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| Report To: | Regional Chair and Members of Regional Council |
| From: | Bob Gray, Commissioner, Legislative and Planning Services and Corporate Counsel |
| Date: | September 16, 2020 |
| Report No. - Re: | LPS51-20 – Update on the Proposed Expansion to the Burlington Quarry (Nelson), Receipt of Complete Application, File No. RQ61A |

RECOMMENDATION

1. THAT Regional Council receive Report No. LPS51-20 re: “Update on the Proposed Expansion to the Burlington Quarry by Nelson Aggregate Co., Receipt of Complete Application, File No. RQ61A”, for information.
2. THAT the Regional Clerk forward a copy of Report No. LPS51-20 Re: “Update on the Proposed Expansion to the Burlington Quarry (Nelson), Receipt of Complete Application, File No. RQ61A” to the City of Burlington, the Town of Halton Hills, the Town of Milton, the Town of Oakville, Conservation Halton, the Niagara Escarpment Commission, and the Ministry of Natural Resources and Forestry for their information.

REPORT

Executive Summary

- On May 14, 2020, Halton Region received an application to amend the Regional Official Plan to expand the Burlington Quarry by extending the license and extraction areas to the south and west of the existing quarry lands.
- The proposed expansion to the Burlington Quarry will require approvals under the *Niagara Escarpment Planning and Development Act* (“NEPDA”), the *Aggregate Resources Act* (“ARA”), and the *Planning Act*. A Regional Official Plan Amendment (“ROPA”) and a City of Burlington Official Plan Amendment (“LOPA”) are required to permit the quarry expansion.
- The application to amend the Regional Official Plan was deemed complete on July 20, 2020 in accordance with the requirements of the Regional Official Plan and related guidelines, which were shared with the proponent at the pre-consultation meeting held on November 6, 2019. The companion Local Official Plan Amendment was also deemed complete by City staff on July 20, 2020. The Niagara Escarpment Plan Amendment process is expected to be initiated at a

future meeting of the Niagara Escarpment Commission. The Ministry of Natural Resources and Forestry (“MNRF”) has not yet deemed the ARA application complete, as staff understand this has been delayed by COVID-19.

- Halton Region Council has a decision making responsibility for the ROPA. While the approvals under the Planning Act and Niagara Escarpment Planning and Development Act are important, the proposal must be dealt with under the ARA through the MNRF. Each process contains opportunity for public and agency input as identified in Attachment #3.
- Halton Region staff will be providing comment on all applications associated with this proposal. Comments will be informed by significant technical review and analysis undertaken by the inter-agency Joint Agency Review Team (“JART”).
- The Joint Agency Review Team approach has been initiated for reviewing all technical studies and information related to the proposed expansion. The JART review will result in a technical report for the consideration of member’s respective agencies.
- Public input will be requested, received and considered by the JART as part of its mandate to explore the range of technical issues and impacts related to the proposal.

Background

The existing Burlington Quarry (ARA Licence #5499), operated by Nelson Aggregates Co. (“Nelson”), abuts the hamlet of Mount Nemo and extends approximately 1.5 kilometres west to border the Burlington Springs Golf Club. Rural and estate residential development exists to the south and west of the golf course, while agricultural lands and lands within the Region’s identified Natural Heritage System generally surround the entire quarry lands.

In June 2019, Regional staff were advised of Nelson’s intent to apply for an aggregate license from the Ministry of Natural Resources and Forestry (“MNRF”) to expand its existing Burlington Quarry to the west and to the south of its existing quarry site. On November 6, 2019 a pre-consultation meeting was held with representatives from Nelson and staff from the Region, the City of Burlington, Conservation Halton, and the Niagara Escarpment Commission (“NEC”). During this meeting, the various approvals and amendments required to permit the quarry expansion were identified, including an amendment to the Niagara Escarpment Plan, a Niagara Escarpment Development Permit, approval under the ARA, and *Planning Act* approvals—specifically, a ROPA and LOPA. A pre-consultation meeting is required in advance of the filing of Regional and City of Burlington Official Plan Amendment applications.

