



CITY OF YELLOWKNIFE

GOVERNANCE AND PRIORITIES COMMITTEE AGENDA

Monday, June 27, 2022 at 12:05 p.m.

Chair: Mayor R. Alty,
Councillor N. Konge,
Councillor S. Morgan,
Councillor J. Morse,
Councillor C. Mufandaedza,
Councillor S. Payne,
Councillor R. Silverio,
Councillor S. Smith, and
Councillor R. Williams.

<u>Item</u>	<u>Description</u>
1.	Opening Statement: The City of Yellowknife acknowledges that we are located in Chief Drygeese territory. From time immemorial, it has been the traditional land of the Yellowknives Dene First Nation. We respect the histories, languages, and cultures of all other Indigenous Peoples including the North Slave Métis, and all First Nations, Métis, and Inuit whose presence continues to enrich our vibrant community.
2.	Approval of the agenda.
3.	Disclosure of pecuniary interest and the general nature thereof.

ANNEX A

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| 4. | A memorandum regarding whether to approve a proposed “Natural Resource Extraction” use on a portion of Lot 4, Block 316, (located south of Giant Mine on the west bank of Yellowknife Bay) as a conditionally permitted use in the GM - Growth Management Zone, under Zoning By-law No. 4404, as amended. |
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IN CAMERA

ANNEX B

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| 5. | A memorandum regarding whether to appoint members to serve on the Mayor’s Task Force on Economic Development. |
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CITY OF YELLOWKNIFE

MEMORANDUM TO COMMITTEE

COMMITTEE: Governance and Priorities

DATE: June 27, 2022

DEPARTMENT: Planning and Development

ISSUE: Whether to approve a proposed “Natural Resource Extraction” use on a portion of Lot 4, Block 316, (located south of Giant Mine on the west bank of Yellowknife Bay) as a conditionally permitted use in the GM - Growth Management Zone, under Zoning By-law No. 4404, as amended.

RECOMMENDATION:

That Council approve, subject to conditions, the proposed “natural resource extraction” use on a portion of Lot 4, Block 316, as a conditionally permitted use in the GM - Growth Management Zone.

1. That the applicant enter into a Development Agreement with the City which will stipulate the following:
 - a. That an application will be made to the MVLWB for a Land Use Permit, a copy of the application will be provided to the City, and prior to work occurring on the site the permit must be approved and in effect;
 - b. Where, the MVLWB requires conditions of approval, a copy of the conditions and supporting documentation be provided to the City;
 - c. That an application will be made to the MVLWB for a Water License, a copy of the application will be provided to the City, and prior to work occurring on the site the Water License must be approved and in effect;
 - d. The required, Explosives Permits will be obtained and a copy of the approved permit will be provided to the City;
 - e. The required, Timber Permits will be obtained and a copy of the approved permit will be provided to the City;
 - f. That the aggregate be tested by a qualified professional to determine if it is “Potentially Acid Generating” (PAG) rock. The results of the report are to be provided to the City;
 - g. The site remediation plan is to be submitted to the City, 12 months prior to the end of the Natural Resource Extraction use for comment, unless required by another permit, in which case the lead authorities’ timeline will be followed;

- h. The natural resource extraction use is determined to be a Quarry and for the purpose of extraction by the GNWT, MVLWB or another approval agency, the following will be required:
- i. a report demonstrating the market need and supporting activities in this area is required to demonstrate existing resources are exhausted . The report is required to be provided to the City in accordance with Section 4.17 of Community Plan By-law No. 5007;
 - ii. a quarry development plan which will include existing features, the boundary of the extraction area, internal haul roads, elevation of the established ground water table on the site and confirmation that the final depth of extraction is at least 2 m above the established water table, existing surface water drainage and drainage facilities on the site, the location and type of fencing being used, the location of stockpiles to be located on the site, location of fuel storage on the site, all excavation faces and rehabilitation areas, the location of berms and their height, the stamp and signature of a professional engineer or other qualified person approving the development;
 - iii. a quarry operation plan which will include the sequence and direction of the development, detailed stripping and stockpiling plan, the maximum number of lifts and the height of lifts, the location of entrances and exits, the final extraction elevation of the site using spot elevations, details on how the berms will be vegetated and/or maintained, details on how on site dust will be mitigated including description of dust suppressants used, the general types of equipment to be used on the site, details on the hours of operation, details on how tress and stumps will be disposed of or utilized, how any variations from the operation plan will be recorded and reported, details on active monitoring of the site, including but not limited to water, noise and vibration, an expression of the maximum cubic metres of aggregate to be removed from the site in a calendar year and a detailed monitoring program, prepared by a professional engineer or other qualified person; and
 - iv. a quarry rehabilitation plan which outlines the sequence and direction of progressive rehabilitation, detailed design and type of vegetation that will be established on the site, how the slope will be established on the excavation faces and floor, details on how progressive rehabilitation will be conducted in relation to the operational sequences and if proposed, details on the importation of topsoil or inert material to facilitate rehabilitation of the site.
- i. A detailed plan on the use, quantity, frequency and timing of explosives and blasts on the site;
 - j. A plan will be prepared by a qualified professional detailing how the onsite use of explosive and blasting will meet or exceed the Department of Fisheries and Oceans guidelines for blast vibrations, to be submitted to the City;
 - k. A detailed plan on access to ensure the provision of and access by emergency services can be provided to the site at all times, to both the natural resource extraction use and the single detached dwelling, approved by the City;
 - l. The development use of Natural Resource Extraction is permitted for five (5) years following the date the Director of Planning determines the conditions of the Development Agreement are satisfied;

- m. Where an extension of the permitted use time period is required, an application for an amendment to the conditions of the Development Permit must be made not later than six (6) months prior to the expiration of the five (5) year term;
 - n. Where an extension of the permitted use time period is required, the application for extension will be brought before Council for a decision as the use is conditionally permitted;
 - o. Where extraction will occur during times of the year (early spring, late autumn or winter) where there is limited daylight hours, a lighting plan will be created and will be reviewed and approved by the City;
 - p. The shoreline setback will remain in place during and after the completion of the natural resource extraction use in the measurements and locations as indicated on site plan and grading plan submitted by EDS Group March 2022, where the minimum shoreline setback where no extraction will occur is 41 m from the high watermark; and
 - q. That all necessary means and protections will be put in place during the natural resource extraction use to ensure no damage or negative impacts occurs to the historic single detached dwelling located on the subject property;
2. Haul routes and the traffic generated by the proposed natural resource extraction use shall be considered through the preparation of a traffic impact assessment by a qualified professional and approved by the City and GNWT ministry responsible for Highways. The traffic impact assessment shall address, but is not limited to, the projected volume of truck traffic related to the proposed natural resource extraction use and existing similar uses using the proposed routes, the physical suitability of the haul routes for truck traffic with aggregate load, any requirements for improvements to the haul routes, the location and design of a safe entrance from the Highway to the site, noise impacts indicating an acceptable decibel level and any other impacts stipulated by another agency having jurisdiction.

BACKGROUND:

The City of Yellowknife has received a proposal from Nahanni Construction Ltd. for a Natural Resource Extraction use to be established on a portion of Lot 4, Block 316 (the “Subject Lands”). The Subject Lands are 4 hectares of privately owned land; located south of Giant Mine on the west bank of Yellowknife Bay and are accessed off of the road leading to Giant mine, formerly known as Ingraham Trail / Highway 4 (see Map 1 – Subject Lands Context Map). The property is the site of the historic Martin Bode Cabin, constructed approximately in 1939.

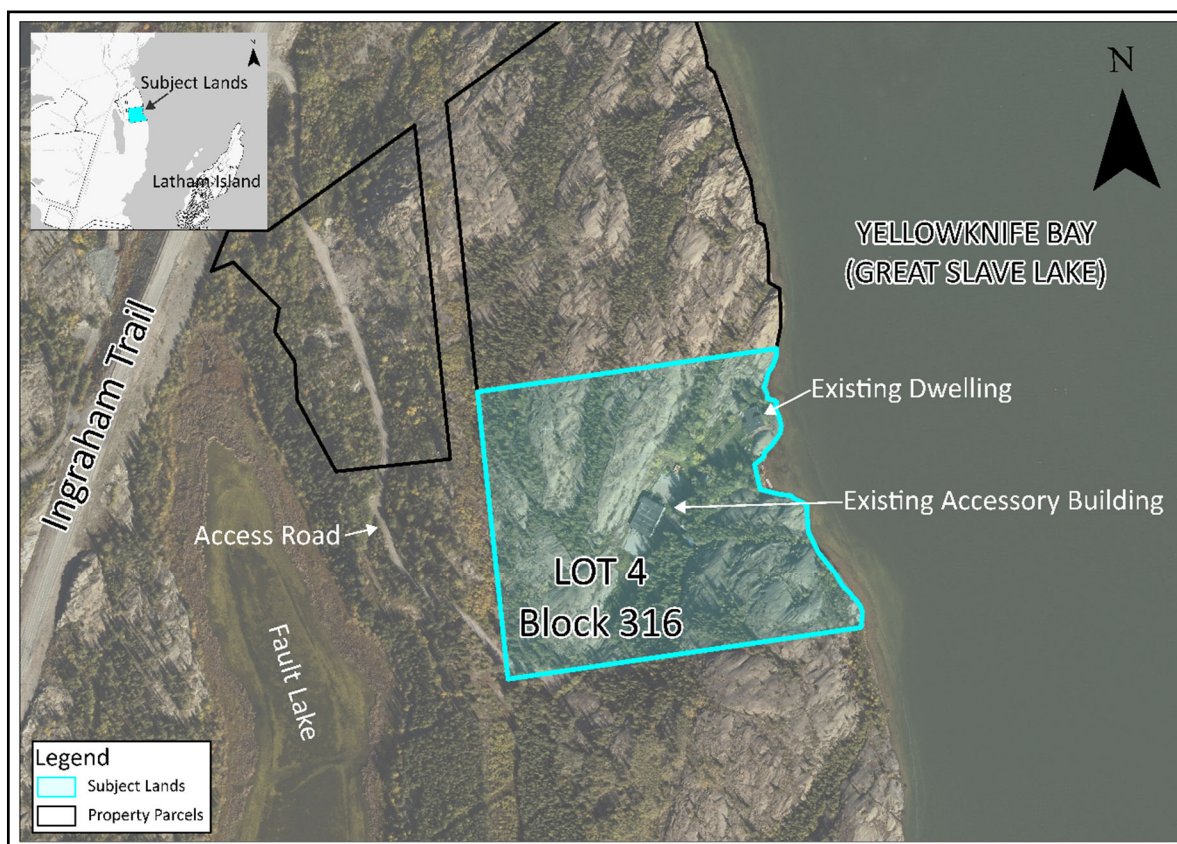
Existing Use

The site includes a legal non conforming single detached dwelling. The identified accessory building is a worker accommodation building and holds no status under Zoning By-law No. 4404, as amended. No new residential, worker accommodation or other development is being proposed as part of this application. The application indicates that the proposal will make a greater proportion of the lot available “to create a useful area on the property sloped at a gentle 1% from back of lot (west) to the east toward the Lake”.

Proposal

Nahanni Construction Ltd. is proposing to remove 275,000 to 325,000 cubic metres of material through a Natural Resource Extraction operation. The proposal will result in the clearing and leveling of approximately 70% (2.88 ha) of the total site area, while maintaining a natural buffer (approximately 1 ha) between the area to be excavated and the single detached dwelling on Great Slave Lake. Figure 1, submitted by the applicant, shows the proposed site development and Figure 2, extrapolated by the City, provides an approximation of what the site would look like as viewed from the water of Great Slave Lake looking west, if the proposal were approved with conditions.

Map 1: Subject Lands Context Map



COUNCIL POLICY / RESOLUTION OR GOAL:

None.

APPLICABLE LEGISLATION, BY-LAWS, STUDIES, PLANS:

1. *Cities, Towns and Villages Act S.N.W.T. 2003;*
2. *Community Planning and Development Act S.N.W.T. 2011, c.22;*
3. *Mackenzie Valley Resource Management Act S.C, 1998, c.25;*
4. 2020 Community Plan, By-law No. 5007;
5. Zoning By-law No. 4404; and
6. Zoning By-law No. 5045.

CONSIDERATIONS:

Legislative

Pursuant to the *Community Planning and Development Act*, the City may approve conditionally permitted uses, through the Zoning By-law.

Section 1.8 of Zoning By-law No. 5045 states:

1.8. Transition

An application for a Development Permit, or amendment to the Zoning By-law commenced prior to the effective date of this By-law shall be evaluated under the regulations of Zoning By-law No. 4404, as amended.

This application was made under Zoning By-law No. 4404, as amended; as such it will be continued to decision under that by-law's regulatory environment. The application process requires a decision by Council and the recommendation includes conditions to be satisfied prior to development.

Mackenzie Valley Land and Water Board

The Mackenzie Valley Land and Water Board (MVLWB) regulates the use of land and water through the issuance of Land Use Permits in accordance with the *Mackenzie Valley Resource Management Act* (MVRMA) and the Mackenzie Valley Land Use Regulations (MVLUR). The objective of the Board's operation is to provide for the conservation, development and utilization of land and water resources that will provide optimum benefit.

MVLWB Land Use Permits authorize temporary use of land for activities associated with granular resource development for periods of five years with a possible extension of 2 years. Land Use Permits are designed to minimize environmental disturbances and can contain conditions regarding environmental protection, location and area constraints, timing of operations, type and size of equipment, abandonment and clean-up. Activities that require a Land Use Permit within the City of Yellowknife's municipal boundaries include those which involve the use of heavy vehicles and machinery for earth moving, the use of explosives, land clearing which meet or surpass the thresholds set by the MVRMA and uses where potential impact to a waterbody may occur.

A quarry is defined in Territorial Quarrying Regulations. Residents of the Northwest Territories are allowed to take up to 38 m³ (50 cubic yards) of sand, gravel or stone per calendar year for their own personal use without having to obtain a quarrying permit or pay any fees (where the Minister has authority). A quarry is the location of extraction of rock materials by digging, cutting or blasting; they usually yield large stone that may then be crushed.

2020 Community Plan

Special Management Zone, section 4.17.

The subject property is designated Special Management Zone. Adjacent land to the north, south and west are all designated Special Management Zone and are not currently designated for a specific use today or in the near future. The intention of the Community Plan is that the lands are to be left generally unaltered until an appropriate use is identified, effectively planned for, and the lands are re-designated and zoned to facilitate the proposed use. The Community Plan does acknowledge that there are aggregate resources on lands within this zone and that they may provide for community aggregate need through new quarrying activities in the future. Where the need is determined extraction is permitted by the policy.

