



# PLANNING COMMITTEE AGENDA

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Planning Committee Meeting  
**Monday, June 8, 2020**  
Tom Davies Square - Committee Room C-11 / Electronic Participation

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## COUNCILLOR FERN CORMIER, CHAIR

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**Robert Kirwan, Vice-Chair**

**12:15 P.M.** CLOSED SESSION, COMMITTEE ROOM C-11 / ELECTRONIC PARTICIPATION

**1:00 P.M.** OPEN SESSION, COMMITTEE ROOM C-11 / ELECTRONIC PARTICIPATION

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## **ROLL CALL**

Resolution to meet in Closed Session to deal with one (1) Proposed or Pending Acquisition or Disposition of Land Matters:

- Transfer of Closed Road Shore Allowance - West Bay Road, Garson

in accordance with the Municipal Act, 2001, s. 239(2)(c).

**(RESOLUTION PREPARED)**

## **RECESS**

## **ROLL CALL**

## **DECLARATIONS OF PECUNIARY INTEREST AND THE GENERAL NATURE THEREOF**

## **PUBLIC HEARINGS**

1. Report dated May 8, 2020 from the General Manager of Growth and Infrastructure regarding Diane & Marcel Boulais – Application for Zoning By-law Amendment in order to permit a medical office within an existing building, 4868 Municipal Road #80, Hanmer. **9 - 26**  
**(RESOLUTION PREPARED)**
  - Glen Ferguson, Senior Planner
2. Report dated May 15, 2020 from the General Manager of Growth and Infrastructure regarding Frank Wendorf – Application for Zoning By-Law Amendment, 2708 Bancroft Drive, Sudbury. **27 - 45**  
**(RESOLUTION PREPARED)**
  - Wendy Kaufman, Senior Planner
  - Letter (s) of concern from concerned citizen(s)
3. Report dated May 19, 2020 from the General Manager of Growth and Infrastructure regarding Chemy Development Inc. - Application for rezoning in order to permit a 40-unit row dwelling complex, 3672 Highway 144, Chelmsford. **46 - 72**  
**(RESOLUTION PREPARED)**
  - Mauro Manzon, Senior Planner

## **MATTERS ARISING FROM THE CLOSED SESSION**

At this point in the meeting, the Chair of the "Closed Session", will rise and report the results of the "Closed Session". The Committee will then consider any resolutions.

## **CONSENT AGENDA**

(For the purpose of convenience and for expediting meetings, matters of business of repetitive or routine nature are included in the Consent Agenda, and all such matters of business contained in the Consent Agenda are voted on collectively.

A particular matter of business may be singled out from the Consent Agenda for debate or for a separate vote upon the request of any Councillor. In the case of a separate vote, the excluded matter of business is severed from the Consent Agenda, and only the remaining matters of business contained in the Consent Agenda are voted on collectively.

Each and every matter of business contained in the Consent Agenda is recorded separately in the minutes of the meeting.)

## **ADOPTING, APPROVING OR RECEIVING ITEMS IN THE CONSENT AGENDA**

(RESOLUTION PREPARED FOR ITEMS C-1 TO C-3)

### **ROUTINE MANAGEMENT REPORTS**

- C-1. Report dated March 13, 2020 from the General Manager of Growth and Infrastructure regarding 1887409 Ontario Ltd. – Consent Referral Request on Consent Applications B0103/2019, B0104/2019 & B0105/2019, Edgecliff Crescent, Garson. **73 - 83**  
**(RESOLUTION PREPARED)**  
(This report provides a recommendation regarding the consent referral for property at 0 Edgecliff Crescent, Garson.)
- C-2. Report dated May 8, 2020 from the General Manager of Growth and Infrastructure regarding Wayne & Carrie Ann MacLean - Request to extend a conditional approval on a rezoning application, 2687 Highway #144, Chelmsford. **84 - 116**  
**(RESOLUTION PREPARED)**  
(This report provides a recommendation regarding the extension to the rezoning approval at 2687 Highway 144, Chelmsford.)
- C-3. Report dated May 8, 2020 from the General Manager of Growth and Infrastructure regarding Primo Titton Construction Ltd. - Application to extend a draft approved plan of subdivision approval, Part of Parcel 10382, Lot 4, Concession 5, Township of Broder (Mariposa Subdivision, Sudbury). **117 - 129**  
**(RESOLUTION PREPARED)**  
(This report provides a recommendation regarding the extension of the draft plan of subdivision approval, Mariposa Subdivision Sudbury.)

## **REGULAR AGENDA**

### **MANAGERS' REPORTS**

- R-1. Report dated April 28, 2020 from the General Manager of Growth and Infrastructure regarding Policy Options for Small Scale Breweries, Distilleries and Brewpubs. **130 - 172**  
**(RESOLUTION PREPARED)**  
(This report provides a recommendation regarding the establishment of a land use planning framework to accommodate small-scale breweries, distilleries and brewpubs.)

## **MEMBERS' MOTIONS**

## **CORRESPONDENCE FOR INFORMATION ONLY**

- I-1. Report dated May 8, 2020 from the General Manager of Growth and Infrastructure regarding Local Planning Appeal Tribunal Decision-Case PL190425-Application for Minor Variance A0092/2019-2220 South Bay Road, Sudbury. **173 - 189**  
**(FOR INFORMATION ONLY)**  
(This report provides information about Local Planning Appeal Tribunal Decision-Case PL190425-Application for Minor Variance A0092/2019-2220 South Bay Road, Sudbury.)

## **ADDENDUM**

## **CIVIC PETITIONS**

## **QUESTION PERIOD**

## **ADJOURNMENT**



# COMITÉ DE PLANIFICATION ORDRE DU JOUR

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Réunion du Comité de planification

**8 juin 2020**

Place Tom Davies - Salle de réunion C-11 / participation électronique

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## CONSEILLER FERN CORMIER, PRÉSIDENT(E)

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**Robert Kirwan, Vice-président(e)**

**12H 15** SÉANCE À HUIS CLOS, SALLE DE RÉUNION C-11 / PARTICIPATION ÉLECTRONIQUE

**13H 00** SÉANCE PUBLIQUE, SALLE DE RÉUNION C-11 / PARTICIPATION ÉLECTRONIQUE

Les réunions du Conseil de la Ville du Grand Sudbury et de ses comités sont accessibles et sont diffusés publiquement en ligne et à la télévision en temps réel et elles sont enregistrées pour que le public puisse les regarder sur le site Web de la Ville à l'adresse <https://agendasonline.greatersudbury.ca>.

Sachez que si vous faites une présentation, si vous prenez la parole ou si vous vous présentez sur les lieux d'une réunion pendant qu'elle a lieu, vous, vos commentaires ou votre présentation pourriez être enregistrés et diffusés.

En présentant des renseignements, y compris des renseignements imprimés ou électroniques, au Conseil municipal ou à un de ses comités, vous indiquez que vous avez obtenu le consentement des personnes dont les renseignements personnels sont inclus aux renseignements à communiquer au public

Vos renseignements sont recueillis aux fins de prise de décisions éclairées et de transparence du Conseil municipal en vertu de diverses lois municipales et divers règlements municipaux, et conformément à la *Loi de 2001 sur les municipalités*, à la *Loi sur l'aménagement du territoire*, à la *Loi sur l'accès à l'information municipale et la protection de la vie privée* et au *Règlement de procédure* de la Ville du Grand Sudbury.

Pour obtenir plus de renseignements au sujet de l'accessibilité, de la consignation de vos renseignements personnels ou de la diffusion en continu en direct, veuillez communiquer avec le Bureau de la greffière municipale en composant le 3-1-1 ou en envoyant un courriel à l'adresse [clerks@grandsudbury.ca](mailto:clerks@grandsudbury.ca).

## **APPEL NOMINAL**

Résolution pour tenir une réunion à huis clos afin de traiter d'une acquisition ou d'une disposition projetée ou en cours d'un bien-fonds :

- Transfert de la réserve routière riveraine fermée – chemin West Bay, Garson

aux termes de la *Loi de 2001 sur les municipalités*, alinéa 239 (2)(c).

**(RÉSOLUTION PRÉPARÉE)**

## **SUSPENSION DE LA SÉANCE**

## **APPEL NOMINAL**

## **DÉCLARATION D'INTÉRÊTS PÉCUNIAIRES ET LEUR NATURE GÉNÉRALES**

## **AUDIENCES PUBLIQUES**

1. Rapport directeur général, Croissance et Infrastructure , daté du 08 mai 2020 portant sur Diane et Marcel Boulais – Demande de modification d'un règlement municipal de zonage pour permettre un cabinet médical dans un immeuble existant, 4868, route municipale 80, Hanmer. **9 - 26**  
**(RÉSOLUTION PRÉPARÉE)**
  - Glen Ferguson, planificateur principal
2. Rapport directeur général, Croissance et Infrastructure , daté du 15 mai 2020 portant sur Frank Wendorf – Demande de modification d'un règlement municipal de zonage, 2708, promenade Bancroft, Sudbury. **27 - 45**  
**(RÉSOLUTION PRÉPARÉE)**
  - Wendy Kaufman, planificateur principal
  - Lettre(s) de citoyens concernés faisant état de leurs préoccupations
3. Rapport directeur général, Croissance et Infrastructure , daté du 19 mai 2020 portant sur Chemy Development Inc. – Demande de rezonage pour permettre un complexe d'habitations en rangée de 40 logements, 3672, route 144, Chelmsford. **46 - 72**  
**(RÉSOLUTION PRÉPARÉE)**
  - Mauro Manzon, planificateur principal

## **QUESTIONS DÉCOULANT DE LA SÉANCE À HUIS CLOS**

Le président de la séance à huis clos, se lève maintenant et en présente les résultats. Le Comité examine ensuite les résolutions.

### **Ordre du jour des résolutions**

(Par souci de commodité et pour accélérer le déroulement des réunions, les questions d'affaires répétitives ou routinières sont incluses à l'ordre du jour des résolutions, et on vote collectivement pour toutes les questions de ce genre. À la demande d'une conseillère ou d'un conseiller, on pourra traiter isolément d'une question d'affaires de l'ordre du jour des résolutions par voie de débat ou par vote séparé. Dans le cas d'un vote séparé, la question d'affaires isolée est retirée de l'ordre du jour des résolutions ; on ne vote collectivement qu'au sujet des questions à l'ordre du jour des résolutions. Toutes les questions d'affaires à l'ordre du jour des résolutions sont inscrites séparément au procès-verbal de la réunion)

## **ADOPTION, APPROBATION OU RÉCEPTION D'ARTICLES DANS L'ORDRE DU JOUR DES CONSENTEMENTS**

(RÉSOLUTION PRÉPARÉE POUR LES ARTICLES DE L'ORDRE DU JOUR DES RÉSOLUTIONS C-1 À C-3)

### **RAPPORTS DE GESTION COURANTS**

- C-1. Rapport directeur général, Croissance et Infrastructure , daté du 13 mars 2020 portant sur 1887409 Ontario Ltd. – Demandes de renvoi des demandes d'autorisation B0103/2019, B0104/2019 et B0105/2019, croissant Edgecliff, Garson. **73 - 83**  
**(RÉSOLUTION PRÉPARÉE)**  
(Dans ce rapport une recommandation concernant le renvoi des demandes d'autorisation au 0, croissant Edgecliff, à Garson.)
- C-2. Rapport directeur général, Croissance et Infrastructure , daté du 08 mai 2020 portant sur Wayne et Carrie Ann MacLean – Demande de prorogation de l'approbation conditionnelle d'une demande de rezonage, 2687, route 144, Chelmsford. **84 - 116**  
**(RÉSOLUTION PRÉPARÉE)**  
(Dans ce rapport une recommandation des de l'approbation de rezonage au 2687, route 144, Chelmsford.)
- C-3. Rapport directeur général, Croissance et Infrastructure , daté du 08 mai 2020 portant sur Primo Tilton Construction Ltd. – Demande de prolongation d'une autorisation du plan de lotissement dont l'ébauche a été approuvée, partie de la parcelle 10382, lot 4, concession 5, canton de Broder (lotissement Mariposa, Sudbury). **117 - 129**  
**(RÉSOLUTION PRÉPARÉE)**  
(Ce rapport fournit une recommandation concernant la prolongation du projet de plan d'approbation de lotissement, Mariposa Subdivision Sudbury.)

## **Ordre du jour ordinaire**

### **RAPPORTS DES GESTIONNAIRES**

- R-1. Rapport directeur général, Croissance et Infrastructure , daté du 28 avril 2020 portant sur Options de politique pour les petites brasseries, distilleries et brasseries artisanales. **130 - 172**  
**(RÉSOLUTION PRÉPARÉE)**  
(Ce rapport fournit une recommandation concernant l'établissement d'un cadre de planification de l'utilisation des terres pour accueillir les petites brasseries, distilleries et brasseries.)

### **MOTIONS DES MEMBRES**

### **CORRESPONDANCE À TITRE D'INFORMATION**

- I-1. Rapport directeur général, Croissance et Infrastructure , daté du 08 mai 2020 portant sur Décision du Tribunal d'appel de l'aménagement local (dossier PL190425) – Demande de dérogation mineure A0092/2019 – 2220, chemin South Bay, Sudbury. **173 - 189**  
**(A TITRE D'INFORMATION)**  
(Dans ce rapport, on fournit des renseignements concernant la décision du Tribunal d'appel de l'aménagement local concernant le dossier PL190425 – demande de dérogation mineure A0092/2019 – 2220, chemin South Bay, Sudbury.)

### **ADDENDA**

### **PÉTITIONS CIVIQUES**

### **PÉRIODE DE QUESTIONS**

### **LEVÉE DE LA SÉANCE**

Presented To:	Planning Committee
Presented:	Monday, Jun 08, 2020
Report Date	Friday, May 08, 2020
Type:	Public Hearings
File Number:	751-7/20-3

## Request for Decision

**Diane & Marcel Boulais – Application for Zoning By-law Amendment in order to permit a medical office within an existing building, 4868 Municipal Road #80, Hanmer**

### Resolution

THAT the City of Greater Sudbury approves the application by Diane and Marcel Boulais to amend Zoning By-law 2010-100Z by changing the zoning classification of the subject lands from “R3.D18(13)”, Medium Density Residential Special to an amended “R3.D18(13)”, Medium Density Residential Special on those lands described as PINs 73504-2236, 73504-2242, 73504-2263 & 73504-2281, Parcels 17916, 19968, 11485, & 19746, Lot 5, Concession 3, Township of Hanmer, as outlined in the report entitled “Diane & Marcel Boulais”, from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting on June 8, 2020, subject to the following conditions:

1. That prior to the passing of an amending zoning by-law:

- a) That the owner apply for a change of use building permit to the satisfaction of the Chief Building Official prior to the passing of an amending zoning by-law;
- b) That the owner shall provide a parking layout plan demonstrating compliance with all parking space provisions of the Zoning By-law to the satisfaction of the Director of Planning Services; and,
- c) That the owner remove the shipping container from the subject lands to the satisfaction of the Chief Building Official and the Director of Planning Services prior to the passing of an amending zoning by-law.

2. That the amending zoning by-law contain the following site-specific provisions:

- a) That a medical office be added as a permitted use in the “R3,D18(13)” Zone; and,
- b) That any necessary site-specific relief related to the parking provisions of the Zoning By-law be provided.

3. That conditional approval shall lapse on June 23, 2022 unless Condition #1 above has been met or an

### Signed By

#### Report Prepared By

Glen Ferguson  
Senior Planner  
*Digitally Signed May 8, 20*

#### Manager Review

Alex Singbush  
Manager of Development Approvals  
*Digitally Signed May 8, 20*

#### Recommended by the Division

Jason Ferrigan  
Director of Planning Services  
*Digitally Signed May 11, 20*

#### Financial Implications

Apryl Lukezic  
Co-ordinator of Budgets  
*Digitally Signed May 14, 20*

#### Recommended by the Department

Tony Cecutti  
General Manager of Growth and Infrastructure  
*Digitally Signed May 15, 20*

#### Recommended by the C.A.O.

Ed Archer  
Chief Administrative Officer  
*Digitally Signed May 27, 20*

extension has been granted by Council.

## **Relationship to the Strategic Plan / Health Impact Assessment**

The application to amend the Zoning By-law is an operational matter under the Planning Act to which the City is responding.

## **Report Summary**

This report reviews an application for Zoning By-law Amendment intended permit a medical office within an existing building having frontage on Municipal Road #80 in Hanmer. No land uses permitted within the current "R3.D18(13)" Zone are proposed to be removed. The lands are designated Parks, Open Space and Rural in the Official Plan but are recognized and zoned under the non-conformity policies of the Official Plan. The non-conformity policies set out criteria for rezoning lands should an owner choose to change or add a use to their lands. Staff has reviewed said criteria and is of the opinion that adding a medical office in this location and setting will not negatively impact the existing character of this particular area along Municipal Road #80. The lands at present are already zoned to permit six residential dwelling units and a dance studio use. Staff is also satisfied that neighbouring complying uses will be sufficiently protected should the rezoning be approved to add a medical office as a permitted use on the subject lands. Staff is recommending that prior to the passing of an amending zoning by-law that a change of use building permit is applied for and that the shipping container located in the easterly side yard be removed. Staff is also recommending that prior to passing an amending zoning by-law that a parking layout plan be provided by the owner demonstrating compliance with all applicable parking provisions. The Planning Services Division is recommending that the rezoning application be approved with conditions as outlined and noted in the resolution section of this report.

## **Financial Implications**

This report has no financial implications as it is a request for a zoning by-law amendment to permit a medical office within an existing building. There is no request to expand the size of the existing building.

## **STAFF REPORT**

### **PROPOSAL:**

The application for Zoning By-law Amendment seeks to amend By-law 2010-100Z being the Zoning By-law for the City of Greater Sudbury by changing the zoning classification of the subject lands from "R3.D18(13)", Medium Density Residential Special to an amended "R3.D18(13)", Medium Density Residential Special.

The proposed rezoning is intended to permit a medical office within an existing building having frontage on Municipal Road #80 in Hanmer. The owner's agent submitted an application for pre-consultation that was considered by the Sudbury Planning Application Review Team (SPART) on January 8, 2020. The owner's agent met with staff following the SPART Meeting and signed their Pre-Consultation Understanding Agreement (PCUA) on January 24, 2020, and the owner has subsequently now submitted a rezoning application to the City for consideration.

The owner has submitted a Concept Plan, which also includes floor space areas of the existing building in support of their request to rezone the lands to permit a medical office within the existing building having frontage on Municipal Road #80 in Hanmer. The existing dance studio use is intended to remain with the basement being used for storage purposes. No other changes to the applicable "R3.D18(13)" Zone is being sought beyond adding a medical office as a permitted use on the subject lands.

**Existing Zoning:** "R3.D18(13)", Medium Density Residential Special

The "R3.D18(13)" Zone permits only a multiple dwelling containing not more than six residential dwelling units, a dance studio, a day care centre and accessory uses.

**Requested Zoning:** "R3.D18(13)", Medium Density Residential Special (Amended)

The proposed rezoning would add a medical office as a permitted use in addition to those uses currently permitted in the "R3.D18(13)" Zone.

### **Location and Site Description:**

The subject lands are located on the north side of Municipal Road #80 between Dugas Street and St. Mary Boulevard in the community of Hanmer. The lands have a total lot area of approximately 4,734 m<sup>2</sup> (50,965 ft<sup>2</sup>) with approximately 45 m (150 ft) of lot frontage onto Municipal Road #80 and a lot depth of approximately 103 m (340 ft). The lands presently contain an existing commercial building having an approximate main floor area of 410 m<sup>2</sup> (4,413.20 ft<sup>2</sup>) with an additional and approximate 316 m<sup>2</sup> (3,401.40 ft<sup>2</sup>) of storage space in the basement. MPAC records indicate the existing building was originally constructed as an assembly hall in 1950. Six residential dwelling units were later added along with the dance studio use. The lands are no longer used as an assembly hall. There is a large parking area in the rear yard and a shipping container located in the easterly interior side yard.

**Title: Diane & Marcel Boulais**

**Date: April 3, 2020**

**Surrounding Land Uses:**

North: Large tracts of well vegetated rural lands with visible trails extending to Gravel Drive.

East: Rural residential land uses and a garden nursery.

South: Pre-dominantly lower and medium density urban residential land uses.

West: Rural and urban residential land uses, and a place of worship and elementary school accessed from St. Therese Street.

The existing zoning and location map attached to this report indicates the location of the subject lands to be rezoned, as well as the applicable zoning in the immediate area.

Site photos depict the subject lands containing the existing commercial building containing which presently contains a dance studio. The parking areas on the lands and a shipping container in the easterly interior side yard are also depicted. Photos of the immediately surrounding residential area are also included to illustrate the rural, and lower and medium density residential nature of the general area.

**Public Consultation:**

The statutory Notice of Application was provided to the public by newspaper and to nearby landowners and tenants located within 244 m (800 ft) of the subject lands on February 26, 2020. The statutory Notice of Public Hearing dated May 21, 2020 was provided to the public by newspaper and to nearby landowners and tenants located within 244 m (800 ft) of the subject lands.

The owners and agent were also advised of the City's policy recommending that applicants consult with their neighbours, ward councilor and key stakeholders to inform area residents of the applications prior to the public hearing. Staff understands that the agent has approached nearby landowners to explain their application to rezone the lands in order to permit a medical office within the existing building on the subject lands.

At the time of writing this report, no emails or letter submissions have been received by the Planning Services Division. Staff did receive one phone call from an area resident who was seeking clarification on the lands to be rezoned and what land uses would be permitted should the application be approved.

**POLICY AND REGULATORY FRAMEWORK:**

The property is subject to the following policy and regulatory framework:

- [2020 Provincial Policy Statement \(PPS\)](#);
- [2011 Growth Plan for Northern Ontario](#);
- [Official Plan for the City of Greater Sudbury](#); and,
- [Zoning By-law 2010-100Z](#).

The PPS and the Growth Plan for Northern Ontario, along with the City's Official Plan, provide a policy framework for land use planning and development in the City of Greater Sudbury. This framework is implemented through a range of land use planning controls such as, but not limited to, zoning by-laws, plans of subdivision and site plans.



**2020 Provincial Policy Statement:**

Municipalities in the Province of Ontario are required under Section 3 of the Planning Act to ensure that decisions affecting planning matters are consistent with the Provincial Policy Statement 2020 (PPS). Staff has reviewed the PPS 2020 and is satisfied that no matters of provincial interest are impacted should a medical office be added as a permitted use on the subject lands.

**Growth Plan for Northern Ontario:**

Municipalities in the Province of Ontario are required under Section 3 of the Planning Act to ensure that decisions affecting planning matters conform with the Growth Plan for Northern Ontario. Staff has reviewed the planning matters contained within the Growth Plan for Northern Ontario and are satisfied that the application to rezone the lands conforms to and does not conflict with the Growth Plan for Northern Ontario.

**Official Plan for the City of Greater Sudbury:**

The subject lands are designated both Parks and Open Space and Rural in the Official Plan for the City of Greater Sudbury. The current uses permitted on the subject lands are not permitted in either of the above noted land use designations.

Section 19.5.7 of the Official Plan contains policing which address existing land uses that are not in conformity with the land use designations in which they are situated. Both residential and non-residential non-conforming land uses may be recognized in the City's Zoning By-law. It is the intent of the City to eliminate those non-residential uses existing at the time of adoption of the Official Plan that are incompatible with surrounding uses, and which do not conform to the land use provisions of the Zoning By-law, nor to the land use designations of this Plan. However, the City may through the rezoning process permit such uses, or an expansion, or change to such uses without an amendment to the Official Plan provided that such uses are or can be made compatible with the surrounding uses.

Specifically, criteria for considering changes of use are set out under Section 19.5.7(4) as follows:

1. The development proposal will not aggravate the situation created by the existence of the use, especially in regard to the policies of the Official Plan and the requirements of the City's Zoning By-Law applied to the area;
2. The development proposal will create minimal impacts on surrounding uses with regard to noise, vibrations, fumes, smoke, odours, glare, traffic generating capacity, signs and other environmental matters;
3. The neighbouring conforming uses will be protected where necessary by the provision of landscaping, buffering or screening, appropriate setbacks for buildings and structures, devices and measures to reduce nuisances and where necessary by imposing regulations for alleviating adverse effects caused by outside storage, lighting, advertising signs and other matters;
4. The traffic and parking conditions in the vicinity will not be adversely affected by the development proposal. Traffic hazards will be kept to a minimum through the appropriate design of access and egress points to, from and over the site, or through the improvement of site conditions especially in proximity to intersections;
5. Adequate provisions have been or will be made for off-street parking and loading facilities; and,
6. Municipal services such as water, sanitary sewers, storm sewers and roads are adequate, or can be made to be adequate.

**Zoning By-law 2010-100Z:**

The owner is requesting that the subject lands be rezoned to an amended “R3.D18(13)”, Medium Density Residential Special in order to add a medical office as a permitted use within the existing building presently located on the subject lands. The “R3.D18(13)” Zone is site-specific and permits only a multiple dwelling containing not more than six residential dwelling units, a dance studio, a day care centre and accessory uses. No further site-specific relief from any general or parking provisions or from the development standards of the “R3.D18(13)” Zone is being requested by the owner.

**Department/Agency Review:**

The application including relevant accompanying materials has been circulated to all appropriate agencies and departments. Responses received from agencies and departments have been used to assist in evaluating the application and to formulate appropriate development standards in an amending zoning by-law should the application be approved.

During the review of the proposal, comments provided by circulated agencies and departments included the following:

Active Transportation, the City’s Drainage Section, Operations, and Roads, Traffic and Transportation, and Transit Services have each advised that they have no concerns from their respective areas of interest.

Building Services has advised that a Change of Use Permit (ie. building permit) will be required.

Development Engineering advises that the lands are presently serviced with municipal water and sanitary sewer infrastructure.

**PLANNING ANALYSIS:**

The 2020 PPS, the 2011 Growth Plan, and the City of Greater Sudbury Official Plan, and other relevant policies and supporting guidelines were reviewed in their entirety. The following section provides a planning analysis of the application in respect of the applicable policies, including issues raised through agency and department circulation.

Staff in general has no concerns with respect to the proposed rezoning conforming to the applicable policies in the Official Plan for the City of Greater Sudbury. Those policies relevant to the development proposal to allow for the addition of a medical office on the subject lands are discussed in detail below.

With respect to general non-conformity policies in the Official Plan, staff has the following comments:

1. Staff is of the opinion that adding a medical office in this location and setting will not negatively impact the existing character of this particular area along Municipal Road #80. The lands at present are zoned to permit six residential dwelling units and a dance studio use. These land use permissions were also permitted under former By-law 83-200 being the Zoning By-law for the Town of Valley East and subsequently carried forward into the City’s current and in-force Zoning By-law 2010-100Z. It should also be noted that the building was originally constructed in 1950 and was used as an assembly hall. The use of the land for a mix of residential and commercial purposes is considered to be an established and recognized non-conforming use despite being designated Parks and Open Space and Rural in the Official Plan;
2. Staff does not anticipate or expect any issues related to noise, vibrations, fumes, smoke, odours, glare, traffic generating capacity, signs or environmental matters should a medical office be added as a permitted use on the subject lands;

3. Staff is satisfied that neighbouring complying uses will be sufficiently protected should the rezoning be approved to add a medical office as a permitted use on the subject lands. The lands are adequately buffered on the north side of Municipal Road #80 to the east by mature vegetation with the closest residential dwelling being located approximately 53 m (173.89 ft) from the lands easterly interior side lot line. The residential dwelling to the immediate west on the north side of Municipal Road #80 is located approximately 33 m (108.27 ft) from the westerly interior side lot line;
4. Staff notes no additions are proposed to the existing building and therefore existing setbacks are to be maintained. Staff is also of the opinion that no devices or measures are necessary in order to mitigate any nuisances resulting from the addition of a medical office as a permitted use;
5. Staff is generally satisfied that traffic and parking conditions in the vicinity will not be adversely affected should a medical office be added as a permitted use on the subject lands. There is an existing driveway access onto Municipal Road #80 and no new works as it relates to the driveway or within the Municipal Road #80 right-of-way were identified as being necessary. It is noted that the application to rezone the lands was circulated to the City's Roads, Traffic and Transportation staff and no concerns with the above were identified;
6. Staff has reviewed the submitted sketch and note that the existing dance studio would require 16 parking spaces and the proposed dance studio would require 5 parking spaces for a total of 21 parking spaces being required. Section 5.2.3.5, Table 5.1 of the Zoning By-law would also require that two of the required 21 parking spaces be accessible parking spaces. The submitted sketch depicts a total of 31 parking spaces including three accessible parking spaces. Staff notes that the parking spaces in the rear yard are required to have a dimension of 2.75 m (10 ft) by 6 m (20 ft) and the accessible parking spaces are required to have a dimension of 4.4 m (14.44 ft) by 8 m (26.25 ft). The aisle widths shown on the submitted sketch would also appear to exceed the minimum requirement of 6 m (20 ft). Staff is satisfied that there is sufficient area in the rear yard to support a total of 28 parking spaces with two being accessible parking spaces;
7. The parallel parking spaces shown along the westerly interior side yard may not necessary for satisfying minimum parking space requirements in the Zoning By-law but also appear to have appropriate parking space dimensions and they do not appear to be located in the front yard;
8. The dance studio is required to provide a loading space having a minimum dimension of 3.6 m in width (11.81 ft) and 9 m (29.53 ft) as it exceeds 300 m<sup>2</sup> (3,229.71 ft<sup>2</sup>) in floor area. There does appear to be sufficient area in the rear yard to provide for a loading space given the use being that of a dance studio. The owner should be required to amend their sketch to reconfigure the parking area layout and demonstrate that a loading space is available. Staff is of the opinion that a loading space should be required given the operational nature of a dance studio use;
9. There is a third accessible parking space indicated on the submitted sketch is located at the side of the existing building and within the front yard. This accessible parking space is not permitted as it would be located in the front yard; and,
10. Development Engineering has indicated in their review of the proposed rezoning that the subject lands are fully serviced with both municipal water and sanitary sewer infrastructure. It is also noted that the lands have an existing driveway access onto Municipal Road #80 and no new driveway access is being proposed.

Staff is therefore of the opinion that the proposed rezoning conforms to the Official Plan for the City of Greater Sudbury.

**Date: April 3, 2020**

With respect to the City's Zoning By-law, the owner is requesting that the existing "R3.D18(13)" Zone be amended to add a medical office as a permitted use. The existing land use permissions being that of six residential dwelling units and a dance studio would continue to be permitted should the rezoning be approved. Staff in general has no concerns with the request to amend the existing zone category. The "R3.D18(13)" Zone will retain existing use permissions and provide additional flexibility in terms of how the existing building can be utilized from a land use planning perspective.

Staff do have the following comments with respect to the proposed rezoning of the lands:

1. Section 5.8, Table 5.10 of the Zoning By-law requires that a medical office provide two parking spaces plus one additional bicycle parking space per 500 m<sup>2</sup> (5,381.96 ft<sup>2</sup>) gross floor area to a maximum requirement of 24 bicycle parking spaces on a lot. The proposed medical office would have a gross floor area of 94.73 m<sup>2</sup> (1,019.67 ft<sup>2</sup>) within the existing building and therefore two bicycle parking spaces are required to be added. Section 5.8 also includes development standards for bicycle parking space dimensions and where they may be located on a lot;
2. Staff would recommend that the owner be required to submit a revised parking layout sketch demonstrating compliance with all applicable parking development standards under Part 5 of the Zoning By-law. The lands do appear to be sufficiently large enough in terms of area to support both the dance studio and medical office however the submission of a parking layout plan can confirm compliance and provide for reasonable site-specific relief from parking provisions should it be required; and,
3. It should be noted that staff supports the rezoning on the condition that the owner removes the shipping container that is at present located in the easterly interior side yard on the subject lands. The shipping container is clearly visible from Municipal Road #80. Section 4.34 of the Zoning By-law does not permit shipping containers on lands zoned for residential or commercial purposes. The subject lands are zoned at present, and would continue to be zoned if the rezoning is approved, to allow for both residential and commercial uses. Staff is of therefore opinion that the shipping container should be removed prior to an amending zoning by-law being enacted by Council.

Staff has reviewed the submitted sketch and analyzed those other uses that could locate on the lands and are satisfied that the request to also permit a medical office in the "R3.D18(13)" Zone is both reasonable and supportable provided the above noted matters are addressed.

### **CONCLUSION:**

Staff has reviewed the development proposal and is satisfied that it conforms with the Official Plan for the City of Greater Sudbury. The development proposal is also generally consistent with the land use planning policy directions identified in the PPS. Staff also notes that the application conforms to and does not conflict with the Growth Plan for Northern Ontario.

Staff is recommending that prior to the passing of an amending zoning by-law that a change of use building permit is applied for to the satisfaction of the Chief Building Official and that the shipping container located in the easterly side yard be removed to the satisfaction of both the Chief Building Official and the Director of Planning Services. Staff is also recommending that a parking layout plan be provided by the owner demonstrating compliance with all applicable parking provisions in the City's Zoning By-law to the satisfaction of the Director of Planning services prior to passing an amending zoning by-law.

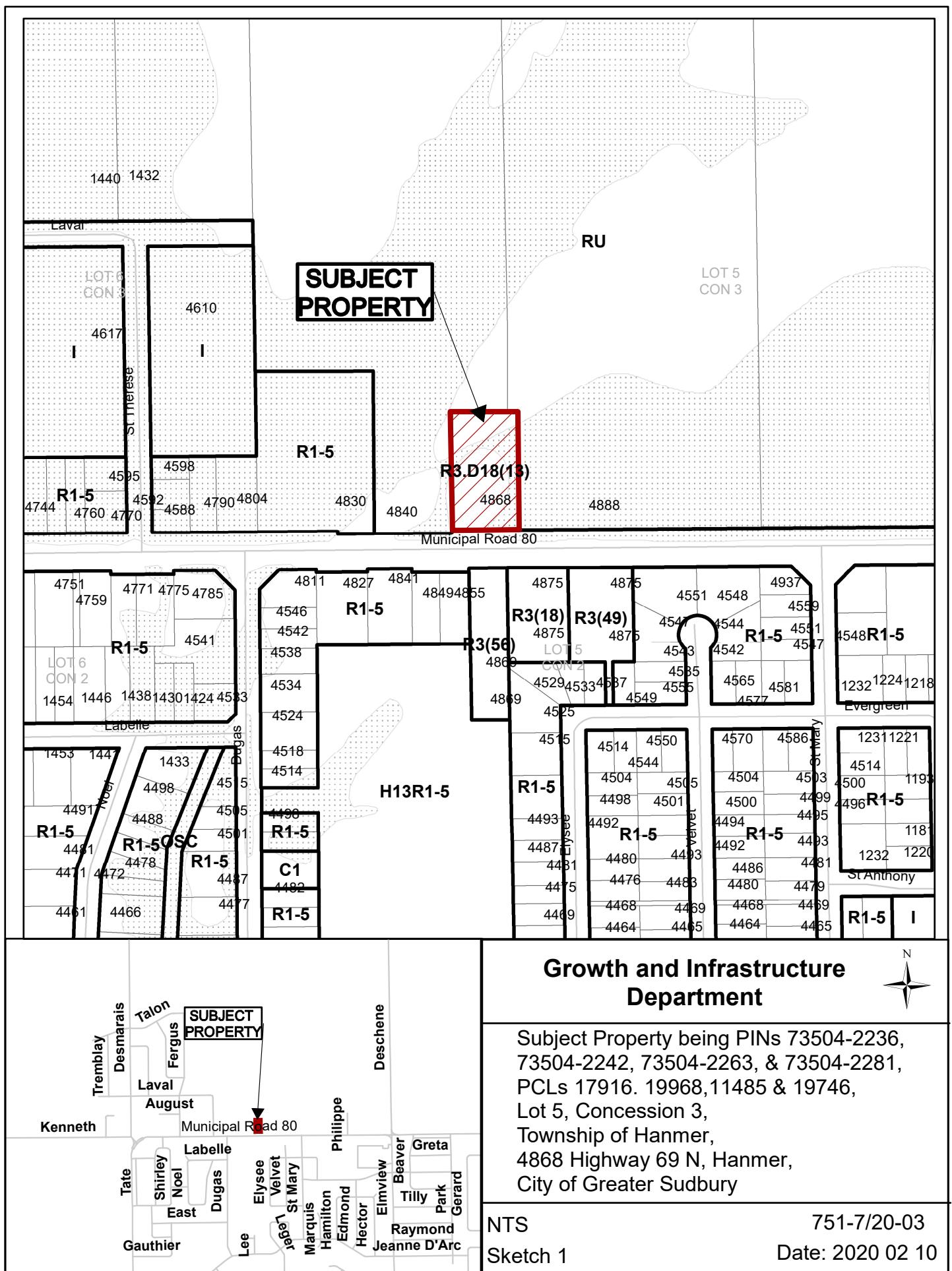
**Title: Diane & Marcel Boulais**

**Date: April 3, 2020**

The following are the principles of the proposed site-specific amending zoning by-law:

- To add a medical office as a permitted use on the lands in addition to those uses currently permitted within the existing “R3.D18(13)” Zone; and,
- That any necessary site-specific relief related to the parking provisions of the Zoning By-law be provided.

The Planning Services Division therefore recommends that the application for Zoning By-law Amendment be approved in accordance with the resolution section of this report.