In January 2020, through Report No. LPS08-20, staff advised Council of the pre-consultation meeting held on November 6, 2019 and provided an overview of the anticipated application process.

Discussion

On May 14, 2020, Halton Region received Nelson's application to amend the Regional Official Plan. The application proposes to expand the Burlington Quarry by extending the license and extraction areas to the south and west of the existing quarry lands. The west extension is proposed to be 60.0 hectares with an extraction area of 35.7 hectares and the south extension is proposed to be 18.3 hectares with an extraction area of 14.5 hectares. Attachment #1 shows the subject lands.

Receipt of Application

The following reports and materials have been submitted in support of the proposal:

- Agricultural Impact Assessment
- Archaeological Assessments (Stages 1 and 2; Stages 1, 2 and 3; and Stage 4);
- Cultural Heritage Impact Assessment;
- Environment Impact Study (Level 1 and 2);
- Financial Impact Study;
- Air Quality Study;
- Planning Justification Report;
- Progressive and Final Rehabilitation Monitoring Study;
- Traffic Study;
- Level 1 and 2 Hydrogeological Assessment, including a Karst Assessment as an appendix;
- Surface Water Assessment;
- Adaptive Management Plan;
- Noise Impact Assessment;
- Blast Impact Assessment;
- Visual Impact Assessment;
- Site Plan, including associated notes; and
- Public Consultation Strategy.

The following concurrent applications were also submitted on or about May 14, 2020, in order to permit the proposed quarry expansion:

- ARA License Application with the MNRF;
- Niagara Escarpment Plan Amendment Application with the NEC;
- Niagara Escarpment Development Permit Application with the NEC; and
- Local Official Plan Amendment Application with the City of Burlington.

On July 20, 2020, the Region's Chief Planning Official deemed the application to amend the Regional Official Plan complete and the City of Burlington concurrently deemed the application to amend the Local Official Plan complete. Notice of Complete Application was provided in accordance with subsection 22(6.4) of the *Planning Act* during the weeks of July 20 and 27, 2020, including by ordinary mail to every owner of land within 200 metres of the subject lands and advertisements in the Burlington Post, Milton Champion, Oakville Beaver, and Georgetown Independent.

The Niagara Escarpment Plan Amendment process is expected to be initiated at a future meeting of the NEC. The MNRF has not yet deemed the ARA application complete, as staff understand that this step has been delayed by COVID.

Review of the Application by the JART

Regional Council has long relied on a Joint Agency Review Team approach in reviewing aggregate extraction proposals. This approach has been in place since 2001 and has been recently confirmed through updates to the Halton Consolidated Streamlined Mineral Aggregate Review Protocol (JART Protocol) in February 2020.

Regional staff have begun a substantive and coordinated review of the Nelson Burlington Quarry expansion proposal through the JART process. The JART partners for this application include the City of Burlington, Conservation Halton, and the NEC. The MNRF has indicated a willingness to participate in JART technical discussions. Halton Region has retained consulting expertise in various disciplines, including hydrogeology, noise, blasting, transportation and natural environment among others, to assist the JART in its review; these consultants will assist with the technical review of the submitted reports and studies.

The JART will provide coordinated technical comments that will inform decision-making of the parties. JART is not a decision making body, nor does it make recommendations on whether or not the proposal should be approved. It is instead a review process and team that ensures the agencies participating are working together from the same information and analyzing the proposal through all applicable planning policies, guidelines, and by-laws. The information produced through the JART process is used for both *Planning Act* applications, and the ARA licence application and objection process, and needs to respond to any proponent efforts to resolve objections raised during the review.

Regional Council will receive the JART's final report, along with a recommendation report from staff, to inform decision-making on Nelson's ROPA application. The timing of this report is dependent on the nature of the issues being explored and the timing of responses from the proponent related to technical questions from the JART.

Public input related to the proposal is welcomed and encouraged at any time during the JART process and will be shared with technical consultants and the proponent for consideration in their respective reviews. As part of its mandate, the JART will receive

and consider public input to explore the range of technical issues and impacts related to the proposal. Any public input received will be catalogued, summarized, and consolidated with materials received through statutory public consultation into a complete record of public comment to place before Council.