Environmental Policy, section 5.1.2.

Environmental policies direct that the City will work to protect the Natural Environment in an effort to ensure long-term prosperity, environmental health and social well-being. This includes conserving biodiversity and protecting natural resources to ensure long term ecological function. Community Plan policy requires a 100' (30 m) reserve on land adjacent to waterbodies and that no harmful contaminants will be permitted to run off properties into rivers, streams or waterbodies. In addition, industrial land uses are required to maintain a buffer of natural vegetation on the perimeter of the property. Specific to aggregate extraction, the policy states that a remediation plan is required to be implemented once a resource is exhausted.

Transportation, section 5.2.

Transportation systems should be safe, energy efficient, facilitate the movement of goods and projected needs. A consideration in supporting new land use establishment is the transportation network; will the system in place be capable of supporting the proposed use. The subject lands are serviced by a private road and connect to Northwest Territories Highway No. 4. No municipal road is directly impacted by the proposal. Any heavy equipment permits for the use of the Highway as a haul routes are under the authority of the Government of the Northwest Territories and will be the obligation of the applicant to obtain.

Municipal Infrastructure, section 5.3.

The subject lands are currently developed with a single detached dwelling which is not connected to piped municipal sewer or water services. No expansion of infrastructure is proposed or permitted to the site as part of the development. The City does not support expansion of infrastructure to unplanned lands. The proposed use of natural resource extraction does not require municipal servicing.

Subdivision and Land Sequencing, section 5.4.

Policies in the Community Plan are clear, section 5.4 must be implemented at the time of development not permitted by the Community Plan or Zoning By-law. The Planning and Development Department states that no development other than the natural resource extraction use has been reviewed, contemplated or considered as part of the evaluation of this application for decision. The recommendation of approval, is only supported with conditions, and does not suggest that the site in future will be approved for planned development. The processes outlined in the Community Plan section 5.4 are required to be followed. Any future development will be required to complete a comprehensive review, including at minimum, applications for an area development plan, and rezoning. The clearing, grading and removal of aggregate from the site is not to be construed as approval, permission or planning for future use of the site.

Zoning By-law No. 4404, as amended

The Subject Lands are zoned GM – Growth Management. The purpose of the GM zone is to control and regulate land use to ensure that future planned development may proceed in an orderly manner. Natural Resource Extraction is a Conditionally Permitted Use in the GM Zone. Natural Resource Extraction is defined to mean the mining, quarrying, removal and/or excavation of any mineral, ore body, stratum, rock, earth, clay, sand, gravel, black dirt, peat, or other natural resources to supply material for construction, manufacturing, industrial, landscaping and other commercial activities. This definition

does not include any excavation or work incidental to the development of a building, structure, or use for which a development permit has been issued.

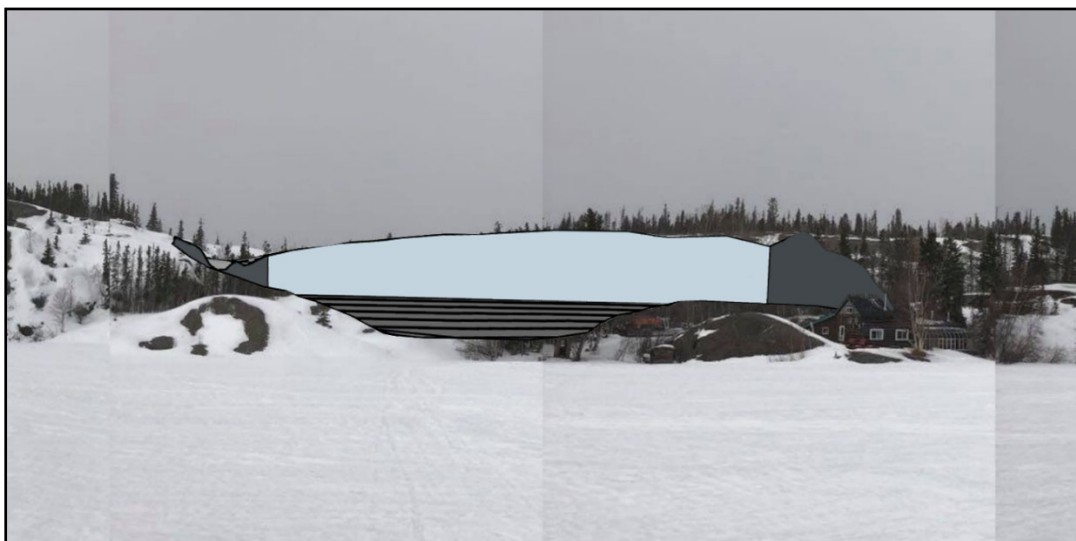
Buffer

To minimize the negative impacts to the cultural landscape of Great Slave Lake waterfront, the applicant is proposing a buffer area between the lands to be excavated and the shoreline as seen in Figure 1. As proposed, the buffer ranges from 41m to 93m. Section 10. 2 (3)(b) requires a minimum 50m setback for development next to a waterbody. Consideration will have to be given to whether the proposed development fulfils the intention of the Zoning By-law.

Figure 1: Proposed Site Development



Figure 2: Render of Proposed Development – View from Great Slave Lake



Planning Justification

In accordance with Section 2.4(1) of the Zoning By-law, Council shall:

- (a) Make decisions and state any terms and conditions for development permit applications for those uses listed as Conditionally Permitted Uses.
- (f) Consider and state any terms and conditions on any other planning, subdivision or development matter referred to it by the Development Officer or Planning Administrator, or with respect to which it has jurisdiction under this by-law.

Section 3.1 (4) of City of Yellowknife Zoning By-law No. 4404, as amended, states that in addition to meeting the requirements of this by-law, it is the responsibility of an applicant to obtain all other approvals or licenses that may be required by the City, Territorial or Federal departments or agencies. The MVLWB permits apply within the boundary of the municipality where the municipality does not regulate the uses. The City of Yellowknife does not have permits, or processes to address the identified matters and therefore will rely on the qualified expertise of the MVLWB and other agencies. Completed and approved permits outlined in the conditions must be provided to the City of Yellowknife prior to the proposed development initiating on site. This includes but is not limited to: Land Use Permits, Water License, Quarry Permit, Timber Permit, and any authorizations required for the use of explosives and extraction of aggregate.

The proposed use of “natural resource extraction” does not conform to the policies of the Community Plan and does not meet the regulations of the Zoning By-law No. 4404, as amended. The satisfaction of all conditions is required to create conformity required for the proposed development to proceed. If the conditions are not satisfied the development permit will not be issued.

Conditions of Approval:

1. That the applicant enter into a Development Agreement with the City which will stipulate the following:
 - a. That an application will be made to the MVLWB for a Land Use Permit, a copy of the application will be provided to the City, and prior to work occurring on the site the permit must be approved and in effect;
 - b. Where, the MVLWB requires conditions of approval, a copy of the conditions and supporting documentation be provided to the City;
 - c. That an application will be made to the MVLWB for a Water License, a copy of the application will be provided to the City, and prior to work occurring on the site the Water License must be approved and in effect;
 - d. The required, Explosives Permits will be obtained and a copy of the approved permit will be provided to the City;
 - e. The required, Timber Permits will be obtained and a copy of the approved permit will be provided to the City;
 - f. That the aggregate be tested by a qualified professional to determine if it is “Potentially Acid Generating” (PAG) rock. The results of the report are to be provided to the City;
 - g. The site remediation plan is to be submitted to the City, 12 months prior to the end of the Natural Resource Extraction use for comment, unless required by another permit, in which case the lead authorities’ timeline will be followed;

- h. The natural resource extraction use is determined to be a Quarry and for the purpose of extraction by the GNWT, MVLWB or another approval agency, the following will be required:
- i. a report demonstrating the market need and supporting activities in this area is required to demonstrate existing resources are exhausted . The report is required to be provided to the City in accordance with Section 4.17 of Community Plan By-law No. 5007;
 - ii. a quarry development plan which will include existing features, the boundary of the extraction area, internal haul roads, elevation of the established ground water table on the site and confirmation that the final depth of extraction is at least 2 m above the established water table, existing surface water drainage and drainage facilities on the site, the location and type of fencing being used, the location of stockpiles to be located on the site, location of fuel storage on the site, all excavation faces and rehabilitation areas, the location of berms and their height, the stamp and signature of a professional engineer or other qualified person approving the development;
 - iii. a quarry operation plan which will include the sequence and direction of the development, detailed stripping and stockpiling plan, the maximum number of lifts and the height of lifts, the location of entrances and exits, the final extraction elevation of the site using spot elevations, details on how the berms will be vegetated and/or maintained, details on how on site dust will be mitigated including description of dust suppressants used, the general types of equipment to be used on the site, details on the hours of operation, details on how tress and stumps will be disposed of or utilized, how any variations from the operation plan will be recorded and reported, details on active monitoring of the site, including but not limited to water, noise and vibration, an expression of the maximum cubic metres of aggregate to be removed from the site in a calendar year and a detailed monitoring program, prepared by a professional engineer or other qualified person; and
 - iv. a quarry rehabilitation plan which outlines the sequence and direction of progressive rehabilitation, detailed design and type of vegetation that will be established on the site, how the slope will be established on the excavation faces and floor, details on how progressive rehabilitation will be conducted in relation to the operational sequences and if proposed, details on the importation of topsoil or inert material to facilitate rehabilitation of the site.
- i. A detailed plan on the use, quantity, frequency and timing of explosives and blasts on the site;
 - j. A plan will be prepared by a qualified professional detailing how the onsite use of explosive and blasting will meet or exceed the Department of Fisheries and Oceans guidelines for blast vibrations, to be submitted to the City;
 - k. A detailed plan on access to ensure the provision of and access by emergency services can be provided to the site at all times, to both the natural resource extraction use and the single detached dwelling, approved by the City;
 - l. The development use of Natural Resource Extraction is permitted for five (5) years following the date the Director of Planning determines the conditions of the Development Agreement are satisfied;

- m. Where an extension of the permitted use time period is required, an application for an amendment to the conditions of the Development Permit must be made not later than six (6) months prior to the expiration of the five (5) year term;
- n. Where an extension of the permitted use time period is required, the application for extension will be brought before Council for a decision as the use is conditionally permitted;
- o. Where extraction will occur during times of the year (early spring, late autumn or winter) where there is limited daylight hours, a lighting plan will be created and will be reviewed and approved by the City;
- p. The shoreline setback will remain in place during and after the completion of the natural resource extraction use in the measurements and locations as indicated on site plan and grading plan submitted by EDS Group March 2022, where the minimum shoreline setback where no extraction will occur is 41 m from the high watermark; and
- q. That all necessary means and protections will be put in place during the natural resource extraction use to ensure no damage or negative impacts occurs to the historic single detached dwelling located on the subject property;

2. Haul routes and the traffic generated by the proposed natural resource extraction use shall be considered through the preparation of a traffic impact assessment by a qualified professional and approved by the City and GNWT ministry responsible for Highways. The traffic impact assessment shall address, but is not limited to, the projected volume of truck traffic related to the proposed natural resource extraction use and existing similar uses using the proposed routes, the physical suitability of the haul routes for truck traffic with aggregate load, any requirements for improvements to the haul routes, the location and design of a safe entrance from the Highway to the site, noise impacts indicating an acceptable decibel level and any other impacts stipulated by another agency having jurisdiction.

ALTERNATIVES TO RECOMMENDATION:

That Council not approve a proposed “natural resource extraction” use in a portion of Lot 4 Block 316, as a conditionally permitted use in the GM - Growth Management Zone.

RATIONALE:

Council has the authority to make decisions and state any terms and conditions for development permit where a Conditionally Permitted Use is proposed. The identified Nahanni Construction Ltd.’s proposal to create a Natural Resource Extraction operation does not conform to the policies of City of Yellowknife’s Community Plan or satisfy the regulations of the Zoning By-law No.4404, as amended. City Administration is not the qualified authority related to confirmation of compliance with permits and licenses as required by the Mackenzie Valley Land and Water Board and other relevant authorities. The development may conform to the Community Plan upon the issuance of permit by the qualified authority. The conditions of approval must be provided to the written satisfaction of the Director of Planning prior to development on site occurring.

ATTACHMENTS:

- 1. Planning Justification Report from Nahanni Construction Ltd. November 2, 2021 (DM# 697328);
- 2. Planning Justification Report from Nahanni Construction Ltd. March 3, 2022 (DM# 697207);

3. Development Response for Nahanni Construction Ltd. April 29, 2021 (DM# 646340);
4. Development Response for Nahanni Construction Ltd. March 3, 2022 (DM# 674334);
5. Planning Response Regarding Requirements for a Planning Justification Report July 9, 2021 (DM# 697330); and
6. Planning Report June 2022 (DM#698731).

Prepared: June 8, 2022; AT
Revised: June 17, 2022; CW

November 2, 2021

Our File: 32174

City of Yellowknife
4910 – 52 Street
Yellowknife, NT X1A 1T3

Attn: Charley White – Director, Planning & Development
Re: Development Permit File PL-2021-0051 (Lot 4, Block 316)
Applicant: Nahanni Construction Ltd.

Introduction

EDS Group Inc. (EDS) has been retained as an agent to Nahanni Construction Ltd. as a planning consultant, assisting with their development permit application PL-2021-0051 with the City of Yellowknife. We are aware of our Client's original application, amendment to the application dated August 3, 2021 and correspondence from your office to Mr. Kenny Ruptash of Nahanni Construction Ltd. dated August 6th, 2021. The correspondence referred to requests that the Applicant prepare a *Planning Justification Report* to support the application. We trust that this report satisfies the requirements of the City of Yellowknife as it relates to disclosure of the intended land use, proposed site development, and mitigation strategies put forward in the plan to minimize the visual impact of site work from the water while also considering local wildlife.

Site Context

As seen on Figure 1 – Site Context, the subject parcel is located along the shore of Yellowknife Bay, on Great Slave Lake. Access to the parcel is available off Ingraham Trail / Highway 4 to the west. The land is currently zoned as PR – Public Reserve, per existing zoning in Bylaw No. 4404. The site is dominated by rock outcrop, with parts of the property tree covered including a mix of primarily spruce, pine, birch and aspen trees.