**A:** MEDICAL CLINIC  
office + waiting room  
(34.3m<sup>2</sup>)

**B:** MEDICAL CLINIC  
treatment area  
(56.68m<sup>2</sup>)

**BI:** unisex bathroom  
(already exists)  
(3.75m<sup>2</sup>)

**C:** DANCE STUDIO 1  
(56.68m<sup>2</sup>)

**D:** Staff room  
for dance  
studio

**E:** DANCE STUDIO 2  
(D+E=120m<sup>2</sup>)

**F:** DANCE STUDIO OFFICE

**G:** DANCE STUDIO 3

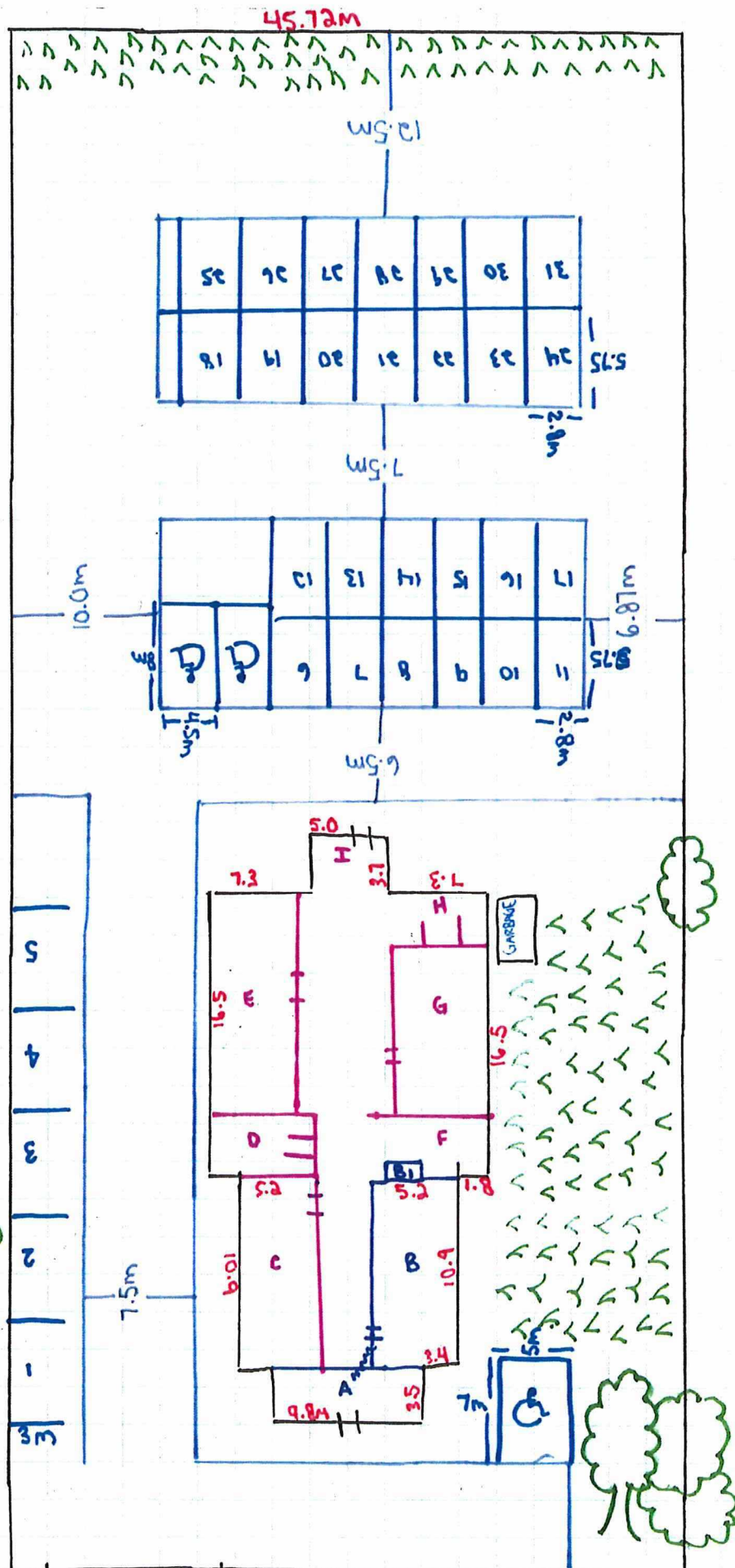
**H:** DANCE STUDIO  
Girls + boys bathroom  
(F+G+H=120m<sup>2</sup>)

**I:** DANCE STUDIO  
entrance  
(18.5m<sup>2</sup>)

CLINIC=94.73m<sup>2</sup>

DANCE STUDIO=315.18m<sup>2</sup>

\*Basement used  
for storage  
(316m<sup>2</sup> ±)







**PHOTO #1 – Subject lands with existing building as viewed from Municipal Road #80 looking north.**





**PHOTO #2 – Parking area located in the rear yard of the subject lands as viewed from westerly interior side yard looking north.**



**PHOTO #3 – Existing building and shipping container located in the easterly interior side yard as viewed from the rear yard looking south.**



**PHOTO #4 – Existing low density residential development as viewed from the subject lands looking south across Municipal Road #80.**





**PHOTO #5 – Existing medium density residential development as viewed from the subject lands looking south across Municipal Road #80.**



**PHOTO #6 – Existing rural lots to the immediate east of the subject lands as viewed from Municipal Road #80 looking east.**



**PHOTO #7 – Existing residential dwelling to the immediate west of the subject lands as viewed from Municipal Road #80 looking west.**



Presented To:	Planning Committee
Presented:	Monday, Jun 08, 2020
Report Date	Friday, May 15, 2020
Type:	Public Hearings
File Number:	751-6/20-07

## Request for Decision

### Frank Wendorf – Application for Zoning By-Law Amendment, 2708 Bancroft Drive, Sudbury

#### Resolution

THAT the City of Greater Sudbury approves the application by Frank Wendorf to amend Zoning By-law 2010-100Z by changing the zoning classification on the subject lands from “R1-5”, Low Density Residential One to “R3(S)”, Medium Density Residential Special on those lands described as PIN 73576-0481, Parts 1 & 2, Plan 53R-4187, Parcels 15345 & 37658, Lot 10, Concession 3, Township of Neelon, as outlined in the report entitled “Frank Wendorf”, from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting on June 8, 2020, subject to the following conditions:

1. That the amending zoning by-law including following site-specific provisions:
  - i. A multiple dwelling with a maximum of four (4) dwelling units shall be permitted;
  - ii. Access will only be permitted by way of one driveway with a maximum width of 6.3 m from Laberge Lane; and
  - iii. A planting strip shall be required along the north and the west property line, with the exception of a reduced planting strip width of 0.895 m with no screening device beside the existing garage.

#### Relationship to the Strategic Plan / Health Impact Assessment

The application to amend the Zoning By-law is an operational matter under the Planning Act to which the City is responding. The application contributes to the 2019-2027 City of Greater Sudbury Strategic Plan goals related to housing by adding to the range and mix of housing available in this area.

#### Report Summary

An application for rezoning has been submitted in order to permit a multiple dwelling with four (4) units.

#### Signed By

##### **Report Prepared By**

Wendy Kaufman  
Senior Planner  
*Digitally Signed May 15, 20*

##### **Manager Review**

Alex Singbush  
Manager of Development Approvals  
*Digitally Signed May 15, 20*

##### **Recommended by the Division**

Jason Ferrigan  
Director of Planning Services  
*Digitally Signed May 19, 20*

##### **Financial Implications**

Apryl Lukezic  
Co-ordinator of Budgets  
*Digitally Signed May 19, 20*

##### **Recommended by the Department**

Tony Cecutti  
General Manager of Growth and Infrastructure  
*Digitally Signed May 21, 20*

##### **Recommended by the C.A.O.**

Ed Archer  
Chief Administrative Officer  
*Digitally Signed May 27, 20*

The applicant's site sketch proposes two access driveways on Laberge Lane, each being 6 m in width. Relief is required for a reduced planting strip width of 0.895 m with no screening device beside the garage where a 3.0 m planting strip is required. The subject land is designated as Living Area 1 in the Official Plan and zoned R1-5, Low Density Residential One.

Staff recommend approval of the application as described in the Resolution section on the basis that it is consistent with the Provincial Policy Statement, conforms to the Growth Plan for Northern Ontario, the Official Plan for the City of Greater Sudbury, has regard for matters of provincial interest and represents good planning.

### **Financial Implications**

Based on the information available, staff is unable to determine the property tax implications for the redevelopment of the existing single family residential building into a four plex multiple apartment building.

Also, there will be additional development charges of approximately \$23,000 for the four multiple units reduced by a credit for the single family dwelling as change in use of the building.



## **STAFF REPORT**

### **PROPOSAL:**

The application proposes to amend By-law 2010-100Z being the Zoning By-law for the City of Greater Sudbury to permit a multiple dwelling with four (4) units.

The existing dwelling on the site is intended to be converted into a multiple dwelling containing four residential dwelling units. The applicant's site sketch shows the location of the proposed multiple dwelling and parking on the subject lands. In terms of internal layout, two units are proposed on the main floor and two units are proposed in the basement. All units will have two bedrooms.

The site sketch proposes two access driveways on Laberge Lane, each being 6 m in width. There are two garages on the property and one is intended to be demolished. For the garage that will remain, relief will be required for a reduced planting strip width of 0.895 m with no screening device beside the garage where a 3.0 m planting strip with a screening device is required.

#### **Existing Zoning:** R1-5, Low Density Residential One

The R1-5 zone permits a limited range of low density residential uses including single detached dwellings, a home daycare, group home (type 1), and a bed and breakfast establishment.

#### **Requested Zoning:** R3(S), Medium Density Residential Special

The proposed R3(S) zone would permit an additional range of residential uses beyond those permitted in the R1-5 zone, including semi-detached, duplex, row dwellings and multiple dwellings. Specific relief has been requested to reduce the width of the planting strip with a screening device that is required along west property line beside the existing garage.

#### **Location and Site Description:**

The subject property is described as PIN 73576-0481, Parts 1 & 2, Plan 53R-4187, Parcels 15345 & 37658, Lot 10, Concession 3, Township of Neelon. The subject lands are located at the northwest corner of Bancroft Drive and Laberge Lane, and are municipally known as 2708 Bancroft Drive. The lands are 0.16 ha in size with approximately 32.5 m of frontage and are currently serviced with municipal water and sanitary sewer. There is a City transit stop on both sides of Bancroft in this location. The lands are within the Source Water Protection Area.

#### **Surrounding Land Uses:**

The area surrounding the site includes:

North:	Residential use (single detached dwelling)
East:	Laberge Lane, residential use (single detached dwelling)
South:	Bancroft Drive, residential use (single detached dwelling)
West:	Residential use (single detached dwelling)

The existing zoning & location map, indicates the location of the subject lands to be rezoned and the zoning in the immediate area.

Site photos show the residential uses along Bancroft Drive in this area.

**Public Consultation:**

Notice of complete application of the application was circulated to the public and surrounding property owners on March 26, 2020. Notice of Public Hearing was circulated to the public and surrounding property owners on May 21, 2020.

Comments have been received from one individual, with concerns about the capacity of Laberge Lane to support the proposed development, and the specific request that the applicant be required to construct a turn-around on Laberge Lane.

**POLICY & REGULATORY FRAMEWORK:**

The property is subject to the following policy and regulatory framework:

- [2020 Provincial Policy Statement](#)
- [2011 Growth Plan for Northern Ontario](#)
- [Official Plan for the City of Greater Sudbury, 2006](#)
- [Zoning By-law 2010-100Z](#)

Provincial Policy Statements and geographically specific Provincial Plans, along with municipal Official Plans, provide a policy framework for planning and development in the Province. This framework is implemented through a range of land use controls such as zoning by-laws, plans of subdivision and site plans.

**Provincial Policy Statement:**

Municipalities in the Province of Ontario are required under Section 3 of the Planning Act to ensure that decisions affecting planning matters are consistent with the Provincial Policy Statement (PPS).

Section 1.1.3.1 and 1.4.1 of the PPS are relevant to the application. Section 1.1.3.1 identifies that settlement areas are to be the focus of growth and their vitality and regeneration is to be promoted. Section 1.4.1 requires municipalities to provide an appropriate range and mix of housing types and densities to meet the needs of current and future residents. Forms of housing which meet social, health and well-being needs are to be encouraged.

**Growth Plan for Northern Ontario:**

Municipalities in the Province of Ontario are required under Section 3 of the Planning Act to ensure that decisions affecting planning matters conform with the Growth Plan for Northern Ontario. There are no policies that are relevant to this application, therefore the application is considered to conform to the Growth Plan.

**Official Plan for the City of Greater Sudbury:**

The subject property is designated as Living Area 1 in the City of Greater Sudbury Official Plan. Policies 3.2(2), 3.2.1(4) and 3.2.1(5) provide direction regarding the location of medium density housing. Medium density housing is permitted where full municipal services with adequate capacity are available, and should be located on sites in close proximity to Arterial Roads, public transit, main employment and commercial areas, open space areas, and community/recreational services.

**Date: May 11, 2020**

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Policies 3.2(3) and 3.2.1(5) state that sites should be of a suitable size to provide adequate landscaping and amenity features, and that new residential development must be compatible with the existing physical character of established neighbourhoods, with consideration given to the size and configuration of lots, predominant built form, building setbacks, building heights and other provisions applied to nearby properties under the Zoning By-law.

Policies 3.2.1(6) establishes the following criteria to be considered when rezoning lands in the Living Area 1 designation:

- a) the site is suitable in terms of size and shape to accommodate the proposed density and building form;
- b) the proposed development is compatible with the surrounding neighbourhood in terms of scale, massing, height, siting, setbacks, and the location of parking and amenity areas;
- c) adequate on-site parking, lighting, landscaping and amenity areas are provided; and,
- d) the impact of traffic on local streets is minimal.

Section 2.3.3 encourages all forms of intensification and establishes a 20% residential intensification target. Intensification applications are to be evaluated with respect to criteria including site suitability, compatibility with neighbourhood character and proposed mitigation measures, availability of infrastructure and public service facilities, and traffic impacts.

Section 17 identifies a key housing goal is to maintain a balanced mix of ownership and rental housing, and to encourage a greater mix of housing types and tenure, including encouraging the production of smaller (one and two bedroom) units to accommodate the growing number of smaller households. The Official Plan is intended to provide direction as to how housing needs and issues can be addressed in concert with the CGS Housing and Homelessness Plan.

#### **Zoning By-law 2010-100Z:**

The development standards for the requested zone permit a maximum height of 11 m. The minimum required front yard is 7.5 m, the minimum required rear yard is 7.5 m, the minimum required interior side yard is 1.2 m, and the minimum required corner side yard is 4.5 m. The maximum lot coverage is 40%.

Parking is not permitted in the front or corner side yard. Parking for a multiple dwelling is required to be provided at a rate of 1.5 spaces per unit, or 6 spaces in this case. The minimum driveway width is 3 m.

The minimum landscaped open space requirement is 30%. A 3.0 m wide planting strip with a screening device is required adjacent to the full length of the lot line abutting the northerly and westerly R1-5 zones. The planting strip width may be reduced to 1.8 m where an opaque fence 1.5 m in height is provided.

#### **Site Plan Control:**

A Site Plan Control Application is not required for multiple dwellings with four or less units.

#### **Department/Agency Review:**

The application has been circulated to all appropriate agencies and City divisions. Responses received have been used to assist in evaluating the application and to formulate appropriate zoning by-law standards. Comments have been addressed to the satisfaction of reviewing department and agencies.

Infrastructure and Capital Planning Services has commented that Bancroft Drive is designated as a secondary arterial roadway. In accordance with the Official Plan, access to this type of roadway is to be strictly regulated. No new access to arterial roads is permitted where alternate access is available at locations with a lesser impact on traffic flow. They also note that the proposal for two access driveways onto Laberge Lane would decrease the available storage area for snow. As a condition of approval, only one driveway access onto Laberge Lane with a maximum width of 6.3 metres should be permitted.

Building Services has advised that the applicant will be required to submit new drawings prepared by a qualified designer showing floor layouts, exits, fire separations and all first life safety requirements in accordance with the current Ontario Building Code standards to the satisfaction of the Chief Building Official. They have also raised concerns with compliance with zoning bylaw provisions that prohibit parking in the corner side yard, and require a planting strip abutting the R1-5 zone to the north and the west property line.

### **PLANNING ANALYSIS:**

Planning staff circulated the development application to internal departments and external agencies. The PPS (2020), the Growth Plan (2011), and Greater Sudbury Official Plan, and other relevant policies and supporting guidelines were reviewed in their entirety. The following section provides a planning analysis of the application in respect of the applicable policies, including issues raised through agency circulation.

The application to permit a multiple dwelling building on the subject lands is consistent with the PPS direction to direct development to fully serviced settlement areas. The Official Plan encourages all forms of intensification.

Both the PPS and the Official Plan encourage municipalities to provide a range and mix of housing types and densities. The Official Plan identifies a key housing goal is to maintain a balanced mix of ownership and rental housing, and to encourage a greater mix of housing types and tenure, including the production of smaller (one and two bedroom) units to accommodate the growing number of smaller households. The proposal to construct a multiple dwelling in this location, all being two bedroom units, represents an opportunity to provide an alternative form of housing.

Given the location on Bancroft Drive, the subject property is an appropriate location for intensification to medium density. There are full municipal services with adequate capacity, the site is adjacent to Bancroft which is a secondary arterial roadway, and public transit stops are available at the site. Employment opportunities, commercial areas, and community services are available within relatively close proximity.

The site itself is relatively large and has sufficient area to accommodate a four-unit multiple dwelling including adequate landscaping. A lot area of 395 m<sup>2</sup> per unit is proposed, where a minimum of 110 m<sup>2</sup> is required.

Traffic is not expected to be impacted by this proposal. Laberge Lane is expected to have adequate capacity for two additional units. Given the comments from Infrastructure and Capital Planning Services, it is recommended that the proposed access onto Laberge Lane be limited to one driveway access with a maximum width of 6.3 m. In terms of parking location, there is sufficient room on the property to accommodate 6 spaces, comprised of 3 spaces within the garage and 3 to the rear of the garage, without impacting the front or corner side yard.

The proposed density and building form is compatible with adjacent lands, which are zoned R1-5 and consist of single-detached dwellings. The proposed four units would represent a net density of approximately 25 units per hectare, which is still within the range for low density development (max 36 du/ha), and is compatible with the adjacent residential uses. It is recommended that the building form be restricted to a four unit row dwelling to ensure the density and built form are scaled to promote compatibility.

The applicant's sketch demonstrates there is adequate room on the site to provide a 3 m planting strip along the westerly and northerly property lines, with the exception of the area in the vicinity of the garage. The proposed reduction in the required landscaping adjacent to the garage is considered to be minor, given the garage itself will provide a visual barrier.

### **CONCLUSION:**

The Planning Division undertook a circulation of the application to ensure that all technical and planning matters have been satisfactorily addressed.

The following are the principles of the proposed site specific zoning by-law:

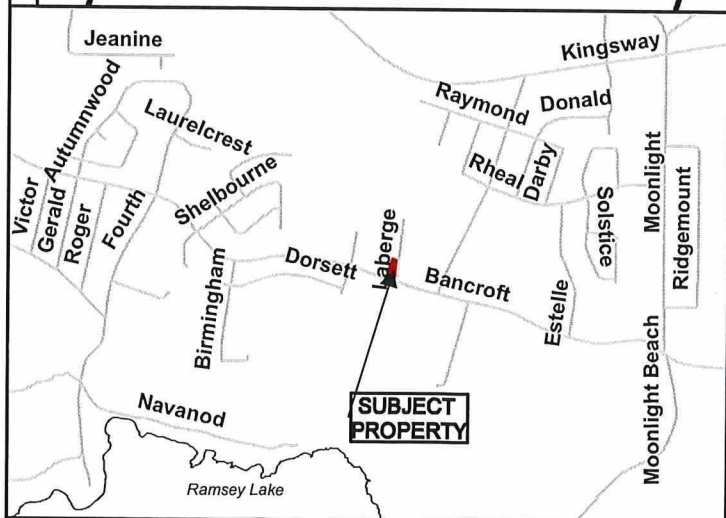
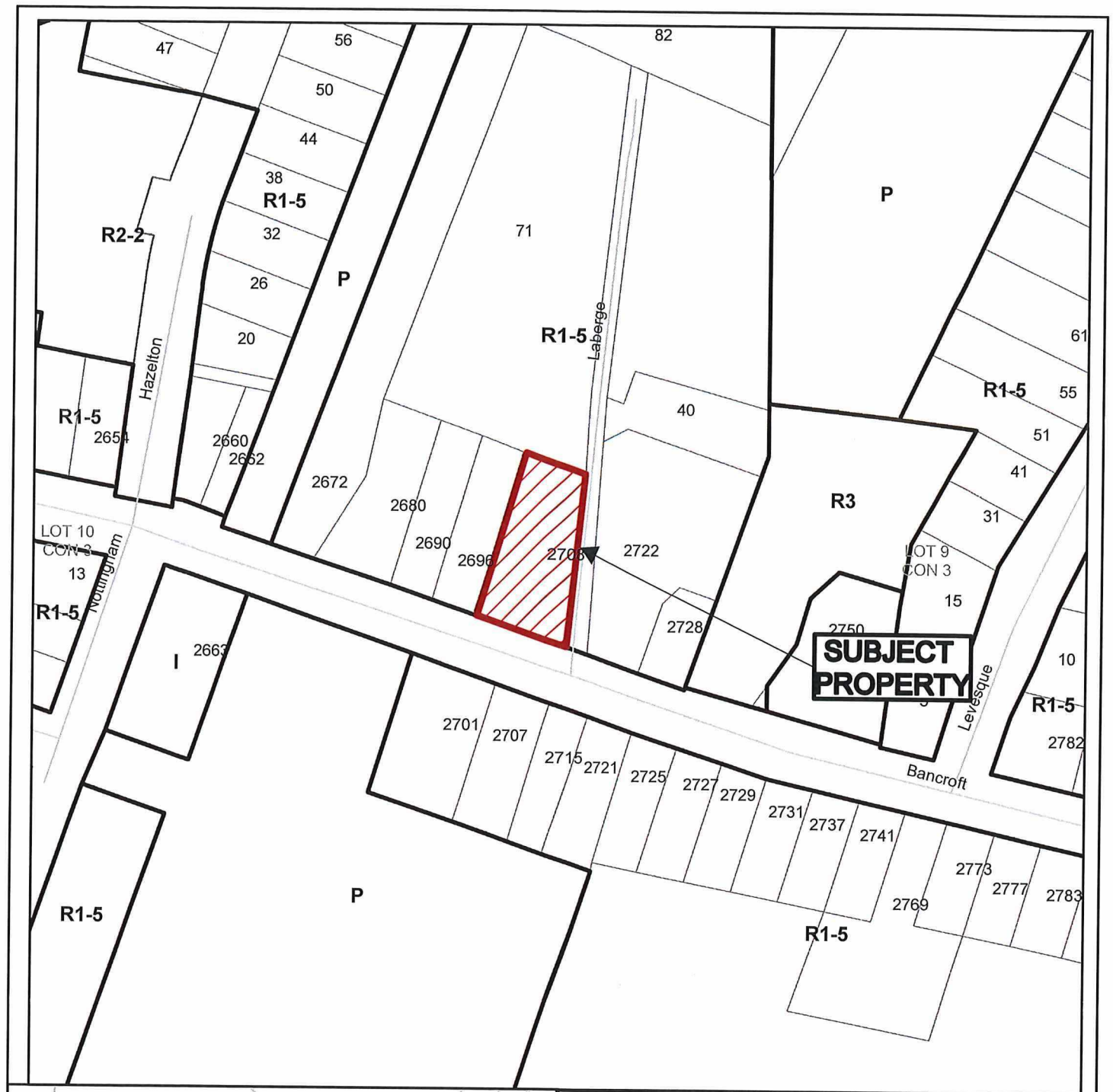
- To rezone the lands from R1-5 to R3, with site-specific relief to enable the development of a multiple dwelling with four (4) dwelling units.

The development of the subject lands achieves a number of policy directives related to intensification and the provision of a range and mix of housing types. Staff have considered, amongst other matters, a full range of factors through a detailed review when forming the recommendation of approval for this application.

Staff is satisfied that the application is consistent with the PPS and conforms to the Growth Plan and the Official Plan. Staff are of the opinion that the proposed zoning by-law amendment is appropriate based on the following:

- The proposed multiple dwelling will contribute to the range and mix of housing available in the area.
- The site is suitable for the proposed density and building form.
- The proposal has been evaluated in the context of the surrounding and future land uses and is considered appropriate.
- Adequate parking, landscaping and amenity areas can be provided.
- The impact on local streets will be minimal.
- The sewer and water services are adequate for the site.

Staff recommend approval of the application as described in the Resolution section on the basis that it is consistent with the Provincial Policy Statement, conforms to the Growth Plan for Northern Ontario, the Official Plan for the City of Greater Sudbury, has regard for matters of provincial interest and represents good planning.



## Growth and Infrastructure Department

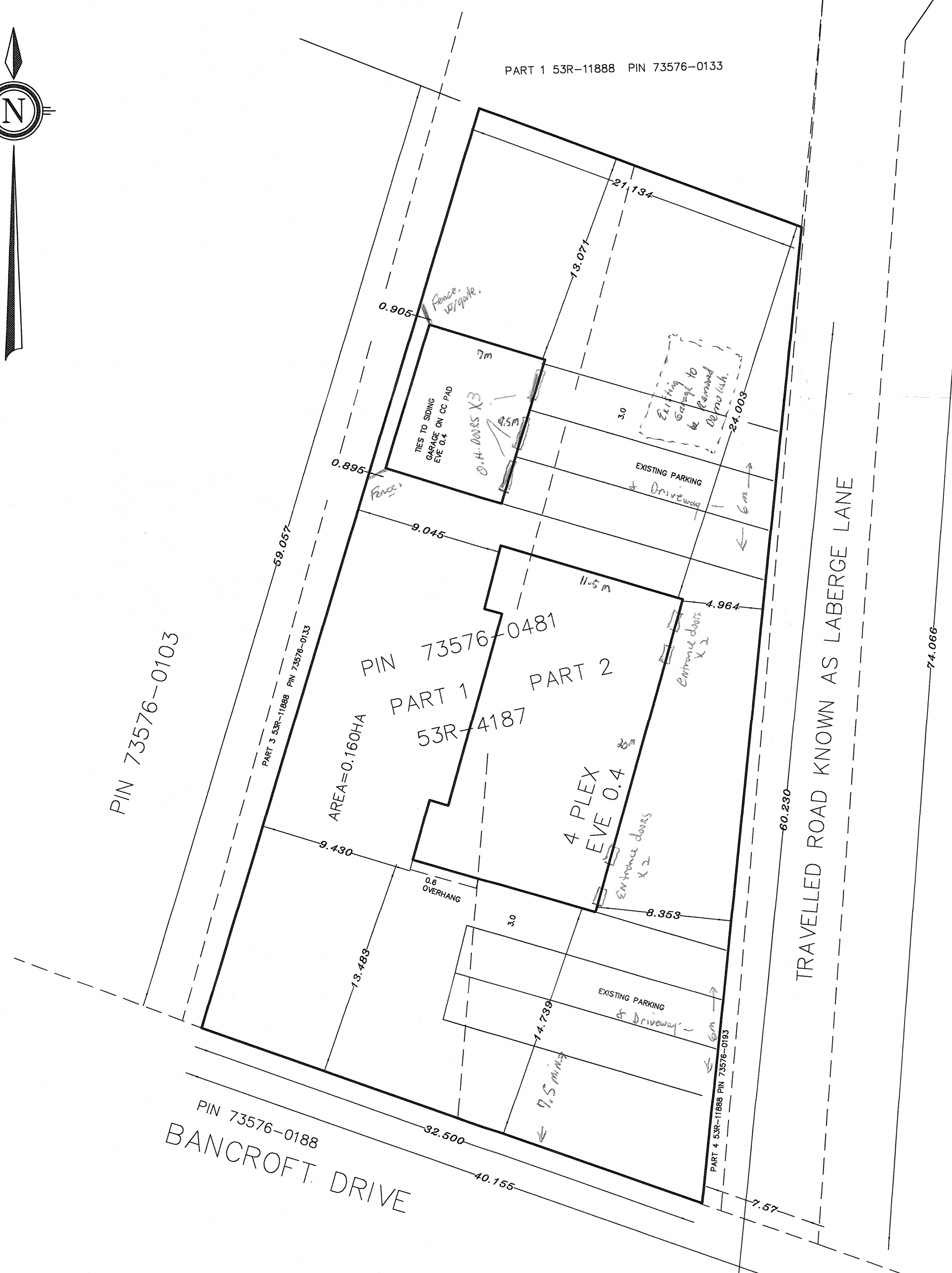
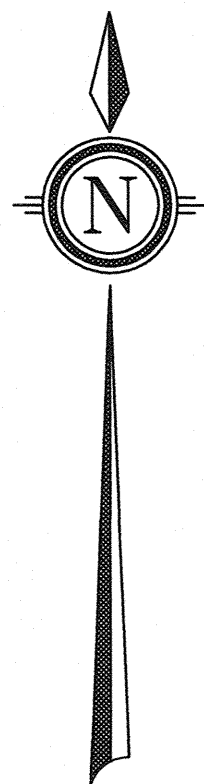


Subject Property being PIN 73576-0481,  
Pts 1 & 2, Plan 53R-4187,  
Pcls 15345 & 37658,  
Pt Lot 10, Concession 3, Twp of Neelon,  
2708 Bancroft Drive, Sudbury,  
City of Greater Sudbury

NTS  
Sketch 1

751-6/20-07  
Date: 2020 03 17





# SKETCH FOR REZONING

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## METRIC NOTE:

DISTANCES SHOWN ON THIS PLAN ARE IN METERS AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048

JAMES E. KIRKLAND LTD.

ONTARIO LAND SURVEYOR

CIVIL ENGINEER

2851 DESJARDIS ROAD

SUDBURY, ONT. P3G 1C5

TEL. (705) 523-1900

FAX. (705) 523-1900

## SKETCH

LOT 10

CONCESSION 3

GEOGRAPHIC TOWNSHIP OF NEELON  
CITY OF GREATER SUDBURY

DISTRICT OF SUDBURY



JAMES E. KIRKLAND O.L.S.

### DESCRIPTION OF LAND

### REGISTERED EASEMENTS AND/OR RIGHT-OF-WAYS

### ENCROACHMENTS

NONE

### COMPLIANCE WITH MUNICIPAL ZONING BY-LAW

NOT CERTIFIED BY THIS REPORT

### ADDITIONAL REMARKS

TIES TO SIDING

THIS REPORT WAS PREPARED FOR FRANK WENDORF  
AND THE UNDERSIGNED ACCEPTS NO RESPONSIBILITY FOR USE BY  
OTHER PARTIES

### NOTE

THIS REPORT CAN BE UPDATED BY THIS OFFICE, HOWEVER  
ADDITIONAL PRINTS OF THIS ORIGINAL REPORT WILL NOT BE  
ISSUED SUBSEQUENT TO THE DATE OF CERTIFICATION

FIELD SURVEY	PLAN	REFERENCE NO.
J.E.K.	JK	K20-52380PS

### LEGEND

-□-	denotes	PLANTED SURVEY MONUMENT
-■-	denotes	FOUND SURVEY MONUMENT
IB	denotes	IRON BAR
SIB	denotes	STANDARD IRON BAR
SSIB	denotes	SHORT STANDARD IRON BAR
PROP	denotes	SET BY PROPORTION
WIT	denotes	WITNESS
PT	denotes	NOT TO SCALE
PT	denotes	REGISTERED PLAN 53M- 1401
MS	denotes	MEASURED
1656	denotes	DELBOSCO O.L.S.
1429	denotes	KIRKLAND O.L.S.
RPW	denotes	ROCK PIN AND WASHER
OU	denotes	ORIGIN UNKNOWN



Photo #1: Existing residential dwelling at 2708 Bancroft Drive, looking northwest.

File 751-6/20-07, 2708 Bancroft Drive, Sudbury, May 1, 2020





Photo #2: Existing residential dwelling and garage at 2708 Bancroft Drive, and sheds on westerly neighbouring property, looking north.

File 751-6/20-07, 2708 Bancroft Drive, Sudbury, May 1, 2020



Photo #3: Laberge Lane and existing residential dwelling at 2708 Bancroft Drive, looking south towards Bancroft. Shed in foreground to be removed.

File 751-6/20-07, 2708 Bancroft Drive, Sudbury, May 1, 2020





Photo #4: Existing residential dwelling at 2708 Bancroft Drive, garage to be retained, and shed on the right to be removed. Photo taken from Laberge Lane, looking northwest.

File 751-6/20-07, 2708 Bancroft Drive, Sudbury, May 1, 2020



Photo #5: Residential dwelling on the east side of Laberge Lane, looking north.

File 751-6/20-07, 2708 Bancroft Drive, Sudbury, May 1, 2020





Photo #6: Existing residential dwelling to the west of the subject lands, looking north.

File 751-6/20-07, 2708 Bancroft Drive, Sudbury, May 1, 2020





Photo #7: Existing residential dwelling to the north of the subject lands fronting on Laberge Lane, looking west.

File 751-6/20-07, 2708 Bancroft Drive, Sudbury, May 1, 2020

F. WAT  
71 haberge lane.

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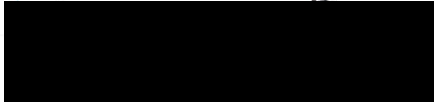
ATT: WENDY KAUFMAN (Phonetic Spelling)

- # 1 I DO NOT APPROVE the "R-3"
- # 2 I wish to be notified of decision

ITEMS of interest.

- 1. Haberge Lane is a 20 FT GRAVEL DRIVE.
- 2. NO ENTRANCE to BANUFT DR. ?
- 3. PARKING + GREEN SPACE is Questionable
- 4. NO CURB OR SIDE WALK (Haberge Lane)
- 5. A 100 FT TURN AROUND IS NOT IN PLACE.
- 6. 4 RENTAL APTS + VISITORS HAVE NO TURN AROUND. (DEAD END)
- 7. Applicant owns East + West side of Haberge Lane. to create TURN AROUND

Gr. Wang





2004080720

3808 MAL



City of Greater Sudbury  
Planning Services  
Box 5000 Stn A.  
200 BRADY ST.  
Sudbury ON P3A 5P3.

ATT WENDY KAUFMAN. File # 751-6/20.07



Presented To:	Planning Committee
Presented:	Monday, Jun 08, 2020
Report Date	Tuesday, May 19, 2020
Type:	Public Hearings
File Number:	751-5/20-01

## Request for Decision

### Chemy Development Inc. - Application for rezoning in order to permit a 40-unit row dwelling complex, 3672 Highway 144, Chelmsford

#### Resolution

THAT the City of Greater Sudbury approves the application by Chemy Development Inc. to amend Zoning By-law 2010-100Z by changing the zoning classification from "C2", General Commercial to "R3 Special", Medium Density Residential Special on lands described as Part of PIN 73349-2060, Part of Parts 2 & 3, Plan 53R-18073 in Lot 1, Concession 3, Township of Balfour, as outlined in the report entitled "Chemy Development Inc.", from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting on June 8, 2020, subject to the following conditions:

1. That prior to the adoption of the amending by-law, the owner shall provide the Development Approvals Section with a final plan of survey in order to enact the amending by-law;
2. That the amending by-law include the following site-specific provisions to be applied to row dwellings:
  - i) The minimum front yard setback shall be 14 metres;
  - ii) A maximum two (2) metre-high opaque wall or opaque fence shall be permitted within the required front yard;
  - iii) The minimum rear yard setback shall be six (6) metres;
  - iv) The minimum privacy yard depth shall be six (6) metres;
  - v) A minimum 1.8 metre court shall be required between buildings;
  - vi) No minimum difference in setbacks shall be required for adjacent groups of row dwellings;
  - vii) Planting strips shall be provided subject to the provisions of Section 4.15, with the following exceptions:
    - (a) Where a planting strip along the westerly interior side lot line contains an opaque wall or opaque fence having a height of 1.5 metres or more, the width of the required planting strip may be reduced to 1.5 metres;
    - (b) Where a planting strip along the easterly interior side lot line abutting PIN 73349-1207 contains an

#### Signed By

##### Report Prepared By

Mauro Manzoni  
Senior Planner  
*Digitally Signed May 19, 20*

##### Manager Review

Alex Singbush  
Manager of Development Approvals  
*Digitally Signed May 19, 20*

##### Recommended by the Division

Jason Ferrigan  
Director of Planning Services  
*Digitally Signed May 19, 20*

##### Financial Implications

Apryl Lukezic  
Co-ordinator of Budgets  
*Digitally Signed May 19, 20*

##### Recommended by the Department

Tony Cecutti  
General Manager of Growth and Infrastructure  
*Digitally Signed May 21, 20*

##### Recommended by the C.A.O.

Ed Archer  
Chief Administrative Officer  
*Digitally Signed May 27, 20*

opaque wall or opaque fence having a height of 1.5 metres or more, the width of the required planting strip may be reduced to 1.2 metres.

3. Conditional approval shall lapse on June 23, 2022 unless Condition 1 above has been met or an extension has been granted by Council.

## **Relationship to the Strategic Plan / Health Impact Assessment**

The application to amend the Zoning By-law is an operational matter under the Planning Act to which the City is responding. The application contributes towards the goals and objectives of the 2019-2027 City of Greater Sudbury Strategic Plan by diversifying the supply of new housing throughout the City and expanding the range of housing options for residents.

## **Report Summary**

An application for rezoning has been received in order to permit a 40-unit row dwelling development on Highway 144 in Chelmsford. The subject property is designated as Mixed Use Commercial and is located on a site offering close proximity to services including public transit. Site-specific relief is required for a number of R3 zoning standards to accommodate the specific design.

The proposal presents conformity with the Official Plan and consistency with the 2020 Provincial Policy Statement based on the location on a major arterial corridor, the provision of housing for which there is demand, convenient access to public transit and commercial uses, and the adequacy of servicing, amongst other matters. The proposal is also a form of residential infill development that will contribute towards intensification targets within the built boundary of Chelmsford.

## **Financial Implications**

If approved, staff estimate approximately \$124,000 in taxation revenue based on the assumption of 40 row dwelling units (and estimated assessed value of \$275,000 per unit) at the 2019 property tax rates.

In addition, this development would result in total development charges of approximately \$409,000 based on assumption of 40 row dwelling units based on rates in effect as of this report.

**Title: Chemy Development Inc.**

**Date: May 13, 2020**

## **STAFF REPORT**

### **PROPOSAL:**

An application for rezoning has been submitted in order to permit a 40-unit row dwelling complex comprised of eight buildings. Each unit would be one-storey in height with an attached garage. A range of site-specific relief is required as outlined on the applicant's rezoning sketch.

**Existing Zoning:** "C2", General Commercial

The existing C2 zoning permits multiple dwellings to a maximum density of 60 dwelling units per hectare and a maximum building height of 15 metres. It does not permit row dwellings.

**Requested Zoning:** "R3 Special", Medium Density Residential Special

The proposed zoning would allow row dwellings, multiple dwellings and low density housing types. Site-specific relief is required to accommodate the design, including setbacks, privacy yards, the width of planting strips, required courts and building offsets.

### **Location and Site Description:**

Part of PIN 73349-2060, Part of Parts 2 & 3, Plan 53R-18073 in Lot 1, Concession 3, Township of Balfour (3672 Highway 144, Chelmsford)

The subject property is located on the north side of Highway 144 just east of Edward Avenue in Chelmsford. The area is fully serviced by municipal sewer and water. Highway 144 is a Provincial Highway and falls under the jurisdiction of the Ministry of Transportation. The highway is constructed to an urban standard at this location including sidewalks. Public transit service is available with transit stops located a short distance to the east and west (Route 104).

