



SUBJECT: Comments to Ministry of Natural Resources and Forestry (MNRF) and Environmental Registry of Ontario (ERO) for the Burlington Nelson Quarry Extension

TO: Community Planning, Regulation & Mobility Cttee.

FROM: Community Planning Department

Report Number: PL-57-20

Wards Affected: 3

File Numbers: 505-04/20

Date to Committee: December 8, 2020

Date to Council: December 10, 2020

Recommendation:

Endorse staff comments contained within Appendix 'A' of community planning department report PL-57-20 ('City of Burlington – Objection Letter re: Burlington Nelson Quarry Extension'); and

Direct the Director of Community Planning to forward 'City of Burlington – Objection Letter re: Burlington Nelson Quarry Extension' by courier and email to the Ministry of Natural Resources and Forestry (MNRF) and Applicant prior to the comment deadline; and

Direct the Director of Community Planning to submit 'City of Burlington – Objection Letter re: Burlington Nelson Quarry Extension' to the Environmental Registry of Ontario (ERO) in response to ERO No. 019-2698 prior to the comment deadline; and

Direct the City Clerk to forward Council's resolution, subject to the endorsement of community planning report PL-57-20, to the Ministry of Natural Resources and Forestry (MNRF) and applicant; and

Direct the City Clerk to forward community planning report PL-57-20 to the Joint Agency Review Team.

PURPOSE:

Vision to Focus Alignment:

- Building more citizen engagement, community health and culture
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Background and Discussion:

1.0 Aggregate Resources Act (ARA) License Application Process

Ministry of Natural Resources and Forestry (MNRF) deemed the Burlington Nelson Quarry Extension application for *Aggregate Resources Act (ARA)* License (Category 2 – Class A – Quarry Below Water) “complete” in accordance with the requirements of the Aggregate Resources of Ontario Provincial Standards (AROPS) on October 5, 2020 with the issuance of a Letter of Complete Application. MNRF has the authority to deem applications complete once the specific submission requirements are fulfilled.

The City of Burlington was advised of the complete status of the application by the proponent’s consultant planner on October 7, 2020 with the updates to the following reports and plans:

- Planning Justification Report & Aggregate Resources Act Summary Statement, as prepared by MacNaughton Hermsen Britton Clarkson Planning Limited (MHBC), dated, April 2020 (revised September 2020 – Section 12.6.1.4);
- Updated Stage 1-2 Archaeological Assessment (West Extension), as prepared by Golder Associates Ltd., dated, September 15, 2020; and,
- Revised ARA Site Plans (to reflect change of date of Stage 1-2 Archaeological Assessment; modification to pond location on proposed West Extension)(September 2020).

These updated submission materials have been recirculated to applicable internal departments for review and have been uploaded to the City of Burlington Development Projects webpage for the Burlington Nelson Quarry Extension (burlington.ca/nelsonquarry).

The City of Burlington Community Planning Department was circulated an electronic copy of the ARA package (Agency Utility Letter and Reports, including a copy of the Notice of Application for a License (Form 1) and Notice of Public Information Session (Form 2)) on October 27, 2020. Copies of these Notices are also available on the Burlington Nelson Quarry Extension Development Projects webpage.

Form 1 (Notice of Application for an Aggregate Resources Act (ARA) License) informs on the purpose and particulars of the application and includes a link to a detailed site plan and submission materials (i.e. reports) related to the proposal. Contact information for both the applicant and Ministry of Natural Resources and Forestry, and instructions

advising on the process to submit letters of objection is included in the Notice. Objections must be filed with the applicant and Ministry by December 14, 2020.

Form 2 (Notice of Public Information Session) advises of sources of additional information related to the proposal, including available dates that the applicant has coordinated to answer questions and contact information to schedule a conference call to discuss the proposal with representatives of the proponent. Due to the ongoing COVID-19 pandemic, a formal Public Information Session will not be held.

As part of the circulation process, the proponent is responsible for the circulation of the Notice to residents/tenants/landowners within 120 metres of the limits of the existing quarry as well as lands identified for the proposed quarry extension. The proponent's consultant planner has confirmed that these Notices were hand-delivered on October 27, 2020.

A notification sign is required to be posted on the property throughout the duration of the ARA process and was installed on October 28, 2020. A print copy of the Notice was also published in the October 29, 2020 edition of the Burlington Post.

The circulation of the Notice of Application for an *Aggregate Resources Act* (ARA) License initiates a statutory 45-day comment period (to conclude on December 14, 2020). During this period, written correspondence in objection (including reasons for the objection(s)) from public and agencies are to be directed to the applicant and Ministry of Natural Resources and Forestry. All communications must contain the objector's postal mailing address to which a written response can be delivered. Email correspondence must also include a mailing address or it will otherwise be considered an incomplete submission and not accepted.

The *Aggregate Resources Act* provides for a period of two (2) years for the applicant to respond in writing to all letters of objection, indicating the manner in which those objections are to be addressed and/or resolved. Following a response from the applicant on these matters, an objector can confirm any objections that are not resolved at that time.

