

## STAFF REPORT

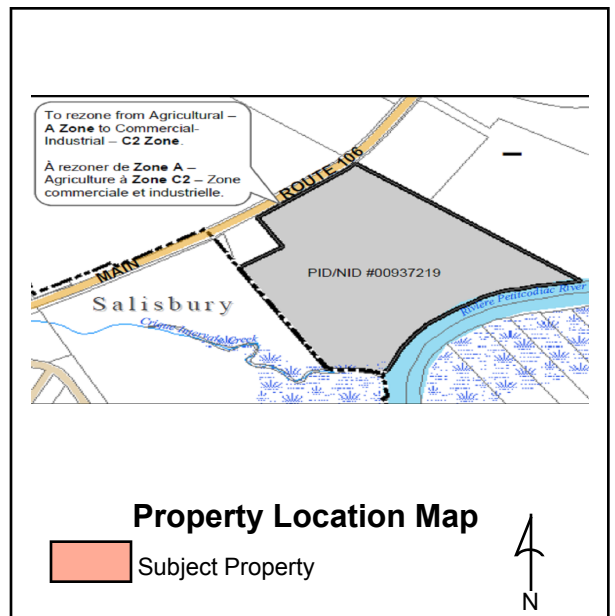
## Section 39 Rezoning / Article 39 Rezonage

**Subject :** Carter Septic - Pit Rezoning, Boundary Creek  
**File Number :** 14-1463  
**Meeting Date:** Thursday, February 26, 2015  
**From :** Tracey Wade  
 Planner

**GENERAL INFORMATION**

**Applicant:** Bruce Duff  
**Landowner :** Wayne Carter

**Proposal:** To develop a gravel pit on a portion of the properties in question as per the Master Plan submitted. Estimated life of the pit is 10 years with plans for residential development along roadway following rehabilitation of site.

**SITE INFORMATION**

**Location:** Boundary Creek

**PID:** 937219

**Lot Size:** approximately 54 acres

**Current Use:** vacant

**Zoning:** A

**Future Land**

**Use:** n/a

**Surrounding Use & Zoning:** Agriculture, pits, limited commercial and residential uses. Existing zoning in surrounding area is A-Agriculture. Town of Salisbury adjacent to proposal and nearby zones are OSC - Open Space Conservation (former gravel pit), and CU - Community Use (town lagoon).

**Municipal**

**Servicing:** none

**Access/Egress:** Salisbury Road/Route 106

## **Municipal Plan Policies**

Gravel pit activity in rural New Brunswick is unregulated at this time. In the Greater Moncton Planning Area, there is a need to balance protecting the community from conflicting uses, while acknowledging that the supply of quality sand products for septic tank installments (that meet the Department of Health standards) is a finite resource.

There are limited parcels of land currently zoned Commercial-Industrial (C2) within the Greater Moncton Planning Area, and these parcels are scattered around the region. The limited number of C2 zoned lands within the Planning Area is reflected in Section 7 of the Regulation, which states:

*It is a policy to control the type and location of commercial or industrial developments within the area of the Regulation by considering potential impacts on surrounding lands.*

Therefore, the intent of the Regulation is to evaluate and consider new commercial and/or industrial proposals through the rezoning process. Furthermore, Section 23(1) of the *Greater Moncton Rural Planning Area Rural Plan Regulation* prescribes the proper procedure for applicants seeking to amend the Regulation.

## **Zoning Bylaw and or Subdivision By-law Regulation**

Once a property has been zoned C2, Section 29(2) of the Rural Plan states that “the use of land for the purposes of a gravel pit or rock quarry is a particular purpose in respect of which the Commission may, subject to subsection 34(4) of the Act, impose terms and conditions or prohibit where compliance with the terms and conditions imposed cannot reasonably be expected.”

## **Internal Consultation & External Consultation**

### Public Hearing

set for Thursday March 5, 2015 at the Salisbury Legion. First ad placed in Times and Transcript on February 5, 2015. Neighbours within 100m of property lines notified by mail on same day.

### Department of Environment and Local Government

- *Drinking Water Source Protection* – “On the Masterplan Pit Map submitted for review, the proponent has identified a 150m buffer setback from the neighbouring dwelling serviced by private individual water well. This setback is one of the recommended operational best practices included in the Sand and Gravel Pit Guideline. Moreover, I would recommend to strongly encourage the operator to adopt all the best practices listed in this guideline, including groundwater table protection, care of site runoff and chemical storage onsite (see pages 3 and 4) in order to prevent any negative impacts. As indicated in this guideline, the proponent should be aware that digging below the groundwater table may cause negative impacts to existing water wells that he could be held responsible to mitigate.”