Total area of the land to be rezoned is approximately 1.28 ha, with 94 metres of road frontage and 128 metres of depth. The westerly portion of the parent parcel is developed and contains a retail use. The land has been cleared of vegetation and is relatively flat. Conservation Sudbury advised that the northwesterly portion of the subject land was removed from the flood plain as part of the development of the retail use on the westerly portion of the parent parcel.

A retail use in the form of drug store is located to the west. Medium density housing is located to the north and to the east. The remainder of the corridor contains mixed commercial uses.

### **Surrounding Land Uses:**

The area surrounding the site includes:

North: co-operative housing complex zoned "R3.D11", Medium Density Residential.

East: vacant commercial land to the north and a ten-unit multiple dwelling to the south

South: automotive sales establishment

West: retail use (drug store)

**Title: Chemy Development Inc.**

**Date: May 13, 2020**

### **Public Consultation:**

The notice of complete application was circulated to the public and surrounding property owners on March 6, 2020. The statutory notice of the public hearing was provided by newspaper along with a courtesy mail-out circulated to the public and surrounding property owners within 120 metres of the property on May 21, 2020.

The applicant was advised of the City's policy recommending that applicants consult with their neighbours, ward councillor and key stakeholders to inform area residents on the application prior to the public hearing.

The application indicates that a neighbourhood meeting was to be conducted prior to the public hearing. However the emergency order in effect at this time prevents public gatherings.

As of the date of this report, no phone calls or written submissions have been received by Planning Services.

### **POLICY & REGULATORY FRAMEWORK:**

The property is subject to the following policy and regulatory framework:

- [2020 Provincial Policy Statement](#)
- [2011 Growth Plan for Northern Ontario](#)
- [Official Plan for the City of Greater Sudbury, 2006](#)
- [Zoning By-law 2010-100Z](#)

Provincial Policy Statements and geographically specific Provincial Plans, along with municipal Official Plans, provide a policy framework for planning and development in the Province. This framework is implemented through a range of land use controls such as zoning by-laws, plans of subdivision and site plans.

#### **Provincial Policy Statement:**

Municipalities in the Province of Ontario are required under Section 3 of the [Planning Act](#) to ensure that decisions affecting planning matters are consistent with the Provincial Policy Statement.

The Provincial Policy Statement was updated in 2020. Many of the core policies remain intact, including the focus on development within settlement area boundaries. Housing policies under Section 1.4.3 have been enhanced, with special emphasis on addressing both market-based and affordable housing needs. Municipalities shall permit and facilitate all housing options, which cover a broad range of housing types and housing arrangements.

#### **Growth Plan for Northern Ontario:**

Municipalities in the Province of Ontario are required under Section 3 of the *Planning Act* to ensure that decisions affecting planning matters conform with the Growth Plan for Northern Ontario.

The GPNO identifies Greater Sudbury as an Economic and Service Hub, which shall accommodate a significant portion of future population and employment growth and allow a diverse mix of land uses, including an appropriate range of housing types.

**Title: Chemy Development Inc.**

**Date: May 13, 2020**

**Official Plan for the City of Greater Sudbury:**

The subject land is designated as Mixed Use Commercial, which permits a range of uses as outlined under Section 4.3 of the Official Plan.

1. All uses permitted by this Plan except Heavy Industrial may be accommodated in the Mixed Use Commercial designation through the rezoning process.
2. In order to minimize the disruption of traffic flow along Arterial Roads and promote better development, small lot rezoning will be discouraged and land assembly for consolidated development will be promoted.
3. Subject to rezoning, new development may be permitted provided that:
  - a. sewer and water capacities are adequate for the site;
  - b. parking can be adequately provided;
  - c. no new access to Arterial Roads will be permitted where reasonable alternate access is available;
  - d. the traffic carrying capacity of the Arterial Road is not significantly affected;
  - e. traffic improvements, such as turning lanes, where required for a new development, will be provided by the proponent;
  - f. landscaping along the entire length of road frontages and buffering between non-residential and residential uses will be provided; and,
  - g. the proposal meets the policies of Sections 11.3.2 and 11.8, and Chapter 14.0, Urban Design.

**Zoning By-law 2010-100Z:**

A range of site-specific relief is required to accommodate the design, including the following:

- Rear yard setback of 6.1 metres for Buildings 1 and 2 where 7.5 metres is required along the northerly limit of the property;
- Privacy yard of 6.1 metres where 7.5 metres is required for Buildings 1 to 6;
- Front yard setback of 14 metres where 15 metres is required along Highway 144;
- Planting strip of 1.5 metres where 1.8 metres is required in conjunction with a fence along the westerly interior side yard abutting a C2 zone in order to accommodate driveway access;
- Planting strip of 1.2 metres for Buildings 6 and 8 where 1.8 metres is required in conjunction with a fence along the easterly interior side yard abutting a C2 zone;
- Required courts of 1.8 metres between all buildings where 3 metres is required;
- No building offset for Buildings 7 and 8 fronting onto the roadway.

**Site Plan Control:**

The proposed development requires a Site Plan Control Agreement prior to the issuance of a building permit.



**Department/Agency Review:**

**PLANNING ANALYSIS:**

The subject property is located in a mixed use area on a major arterial road that is viewed as an appropriate location for residential infill development. The review of this proposal is therefore focused on the suitability of the lot to accommodate the development and the appropriateness of the built form and associated zoning relief.

**Land use compatibility**

There are no significant issues related to land use compatibility with adjacent uses. Existing medium density residential uses are located to the north and east. Planting strips will be required for screening and buffering along the interior side lot lines abutting C2 lands to the east and west.

In general, the proposed row dwelling development aligns with the mixed use character of the surrounding area and will enhance the residential component of the arterial corridor. The proximity to services makes the site an ideal location for medium density residential development. Retail and office uses including a grocery store are within a comfortable walking distance. The street has been fully urbanized to facilitate pedestrian access.

**Suitability of lot**

**a) Density**

The residential density is calculated at 32 dwelling units per hectare, which is less than the maximum density permitted under the existing C2 zoning (60 du/ha) and the proposed R3 zoning (90 du/ha). The application may therefore be appropriately viewed as infill development. The resultant density is tied to the proposed built form, which requires a larger building footprint and a lower building height. This essentially limits the intensity of use on this site. Higher density could be achieved with a multiple dwelling format.

**b) Built form**

The applicant is proposing 40 row dwelling units in eight (8), one-storey buildings constructed slab-on-grade. Each unit will have an attached garage and a designated privacy yard. No common amenity areas are proposed. The buildings are uniform in design and follow a strict pattern of placement. The one-level units will address demand for a specific type of housing, particularly for persons with mobility issues who desire rental accommodation. A key consideration relates to the interface of Buildings 7 and 8 with the arterial corridor.

Special consideration must be extended to screening and buffering along the roadway in order to mitigate traffic noise and provide privacy for tenants. Landscaping shall also be utilized to enhance the aesthetic appeal of the corridor and the development itself. The actual configuration can be addressed in greater detail as part of the site plan agreement, which shall incorporate the requirements of the Ministry of Transportation. However, in order to allow greater flexibility in design, it is recommended that relief be extended to permit a maximum two (2) metre-high opaque wall or fence in the required front yard where one (1) metre is typically permitted.

c) Servicing

The rezoning sketch indicates a proposed servicing easement along the southerly limit of the property in order to accommodate existing sewer and water connections for the abutting retail store. Such a configuration will require an improper servicing agreement at the site plan stage. The proposed easement would not impede the provision of an adequate privacy yard with appropriate screening along the street line.

d) Parking

Sixty (60) parking spaces are required for a 40-unit row dwelling development where 64 spaces are provided based on the sketch. Each unit will have an attached garage, with additional visitor parking provided along the parking aisles of the proposed development. The applicant has demonstrated that minimum parking requirements can be addressed on-site and has identified preliminary locations to accommodate refuse and snow storage areas.

e) Site-specific relief

There is a range of site-specific relief required in order to accommodate the proposed design. In general, the variances are considered minor in nature and can be incorporated into the special zoning:

- The reduced front yard setback is based on MTO requirements;
- A privacy yard with a minimum depth of 6.1 metres will provide an adequate outdoor amenity area for each unit;
- The rear yard setback of 6.1 metres for Buildings 1 and 2 aligns with the privacy yards for the other buildings;
- The reduced planting strip along the easterly boundary adjacent to Buildings 6 and 8 applies only to a small portion of the property which abuts an existing medium density residential use;
- The planting strip along the westerly boundary is reduced by only 0.3 metre in order to accommodate a sidewalk internal to the development;
- The reduced court will maintain adequate access between buildings; and,
- The building offset along the street line is not strictly required, as the row dwellings will ultimately be screened.

Official Plan

The proposal conforms with Official Plan policies applied to Mixed Use Commercial areas based on the following:

- There are no identified servicing constraints;
- Required parking can be provided on-site;
- No driveway access to Highway 144 is proposed. Vehicular access will be provided via a right-of-way connecting to Edward Avenue;
- The development will not generate significant traffic and there is no impact on the functioning of the arterial road;
- Landscaping requirements will be formalized through the site plan process, including the interface with Highway 144;
- There is direct access to public transit and the proposal enhances the feasibility of transit services;
- The one-level dwelling units will address accessibility considerations for new development; and,
- Lands have been removed from the flood plain as confirmed by Conservation Sudbury.

**Title: Chemy Development Inc.**

**Date: May 13, 2020**

**2020 Provincial Policy Statement and 2011 Growth Plan for Northern Ontario**

The subject site is located in a fully serviced area within settlement area boundaries, consistent with Provincial policies that place an emphasis on residential intensification. The proposal also aligns with housing policies geared to diversification of the supply of new housing to address all housing needs. The northwest portion of the subject land has been removed from the flood plan and there is no conflict with the natural hazards policies of the PPS. The application is consistent with the 2020 Provincial Policy Statement.

The application also conforms to the 2011 Growth Plan based on the increased housing capacity that the project will create.

**CONCLUSION:**

Planning Services recommends that the application for rezoning be approved subject to the conditions outlined in the Resolution section of this report.

# Appendix 1

## Departmental & Agency Comments

File: 751-5/20-1

**RE:** Application for Rezoning – Chemy Development Inc.  
Part of PIN 73349-2060, Part of Parts 2 & 3, Plan 53R-18073 in Lot 1, Concession 3,  
Township of Balfour (3672 Highway 144, Chelmsford)

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### Development Engineering

This area is presently serviced with municipal water and sanitary sewer. The review of water supply, sanitary sewer, and stormwater management will be made through the Site Plan Control process.

### Infrastructure Capital Planning Services

No comment.

### Building Services

Building Services can advise that we have no objections to this application other than the following comments for the applicant's information:

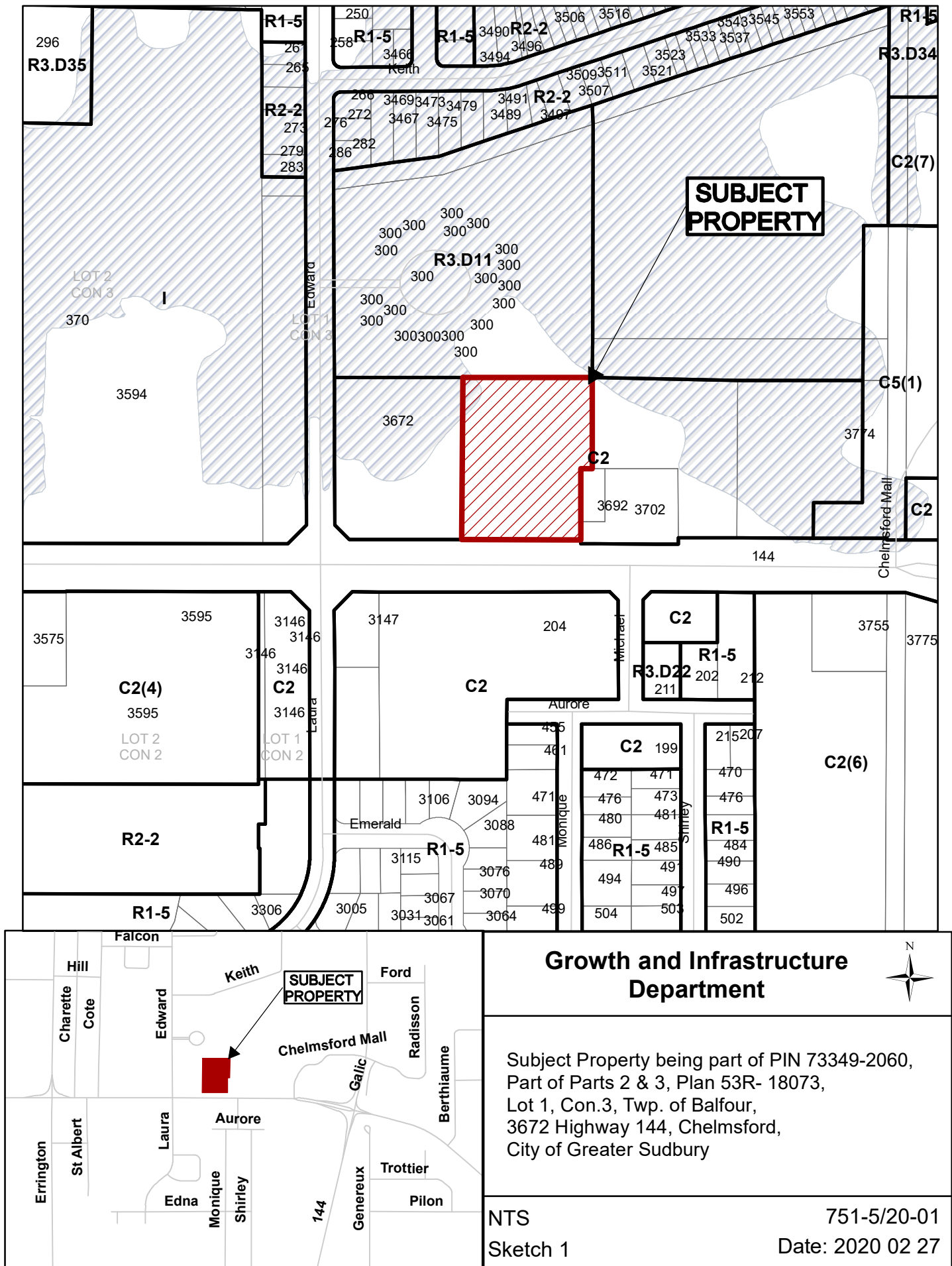
- The site is subject to Site Plan Control Agreement;
- Geotechnical soils report and Record of Site Condition are required at building permit stage.

### Conservation Sudbury

The subject property is above the flood elevation of 271.18 metres. Therefore Conservation Sudbury has no objection to the rezoning and site plan. Conservation Sudbury requests to review the Stormwater Management Plan submitted with the Site Plan Control Agreement.

### Ministry of Transportation

No comments. (Detailed comments will be provided at the site plan stage.)



EDWARD AVENUE

### SITE PLAN DATA

Lot area 12,768.66 m<sup>2</sup>  
Building area 561.22 m<sup>2</sup> per block  
Number of blocks 8  
Total area of buildings 4489.78 m<sup>2</sup>  
Coverage 35.16%  
Unit count 40 single level units, 2 bedroom units with attached garage  
Unit area 112.24 m<sup>2</sup>  
Parking req'ts 1.5 per unit (60 total)  
Parking provided 64  
Landscape area 4750.34 m<sup>2</sup> (37.20%)

### Relief Required Table (refer to plan for location)

- ① rear yard setback, 7.5 m required, 6.101 m provided  
privacy yard requirement, 7.5 m required, 6.101 m provided
- ② privacy yard requirement, 15 m required, 12.311 m provided
- ③ front yard requirement, 15 m required, 14 m provided to match MTO requirements
- ④ planting strip west property boundary, 1.8 m required, 1.5 m provided
- ⑤ planting strip east property boundary, 1.8 m required, 1.22 m provided along 2 units in south east corner
- ⑥ required courts between units, 3.0 m required, 1.8 m provided
- ⑦ building offsets, 1.5 m required, 0.0 m provided

① 40 Unit Site Plan  
1:300

p o c h b e l a i p  
architect • architecte  
227 Colchester Ave. Suite 1000  
St. John's, NL A1B 4X6  
Tel: 709.533.5333  
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40 Unit Residential Development  
Highway 144 Chelmsford

Proposed Site Plan

Date	Dec 2019	Drawn By	rcb	Project No	
Scale	1:300	Checked By	rcb	Drawing #	A1

This drawing is an instrument of service and shall remain the property of the Architect. It shall not be used for additions or alterations to the project or any other project without the Architect's permission in writing.  
The Contractor shall check and verify all existing conditions on site and shall also check and verify all dimensions on the drawings and report any inconsistencies to the Architect before proceeding with the work.  
DRAWINGS NOT TO BE SCALED





Photo 1: 3672 Highway 144, Chelmsford  
View of subject land facing southeast towards highway  
File 751-5/20-1 Photography May 10, 2020



Photo 2: 3672 Highway 144, Chelmsford  
Highway 144 street line facing east  
File 751-5/20-1 Photography May 10, 2020



Photo 3: 3672 Highway 144, Chelmsford  
Proposed right-of-way access behind drug store connecting to Edward  
Avenue  
File 751-5/20-1 Photography May 10, 2020





Photo 4: 3672 Highway 144, Chelmsford  
Retail use (drug store) abutting westerly  
File 751-5/20-1 Photography May 10, 2020



Photo 5: 3692 Highway 144, Chelmsford  
Multiple dwelling abutting easterly  
File 751-5/20-1 Photography May 10, 2020



Photo 6: 300 Edward Avenue, Chelmsford  
Housing co-op abutting northerly  
File 751-5/20-1 Photography May 10, 2020





Photo 7: 3672 Highway 144, Chelmsford  
Informal trail along northerly limit of subject land  
File 751-5/20-1 Photography May 10, 2020



Smith Avenue



Edward Avenue

Subject Property



Highway 144

Laura Drive

Michael Street

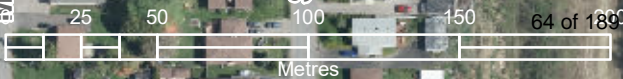
Aurore Street

Monique Street

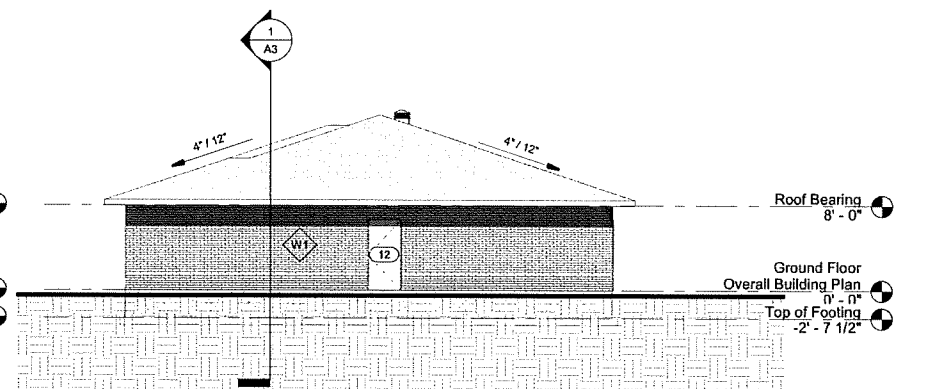
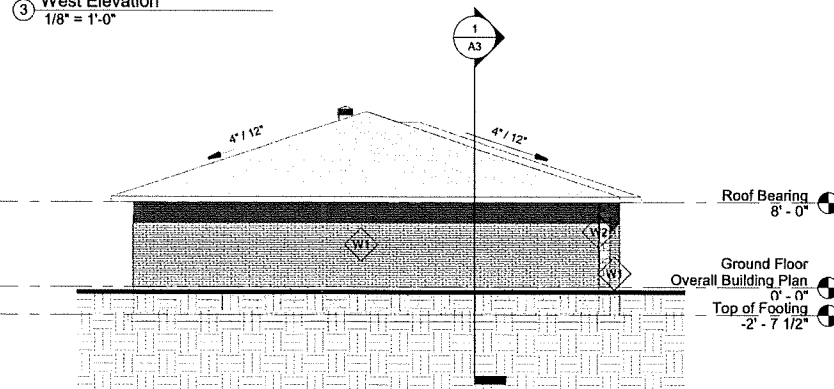
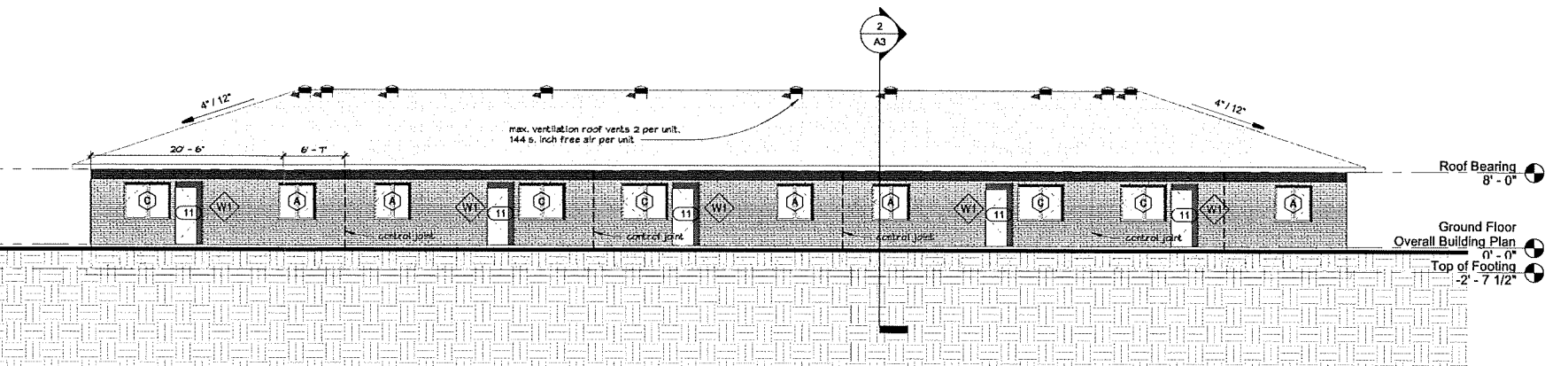
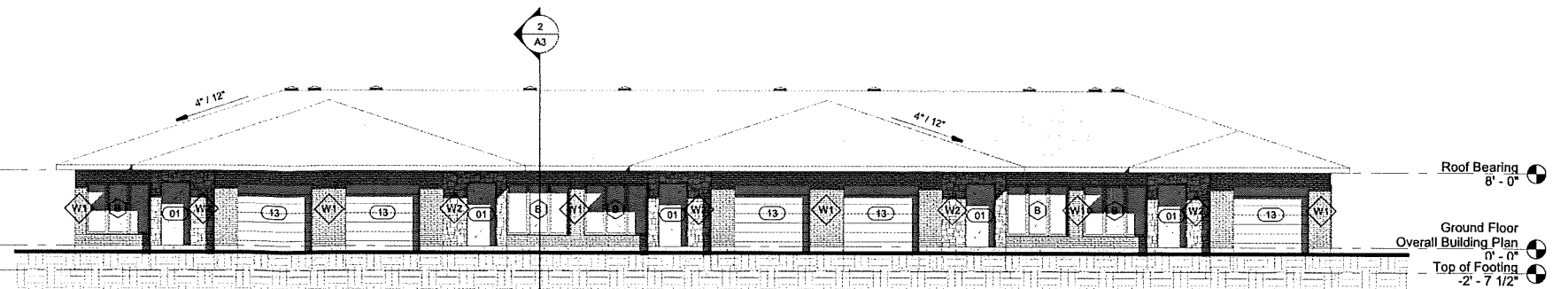
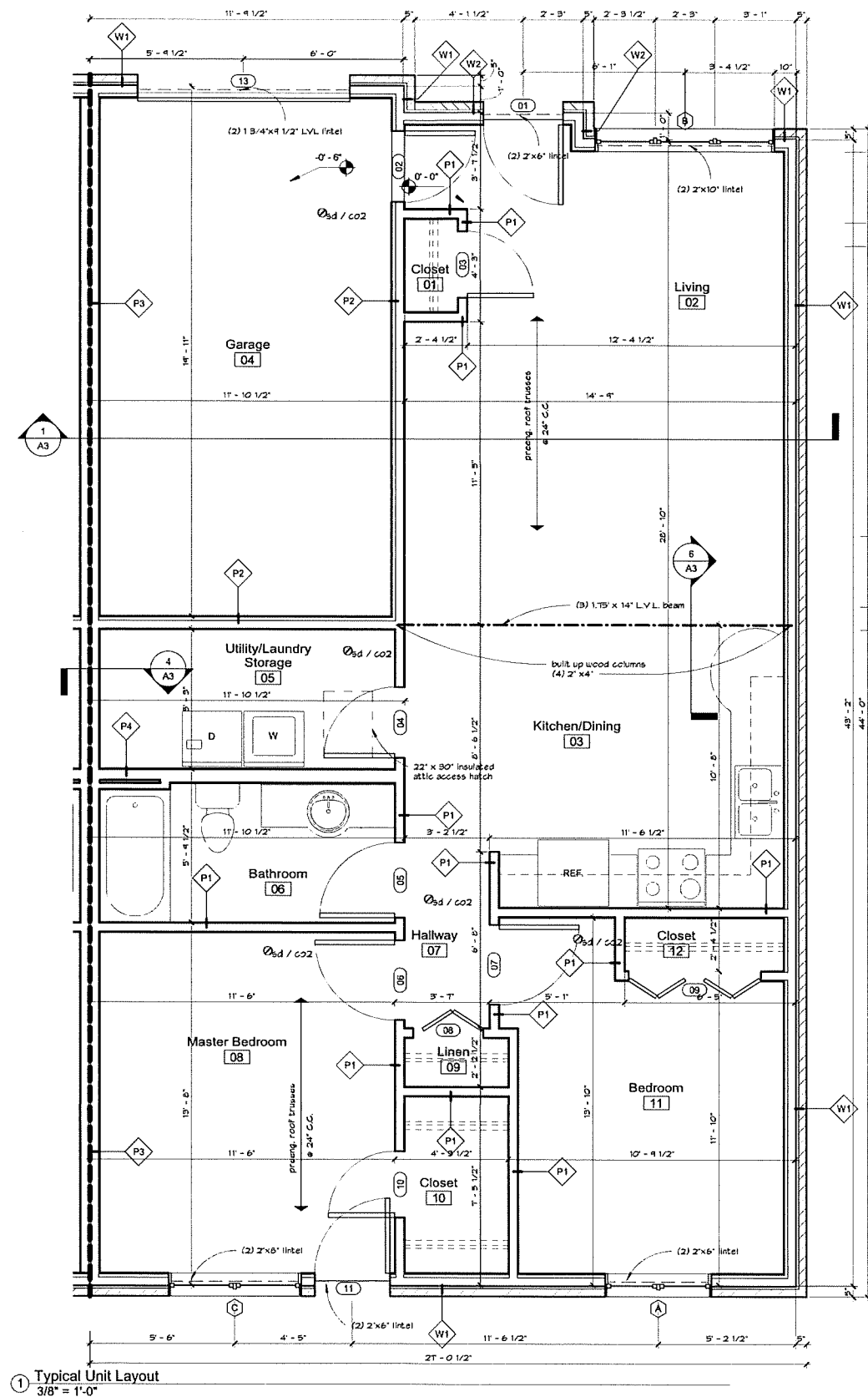
Shirley Street

Mainville Street

Emerald Crescent







Door Schedule					Comments
Tag Label	Width	Height	Qty		
01	3' - 0"	6' - 8"	5		ins. prefin. metal door c/w weatherstripping and alum. threshold
02	2' - 8"	6' - 8"	5		ins. prefin. metal service door c/w weatherstripping and alum. threshold
03	2' - 8"	6' - 8"	5		hollow core slab door
04	2' - 8"	6' - 8"	5		hollow core slab door
05	2' - 10"	6' - 8"	5		hollow core slab door
06	3' - 0"	6' - 8"	5		hollow core slab door
07	3' - 0"	6' - 8"	5		hollow core slab door
08	2' - 8"	7' - 0"	5		hollow core slab byfold door
09	5' - 0"	6' - 8"	5		hollow core slab byfold door
10	2' - 8"	6' - 8"	5		hollow core slab door
11	2' - 10"	6' - 8"	5		ins. prefin. metal door c/w weatherstripping and alum. threshold
12	3' - 0"	6' - 8"	1		ins. prefin. metal service door c/w weatherstripping and alum. threshold
13	8' - 0"	7' - 0"	5		ins. prefin. metal garage door c/w weatherstripping and alum. threshold

Window Schedule					Comments
Tag Label	Width	Height	Head Height	Count	
A	4' - 0"	4' - 0"	6' - 8"	5	pvc window with low e argon filled insulated glass with thermal spacers, refer to elevations for operator locations
B	6' - 4"	5' - 6"	6' - 8"	5	pvc window with low e argon filled insulated glass with thermal spacers, refer to elevations for operator locations
C	5' - 0"	4' - 0"	6' - 8"	5	pvc window with low e argon filled insulated glass with thermal spacers, refer to elevations for operator locations

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The Contractor shall check and verify all existing conditions on site and shall also check and verify all dimensions on the drawings and report any inconsistencies to the Architect before proceeding with the work.

**DRAWINGS NOT TO BE SCALED**

REVISION SCHEDULE	
REVISION NUMBER	REVISION DATE

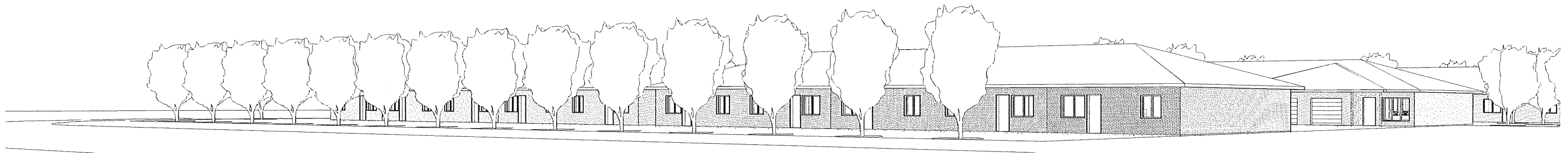
**p o c h b e l o i p**  
architect • architecte

247 Middlesex Turnpike, Suite 200, Boston, MA 02126  
Tel: 617.552.1111 Fax: 617.552.1112

40 Unit Chelmsford Housing Project  
Highway 144 Chelmsford

Typical Unit Layout, Elevations

Date	Apr 08 2019	Drawn By	KaA	Project #	Project No
Scale	As indicated	Checked By	RcB	Drawing #	A2



Development View Along Highway  
144

This drawing is an instrument of service and shall remain the property of the Architect. It shall not be used for additions or alterations to the project or any other project without the Architect's permission in writing.

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DRAWINGS NOT TO BE SCALED

REVISION SCHEDULE	
REVISION NUMBER	REVISION DATE

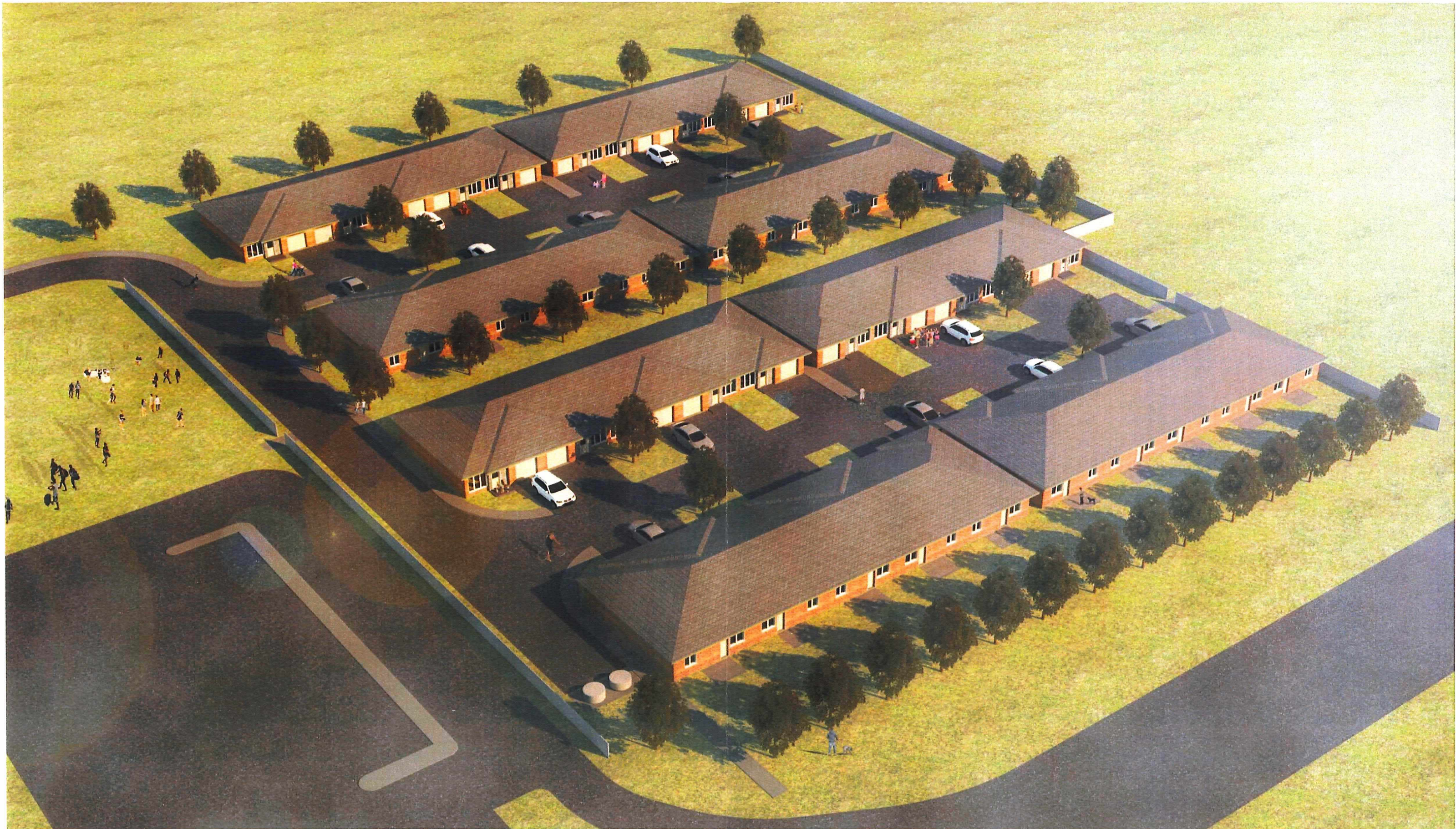
p o c h b e l a i p  
architect • architecte  
1247 St-Joseph Ave | 514-441-1000  
St-Joseph, QC | 705-451-5184  
P.O. Box 357 | 705-451-1855

Project Title  
40 Unit Residential Development  
Highway 144 Chelmsford

Drawing Title  
Development View Along  
Highway 144

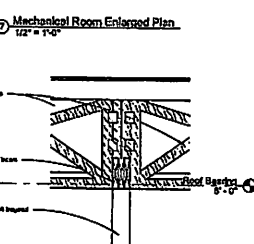
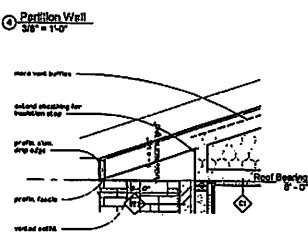
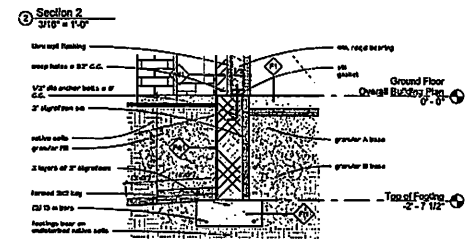
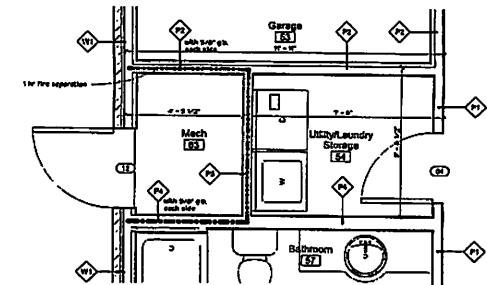
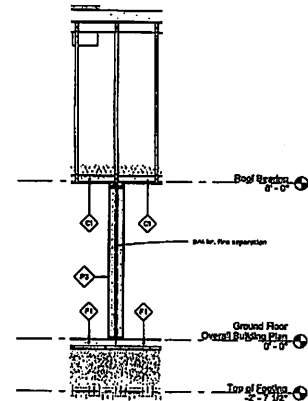
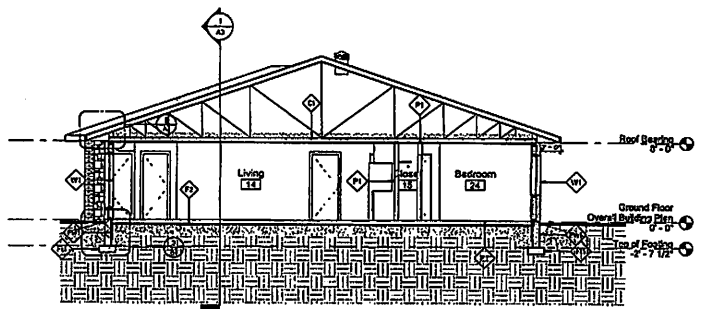
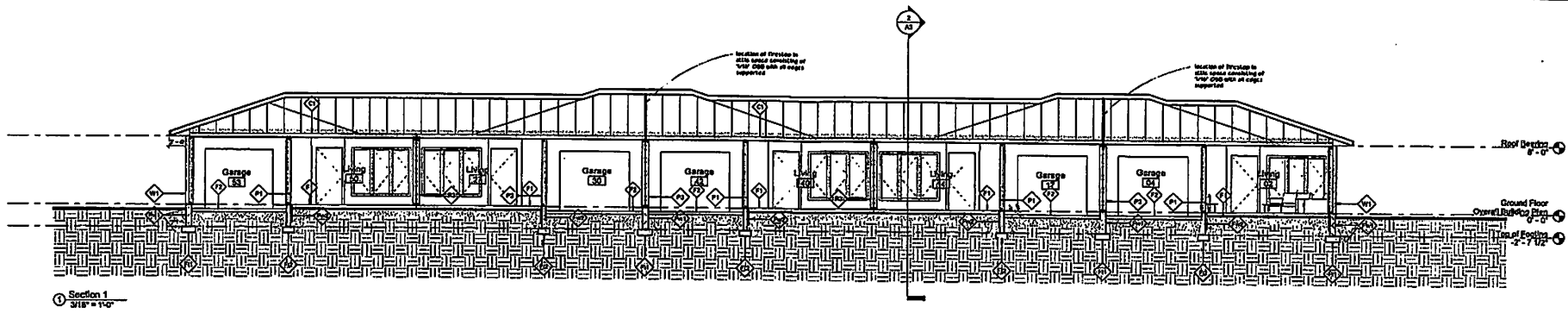
Date	Dec 2019	Drawn By	rcb	Project #	Project No
Scale		Checked By	rcb	Drawing #	A2











Typical Perimeter Foundation Wall  
Detail  
3/4" = 1'-0"

Typical Perimeter Roof Detail  
3/4" = 1'-0"

LVL Beam Detail  
3/4" = 1'-0"

Drawings NOT TO BE SCALED

REVISION SCHEDULE	
REVISION NUMBER	REVISION DATE

**poeh belalp**  
architect + architects

1000 Highway 144, Chelmsford, MA 01824  
Tel: 978.281.1234 Fax: 978.281.1235

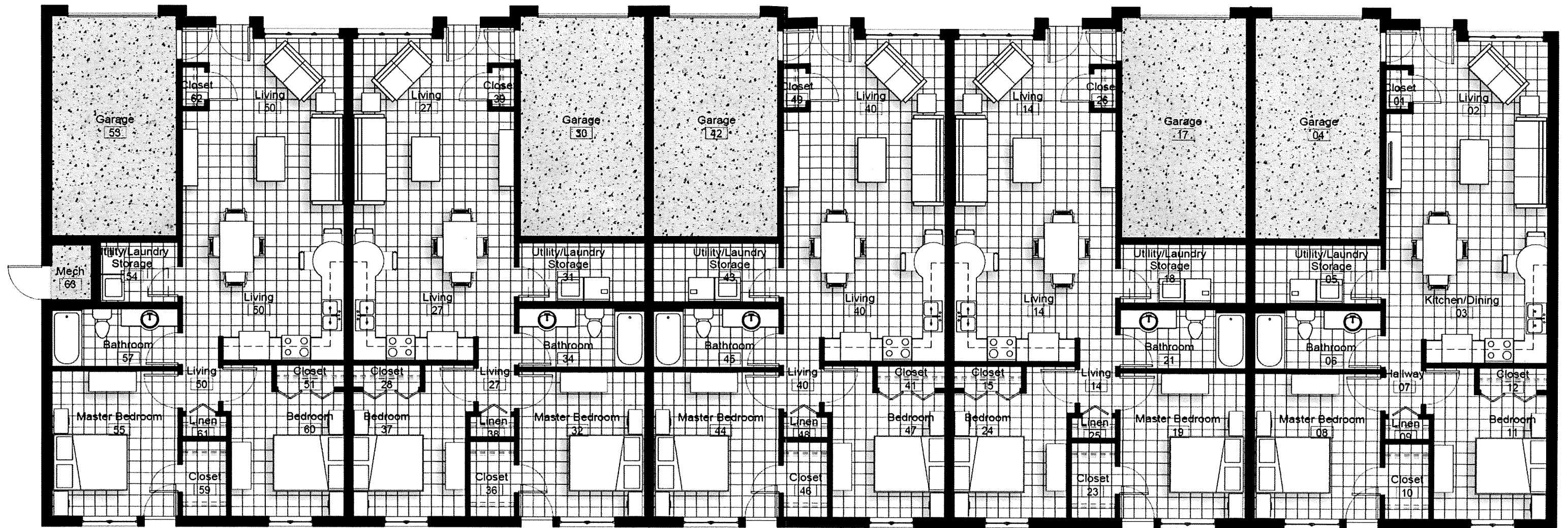
40 Unit Chelmsford Housing Project  
Highway 144 Chelmsford

Sections, Details

Apr 08 2019	KaA	Project No.
As Indicated	RcB	A3







# Floor Plan

## Request for Decision

**1887409 Ontario Ltd. – Consent Referral Request on Consent Applications B0103/2019, B0104/2019 & B0105/2019, Edgecliff Crescent, Garson**

Presented To:	Planning Committee
Presented:	Monday, Jun 08, 2020
Report Date	Friday, Mar 13, 2020
Type:	Routine Management Reports

### Resolution

THAT the City of Greater Sudbury denies the request by 1887409 Ontario Ltd. to allow Consent Applications B0103/2019, B0104/2019 and B0105/2019 on those lands described as PIN 73494-1106, Part of Lot 6, Concession 1, Township of Garson, to proceed by way of the consent process, as outlined in the report entitled “1887409 Ontario Ltd.”, from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting on June 8, 2020.