Another important opportunity for public input is through the statutory public meeting required by the *Planning Act* for the ROPA. Given that there are requirements for both the City and the Region to host statutory public meetings as part of the ROPA and LOPA applications, a joint statutory public meeting is being planned. This will streamline the opportunities for the public to provide input to both City and Regional Councils through a single submission or delegation. The timing of the statutory public meeting has not yet been determined. Staff will provide Council with an update once the timing has been confirmed.

A final recommendation report to Regional Council will be provided by Regional staff following the statutory public meeting, and once the JART report has been completed. Periodic updates on the JART review will be provided to Council during the review period. Attachment #2 to this report provides a one-page summary of the JART Protocol.

Technical Consultants to Support the JART Review

On behalf of JART, Halton Region has retained a group of consultants to provide technical expertise in reviewing technical reports and studies related to land use planning, natural heritage, transportation, hydrogeology, karst topography, surface water, financial impact, blasting, air quality and noises and vibration.

Additional consultants are being retained by the City of Burlington to supplement the work of the JART. The NEC will provide staff expertise to JART on matters of interest to the NEC. Further consultant retainers may occur as technical review progresses.

Nelson Quarry Applications under the NEPDA, *Planning Act* and ARA

As previously noted, the proposed expansion to the Burlington Quarry will require approvals under the ARA, the NEPDA, and the *Planning Act*. Both the ROPA and the LOPA applications will follow the process under the *Planning Act*. The proposed aggregate licence will follow the process under the ARA, and the proposed Development Permit and Amendment to the Niagara Escarpment Plan will follow the process under the NEPDA. The JART review process will take place during the legislated processes so that technical input can be provided to the decision making bodies prior to any decisions being made.

It is important to note that the NEC will have to make a decision on the applications under the NEPDA prior to the Region, City or the MNRF making a decision on their respective applications. Per subsection 24(3) of the NEPDA, no approval or permission required by an Act that relates to development (such as the *ARA* or *Planning Act*) shall be made, in respect of any land, building or structure within an area of development control, unless a

Niagara Escarpment Development Permit has been issued. Any amendment to the Regional Official Plan and a local Official Plan that deals with lands subject to the Niagara Escarpment Plan must be in conformity with the Niagara Escarpment Plan. In other words, conformity with the Niagara Escarpment Plan is a precondition to other approvals for mineral aggregate extraction within the Niagara Escarpment Plan Area.

Attachment #3 describes the relationship between the application processes, the JART review process, and opportunities for public engagement in the review process.

Conclusion

Staff will continue to assess the applications through the JART process and provide periodic updates to Regional Council as the review progresses. A report outlining the results of the joint technical review will be provided to Regional Council at the conclusion of the JART process.

Regional Council is responsible for making a decision on the proposed ROPA. The MNRF, through the ARA site plan approval process, is ultimately responsible for making a decision on the quarry expansion. Staff are proposing to complete its review and bring forward a recommendation report on the ROPA at a future Regional Council meeting, likely in 2022 or 2023. This timing depends largely on the timing of the Niagara Escarpment and ARA review and approvals process and the timing of associated technical review.

FINANCIAL/PROGRAM IMPLICATIONS

The application fee for a ROPA for aggregate extraction operations, in the amount of \$142,466.26 inclusive of HST, has been submitted. The applicant has been made aware, through the pre-consultation meeting, that peer review costs for technical reports are also required to be paid by the applicant, in accordance with Fees By-law 92-19.

Respectfully submitted,



Curt Benson
Director, Planning Services and Chief
Planning Official



Bob Gray
Commissioner, Legislative and Planning
Services and Corporate Counsel

Approved by



Jane MacCaskill
Chief Administrative Officer

If you have any questions on the content of this report,
please contact:

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Attachments: Attachment #1 – Locational Map
Attachment #2 – JART Protocol Summary
Attachment #3 – Nelson Quarry Application Review Processes