2.0 Environmental Registry of Ontario (ERO)(ERO No. 019-2698)

On November 10, 2020, a request for comments was posted to the Environmental Registry of Ontario (ERO), pursuant to the *Aggregate Resources Act* and Nelson Aggregate Co. Aggregate License Application to remove over 20,000 tonnes of aggregate annually from a pit or a quarry. Comments related to the application are to be submitted through the online portal available on the Environmental Registry of Ontario website (www.ero.ontario.ca). The deadline for the receipt of comments is December 28, 2020.

It should be noted that comments that are received through the Environmental Registry of Ontario (ERO) are not considered as 'objections' under the *Aggregate Resources Act*. There is a separate process for filing objections (as a formal objector) as it relates to an *Aggregate Resources Act* (ARA) License Application, as described earlier in this Report.

The proposal summary details some of the specifics of the application, including the proposal to extend the licensed limits of the Burlington Nelson Quarry by 78.30 hectares (including an extraction area of 50.20 hectares). The approval of the application is required to permit the use of the proposed and existing sites as a single operation with an annual tonnage condition of 2,000,000 tonnes for the expanded portion of the quarry.

3.0 City of Burlington Objections Letter

The application for an *Aggregate Resources Act* Category 2, Class A License was submitted concurrent with applications pursuant to the *Niagara Escarpment Planning and Development Act* and *Planning Act*, notably, an application to amend the City of Burlington Official Plan.

A Joint Agency Review Team (JART) was established in 2020 to provide a framework for the coordination and review of the various applications by the applicable approval authority(ies). The JART is in the early phases of review, including the initiation of peer reviews needed to advise on the technical specializations presented by the applications. The Region of Halton is providing a coordinating role and administering JART in the review of the applications.

In its initial review of the applications, City of Burlington staff has identified several areas concerning the proposal where either there has not been sufficient information or data provided; where analyses are not sufficiently coordinated with other key areas of review; or, where methodological bases of the information presented in the submitted plans, studies/reports remains undetermined or is inconsistent.

On this basis, the City of Burlington has prepared an objections letter in response to the request for comments related to five (5) general theme areas of concern as it relates to the information submitted for review. At this point, these items remain under review by the appropriate staff in concert with subject matter experts who have been retained to provide specific recommendations on the technical aspects arising from the submission of these materials. Each member of JART will be submitting separate communications in response to the Notice of Application for an ARA License which will be in accordance with their interests. 'City of Burlington – Objection Letter re: Burlington Nelson Quarry Extension' is included as Appendix 'A'.

It is understood that there will remain an open communication between JART (including the City of Burlington) and the proponents throughout the review process and

opportunities to discuss these objection matters at the appropriate intervals. Written correspondence by the City in response to the request for comments ensures continued and active participation in the review of the proposal, including the documentation of ongoing concerns to the applicant and MNRF, and at a Joint Board Hearing.

Financial Matters:

Not applicable.

4.0 Total Financial Impact

Not applicable.

5.0 Source of Funding

Not applicable.

6.0 Other Resource Impacts

Not applicable.

Climate Implications

Community Planning Department staff are reviewing the technical submission, giving consideration to the impact of the proposed development on climate change and the manner in which the application responds to applicable provincial and municipal (Region and City) policy.

JART continues to evaluate the proposed development in the context of the information provided, including reviewing the totality of potential impacts; including, implications to climate change.

Engagement Matters:

Notification was provided for the receipt of public and agency comments/objections with the circulation of a Notice of Application for a License and Notice of Public Information Session (including links to sources of additional information).

The City of Burlington updated the Development Projects webpage for the Burlington Nelson Quarry Extension (burlington.ca/nelsonquarry) and has added additional information related to the Burlington Nelson Quarry Application Processes and Timelines, which includes the *Aggregate Resources Act* License submission of letters of objection.

Conclusion:

Community Planning Department staff will continue a detailed review of the applications through the Joint Agency Review Team (JART) and provide updates to Council as to the status of the review and response(s) to items noted in the City's objections letter.

In the interim, Community Planning Department staff seek Council direction and endorsement of the draft response, as part of the ongoing reporting of City comments in relation to the proposed development.

Respectfully submitted,

Gordon Dickson, MCIP, RPP
Senior Planner
Community Planning Department
905-335-7600 Ext. 7809

Appendices:

A. City of Burlington – Objection Letter re: Burlington Nelson Quarry Extension

Notifications:

John Stuart, Senior Strategic Advisor
Niagara Escarpment Commission
john.stuart@ontario.ca

Joe Nethery, Manager, Community Planning
Halton Region
joe.nethery@halton.ca

Kellie McCormack, Associate Director, Planning & Regulations
Conservation Halton
kmccormack@hrca.on.ca

Report Approval:

All reports are reviewed and/or approved by Department Director, the Chief Financial Officer and the Executive Director of Legal Services & Corporation Counsel.