### Relationship to the Strategic Plan / Health Impact Assessment

The request by the owner to create three urban residential lots in addition to the three previous urban residential lots already approved by way of the consent process as opposed to a plan of subdivision is an operational matter under the Planning Act to which the City is responding.

### Report Summary

This report reviews a request by the owner to create three new urban residential lots by way of consent in addition to the three previous urban residential lots approved in 2018 by way of the consent process, or alternatively, if a plan of subdivision is the more appropriate land use planning tool to utilize for the urban residential lot development that is now being proposed. Section 20.4.1 of the Official Plan requires that all proposals which have the effect of creating more than three new lots be processed as applications for a plan of subdivision unless in Council’s opinion a plan of subdivision is not necessary for the proper development of the area. Development Engineering has noted that known fire flow issues are present in the area and that other matters such as, but not limited to, lot grading, site servicing and road reconstruction after the installation of services would also more appropriately be addressing through the subdivision planning process as opposed to the consent process. Development Engineering has further noted that there are other developments in the area impacted by the insufficient fire

#### Signed By

##### **Report Prepared By**

Glen Ferguson  
Senior Planner  
*Digitally Signed Mar 13, 20*

##### **Manager Review**

Alex Singbush  
Manager of Development Approvals  
*Digitally Signed Mar 13, 20*

##### **Recommended by the Division**

Jason Ferrigan  
Director of Planning Services  
*Digitally Signed Mar 13, 20*

##### **Financial Implications**

Apryl Lukezic  
Co-ordinator of Budgets  
*Digitally Signed Mar 17, 20*

##### **Recommended by the Department**

Tony Cecutti  
General Manager of Growth and Infrastructure  
*Digitally Signed Mar 18, 20*

##### **Recommended by the C.A.O.**

Ed Archer  
Chief Administrative Officer  
*Digitally Signed May 27, 20*

flow issue and that it would be an equitable solution for all parties to join in an application to the City to address the issue through the City's established cost-sharing policy. The Planning Services Division is recommending that the request to proceed by way of the consent process be denied and therefore that the subdivision planning process and potentially the City's cost-sharing policy be utilized to address those issues described above and in the body of this report.

### **Financial Implications**

If approved, staff estimates approximately \$13,000 in taxation revenue, based on the assumption of 3 single family dwelling units at an estimated assessed value of \$400,000 per dwelling unit at the 2019 property tax rates.

In addition, this development would result in total development charges of approximately \$53,000 based on the assumption of 3 single family dwelling units based on the rates in effect as of this report.

**Date: March 9, 2020**

## **STAFF REPORT**

### **PROPOSAL:**

The owner is seeking approval from the City's Consent Official to create three urban residential lots having frontage onto Edgecliff Crescent in Garson (Files # B0103/2019, B0104/2019 & B0105/2019). Each of the proposed urban residential lots would have an approximate lot area of 1,080 m<sup>2</sup> (11,625.02 ft<sup>2</sup>) along with 24 m (78.74 ft) of lot frontage on Edgecliff Crescent and maintain lot depths of 45 m (147.64 ft). The proposed urban residential lots are presently vacant. Three previous urban residential lots were approved through the consent process (Files # B0048/2018, B0049/2018 & B0050/2018) with final consent certificates having been issued on each of the former applications on July 12, 2019.

In accordance with Section 20.4.1 of the Official Plan, the Consent Official has referred the subject applications for consent to the Planning Committee and Council in order to determine whether the application should be permitted to proceed by the way of the consent process, or alternatively, if a plan of subdivision is required.

### **Existing Zoning:** "R1-5", Low Density Residential One

The "R1-5" Zone permits a bed and breakfast establishment within a single-detached dwelling having a maximum of two guest rooms, a group home type 1 within a single-detached dwelling having a maximum of ten beds, a private home daycare and a single-detached dwelling.

The owner is not at this time requesting any changes to the applicable zoning on the subject lands.

### **Location & Site Description:**

The subject lands are located on the west side of Edgecliff Crescent and to the west of Penman Avenue and to the south of Falconbridge Road in the community of Garson. The portion of lands that are the subject of the request for consent referral have an approximate total lot area of 3,240 m<sup>2</sup> (34,875.07 ft<sup>2</sup>) with approximately 72 m (236.22 ft) of lot frontage on Edgecliff Crescent. The balance of the lands stretch from Edgecliff Crescent in a westerly direction to Donnelly Drive and do not form part of this request for consent referral. The urban residential lots proposed to be created having frontage on Edgecliff Crescent are presently vacant.

### **Surrounding Land Uses:**

- |        |   |
|--------|---|
| North: | Low density urban residential land uses, parks and open space lands (ie. Penman Park), and a general commercial shopping plaza land use on Falconbridge Road. |
| East:  | Pre-dominantly lower density urban residential land uses.   |
| South: | Vacant lands designated for future urban residential land uses and several large rural parcels of vacant land.  |
| West:  | Vacant parks and open space lands to the immediate west and a large tract of land zoned for extractive industrial land uses.                                  |

The existing zoning and location map attached to this report indicates the location of the lands that are subject to the request for consent referral, as well as the applicable zoning in the immediate area. This map has been marked up with a hard black circle by staff to indicate the portion of the subject lands subject to the former and current applications for consent.

Submitted sketches related to the previous three approved consents and the current proposal for three additional urban residential lots are also attached to this report for reference purposes.

## **POLICY AND REGULATORY FRAMEWORK:**

The property is subject to the following policy and regulatory framework:

- [Planning Act, R.S.O. 1990, c. P.13](#)
- [2014 Provincial Policy Statement \(PPS\)](#);
- [2011 Growth Plan for Northern Ontario](#);
- [Official Plan for the City of Greater Sudbury](#); and,
- [Zoning By-law 2010-100Z](#).

The PPS and the Growth Plan for Northern Ontario, along with the City's Official Plan, provide a policy framework for land use planning and development in the City of Greater Sudbury. This framework is implemented through a range of land use planning controls such as, but not limited to, zoning by-laws, plans of subdivision, the lifting of part lot control where a registered plan of subdivision exists, and site plans.

### **Planning Act, R.S.O. 1990, c. P.13:**

With respect to statute law, in general lot creation may occur through either the subdivision planning process or by way of the consent process. Part VI of the Planning Act establishes these two land use planning processes that result in the subdivision of land. Under Sections 51 and 53 of the Planning Act, both the subdivision planning process and the consent process are required to have regard for certain criteria set out specifically in the Planning Act whenever new lots are being created.

Section 51(24) sets out those criteria to be evaluated when considering a draft plan of subdivision and regard shall be had, amongst other matters, to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality. Specifically, these criteria under Section 51(24) are as follows:

1. The effect of development of the proposed subdivision on matters of provincial interest;
2. Whether the proposed subdivision is premature or in the public interest;
3. Whether the plan conforms to the Official Plan and adjacent plans of subdivision, if any;
4. The suitability of the land for the purposes for which it is to be subdivided;
5. If any affordable housing units are being proposed, the suitability of the proposed units for affordable housing;
6. The number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy of them;
7. The dimensions and shapes of the proposed lots;
8. The restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;



9. Conservation of natural resources and flood control;
10. The adequacy of utilities and municipal services;
11. The adequacy of school sites;
12. The area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;
13. The extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy; and,
14. The interrelationship between the design of the proposed plan of subdivision and site plan control matters relating to any development on the land, if the land is also located within a site plan control area.

**2014 Provincial Policy Statement (PPS):**

Municipalities in the Province of Ontario are required under Section 3 of the Planning Act to ensure that decisions affecting planning matters are consistent with the 2014 Provincial Policy Statement (PPS). The following PPS policies are relevant to the request to allow lot creation to proceed by way of consent, as opposed to the subdivision planning process:

1. Section 1.1.1 c) outlines that healthy, livable and safe communities are sustained by avoiding development and land use patterns which may cause environmental or public health and safety concerns; and,
2. Section 1.1.1 e) outlines that healthy, livable and safe communities are sustained by promoting cost-effective development patterns and standards to minimize land consumption and servicing costs.

**Growth Plan for Northern Ontario:**

Municipalities in the Province of Ontario are required under Section 3 of the Planning Act to ensure that decisions affecting planning matters conform with the Growth Plan for Northern Ontario. Staff has reviewed the planning matters contained within the Growth Plan for Northern Ontario and are satisfied that the request for consent referral in this instance conforms to and does not conflict with the Growth Plan for Northern Ontario.

**Official Plan for the City of Greater Sudbury:**

The subject lands are designated Living Area 1 in the Official Plan for the City of Greater Sudbury. Living Area 1 includes residential areas that are fully serviced by municipal water and sewer and are to be the primary focus of residential development. Living Area 1 is seen as areas of primary focus for residential development given the desire to utilize existing sewer and water capacity and reduce the impacts of un-serviced rural development.

Section 12 in general outlines that it is the objective of those utility policies contained in the Official Plan to ensure that the City's water capacities are adequate to service existing and proposed development. Section 12.2.2 further states that new development in urban areas is permitted provided that existing and planned water services have confirmed capacity to accommodate the demands of a proposed development. At their own expense, an owner may also upgrade existing water systems to ensure adequate delivery and treatment facilities consistent with municipal standards, including the adequacy of fire flows.

Further to the above noted land use policies, Section 20.4.1 of the Official Plan outlines that, "... all proposals which have the effect of creating more than three new lots shall be considered as applications for a plan of subdivision, unless in Council's opinion a plan of subdivision is not necessary for the proper development of the area.

**Date: March 9, 2020**

**Zoning By-law 2010-100Z:**

The owner is not requesting any changes at this time to the “R1-5” zoning that is applicable to the subject lands. The request for consent referral if approved would permit the owner to pursue urban residential lot creation by way of the consent process as opposed to the subdivision planning process. This request therefore has no impact on the existing and applicable zoning on the subject lands.

**Department/Agency Review:**

The consent applications including relevant accompanying materials and the request for a consent referral has been circulated to all appropriate agencies and departments. Responses received from agencies and departments have been used to assist in evaluating the request to allow the proposed lot creations to proceed by way of the consent process, or alternatively, if the lot creations should proceed by way of the subdivision planning process.

During the review of the proposal, comments provided by circulated agencies and departments included the following:

Active Transportation, Building Services, Conservation Sudbury, Leisure Services, Roads, Traffic and Transportation and Water-Wastewater have each advised that they have no concerns and/or comments from their respective areas of interest.

Development Engineering advises that there is insufficient fire flow to service the proposed lot creations. The City’s established policy since 2004 is to use the Fire Underwriter’s guidelines for fire protection in urban areas and the Fire Marshall’s guidelines for rural situations. This results in the requirement for this development proposal of 75 litres per second fire flow. There is the potential for six lots in addition to the original three (ie. approved consents from 2018) to be development from this parcel of land. Developing Engineering is of the opinion that the development of these urban residential lots should proceed by way of the subdivision process to deal with such matters as, but not limited to, insufficient fire flow, lot grading, site servicing and road reconstruction after the installation of services. Development Engineering has also noted that other development along Penman Avenue also have insufficient fire flows and that an equitable solution would be for all parties to join in an application to the City to address the fire flow issue through the City’s established cost-sharing policy.

The City’s Drainage Section has noted that lot grading and drainage plans will be required in order to properly facilitate the creation of the proposed three urban residential lots.

**PLANNING ANALYSIS:**

The Planning Act, 2014 PPS, the 2011 Growth Plan, and the City of Greater Sudbury Official Plan, and other relevant policies and supporting guidelines were reviewed in their entirety. The following section provides a planning analysis of the request to permit three urban residential lots to be created by way of consent as opposed to a plan of subdivision in respect of the applicable policies, including issues raised through agency and department circulation.

With consideration given to the criteria for subdividing land under Section 51(24) of the Planning Act, staff has concerns with respect to lot creation by way of the consent process at this time. Staff would further advise that the concerns identified and related to Section 51(24) would be best addressed comprehensively through a plan of subdivision and through the utilization of the City’s cost-sharing policy. Specifically, staff has the following comments:

**Date: March 9, 2020**

1. Staff has identified areas of concern with respect to the risks associated with public health and safety should lots continue to develop in this part of the City without addressing the insufficient fire flows that exist in the area. Lots proceeding by consent also do not present a cost-effective solution to the insufficient fire flow issue that exists in the Penman Avenue area, whereas this issue would better be addressed through the subdivision planning process and through the utilization of the City's cost-sharing policy. These are identified matters of provincial interest and are specifically referenced in Section 51(24)(a) of the Planning Act;
2. Staff advises that allowing further lot creation by way of consent will further negatively impact the existing and known insufficient fire flow issues in the Penman Avenue area and as such the applications for consent are viewed as being premature and not in the public interest;
3. Staff is of the opinion that policies within the Official Plan would prescribe the subdivision planning process as the preferred method for lot creation in this particular situation. The report provides more detail and analysis on this later in the report. It should also be noted that two existing draft approved plans of subdivision are located nearby and are impacted by insufficient fire flows; and,
4. Staff is of the opinion that at present the lands are not suitable for lot creation and issues related to insufficient fire flows, lot grading, site servicing and road reconstruction after the installation of services would be best addressed by way of the subdivision planning process and not by way of the consent process.

With respect to the PPS, staff is generally concerned that allowing for further urban residential lot creation through the consent process will further reduce the insufficient fire flows that exist in the Penman Avenue area and therefore can be considered to represent a public health and safety concern. The more lots that are created and introduced into this particular part of the City will across time further reduce already insufficient fire flows and a more comprehensive approach to resolving the issue is required and represents good land use planning. Development Engineering has also noted that there is an opportunity to share the cost of upgrading the infrastructure necessary to provide appropriate fire flows through the City's cost sharing policy. This is viewed as an equitable and cost-effective solution that would benefit not only the owner, but also abutting owners having existing draft approved plans of subdivision with conditions requiring that inadequate fire flows be addressed before development can proceed, as well as the municipality itself.

With respect to Living Area 1 policies in the Official Plan, staff notes that while the lands are located within a fully serviced residential area there would be a negative impact on fire flows in the Penman Avenue should urban residential lots continue to be created in a piece-meal manner across time. Development Engineering has advised that further consent approvals through time will continue to negatively impact the insufficient fire flows that already exist in the Penman Avenue area and while the owner could at their own expense upgrade the existing water system to provide for adequate fire flows in the general area it would likely be cost prohibitive given the infrastructure works that would be required.

There are also two draft approved plans of subdivision accessed from Penman Avenue that also have identified fire flow issues. Both the Fabian Subdivision (File # 780-3/90009) and the Foxborough Subdivision (File # 780-3/86008) are impacted by the insufficient fire flows that exist along and nearby Penman Avenue. Staff notes that the Fabian Subdivision is approved for 22 urban residential lots and no phases have been registered since initial draft approval was granted. Staff further notes that the Foxborough Subdivision has registered 103 urban residential lots and at present 58 draft approved urban residential lots remain undeveloped. Staff would note that both of the above noted draft approved plans of subdivision include a condition that, "The owner provide proof of sufficient fire flow in conjunction with the submission of construction drawings for each phase of construction. All costs associated with upgrading the existing distribution system to service this subdivision will be borne by the owner."

**Title: 1887409 Ontario Ltd.**

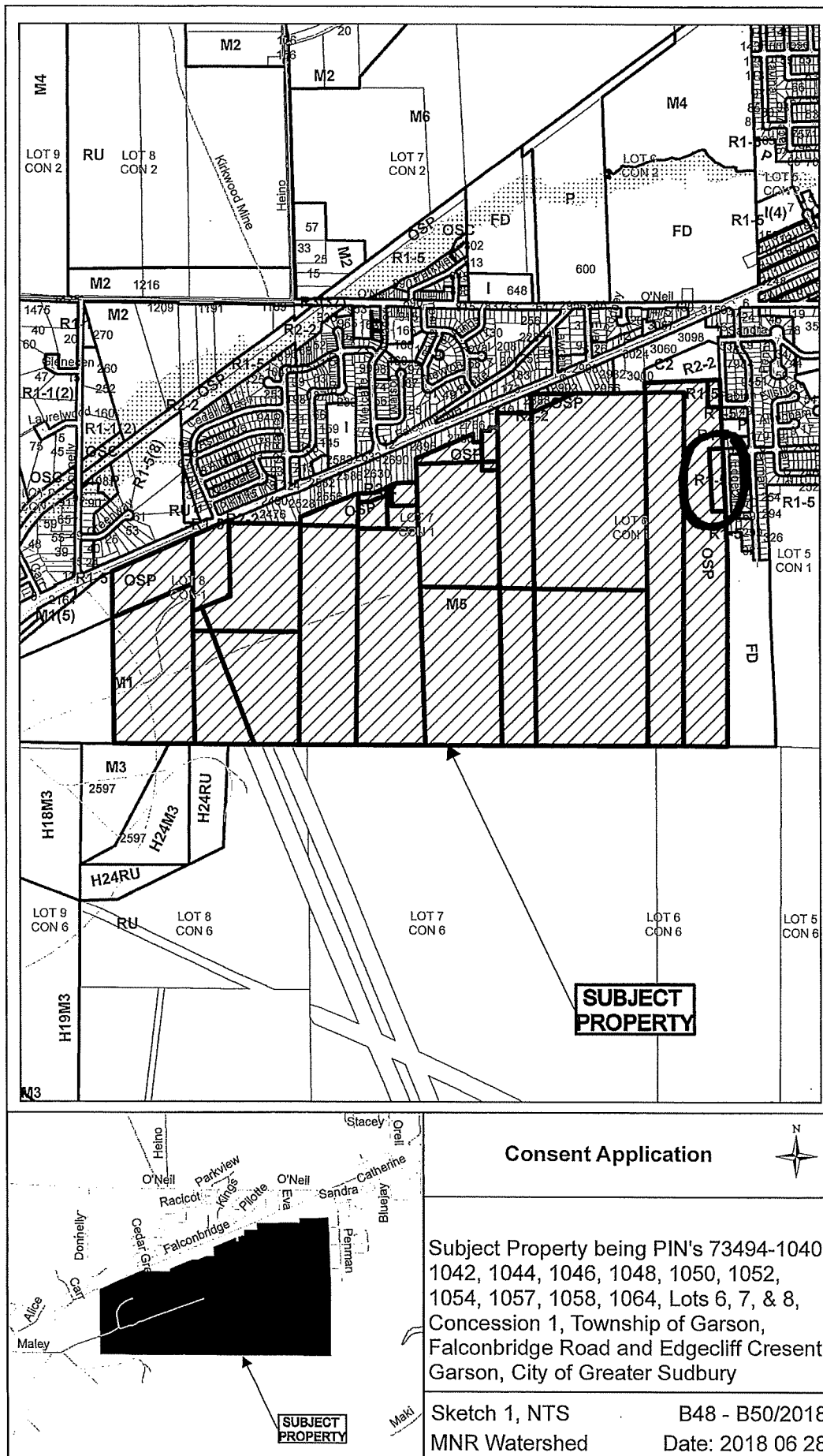
**Date: March 9, 2020**

With respect to Section 20.4.1 of the Official Plan, staff therefore cannot support the creation of a further three urban residential lots on Edgecliff Crescent in addition to the three prior urban residential lot creations by the same owner and would recommend that the subdivision planning process is the more appropriate land use planning tool for creating any further lots beyond an initial three lots permitted under Section 20.4.1 in the Penman Avenue area.

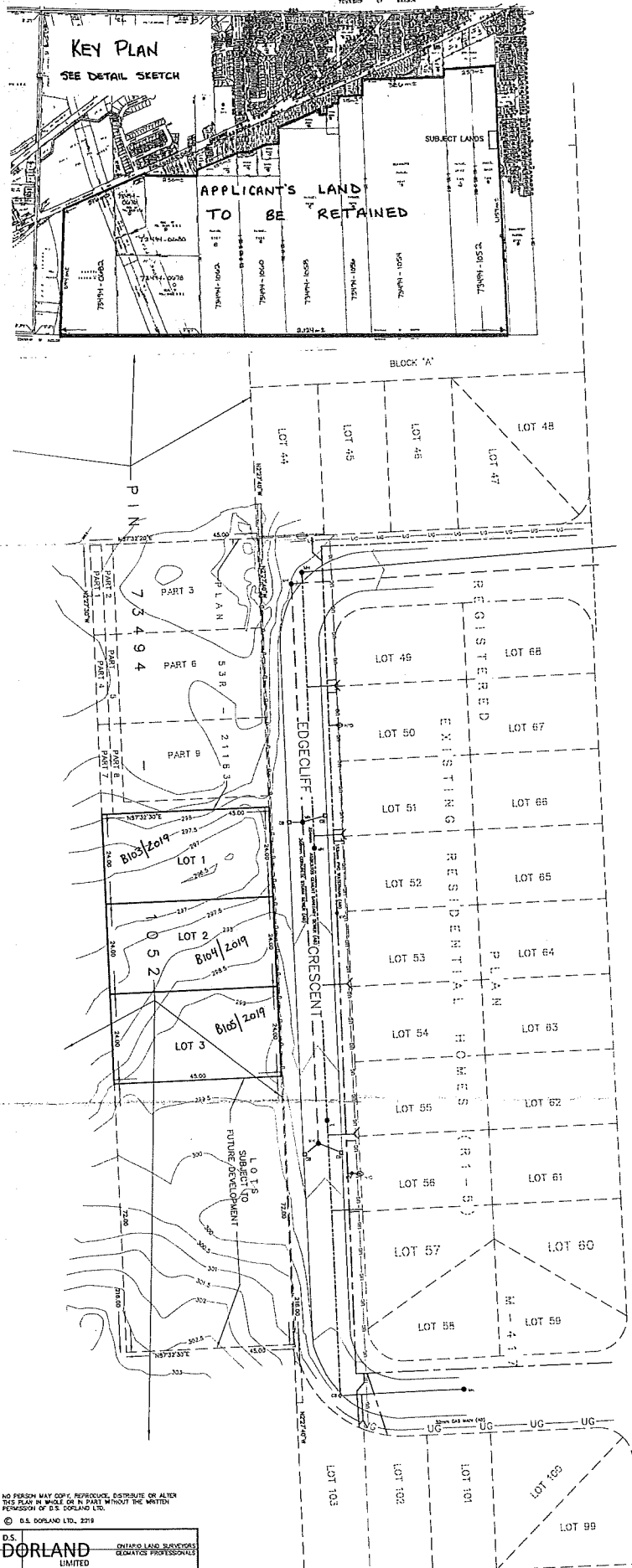
**CONCLUSION:**

Staff has reviewed and appropriately circulated the consent referral request and advises that there are a number of areas of concern relating to insufficient fire flow, lot grading, site servicing and road reconstruction after the installation of services that would prescribe the subdivision planning process as the preferred method for lot creation in this case. The insufficient fire flow issue impacts other developments in the area accessed from Penman Avenue and the utilization of the City's cost-sharing policy to address this issue is considered to be an equitable and appropriate solution for all impacted parties.

The Planning Services Division therefore recommends that the request to proceed by way of the consent process be denied and therefore that the subdivision planning process and potentially the City's cost-sharing policy be utilized to address those issues described above and in the body of this report.







**SKETCH**  
OF PROPOSED LOT CREATION BEING  
PART OF PIN 73494-1052  
BEING  
**PART OF LOT 6**  
**CONCESSION 1**  
GEOGRAPHIC  
TOWNSHIP OF GARSON  
CITY OF GREATER SUDBURY  
DISTRICT OF SUDBURY  
SCALE 1:500  
D.S. DORLAND LIMITED  
ONTARIO LAND SURVEYORS

**GENERAL LEGEND**

- CB DENOTES CATCH BASIN
- MH DENOTES MANHOLE
- HFD DENOTES FIRE HYDRANT
- WV DENOTES WATER VALVE
- G/L DENOTES UNDERGROUND GAS LINES
- (A) DENOTES AS-BUILT INFORMATION OBTAINED FROM AS-BUILT DRAWINGS
- (75) DENOTES FIELD SURVEY ELEVATION

**NOTE**  
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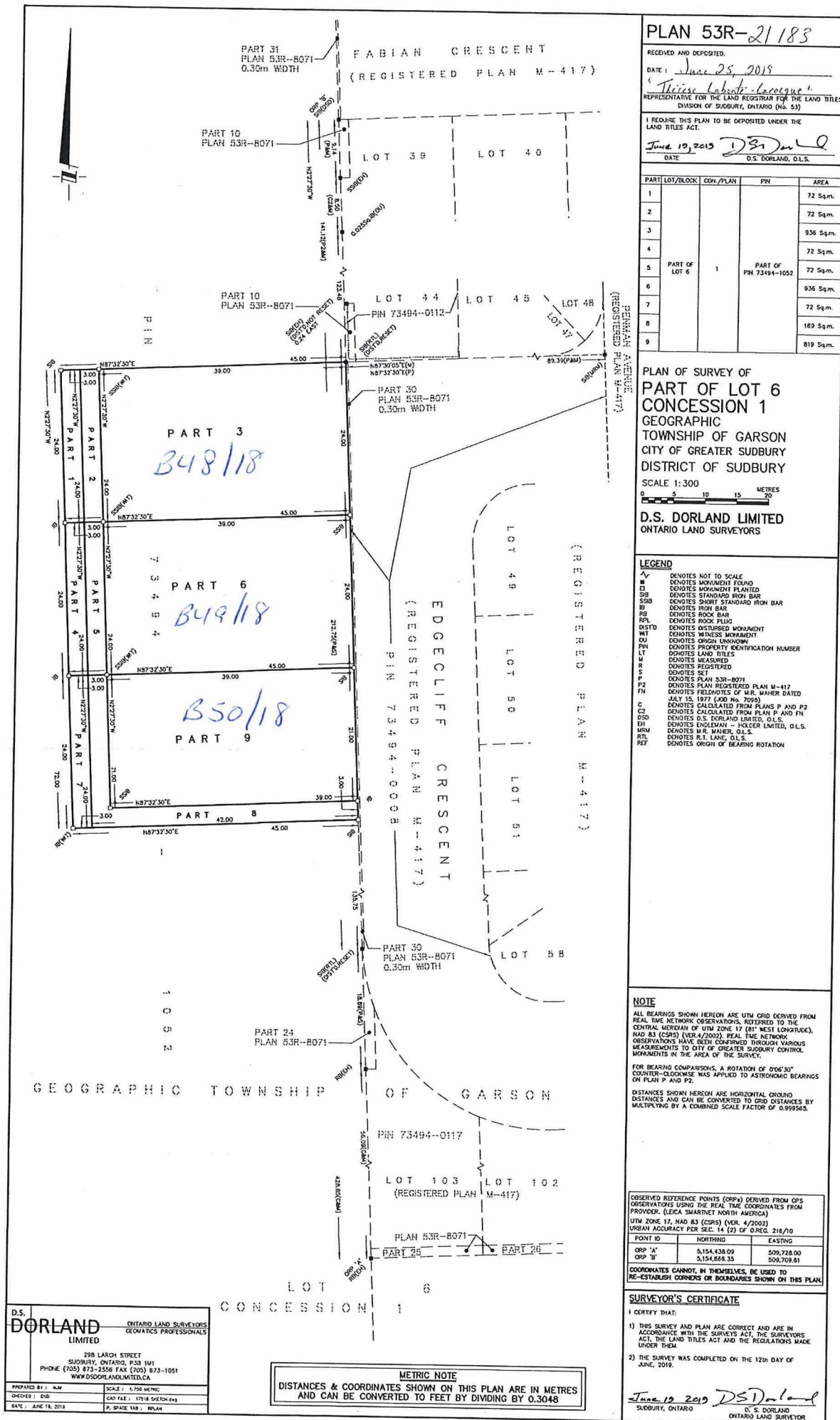
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**D.S. DORLAND LIMITED**  
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PREPARED BY: RAN  
DATE: JAN 21 2019  
SCALE: 1:500 METRIC  
EXT FILE: 775.9 5/20/19.mxd  
P. SPACE THE: 5/20/19

**METRIC NOTE**  
DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048



## Request for Decision

**Wayne & Carrie Ann MacLean - Request to extend a conditional approval on a rezoning application, 2687 Highway #144, Chelmsford**

Presented To:	Planning Committee
Presented:	Monday, Jun 08, 2020
Report Date	Friday, May 08, 2020
Type:	Routine Management Reports
File Number:	751-5/15-10

### Resolution

THAT the City of Greater Sudbury approves the application by Wayne and Carrie-Ann MacLean to extend the approval of a Zoning By-law Amendment Application, File # 751-5/15-10, on those lands described as PIN 73350-0102, Parcel 16989 SWS, Lot 6, Concession 2, Township of Broder, for a period of one year until April 25, 2021, as outlined in the report entitled "Wayne & Carrie-Ann MacLean", from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting on June 8, 2020.

### Relationship to the Strategic Plan / Health Impact Assessment

The application to extend the approval of a Zoning By-law Amendment from Council is an operational matter under the Planning Act to which the City is responding.

### Report Summary

This application reviews a request to extend the approval of a rezoning application that would recognize and permit the existing single-detached dwelling and a contractor's yard in the form of a truck and trailer haulage business where commercial vehicles are stored and parked along with related accessory buildings and structures on those lands known municipally as 2687 Highway #144 in the community of Chelmsford. The agent for the owners has advised that for personal reasons their client has not been able to pursue clearing the conditions of approval as it relates to site plan control being applicable to the lands and resolving outstanding building permit matters. The agent has also indicated that their client fully intends to pursue an application for pre-consultation to the Sudbury Planning Application Review Team (SPART) in order to proceed with and enter into a site plan control agreement with the City. The agent for the owners is also advised that outstanding building permit matters must also be addressed prior to the passing of an

#### Signed By

##### **Report Prepared By**

Glen Ferguson  
Senior Planner  
*Digitally Signed May 8, 20*

##### **Manager Review**

Alex Singbush  
Manager of Development Approvals  
*Digitally Signed May 11, 20*

##### **Recommended by the Division**

Jason Ferrigan  
Director of Planning Services  
*Digitally Signed May 11, 20*

##### **Financial Implications**

Apryl Lukezic  
Co-ordinator of Budgets  
*Digitally Signed May 15, 20*

##### **Recommended by the Department**

Tony Cecutti  
General Manager of Growth and Infrastructure  
*Digitally Signed May 21, 20*

##### **Recommended by the C.A.O.**

Ed Archer  
Chief Administrative Officer  
*Digitally Signed May 27, 20*

amending zoning by-law. The Planning Services Division is recommending that the rezoning approval be extended for a one year period until April 25, 2021.

### **Financial Implications**

The financial implications are the same as the report presented on April 10, 2017: If approved, the applicant would be required to obtain a building permit as well as incur the related development charges for the building on the property. Staff are unable to calculate the estimated development charges as related information is unavailable.

**Date: April 27, 2020**

## **STAFF REPORT**

### **Applicant:**

Wayne & Carrie-Ann MacLean

### **Location:**

PIN 73350-0102, Parcel 16989 SWS, Lot 6, Concession 2, Township of Broder (2687 Highway #144, Chelmsford)

### **Application:**

The original application for rezoning for which an second extension is being applied for sought to amend By-law 2010-100Z being the Zoning By-law for the City of Greater Sudbury by changing the zoning classification of the subject lands from "A", Agricultural to "A(S)", Agricultural Special.

### **Proposal:**

Staff received an emailed letter from the agent for the owners dated April 23, 2020, requesting that the conditional rezoning approval be extended for an additional one year until April 25, 2021. The agent for the owners has advised that they intend on continuing to work on the conditions of approval that were ratified by Council on April 25, 2017. The agent for the owners has further advised that for personal reasons their client has not been able to pursue clearing the conditions of approval as it relates to site plan control being applicable to the lands and resolving outstanding building permit matters. The agent has also indicated that their client fully intends to pursue an application for pre-consultation to the Sudbury Planning Application Review Team (SPART) in order to proceed with and enter into a site plan control agreement with the City.

There has been one previous extension to the conditional rezoning approval that has been granted. The previous extend was granted by Council on July 9, 2019. The rezoning once completed would recognize and permit the existing single-detached dwelling and a contractor's yard in the form of a truck and trailer haulage business where commercial vehicles are stored and parked along with related accessory buildings and structures on the subject lands.

### **Site Description & Surrounding Land Uses:**

The subject lands are located on the south side of Highway #144 being to the west of Joannette Road and to the east of Vermilion Lake Road in the community of Chelmsford. The lands have a total lot area of 4.03 ha (9.95 acres) with approximately 120 m (400 ft) of lot frontage onto Highway #144. The lands contain a one-storey single-detached dwelling along with a gravel surfaced parking area containing a detached garage, shed and storage trailer. The owners have indicated that the gravel surfaced parking area along with the detached garage, shed and storage trailer are being used as a contractor's yard.

Surrounding uses are primarily rural residential in nature with the predominant built-form being that of single-detached dwellings. There are also a number of large vacant rural and agricultural parcels in the immediately surrounding area. There is an existing motel on the north side of Highway #144 to the west at McKenzie Road.



Date: April 27, 2020

### Planning Considerations:

The agent for the owners originally submitted applications for Official Plan Amendment and Zoning By-law Amendment on July 2, 2015 in order to recognize and permit the existing single-detached dwelling and a contractor's yard in the form of a truck and trailer haulage business where commercial vehicles are stored and parked along with related accessory buildings and structures on the subject lands. The Official Plan Amendment (File # 701-5/15-5) application was approved by Planning Committee through recommendation PL2017-47 and ratified by Council on April 25, 2017. There are no conditions of approval needing to be satisfied as it relates to the Official Plan Amendment. Staff advises that the Official Plan Amendment will be brought forward for enactment at the same time as the amending zoning by-law.

The application for rezoning was originally approved by Planning Committee through recommendation PL2017-48 on April 10, 2017, and ratified by Council on April 25, 2017. The approval was conditional upon the owners having entered into a site plan control agreement with the City that is to be registered on-title and that the owners shall provide Building Services with a satisfactory application for a building permit as it relates to the existing detached metal-clad garage on the lands. The amending zoning by-law can only be passed once the above noted conditions are satisfied. The current request to extend the rezoning approval is the second request for an extension.

The agent for the owners has indicated that they intend on continuing to work toward satisfying the conditions of rezoning the lands and have requested a further one year extension to the rezoning approval based on those reasons noted in above in this staff report. Staff understands that the delay in clearing the conditions is related to a private family matter which prevented the owners from proceeding with the rezoning approval. Staff has reviewed the request and has no concerns with a further one year extension at this time.