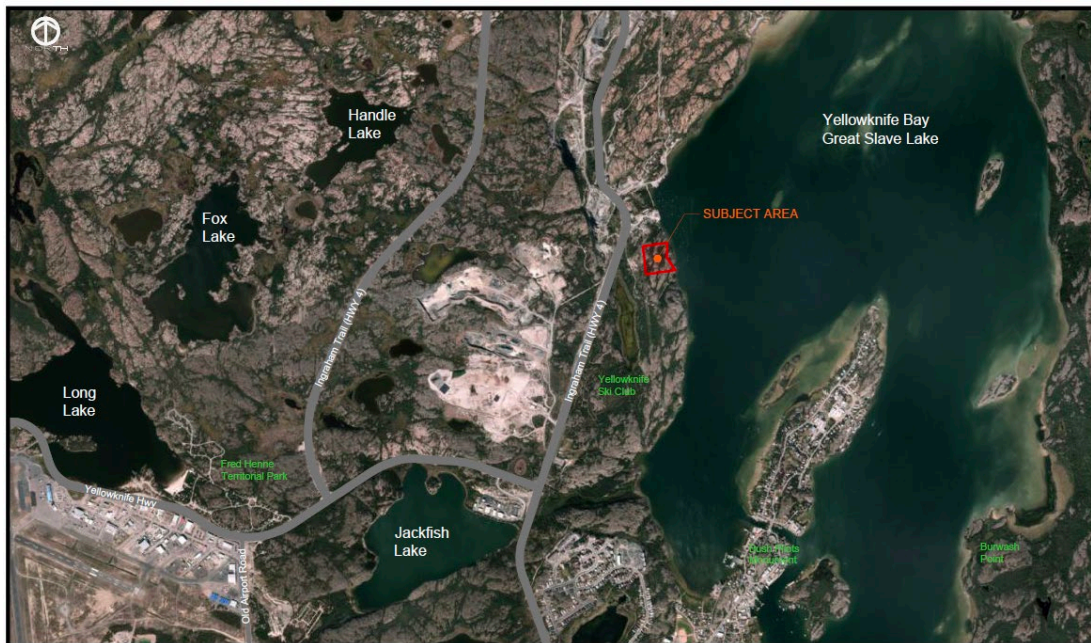


Figure 1 - Site Context

Images 1 and 2 below depict the general conditions of the subject parcel. Typical of land in this community, the site is primarily solid rock partly covered in sparse tree cover and minimal understory vegetation. Natural terrain and the nature of formations are not conducive to ungulate passage, while this environment can support habitat for small animals and birds. A review of the parcel found no significant habitat areas such as animal dens or active nests of migratory birds or owls.



Image 1 - Subject parcel, view from south-southeast looking to north-northwest, depicting overall parcel and adjacent Yellowknife Bay



Image 2 - Subject parcel, view from east looking to west, depicting existing dwelling

The City of Yellowknife Zoning Bylaw No. 4404 regulates the use and development of land and buildings within the City of Yellowknife in a balanced and responsible manner pursuant to the NWT *Planning Act* and applicable General Plan. The provisions of this bylaw apply to land and buildings within the municipal boundary of the City of Yellowknife. The subject property falls exclusively within the City and the proposed development within this application is subject to the terms of Bylaw No. 4404. Figure 2 – Land Use Zones identifies the subject parcel (designated as “Subject Area”) designated as GM – Growth Management. This property is bound to the west and south by PR – Parks and Recreation, to the east by open water of Yellowknife Bay / Great Slave Lake, and to the north by GM – Growth Management.

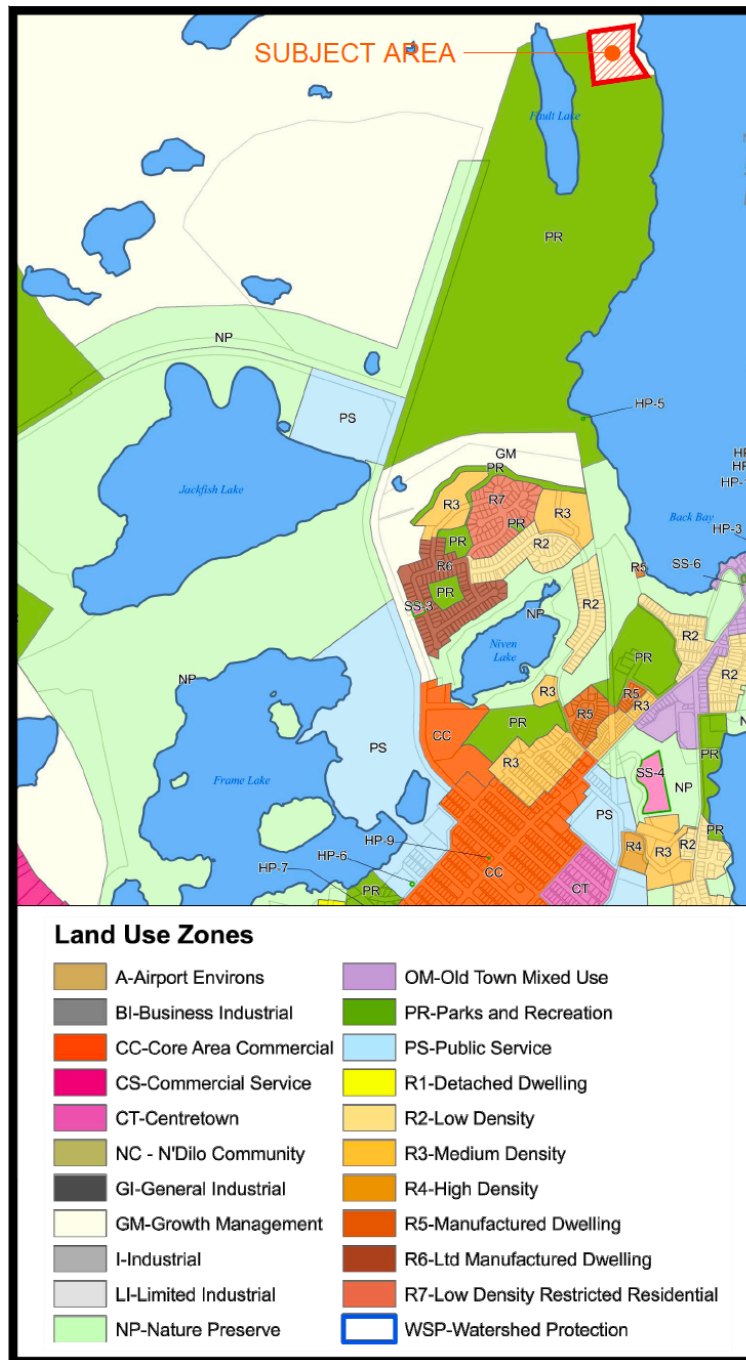


Figure 2 - Land Use Zones (Source: Bylaw No. 4404)

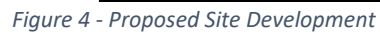
Proposed Development Use

The proposed development includes stripping and grading of the subject property to create a useful area on the property sloped at a gentle 1% from back of lot (west) to the east toward the Lake. An existing residential dwelling, located near the easterly property boundary adjacent to Yellowknife Bay will remain intact and retain its permitted use as a dwelling. Figure 3 – Proposed Grading Plan identifies a detailed grading plan of the proposed site conditions after grading. To achieve the desired grades of the site, approximately 350,000 cu.m. of rock material will be excavated from the site, which will require a combination of drilling and blasting of aggregate materials.



Figure 3 - Proposed Grading Plan

The amendment to the application dated August 3, 2021 responded to City comments regarding sightline impacts that the proposed grading may have from the water. The revised site plan maintains the front of the property (east interface with the Lake) in its existing condition, with reference to Figure 4 – Proposed Site Development. A setback ranging from approximately 41m to 93m wide will be retained, with no alterations to grades, vegetation or the residential development area. Figure 4 identifies the “no disturbance limit” that establishes a setback line where no alterations to the site will be conducted. Dimensions on this plan identify the setback width as it varies across the property.



The following describe mitigation measures that will be applied to the development of this site:

- trees removed from the site will be cut, piled and re-used for firewood. Branches and other woody debris will be mulched and discarded of through either on-site burning or hauling from the site;
- minimal amounts of topsoil are anticipated to be found on site and is generally concentrated in areas currently under tree cover. All topsoil will be harvested and re-used on site for landscape improvements of buffer areas, or re-used elsewhere in the community;
- temporary erosion and sediment control (ESC) measures will be in place during grading work to prevent the release of deleterious substances, either airborne or over the surface, into adjacent properties or into Yellowknife Bay. Measures will include a combination of surface water stilling basins, silt fences in areas with topsoil where surface water flow may occur, applying mulch material over top any bare topsoil areas and rapid re-seeding of any exposed topsoil areas that will be permanent. Any ESC measures will be planned for, installed, maintained and removed in accordance with any conditions included in any necessary permits with the GNWT or the Mackenzie Valley Land and Water Board;
- a setback ranging from approximately 41m to 93m of undisturbed ground will be retained between any areas of excavation and grading and the shoreline. This will include retaining all existing vegetation and making no alterations to existing grades. This buffer shall achieve the following:

- minimizing the visual impact of sightlines of the subject property from the water. The viewshed will remain relatively in-tact when the subject property is seen from eye level on a vessel passing by the property;
- allowing continuous passage of wildlife. Wildlife passage in waterfront contexts is most prominent along shorelines, and retaining the in-tact state of the waterfront of the property will retain existing wildlife movement;
- controlling any release of sediment from excavation and grading activities – this buffer will allow for more than sufficient setbacks to allow for ESC measure to be put into place and capture any deleterious substance through ESC measures prior to entry into Yellowknife Bay; and
- posted signage around the perimeter of any excavated areas to warn hikers and other trespassers of potential risks, steep slopes and the presence of private property.
- Removal of vegetation will not be conducted during the nesting seasons identified by Environment Climate Change Canada to ensure that site disturbances do not contravene the federal *Migratory Birds Convention Act*, federal *Species At Risk Act*, *GNWT Wildlife Act*, *GNWT Species at Risk Act* or the *GNWT Wildlife General Regulations*.

Site Plans

The various figures are excerpts of information included in the following attachments which form part of this report:

- DP 01 – Context Plan, City of Yellowknife – EDS Group Inc.;
- DP 02 – Site Plan, City of Yellowknife – EDS Group Inc.;
- Proposed Grading Plan, Plan and Profile, Lot 4 Block 516 - Sub Arctic Geomatics;
- Proposed Grading Plan, Cross Sections, Lot 4 Block 516 – Sub Arctic Geomatics; and
- Proposed Grading Plan, Plan and Profile, Lot 4 Block 516 (with Air Photo)- Sub Arctic Geomatics.

Closing

We trust this *Planning Justification Report* satisfies the requirements of the City of Yellowknife to support this Development Permit Application. Prior to any on-site grading and excavation work, the Applicant will correspond with the GNWT to obtain any required permits and will communicate with the Mackenzie Valley Land and Water Board about the proposed development. The City of Yellowknife will be provided with copies of any permits required and pertinent correspondence with the Mackenzie Valley Land and Water Board.



John Buchko, RPP, CSLA, CPESC
Environmental Planner / Landscape Architect / Certified Professional in Erosion and Sediment Control
EDS Group Inc.

March 3, 2022

Our File: 32174

City of Yellowknife
4910 – 52 Street
Yellowknife, NT X1A 1T3

Attn: Sarah Berku – Planner, Planning & Lands Division
Re: Development Permit File PL-2021-0051 (Lot 4, Block 316)
Applicant: Nahanni Construction Ltd.

1. Introduction

EDS Group Inc. (EDS) has been retained as an agent to Nahanni Construction Ltd. as a planning consultant, assisting with their development permit application PL-2021-0051 with the City of Yellowknife. We are aware of our Client's original application, amendment to the application dated August 3, 2021 and correspondence from your office to Mr. Kenny Ruptash of Nahanni Construction Ltd. dated August 6th, 2021. The correspondence referred to requests that the Applicant prepare a *Planning Justification Report* to support the application. We trust that this report satisfies the requirements of the City of Yellowknife as it relates to disclosure of the intended land use, proposed site development, and mitigation strategies put forward in the plan to minimize the visual impact of site work from the water while also considering local wildlife. This report is an update to a previous version provided to the City of Yellowknife in November 2022. We appreciate the time your office has taken to review the previous draft of the justification report and to provide clear feedback on how this application best be put forward to City Council for consideration.

An existing home occupies the limited flat area of the parcel alongside Yellowknife Bay. This development permit application seeks approval to flatten a large proportion of this existing residential development's parcel. The proposed development will see approximately 75% of the lot area graded, while leaving a significant buffer of land along the shoreline intact and undisturbed. This will help maintain the naturalistic character of the lot as seen from the water, will allow for the same passage of wildlife as exists today, will preserve existing habitat, and will also mitigate for any disturbance to the water and avert any Federal approvals. Once the site grading program is complete, the landowner will have a much greater proportion of the lot available for useful residential occupation.

Based on our discussion with City Planning staff, the process to achieve this flat profile triggers what the City of Yellowknife defines this as an act of natural resource extraction and further defined as a "quarry". As defined within the Land Administration Bylaw No. 4596 a *Quarry* is defined as:

"any work or undertaking in which granular materials are removed from the ground or the land by any method, and includes all ways, works, stockpiles, machinery, plant, buildings and premises belonging to or used in connection with the quarry."

This definition is very broad, such as having no threshold of material volumes that differentiates the removal of one cubic meter of aggregate material from removing tens of thousands of cubic meters. The motivation behind this development is not to mine rock materials for marketing, rather to create a privately owned residential parcel with a more significant useful area. At the same time, the landowner wishes to make the best use of any excavated materials and therefore will explore re-use potential of any materials taken from the subject parcel. Because of the overly broad definition of *Quarry*, this

application is forced to be considered under the discretionary use of *Natural Resource Extraction*. Section 3 – Proposed Development Use describes how the grading program anticipated for this development differs from a traditional quarry development.

2. Site Context

As seen on Figure 1 – Site Context, the subject parcel is located along the shore of Yellowknife Bay, on Great Slave Lake. Access to the parcel is available off Ingraham Trail / Highway 4 to the west. The land is currently zoned as GM – Growth Management, per existing zoning in Bylaw No. 4404. The site is dominated by rock outcrop, with parts of the property tree covered including a mix of primarily spruce, pine, birch and aspen trees.

