historical records exist for Blanding's Turtle within the vicinity of the site.

The study found that wetlands and areas within 30 metres of them on the property are considered Category 2 Habitat for Blanding's Turtle. Habitat assessments identified suitable habitat for nesting by Eastern Whip-poor-will within the study area. Targeted species-specific surveys were performed for this species. As a result, the southern half of the Site is considered Category 2 Habitat for Eastern Whip-poor-will. Barn Swallow habitat was confirmed present on site in association with residential buildings. A targeted search for the species did not find any evidence of recent nesting activity and the species is not believed to be utilizing habitat on the site. Presence of Bobolink habitat was not discovered. *Figure 3* demonstrates areas within the subject lands where SAR habitat exists.



Figure 3: SAR Habitat Mapping

3. PLANNING ANALYSIS

3.1 Provincial Policy Statement (2014)

The 2014 Provincial Policy Statement (PPS) provides high-level provincial policy direction for planning approval authorities in preparing municipal planning documents, and in making decisions on *Planning Act* applications. All Municipal Official Plans must be consistent with the 2014 PPS. Policies applicable to the proposed development are outlined and discussed below.

Section 1.1 of the PPS manages and directs land uses to achieve efficient and resilient development and land use patterns. **1.1.1** states that '*healthy, livable and safe communities are sustained by:*

c. avoiding development and land use patterns which may cause environmental or public health and safety concerns

Section 2.1.7 of the PPS goes on to state:

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 habitat assessment report determined that a buildable envelope exists outside of the identified SAR wildlife habitat. This envelope area can be found near the frontage of the subject lands along Municipal Road 80 (See *Figure 3*). Given that a buildable envelope outside of SAR habitat exists, it is our opinion that the establishment of a new lot will have no negative impacts on the natural features and their ecological functions and is consistent with **Sections 1.1.1 and 2.1.7** of the PPS.

MOE D-Series guidelines regulate setbacks from sensitive lands uses. The D-series of guidelines were developed by the Ontario's Ministry of the Environment (now MECP) in 1995 as guidance for recommended separation distances and other control measures for land use planning proposals to prevent or minimize 'adverse effects' from the encroachment of incompatible land uses where a facility either exists or is proposed. *Table 1* outlines the D-Series guidelines for areas of influence and minimum separation distance for Class I, Class II and Class III industry.

Table 1: Guideline D-6 – Potential Influence Areas and Recommended Minimum Setback Distances for Industrial Land Uses

CLASS	AREA OF INFLUENCE	MINIMUM SEPARATION DISTANCE
Class I- Light Industrial	70m	20m
Class II- Medium Industrial	300m	70m

Class III- Heavy Industrial	1000m	300m
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Operations which such as an aggregate / mineral extraction operation are classified as a *Class III Industry* per the D-Series guidelines. As such, the guidelines require that incompatible development should not take place within 300 metres of a sensitive receptor. Additionally, a 1000-metre potential influence area surrounding a Class III Industry exists.

Per **Section 1.2.1** of the D-Series guidelines sensitive land uses (receptors) include:

‘residential recreational uses which are deemed by the municipality or provincial agency to be sensitive; and/or any building or associated amenity area (i.e. may be indoor or outdoor space) which is not directly associated with the industrial use, where humans or the natural environment may be adversely affected by emissions generated by the operation of a nearby industrial facility. For example, the building or amenity area may be associated with residences, senior citizen homes, schools, day care facilities, hospitals, churches and other similar institutional uses, or campgrounds.’

The *Environmental Protection Act* defines ‘adverse effect’ as ‘one or more of impairment of the quality of the natural environment for any use that can be made of it,

- *injury or damage to property or to plant or animal life,*
- *harm or material discomfort to any person,*
- *an adverse effect on the health of any person,*
- *impairment of the safety of any person,*
- *rendering any property or plant or animal life unfit for human use,*
- *loss of enjoyment of normal use of property, and*
- *interference with the normal conduct of business*

An analysis of the subject lands was compared against the D-Series guidelines with nearby sensitive receptors (residential homes). It was determined sensitive receptors exist within 300 metres of the subject lands and that no area on the subject lands is located outside the 300-metre minimum distance separation. Thus, a mineral extraction operation could not operate on the subject lands without being located within the D-Series guidelines setback buffer area (See *Figure 4*). Given the existing constraints that would prevent aggregate / minerals from being extracted on the subject property, the proposed change in land use and new lot creation allows for the establishment of a more suitable use for the subject lands consistent with the intent of **Section 1.1.1(c)** of the PPS.