A copy of both the initial [staff report](#) regarding the Official Plan Amendment and Zoning By-law Amendment applications, as well as a copy of the approved Planning Committee [minutes](#) (see Pages 3 & 4) reflecting the decision made is attached to this report for information purposes. The [staff report](#) which recommended approval of the first extension request is also attached to this report for information purposes.

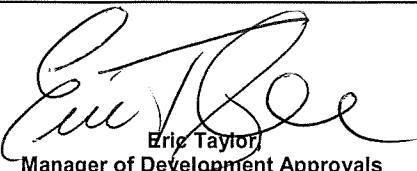
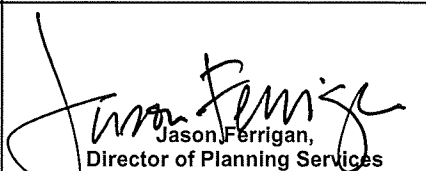
### Summary:

The agent for the owners has indicated to staff that they wish to continue pursuing the rezoning of the subject lands which would recognize and permit the existing single-detached dwelling and a contractor's yard in the form of a truck and trailer haulage business where commercial vehicles are stored and parked along with related accessory buildings and structures on the subject lands. The agent has also indicated that their client fully intends to pursue an application for pre-consultation to the Sudbury Planning Application Review Team (SPART) in order to proceed with and enter into a site plan control agreement with the City. The rezoning approval granted by Council is conditional upon the owner entering into a site plan control agreement with the City and resolving an outstanding building permit matter prior to the amending zoning by-law being enacted. Staff is supportive of and recommends approval of the request to extend the rezoning approval as it pertains to the subject lands for a period of one year until April 25, 2021.

# Request for Decision PLANNING COMMITTEE

Type of Decision					
Meeting Date	October 17, 2016			Report Date	September 20, 2016
Decision Requested	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Direction Only <input type="checkbox"/>		

Report Title
Wayne & Carrie Ann MacLean - Application for Official Plan Amendment and Rezoning in order to permit a contractor's yard, 2687 Highway 144, Chelmsford

Section Review	Division Review	Department Review
 <b>Eric Taylor</b> Manager of Development Approvals	 <b>Jason Ferrigan</b> Director of Planning Services	<b>Tony Cecutti, General Manager of Infrastructure Services</b>

Budget Impact	
<input type="checkbox"/>	This report has been reviewed by the Finance Division and the funding source has been identified.
<input type="checkbox"/>	Background Attached
Recommended by the Department	
Report Prepared By:	File #
Glen Ferguson Senior Planner	751-5/15-10 701-5/15-5

Resolution	
<b>Resolution regarding Official Plan Application:</b>  THAT the City of Greater Sudbury denies the application by Wayne and Carrie Ann MacLean to amend the Official Plan for the City of Greater Sudbury by providing for a site-specific exception to those land uses permitted within the Rural designation under Section 5.2 of the Official Plan in order to permit a contractor's yard on those lands described as PIN 73350-0102, Parcel 16989 SWS, Lot 6, Concession 2, Township of Balfour.	
X	<b>Resolution Continued</b>
Recommended by the C.A.O.	
Ed Archer Chief Administrative Officer	

Date: September 20, 2016

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Resolution Cont'd

**Resolution regarding Rezoning Application:**

THAT the City of Greater Sudbury denies the application by Wayne and Carrie Ann MacLean to amend By-law 2010-100Z being the Zoning By-law for the City of Greater Sudbury to change the zoning classification from "A", Agricultural to "A(S)", Agricultural Special in order to permit a contractor's yard as a permitted use on those lands described as PIN 73350-0102, Parcel 16989 SWS, Lot 6, Concession 2, Township of Balfour.

**STAFF REPORT****Applicant:**

Wayne &amp; Carrie Ann MacLean

**Location:**

PIN 73350-0102, Parcel 16989 SWS, Lot 6, Concession 2, Township of Balfour (2687 Highway #144, Chelmsford)

**Site Description & Surrounding Land Uses:**

The subject lands are located on the south side of Highway #144 being to the west of Joannette Road and to the east of Vermilion Lake Road in the community of Chelmsford. The lands have a total lot area of 4.03 ha (9.95 acres) with approximately 120 m (400 ft) of lot frontage onto Highway #144. The lands contain a one-storey single-detached dwelling along with a gravel surfaced parking area containing a detached garage, shed and storage trailer. The owner has indicated that the gravel surfaced parking area along with the detached garage, shed and storage trailer are being used as a contractor's yard.

Surrounding uses are primarily rural residential in nature with the predominant built-form being that of single-detached dwellings. There are also a number of large vacant rural and agricultural parcels in the immediately surrounding area. There is an existing motel on the north side of Highway #144 to the west at McKenzie Road.

**Official Plan Conformity & Zoning By-law:**Official Plan

The subject lands are designated Rural in the Official Plan for the City of Greater Sudbury. Permitted uses in the Rural designation include residential uses, agricultural uses, conservation, open space and natural resource management activities, mineral exploration, rural industrial/commercial uses, resort and shoreline commercial uses and public uses including hydroelectric generation and associated facilities. Section 5.2.5 outlines that some limited rural industrial/commercial uses are permitted in the Rural land use designation:

1. Rural industrial/commercial uses are generally resource-based and may include agriculture, dry industrial/commercial uses and forestry;
2. Rural industrial/commercial uses are to be located with adequate separation distances to residential areas and provide proper buffering and landscaping along Arterial Road frontages;

Date: September 20, 2016

3. Entrances are restricted to Secondary Arterial and Local Roads and no temporary structures, outside storage or sales displays are to be visible from the frontage of abutting roads. All such development is subject to rezoning and site plan control; and,
4. New resource-related industries should not impact the natural resource base. Rural industrial/commercial uses must generate limited amounts of wastewater and minimize land use conflicts.

The application does not conform to the Official Plan for the City of Greater Sudbury based on the review of the above noted land use planning considerations provided later in this report.

#### Zoning By-law

The subject lands are zoned "A", Agricultural under By-law 2010-100Z being the Zoning By-law for the City of Greater Sudbury. Residential uses permitted in the "A" Zone include a single-detached dwelling, mobile home dwelling, bed and breakfast, group home type 1 and a private home daycare. Non-residential uses permitted in the "A" Zone include an agricultural use, animal shelter, forestry use, garden nursery, kennel, public utility and a veterinary clinic.

#### **Applications:**

1. To amend the Official Plan for the City of Greater Sudbury by providing for a site-specific exception to those land uses permitted within the Rural designation under Section 5.2 of the Official Plan in order to permit a contractor's yard on the subject lands; and,
2. To amend By-law 2010-100Z being the Zoning By-law for the City of Greater Sudbury by changing the zone classification of the subject lands from "A", Agricultural to "A(S)", Agricultural Special.

#### **Proposal:**

The applications would together permit the operation of a contractor's yard on the subject lands. The lands also will continue to contain a one-storey single-detached residential dwelling.

#### **Departmental & Agency Circulation:**

The Drainage Section, the Ministry of Transportation, Nickel District Conservation Authority, Roads, Traffic and Transportation have advised that they have no concerns from their respective areas of interest.

Building Services has noted they have no record of a building permit for the detached garage and that appropriate landscaping is to be provided between the contractor's yard and the abutting residential lots. Development Engineering has noted that municipal water is available in this location but sanitary sewer is not available. Their preliminary assessment of the municipal water system in this location shows a lack of fire flow to support the proposed use. It is recommended that site plan control be applied to address this issue.

#### **Public Consultation:**

The statutory notice of the public hearing was provided by newspaper along with a courtesy mail-out to landowners and tenants within a minimum of 244 m (800 ft) of the subject lands. The applicant was advised of the City's policy recommending that applicants consult with their neighbours, ward councilor and key stakeholders to inform area residents of the application prior to the public hearing. At the time of writing this report, several phone calls and one written submission with respect to this application have been received by the Planning Services Division.

Date: September 20, 2016

## Planning Considerations:

### Background

By-law Enforcement Services has previously issued an order on the subject lands in relation to the operation of a contractor's yard on the subject lands. The Ontario Court of Justice issued an order on July 3, 2015 requiring that the owner of the lands immediately make necessary land use planning applications to the City of Greater Sudbury in order to permit said contractor's yard on the lands. Further to this, the order included instruction that the contractor's yard use is to cease should the applications be denied by the City. The applications were filed with the City prior to the issuance of the above noted order on July 2, 2015 and were deemed complete on July 27, 2016.

### Provincial Policy Statement

Municipalities in the Province of Ontario are required under Section 3 of the Planning Act to ensure that decisions affecting land use planning matters are consistent with the Provincial Policy Statement (PPS). The proposed Official Plan Amendment and rezoning is not consistent with the PPS for the following reasons:

1. On rural lands, permitted uses are to be limited to management or use of resources, resource-based recreational uses, limited residential development, home occupation and home industries, cemeteries and other rural land uses. Staff would advise that a contractor's yard as proposed in the subject applications is not a permitted use on rural lands and is therefore contrary to a key rural land use planning principle established in the PPS;
2. Opportunities to support a diversified rural economy should be promoted by protecting agricultural and other resource-related uses and directing non-related development to areas where it will minimize constraints on these uses. Staff note that a contractor's yard is not directly related to agricultural and other resource-based uses and accordingly should be directed to employment areas in the City which permit industrial uses such as a contractor's yard; and,
3. Municipalities are required to promote economic development and competitiveness by providing for an appropriate mix and range of employment and institutional uses to meet longer term needs. There are several land use designations in the Official Plan which permit industrial uses such as a contractor's yard and the proposed use would more appropriately be located inside an identified employment area designation.

### Official Plan

With respect to Rural land use designation policies, staff has the following comments:

1. Staff is of the opinion that a contractor's yard as is being proposed in the Rural land use designation is not an appropriate rural industrial/commercial use, as it is not resource-based and does not directly serve permitted rural land uses under the Official Plan;
2. There are a number of rural residential land uses in the immediate area which could be adversely impacted should a contractor's yard be permitted in this location. Staff also notes that no buffering or landscaping exists currently along Highway #144 which would screen or appropriately separate the contractor's yard from abutting lots which are or could be used for rural residential purposes. The land use being proposed would more appropriately be directed to Employment Area designations such as the General Industrial land use designation;



Date: September 20, 2016

3. Entrances for rural industrial/commercial uses are to be restricted to Secondary Arterial and Local Roads as identified on Schedule 6 – Transportation Network of the Official Plan. The contractor's yard would not be accessed from a Secondary Arterial or Local Road but rather from a Provincial Highway. Staff also noted on recent site visits to the lands that there are temporary structures in the form of a storage trailer, as well as a fabric shelter attached to the detached garage on the lands. Outdoor storage is also taking place on the lands. Staff advises that the contractor's yard in this setting is not an appropriate rural industrial/commercial use within the Rural land use designation; and
4. Staff is generally concerned with land use planning conflicts between abutting rural land uses and the proposed contractor's yard and would advise that such a use be directed toward employment areas which would permit a contractor's yard in the Official Plan.

#### Zoning By-law

The applicant is requesting that the subject lands be rezoned from "A", Agricultural to "A(S)", Agricultural Special in order to permit a contractor's yard on the subject lands. Staff has reviewed the request and does not support the rezoning on the basis that a contractor's yard does not conform to the Rural policies of the Official Plan with respect to rural industrial/commercial land uses.

#### **Summary:**

Staff does not support the Official Plan Amendment and Zoning By-law Amendment applications. The proposed contractor's yard is not consistent with the Provincial Policy Statement with respect to development in rural areas and the proposed use is not in conformity with the Rural land use designation policies of the Official Plan for the City of Greater Sudbury. There is no land use planning rationale for amending the Official Plan and Zoning By-law in order to allow for a contractor's yard in this location and the development proposal does not represent good rural land use planning.

The Planning Services Division therefore recommends that the applications to amend the Official Plan and Zoning By-law 2010-100Z in order to permit a contractor's yard as a permitted use on the subject lands be denied.

## Appendix 1: Comments from circulated agencies and departments

### **Building Services**

Building Services has the following comments prior to the passing of the amending by-law:

1. We have no record of a building permit for the metal clad garage, therefore a building permit is required.
2. A 5 m planting strip is required between a contractor's yard and a residential lot.

### **Development Engineering**

Municipal water is available within the Highway 144 right-of-way. Sanitary sewer is not available. A preliminary assessment of the municipal water system at this location shows a lack of available fire flow to support the proposed use. Should this application be approved, we ask for it to proceed under Site Plan Control. The Site Plan Control Agreement would address such things as providing alternate sources of water for fire suppression.

**SUBJECT  
PROPERTY**

RU

LOT 6  
CON 3

LOT 5  
CON 3

C2(15)  
1977

2592

2730

2840

144

2697

2719

2759

2799

2803

2809

LOT 6  
CON 2

LOT 5  
CON 2

A

**SUBJECT  
PROPERTY**

McKenzie

Marion

Omer  
Rita

Aurore

Leroux

Joanette

Bradley

144

Nickel Basin  
Vermilion Lake

## Growth and Development Department



Subject Property being PIN 73350-0102,  
Pcl. 16989 SWS, Lot 6, Con. 2, Twp. of  
Balfour, 2687 Highway 144, Chelmsford,  
City of Greater Sudbury

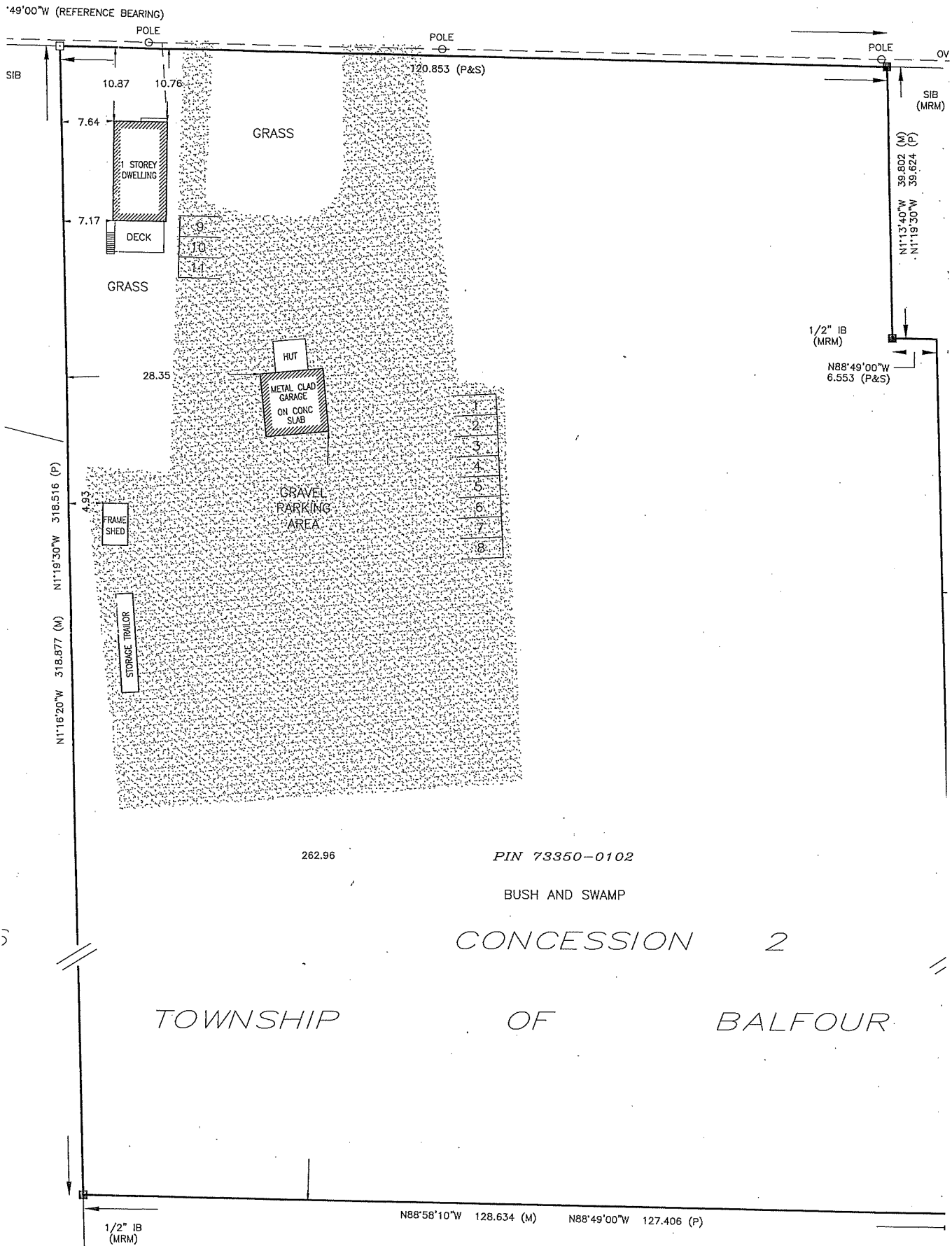
NTS

Sketch 1

751-5/15-10 & 701-5/15-05

Date: 2015 07-08

# HIGHWAY No 144 PIN 73350-0516



PIN 73350-0005



PHOTO 1 EXISTING SINGLE DETACHED DWELLING ON THE SUBJECT LANDS WITH EXISTING CONTRACTOR'S YARD AS VIEWED FROM HIGHWAY 144 LOOKING SOUTH



PHOTO 2 EXISTING CONTRACTOR'S YARD ON THE SUBJECT LANDS LOOKING SOUTH FROM HIGHWAY 144

751-5/15-10 & 701-5/15-5  
PHOTOGRAPHY JULY 10, 2016





PHOTO 3 EXISTING DETACHED GARAGE, SHED, STORAGE TRAILER  
AND OUTDOOR STORAGE ON THE SUBJECT LANDS

751-5/15-10 & 701-5/15-5  
PHOTOGRAPHY JULY 10, 2016

RECEIVED

AUG 17 2016

PLANNING SERVICES

August 10, 2016

Planning Services Division

Box 5000, Station A

Sudbury, Ontario

P3A 5P3

RE: 2687 Highway 144- Chelmsford Zoning Change

Dear Mr. Eric Taylor,

As per the notice sent July 27, 2016, in regards to the application for a zoning change, I am writing to share my concerns as a resident of the area. I currently own the land located at 2730 Highway 144, nearly across the street from this property.

As we live in a rural area, it is not uncommon for residents to have various trucks, tractors and other heavy machinery to tend to their land as they generally consist of significant parcels of land in regards to acreage. These items are almost required to properly work the land and keep it livable for generations to come.

As a resident in the area, I as well as many others require these items and requiring zoning changes causes a financial hardship to what may be a family that has lived many generations on these parcels of land. If you begin to require every resident in the area to change their zoning to simply live within the means they possess is unfair.

Though generating a great revenue for the City of Greater Sudbury, this can leave simple farmers, workers and other residents without the means to survive. I am hoping that if this zoning change is required for one, you will look at the overall impact on the area and consider zoning all others in the area in the same manner to ensure residents aren't dealing with complaints in regard to their vehicle/machinery requirements.



Regards,

Richard Thibert

# Request for Decision PLANNING COMMITTEE

Type of Decision					
Meeting Date	May 27, 2019			Report Date	April 9, 2019
Decision Requested	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Direction Only <input type="checkbox"/>		

Report Title
Wayne & Carrie-Ann MacLean – Request to extend a conditional approval on a rezoning application, 2687 Highway #144, Chelmsford

Section Review	Division Review	Department Review
 Alex Singbush, Manager of Development Approvals	 Jason Ferrigan, Director of Planning Services	Tony Cecutti, General Manager of Infrastructure Services

Budget Impact	
<input type="checkbox"/>	This report has been reviewed by the Finance Division and the funding source has been identified.
<input type="checkbox"/>	Background Attached
Recommended by the Department	
Report Prepared By:	File #
Glen Ferguson Senior Planner	751-5/15-10

Resolution	
THAT the City of Greater Sudbury approves the application by Wayne and Carrie-Ann MacLean to extend the approval of a Zoning By-law Amendment Application, File # 751-5/15-10, on those lands described as PIN 73350-0102, Parcel 16989 SWS, Lot 6, Concession 2, Township of Balfour, for a period of one year until April 25, 2020, as outlined in the report entitled "Wayne & Carrie-Ann MacLean" from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting of May 27, 2019.	
X	Resolution Continued
Recommended by the C.A.O.	
Ed Archer Chief Administrative Officer	

Date: January 9, 2019

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**Relationship to the Strategic Plan/Health Impact Assessment:**

The application to extend the approval of a Zoning By-law Amendment from Council is an operational matter under the Planning Act to which the City is responding.

**Report Summary:**

This application reviews a request to extend the approval of a rezoning application that would recognize and permit the existing single-detached dwelling and a contractor's yard in the form of a truck and trailer haulage business where commercial vehicles are stored and parked along with related accessory buildings and structures on those lands known municipally as 2687 Highway #144 in the community of Chelmsford. The agent for the owners has advised that they continue to pursue clearing the conditions of approval as it relates to site plan control being applicable to the lands and resolving outstanding building permit matters. The Planning Services Division is recommending that the rezoning approval be extended for a one year period until April 25, 2020.

**Date: January 9, 2019**

**STAFF REPORT**

**Applicant:**

Wayne & Carrie-Ann MacLean

**Location:**

PIN 73350-0102, Parcel 16989 SWS, Lot 6, Concession 2, Township of Balfour (2687 Highway #144, Chelmsford)

**Application:**

The original application for rezoning for which an extension is being applied for sought to amend By-law 2010-100Z being the Zoning By-law for the City of Greater Sudbury by changing the zoning classification of the subject lands from "A", Agricultural to "A(S)", Agricultural Special.

**Proposal:**

Staff received a letter from the agent for the owners dated April 5, 2019, requesting that the approval be extended for an additional one year until April 25, 2020. The agent for the owners has advised that they continue to work on the conditions of approval that were ratified by Council on April 25, 2017. No previous extensions to the rezoning approval have been granted. The rezoning once completed would recognize and permit the existing single-detached dwelling and a contractor's yard in the form of a truck and trailer haulage business where commercial vehicles are stored and parked along with related accessory buildings and structures on the subject lands.

**Site Description & Surrounding Land Uses:**

The subject lands are located on the south side of Highway #144 being to the west of Joannette Road and to the east of Vermilion Lake Road in the community of Chelmsford. The lands have a total lot area of 4.03 ha (9.95 acres) with approximately 120 m (400 ft) of lot frontage onto Highway #144. The lands contain a one-storey single-detached dwelling along with a gravel surfaced parking area containing a detached garage, shed and storage trailer. The owners have indicated that the gravel surfaced parking area along with the detached garage, shed and storage trailer are being used as a contractor's yard.

Surrounding uses are primarily rural residential in nature with the predominant built-form being that of single-detached dwellings. There are also a number of large vacant rural and agricultural parcels in the immediately surrounding area. There is an existing motel on the north side of Highway #144 to the west at McKenzie Road.

**Planning Considerations:**

The agent for the owners originally submitted applications for Official Plan Amendment and Zoning By-law Amendment on July 2, 2015 in order to recognize and permit the existing single-detached dwelling and a contractor's yard in the form of a truck and trailer haulage business where commercial vehicles are stored and parked along with related accessory buildings and structures on the subject lands. The Official Plan Amendment (File # 701-5/15-5) application was approved by Planning Committee through recommendation PL2017-47 and ratified by Council on April 25, 2017. There are no conditions of approval needing to be satisfied as it relates to the Official Plan Amendment. Staff advises that the Official Plan Amendment will be brought forward for enactment at the same time as the amending zoning by-law.



Date: January 9, 2019

The application for rezoning was originally approved by Planning Committee through recommendation PL2017-48 on April 10, 2017, and ratified by Council on April 25, 2017. The approval was conditional upon the owners having entered into a site plan control agreement with the City that is to be registered on-title and that the owners shall provide Building Services with a satisfactory application for a building permit as it relates to the existing detached metal-clad garage on the lands. The amending zoning by-law can only be passed once the above noted conditions are satisfied. The current request to extend the rezoning approval is the first request for an extension.

The agent for the owners has indicated that they continue to work toward satisfying the conditions of rezoning the lands and have requested a one year extension to the rezoning approval. Staff understands that the delay in clearing the conditions is related to a private family matter which prevented the owners from proceeding with the rezoning approval. Staff has reviewed the request and has no concerns with a one year extension at this time.

A copy of both the initial staff report regarding the Official Plan Amendment and Zoning By-law Amendment applications, as well as a copy of the approved Planning Committee minutes (see Pages 3 & 4) reflecting the decision made is attached to this report for information purposes.

### **Summary:**

The agent for the owners has indicated to staff that they wish to continue pursuing the rezoning of the subject lands which would recognize and permit the existing single-detached dwelling and a contractor's yard in the form of a truck and trailer haulage business where commercial vehicles are stored and parked along with related accessory buildings and structures on the subject lands. The rezoning approval granted by Council is conditional upon the owner entering into a site plan control agreement with the City and resolving an outstanding building permit matter prior to the amending zoning by-law being enacted. Staff is supportive of and recommends approval of the request to extend the rezoning approval as it pertains to the subject lands for a period of one year until April 25, 2020.

## Request for Decision

**Wayne & Carrie Ann MacLean - Application for Official Plan Amendment and Rezoning in order to permit a contractor's yard, 2687 Highway 144, Chelmsford**

Presented To: Planning Committee

Presented: Monday, Apr 10, 2017

Report Date Tuesday, Mar 21, 2017

Type: Public Hearings

File Number: 751-5/15-10 &  
701-5/15-5

### Resolution

Resolution regarding Official Plan Application:

THAT the City of Greater Sudbury denies the application by Wayne and Carrie Ann MacLean to amend the Official Plan for the City of Greater Sudbury by providing for a site-specific exception to those land uses permitted within the Rural designation under Section 5.2 of the Official Plan in order to permit a contractor's yard on those lands described as PIN 73350-0102, Parcel 16989 SWS, Lot 6, Concession 2, Township of Balfour.

Resolution regarding Rezoning Application:

THAT the City of Greater Sudbury denies the application by Wayne and Carrie Ann MacLean to amend Zoning By-law 2010-100Z to change the zoning classification from "A", Agricultural to "A(S)", Agricultural Special in order to permit a contractor's yard as a permitted use on those lands described as PIN 73350-0102, Parcel 16989 SWS, Lot 6, Concession 2, Township of Balfour.

### Finance Implications

If approved, the applicant would be required to obtain a building permit as well as incur the related development charges for the building on the property. Staff are unable to calculate the estimated development charges as related information is unavailable.

### STAFF REPORT

#### Applicant:

Wayne & Carrie Ann MacLean

#### Location:

#### Signed By

##### Report Prepared By

Glen Ferguson  
Senior Planner  
*Digitally Signed Mar 21, 17*

##### Reviewed By

Eric Taylor  
Manager of Development Approvals  
*Digitally Signed Mar 21, 17*

##### Recommended by the Division

Jason Ferrigan  
Director of Planning  
*Digitally Signed Mar 21, 17*

##### Recommended by the Department

Tony Cecutti  
General Manager of Growth and Infrastructure  
*Digitally Signed Mar 21, 17*

##### Recommended by the C.A.O.

Ed Archer  
Chief Administrative Officer  
*Digitally Signed Mar 27, 17*

PIN 73350-0102, Parcel 16989 SWS, Lot 6, Concession 2, Township of Balfour (2687 Highway #144, Chelmsford)

### **Site Description & Surrounding Land Uses:**

The subject lands are located on the south side of Highway #144 being to the west of Joannette Road and to the east of Vermilion Lake Road in the community of Chelmsford. The lands have a total lot area of 4.03 ha (9.95 acres) with approximately 120 m (400 ft) of lot frontage onto Highway #144. The lands contain a one-storey single-detached dwelling along with a gravel surfaced parking area containing a detached garage, shed and storage trailer. The owner has indicated that the gravel surfaced parking area along with the detached garage, shed and storage trailer are being used as a contractor's yard.

Surrounding uses are primarily rural residential in nature with the predominant built-form being that of single-detached dwellings. There are also a number of large vacant rural and agricultural parcels in the immediately surrounding area. There is an existing motel on the north side of Highway #144 to the west at McKenzie Road.

### **Official Plan Conformity & Zoning By-law:**

#### Official Plan

The subject lands are designated Rural in the Official Plan for the City of Greater Sudbury. Permitted uses in the Rural designation include residential uses, agricultural uses, conservation, open space and natural resource management activities, mineral exploration, rural industrial/commercial uses, resort and shoreline commercial uses and public uses including hydroelectric generation and associated facilities.

Section 5.2.5 outlines that some limited rural industrial/commercial uses are permitted in the Rural land use designation:

1. Rural industrial/commercial uses are generally resource-based and may include agriculture, dry industrial/commercial uses and forestry;
2. Rural industrial/commercial uses are to be located with adequate separation distances to residential areas and provide proper buffering and landscaping along Arterial Road frontages;
3. Entrances are restricted to Secondary Arterial and Local Roads and no temporary structures, outside storage or sales displays are to be visible from the frontage of abutting roads. All such development is subject to rezoning and site plan control; and,
4. New resource-related industries should not impact the natural resource base. Rural industrial/commercial uses must generate limited amounts of wastewater and minimize land use conflicts.

The application does not conform to the Official Plan for the City of Greater Sudbury based on the review of the above noted land use planning considerations provided later in this report.

#### Zoning By-law

The subject lands are zoned "A", Agricultural under By-law 2010-100Z being the Zoning By-law for the City of Greater Sudbury. Residential uses permitted in the "A" Zone include a single-detached dwelling, mobile home dwelling, bed and breakfast, group home type 1 and a private home daycare. Non-residential uses permitted in the "A" Zone include an agricultural use, animal shelter, forestry use, garden nursery, kennel, public utility and a veterinary clinic.

### **Applications:**

1. To amend the Official Plan for the City of Greater Sudbury by providing for a site-specific exception to

- planning principle established in the PPS;
2. Opportunities to support a diversified rural economy should be promoted by protecting agricultural and other resource-related uses and directing non-related development to areas where it will minimize constraints on these uses. Staff note that a contractor's yard is not directly related to agricultural and other resource-based uses and accordingly should be directed to employment areas in the City which permit industrial uses such as a contractor's yard; and,
  3. Municipalities are required to promote economic development and competitiveness by providing for an appropriate mix and range of employment and institutional uses to meet longer term needs. There are several land use designations in the Official Plan which permit industrial uses such as a contractor's yard and the proposed use would more appropriately be located inside an identified employment area designation.

### Official Plan

With respect to Rural land use designation policies, staff has the following comments:

1. Staff is of the opinion that a contractor's yard as is being proposed in the Rural land use designation is not an appropriate rural industrial/commercial use, as it is not resource-based and does not directly serve permitted rural land uses under the Official Plan;
2. There are a number of rural residential land uses in the immediate area which could be adversely impacted should a contractor's yard be permitted in this location. Staff also notes that no buffering or landscaping exists currently along Highway #144 which would screen or appropriately separate the contractor's yard from abutting lots which are or could be used for rural residential purposes. The land use being proposed would more appropriately be directed to Employment Area designations such as the General Industrial land use designation;
3. Entrances for rural industrial/commercial uses are to be restricted to Secondary Arterial and Local Roads as identified on Schedule 6 – Transportation Network of the Official Plan. The contractor's yard would not be accessed from a Secondary Arterial or Local Road but rather from a Provincial Highway. Staff also noted on recent site visits to the lands that there are temporary structures in the form of a storage trailer, as well as a fabric shelter attached to the detached garage on the lands. Outdoor storage is also taking place on the lands. Staff advises that the contractor's yard in this setting is not an appropriate rural industrial/commercial use within the Rural land use designation; and
4. Staff is generally concerned with land use planning conflicts between abutting rural land uses and the proposed contractor's yard and would advise that such a use be directed toward employment areas which would permit a contractor's yard in the Official Plan.

### Zoning By-law

The applicant is requesting that the subject lands be rezoned from "A", Agricultural to "A(S)", Agricultural Special in order to permit a contractor's yard on the subject lands. Staff has reviewed the request and does not support the rezoning on the basis that a contractor's yard does not conform to the Rural policies of the Official Plan with respect to rural industrial/commercial land uses.

### **Summary:**

Staff does not support the Official Plan Amendment and Zoning By-law Amendment applications. The proposed contractor's yard is not consistent with the Provincial Policy Statement with respect to development in rural areas and the proposed use is not in conformity with the Rural land use designation policies of the Official Plan for the City of Greater Sudbury. There is no land use planning rationale for amending the Official Plan and Zoning By-law in order to allow for a contractor's yard in this location and the development proposal does not represent good rural land use planning.

The Planning Services Division therefore recommends that the applications to amend the Official Plan and

- those land uses permitted within the Rural designation under Section 5.2 of the Official Plan in order to permit a contractor's yard on the subject lands; and,
2. To amend By-law 2010-100Z being the Zoning By-law for the City of Greater Sudbury by changing the zone classification of the subject lands from "A", Agricultural to "A(S)", Agricultural Special.

**Proposal:**

The applications would together permit the operation of a contractor's yard on the subject lands. The lands also will continue to contain a one-storey single-detached residential dwelling.

**Departmental & Agency Circulation:**

The Drainage Section, the Ministry of Transportation, Nickel District Conservation Authority, Roads, Traffic and Transportation have advised that they have no concerns from their respective areas of interest.

Building Services has noted they have no record of a building permit for the detached garage and that appropriate landscaping is to be provided between the contractor's yard and the abutting residential lots.

Development Engineering has noted that municipal water is available in this location but sanitary sewer is not available. Their preliminary assessment of the municipal water system in this location shows a lack of fire flow to support the proposed use. It is recommended that site plan control be applied to address this issue.

**Public Consultation:**

The statutory notice of the public hearing was provided by newspaper along with a courtesy mail-out to landowners and tenants within a minimum of 244 m (800 ft) of the subject lands. The applicant was advised of the City's policy recommending that applicants consult with their neighbours, ward councilor and key stakeholders to inform area residents of the application prior to the public hearing. At the time of writing this report, several phone calls and one written submission with respect to this application have been received by the Planning Services Division.

**Planning Considerations:**

Background

By-law Enforcement Services has previously issued an order on the subject lands in relation to the operation of a contractor's yard on the subject lands. The Ontario Court of Justice issued an order on July 3, 2015 requiring that the owner of the lands immediately make necessary land use planning applications to the City of Greater Sudbury in order to permit said contractor's yard on the lands. Further to this, the order included instruction that the contractor's yard use is to cease should the applications be denied by the City. The applications were filed with the City prior to the issuance of the above noted order on July 2, 2015 and were deemed complete on July 27, 2016.

Provincial Policy Statement

Municipalities in the Province of Ontario are required under Section 3 of the Planning Act to ensure that decisions affecting land use planning matters are consistent with the Provincial Policy Statement (PPS). The proposed Official Plan Amendment and rezoning is not consistent with the PPS for the following reasons:

1. On rural lands, permitted uses are to be limited to management or use of resources, resource-based recreational uses, limited residential development, home occupation and home industries, cemeteries and other rural land uses. Staff would advise that a contractor's yard as proposed in the subject applications is not a permitted use on rural lands and is therefore contrary to a key rural land use



# Appendix 1

## Departmental & Agency Comments

**File:** 751-5/15-10 & 701-5/15-5

**RE:** Application for Rezoning & Official Plan Amendment  
Wayne & Carrie Ann MacLean  
PIN 73350-0102, Parcel 16989 SWS, Lot 6, Concession 2, Township of Balfour  
2687 Highway 144, Chelmsford

---

### **Building Services**

Building Services has the following comments prior to the passing of the amending by-law:

1. We have no record of a building permit for the metal clad garage, therefore a building permit is required.
2. A 5 m planting strip is required between a contractor's yard and a residential lot.

### **Development Engineering**

Municipal water is available within the Highway 144 right-of-way. Sanitary sewer is not available. A preliminary assessment of the municipal water system at this location shows a lack of available fire flow to support the proposed use. Should this application be approved, we ask for it to proceed under Site Plan Control. The Site Plan Control Agreement would address such things as providing alternate sources of water for fire suppression.

Zoning By-law 2010-100Z in order to permit a contractor's yard as a permitted use on the subject lands be denied.