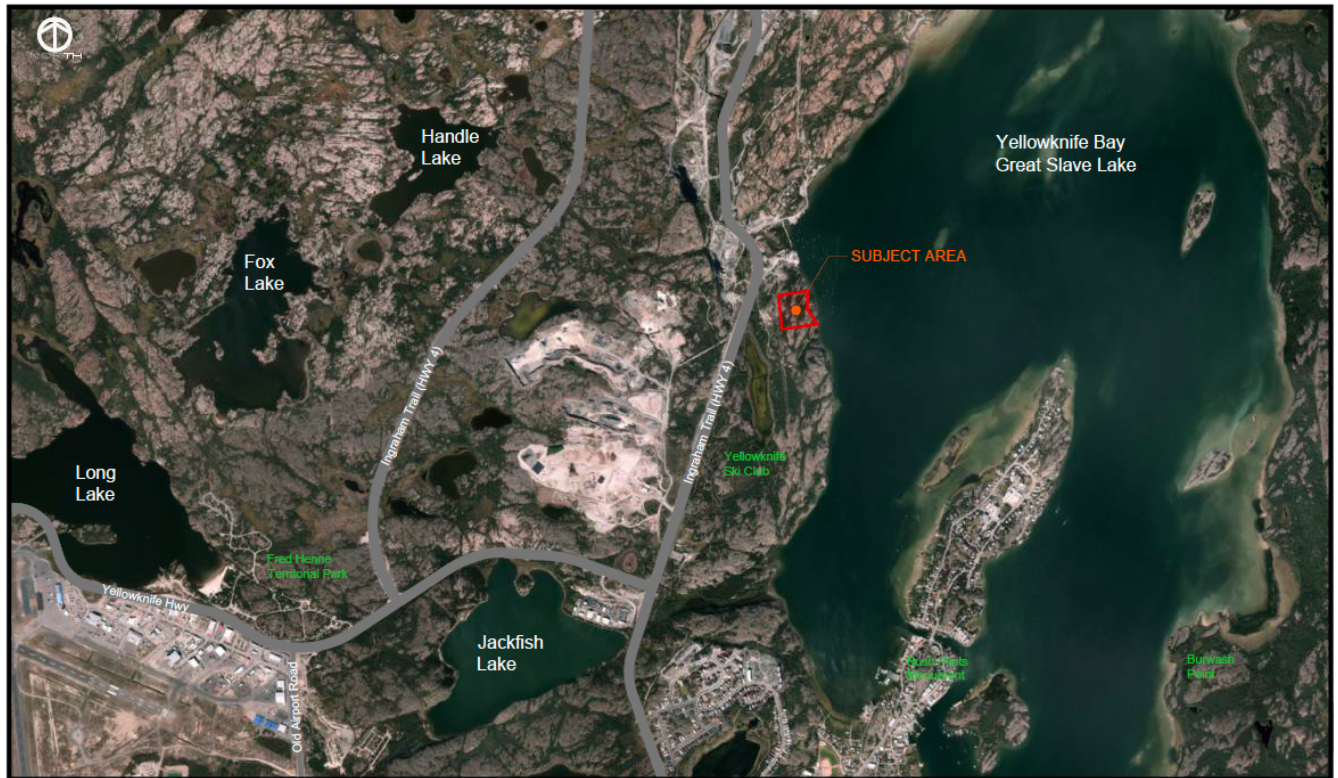


Figure 1 - Site Context

Images 1 and 2 below depict the general conditions of the subject parcel. Typical of land in this community, the site is primarily solid rock partly covered in sparse tree cover and minimal understory vegetation. Natural terrain and the nature of formations are not conducive to ungulate passage, while this environment can support habitat for small animals and birds. A review of the parcel found no significant habitat areas such as animal dens or active nests of migratory birds or owls.



Image 1 - Subject parcel, view from south-southeast looking to north-northwest, depicting overall parcel and adjacent Yellowknife Bay



Image 2 - Subject parcel, view from east looking to west, depicting existing dwelling

The City of Yellowknife Zoning Bylaw No. 4404 regulates the use and development of land and buildings within the City of Yellowknife in a balanced and responsible manner pursuant to the NWT *Planning Act* and applicable General Plan. The provisions of this bylaw apply to land and buildings within the municipal boundary of the City of Yellowknife. The subject property falls exclusively within the City and the proposed development within this application is subject to the terms of Bylaw No. 4404. Figure 2 – Land Use Zones identifies the subject parcel (designated as “Subject Area”) designated as GM – Growth Management. This property is bound to the west and south by PR – Parks and Recreation, to the east by open water of Yellowknife Bay / Great Slave Lake, and to the north by GM – Growth Management.

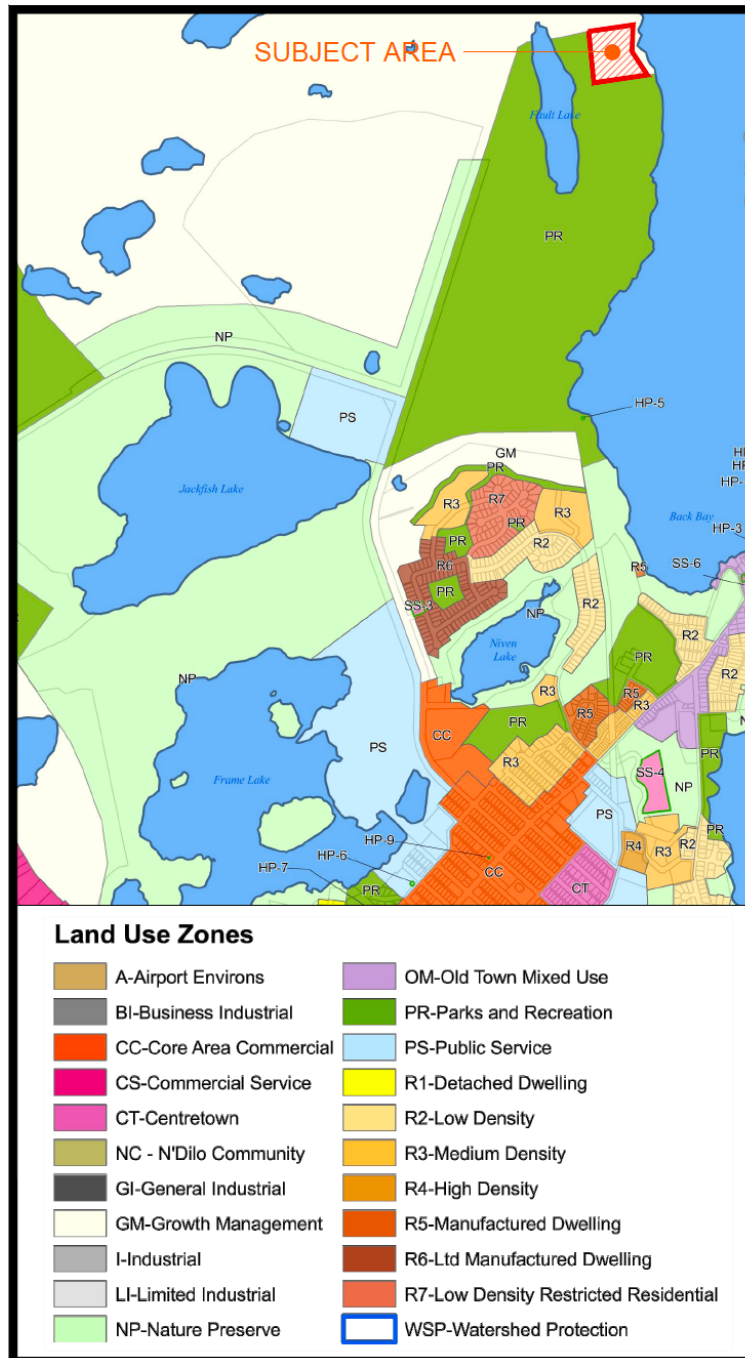


Figure 2 - Land Use Zones (Source: Bylaw No. 4404)

3. Proposed Development Use

The proposed development includes a residential lot development that has approximately 75% of the site gently sloping from back to front (generally from west to east) and retaining the front 25% of the site alongside the water in its existing state. To achieve this final condition, stripping and grading will be required to create this useful area on the property. As it currently exists, most of the lot is steeply sloped rock that does not allow for safe human access for activities such as gardening, childrens' play and dog walking. The slopes are also too significant to allow for importing topsoil and planting ornamental trees to develop a highly aesthetically pleasing residential property. An existing residential dwelling, located near the easterly property boundary adjacent to Yellowknife Bay will remain intact and retain its permitted use as a dwelling. Figure 3 – Proposed Grading Plan identifies a detailed grading plan of the proposed site conditions after grading. To achieve the desired grades of the site, approximately 275,000 to 325,000 cu.m. of rock material will be excavated from the site. To remove this unwanted material the process of drilling, blasting, crushing and hauling will be required.

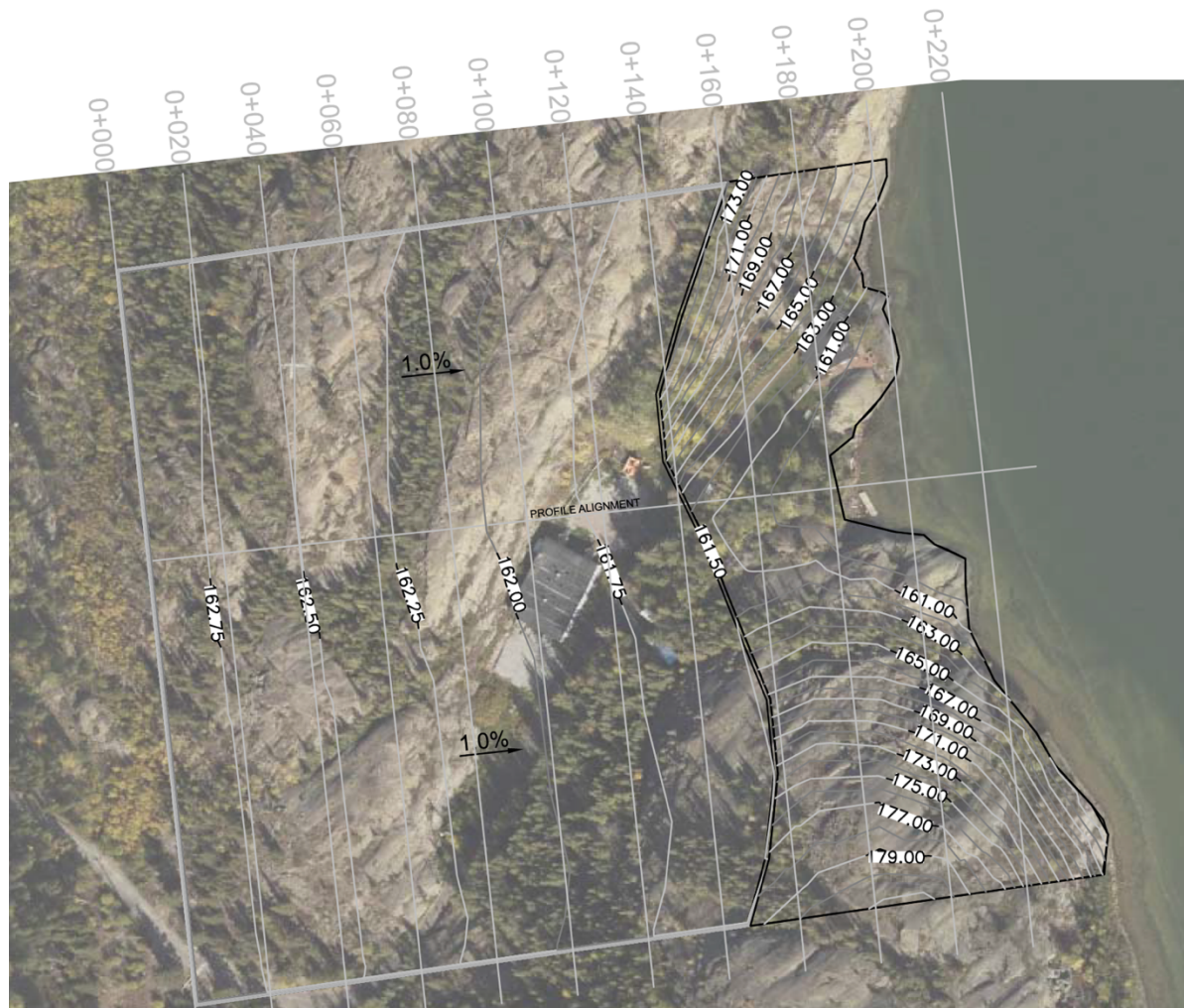


Figure 3 - Proposed Grading Plan

The amendment to the application dated August 3, 2021 responded to City comments regarding sightline impacts that the proposed grading may have from the water. The revised site plan maintains the front of the property (east interface with the Lake) in its existing condition, with reference to Figure

4 – Proposed Site Development. A setback ranging from approximately 41m to 93m wide will be retained, with no alterations to grades, vegetation or the residential development area. Figure 4 identifies the “no disturbance limit” that establishes a setback line where no alterations to the site will be conducted. Dimensions on this plan identify the setback width as it varies across the property.



Figure 4 - Proposed Site Development

The site access point at the south-west corner of the property will remain the same, however may be adjusted during the grading program to provide safe vehicle passage.

The following provides a general description of the intent of site development, and what the parcel will become once proposed re-grading is complete:

- the existing dwelling will remain in its current location, taking advantage of its excellent prospect and views over Yellowknife Bay;
- a significant buffer of land will remain intact along the riparian area, providing naturalistic conditions for wildlife movement, habitat and preserving the aesthetic character of the area as seen from the water;
- the graded area of the site will include a personal vegetable garden area, taking advantage of all suitably organic material harvested from the grading operations. The area will allow for other passive recreational activities such as a large play area for family enjoyment and games; and
- where possible, smaller trees that are compatible for transplanting will be relocated. The proposed grading program may take several years to complete, and as grading progresses trees

will be relocated to completed areas if deemed feasible and there is a high likelihood of tree health.

As identified earlier, the overly broad definition of *Quarry* deems the process to achieve the final lot condition *Natural Resource Extraction*. The following summarizes how the proposed grading activities differ from a conventional quarry development:

- the timelines to complete this work is not market driven. The landowner wishes to complete this work in a timely manner to make the parcel more useful and attractive for residential use. At the same time, a logical and practical location to relocate the aggregate material must be determined prior to committing to any timeline to complete grading operations;
- typical quarries in the Yellowknife region have significantly larger volumes. As an example, the City recently approved Det'on Cho's Vee Lake quarry with estimated 5M cu.m. to be mined; and
- the landowner is prepared to have a third-party contractor complete the material extraction process, which is not a typical approach. This demonstrates the interest of the landowner to have the work done as soon as practicably possible.