Figure 4: D-Series Guidelines 300m Buffer



Section 1.1.4 regulates rural areas in municipalities and states that *'healthy, integrated and viable rural areas should be supported by:*

- a) building upon rural character, and leveraging rural amenities and assets;*

The application is consistent with **Section 1.1.4(a)** as the addition of a new lot is consistent with the rural character of the community. The existing neighbourhood fabric is predominately single-detached dwellings on small lots, thus the development of a single-detached dwelling (rural residential) on the subject lands would mirror the existing development cluster. The severed and retained lots would also meet all zoning by-law minimum requirements in the Rural zone.

Section 1.1.5.2 permits the following uses on rural lands located in municipalities:

- a. the management or use of resources;*
- b. resource-based recreational uses (including recreational dwellings);*
- c. **limited residential development;***
- d. home occupations and home industries;*
- e. cemeteries; and*
- f. other rural land uses.*

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.*

It is this authors opinion that the proposal is consistent with **Section 1.1.5.2** which permits for 'limited residential development' as the application proposes the creation of one new lot in an area of existing rural residential development. Per **1.1.5.4** the application is compatible with the existing rural landscape as it would be located within an existing cluster of rural residential development along Municipal Road 80, which is characterized by single-detached dwellings. The development will occur on private servicing avoiding uneconomical expansion of any infrastructure per **1.1.5.5**. Further, the application is consistent with **1.1.5(6)** given that the developable area suitable for a residence is at the lot frontage, outside the SAR habitat, and would not hinder a mineral operation opening further west of the property outside of the D-Series guidelines 300 metre buffer area given the new residence would be located closer to MR80 than other existing surrounding residences.

1.7.1 Long-term economic prosperity should be supported by:

b. optimizing the long-term availability and use of land, resources, infrastructure, electricity generation facilities and transmission and distribution systems, and public service facilities;

Considering that a mineral extraction operation could not establish on the subject lands due to land use compatibility issues, the subject lands would remain vacant (underutilized) without amendment to the Plan. **Section 1.7.1(b)** of the PPS promotes optimizing the use of land in Ontario. Since the current Mineral Reserve designation would result in the land being unused it is this authors opinion that this does not provide for the optimal use of the land. The application proposes to provide a highest best use of the property by allowing for rural residential development to occur and therefore is consistent with **Section 1.7.1(b)** of the PPS.

2.4.2.1 *Mineral mining operations and petroleum resource operations shall be identified and 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.*

The application is consistent with **2.4.2.1** as it does not propose to introduce any further constraints that would hinder the establishment of future mineral extraction operations to the west of the subject lands. This is due to the buildable area on the subject lands being located towards the front of the property, which would maintain/not expand the already existing 300 metre D-Series buffer generated by existing abutting residential uses.

Section 2.5.2 speaks to the protection of long-term resource supply and states that:

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

It is this authors opinion that an aggregate/mineral extraction operation could not feasibly operate on the subject lands given the surrounding context and constraints. These constraints include the existence of Species at Risk on the property and the subject lands proximity to sensitive receptors per MOE D-Series guidelines for Class III industries. Thus, the applications proposal to change the Official Plan designation of the subject lands is consistent with **Section 2.5.2.5** of the PPS as resource use and extraction would not be feasible on the subject lands given existing constraints.

3.2 Growth Plan for Northern Ontario (2011)

The Growth Plan for Northern Ontario (GPNO) is a 25-year plan that provides guidance in aligning provincial decisions and investment in Northern Ontario. There are no policies applicable to this proposal in the Growth Plan, and as such this proposal does not conflict with the GPNO.

3.3 City of Greater Sudbury Official Plan

The subject lands are currently designated 'Mining/Mineral Reserve' per schedule 1C of the Plan. Relevant policies applicable to this application are outlined and discussed below.

Section 4.6 of the City of Greater Sudbury Official Plan relates to aggregate and mining reserve designations. It states that:

1. 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

It was determined through an evaluation of Ministry of Environment, Conservation and Parks (MECP) D-Series guidelines and the Habitat Assessment that locating a mining / mineral extraction operation on the subject lands would have significant compatibility challenges on existing surrounding sensitive receptors and at-risk species identified in the rear of the subject property. Thus, it is not feasible to locate an extraction facility on the subject lands given the existing residences require a 300 metre minimum distance separation. As discussed, the introduction of a new lot and residence on the lands would not exacerbate existing constraints to establishing a mineral/aggregate use, given the new dwelling would be located such that the 300m separation distance needed would not be further expanded west or south. This separation requirement would preclude the establishment of an aggregate or mineral extraction operation on the subject lands.