**SUBJECT  
PROPERTY**

RU

LOT 6  
CON 3

LOT 5  
CON 3

C2(15)  
1977

2592

2730

2840

144

2697

2719

2759

2799

2803

2809

LOT 6  
CON 2

LOT 5  
CON 2

A

**SUBJECT  
PROPERTY**

McKenzie

Vermilion Lake  
Nickel Basin

144

Joanette

Aurore

Marion  
Omer  
Rita  
Leroux

Bradley

## Growth and Development Department



Subject Property being PIN 73350-0102,  
Pcl. 16989 SWS, Lot 6, Con. 2, Twp. of  
Balfour, 2687 Highway 144, Chelmsford,  
City of Greater Sudbury

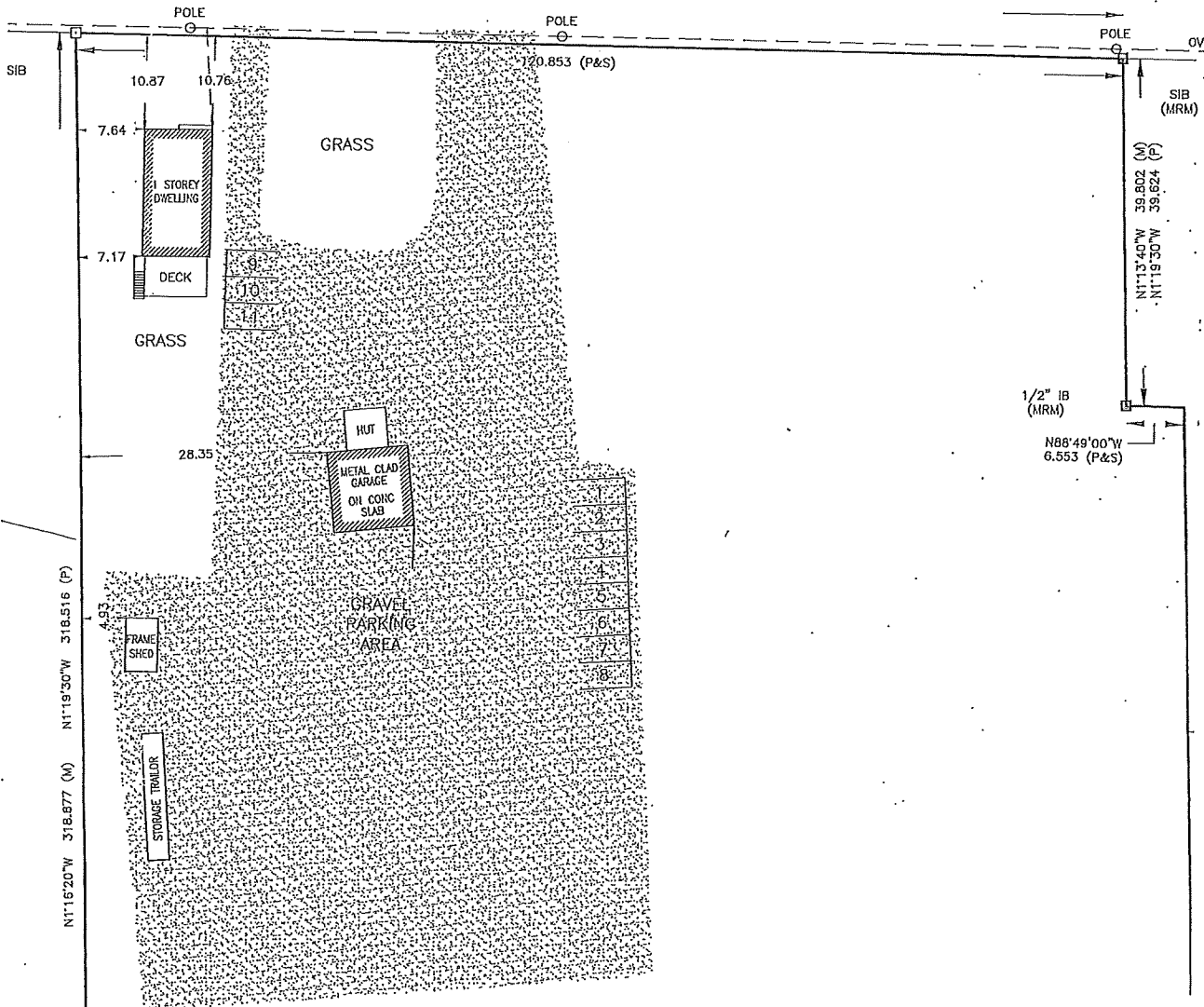
NTS  
Sketch 1

751-5/15-10 & 701-5/15-05  
Date: 2015 07 08

# HIGHWAY No 144

PIN 73350-0516

49°00'W (REFERENCE BEARING)



262.96

PIN 73350-0102

BUSH AND SWAMP

CONCESSION 2

TOWNSHIP OF BALFOUR

1/2" IB (MRM)

N88°58'10"W 128.634 (M) N88°49'00"W 127.406 (P)

PIN 73350-0005

BORTOLUSSI  
SURVEYING LTD.

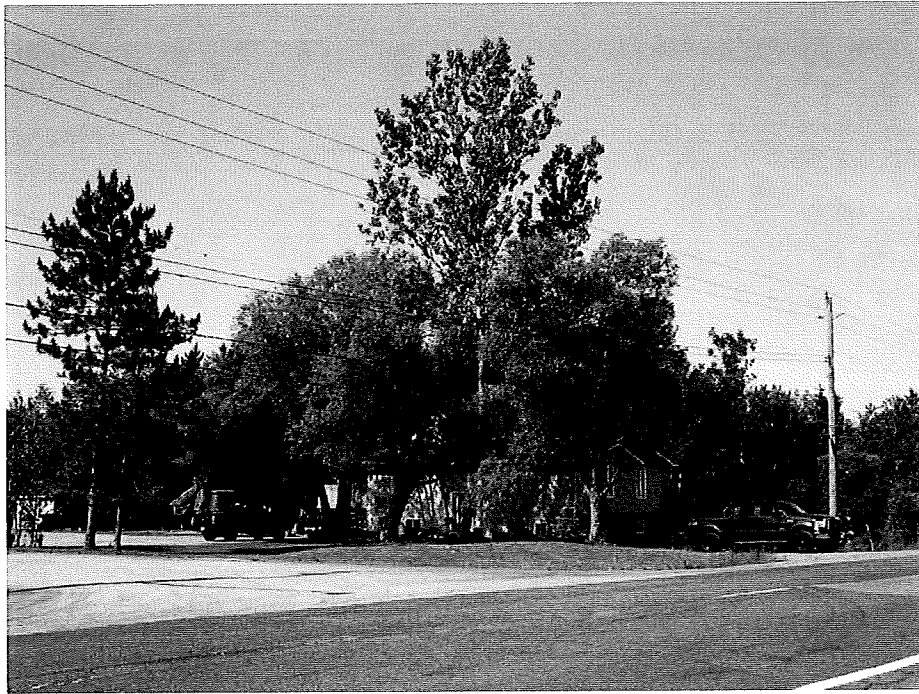


PHOTO 1 EXISTING SINGLE DETACHED DWELLING ON THE SUBJECT LANDS WITH EXISTING CONTRACTOR'S YARD AS VIEWED FROM HIGHWAY 144 LOOKING SOUTH



PHOTO 2 EXISTING CONTRACTOR'S YARD ON THE SUBJECT LANDS LOOKING SOUTH FROM HIGHWAY 144

751-5/15-10 & 701-5/15-5  
PHOTOGRAPHY JULY 10, 2016



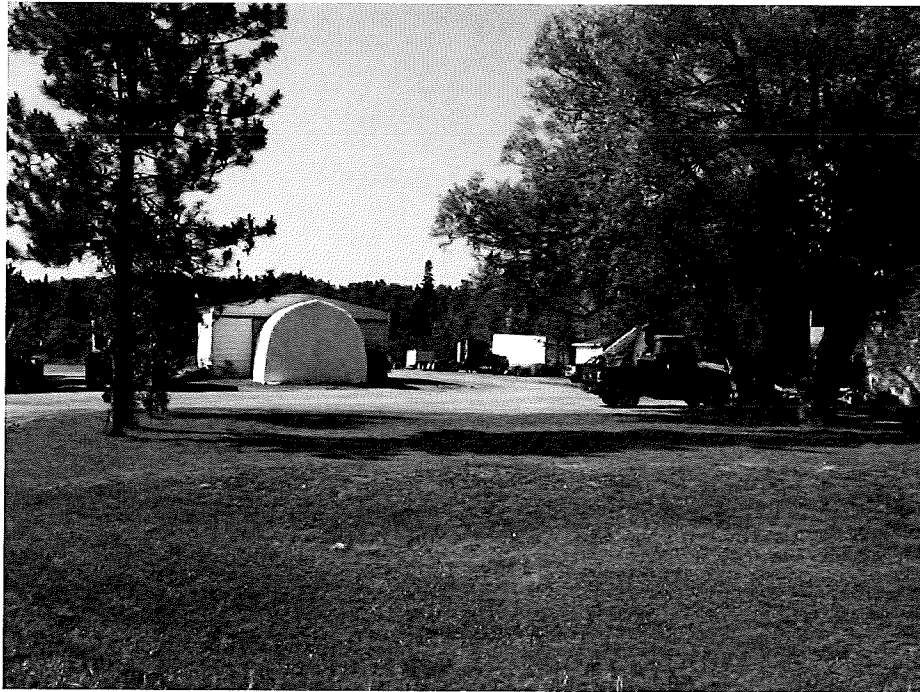


PHOTO 3 EXISTING DETACHED GARAGE, SHED, STORAGE TRAILER  
AND OUTDOOR STORAGE ON THE SUBJECT LANDS

751-5/15-10 & 701-5/15-5  
PHOTOGRAPHY JULY 10, 2016

RECEIVED

AUG 17 2016

PLANNING SERVICES TO

August 10, 2016

Planning Services Division

Box 5000, Station A

Sudbury, Ontario

P3A 5P3

RE: 2687 Highway 144- Chelmsford Zoning Change

Dear Mr. Eric Taylor,

As per the notice sent July 27, 2016, in regards to the application for a zoning change, I am writing to share my concerns as a resident of the area. I currently own the land located at 2730 Highway 144, nearly across the street from this property.

As we live in a rural area, it is not uncommon for residents to have various trucks, tractors and other heavy machinery to tend to their land as they generally consist of significant parcels of land in regards to acreage. These items are almost required to properly work the land and keep it livable for generations to come.

As a resident in the area, I as well as many others require these items and requiring zoning changes causes a financial hardship to what may be a family that has lived many generations on these parcels of land. If you begin to require every resident in the area to change their zoning to simply live within the means they possess is unfair.

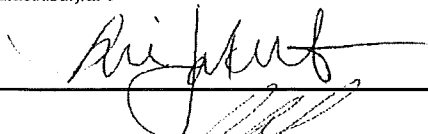
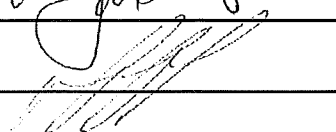
Though generating a great revenue for the City of Greater Sudbury, this can leave simple farmers, workers and other residents without the means to survive. I am hoping that if this zoning change is required for one, you will look at the overall impact on the area and consider zoning all others in the area in the same manner to ensure residents aren't dealing with complaints in regard to their vehicle/machinery requirements.

Regards,

Richard Thibert

## Planning Committee Resolutions



Moved By  No. PL2017- 47  
Seconded By  Date Monday April 10, 2017

### Resolution regarding Official Plan Application:

THAT the City of Greater Sudbury approves the application by Wayne and Carrie Ann MacLean to amend the Official Plan for the City of Greater Sudbury by providing for a site-specific exception to those land uses permitted within the Rural designation under Section 5.2 of the Official Plan in order to permit a contractor's yard in the form of a truck and trailer haulage business where commercial vehicles are stored and parked on those lands described as PIN 73350-0102, Parcel 16989 SWS, Lot 6, Concession 2, Township of Balfour.

Yeas:  
McIntosh  
Sizer  
Jakubo  
Lapierre



## Planning Committee Resolutions



Moved By

No. PL2017-48

Seconded By

Date Monday April 10, 2017

Resolution regarding Rezoning Application:

THAT the City of Greater Sudbury approves the application by Wayne and Carrie Ann MacLean to amend Zoning By-law 2010-100Z to change the zoning classification from "A", Agricultural to "A(S)", Agricultural Special in order to permit a contractor's yard as a permitted use on those lands described as PIN 73350-0102, Parcel 16989 SWS, Lot 6, Concession 2, Township of Balfour, subject to the following conditions:

1. That prior to the enactment of an amending zoning by-law the owner shall have entered into a site plan agreement with the City that is to be registered on-title to the satisfaction of the Director of Planning Services;
2. That prior to the enactment of an amending zoning by-law the owner shall have applied for and received approval for a building permit relating to the existing detached metal clad garage on the lands to the satisfaction of the Chief Building Official; and,
3. That the amending zoning by-law include the following site-specific provisions:
  - a. That the only permitted use of the subject lands be a single-detached dwelling and a contractor's yard in the form of a truck and trailer haulage business where commercial vehicles are stored and parked along with related accessory buildings and structures as well as all other uses permitted under Section 4.40 of the Zoning By-law; and,
  - b. That the extent of the contractor's yard use permission be limited to the northerly 160 m of the subject lands.

Yea  
McIntosh  
Sizer  
Jakubo  
Lapierre



## Bill 73 Requirements

Public Hearing No. -1-

Regarding Resolution No. PL2017-47/48

Date April 10, 2017

### Option 1:

- ☒ As no public comment, written or oral, has been received, there was no effect on the Planning Committee's decision.

### Option 2:

- ☐ Public comment has been received and considered and had no effect on Planning Committee's decision as the application represents good planning.

### Option 3:

- ☐ Public comment has been received and considered and has effected Planning Committee's decision in the following manner:

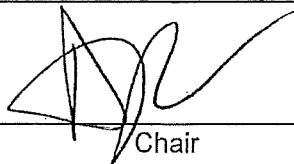
a) \_\_\_\_\_

b) \_\_\_\_\_

c) \_\_\_\_\_

d) \_\_\_\_\_

e) \_\_\_\_\_

  
\_\_\_\_\_  
Chair



## Request for Decision

**Primo Tilton Construction Ltd. - Application to extend a draft approved plan of subdivision approval, Part of Parcel 10382, Lot 4, Concession 5, Township of Broder (Mariposa Subdivision, Sudbury)**

Presented To:	Planning Committee
Presented:	Monday, Jun 08, 2020
Report Date	Friday, May 08, 2020
Type:	Routine Management Reports
File Number:	780-6/88019

### Resolution

THAT the City of Greater Sudbury's delegated official be directed to amend the conditions of draft approval for a plan of subdivision on those lands described as Parcel 10382, Lot 4, Concession 5, Township of Broder, File # 780-6/88019, in the report entitled "Primo Tilton Construction Ltd.", from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting on June 8, 2020, upon payment of Council's processing fee in the amount of \$2,731,75 as follows:

1.By adding the following at the end of Condition #13:

"A Sound Attenuation Agreement, if required, shall be registered on title to the satisfaction of the Chief Building Official and the City Solicitor.";

2.By deleting Condition #16 and replacing it with the following:

"16. That this draft approval shall lapse on March 16, 2023.";

3.By deleting Conditions #18, #24, #35, #37, #46;

4.By adding the following at the end of Condition #20:

"A soils caution agreement, if required, shall be registered on title, to the satisfaction of the Chief Building Official and the City Solicitor.";

5. By deleting Condition #26 and replacing it with the following:

"26.Tawny Port Drive is to be constructed to a residential road standard with a 1.5m wide sidewalk on the north side of the street. Tuscany Trail is to be constructed to a residential road standard with a 1.5m wide sidewalk on the south side of the street, and the new section of Maurice Street is to be constructed to a residential road standard with a 1.5m wide sidewalk on the west side of the street from the east end of Tuscany Trail to the south end of existing Maurice Street.";

### Signed By

#### Report Prepared By

Glen Ferguson  
Senior Planner  
*Digitally Signed May 8, 20*

#### Manager Review

Alex Singbush  
Manager of Development Approvals  
*Digitally Signed May 11, 20*

#### Recommended by the Division

Jason Ferrigan  
Director of Planning Services  
*Digitally Signed May 11, 20*

#### Financial Implications

Apryl Lukezic  
Co-ordinator of Budgets  
*Digitally Signed May 15, 20*

#### Recommended by the Department

Tony Cecutti  
General Manager of Growth and Infrastructure  
*Digitally Signed May 21, 20*

#### Recommended by the C.A.O.

Ed Archer  
Chief Administrative Officer  
*Digitally Signed May 27, 20*

6. By deleting Condition #45 and replacing it with the following:

“45. That the owner shall prepare and submit an Erosion and Sediment Control Plan, which must be approved and in place prior to and throughout construction of the development to the satisfaction of the Nickel District Conservation Authority.”;

7. By deleting the words “the General Manager of Growth and Development and” in Condition #48;

8. By adding a new Condition #49 as follows:

“49. A storm-water management report and associated plans must be submitted by the Owner’s Engineer for approval by the City. The report must address the following requirements:

a) The underground storm sewer system within the plan of subdivision must be designed to accommodate and/or convey the minor storm flow, that is, the rainfall runoff resulting from the subject site and any external tributary areas using the City’s two year design storm. Any resulting post development runoff in excess of the two year design storm must be conveyed through overland flow system within the City’s right-of-way;

b) “enhanced” level must be used for the design of storm-water quality controls as defined by the Ministry of the Environment, Conservation and Parks;

c) The drainage catchment boundary including external tributary catchments and their respective area must be clearly indicated with any storm-water management plan;

d) The final grading of the lands shall be such that the surface water originating on or tributary to the said lands, including roof water from buildings and surface water from paved areas, will be discharged in a manner satisfactory to the General Manager of Growth and Infrastructure;

e) Minor storm drainage from the plan of subdivision shall not be drained overland onto adjacent properties; and,

f) Existing drainage patterns on adjacent properties shall not be altered unless explicit permission is granted.

g) The owner is required to provide a cash contribution in lieu of onsite storm-water quantity controls and for storm-water improvements within the watershed as outlined in the Algonquin Road Watershed Storm-water Management Study; and,

h) The owner shall be responsible for the design and construction of any required storm-water management works to the satisfaction of the General Manager of Growth & Infrastructure as part of the servicing plans for the subdivision and the owner shall dedicate the lands for storm-water management works as a condition of this development.”; and,

9. By adding a new Condition #50 as follows:

“50. That in accordance with Section 59(4) of the Development Charges Act, a notice of agreement shall be registered on title to ensure that persons who first purchase the subdivided land after registration of the plan of subdivision are informed, at the time the land is transferred, of all development charges related to development.”

## **Relationship to the Strategic Plan / Health Impact Assessment**

The application to extend this draft plan of subdivision approval is an operational matter under the Planning Act to which the City is responding.

## **Report Summary**

The owner has requested an extension to the draft plan of subdivision approval of the Mariposa draft approved plan of subdivision (File # 780-6/88019) in the community of Sudbury for a period of three years until March 16, 2023. The Planning Services Division has reviewed the request to extend the draft approval and have no objections to the requested extension for a period of three years. The request was also circulated to relevant agencies and departments for comment and no concerns were identified with respect to extending the draft approval.

Building Services requested that standard draft approval condition wording as it relates to sound attenuation and geotechnical requirements be updated. Conservation Sudbury has requested that standard draft approval wording be added to a condition addressing the requirement for an Erosion and Sediment Control Plan. Development Engineering and the City's Drainage Section have both requested that several conditions be updated to reflect current standard draft approval condition practices in terms of the infrastructure that will be required to facilitate development of the Mariposa subdivision. Environmental Initiatives notes there are no significant environmental concerns that are not already addressed in the draft approval conditions. Further to this, the owner has now been advised that prior to vegetation removal or other site alteration on the subject lands they are to consult with the Ministry of the Environment, Conservation and Parks to ensure that all requirements set out by the Province of Ontario under the Endangered Species Act have been satisfied. Roads, Traffic and Transportation has also requested that for clarification purposes that a condition related to the design standard of roads and sidewalks within the Mariposa Subdivision are constructed to current City of Greater Sudbury standards.

The Planning Services Division is recommending approval of the application to extend the draft approved plan of subdivision. Amendments to the conditions of draft approval where necessary have been identified and are included in the Resolution section of the report.

## **Financial Implications**

If approved, staff estimates approximately \$695,000 in taxation revenue, based on the assumption of the remaining 107 single family dwelling units at an estimated assessed value of \$500,000 per dwelling unit at the 2019 property tax rates (rates in effect as of this report).

In addition, this development would result in total development charges of approximately \$1.9 million based on the assumption of 107 single family dwelling units based on the rates in effect as of this report.

Once development has occurred and the subdivision infrastructure has been transferred to the City, there will be additional on-going costs for future annual maintenance and capital replacement of the related infrastructure (ie. roads, water/wastewater linear pipes, etc).

**Date: April 22, 2020**

## **STAFF REPORT**

### **Applicant:**

Primo Titton Construction Ltd.

### **Location:**

Parcel 10382, Lot 4, Concession 5, Township of Broder (Mariposa Subdivision, Sudbury)

### **Application:**

To extend the draft approval conditions for a plan of subdivision which were approved initially by Council on March 16, 1989. The draft approval was most recently extended by Council until March 16, 2020 for a plan of subdivision on those lands described as Parcel 10382, Lot 4, Concession 5, Township of Broder (ie. Mariposa Subdivision). Two administrative extensions have been issued by the Director of Planning Services having the effect of establishing a new lapsing date of September 16, 2020, in order to allow for agencies and departments to complete their review of the request. The most recent administrative extension was granted in order to also afford staff the opportunity to schedule the item to a meeting of Planning Committee that is appropriate given the emerging and changing best practices for scheduling meetings due to the Covid-19 global pandemic.

### **Proposal:**

The owner is requesting that the draft approval conditions for the above noted lands be extended for a period of three years until March 16, 2023.

### **Background:**

The City received a written request from Primo Titton Construction Ltd. on January 22, 2020, to extend the draft approval on a plan of subdivision for a period of three years on those lands described as Parcel 10382, Lot 4, Concession 5, Township of Broder. The draft approved plan of subdivision was initially approved by Council for a total of 107 urban residential lots to the south of Algonquin Road and to the north of Highway #17 in the community of Sudbury.

The lots are to be accessed from Maurice Street to the north-east, which then provides access to Algonquin Road. Staff notes that no phases of the draft approved plan of subdivision have been registered since the initial draft approval granted by Council on March 16, 1989.

The draft approval is set to expire again on September 16, 2020 following two administrative extensions. Staff has circulated the request to relevant agencies and departments and is now bringing forward this report to extend the draft approval to March 16, 2023.

### **Departmental & Agency Circulation:**

Active Transportation, Operations, and Transit Services have each advised that they have no concerns from their respective areas of interest. Both the Ministry of the Environment and the Ministry of Transportation were circulated the application and have no comment.

Building Services has no objections to the draft approval extension request. It is however being recommended that Condition #13, regarding acoustical report requirements be amended to add that a Sound Attenuation Agreement, if required, shall be registered on title to the satisfaction of the Chief Building Official and City Solicitor. Condition #20 should also be amended to add standard wording with

**Date: April 22, 2020**

respect to a Soils Caution Agreement, if required, being registered on title to the satisfaction of the Chief Building Official and City Solicitor.

Canada Post has not requested any changes to the draft approval conditions. Canada Post did however note in an emailed letter their requirements and expectations for providing mail service to the subdivision. The above noted letter is attached to this report for the owner's information and reference purposes.

Conservation Sudbury has no objections and would recommend that Condition #45 be updated to represent standard wording requirements for the submission and approval of an Erosion and Sediment Control Plan for the subdivision development.

Development Engineering notes that since initial draft approval was granted that no construction drawings have been submitted for review that would further the development of the subject lands. There was a Front-Ending Agreement registered in 2016 against the subject lands with respect to construction of the Algonquin Water Booster Station. It is recommended that Condition #24 be deleted as the owner as the Algonquin Water Booster Station cost-sharing issue has been dealt with and continues to be addressed by previous Condition #23. It is also recommended that Condition #26 be amended to add wording referencing the requirement for sidewalks being constructed as per the City of Greater Sudbury's development standards.

The City's Drainage Section has requested that Conditions #18, #35 and #37 be deleted and replaced with one comprehensive conditions addressing the requirement for a storm-water management report and associated plans. The comprehensive condition will act to provide clarity in the draft approval document in terms of what is required from a storm-water management perspective. Conservation Sudbury also requested that clarity be added to storm-water requirements for the Mariposa Subdivision.

Environmental Initiatives notes there are no significant environmental concerns that are not already addressed in the draft approval conditions. Condition #46 is recommended to be removed and the owner is advised that prior to vegetation removal or other site alteration on the subject lands they are to consult with the Ministry of the Environment, Conservation and Parks to ensure that all requirements set out by the Province of Ontario under the [Endangered Species Act](#) have been satisfied.

Leisure Services consulted with Development Approvals staff and have confirmed that their concern with respect to parkland dedication within the draft approved plan of subdivision are satisfied in Condition # 11.

Roads, Traffic and Transportation has recommended that Condition #26 be entirely modernized to reflect current location, requirements and standards for road and sidewalk construction related to the development of the Mariposa Subdivision.

### **Planning Considerations:**

#### **[Official Plan](#)**

Section 20.4.2 of the Official Plan for the City of Greater Sudbury addressing draft plan of subdivision approvals outlines that Council will not extend or recommend the extension of a draft plan approval, beyond the statutory limitation of three years, unless the owner has demonstrated to the satisfaction of Council that they are making a reasonable effort to proceed in meeting the conditions of draft approval. At the time of an extension request, Council is to review the draft plan conditions and may make appropriate modifications.

Staff notes that this particular draft plan approval was originally approved by Council on March 16, 1989, and since that time none of the 107 urban residential lots have been registered.



Date: April 22, 2020

The owner did not provide an update in regards to their progress on clearing draft approval conditions in their letter dated January 22, 2020.

### Draft Approval Conditions

Condition #16 should be deleted entirely and replaced with a sentence referring to March 16, 2023, as the revised date on which the subject draft plan of subdivision approval shall lapse.

The City's Drainage Section has requested that several conditions be updated to reflect current standard draft approval condition practices in terms of the infrastructure that will be required to facilitate development of the Mariposa subdivision. This requested change is reflected in the Resolution section of this report as new Condition #49 that is being recommended.

Environmental Initiatives has noted that there are no significant environmental concerns that are not already addressed in the draft approval conditions. It is also noted that the owner is hereby advised that prior to vegetation removal or other site alteration on the subject lands they are to consult with the Ministry of the Environment, Conservation and Parks to ensure that all requirements set out by the Province of Ontario under the Endangered Species Act have been satisfied. The affected Condition #46 relating to the above is included in the Resolution section of this report.

Staff recommends that a standard draft approval condition be added that in accordance with Section 59(4) of the [Development Charges Act](#), a notice of agreement shall be registered on title to ensure that persons who first purchase the subdivided land after registration of the plan of subdivision are informed, at the time the land is transferred, of all development charges related to development. This requested change is reflected in the Resolution section of this report as new Condition #50 that is being recommended.

Other housekeeping changes requested by Building Services, Development Engineering and Roads, Traffic and Transportation are also incorporated into the Resolution section of this report.

No other administrative and housekeeping changes to the draft approval documents are required at this time. No other changes beyond those described in this report to the draft approval documents have been requested either by the owner or by circulated agencies and departments.

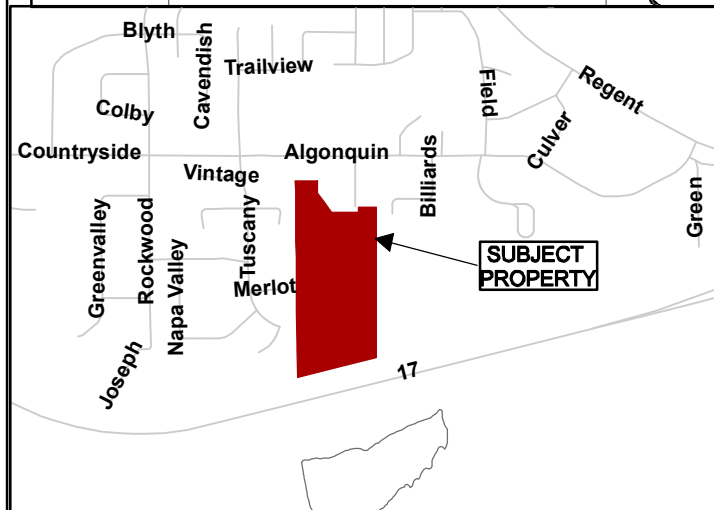
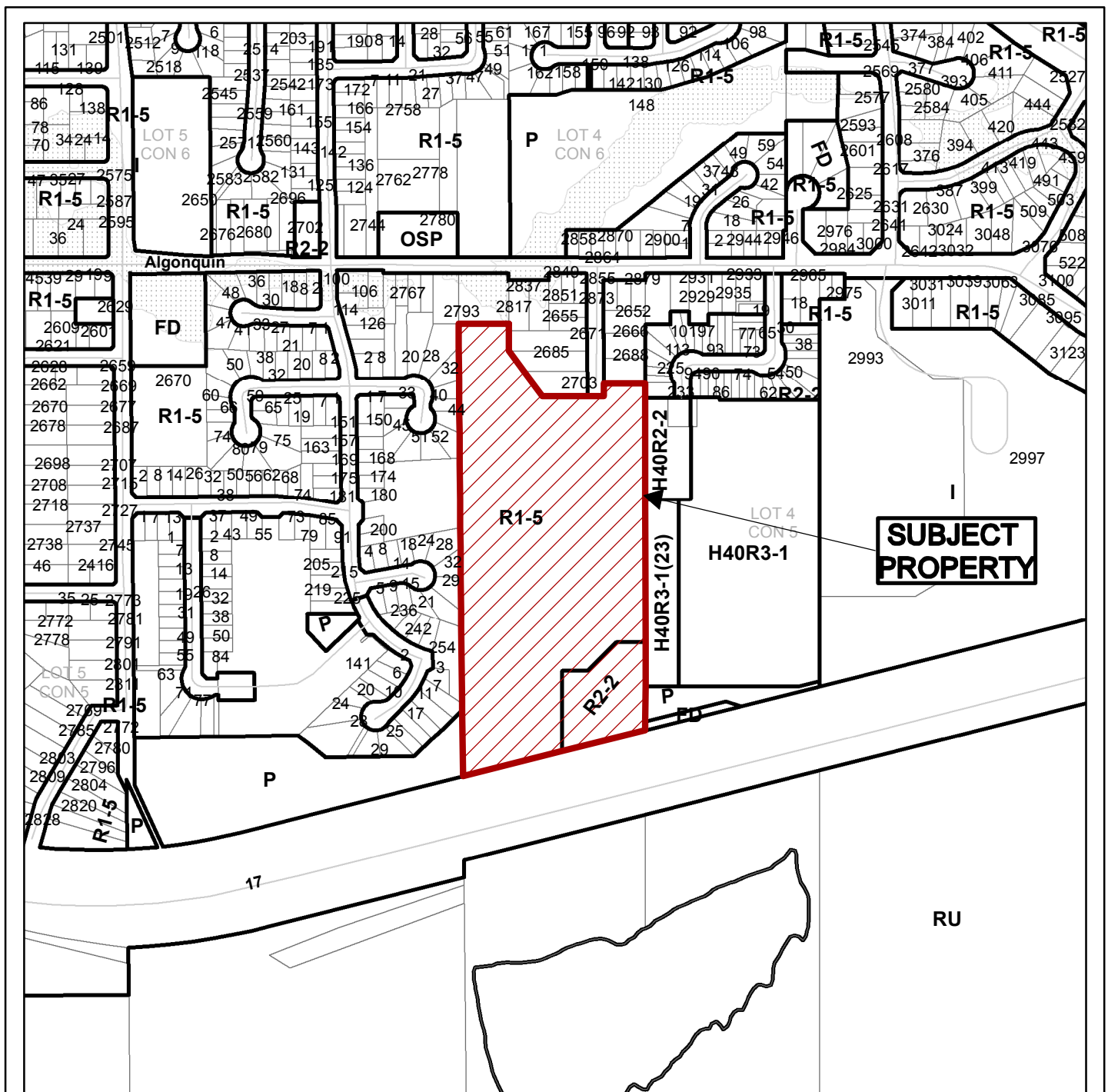
The draft approval conditions are attached to this report along with a sketch of the draft approved plan of subdivision dated August 25, 1988, for reference purposes.


### Processing Fees

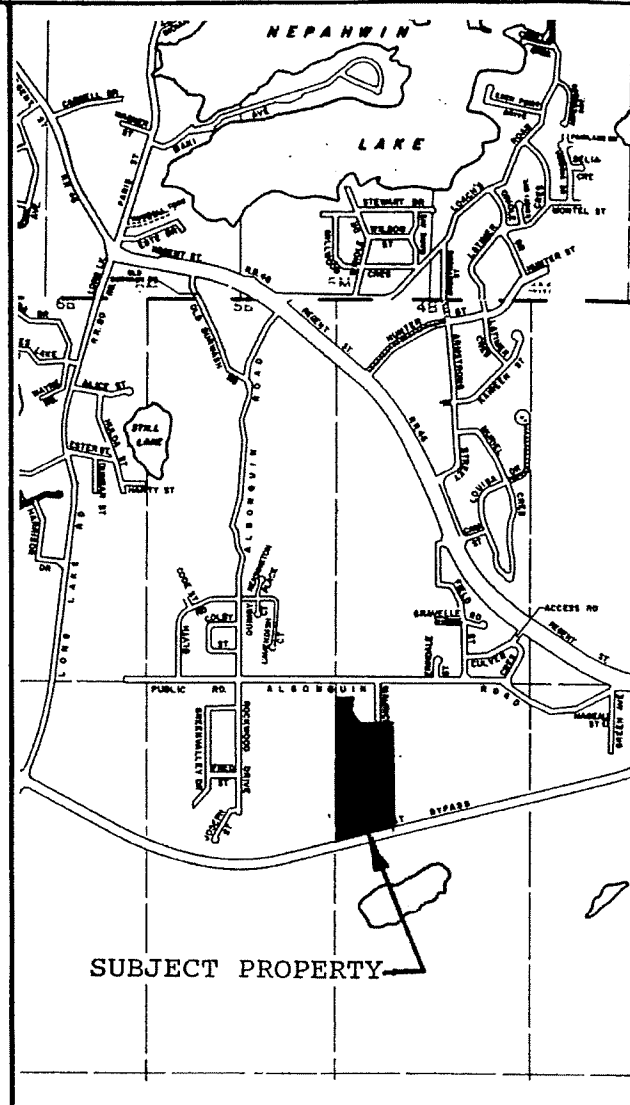
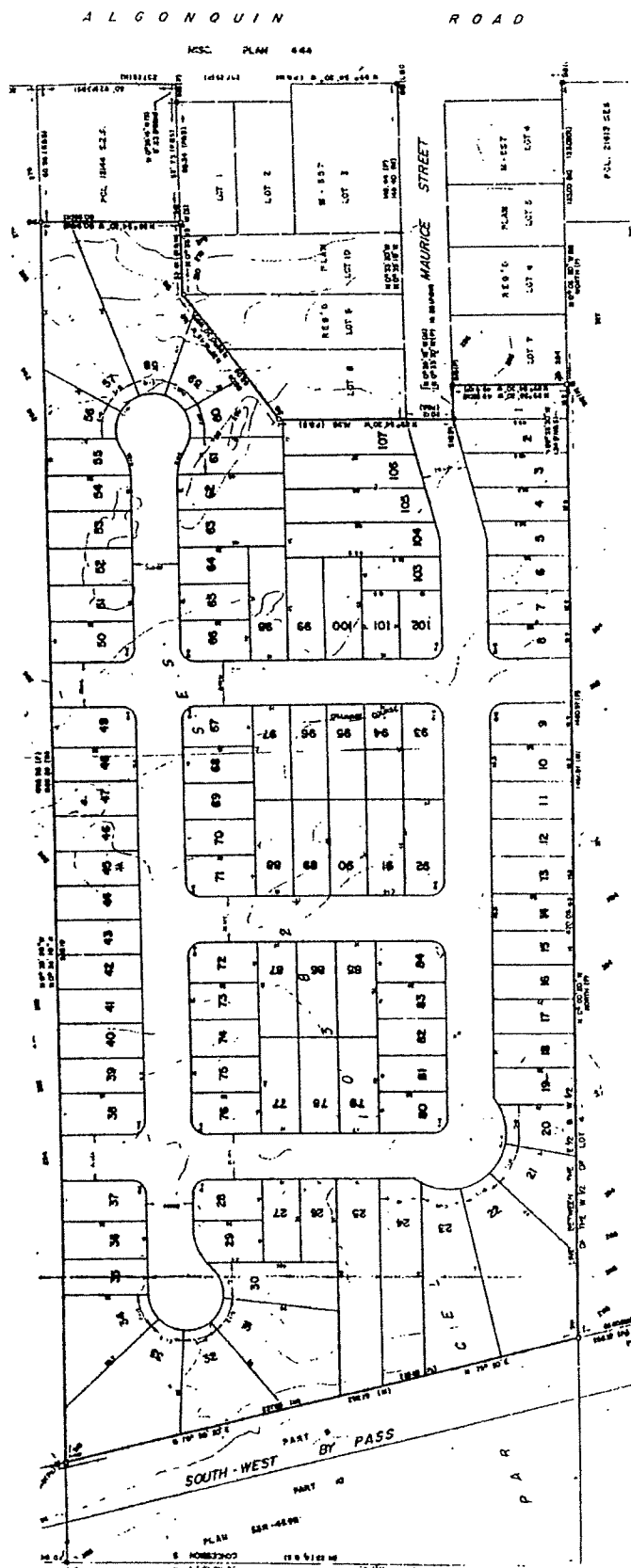
The owner is required to pay the applicable processing fee in the amount of \$2,736.75. It is recommended that the draft approval extension be granted upon receipt of Council's processing fee from the owner. This amount was calculated as per [By-law 2020-26](#) being the Miscellaneous User Fees for Certain Services By-law that was in effect at the time the request was made.

### **Summary:**

The Planning Services Division have reviewed the request to extend the subject draft approval and have no objections to the requested extension for a period of three years. The request was also circulated to relevant agencies and departments for comment and no concerns were identified with respect to extending the draft approval of the subdivision. Appropriate changes where identified have been included in the Resolution section of this report and will now form part of the draft plan approval if approved by Council. The Planning Services Division therefore recommends that the application to extend the draft approval for the Mariposa Subdivision for a period of three years until March 16, 2023, be approved as outlined in the Resolution section of this report.



<b>Growth and Development Department</b> 	
Subject Property being part of PIN 73478-0819, Part of Pcl 10382, Lot 4, Concession 5, Township of Broder, Maurice Street, Sudbury, City of Greater Sudbury	
NTS Sketch 1	751-6/88-67 & 780-6/88019 Date: 2017 04 18



**KEY PLAN SCALE: 1:30,000**

**planning and development department**

Subject property being Part of Lot 4,  
Concession V, Part of Parcel 10382 SES,  
Township of Broder

**scale: 1 : 3,000**

date: 88 11 10 124 of 189

**COUNCIL'S CONDITIONS APPLYING TO THE APPROVAL OF THE FINAL PLAN FOR  
REGISTRATION OF THE SUBJECT SUBDIVISION ARE AS FOLLOWS:**

---

1. That this approval applies to the draft plan of subdivision of Part of Parcel 10382 S.E.S., Lot 4, Concession 5, Township of Broder, as shown on a plan prepared by D.S. Dorland, O.L.S. and dated August 25<sup>th</sup>, 1988.
2. That the street(s) shall be named to the satisfaction of the Municipality.
3. That any dead-ends or open sides of road allowances created by this plan of subdivision shall be terminated in 0.3 m reserves, to be conveyed to the Municipality and held in trust by the Municipality until required for future road allowances or the development of adjacent land.
4. That prior to the signing of the final plan, the Planning Services Division shall be advised by the Ontario Land Surveyor responsible for preparation of the final plan, that the lot areas, frontages and depths appearing on the final plan do not violate the requirements of the Restricted Area By-laws of the Municipality in effect at the time such plan is presented for approval.
5. That the subdivision agreement be registered by the Municipality against the land to which it applies, prior to any encumbrances.
6. That such easements as may be required for utility or drainage purposes shall be granted to the appropriate authority.
7. That the owner agrees in writing to satisfy all the requirements, financial and otherwise, of the City of Greater Sudbury, concerning the provision of roads, walkways, street lighting, sanitary sewers, watermains, storm sewers and surface drainage facilities.
8. That the subdivision agreement contain provisions whereby the owner agrees that all the requirements of the subdivision agreement including installation of required services be completed within 3 years after registration.
9. That a 0.3 m reserve extending across the entire highway frontage be conveyed to the Ministry of Transportation.
10. Deleted
11. That 5% of the land included in the plan be deeded to the City of Greater Sudbury pursuant to Subsection 51.1(1) of The Planning Act.
12. That the subdivision agreement contain a provision whereby Maurice Street will be upgraded to the satisfaction of the General Manager of Growth and Infrastructure.
13. That prior to the signing of the final plan or to any preservicing taking place, an acoustical report shall be prepared by a qualified engineer to determine the noise levels on the site and what noise attenuation features would be required in the construction of the homes to reduce noise to levels satisfactory to the Ministry of the Environment. If the acoustical report determines that noise attenuation features are required within the subdivision, that suitable provisions be included in the subdivision agreement to ensure these measures are undertaken.