4. Mitigation Measures

The following describe mitigation measures that will be applied to the development of this site:

- trees removed from the site will be cut, piled and re-used for firewood. Branches and other woody debris will be mulched and discarded of through either on-site burning or hauling from the site;
- minimal amounts of topsoil are anticipated to be found on site and is generally concentrated in areas currently under tree cover. All topsoil will be harvested and re-used on site for landscape improvements of buffer areas, or re-used elsewhere in the community;
- temporary erosion and sediment control (ESC) measures will be in place during grading work to prevent the release of deleterious substances, either airborne or over the surface, into adjacent properties or into Yellowknife Bay. Measures will include a combination of surface water stilling basins, silt fences in areas with topsoil where surface water flow may occur, applying mulch material over top any bare topsoil areas and rapid re-seeding of any exposed topsoil areas that will be permanent. Any ESC measures will be planned for, installed, maintained and removed in accordance with any conditions included in any necessary permits with the GNWT or the Mackenzie Valley Land and Water Board;
- a setback ranging from approximately 41m to 93m of undisturbed ground will be retained between any areas of excavation and grading and the shoreline. This will include retaining all existing vegetation and making no alterations to existing grades. This buffer shall achieve the following:
 - minimizing the visual impact of sightlines of the subject property from the water. The viewshed will remain relatively in-tact when the subject property is seen from eye level on a vessel passing by the property;
 - allowing continuous passage of wildlife. Wildlife passage in waterfront contexts is most prominent along shorelines, and retaining the in-tact state of the waterfront of the property will retain existing wildlife movement;
 - controlling any release of sediment from excavation and grading activities – this buffer will allow for more than sufficient setbacks to allow for ESC measure to be put into place and capture any deleterious substance through ESC measures prior to entry into Yellowknife Bay; and

- posted signage around the perimeter of any excavated areas to warn hikers and other trespassers of potential risks, steep slopes and the presence of private property.
- Removal of vegetation will not be conducted during the nesting seasons identified by Environment Climate Change Canada to ensure that site disturbances do not contravene the federal *Migratory Birds Convention Act*, federal *Species At Risk Act*, *GNWT Wildlife Act*, *GNWT Species at Risk Act* or the *GNWT Wildlife General Regulations*.

5. Site Plans

The various figures are excerpts of information included in the following attachments which form part of this report:

- DP 01 – Context Plan, City of Yellowknife – EDS Group Inc.;
- DP 02 – Site Plan, City of Yellowknife – EDS Group Inc.;
- Proposed Grading Plan, Plan and Profile, Lot 4 Block 516 - Sub Arctic Geomatics;
- Proposed Grading Plan, Cross Sections, Lot 4 Block 516 – Sub Arctic Geomatics; and
- Proposed Grading Plan, Plan and Profile, Lot 4 Block 516 (with Air Photo)- Sub Arctic Geomatics.

6. Ancillary Permitting

The City of Yellowknife requested information on the role that the Mackenzie Valley Land and Water Board (MVLWB) will play in the approval of the proposed site development. Until a formal set of drawings, project timelines and other information is in place we are unable to get any formal response from the MVLWB. The Applicant is committed to involve the City throughout the permitting process with the MVLWB once it is pursued. On the other hand we have referred to the Mackenzie Valley Land Use Regulations, which is the statutory instrument that decisions from the MVLWB is governed by. Based on our review of the Regulation, we interpret that neither a Type A or a Type B permit from the MVLWB as the proposed operations do not trigger any of the stipulations as noted in Section 4 and 5 – Prohibitions. Once we have development permit approvals in place with the City of Yellowknife we will ensure compliance with any authority having jurisdiction.

7. Closing

We trust this *Planning Justification Report* satisfies the requirements of the City of Yellowknife to support this Development Permit Application. Prior to any on-site grading and excavation work, the Applicant will correspond with the GNWT to obtain any required permits and will communicate with the Mackenzie Valley Land and Water Board about the proposed development. The City of Yellowknife will be provided with copies of any permits required and pertinent correspondence with the Mackenzie Valley Land and Water Board.



John Buchko, RPP, CSLA, CPESC
Environmental Planner
EDS Group Inc.





CITY OF YELLOWKNIFE

Sent via Email

April 29, 2021

Dear Kenny Ruptash,

Re: Development Permit File PL-2021-0051 (Lot 4 Block 316 “Grading”)

Thank you for submitting the Development Permit Application PL-2021-0051 to grade Lot 4 Block 316 (the Site). The City of Yellowknife (City) has completed a review of the submitted grading plans and has compiled the following feedback. There are two scenarios to move this permit forward. Both scenarios require Council support. Please note that the two scenarios provided are not a commitment of staff supporting the application, but are intended to be a roadmap to bring the proposal before Council:

Scenario 1: Re-designation, Area Development Plan, and Rezoning

The application indicates that the project is for grading the Site in order to enhance the use. The proposed grading plan demonstrates that a significant portion of rock will be removed from the Site and would irreversibly change the waterfront landscape.

The Community Plan designates the Site as Special Management Zone (the use of the term “zone” in this case is intended to mean “designation”). The purpose of this land-use designation is for land that is not currently earmarked for a specific land use and, as such, will require careful planning for the future. The Community Plan states that no permanent development will be permitted in the Special Management Zone until the land in the area is re-designated. The City considers the removal of 500,000m³ of bedrock from a lot that is 4 hectares in area to be permanent development (see Figure 1 & Figure 2). The proposed development is reasonably beyond the scope of a typical grading permit.

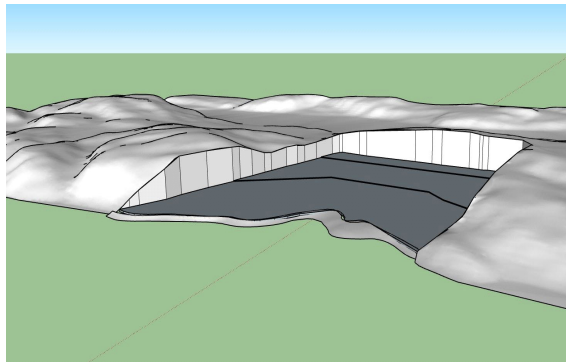


Figure 1 : 3D model of the proposed grading based off of the submitted grading plans

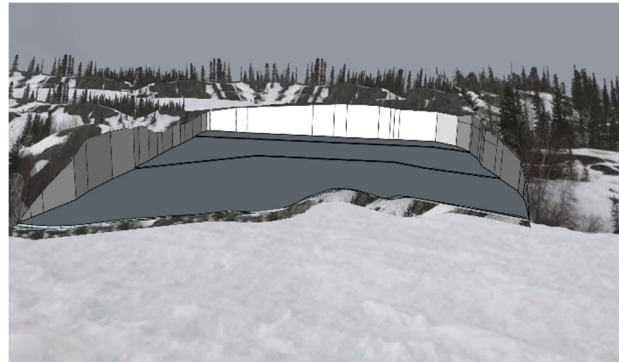


Figure 2: Approximate visualization of what the land will look like after the proposed grading is complete



CITY OF YELLOWKNIFE

More importantly, under the current designation, the proposed grading plan cannot be approved because it is in direct opposition to specific policies outlined in the Special Management Zone¹ (see Table 1). The Community Plan clearly prohibits the cutting of trees, permanently damaging vegetation, and other permanent alterations to the natural features (see Figure 1 & Figure 2) in the Special Management Zone, unless explicitly approved by Council.

The Community Plan provides clarity that in order to move the project forward, you will need to re-designate the land to align with the future land use. The implications for re-designation means that there is a concrete and long-term plan for the Site once the proposed grading is completed.

Re-designating the land is a serious undertaking and will require, at minimum, the following actions:

1. An amendment to the Community Plan adopted by by-law for re-designation
 - a. Please note that amending the Community Plan triggers the following requirements and processes:
 - i. A completed Community Plan amendment application
 - ii. Submission of an environmental site assessment – the Community Plan requires that all land re-designations undergo an environmental site assessment
 - iii. Memorandum to Council – Staff will undertake writing a memo that will go to the Governance and Priorities Committee, prior to going to Council
 - iv. Notice of Public Meeting – the public will be given a chance to provide comment and express support or opposition
 - v. Duty to Consult – all amendments to the Community Plan triggers the Duty to Consult under the Community Planning and Development Act
 - vi. Receive Council's Third Reading of the by-law
2. Developing an Area Development Plan for the Site which will be adopted by by-law:
 - a. The Community Plan requires the development of an Area Development Plan when re-designating land in the Special Management Zone. Adopting an Area Development Plan triggers the following requirements and processes:
 - i. Memorandum to Council – Staff will undertake writing a memo that will go to the Governance and Priorities Committee, prior to going to Council. This can be accomplished in partnership with the other bylaw amendments associated with this development proposal.
 - ii. Notice of Public Meeting – the public will be given a chance to provide comment and express support or opposition

¹ Community Plan, pages 78-79



CITY OF YELLOWKNIFE

3. An amendment to the Zoning By-law to align with the proposed land use, adopted by by-law
 - a. Please note that amending the Zoning By-law triggers the following requirements and processes:
 - i. A completed re-zoning application and a paid fee
 - ii. Memorandum to Council – Staff will undertake writing a memo that will go to the Governance and Priorities Committee, prior to going to Council
 - iii. Notice of Public Meeting – the public will be given a chance to provide comment and express support or opposition
 - iv. Receive Council's Third Reading of the by-law

Table 1: Relevant policies from the Community Plan for Scenario 1 and the implications they have on your proposed development (grading)

Relevant Special Management Zone Policies from the Community Plan	What this means for your proposed development (grading)
2-a. No permanent development will occur without re-designation and explicit approval from City Council. 2-b. Development in the Special Management Zone will not be considered unless there is a demonstrated need for land which cannot be accommodated in the other land use designations.	The Site must be re-designated from Special Management Zone to a different designation in order to move forward. The scope of the proposed grading is permanent development.
3-a. Area Development Plans will be prepared for any land that is re-designated for development. 3-b. Leapfrogging development of redesignated land will not be permitted in area.	The site will require an Area Development Plan as part of the re-designation process
5-a. Cutting of trees, permanently damaging vegetation, altering watercourses, or other permanent alterations to the natural features of the Special Management Zone will be prohibited unless explicitly approved by City Council. 5-b. Burning or cutting of live trees will only be permitted for City approved fire management purposes.	The Site cannot be developed as proposed under the current Special Management Zone designation due to the amount of trees that will be cut and the permanent alteration of the natural features of the rock.
6-a. The City shall ensure that any proposed development does not impact potential traditional/historical burial sites and other archaeological sites. 6-b. Prior to any re-designation of land, an environmental site assessment will be completed to ensure the development does not adversely impact the natural environment.	Prior to re-designating the land you will be required to submit an environmental site assessment.



CITY OF YELLOWKNIFE

Option 2 – Quarry Application

The submitted grading plan indicates that over 500,000m³ of bedrock will be removed from the Site (see Figure 1 & Figure 2). The level of activity of the proposed development is more aligned with the Natural Resource Extraction Use (i.e. – a quarry). Natural Resource Extraction is a conditionally permitted use in the Growth Management (GM) Zone. The Site is zoned GM. All conditionally permitted uses must go to Council for approval.

The Community Plan states that new quarrying activities in the Special Management Zone will only be permitted if aggregate resources cannot be procured from existing quarries. To move this development permit forward, you will need to provide the following information:

1. Demonstrate the aggregate demand to justify an additional quarry within the City.
2. Provide development permit submission information typical of a quarry including time frames for phases of extraction, a quarry development plan, a quarry operations plan, a quarry reclamation plan, and appropriate buffering to mitigate land uses conflicts with adjacent users.
3. Secure site access for a quarrying activities across:
 - a. City owned land (Lot 2, Block 316) and,
 - b. Land in which the City holds a head lease (15347T).
4. Receive Council's approval for a conditionally permitted use (natural resource extraction) for the Site.

We thank you for your patience in responding to the development proposal – it is a complex file and, if it moves forward, will have several moving pieces. Let us meet to discuss the options and how you would like to proceed moving forward.

Sincerely,

Sarah Bercu,

Planner, Planning & Lands

City of Yellowknife



CITY OF YELLOWKNIFE

Delivered via Email

December 21, 2021

Kenny Ruptash
Nahanni Construction Ltd. and John Buchko
100 Nahanni Dr.
Yellowknife, NT X1A 2P6

Dear Mr. Kenny Ruptash and Mr. John Buchko,

Re: Planning Justification Report for Development Permit PL-2021-0051 (Lot 4, Block 316)

Thank you for submitting a draft Planning Justification Report (the Report), received on November 26, 2021, for Development Permit Application PL-2021-0051. The Development Permit application, including the Planning Justification Report, requires Council support¹ and approval to proceed. The Planning and Development Department has the following comments for your consideration and response. Please note that the comments provided are not a commitment of Administration's support of the application, but are intended to be a roadmap to bring the proposal before Council.

Legislative Context for the Site

The *Community Planning and Development Act* came into force in October 2013, replacing the former *Planning Act*.

The City of Yellowknife Community Plan was adopted in July 2020, replacing the former 2011 General Plan. The subject site is designated Special Management Zone under the 2020 Community Plan. The purpose of the Special Management Zone Designation is:

- To protect the existing land rights, including mineral leases and other lease interests;
- To prevent permanent development until land is explicitly re-designated by City Council;
- To develop areas, when re-designated, in a phased approach and adjacent to existing built areas;
- To maintain access for recreational activities;
- To prevent degradation of the Special Management Zone Designation;
- To preserve the natural landscape and environmentally sensitive areas or culturally significant sites; and
- To permit quarrying activities for aggregate resources when existing sources are exhausted.

¹ See Attachment 1



CITY OF YELLOWKNIFE

The subject site is zoned GM – Growth Management under Zoning Bylaw No. 4404. The purpose of the GM zone is to control and regulate land use so that future development may proceed in an orderly and well planned manner in keeping with the intent of the [Community] Plan and applicable Area Development Plan. There currently is no Area Development Plan framework in place for the lands adjacent to the western shoreline of Back Bay.

Please update the Report to reflect the current Territorial Act, the current Community Plan designation, and Zoning By-law.

Proposed Development

Thank you for the update on the intended removal of 350,000 cubic metres of bedrock and the buffer area that will be maintained between the water's edge. We understand from discussion with Nahanni Construction and the Planning Justification Report from EDS that the proposed development is intended "to create a useful area on the property".

2020 Community Plan

The Special Management Zone Designation in the 2020 Community Plan applies to those lands not currently designated for a specific land use and the Community Plan states "until land in this area is re-designated, no permanent development will be permitted in the Special Management Zone Designation." The City considers the removal of 350,000 cubic metres of bedrock to be permanent development (see Figure 1) and is reasonably beyond the scope of a typical grading permit.