- *Environmental Evaluation and Reporting / Water Quality and Quantity (Watershed)* – There is a watershed group in this area that has completed some water quality work as well as education and restoration initiatives in the Petitcodiac River Watershed. They should be contacted and given an opportunity to comment on the proposed rezoning (*this group will be contacted during the public consultation phase*).

- *Wellfield Protection Area* – This proposal is outside of any wellfield area.

• *Environment Division – Moncton office* - I wish to remind you that - if consolidated rock is not removed with the use of explosives, the Department's **Sand and Gravel Pit Guideline** is applicable, and; if consolidated rock is removed with the use of explosives, the facility is considered a quarry, and Mr. Carter needs to apply for and obtain an *Approval*.

*Environment Assessment Division* - The proposed project (development of a gravel pit) does not trigger the EIA Regulation, and there are no activities proposed within 30 m of a GeoNB-mapped wetland, therefore the project does not have to be registered for an EIA review.

Department of Transportation and Infrastructure - no comments received

Department of Health – no comments received

Department of Agriculture, Aquaculture, and Fisheries – *DAAF staff had several questions most of which were related to the development if it was to be a quarry (blasting consolidated rock). These comments have not been included in this report because there will be no blasting for the proposed pit.* Other comments: 1) The rezoning from Agricultural to Commercial-Industrial should only apply to the portion of the PID south of the Salisbury Road; 3) It is unclear exactly which portion of the “potential pit” area will be excavated. Is it the intent to eventually excavate right up to the edge of any and all buffers indicated on the “Masterplan Pit Map”?; 5) A barn and residence are also located on PID 00937722.

## **Discussion**

At this time, it is recommended that the rezoning request proceed to the public hearing stage. Staff is in general support of the application to move forward as there are existing pits in the immediate vicinity, the proposed buffers generally meet or exceed the standards set out in the provincial Pit Guidelines (except for side yard setbacks – however one side yard is adjacent to an existing but unused pit, and the other incorporates an additional setback for a neighbouring residence for approximately half the distance to the southern limit of the property). As well, the proponent has agreed to rehabilitate the site as he extracts sand for septic services to allow for safe and appealing residential development of the area along the Salisbury Road following the permanent closure of the pit (estimated to be 10 years time).

Further, staff is of the opinion that the Province should set some reasonable terms and conditions with the landowner under Section 39 of the *Community Planning Act* to control the proposed use. The recommended terms and conditions, along with the proposed development as depicted on the Site Plan (Schedule U-2) will reasonably work towards making the pit development compatible with the adjacent land uses and area.

## **Legal Authority**

In keeping with subsection 77(11) of the *Community Planning Act*, the Westmorland-Albert Planning Review and Adjustment Committee, on behalf of the Southeast Regional Service Commission, must provide its written views and recommendations to the Provincial Minister of Environment and Local Government on this rezoning request.

## **Recommendation**

Staff recommends that Ministerial Regulation 14-MON-019-24 be recommended. The said regulation would see a portion of the property rezoned, from Agricultural – A Zone to Commercial Industrial – C2 Zone (File No. 14-UZ-1463), subject to

the following terms and conditions.

1. That prior to the commencing of any gravel pit operation upon the subject lands, the approval of the Development Officer shall be obtained.
2. For the operation to be approved by the Development Officer, a Master Plan shall be submitted as per attached Schedule U-2, specifically meeting the following standards:
  - i) No extraction shall be undertaken:
    - a) within 30 meters of any brook or stream;
    - b) within 60 meters of the Petitcodiac River;
    - c) within Zone A, B, or C of a Designated Wellfield Area;
    - d) within Zone A or B of a Designated Watershed; or
    - e) below the groundwater table.
  - ii) The extraction site shall maintain an undisturbed minimum buffer of 10 meters from the property limits, 100 meters from the street, and 150 meters from any existing dwelling;
3. The operator shall keep the access routes and streets free of dust while transporting the materials;
4. The main entrance to the site shall have a barrier to control access to the site;
5. For public safety, signs shall be placed at each entrance (main entrance, secondary entrance, tracks and/or trails, etc.) bearing the word "danger", the nature of the operation, and "no trespassing;"
6. The operation shall maintain safety slopes at 35% or less;
7. All surface water shall either be contained within the site limits, or shall pass through a sedimentation basin before running outside site limits;
8. At such time the extraction activity has permanently ceased, all debris shall be removed from the site and the rehabilitation process must be completed; and
9. That all gravel pit operations shall comply with the Air Quality Regulation – Clean Air Act, the Water Quality Regulation – Clean Environment Act, the Clean Water Act, and the Well Water Regulation – Clean Water Act.
10. Any gravel pit operations on the subject lands shall be subject to any new regulations imposed for gravel pit operations in subsequent amendments to the Greater Moncton Planning Area Rural Plan Regulation.