14. That prior to the signing of the final plan, the Planning Services Division is to be advised by the City Solicitor that Conditions 3, 5, 6, 7, 8, 9, 11, 12, 13 and 26 have been complied with to his satisfaction.
15. Deleted
16. That this draft approval shall lapse on September 16, 2020.
17. Draft approval does not guarantee an allocation of sewer or water capacity. Prior to the signing of the final plan, the Planning Services Division is to be advised by the General Manager of Growth and Infrastructure that sufficient sewage treatment capacity and water capacity exists to service the development.
18. That prior to the signing of the final plan the owner shall submit a detailed Lot Grading Plan including the Regional Storm Flow Path to the satisfaction of the General Manager of Growth and Infrastructure. The owner shall co-ordinate the analysis and design of the stormwater conveyance and control systems for this subdivision in conjunction with the recommendations of the Algonquin Road watershed stormwater management study. All issues with respect to said storm drainage are to be resolved prior to finalizing engineering drawings. Should the study determine that on-site or off-site improvement works are required as a result of this development, the owner will be required to build or cost-share in the implementation of said works. The formula for the sharing of cost for any required off site improvement works will be established by the General Manager of Growth and Infrastructure.
19. That the plan be re-designed in order to provide a "greenbelt" abutting the By-pass in accordance with the Official Plan, to the satisfaction of the Director of Planning Services.
20. Prior to the submission of servicing plans, the owner shall, to the satisfaction of the General Manager of Growth and Infrastructure, provide an updated geotechnical report prepared, signed, sealed, and dated by a geotechnical engineer licensed in the Province of Ontario. Said report shall, as a minimum, provide factual information on the soils and groundwater conditions within the proposed development. Also, the report should include design information and recommend construction procedures for storm and sanitary sewers, stormwater management facilities, watermains, roads to a 20 year design life, the mass filling of land, surface drainage works, erosion control, slope stability, slope treatment and building foundations. The geotechnical information on building foundations shall be to the satisfaction of the Chief Building Official and Director of Planning Services.
21. The owner shall ensure that the draft plan show the cul-de-sacs with a 17.5 metre radius right-of-way and that the corner radius for all streets is to be 9.0 m.
22. Deleted.
23. The Algonquin booster station was required prior to any development of the subject subdivision above an elevation of 280.0. This booster station is now constructed. Prior to the development of the subdivision, the owner shall contribute their share of the cost towards the Algonquin booster station based on the associated front end agreement.
24. The owner shall be required to cost-share in the construction of the Algonquin Area water booster station, on the basis of a formula to be established by the General Manager of Growth and Infrastructure.



25. The owner shall name the two roads in the subject subdivision that link to the adjacent Vintage Green subdivision to the west, Tawny Port Drive and Tuscany Trail for the northern and southern roads respectively.
26. Tawny Port Drive is to be constructed to a residential road standard with a 1.5m wide sidewalk on the north side of the street, and Tuscany Trail is to be constructed to a residential road standard with a 1.5m wide side walk on the south side of the street.
27. The applicant/owner shall provide to the City, as part of the submission of servicing plans a Siltation Control Plan detailing the location and types of sediment and erosion control measures to be implemented during the construction of each phase of the project. Said plan shall be to the satisfaction of the General Manager of Growth and Infrastructure and the Nickel District Conservation Authority. The siltation control shall remain in place until all disturbed areas have been stabilized. All sediment and erosion control measures shall be inspected daily to ensure that they are functioning properly and are maintained and/or updated as required. If the sediment and erosion control measures are not functioning properly, no further work shall occur until the sediment and/or erosion problem is addressed.
28. The owner shall provide a utilities servicing plan showing the location of all utilities including City services, Hydro services, Bell, Union Gas, Canada Post and Eastlink. This plan must be to the satisfaction of the Director of Planning Services and must be provided prior to construction for any individual phase.
29. Deleted.
30. The final plan shall be integrated with the City of Greater Sudbury Control Network to the satisfaction of the Coordinator of the Surveying and Mapping Services. The survey shall be referenced to NAD83(CSRS) with grid coordinates expressed in UTM Zone 17 projection and connected to two (2) nearby City of Greater Sudbury Control Network monuments. The survey plan must be submitted in an AutoCAD compatible digital format. The submission shall be the final plan in content, form and format and properly geo-referenced.
31. A water connection must be made to the watermain along Tawny Port Drive to the west from the proposed watermain along Maurice Street, complete with a water check valve and associated chamber at Maurice Street, as part of development of the first phase of the subdivision to the satisfaction of the General Manager of Growth and Infrastructure.
32. Water check valves and associated chambers are to be provided on watermains exiting the subdivision to the east to the satisfaction of the General Manager of Growth and Infrastructure.
33. The owner shall provide proof of sufficient fire flow in conjunction with the submission of construction drawings for each phase of construction to the satisfaction of the General Manager of Growth and Infrastructure. All costs associated with upgrading the existing distribution system to service this subdivision will be borne totally by the owner.
34. The owner shall provide proof of sufficient sanitary sewer capacity in conjunction with the submission of construction drawings for each phase of construction to the satisfaction of the General Manager of Growth and Infrastructure. All costs associated with upgrades to the downstream works required to service this subdivision will be borne totally by the owner.

35. The owner is required to provide a cost contribution towards downstream stormwater quantity conveyance and quality control improvements for each stormwater outlet for the subdivision to comply with the Algonquin Road Watershed Study and any subsequent updates to the satisfaction of the General Manager of Growth and Infrastructure.
36. The owner is required to pay the City of Greater Sudbury for the cost share of the owner's lands for storm water servicing as set out in a Front Ending Agreement dated June 26, 1995 between the City and the Sudbury Roman Catholic Separate School Board to the satisfaction of the General Manager of Growth and Infrastructure.
37. The regional storm overland flow route for the subject property shall be clearly delineated on the stormwater management and subdivision grading plans to the satisfaction of the General Manager of Growth and Infrastructure. Major storm overland flow for the subdivision is to remain within the City's road allowances and drainage blocks.
38. The owner shall to the satisfaction of the Director of Planning Services of the City of Greater Sudbury and Canada Post include on all offers of purchase and sale, a statement:
  - i. That advises the prospective purchaser that the home/business mail delivery will be from a designated Centralized Mail Box; and,
  - ii. That the owner be responsible for officially notifying the purchasers of the Centralized Mail Box locations prior to the closing of any home sales."
39. The owner further agrees to:
  - a) Work with Canada Post to determine and provide temporary suitable Centralized Mail Box locations, which may be utilized by Canada Post until the curbs, boulevards and sidewalks are in place in the remainder of the subdivision;
  - b) Install a concrete pad in accordance with the requirements of, and in locations to be approved by, Canada Post to facilitate the placement of Community Mail Boxes;
  - c) Identify the pad above on the engineering servicing drawings. The pad is to be poured at the time of the sidewalk and/or curb installation within each phase of the plan of subdivision; and,
  - d) Determine the location of all centralized mail facilities in cooperation with Canada Post and to post the location of these sites on appropriate maps, information boards and plans.
40. The developer will be required to provide a geotechnical report on how the work related to blasting shall be undertaken safely to protect adjoining structures and other infrastructure. The geotechnical report shall be undertaken by a blasting consultant defined as a professional engineer licensed in the Province of Ontario with a minimum of five (5) years experience related to blasting.

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41. The blasting consultant shall be retained by the developer and shall be independent of the contractor and any subcontractor doing blasting work. The blasting consultant shall be required to complete specified monitoring recommended in his report of vibration levels and provide a report detailing those recorded vibration levels. Copies of the recorded ground vibration documents shall be provided to the contractor and contract administration weekly or upon request for this specific project.
42. The geotechnical report will provide recommendations and specifications on the following activity as a minimum but not limited to:
  - i. Pre-blast survey of surface structures and infrastructure within affected area;
  - ii. Trial blast activities;
  - iii. Procedures during blasting;
  - iv. Procedures for addressing blasting damage complaints;
  - v. Blast notification mechanism to adjoining residences; and,
  - vi. Structural stability of exposed rock faces.
43. The geotechnical report shall be submitted for review to the satisfaction of the Chief Building Official prior to the commencement of any removal of rock by blasting.
44. Should the developer's schedule require to commence blasting and rock removal prior to the site plan agreement having been signed, a site alteration permit shall be required under the City of Greater Sudbury's By-law #2009-170 and shall require a similar geotechnical report as a minimum prior to its issuance.
45. That the owner prepare and submit a siltation control plan which must be approved and in place prior to and throughout construction of the development to the satisfaction of the Nickel District Conservation Authority.
46. Prior to any vegetation removal or other site alteration on the subject lands, the owner shall consult with the Ministry of Natural Resources (MNR) with respect to the presence of any species at risk under the Endangered Species Act. The owner shall demonstrate to the satisfaction of the Director of Planning Services that all requirements set out by MNR under the Endangered Species Act have been satisfied.
47. Final approval for registration may be issued in phases to the satisfaction of the Director of Planning, provided that:
  - i) Phasing is proposed in an orderly progression, in consideration of such matters as the timing of road improvements, infrastructure and other essential services; and,
  - ii) All agencies agree to registration by phases and provide clearances, as required, for each phase proposed for registration; furthermore, the required clearances may relate to lands not located within the phase sought to be registered.
48. That the owner shall have completed all major outstanding infrastructure deficiencies that are critical to the overall function of the subdivision in previous phases of the plan that have been registered, or have made arrangements for their completion, prior to registering a new phase of the plan, to the satisfaction of the General Manager of Growth and Development and the General Manager of Growth and Infrastructure.

Presented To:	Planning Committee
Presented:	Monday, Jun 08, 2020
Report Date	Tuesday, Apr 28, 2020
Type:	Managers' Reports

## Request for Decision

### Policy Options for Small Scale Breweries, Distilleries and Brewpubs

#### Resolution

THAT the City of Greater Sudbury directs staff to initiate an amendment to the Zoning By-law to incorporate a new framework for Large-Scale Breweries, Small Scale Breweries, Distilleries and Brewpubs as outlined in the report entitled “Policy Options for Small Scale Breweries, Distilleries and Brewpubs”, from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting on June 8, 2020.

#### Relationship to the Strategic Plan / Health Impact Assessment

Establishing a new planning framework for breweries, distilleries and brewpubs is consistent with the Business Attraction, Development and Retention strategic goal of the plan. Specifically, this report supports Sections 2.1 “Build Economic Development Initiatives to Support Existing Businesses, Attract New Businesses and Promote Entrepreneurship “Strengthen Business and Development Processes and Services to Support Business Growth”.

#### Report Summary

Small Scale Breweries, Distilleries and Brewpubs represent a growing industry that supports local economic development and local food production. Council, recognizing this opportunity, directed staff to evaluate options for amending the City’s Zoning By-law to establish a framework to accommodate small-scale breweries, distilleries and brewpubs, including a review of best practices. A study was commissioned to accomplish these directives.

The Study found that there are opportunities to modernize the City’s Zoning By-law to facilitate the establishment of these types of businesses while ensuring that they are developed safely and within suitable areas in a coordinated fashion. These opportunities include creating new zoning by-law definitions for large-scale breweries, small-scale breweries, distilleries and brewpubs and permitting small scale breweries and brewpubs in a wider range of commercial zones.

#### Signed By

##### **Report Prepared By**

Kris Longston  
Manager of Community and Strategic Planning  
*Digitally Signed Apr 28, 20*

##### **Manager Review**

Kris Longston  
Manager of Community and Strategic Planning  
*Digitally Signed Apr 28, 20*

##### **Recommended by the Division**

Jason Ferrigan  
Director of Planning Services  
*Digitally Signed May 8, 20*

##### **Financial Implications**

Apryl Lukezic  
Co-ordinator of Budgets  
*Digitally Signed May 14, 20*

##### **Recommended by the Department**

Tony Cecutti  
General Manager of Growth and Infrastructure  
*Digitally Signed May 15, 20*

##### **Recommended by the C.A.O.**

Ed Archer  
Chief Administrative Officer  
*Digitally Signed May 27, 20*

Staff is generally supportive of the Study findings and recommends initiating a zoning by-law amendment for Council's consideration.

### **Financial Implications**

There are no financial implications at this time.



# **Report on Policy Options for Small Scale Breweries, Distilleries and Brewpubs**

## **Planning Services Division**

### **June 8, 2020**

#### **BACKGROUND**

Small Scale Breweries, Distilleries and Brewpubs are a growing industry in Ontario, which complement other municipal goals such as tourism, local food and other local economic development initiatives.

These business combine traditional industrial functions (brewing, distilling) with service related functions such as restaurants and retail. As a result, issues arise within the City's Zoning By-law as to where these uses should be permitted.

To address this, Council directed staff to evaluate options for amending the City's Zoning By-law to establish a framework to accommodate small scale breweries and distilleries, including a review of best practices, and report back with findings and recommendations.

Based the above, staff commissioned a study to provide an overview of the types of policy frameworks and zoning regulations that are related to Breweries Distilleries and Brewpubs and provide policy options for the Council's consideration. The study also examined issues related to the Ontario Building Code and Fire Code.

The purpose of this report is to present the findings of the study and a recommended land use planning framework to accommodate Small and Large Scale Breweries, Distilleries and Brewpubs in Greater Sudbury.

#### **Study Findings**

The City commissioned the study entitled "Policy Options Report for Small Scale Breweries, Distilleries and Brewpubs" (the "Study" - See Attachment A). The Study:

- Provides an overview of brewing and distilling processes and licensing requirements along with definitions;
- Describes how these uses currently fit within the land use planning framework in Ontario and the City of Greater Sudbury;
- Reviews how these uses are regulated by the Ontario Building Code and Fire Code;

- Undertakes a best practices review of how these uses are addressed in other Municipalities, and
- Provides recommendations on how the City's Zoning By-law could be amended to better accommodate these types of uses.

In general the Study found that breweries and distilleries should have separate definitions in the zoning by-law as opposed to the current practice of including them under a "food processing plant". Additionally, brewpubs should be further separately defined to reflect the commercial nature of the business and its dual uses of a small scale brewery and a restaurant.

With respect to the Ontario Building and Fire Codes, the Study examined the issues related to breweries and distilleries. The Study found that while these uses are similar, there are particular considerations specific to distilleries that are not applicable to breweries and, as a result, they are treated differently by the legislation. Generally, the Study found that the distilling process presents more hazards from a combustibility standpoint (regardless of scale) and, as such, distillery uses should be limited to industrial zones and should not be allowed in buildings with a residential use.

The Study also conducted a review of other municipalities that have created a planning framework for these emerging types of businesses, in order to support their development while also ensuring their compatibility with other land uses. The Study reviewed policies from Ottawa, Calgary, Toronto, Waterloo, Huron and Thunder Bay and found that, generally, they treated small scale breweries, distilleries and brewpubs separately from traditional large scale operations. Additionally, they recognized the restaurant and retail uses that are associated with the smaller scale uses and allowed them in traditional commercial zones.

Finally, the report provided zoning recommendations for the City of Greater Sudbury to consider in order to facilitate the development small scale breweries, distilleries and brewpubs while ensuring that they are developed safely and within suitable areas in a coordinated fashion. To that extent, the Study provided the following recommendations:

- Amend the Zoning By-law to include definitions for:
  - Small-Scale Brewing Facility (produces less than 50,000 hectoliters of beer per year);
  - Large-Scale Brewing Facility (produces more than 50,000 hectoliters of beer per year);
  - Distilling Facility, and
  - Brewpub (combines the uses of a Small Scale Brewing Facility and a Restaurant);

- Specify that Small Scale and Large Scale Brewing Facilities and Distilleries may be accompanied by:
  - A private hospitality area
  - A retail sales area
  - Special events and tours, and
  - An office for administrative purposes;
- Permit Small Scale Brewing Facilities and Brewpubs in the C2 to C7 Commercial Zones, the M1-1, M1, M2 and M3 Industrial Zones, the Agricultural Zone and the Rural Zone;
- Permit Large-Scale Brewing Facilities in the M1-1, M1, M2 and M3 Industrial Zones, and
- Permit Distilling Facilities in the M1, M2 and M3 Industrial Zones, Agricultural Zone and Rural Zones.

## **CONCLUSION/NEXT STEPS**

Small Scale Breweries, Distilleries and Brewpubs represent a growing industry that supports local economic development and local food production. Council, recognizing this opportunity, directed staff to evaluate options for amending the City's Zoning By-law to establish a framework to accommodate small-scale breweries, distilleries and brewpubs, including a review of best practices.

The Study found that there are opportunities to modernize the City's Zoning By-law to facilitate the establishment of these businesses while ensuring that they are developed safely and within suitable areas in a coordinated fashion. These opportunities include creating new zoning by-law definitions for large-scale breweries, small-scale breweries, distilleries and brewpubs and permitting small scale breweries and brewpubs in a wider range of commercial zones.

Staff is generally supportive of the Study findings and recommends initiating a zoning by-law amendment for Council's consideration.

## **Attachments**

- A. City of Greater Sudbury Policy Options for Small Scale Breweries, Distilleries and Brewpubs.

# **City of Greater Sudbury**

## **Policy Options Report for Small Scale Breweries, Distilleries and Brewpubs**



# City of Greater Sudbury

## Policy Options Report for Small Scale Breweries, Distilleries and Brewpubs

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# **City of Greater Sudbury**

## **Policy Options Report for Small Scale Breweries, Distilleries and Brewpubs**

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### **1.0 Introduction**

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The Brewing industry in Canada involves the production of alcoholic beverages, such as beer and malt liquor as well as non-alcoholic beers containing water, barley, hops, yeast and other occasional aids. The Canadian Spirits industry involves distilling grains, potatoes and sugars into spirits, such as rum, gin, liqueurs, vodka and whiskey.

These industries have grown rapidly in recent years, especially in response to the increased popularity of craft breweries and their unique ability to complement other operations such as, tourism, local food and related economic development initiatives. In the Province of Ontario there are almost 500 micro-breweries and distilleries.

These businesses often attempt to combine traditional industrial functions with those functions typical of restaurants or retail stores, or a combination of both. Municipal zoning by-laws, and licensing standards have been challenged to respond to the creation and expansion of these uses. Through zoning practices, Ontario municipalities have responded differently to these complicated and ever evolving industries. Most commonly, they have responded through site-specific amendments to permit these uses within urban, rural, commercial and industrial zones. In most cases a range of approaches have been developed to regulate the description of the use, the scale of operation, and the location and size of the structures that house brewing or distilling operations.

The links to Economic Development initiatives cannot be ignored, as breweries and distilleries represent entrepreneurial opportunities. Having said that, limitations found in the Ontario Building Code and Fire Code need to be assessed in order to provide direction on the settings that may be most appropriate for these uses.

The objective of this report is to provide the City of Greater Sudbury (City or Sudbury) with an overview of the types of policy frameworks and zoning regulations that are related to Breweries, Distilleries and Brewpubs. The report will provide policy options to the City, including potential strategies to amend the City's policy and zoning regulations which affect these industries.

### **2.0 Breweries, Distilleries and Brewpubs Overview**

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Breweries, distilleries and brewpubs are becoming increasingly popular throughout Ontario, as they contribute to tourism and create jobs along the supply chain. In recent years Sudbury has witnessed the rise of breweries, distilleries and brewpubs with differing business models. Current operations reside across the City at different scales and within different zones. Despite their rise in popularity, there are several questions that need to be addressed:

- 1) What are the differences between macro-, micro-, nano- and craft breweries; brewpubs; and macro-, micro-, and nano- distilleries?
- 2) What are the components of the brewing and distilling process that have an affect on their location?

# City of Greater Sudbury

## Policy Options Report for Small Scale Breweries, Distilleries and Brewpubs

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- 3) How compatible are these uses with other land uses, especially those within the same building?
- 4) What policy direction does the Province provide regarding these uses?
- 5) How do other municipalities currently zone or regulate these uses?

### 2.1 Definitions

Operations within each industry are distinguished by the scale of their production. Each term applied to a brewery correlates to the total amount of their product that is produced and sold annually, as measured in hectolitres. 1 hectolitre (hL) is equal to 100 litres.

#### 2.1.1 Brewery

As defined by the IBISWorld Industry Report 31212CA Breweries in Canada Report (2019) the Brewing operations in Canada involves the production of “alcoholic beverages, such as beer and malt liquor as well as non-alcoholic beer, using water, barley, hops, yeast and other occasional adjuncts.” The following definitions are related to the scale of operations or particular ingredients used in the process.

**Nano-Brewery:** The Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA) defines a nano-brewery as a brewery that produces less than 3000 hL of beer annually.

**Micro-Brewery:** According to the Ontario Beverage Network (OBN) micro-breweries are defined as “*breweries with a maximum worldwide annual production of 50,000 hL.*”

**Macro-Brewery:** Macro-breweries refer to large-scale brewing facilities which produce more than 400,000 hL annually.

**Craft Brewery:** Craft breweries fall between micro- and macro-breweries in terms of production quantity. The Ontario Craft Brewers (OCB) identify craft brewing as having a production maximum of 400,000 hL of beer per year. The OCB is an Industry Association of Craft Breweries that requires that its members are also to be “*locally-owned and not significantly controlled by a beer company who does not qualify as an Ontario Craft Brewer. They pledge to brew traditional beers*” using traditional ingredients such as malts, barley, water, yeast and hops. They are not to use any added chemicals, fillers or preservatives.

#### 2.1.2 Distillery

As defined by IBISWorld Industry Report 31212CA Breweries in Canada Report (2019), distillery operations in Canada involve distilling ingredients such as grains, potatoes and sugars into spirits which are then bottled and sold. The following definitions are related to the scale of operations.

**Small-Scale Distillery:** According to OMAFRA a small-scale distillery is one that has worldwide spirits sales of less than 9,000 hL per year.

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## Policy Options Report for Small Scale Breweries, Distilleries and Brewpubs

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**Large-Scale Distillery:** OMAFRA defines a large-scale distillery as one that has more than 9,000 hL in worldwide spirit sales per year.

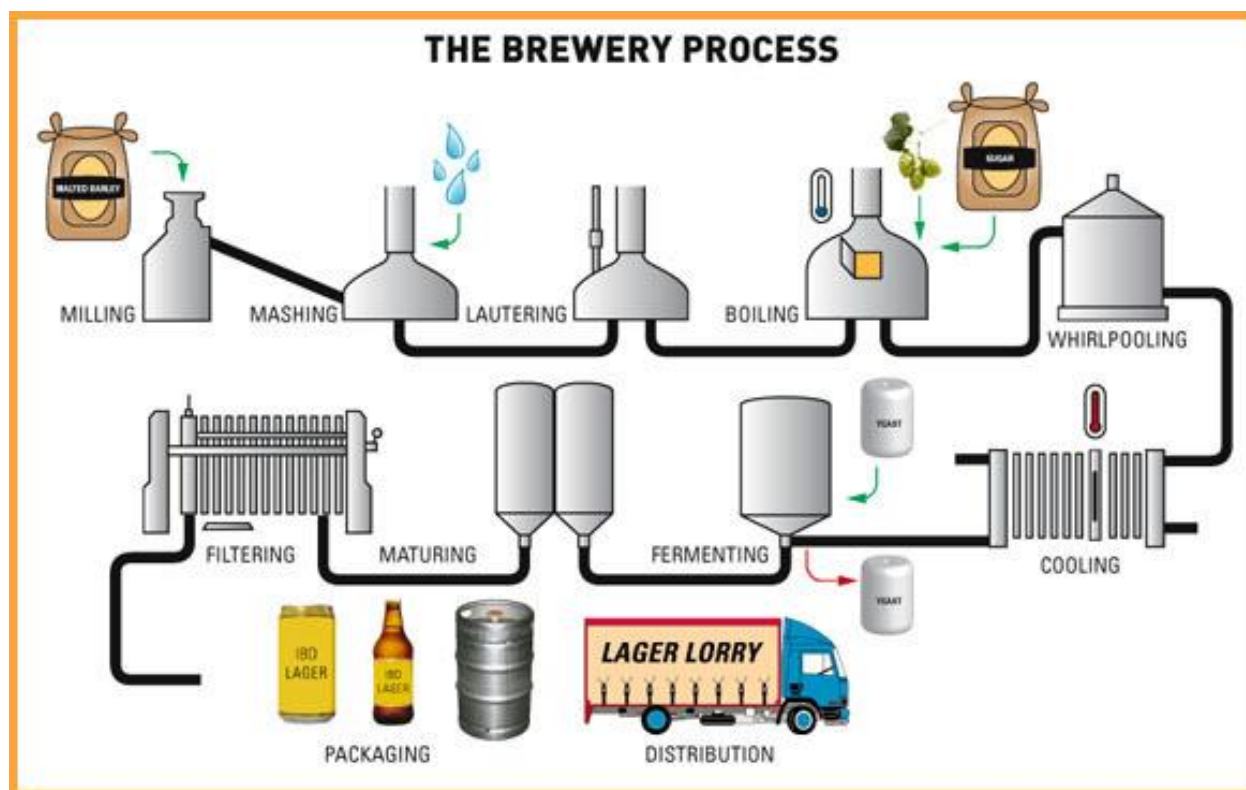
### 2.1.3 Brewpub

The Brewers Association describes a brewpub as a “*professional brewery that sells 25% or more of its beer on-site and operates food services. The beer is brewed primarily for sale in the taproom, and is often dispensed directly from the brewery’s storage tanks. Where allowed by law, taproom breweries often sell beer to-go and/or distribute to off-site accounts.*”

## 2.2 The Brewing / Distilling Process, an Industrial Operation

Breweries and distilleries follow similar production and manufacturing processes. The brewing of beer and distilling of spirits occurs indoors, in accordance with provincial and municipal regulations.

The following is a brief overview of the brewing process as described by the Beer Store:



1. **Milling:** This involves the physical crushing of malt kernels into smaller particles in preparation for mashing and lautering. Next, grain germinates to make malt, which is then dried in a kiln or roasted. Based on the duration of the roasting process, the malt will darken in colour influencing the colour and flavour of beer.

## City of Greater Sudbury

### Policy Options Report for Small Scale Breweries, Distilleries and Brewpubs

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2. Mashing: The malt is then added to, and mashed together with heated, purified water. Depending on the type of beer being brewed, the malt could be supplemented by additional forms of starch or cereals such as corn, wheat or rice.
3. Lautering: Once the mashing is completed, it is transferred to a straining or “lautering” vessel where the liquid drains through the false bottom and flows to the brew kettle. This solution is called “wort”, a sugar solution.
4. Boiling: The boiling occurs in a large cauldron-like brew kettle that holds up to 1,000 hL under carefully controlled conditions. Typically, it takes about two hours to obtain the desired extract from the hops. Highly fermented syrup, or sugar is sometimes added to the kettle.
5. Whirlpooling and Cooling: Once the beer has taken on the flavour of the hops, the wort goes to the hot wort tank where it is cooled.
6. Fermenting: During fermentation yeast breaks down the sugar in the wort to carbon dioxide and alcohol. The yeast multiplies until a creamy, frothy head appears on top of the brew. When the fermentation is complete, which takes roughly seven to ten days, the yeast is removed.
7. Maturing and Filtering: For about one to three weeks, beer is stored cold and then filtered once or twice before it is bottled.
8. Packaging & Distribution: Once beer has been matured and filtered it is packaged and distributed for sale.

For more information on the brewing process, please follow the link provided below:

<https://www.thebeerstore.ca/beer-101/brewing-process/>

The following is a brief overview of the distilling process as described by Spirits Europe.



1. Preparing: The raw material is ground into a course meal. The process breaks down the protective hull covering the raw material and treats the starch.
2. Mashing: The starch is converted to sugar, which is mixed with pure water and cooked. This produces a mash.
3. Fermenting: The sugar is converted to alcohol and carbon dioxide by the addition of yeast. With the addition of yeast to the sugar, the yeast multiplies producing carbon dioxide which bubbles away and a mixture of alcohol particles and congeners, or the elements which create flavour.

A simple formula for fermentation is:

Yeast + Sugar=Alcohol + CO<sub>2</sub>

4. Distilling: The alcohol, grain particles, water and congeners are heated. The alcohol vaporises first, leaving the water, the grain particles and some of the congeners in the

# City of Greater Sudbury

## Policy Options Report for Small Scale Breweries, Distilleries and Brewpubs

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boiling vessel. The vaporised alcohol is then cooled or condensed, to form clear drops of distilled spirits.

5. Ageing: Certain distilled spirits (e.g. rum, brandy, whiskey) are matured in wooden casks where they gradually develop a distinctive taste, aroma and colour.
6. Blending: Some spirits go through a blending process whereby two or more spirits of the same category are combined.

For more information on the distilling process, please follow the link provided below:

<https://spirits.eu/spirits/a-spirit-of-tradition/distillation-process>

### 2.3 Licensing

The following licensing is required to open and operate a brewery or distillery.

#### 2.3.1 Federal Licences

##### 2.3.1.1 Excise Act

In addition to a Federal Business registration, it is necessary for both a brewery and distillery to obtain their respective licences under the Excise Act and the Excise Act 2001 prior to producing or packaging wine, beer and/or spirits in Canada. The licences that are required under the Excise Act permit breweries and distilleries to open and operate in Canada.

#### 2.3.2 Provincial Licences – Breweries and Distilleries

The following provincial licences must be obtained in order for brewers and distillers to sell their product in Ontario. The provincial licences are administered by the Alcohol and Gaming Commission of Ontario (AGCO).

##### 2.3.2.1 Manufacturer's Liquor Licence

All beer, wine and spirit manufacturers in Ontario must obtain a manufacturer's Liquor Licence from the AGCO. This permits the manufacturer to sell their alcohol to the Liquor Control Board of Ontario (LCBO) and distribute their product through the LCBO's distribution system or by any other approved means (i.e. The Beer Store). These operations are periodically inspected by the AGCO to ensure compliance with the Liquor Licence Act, and AGCO regulations and policies.

##### 2.3.2.2 On-Site Brewery Retail Store Authorization

The AGCO is responsible for the authorization of the Manufacturer's Retail Stores. This means that the manufacturer can operate a store for the retail sale of their own beer and spirits on the same location as the brewery/distillery provided that they meet specific criteria.



# **City of Greater Sudbury**

## **Policy Options Report for Small Scale Breweries, Distilleries and Brewpubs**

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### **2.3.2.3 Limited Liquor Sales Licence (“By the Glass”)**

The “By the Glass” initiative allows Ontario breweries to sell and serve a single serving of alcohol (12 oz of beer and 1.5 oz of a spirit) to their patrons at their manufacturing site from 11am to 9pm. This licence is obtained from the AGCO. This licence is intended to encourage and support the selling and service of the alcoholic beverage for promotional purposes. By doing so, the manufacturer provides educational opportunities and a visit to a facility with “By the Glass” service enhances the overall tourism experience. It is important to note that licensees under a Manufacturer’s Limited Liquor Sales Licence are exempt from the requirement to sell food because of the limited intent and nature of the “By the Glass” licensing. Although exempt from this requirement, licensees can provide snacks and other food to guests when possible and in appropriate circumstances. Alcoholic beverage manufacturers require this licence if they wish to have a tasting room on their site.

### **2.3.2.4 Tied House Liquor Sales Licence**

The Tied House Liquor Sales Licence permits beer manufacturers to establish a restaurant on site where they can sell their products, as well as food for consumption on site. This licence permits beer and spirits to be sold between the hours of 11am and 2am, but exempts the establishment from having to sell a variety of brands. The licence also permits the licence holder to apply for a catering endorsement to sell and serve their products at any eligible location (i.e. including the offsite manufacturer’s location). If a manufacturer’s retail store is located on the same manufacturing site as a tied house, the licensee may bring sealed, unopened beer (or spirits) purchased from the retail store onto the licensed premises for the purposes of selling it to a patron. This means that restaurant patrons are also able to purchase product from the retail store on the same bill. This licence is necessary for brewpubs, as it permits both the manufacturing and selling of beer and the establishment of a restaurant.

### **2.3.2.5 Hours of Operation**

Hours of operation shall comply with the provisions established by the AGCO. As described in the Section 2.3 of this report alcohol may be sold from 9am to 2am Monday to Sunday. The AGCO has not established specific hours for brewing or distilling beverages, therefore they can be in operation 24/7.

## **2.3.3 Provincial Licences – Breweries only**

The following provincial licences are strictly for breweries:

### **2.3.3.1 Permit to Take Water**

Breweries require substantial amounts of water to produce their product. Operations taking more than 50,000L of water per day from the environment (lakes, streams, rivers, ponds and groundwater) must apply for the Permit to Take Water.

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The Ministry of Environment, Conservation and Parks (MECP) is responsible for administering this licence.

### **2.3.3.2 Small Drinking Water System (SDWS)**

Breweries in rural areas that are using or intend to use well water must meet the Small Drinking Water System program regulations. This program is administered by the Ministry of Health and Long Term Care and is governed by two regulations under the Health Protection and Promotion Act: Ontario Regulation 318/08 Transitional - Small Drinking Water Systems and Ontario Regulation 319/08 Small Drinking Water Systems. Local public health inspectors (PHIs) conduct site specific risk assessments on the small drinking water system to ensure it is meeting all regulations. The PHI's assessment determines what owners and operators must do to keep their drinking water safe and issues a directive for the system. This directive may include requirements for water testing, treatment options or training.

### **2.3.3.3 Waste Disposal**

Spent grain, the leftover malt and adjuncts after the mash has extracted most of the sugars, proteins, and nutrients, can constitute as much as 85 percent of a brewery's total by-product. Craft breweries all over the country have devised innovative ways to prevent their spent grain from going to waste. While agricultural uses of spent grain predominates, usually in the form of compost or feed, there are many new revolutionary uses, including power generation. By developing "a first-of-its-kind biomass steam boiler," fueled entirely by their spent grain. Ashley Johnston of ABC estimates that "The new boiler will completely eliminate the brewery's use of fuel oil in the grain drying process, and displace more than half of the fuel needed to create process steam for the brewing process."

Alternative uses of spent grain underscore the craft beer community's commitment to creating a sustainable product that lingers in our sensory memories, not our landfills. This is not normally an issue for most small scale operations as they clearly have potential users in most communities. Should landfilling be required, these are commercial operations that provide their own waste disposal through private contracts and does not form a part of municipal solid waste collection systems.

As demonstrated above, advances in technology have dramatically changed the way in which brewing companies are managing their disposal of waste. Having said that, wastewater effluents and solid wastes can be generated by the brewing process, and must be disposed and treated properly in order to meet government regulations. If the brewery intends to use a municipal sewer, compliance with the applicable City By-Law is necessary, as sewage quality must be met. A beer manufacturer should contact local and provincial authorities to discuss site-specific information as it pertains to the disposal of waste or effluent.

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### 2.3.4 Municipal Requirements

Breweries in Ontario must comply with all municipal licensing, zoning and building and fire codes. All other applicable by-laws need to be reviewed in addition to the provincially mandated ones. Any zoning amendments are at the discretion of the local municipality. A building permit is mandatory in all Ontario municipalities. It is recommended that those who are interested talk to Economic Development, Planning and the Building Department during the planning stage. The City of Greater Sudbury's requirements are further discussed in Section 5.0.

## 3.0 Provincial Legislation and Guidelines

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### 3.1 Provincial Policy Statement, 2014

The Provincial Policy Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development, which include: healthy communities, water, natural heritage, agriculture, aggregate resources and public health and safety. Since breweries and distilleries shape the built environment and can contribute – whether for better or for worse – to such things as the economy, public health and the environment, it is important to review all relevant policies in the PPS.

Section 1.1.1 of the PPS supports the efficient development of land and land use patterns which sustain the financial well-being of the Province and municipalities over the long term, and accommodate an appropriate range of land uses such employment (including industrial and commercial) to meet long-term needs. Breweries and distilleries drive local and regional economies, as they provide jobs and contribute to innovation, entrepreneurship and local and regional tourism. Any Provincial Policy that speaks to economic development and competitiveness can only help to benefit the long-term vitality of breweries and distilleries, and the communities in which they serve.

Section 1.3 of the PPS promotes economic development and competitiveness through the following:

- a) providing for an appropriate range mix and range of employment and institutional uses to meet long-term needs;*
- b) providing opportunities for a diversified economic base, including maintaining a range and choice of suitable sites for employment uses which support a wide range of economic activities and ancillary uses, and take into account the needs of existing and future businesses;*
- c) encouraging compact, mixed-use development that incorporates compatible employment uses to support liveable and resilient communities; and*
- d) ensuring the necessary infrastructure is provided to support current and projected needs.*

Long-term economic prosperity is further supported and encouraged in Section 1.7 when it states (a) opportunities for economic development and community investment-readiness are to be promoted; (g) and providing opportunities for sustainable tourism development.

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### 3.1.1 Provincial Policy Statement, 2020

The 2020 PPS will come into effect on May 1, 2020. While we do not anticipate that any substantive changes in the new PPS will impact any proposed zoning provisions for breweries and distilleries, we believe that it is important to flag policies that concern two important functions of planning for breweries and distilleries, which include: economic development and land use compatibility. Additionally, we thought it would be important to highlight rural and agricultural policies to help us determine the suitability of breweries and distilleries for these areas.

Since breweries and distilleries can contribute to local economic development, it may be important to contextualize the Province's direction for promoting long-term economic prosperity (Section 1.7.1). This prosperity can be supported by "*promoting opportunities for economic development and community investment-readiness*" (Section 1.7.1a), and "*providing opportunities for sustainable tourism development*" (Section 1.7.1h). Breweries and distilleries can generate tourism and community investment, including job creation.

Breweries present various challenges, including emissions, noise and odour. Breweries and distilleries traditionally locate in industrial areas but, increasingly and at varying scales, are locating in areas that are more commercial or residential, including rural areas. Distilleries are even more complex, as the distillation process can lead to potential hazards associated with combustion, which limits the range uses that can be integrated into the same building. As such, it is important to acknowledge policies that provide further direction on the subject of land use compatibility (Section 1.2) in the context of Ontario's planning framework.