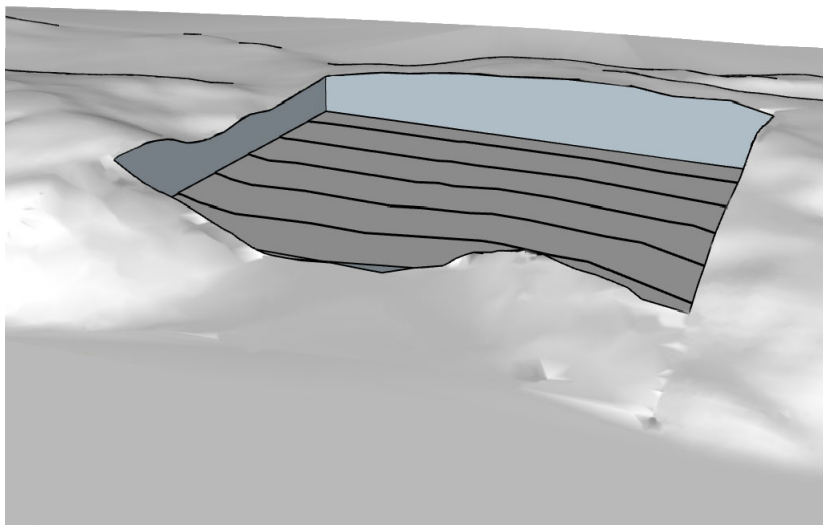


Figure 1 : 3D model of the proposed grading based off of the resubmitted grading plans



CITY OF YELLOWKNIFE

Specific Community Plan policies and their implications to the development proposed by Nahanni can be found in Table 1.

Please provide a detailed Community Plan analysis², including a rationale and opinion, of the identified relevant policies demonstrating:

- (i) how the application meets the legislative requirements for development;
- (ii) whether the development proposal is consistent with the overall intentions of the Community Plan policies, or whether the development proposal fails to conform or conflicts with the Community Plan; and
- (iii) that the development proposal is consistent with the regulations of the Zoning By-law.

The planning analysis should demonstrate how the proposed development addresses good planning principles. For example, this may include a discussion of how the development proposal provides beneficial social, economic or environmental outcomes, and how the proposal contributes to creating a complete, sustainable, vibrant community.

Table 1: Relevant policies from the Community Plan and the implications they have on the proposed development

Relevant Special Management Zone Policies from the Community Plan	What this means for the proposed development
2-a. No permanent development will occur without re-designation and explicit approval from City Council. 2-b. Development in the Special Management Zone will not be considered unless there is a demonstrated need for land which cannot be accommodated in the other land use designations.	The Site must be re-designated from Special Management Zone to a different designation in order to move forward. The scope of the proposed grading is permanent development.
3-a. Area Development Plans will be prepared for any land that is re-designated for development. 3-b. Leapfrogging development of re-designated land will not be permitted in area.	The site will require an Area Development Plan as part of the re-designation process
5-a. Cutting of trees, permanently damaging vegetation, altering watercourses, or other permanent alterations to the natural features of the Special Management Zone will be prohibited unless explicitly approved by City Council. 5-b. Burning or cutting of live trees will only be permitted for City approved fire management purposes.	The Site cannot be developed as proposed under the current Special Management Zone designation due to the amount of trees that will be cut and the permanent alteration of the natural features of the rock.
6-a. The City shall ensure that any proposed development does not impact potential traditional/historical burial sites and other archaeological sites.	Prior to re-designating the land you will be required to submit an environmental site assessment.

² See Attachment 2



CITY OF YELLOWKNIFE

6-b. Prior to any re-designation of land, an environmental site assessment will be completed to ensure the development does not adversely impact the natural environment.	
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Zoning By-law

The Zoning By-law defines Natural Resource Extraction as:

“means the mining, quarrying, removal and/or excavation of any mineral, ore body, stratum, rock, earth, clay, sand, gravel, black dirt, peat, or other natural resources to supply material for construction, manufacturing, industrial, landscaping and other commercial activities. This definition does not include any excavation or work incidental to the development of a building, structure, or use for which a development permit has been issued”

We understand from Nahanni Construction Ltd. that constructing and/or operating a quarry (i.e. Natural Resource Extraction Use) is at odds with Nahanni’s business model within the greater NWT contractor and construction community. We also understand from Nahanni Construction Ltd. that the excavated bedrock is intended to be used for the Giant Mine Remediation Project. In addition to demonstrating how the proposed development is consistent with the Zoning By-law, the Report will need to provide rationale as to why the removal of 350,000 cubic metres of bedrock should not be considered Natural Resource Extraction. This will be important for Council to consider.

We are aware that Nahanni Construction Ltd. have reached out to the Mackenzie Valley Land and Water Board (MVLWB) and appreciate that any pertinent correspondence will be forwarded to us. In addition to any requirements imposed by the MVLWB, the proposed development must demonstrate that it is aligned with City legislation guiding development, including the Community Plan and Zoning By-law.

Fauna context

We appreciate that the Report takes into account the fauna context of the site, and that there are “no significant habitat areas such as animal dens or active nests of migratory birds or owls.” Please provide data to support these findings.

Moving Forward

The City will need a complete Planning Justification Report addressing all points in this letter. Due to the nature of the proposal, and the policies in the Community Plan, the land will need to be re-designated to align with the identified future land uses. The implications for re-designation means that there is a concrete and long-term plan for the Site once the proposed grading is completed. Re-designating the land is a serious undertaking and will require the following actions:

1. An amendment to the Community Plan



CITY OF YELLOWKNIFE

- a. Please note that amending the Community Plan triggers the following requirements and processes:
 - i. Submission of a complete Community Plan amendment application, including supporting rationale;
 - ii. Submission of an environmental site assessment – the Community Plan requires that all land re-designations undergo an environmental site assessment;
 - iii. Staff report and by-law presented to the Governance and Priorities Committee;
 - iv. Statutory Public Hearing – the public will be given a chance to provide comment and express support or opposition;
 - v. Duty to Consult – all amendments to the Community Plan triggers the Duty to Consult under the Community Planning and Development Act;
 - vi. Sign-off by the Government of the Northwest Territories - Minister of Municipal and Community Affairs; and
 - vii. Adoption of the amendment by-law by City Council.
2. Developing an Area Development Plan for the Site which will be adopted by by-law:
 - a. The Community Plan requires the development of an Area Development Plan when re-designating land in the Special Management Zone. Adopting an Area Development Plan triggers the following requirements and processes:
 - i. Submission of a draft Area Development Plan
 - ii. Finalization of the draft Area Development Plan with Administration
 - iii. Staff report and bylaw presented to the Governance and Priorities Committee
 - iv. Statutory Public Hearing – the public will be given a chance to provide comment and express support or opposition;
 - v. Adoption of the Area Development Plan by-law by City Council.
3. An amendment to the Zoning By-law to align with the proposed land use, adopted by by-law
 - a. Please note that amending the Zoning By-law triggers the following requirements and processes:
 - i. Submission of a complete rezoning application including supporting rationale;
 - ii. Staff report and by-law presented to the Governance and Priorities Committee;
 - iii. Statutory Public Hearing – the public will be given a chance to provide comment and express support or opposition; and
 - iv. Adoption of the rezoning by-law by City Council.

The Community Plan amendment, drafting of the Area Development Plan, and the Rezoning can be submitted and processed concurrently. A complete and comprehensive Planning Justification Report will be the foundation of your Community Plan amendment and Rezoning applications.



CITY OF YELLOWKNIFE

We thank you for your patience in responding to the submitted Report. This is a complex file and, as it moves forward, will have several moving pieces.

Sincerely,

Sarah Bercu,
Planner, Planning & Lands
City of Yellowknife

Attachments:

1. Correspondence between the City and Kenny Ruptash, April 29, 2021
2. Correspondence between the City and Kenny Ruptash, July 9, 2021

From: [Charlsey White](#)
To:
Cc: [Sheila Bassi-Kellett](#); [Kerry Thistle](#); [Paula MacKenzie](#); [Sarah Bercu](#)
Subject: Development Lot 4 block 316
Date: July 9, 2021 2:01:44 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)

Good Afternoon Mr. Ruptash;

I understand you have received correspondence from our office dated April 29, 2021 and are seeking clarity on next steps related to your property Lot 4 Block 316.

The application submitted to the City was for lot grading in association with an existing single detached residential dwelling. The City considers the removal of 500,000m³ of bedrock from a lot that is 4 hectares in area to be permanent development and as proposed the development is beyond the scope of a typical grading permit. The submitted grading plan outlined that a significant portion of rock would be removed from the site and it is our opinion that the removal will irreversibly change the waterfront landscape.

The Community Plan designates the property as Special Management Zone; a designation used for land where a specific land use has not been identified and where detailed planning will be required. The Community Plan states that no permanent development will be permitted in the Special Management Zone until the land in the area is re-designated.

The property owner may wish to consider the development potential of the property, have a proposal and Planning Justification Report created by a qualified professional and submit an application for *Community Plan Amendment* and *Area Development Plan with Zoning* to the City for consideration. City Council is the approval authority for amendments to the Community Plan. The Community Plan requires as part of this process that an Area Development Plan for the property be developed when re-designating land in the Special Management Zone. Following these steps an amendment to the Zoning By-law to align with the proposed land use, will be required to be adopted by by-law.

A Planning Justification Report in support of land use planning proposals and applications must indicate the author of the report, and be signed by a Registered Professional Planner (RPP) or a Certified Planning Technician (CPT). Reports are expected to vary widely in content and detail according to the nature and complexity of the application or proposal; however, all reports must include the following general sections:

- Introduction
- Site Context
- Description of Proposal

- Policy and Planning Analysis
- Summary/Conclusion
- Appendices/Maps/Plans

The information requirements for the above sections are outlined below.

A. Introduction

Every report must contain a brief introduction which outlines:

- Who was retained to write the report and date retained;
- What application(s) has/have been submitted or are required; and
- Whether pre-consultation took place with the City and date of meeting(s)
- A statement of the purpose of the report

B. Site Context

The site context is intended to assist in understanding where the proposal is located and the characteristics of the landscape surrounding the site of the proposal. Specifically, this section of the report will contain:

- A description of the location and existing condition of the subject lands;
- A description of surrounding land uses (if industrial or commercial, specify types of businesses) and important features such as roads, municipal services, waterbodies and environmental features;
- Identification of constraints affecting the site (e.g. water features, hazard lands, access restrictions, etc);
- Identification of any lands on the site regulated by another government authority;
- Identification of other development proposals affecting surrounding land uses; and,
- Maps or reference to appendices which help to provide a context for the site and the surrounding lands (Surveys, aerial photographs, area maps, etc.)

C. Description of the Proposal

The intent of the proposal description is to provide sufficient information to allow the reader to understand the purpose and effect of the application(s). This section of the report must provide details about proposed uses, proposed buildings, if known, the planning history of the site (i.e. previous applications), and any previous consultation with the City. Where modifications to the zoning by-law provisions are proposed, a detailed concept plan shall be provided showing all

applicable zoning regulations (e.g. lot frontage, setbacks, coverage, encroachments, building height, parking (both number and size of spaces) etc.).

The description of the proposal will also list and provide a brief description of any other supporting technical studies that have been submitted in support of the application, as these may relate to applicable planning policies (e.g. Traffic Studies, Noise Assessments, etc.).

D. Policy and Planning Analysis

The Policy and Planning Analysis is the most important part of the Planning Justification Report, as it is the basis for establishing why a proposal should be considered and approved. This section must provide an outline of applicable planning policy documents and the regulatory contexts, quoting specific policies that are relevant to the proposal. The report must establish a basis for the application(s) by providing a detailed analysis, including a rationale and opinion, of the identified relevant policies and demonstrate:

For a Community Plan Amendment:

- Does the application meet the legislative requirements for development;
- Whether the portions of the Community Plan that would be affected by the proposal are consistent with the in effect Community Plan or fails to conform or conflicts;
- Demonstrates that the application is consistent with the policies of the Community Plan; and
- That the application and resulting development represents good land use planning.

Policy and planning analysis is to provide a rationale and qualified professional opinion as to why the proposal is appropriate, in terms of how the proposal addresses “good planning principles”. For example, this may include a discussion of how the proposal provides beneficial social, economic or environmental outcomes; how the proposal contributes to creating complete, sustainable, vibrant communities; and/or how potential negative impacts have been avoided or mitigated.

Area Development Plans provide more detail and direction than the policies of the Community Plan on the development of specific areas. They illustrate and provide policies regarding lot division, phasing, land uses, density, servicing, road layouts and circulation, as well as other elements as identified by the City. Area Development Plans are required to follow the objectives and policies set out in the corresponding land use designation(s) in which it exists. This planning process is to work together with the Community Plan Designation and the two processes may occur simultaneously.

Please advise the City if you wish to proceed with an application to amend the Community Plan and create an Area Development Plan, in which case we will place Development Permit PL-2021-0051 on hold following the completion of that process. You may decide not to pursue an application to amend the Community Plan and the City can proceed to a decision on the Development Permit.

Please contact our office with any questions or concerns, Sarah Bercu, Planner, and/or I are available.

Charlsey White, MCIP, RPP

she/her/hers/herself

Director

Planning & Development

City of Yellowknife

T: 867.920.5629

F: 867.920.5649

yellowknife.ca



I acknowledge that I reside and work in Chief Drygeese territory.

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Please consider the environment before printing this e-mail and/or attachments.

Property Information/Details

Location Description	Lot 4 Block 316 Plan 4619
City of Yellowknife Community Plan No. 5007	Section 4.17 Special Management Zone Section 5.1 Environment and Climate Change Section 5.2 Transportation Section 5.3 Municipal Infrastructure Section 5.4 Subdivision and Land Sequencing
City of Yellowknife Zoning By-law No. 4404, as amended	Section 14.6 Special Management Area
Access:	Lease No. L-18115T: Executed Head Lease

Recommendation:

That Council approve, subject to conditions, the proposed “Natural Resource Extraction” use on a portion of Lot 4 Block 316, as a conditionally permitted use in the GM - Growth Management Zone.

Proposal:

The application proposes to clear and blast approximately 275, 000 to 325, 000 cubic metres of rock on a portion of Lot 4 Block 316 (the “Subject Lands”) for the purpose of Natural Resource Extraction. The Subject Lands are 4.05 hectares in size and of that approximately 2.88 hectares (70%) of the site is proposed to be cleared and blasted. There is a proposed minimum 30 m natural buffer extending west from the shoreline of Great Slave Lake.

No new residential development is being proposed as part of this application. The application indicates that the proposal will make a greater proportion of the lot available for “to create a useful area on the property sloped at a gentle 1% from back of lot (west) to the east toward the Lake”.