Section 9.2.2 of the Official Plan deals with habitat of Endangered Species and Threatened Species. It states that:

'3. 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'

Section 2.1 of this report determined that a buildable envelope outside of the identified wildlife habitat exists. Thus, it is our opinion that the establishment of a new lot will have no negative impacts on the natural features and their ecological functions as a developable area outside SAR habitat for a single-detached dwelling does exist. Development (i.e. construction of a residence) could be facilitated entirely outside of species habitat, and thus no impact to the ecological function of such habitat is anticipated.

Section 10.7 of the OP pertains to Noise, Vibration and Odour. It states that:

‘There are several areas in the city where sensitive land uses such as residential are in proximity to major facilities such as industrial uses or transportation corridors. The intent of this plan is to ensure that major facilities and sensitive land uses are compatible to protect human health and safety and ensure the long-term viability of major facilities.

- 1. Major facilities and sensitive land uses will be appropriately designed, separated or buffered from each other in order to prevent or mitigate adverse effects from noise, vibration, odour and other contaminants.’*

This report details the D-series guidelines regarding minimum distance separation from sensitive land use receptors. It was determined that the entirety of the subject lands is within 300 metres of a sensitive land use and therefore a mineral extraction operation would not be feasible or compatible with surrounding land uses. Per **Section 10.7.1** sensitive land uses will be appropriately designed, separated or buffered from each other in order to prevent or mitigate adverse effects from noise, vibration, odour and other contaminants. Thus, the application proposes a land use which is more compatible with the surrounding context and the OP’s intent to appropriately separate and buffer sensitive land uses.

3.4 City of Sudbury Zoning By-Law

The current subject lands are currently zoned ‘Rural-RU’ per the *City of Greater Sudbury Zoning By-Law 2010-100Z*. Permitted uses within the rural zone include, but are not limited to:

- *Single Detached Dwelling*
- *Agricultural Use*
- *Animal Shelter*
- *Forestry Use*
- *Garden Nursery*

Table 2: RU-Rural Zone Requirements

Minimum Lot Area	Minimum Lot Frontage	Minimum Required Front Yard	Minimum Required Rear Yard	Minimum Required Interior Side Yard	Minimum Required Corner Side Yard	Maximum Lot Coverage	Maximum Height
2.0ha	90.0m	10.0m	10.0m	10.0m	10.0m	10%	21.0m

The ‘RU’ Zone requires a minimum lot area of 2.0 hectares and a minimum lot frontage of 90.0 metres. The severed lot is proposed to be 3.64 hectares (8.99 acres) in size with a lot frontage of 90 metres on to Municipal Road 80. The retained portion of the lot will be approximately 2.43 hectares (6.0 acres) with 201 metres of frontage on to Municipal Road 80. Both the severed and retained lot satisfy the requirements of the RU Zone and therefore comply with the Zoning By-Law. The identified building envelope would be adequate for a single-detached dwelling, and no site-specific relief from RU zone provisions is required to facilitate the end-use.

4. SUMMARY AND CONCLUSION

The proposed Official Plan amendment proposes to re-designate the subject lands from 'Mining/ Mineral Reserve' to 'Rural' so as to lift the restriction found in in Official Plan policy **5.2.2(1)** which prohibits the creation of a new lot within the 'Mining/ Mineral Reserve' designation.

It has been determined that the subject lands would not be feasible to support a mineral extraction facility as such operation would be located within 300 metres of sensitive residential uses, which is prohibited per MOE D-Series Class III industry guidelines and would be inconsistent with **Section 1.1.1(c)** and **1.1.5.6** of the PPS. It was determined that a buildable envelope outside of identified SARs habitat exists which is suitable for rural residential development purposes. Given the PPS's intent to optimize the use of land and leverage rural amenities, the application provides for the highest and best use of the property given the numerous constraints outlined in this report.

Given the analysis contained herein, it is the authors opinion that the subject official plan amendment is consistent with the 2014 PPS, conforms with the intent of the City of Greater Sudbury's Official Plan, and represent Good Planning.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'K. Jarus', written in a cursive style.

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