The application, supported by Planning Report dated March 3, 2022, notes:

“The following provides a general description of the intent of site development, and what the parcel will become once proposed re-grading is complete:

- the existing dwelling will remain in its current location, taking advantage of its excellent prospect and views over Yellowknife Bay;
- a significant buffer of land will remain intact along the riparian area, providing naturalistic conditions for wildlife movement, habitat and preserving the aesthetic character of the area as seen from the water;
- the graded area of the site will include a personal vegetable garden area, taking advantage of all suitably organic material harvested from the grading operations. The area will allow for other passive recreational activities such as a large play area for family enjoyment and games; and
- where possible, smaller trees that are compatible for transplanting will be relocated. The proposed grading program may take several years to complete, and as grading progresses trees will be relocated to completed areas if deemed feasible and there is a high likelihood of tree health.”

Background:

Access to the parcel is available off Ingraham Trail / Highway 4 to the west, a Northwest Territories Highway. The private driveway from Highway 4 to the subject lands crosses executed Head Lease No. L-18115T. The site is dominated by rock outcrop, with parts of the property tree covered with a mix of primarily spruce, pine, birch and aspen trees. The property is developed with a single detached dwelling and a worker accommodation trailer. The Single Detached Dwelling is non-conforming, while the worker accommodation has no status under the Zoning By-law 4404.

No new residential, worker accommodation or other development is being proposed as part of this application. The application indicates that the proposal will make a greater proportion of the lot available for “useful residential occupation”.

The property has been in use as a dwelling since approximately the summer of 1939 and title to the property was granted in June 1954. The original owner, Martin Bode operated a “truck garden”, known as the original market garden in Yellowknife. The Single Detached Dwelling is a log frame with additions and has been continuously used as a dwelling.

Supporting Studies, Peer Review and Reports:

In support of the applications two Planning Reports were submitted.

The November 2, 2021 Planning Report by John Buchko, RPP, CSLA, CPESC Environmental Planner / Landscape Architect / Certified Professional in Erosion and Sediment Control EDS Group Inc.

The March 3, 2022 Planning Report by John Buchko, RPP, CSLA, CPESC Environmental Planner, EDS Group Inc.

Assessment:

Legislation

Community Planning and Development Act

s.3. The purpose of a community plan is to provide a policy framework to guide the physical development of a municipality, having regard to sustainability, the environment, and the economic, social and cultural development of the community.

s.12. The purpose of a zoning bylaw is to regulate and control the use and development of land and buildings in a municipality in a manner that conforms with a community plan, and if applicable, to prohibit the use or development of land or buildings in particular areas of a municipality.

Mackenzie Valley Land and Water Board

The Mackenzie Valley Land and Water Board (MVLWB) regulates the use of land and water through the issuance of Land Use Permits in accordance with the Mackenzie Valley Resource Management Act (MVRMA) and the Mackenzie Valley Land Use Regulations (MVLUR). The objective of the Board's operation is to provide for the conservation, development and utilization of land and water resources that will provide optimum benefit. The legislation notes that where a local government has authority, the local government is the approval authority and permits are to be made to the MVLWB. The City

has no qualified experts in this field and has no permit system in place to review and authorize aggregate extraction on lands adjacent to Great Slave Lake.

MVLWB Land Use Permits authorize temporary use of land for activities associated with granular resource development for periods of five years with a possible extension of 2 years. Land Use Permits are designed to minimize environmental disturbances and can contain conditions regarding environmental protection, location and area constraints, timing of operations, type and size of equipment, abandonment and clean-up. Activities that require a Land Use Permit within the City of Yellowknife's municipal boundaries include those which involve the use of heavy vehicles and machinery for earth moving, the use of explosives, land clearing which meet or surpass the thresholds set by the MVRMA and uses where potential impact to a waterbody may occur.

Policy

City of Yellowknife Community Plan 2020

The subject property is designated Special Management Zone. Adjacent land to the north, south and west are all designated Special Management Zone and are not currently designated for a specific use today or in the near future. The intention of the Community Plan is that the lands are to be left generally unaltered until an appropriate use is identified, effectively planned for, and the lands are re-designated and zoned to facilitate the proposed use.

Planning and Development Objectives and Policies for the Special Management Zone were informed by historical land development patterns, contemporary land uses, the City's vision and strategic goals for land development. These are included in Table 1 below. Table 1 also indicates whether the proposal meets these development objectives and policies and what actions are required.

Table 1: Planning and Development Objectives and Policies for the Special Management Zone

Planning and Development Objectives	Policies	Status/Action Required
1. To protect the existing land rights, including mineral leases and other lease interests.	1-a. No activity will be permitted that interferes with the existing land rights including mineral leases and other leases.	1-a. the lands are outside the Akaitcho Interim land withdrawal area. There are no mineral extraction uses proposed in the application. Aggregate extraction may be compliant with appropriate permits from the qualified authority.
2. To prevent permanent development until land is explicitly re-designated by City Council.	2-a. No permanent development will occur without re-designation and explicit approval from City Council. 2-b. Development in the Special Management Zone will not be considered unless there is a demonstrated need for land which	2-a. Aggregate extraction in the form of a quarry is an exception identified in the policy. No additional development is proposed or permitted as part of this application. 2-b. No market analysis or studies have been provided to identify the

	cannot be accommodated in the other land use designations.	need to develop the property for any permanent use. The property will continue to be a legal non-conforming residential use.
3. To develop areas, when re-designated, in a phased approach and adjacent to existing built areas.	3-a. Area development plans will be prepared for any land that is re-designated for development. 3-b. Leapfrogging development of re-designated land will not be permitted in area.	3-a. No re-designation is proposed, the use quarry is listed as 'may be permitted'. No other land use is considered in this application. 3-b. No re-designation of land is proposed or permitted.
4. To maintain access for recreational activities.	4-a. Trails and watercourses will continue to be used as transportation networks by all-terrain vehicles, snowmobiles and recreational skiers/hikers.	4-a. This is private property.
5. To prevent degradation of Special Management Zone.	5-a. Cutting of trees, permanently damaging vegetation, altering watercourses, or other permanent alterations to the natural features of the Special Management Zone will be prohibited unless explicitly approved by City Council. 5-b. Burning or cutting of live trees will only be permitted for City approved fire management purposes.	5-a. Council decision must consider the cutting of trees. The quantity of trees proposed to be cut as well as the permanent alteration of the natural landscape is not permitted without the explicit approval of Council. The condition of a MVLWB permit will include consideration of the above as well. 5-b. If this is proposed in future a permit will be required from the City.
6. To preserve the natural landscape and any environmentally sensitive areas or culturally significant sites.	6-a. The City shall ensure that any proposed development does not impact potential traditional/historical burial sites and other archaeological sites. 6-b. Prior to any re-designation of land, an environmental site assessment will be completed to ensure the development does not adversely impact the natural environment.	6-a. The single detached dwelling is a historical building as identified by the City of Yellowknife. No development, alteration or destruction is proposed to or adjacent to the historical structure. The single detached dwelling is located within the minimum 30 m buffer from the shoreline of Great Slave Lake. 6-b. No re-designation is proposed. It is noted that as part of the MVLWB permit environment site assessment may be required.
7. To permit quarrying activities for aggregate resources when existing sources are exhausted.	7-a. The City may permit new quarrying activities in this area when existing resources are exhausted. 7-b. Any new quarries will be required to meet all municipal,	7-a. This criterion is disputed by the applicant as they state the Natural Resource Extraction they propose does not constitute a quarry. The condition of approval will require a MVLWB permit

	territorial, and federal environmental requirements.	where this determination will be made by a qualified authority. 7-b. This must be demonstrated to the satisfaction of Administration and forms the basis of the approval condition for the MVLWB permit.
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As seen in Table 1, there are a number of points which must be addressed by the applicant to ensure that the proposal conforms to the policies of the Community Plan.

*Special Management Zone designation is indicated as Special Management Reserve on Map 2 – Land Use Designations

Environmental Policy, section 5.1.2, directs that the City will work to protect the Natural Environment in an effort to ensure long-term prosperity, environmental health and social well-being. This includes conserving biodiversity and protecting natural resources to ensure long term ecological function. Community Plan policy requires a 100' (30 m) reserve on land adjacent to waterbodies and that no harmful contaminants will be permitted to run off properties into rivers, streams or waterbodies. In addition, industrial land uses are required to maintain a buffer of natural vegetation on the perimeter of the property. Specific to aggregate extraction, the policy states that a remediation plan is required to be implemented once a resource is exhausted.

To protect the natural environment and improve the built environment the Planning and Development Objectives, included in Table 2 below, were created.

Table 2: Planning and Development Objectives and Policies on Environment

Planning and Development Objectives	Policies	Status/Action Required
1. To support the remediation of former mine sites and other contaminated sites within the City.	1-a. The City will work collaboratively with other levels of government and First Nations groups to support remediation activities.	1a. The property is not a mine site.
2. To protect the quality of water in lakes and waterbodies	2-a. The City will respect the 100' reserve on land adjacent to waterbodies according to GNWT's Commissioner's Land Act and Northwest Territories Lands Act.	2a. The subject lands will maintain a minimum 30 m buffer adjacent to Great Slave Lake, in accordance with legislative requirements. A condition of development will be a remediation plan to be filed with the city, approved by the qualified authority, to the satisfaction of the Dir. of Planning.
3. To protect natural rivers and streams.	3-a. No harmful contaminants will be permitted to run off properties into rivers or streams	3a. Lot grading, drainage and siltation will be addressed through the MVLWB permit process. MVLWB permits to be submitted to the City prior to development.

5. To remediate quarrying sites responsibly when quarrying resources are exhausted.	5-a. All quarries will be required to implement a remediation plan when resource is exhausted.	5a. The applicant identifies the Natural Resource Extraction as site grading and not a quarry. The MVLWB permit will determine the appropriate remediation plan based on the permit type. A condition of the development will be to register with the City the MVLWB permit, all conditions and approved supporting documentation. The City notes that in 2021, total quarried material by operations reporting to the City equaled 22, 290.4 cubic metres.
8. To reduce light pollution.	8-a. A lighting policy to protect dark skies will be created and implemented	8a. The proposed use will not result in lighting which will impact dark skies.
9. To reduce noise pollution.	9-a. Natural vegetation and other types of noise barriers on major roads will be used to reduce noise levels for residents. 9-b. Industrial land uses will be required to maintain a buffer of natural vegetation on the perimeter of property.	9a. A vegetation buffer will be required around the proposed aggregate extraction area and a minimum 30 m buffer adjacent to the shoreline is required. A site plan will be required to the satisfaction of the MVLWB and will be required to be submitted to the City.
11. To protect natural slopes from erosion.	11-a. Natural vegetation on slopes will be protected, when possible, to preserve soil stability and reduce water run-off.	11a. The MVLWB permitting process will include appropriate slope grading of the proposed use. In addition the conditions of development require that the slopes adjacent to the shoreline remain unchanged and that all vegetation remain in place.

Transportation systems should be safe, energy efficient, facilitate the movement of goods and projected needs. A consideration in supporting new land use establishment is the transportation network; will the system in place be capable of supporting the proposed use. The subject lands are serviced by a private road and connect to Northwest Territories Highway No. 4 formerly Ingraham Trail. No municipal road is directly impacted by the proposal. Any heavy equipment permits for the use of the Highway are under the authority of the Government of the Northwest Territories and will be the obligation of the applicant.

The subject lands are currently developed with a single detached dwelling which is not connected to municipal sewer or water services. No expansion of infrastructure is proposed or permitted to the site as

part of the development. The City does not support expansion of infrastructure to unplanned lands. The proposed use of Natural Resource Extraction does not require servicing.

Policies in the Community Plan are clear related to the sequencing of land development. Section 5.4 must be implemented at the time of development not permitted by the Community Plan or Zoning By-law. The Planning and Development Department states that no development other than the Natural Resource Extraction use has been reviewed, contemplated or considered as part of the evaluation of this application for decision. The recommendation of approval, with conditions, does not suggest that the site in future will be approved for planned development. The processes outlined in the Community Plan section 5.4 are required to be followed. Any future development will be required to complete a comprehensive review, including at minimum, applications for an area development plan, and rezoning. The clearing, grading and removal of aggregate from the site is not to be construed as approval, permission or planning for future use of the site.

Overall, in reviewing this application, it is clear that the City Community Plan is absent processes and steps to ensure fulsome consideration of uses which are identified as permitted in the plan policies and within the zoning by-law. This leads to the conclusion that the City does not retain the qualified professionals to fully evaluate and permit the development. While the application as proposed does not fully conform to the policies of the Community Plan, the only process to ensure it does, is under the jurisdiction of another regulating body. It is determined that the application may be able to conform to the policies of the Community Plan, and opportunity to do so should be provided. The development is recommended to include specific conditions, which must be fulfilled to the satisfaction of the qualified authority and provided to the Director of Planning, prior to the development proceeding. In addition, due to the known timelines of the regulating body, it is proposed that the development permit timeline not be effective until the conditions are satisfied. See Zoning By-law review below.

Zoning

This application was made under Zoning By-law No. 4404. The review and decision are being made under this by-law not Zoning By-law No. 5045. Section 1.8 of Zoning By-law No. 5045 states "An application for a Development Permit, or amendment to the Zoning By-Law commenced prior to the effective date of this By-law shall be evaluated under the regulations of Zoning By-law No. 4404, as amended." as transition provisions to be followed.

The Subject Lands are zoned GM – Growth Management. The purpose of the GM zone is to control and regulate land use to ensure that future planned development may proceed in an orderly manner. The restrictions on development aim to ensure future planned development conforms to the intent of the Community Plan and if applicable the Area Development Plan. There is no Area Development Plan or supporting designations in place for the subject lands, or adjacent land, in this western shoreline area of Back Bay, on Great Slave Lake.

Natural Resource Extraction is a Conditionally Permitted Use in the GM Zone. Natural Resource Extraction is defined to mean the mining, quarrying, removal and/or excavation of any mineral, ore body, stratum, rock, earth, clay, sand, gravel, black dirt, peat, or other natural resources to supply material for construction, manufacturing, industrial, landscaping and other commercial activities. This definition does not include any excavation or work incidental to the development of a building, structure, or use for which a development permit has been issued.

In accordance with Section 2.4(1) of the Zoning By-law, Council shall:

- (a) Make decisions and state any terms and conditions for development permit applications for those uses listed as Conditionally Permitted Uses.
- (f) Consider and state any terms and conditions on any other planning, subdivision or development matter referred to it by the Development Officer or Planning Administrator, or with respect to which it has jurisdiction under this by-law.

Section 3.1 (4) of City of Yellowknife Zoning By-law No. 4404, as amended, states that in addition to meeting the requirements of this by-law, it is the responsibility of an applicant to obtain all other approvals or licenses that may be required by the City, Territorial or Federal departments or agencies. The MVLWB permits apply within the boundary of the municipality where the municipality does not regulate the uses. The City of Yellowknife does not have permits, or processes to address the identified matters and therefore will rely on the qualified expertise of the MVLWB. A completed and approved permit application to the MVLWB must be provided to the City of Yellowknife prior to the proposed development initiating on site. This includes but is not limited to: Land Use Permits, Water License, Quarry Permit, Timber Permit, and any authorizations required for the use of explosives and extraction of aggregate.

The Zoning By-law outlines the terms for Discretion that Council may use in making a decision on an application for a Conditionally Permitted Use. It is the opinion of the planner that option a) below is applicable to the application respective of the subject lands. Section 3.4 states Council may:

- a) Approve the application if the proposed development meets the requirements of this by-law, with or without conditions, based on the merits of the application, the Act, by-law or approved plan or policy affecting the site;
- b) Refuse the application even though it meets the requirements of the bylaw; or
- c) Refuse the application if the proposed development does not conform to the bylaw, unless a variance has been granted.

Rules which are applicable to all Zones are outlined in Section 7.1. Not all rules apply to every property or development; they are reviewed and regulations applicable to a development application are applied. The following rules apply to this application and where they are not addressed through the application as submitted, will be required as conditions of approval:

- 7.1(1)(i) Exposed storage areas, exposed machinery installation, service areas, truck loading areas, utility buildings and structures and similar accessory uses and structures shall be subject to such setbacks or screening methods as are reasonably required to prevent negative impacts on adjacent properties and the environment;
- 7.1(1)(j) All open and enclosed spaces shall be designed to facilitate building evacuation and maximize accessibility by fire, police or other emergency personnel and equipment;
- 7.1(1)(k) the removal or disruption of heritage, historic, traditional or significant uses, structures or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties;
- 7.1(1)(l) Any proposed development, subdivision, or lease of any site on, adjacent, or near a water-body shall be designed and constructed so as to prevent any discharge or drainage of any contaminant, excrement, refuse, toxic or deleterious substance into the water-body. For the purposes of this clause the definitions of the terms “contaminant”, “discharge”, and “substance”

shall be the same as the definitions in the *Environmental Protection Act, R.S.N.W.T. 1988. C.E-7* as amended and requirements of the *Fisheries Act*;

- 7.1(7)(a) A non-conforming use may be continued but, where that use is discontinued for any reason for a period of at least six consecutive months, any future use of the land or building is to conform with any current zoning by-law, unless an extension is approved by Council;

Where a Natural Resource Extraction use is proposed it is regulated by sections 7.6 of Zoning By-law No. 4404 in addition to the regulations of section 10.2 for Growth Management. The Industrial Performance Standards are in place to identify potential nuisances and hazards. The standards regulate development to provide adjoining property and the community from negative impacts.

Section 7.6 and 10.2 regulates the following:

7.6 Regulations (all industrial uses shall not):	Proposed Development Considerations
a) cause or create air or water contaminants, visible emissions or particulate emissions including air borne particulate matter from open storage or use areas;	The city must ensure that as a condition of development the permit to the MVLWB no emissions or contaminants enter the water. Where this is not explicitly included in a permit by the authority having jurisdiction, the City will reconsider the application.
b) cause or create the emission of odorous matter or vapor and/or toxic matter;	The city must ensure that as a condition of development the permit to the MVLWB no emissions, or vapor or toxic matter are created. Where this is not explicitly included in a permit by the authority having jurisdiction, the City will reconsider the application.
c) cause or create excessive or objectionable industrial production noise, or:	The city must ensure that as a condition of development the permit to the MVLWB and GNWT no excessive or industrial production noise is created. In addition to requirements of permits outlined in the development agreement the City will require additional studies be created by a qualified professional and approved by the appropriate authority. A copy is to be filed with the City.
d) involve a use, operation or process which stores, manufactures or utilizes hazardous quantities of flammable or explosive material;	A permit is required for the use of explosives and the terms of the permit and their use will address this item. A copy is to be filed with the City
e) notwithstanding clauses 7.6(1)(a)-(d) emissions and discharges normally associated with the occupation of a building are allowed.	No new buildings are being constructed. The existing single detached dwelling is not related to the propose Natural Resource Extraction use.

The onus of proving to the Development Officer's satisfaction that proposed development does and will comply with the requirements of the respective standard rests with the applicant.	All permits, supporting information and studies required as conditions of the development agreement and development permit are to be provided to the City and their acceptance is to the satisfaction of the Director of Planning.
The Development Officer may require an applicant to submit verification that the conditions of any other government agency having jurisdiction over any performance standard contained herein have been met.	All permits, supporting information and studies required as conditions of the development agreement and development permit are to be provided to the City and their acceptance is to the satisfaction of the Director of Planning.
9.1(n) emergency vehicle access shall be provided to the satisfaction of the development officer	A design and plan is to be created, reviewed by the City and approved by the City as a condition of the development.
10.2 Regulations	
Conditionally Permitted Use: Natural Resource Extraction	Requested use
Site coverage: subject to Development Officer approval	Proposed Natural Resource Extraction use will occupy 70% of the subject lands and will be in accordance with the submitted site plan. Any alterations or amendments will require City approval.
Height: maximum of 10 m; Front Yard: minimum of 15 m; Side Yard: minimum of 7.5 m; Rear Yard: minimum of 7.5 m;	No new structures are being developed.
Landscaping: subject to Development Officer approval; Lot width: subject to Development Officer approval; Site area: subject to Development Officer approval; and Parking and loading: subject to Part Nine.	The terms of the operations plan and remediation plan will address these items.
Trees shall not be cut, felled, or removed without prior written approval of the Development Officer, or pursuant to an approved Development Permit	A timber permit may be required or other permits as outlined by the authority having jurisdiction. All permits to be provided to the City.

Buffer and Setback from the Shoreline

To mitigate the negative impacts to the visual appeal of Great Slave waterfront, the applicant is proposing a buffer area between the lands to be excavated and the shoreline as seen in Figure 1. As proposed, the buffer ranges from 41m to 93m. Section 10. 2 (3)(b) requires a minimum 50m setback for development next to a waterbody. Consideration will have to be given to whether the proposed development fulfils the intention of the Zoning By-law.

Conditions of Approval:

1. That the applicant enter into a Development Agreement with the City which will stipulate the following:
 - a. That an application will be made to the MVLWB for a Land Use Permit, a copy of the application will be provided to the City, and prior to work occurring on the site the permit must be approved and in effect;
 - b. Where, the MVLWB requires conditions of approval, a copy of the conditions and supporting documentation be provided to the City;
 - c. That an application will be made to the MVLWB for a Water License, a copy of the application will be provided to the City, and prior to work occurring on the site the Water License must be approved and in effect;
 - d. The required, Explosives Permits will be obtained and a copy of the approved permit will be provided to the City;
 - e. The required, Timber Permits will be obtained and a copy of the approved permit will be provided to the City;
 - f. That the aggregate be tested by a qualified professional to determine if it is "Potentially Acid Generating" (PAG) rock. The results of the report are to be provided to the City;
 - g. The site remediation plan is to be submitted to the City, 12 months prior to the end of the Natural Resource Extraction use for comment, unless required by another permit, in which case the lead authorities' timeline will be followed;
 - h. The Natural Resource Extraction use is determined to be a Quarry and for the purpose of extraction by the GNWT, MVLWB or another approval agency, the following will be required:
 - i. a report demonstrating the market need and supporting activities in this area is required to demonstrate existing resources are exhausted. The report is required to be provided to the City in accordance with Section 4.17 of Community Plan By-law No. 5007;
 - ii. a quarry development plan which will include existing features, the boundary of the extraction area, internal haul roads, elevation of the established ground water table on the site and confirmation that the final depth of extraction is at least 2 m above the established water table, existing surface water drainage and drainage facilities on the site, the location and type of fencing being used, the location of stockpiles to be located on the site, location of fuel storage on the site, all excavation faces and rehabilitation areas, the location of berms and their height, the stamp and signature of a professional engineer or other qualified person approving the development;
 - iii. a quarry operation plan which will include the sequence and direction of the development, detailed stripping and stockpiling plan, the maximum number of lifts and the height of lifts, the location of entrances and exits, the final extraction elevation of the site using spot elevations, details on how the berms will be vegetated and/or maintained, details on how on site dust will be mitigated including description of dust suppressants used, the general types of equipment to be used on the site, details on the hours of operation, details on how tress and stumps will be disposed of or utilized, how any variations from the operation plan will be recorded and reported, details on active monitoring of the site, including but not limited to water, noise and vibration, an expression of the maximum cubic metres of aggregate to be removed from the site in a calendar year and a detailed

- monitoring program, prepared by a professional engineer or other qualified person; and
 - iv. a quarry rehabilitation plan which outlines the sequence and direction of progressive rehabilitation, detailed design and type of vegetation that will be established on the site, how the slope will be established on the excavation faces and floor, details on how progressive rehabilitation will be conducted in relation to the operational sequences and if proposed, details on the importation of topsoil or inert material to facilitate rehabilitation of the site.
 - i. A detailed plan on the use, quantity, frequency and timing of explosives and blasts on the site;
 - j. A plan will be prepared by a qualified professional detailing how the onsite use of explosive and blasting will meet or exceed the Department of Fisheries and Oceans guidelines for blast vibrations, to be submitted to the City;
 - k. A detailed plan on access to ensure the provision of and access by emergency services can be provided to the site at all times, to both the Natural Resource Extraction use and the single detached dwelling, approved by the City;
 - l. The development use of Natural Resource Extraction is permitted for five (5) years following the date the Director of Planning determines the conditions of the Development Agreement are satisfied;
 - m. Where an extension of the permitted use time period is required, an application for an amendment to the conditions of the Development Permit must be made not later than six (6) months prior to the expiration of the five (5) year term;
 - n. Where an extension of the permitted use time period is required, the application for extension will be brought before Council for a decision as the use is conditionally permitted;
 - o. Where extraction will occur during times of the year (early spring, late autumn or winter) where there is limited daylight hours, a lighting plan will be created and will be reviewed and approved by the City;
 - p. The shoreline setback will remain in place during and after the completion of the Natural Resource Extraction use in the measurements and locations as indicated on site plan and grading plan submitted by EDS Group March 2022, where the minimum shoreline setback where no extraction will occur is 41 m from the high watermark; and
 - q. That all necessary means and protections will be put in place during the Natural Resource Extraction use to ensure no damage or negative impacts occurs to the historic single detached dwelling located on the subject property;
2. Haul routes and the traffic generated by the proposed Natural Resource Extraction use shall be considered through the preparation of a traffic impact assessment by a qualified professional and approved by the City and GNWT ministry responsible for Highways. The traffic impact assessment shall address, but is not limited to, the projected volume of truck traffic related to the proposed Natural Resource Extraction use and existing similar uses using the proposed routes, the physical suitability of the haul routes for truck traffic with aggregate load, any requirements for improvements to the haul routes, the location and design of a safe entrance from the Highway to the site, noise impacts indicating an

acceptable decibel level and any other impacts stipulated by another agency having jurisdiction.

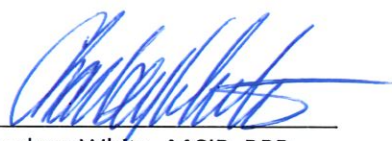
Conclusion:

The proposed use of "Natural Resource Extraction" does not conform to the policies of the Community Plan and does not meet the regulations of the Zoning By-law 4404, as amended. The satisfaction of all conditions is required to create conformity required for the proposed development to proceed. If the conditions are not completed to the satisfaction of the Director of Planning and Development the Development Permit will not be issued.



Andrew Treger
Planner

June 23, 2022
Date



Charley White, MCIP, RPP
Director of Planning and Development



Date



CITY OF YELLOWKNIFE

MEMORANDUM TO COMMITTEE

COMMITTEE: Governance and Priorities

DATE: June 27, 2022

DEPARTMENT: Administration

ISSUE: Whether to appoint members to serve on the Mayor's Task Force on Economic Development.

RECOMMENDATION:

That Council appoint representatives to serve on the Mayor's Task Force on Economic Development.

BACKGROUND:

The Mayor's Task Force on Economic Development was created in May 2019 to provide input into the development of the City of Yellowknife Economic Development Strategy (2020-2024) (the "Strategy"). The purpose of the Task Force was also to provide ongoing advice in the implementation phase of the Strategy.

Input and feedback from the Mayor's Task Force has been a great asset to Administration since its inception.

On April 11, 2022, Council amended the Terms of Reference for the Mayor's Task Force on Economic Development to extend the term of the Committee to December 31, 2024.

It is the practice of the City of Yellowknife to advertise all vacancies for boards and committees. The City has advertised vacancies on the Mayor's Task Force on Economic Development in the Capital Update, the City's website and social media sites.

COUNCIL POLICY / RESOLUTION OR GOAL:

Council Goal #2	Delivering efficient and accountable government.
Council Goal #3	Ensuring a high quality of life for all, including future generations.

Council Motion #0146-19

That Council:

1. Adopt the Terms of Reference for the Mayor's Task Force on Economic Development for the purpose of providing input in the development of the 2020-2024 Economic Development Strategy and providing ongoing advice in the implementation phase of the strategy.
2. Direct Administration to undertake the necessary steps to recruit members to the Committee.

Council Motion #0057

That Council amend the Terms of Reference for the Mayor's Task Force on Economic Development to extend the term of the Committee to December 31, 2024.

APPLICABLE LEGISLATION, BY-LAWS, STUDIES, PLANS:

1. Council Procedures By-law No. 4975, as amended; and
2. *Cities, Towns and Villages Act*.

CONSIDERATIONS:

Legislation

Section 122 of Council Procedures By-law No. 4975, as amended, states:

Special Committees of Council

122. Where Council deems it necessary to establish a special committee to investigate and consider any matter, Council shall:
- (1) name the committee;
 - (2) establish terms of reference;
 - (3) appoint members to it;
 - (4) establish the term of appointment of members;
 - (5) establish requirements for reporting to Council or a standing committee; and
 - (6) allocate any necessary budget or other resources to it.

Procedural Considerations

All appointments to Special Committees and Subcommittees must be approved by Council.

It is the practice of the City of Yellowknife to advertise all vacancies that arise on City Boards and Committees.

ALTERNATIVES TO RECOMMENDATION:

That Administration be directed to re-advertise the vacancies.

RATIONALE:

Yellowknife's economy is multi-faceted and collaboration between stakeholders is crucial for successful implementation of the City's Economic Development Strategy (2020-2024). Through the Mayor's Task Force on Economic Development, Council is able to receive input and advice from potential partners who share an interest in economic development in Yellowknife.

Appointment of members to the Committee will ensure that these tasks are undertaken in a timely manner.

ATTACHMENTS:

Expressions of interest from the candidates.

Prepared: June 2, 2022; SJ/