Section 1.2.6.1 provides that: *Major facilities and sensitive land uses **shall** be planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects from odour, noise and other contaminants, minimize risk to public health and safety, and to ensure the long-term operational and economic viability of major facilities in accordance with provincial guidelines, standards and procedures.*

Section 1.2.6.2 is a **new** policy that strongly states:

*Where avoidance is not possible in accordance with policy 1.2.6.1, planning authorities shall protect the long-term viability of existing or planned manufacturing or other uses that are vulnerable to encroachment by ensuring that planning and development of proposed adjacent sensitive land uses are only permitted if the following are demonstrated in accordance with provincial guidelines, standards and procedures:*

- a) There is an identified need for the proposed use;*
- b) Alternative locations for the proposed use have been evaluated and there are no reasonable alternative locations; and*
- c) Adverse effects to the proposed sensitive land use are minimized and mitigated; and*

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- d) *Potential impacts to industrial, manufacturing or other uses are minimized and mitigated.*

In this policy document, the Province emphasizes that the City needs to evaluate the importance of reducing any issues that may arise as manufacturing land uses may be located in or near areas that are primarily mixed-use or residential (i.e. sensitive land uses). Measures to reduce the risk of compatibility issues need to be carefully considered when planning for breweries and distilleries in more urban, mixed-use areas.

Some of the municipalities discussed in this report are encouraging breweries and distilleries in rural areas. Considering this and the growing demand for breweries and distilleries in these areas, we considered PPS (2020) policies that relate to rural areas and agricultural lands. The PPS (2020) specifies that a healthy, integrated and viable rural area should be supported by:

- f) *promoting diversification of the economic base and employment opportunities through goods and services, including value-added products and the sustainable management or use of resources; and*
- g) *providing opportunities for sustainable and diversified tourism, including leveraging historical, cultural, and natural assets;*
- i) *providing opportunities for economic activities in prime agricultural areas, in accordance with policy 2.3.*

Section 1.1.5 provides further direction on economic opportunities on Rural Lands. Policy 1.1.5.3 also directs local authorities to promote “*recreational, tourism and other economic opportunities.*” Policy 1.1.5.7 also stipulates that “opportunities to support a diversified rural economy should be promoted by protecting agricultural and other resource-related uses and directing non-related development to areas where it will minimize constraints on these uses.”

Within prime agricultural areas, Section 2.3 prescribes a list of permitted uses and activities, which include *on-farm diversified uses*. The PPS (2020) has the following definition for *on-farm diversified*:

*On-farm diversified uses: means uses that are secondary to the principal agricultural use of the property, and are limited in the area. On-farm diversified uses include, but are not limited to, home occupations, home industries, **agri-tourism uses**, and uses that produce value-added agricultural products. Ground-mounted solar facilities are permitted in prime agricultural areas, including specialty crop areas, only as on-farm diversified uses.*

*Agri-tourism uses are further defined as “farm-related tourism uses, including limited accommodation such as bed and breakfast, that promote the enjoyment, education or activities related to the farm operation.”*

As indicated above, the definition for agri-tourism uses is broad and could include a range of activities that support and complement agricultural uses and activities. Like wineries, which typically integrate educational and social components with the

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actual harvesting of grapes and fermenting of wine, breweries and distilleries promote enjoyment, education and other activities that relate to and complement their brewing and distilling processes.

Therefore, it is our opinion that PPS (2020) policies also promote the development of breweries and distilleries on rural and agricultural lands.

### 3.2 Growth Plan for Northern Ontario

The 2011 Growth Plan for Northern Ontario (GPNO) is a strategic framework that guides decision making and investment planning in Northern Ontario. The Province has established policies that recognize the distinct competitive advantages that Northern Ontario can offer in certain economic sectors.

Section 1.1 sets out its mission to support and complement the workers, entrepreneurs and institutions of the North to develop a stronger, more resilient and diversified economy. The growth of entrepreneurship, collaboration and innovation throughout the region are strongly emphasized throughout the GPNO.

Generally, the GPNO provides directives or benchmarks related to increasing long-term economic vitality. In particular, Sections 2.2.2 b) and i) of the Growth Plan identify the following as existing and emerging priority economic sectors related to the brewing and distilling industry:

- Food processing; and
- Tourism.

### 3.3 Ministry of Environment, Conservation and Parks (D-6 Guidelines)

Since we have established that some breweries are located within both Commercial and Industrial Zones, it was also deemed appropriate to review other provincial policies and guidelines related to issues and restrictions of sensitive land uses, as well as the compatibility of industrial uses with other land uses in the context of Ontario's planning framework.

The D-Series Guidelines were developed by the MECP as a tool to guide planning decisions that prevent or minimize adverse effects from the encroachment of incompatible land uses through the adoption of separation distances and other land use control measures.

The D-6 Guidelines further guide municipalities in the development of long-term policy and identification of appropriate land use designations. More specifically, this guideline applies to the compatibility of industrial facilities with other, more sensitive, land uses.

Sections 1.2.1 and 1.2.2 identify potential sensitive land uses (where industry is concerned) as:

- *“recreational uses which are deemed by the municipality or provincial agency to be sensitive; and/or*
- *any building or associated amenity area (i.e. may be indoor or outdoor space) which is not directly associated with the industrial use, where humans or the natural environment may be adversely affected by emissions generated by the operation of a nearby industrial facility. For example, the building or amenity area may be associated with residences, senior citizen*



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*homes, schools, day care facilities, hospitals, churches and other similar institutional uses, or campgrounds”*

The Guideline also applies to all types of proposed, committed and/or existing industrial land uses which have the potential to produce point source and/or fugitive air emissions such as noise, vibration, odour, dust and others, either through normal operations, procedures, maintenance or storage activities and/or from associated traffic/transportation.

Section 4.2.2 defines the determining of permitted uses within the industrial land use designation of an Official Plan as:

*“Being based on operational aspects (e.g. plant emissions, hours of operation, traffic movement) and mitigation employed. Zoning by-laws, however, do not normally use such factors in the definition of permitted uses. Therefore, it shall be necessary to consult Appendix A of this guideline, to determine permitted uses within a general land use designation.”*

Appendix A from Guideline D-6-1 is provided below as Table 1 of this report.

Section 4.3 provides the recommended minimum separation distances based on the class of industrial use:

- Class I - 20 metre minimum separation distance, 70 metre potential influence area
- Class II - 70 metre minimum separation distance, 300 metre potential influence area
- Class III - 300 metre minimum separation distance, 1000 metre potential influence area

Section 4.4 states that depending upon the situation, separation distances may be measured from different points:

- industrial designation line to sensitive land use designation line;
- industrial zone to sensitive land use zone;
- industrial property line to sensitive land use property line;
- proposed industrial use to sensitive land use property line; or
- proposed industrial use to existing sensitive land use.

Guideline D-6-1 identifies examples of how industrial categories can be interpreted for each industrial use that is being considered.

Table 1: MECP D-6-1 (Appendix A) Industrial Categorization Criteria

Category	Outputs	Scale	Process	Operation/Intensity	Possible Examples
Class I	<ul style="list-style-type: none"> <li>• Noise: Sound not audible off property</li> <li>• Dust and/or Odour: Infrequent and not intense</li> </ul>	<ul style="list-style-type: none"> <li>• No outside storage</li> <li>• Small scale plant or scale is irrelevant in</li> </ul>	<ul style="list-style-type: none"> <li>• Self-contained plant or building which produces/stores a packaged product. Low probability of fugitive emissions</li> </ul>	<ul style="list-style-type: none"> <li>• Daytime operations only</li> <li>• Infrequent movement of products and/or heavy trucks</li> </ul>	<ul style="list-style-type: none"> <li>• Electronics manufacturing and repair</li> <li>• Furniture repair and refinishing</li> <li>• Beverages bottling</li> </ul>

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Category	Outputs	Scale	Process	Operation/Intensity	Possible Examples
	<ul style="list-style-type: none"> <li>Vibration: No ground borne vibration on plant property</li> </ul>	relation to all other criteria for this Class			<ul style="list-style-type: none"> <li>Auto parts supply</li> <li>Packaging and crafting services</li> <li>Distribution of dairy products</li> <li>Laundry and linen supply</li> </ul>
Class II	<ul style="list-style-type: none"> <li>Noise: Sound occasionally audible off property</li> <li>Dust and/or Odour: Frequent and occasionally intense</li> <li>Vibration: Possible ground-borne vibration, but cannot be perceived off property</li> </ul>	<ul style="list-style-type: none"> <li>Outside storage permitted</li> <li>Medium level of production allowed</li> </ul>	<ul style="list-style-type: none"> <li>Open process</li> <li>Periodic outputs of minor annoyance</li> <li>Low probability of fugitive emissions</li> </ul>	<ul style="list-style-type: none"> <li>Shift operations permitted</li> <li>Frequent movement of products and/or heavy trucks with the majority of movements during daytime hours</li> </ul>	<ul style="list-style-type: none"> <li>Magazine printing</li> <li>Paint spray booths</li> <li>Metal command</li> <li>Electrical production manufacturing</li> <li>Manufacturing of dairy products</li> <li>Dry cleaning services</li> <li>Feed packing plant</li> </ul>
Class III	<ul style="list-style-type: none"> <li>Noise: sound frequently audible off property</li> <li>Dust and/or Odour: Persistent and/or intense</li> <li>Vibration: Ground-borne vibration can frequently be perceived off property</li> </ul>	<ul style="list-style-type: none"> <li>Outside storage of raw and finished products</li> <li>Large production levels</li> </ul>	<ul style="list-style-type: none"> <li>Open process</li> <li>Frequent outputs of major annoyances</li> <li>High probability of fugitive emissions</li> </ul>	<ul style="list-style-type: none"> <li>Continuous movement of products and employees</li> <li>Daily shift operations permitted</li> </ul>	<ul style="list-style-type: none"> <li>Manufacturing of paint and varnish</li> <li>Organic chemicals manufacturing</li> <li>Breweries</li> <li>Solvent recovery plants</li> <li>Soaps and detergent manufacturing</li> <li>Manufacturing of resins and costing</li> <li>Metal manufacturing</li> </ul>

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As suggested above, potentially hazardous industrial uses need to be taken into consideration through the development of plans, policies and zones. In these guidelines, breweries/ distilleries are considered Class III Industrial Uses. However, as we have established, not all breweries/ distilleries are created equally.

As such, the next step answer the question: which scale of operation belongs to which class? From our review of the D-6 guidelines, definitions and brewing/distilling processes, we have measured how the classifications might affect our approach to zoning:

- A smaller operation would have the least amount of impact on surrounding uses, and is, therefore, the most compatible. The total amount of beer or alcohol that can be produced within these facilities would be minimal and less offensive in terms of odour, noise and vibration. Further, breweries could be combined with restaurants or within downtown areas or mixed-use zones. The scale of these operations would likely be classified as Class I uses. Uses that involve the process of bottling beverages are typically labelled as Class I examples.
- A medium-sized operation, including a distillery, is likely a Class II use. These facilities are likely to have a higher impact on neighbouring uses (compared to a nano-brewery or brewpub), as their operations may produce some noise, odour and vibration, as well as include the frequent movement of products and trucks. However, as opposed to other intensive uses, they are mostly self-contained, with a low probability of fugitive emissions and only periodic outputs of minor annoyance. As such, these facilities could be permitted in areas with primarily commercial uses.
- A large-scale brewery/distillery is likely a Class III use. They are likely to involve the following: the frequent movement of products and trucks; larger production levels; and higher levels of emitted noise, odour and vibration.

The issue of compatibility with sensitive land uses should be closely observed for all scales of operation. It appears that the scale of operation will have the largest impact upon this evaluation, except for distilleries, which are considered to be less compatible with sensitive uses. Evaluating sites on a case-by-case basis may also be necessary to further ensure that potential compatibility issues are mitigated.

Given the requirements of the Ontario Building Code and Fire Code, distilleries should not be combined with a residential component. Restaurants and office uses may also be restricted based upon the operation and the building design. These considerations are further reviewed below. The potentially combustible nature of the distillation process will have an impact upon the building's design and the integrated uses, especially those with a social or public component.

### **3.4 Ontario Building Code – Distilleries only**

Established by the Building Code Act in 1992, S.O. 1992, c. 23 as amended, the Ontario Building Code applies to all new buildings, demolitions and changes of use. Each municipality is responsible for enforcing the Building Code Act and the Building Code, including: setting fees for building permits; reviewing and issuing building permits; inspecting sites for compliance during construction; and issuing stop work and compliance orders.

While breweries still need to meet Building Code and require a building permit, there are particular considerations specific to distilleries that are not applicable to breweries. The Building Code

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defines a distillery as a “*process plant where distilled beverage alcohols are produced, concentrated or otherwise processed, and includes facilities on the same site where the concentrated products may be blended, mixed, stored or packaged.*”

The Building Code recognizes distilleries as a part of Group F, Division 1 high hazard industrial occupancies. A high hazard industrial occupancy “*means an industrial occupancy containing sufficient quantities of highly combustible and flammable or explosive materials to constitute a special fire hazard because of their inherent characteristics.*” According to Section 3.1.3.2. of the Building Code, a distillery cannot be combined with a residential use or other uses that typically involve public gatherings.

Integrating a distillery into a building must be considered in the context of the Building Code’s regulations on fire separations, construction, permitted heights and building areas, compliance alternative, etc.

### 3.5 Ontario Fire Code – Distilleries only

The Ontario Fire Code is a regulation made under the Fire Protection and Prevention Act, 1997, consisting of a set of minimum requirements respecting fire safety within and around existing buildings and facilities. It is important to note that under the Fire Code, distilleries are considered a F1 Classification. This F1 classification triggers specific requirements in the Electrical Act for the authorization of an Electrical Safety Authority (ESA) inspector. It also triggers the requirements of Building Code for fire-resistant barriers and insulation, and emergency exists among others.

According to Section 4.9.2.1(1) of the Fire Code, buildings or parts thereof in which distilled beverage alcohol is distilled, processed or stored in bulk shall be classified as high hazard industrial occupancies. Section 4.2.9.1(2) further provides that buildings or parts thereof used for storage of closed containers of distilled beverage alcohols shall be classified as medium hazard industrial occupancies. This exemplifies the importance of separating incompatible land uses to ensure that the risk of potential hazards are mitigated.

While this is not directly a planning matter, the implementation of the Fire Code, which is designed to keep buildings and the people within or adjacent to buildings safe, is a part of the Building Permit process. The CGS must be cognizant of these limitations, as the legislation is clearly linked to any proposed change to the Zoning By-Law. Acknowledging the limitations by continuing coordination between Planning, Building Services and Economic Development will help to eliminate confusion for people looking for locations to establish a distillery.

Although uses on site may be compatible due to the operational considerations, the placement of a distillery in close proximity to residential uses would need to be done with extreme care through the municipal site plan process, where zoning has already been established through a comprehensive review of a zoning by-law. In particular, there are some notable design solutions that could help to mitigate concerns related to land use compatibility, which include the use of appropriate materials in the building’s design and establishing the appropriate separations and distances through the placement of landscaped buffer areas.

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### 3.6 Ministry of Agriculture, Food and Rural Affairs

The Ministry of Agriculture, Food and Rural Affairs (OMAFRA) published a guideline report in 2018<sup>1</sup> that offers support to individuals and businesses looking to start a craft brewery in Ontario. This document helps potential brewers navigate through the brewing process, as well as Ontario's planning framework, including relevant legislation, municipal by-laws and all relevant permits. Information gathered from a review of this document is discussed at length in our report.

OMAFRA has also developed a set of guidelines for permitted uses on Ontario's prime agricultural areas. According to these guidelines, a small-scale micro-brewery can be considered as an on-farm diversified use on prime agricultural lands (PPS 2020, Section 2.3.3.1), but it cannot be considered as an agricultural use or agriculture-related use, as currently defined by the PPS (2014 and 2020).

## 4.0 Policy and Implementation Examples in Other Municipalities

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Small-scale breweries/distilleries and brewpubs are rapidly growing industries, that often work with, complement and contribute to other industries, like tourism and agriculture. From a zoning perspective, brewing and distilling operations are increasingly challenging to regulate. However, there have been some creative solutions developed most recently at the municipal level to support the development of breweries and distilleries, which includes effective zoning strategies that ensure their compatibility with other land uses.

As a part of this report, we reviewed municipalities with a variety of land use structures and experience with brewing and distillery companies. Most municipalities have supported brewing and distilling operations through the adoption of site-specific amendments and exceptions to their respective zoning by-laws. This includes language that defines the location, scale of production and size of the facility. The process of business development requires significant investment of time and expense for each prospective owner.

Our review of municipalities throughout Ontario and Calgary, Alberta has demonstrated that each municipality approaches the planning and zoning of breweries and distilleries in different ways. In other words, there is no "one size fits all" solution. Reviewing the various municipal strategies provided us with insight into the land use implications of planning for breweries and distilleries, including the appropriate language and site requirements for the recommendations to the City of Greater Sudbury's Official Plan and Zoning By-Law contained in Section 6.0 of this report that can be used to implement a strategy, leaving only unique proposals to require a rezoning process.

### 4.1 City of Ottawa, Ontario

Generally speaking, the City of Ottawa's Official Plan supports economic development and the compatibility of uses. According to Section 2.5.1 of the Official Plan, when planning for the compatibility of land uses, *"the character of the surrounding community should be closely considered and future development must coexist with existing development without causing undue adverse impact on surrounding properties."*

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<sup>1</sup> Starting a Craft Brewery in Ontario - Publication 857, <http://www.omafra.gov.on.ca/english/food/business-development/brewery-guide.pdf>

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In 2018 Ottawa passed a Zoning By-law Amendment to permit micro-breweries and micro-distilleries in commercial and mixed-use areas. Previously, breweries and distilleries were only permitted in the City's industrial zones. The term "storefront industries" was introduced in an effort to support the rise of small-scale, light manufacturing and food-processing activities that also contain services such as a storefront retail or restaurant component of mixed-use area.

Storefront industries are defined as:

*"the small-scale production with associated processing, packaging and/or storage of:*

- (a) Food or beverages, and/or*
- (b) Other goods produced in limited quantities, using techniques that do not involve mass-production nor the use or production of flammable, explosive or other hazardous materials,*

*Where such an establishment includes an ancillary restaurant, retail food store or retail store use through which such goods are sold or served to the public on-site, and which goods may be sold or distributed wholesale to off-site users or resellers."*

The term described in the City's by-law does not affect the existing permitted industrial uses in the industrial zones. However, site-specific exemptions in industrial zones can be pursued to add a retail store, retail food store and/or restaurant use to a list of permitted uses. This amendment further stipulates that the storefront industry uses would not constitute a storefront industry in an industrial zone, which ensures that the combination of retail/restaurant and other industrial uses are not subject to the limitations of a storefront industry within the industrial zone.

Where permitted, a storefront industry would:

- By definition, include a retail or restaurant component, which may include an outdoor patio in the latter case;
- Be restricted to a certain maximum floor area (either 200 square metres or 350 square metres, depending on the zone) including storage;
- Not be permitted to have outdoor storage;
- Be required not to cause nuisance due to noise, odour, dust, fumes, vibration, radiation or glare; and
- Non-food-related storefront industry would also, by definition, exclude mass-production and the use or production of flammable, explosive or other hazardous materials, which are considered heavy industry under the Zoning By-law.

As noted in Section 2.3.2.3 of this report, brewing facilities may include "tasting rooms" where potential buyers can sample products before purchasing them. The Province requires operators to obtain a licence in order to house "tasting rooms" and to sell their product "By the Glass". In some cases breweries and distilleries operate "tasting rooms" like bars.

Bars, under the City's Zoning By-law are defined as:

*"A licensed drinking establishment, the principal business of which is to serve any sort of beverage alcohol to the public for consumption on the premises, and includes a pub."*



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The Zoning By-law has been amended to permit bars in industrial zones provided that bars are:

- *“Ancillary to a permitted brewery, winery or distillery*
- *Restricted to a certain maximum size, in both absolute floor area and relative to the size of the associated brewery, winery, or distillery. The maximum floor area for such ancillary bars should be the lesser of 300 square metres (the maximum currently imposed on other conditional uses such as restaurants) or 25% of the floor area of the associated brewery, winery, or distillery.”*

### 4.2 City of Calgary, Alberta

The City of Calgary also promotes economic development and the compatibility of land uses. Within the last 5 years, Calgary has adopted zoning measures to include breweries within certain zones, specifically permitting small-scale breweries in commercial districts and including provisions that allow for on-site tours, product consumption and retail sales within breweries.

Calgary’s Zoning By-law has one collective definition for a brewery, winery and distillery.

Brewery, Winery, and Distillery means a use:

- “(i) where beer, wine, spirits and other alcoholic beverages are manufactured;*
- (ii) that may have areas and facilities for the storage, packaging, bottling, canning, and shipping of products made;*
- (iii) that may have a private hospitality area where products made on the premises are provided to private groups for tasting and consumption as a special event;*
- (iv) that may include the retail sale of products made on the premises for consumption off the premises;*
- (v) that may include a public area of 150.0 square metres or less where beer, wine, spirits and other alcoholic beverages manufactured on the premises are sold to the general public for consumption on the premises;*
- (vi) that may include the retail sale for consumption off the premises, and sale for consumption on the premises, of alcoholic beverages made off the premises for one year after commencement of the use, or those beverages made in collaboration with another Brewery, Winery and Distillery;*
- (vii) that may have a maximum of 10.0 square metres of public area used for the purpose of providing entertainment;*
- (viii) where the private hospitality area and the public area may be separate floor areas or may occur in the same floor area, but whether these activities are combined or separate, the public area may not exceed the maximum area in subsection (a)(v) unless combined with another use as contemplated in subsection (c); and*
- (ix) that may include the preparation and sale of food for consumption on the premises to private groups in the private hospitality area and to the general public in the public area.”*

The by-law further states that any of these may be combined with a drinking establishment (small, medium and large), and a restaurant (small, medium and large), if they are permitted in the same district.

A Drinking Establishment means:

- “a use where liquor is sold on-site for consumption, which may also include the preparation and sale of food for consumption.”*

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A Restaurant means:

*“a place where food can be prepared and sold for consumption on the premises and may include the sale of prepared food for consumption off the premises.”*

Breweries, wineries and distilleries are permitted generally in commercial, mixed-use and industrial areas in Calgary. Specifically, they are permitted in the following land uses (zones):

- Commercial Neighbourhood 1 District (C-N1)
- Commercial Community 1 District (C-C1)
- Commercial Corridor 1 District (C-COR1)
- Commercial Corridor 3 District (C-COR3)
- Commercial Regional 3 District (C-R3)
- Industrial Business District (I-B)
- Industrial Commercial District (I-C)
- Industrial Heavy District (I-H)
- Centre City Commercial Corridor District (CC-COR)
- Centre City East Village Transition District (CC-ET)
- Centre City East Village Mixed Use District (CC-EMU)
- Mixed Use-General District (MU-1)
- Commercial Neighbourhood 2 District (C-N2)
- Commercial Community 2 District (C-C2)
- Commercial Corridor 2 District (C-COR2)
- Commercial Regional 2 District (C-CR2)
- Industrial General District (I-G)
- Industrial Edge District (I-E)
- Industrial Redevelopment District (I-R)
- Centre Mixed Use District (CC-X)
- Commercial Residential District (CR20-C20/R20)
- Centre City East Village Integrated Residential District (CC-EIR)
- Centre City East Village River Residential District (CC-ERR)
- Mixed Use-Active Frontage District (MU-2)

### 4.3 City of Toronto, Ontario

In response to the increasingly popular micro-breweries and closely related uses (i.e. restaurant and retail sales), the City of Toronto created the “Cask Force”, an interdivisional committee consisting of City staff from Planning, Building, Economic Development and Culture, Municipal Licensing and Standards, the Office Councillor of Layton and industry representatives from Toronto’s craft breweries. This committee provided direction on zoning requirements as they relate to the production of beer.

Toronto has identified four categories for beer production facilities:

1. Beer production facilities as a principal use (manufacturing);
2. Beer production facilities associated with the principal use (brew pubs);
3. Beer production facilities (manufacturing) with ancillary uses (bottle shops and/or restaurants/tasting rooms); and
4. Beer production facilities as a principal use in combination with other principal uses.

These uses noted above are permitted in the following zones:

Zone	Eating Establishment (Brew Pub)	Retail Store (Bottle Shop)	Manufacturing
Residential Apartment Commercial Zone (RAC)	X*	X*	
Commercial Local Zone (CL)	X*	X*	
Commercial Residential Zone (CR)	X*	X	
Commercial Residential Employment Zone (CRE)	X	X	X
Employment Industrial (E)	X*		X
Employment Light Industrial (EL)	X*	X*	X*

# City of Greater Sudbury

## Policy Options Report for Small Scale Breweries, Distilleries and Brewpubs

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Zone	Eating Establishment (Brew Pub)	Retail Store (Bottle Shop)	Manufacturing
Employment Heavy Industrial (EH)			X
Employment Industrial Office Zone (EO)	X*	X*	X*
Institutional General (I)	X*	X*	
Institutional Education Zone (IE)	X*	X*	

\*permitted with conditions

Toronto recognizes that breweries vary substantially in size and function. Some breweries contain an eating establishment, a retail store or both. With respect to the permission for a beverage manufacturing use as part of a retail store in commercial zones, the permission applies to beer, cider and wine.

As indicated in the table above, while the by-law has been amended to include breweries in several zones, there are certain conditions or limits attached to them. The following zoning by-law amendments have been developed by the Cask Force to clarify the limits and simplify the zoning interpretation of beer production and related uses:

### 1. Permitting retail stores with on-site beer production in Commercial-Residential Zones

Retail stores (bottle shops) can include an on-site beverage manufacturing facility that is no more than 400 square metres in floor area.

### 2. Outdoor patio permission in certain Employment-Industrial Zones

Outdoor patios can be permitted ancillary to restaurants and/or tasting rooms operating as part of breweries in all Light Employment (EL) and some Employment (E) zones

### 3. Removal of requirement for a partition wall between beer production and restaurant/retail store areas in Employment/Industrial Zones

A floor-to-ceiling wall between manufacturing use and a retail store or eating establishment to prevent public access is no longer mandatory. Building Code requirements for separation between certain uses would still apply.

### 4. Beer Production and Restaurant Floor Area

The area used for beer production and related spaces, within a restaurant, be excluded from maximum restaurant size in any site or area specific By-laws.

### 5. Beer Production and Restaurants Employment-Industrial Zones

Restaurants and retail store space will be permitted as a percentage of beer production space in Employment (E), Light Employment (EL) and Employment Office Industrial (EO) zones.

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## Policy Options Report for Small Scale Breweries, Distilleries and Brewpubs

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### 4.4 City of Waterloo, Ontario

The City of Waterloo is home to over a dozen brewing companies. As such, there have been some efforts over the years to properly define breweries and ensure that they are permitted within zones that are deemed most appropriate by the City.

Within the City's Official Plan there are two Specific Provision Areas that permit micro-breweries:

- 11. 1. 68 Specific Provision Area 68 (305 Northfield Drive East)
  - Permitted uses (primary uses): Micro-brewery
- 11. 1. 6 Specific Provision Area 6 (181 King Street South)
  - The existing brewery shall be permitted until the current operation ceases to exist

The City's Zoning By-law has two definitions related to breweries:

Microbrewery means:

*"a building or part thereof used for the small-scale production of beverages including beer, wine, cider, and spirits."*

Nanobrewery means:

*"a building or part thereof used for the small-scale production of beer, wine, cider, and or spirits in conjunction with and ancillary to a restaurant."*

Waterloo further provides direction on the estimated size of microbreweries and nanobreweries, as well as other specifications which aim to mitigate conflicts with other types of land uses.

The following restrictions apply to microbreweries (Section 3.M.3):

- 1) *Notwithstanding anything to the contrary, a micro-brewery includes the retailing of beverages produced on the premises for consumption off-site.*
- 2) *The maximum building floor area of a micro-brewery shall be 2,325 square metres.*
- 3) *All emissions and vapours created by the micro-brewery shall be wholly contained within the unit or discharged to the municipal sewer.*

The following applies to nanobreweries (Section 3.N.1):

- 1) *Beer, wine, cider, and or spirits produced in a nano-brewery shall be primarily consumed within the associated restaurant.*
- 2) *Notwithstanding anything to the contrary, nano-brewery includes the retailing of beverages produced on the premises for consumption off-site.*
- 3) *The maximum building floor area of a nano-brewery shall be 235 square metres.*
- 4) *All emissions and vapours created by the nano-brewery shall be wholly contained within the unit or discharged to the municipal sewer.*

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## Policy Options Report for Small Scale Breweries, Distilleries and Brewpubs

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The following table displays where the two types of breweries are permitted within the Waterloo's Zoning By-law:

Type of Brewery	As Primary Use	As Ancillary Use
Nanobreweries	<ul style="list-style-type: none"> <li>• Uptown Commercial Core (U1)</li> <li>• Mixed-use Community Commercial (C1)</li> <li>• Mixed-Use Neighbourhood Commercial (C2)</li> <li>• Convenience Commercial (C3)</li> <li>• Corridor Commercial (C5)</li> <li>• West Side Mixed-Use Commercial Centre (C6)</li> <li>• Conestoga Commercial Centre (C7)</li> <li>• Station Area Mixed-Use Community Commercial A (C1A)</li> <li>• Station Area Mixed-Use Neighbourhood Commercial A (C2A)</li> </ul>	<ul style="list-style-type: none"> <li>• Uptown Mixed Use (U2)</li> <li>• Mixed-Use Office (C4)</li> <li>• Station Area Mixed-Use Office (C4A)</li> <li>• University College (UC)</li> <li>• Station Area Business Employment Two (E2A)</li> <li>• Station Area Business Employment Two B (E2B)</li> </ul>
Microbreweries	<ul style="list-style-type: none"> <li>• Flexible Industrial (E3)</li> </ul>	<ul style="list-style-type: none"> <li>• Business Employment One (E1)</li> <li>• Business Employment Two (E2)</li> <li>• Station Area Business Employment Two (E2A)</li> <li>• Station Area Business Employment Two B (E2B)</li> </ul>

### 4.5 Municipality of North Huron, Ontario

The Municipality of North Huron is located in Huron County, within a region that has become a popular destination for brewers. A local tourism publication indicates that there are seven breweries, one cidery, five wineries and one distillery within the municipalities in Huron County.

Recognizing the demand for available land for brewing and distilling operations and the success of craft brewing companies, the Municipality is currently redefining breweries and distilleries and amending their zoning by-law to permit various kinds of breweries within different zones. While these are only draft amendments, they offer some insight into the zoning measures that are being adopted by municipalities, in particular, ones that are more inclusive towards breweries and distilleries. These draft amendments also address potential land use compatibility issues.

The Municipality of North Huron has developed multiple definitions related to breweries:

**A Brewery/ Distillery/ Winery means:**

*“a building or part thereof used for the manufacturing of alcoholic or non-alcoholic beverages. A brewery may include a cidery or meadery.”*

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## Policy Options Report for Small Scale Breweries, Distilleries and Brewpubs

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### **A Micro-Brewery/ Distillery/ Winery means:**

*“a building or structure or part thereof used for the small scale manufacturing, processing, retail sale, and distribution of beverages and alcoholic substances. A micro-brewery/ distillery/ winery may include a cidery or meadery. A micro-brewery/distillery/winery may also include the preparation, offering for sale, and consumption of food or drinks including alcoholic drinks; entertainment and hosting of events; and tours of the facility.”*

### **A Farm Brewery/ Distillery/ Winery shall mean:**

*“a building or structure or part thereof associated with an agricultural use(s) on the same farm lot where alcohol is produced primarily from materials/crops grown on the lot and may include storage, display, processing, alcohol tasting, an outdoor patio area, and limited retail sales. The area used for alcohol tastings and retail sales shall not exceed 75m<sup>2</sup> or 25% of the total above ground floor area, whichever is least. Alcohol tasting does not include a restaurant, banquet facility, or commercial kitchen. Overnight accommodation is not part of a farm winery/brewery/distillery use. A farm winery/brewery/distillery may also include a meadery or cidery.”*

### **A Rural Brewery/ Distillery/ Winery shall mean:**

*“one or more buildings, structures or parts thereof associated with an agricultural use(s) on the same farm lot, where the lot contains a minimum of 4 hectares planted to produce materials/crops to be used in the production of alcohol. A rural brewery/distillery/winery may include storage, display, processing, alcohol tasting, an outdoor patio area, and limited retail sales. The area used for alcohol tastings and retail sales shall not exceed 150m<sup>2</sup>. Alcohol tasting does not include a restaurant, banquet facility, or commercial kitchen. Overnight accommodation is not part of a rural winery/brewery/distillery use. A rural brewery/distillery/winery with a minimum of 8 hectares planted to produce materials/crops to be used in the production of alcohol is also permitted a service kitchen and related dining area. A rural brewery/distillery/winery may also include a meadery or cidery.”*

Section 3.26.1 of the by-law requires a micro-brewery to provide 1 parking space per 4 seats of maximum capacity, or at least 5 parking spaces.

A Farm Brewery/Distillery is to be permitted as an accessory use within the following zones:

- Section 4.2 General Agricultural Zone (AG1)
- Section 5.2 Restricted Agricultural Zone (AG2)

A Rural Brewery/Distillery is to be a permitted use within the following zone:

- Section 6.1 Agricultural Commercial / Industrial Zone (AG3)

A Micro-brewery/Distillery is to be a permitted use within the following zones:

- Section 10.1 Highway Commercial Zone (C3)
- Section 11.1 Core Commercial – Wingham/ Blyth Zone (C4)

## **4.6 Municipality of Central Huron, Ontario**

In similar fashion, the Municipality of Central Huron contains two definitions for a brewery/distillery/winery.



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Brewery/Distillery/Winery means, *“the manufacturing of alcoholic or non-alcoholic beverages.”*

These uses are permitted in the following zones:

- Agricultural-Commercial-Industrial (AG3);
- Village Commercial-Hamlet (VC1);
- Highway Commercial (C3);
- Core Commercial-Clinton (C4); and
- Light Industrial (M1).

On farm brewery/distillery/winery means:

*“the manufacturing of alcoholic or non-alcoholic beverages using products grown on the same property”*

These uses are permitted in the following zones:

- General Agriculture (AG1); and
- Restricted Agriculture (AG2).

The Municipality of Central Huron has identified a brewery/winery/distillery as a home industry, which is permitted in the General Agriculture (AG1) zone as an accessory use, and other special exception zones.

Central Huron is home to the craft brewery Cowbell Brewing. Cowbell Brewing is currently located in a site-specific Highway Commercial Zone (C3-20). The special zone C3-20 includes the following in addition to the uses permitted in the C3 zone:

- a) *“The brewing of beer and the distilling of liquor*
- b) *The retailing of goods produced on site including beer, liquor, fruits and vegetables as well as other items associated with the operation of the brewery and distillery.” (as amended by By-law 19-2016)*

### 4.7 City of Thunder Bay, Ontario

The City of Thunder Bay has identified breweries as a medium industrial use. There are multiple breweries within the City such as the Sleeping Giant Brewing Company, Dawson Trail Craft Brewery, and UB Brewmaster. All breweries in Thunder Bay are located in the Medium Industrial (IN2) Zone. Some of the permitted uses in the IN2 Zone include:

- Industrial centre;
- Light industrial;
- Medium industrial;
- Office; and
- Restaurant.

Industrial Centre is:

*“a place, other than a mixed use building, where 4 or more uses permitted in an industrial zone are located together for their mutual benefit.”*

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Light Industrial refers to:

*“an industrial use which is entirely enclosed within the building in which is undertaken, such that emission from that building of odours, fumes, noise, cinder, vibrations, heat, glare or electrical interference is not possible.”*

Medium Industrial means:

*“ an industrial use which is substantially enclosed within the building in which it is undertaken, such that emission from that building of odour, fumes, noise, cinder, vibrations, heat, glare or electrical interference is not possible.”*

## 5.0 Current City of Greater Sudbury Policy

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### 5.1 Official Plan

The City of Greater Sudbury's Official Plan does not contain policy direction specific to any scale of brewery or distillery. Existing breweries within the City are located on lands designated Mixed Use Commercial and General Industrial. As such, it is important to consider the City's current policy direction for these areas.

Section 4.3 Mixed Use Commercial:

- 1) *All uses permitted by this Plan except Heavy Industrial may be accommodated in the Mixed Use Commercial designation through the rezoning process.*

Section 4.5.1 General Industrial:

- 1) *Permitted uses may include manufacturing, fabricating, processing and assembling of industrial and consumer products, repair, packaging and storage of goods and materials, and related industrial activities.*
- 2) *Complementary uses, such as administrative offices, hotels and restaurants, which do not detract from, and which are compatible with, the operation of industrial uses are also permitted.*
- 3) *General Industrial uses must have minimal environmental impacts. Any use which may impact surrounding areas and cause nuisance will be appropriately buffered and screened.*
- 4) *Where development occurs in areas that are not fully serviced, only dry industries that generate less than 4,500 litres of wastewater a day may be permitted.*
- 5) *Heavy industrial uses may also be permitted by rezoning.*

This report recommends zoning provisions that will inevitably lead to the development of breweries and distilleries in other O.P. designated areas. As such, we considered the following policies:

Section 4.2.1 Downtown

- 1) *A wide variety of uses are permitted in the Downtown, consistent with its function as the most diversified commercial Centre in the City. Residential, commercial, institutional, entertainment uses and community facilities are permitted as set out in the Zoning By-Law, provided that sewer and water capacities are adequate for the site. Drive-throughs are not permitted in the Downtown.*

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## Policy Options Report for Small Scale Breweries, Distilleries and Brewpubs

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- 2) *To encourage development in the Central Business District, new non-residential development will be exempt from parking. Parking will be required for residential uses in the Central Business District, except residential re-use projects in buildings that were originally constructed five or more years ago.*

### Section 4.2.1.1 Downtown Non-Residential Development

- 1) *Non-residential development is a key priority for the Downtown as a means of stimulating increased investment and business activity and reinforcing the City's urban structure by achieving a more efficient pattern of development.*

### Section 4.2.2 Regional Centres

- 4) *Regional Centres may be appropriate locations for certain light industrial uses which are conducted entirely indoors provided that appropriate landscaping and buffering can be established to shield any adjacent sensitive uses. Outside storage is not permitted unless it is for the purpose of displaying goods for retail sale.*

### Section 4.2.3 Town Centres

- 1) *Town Centres will be planned to include a diverse mix of land uses, an appropriate range of housing types, high quality public spaces and the provision of easy access to stores, services and recreational opportunities. Town centres will be planned as high quality areas that support active transportation and transit as outlined in Sections 11.3.2 and 11.8, and Chapter 14.0, Urban Design.*
- 2) *Town Centres may also be appropriate locations for light industrial uses. Outside storage for the display and sale of goods is permitted. Proper landscaping and buffering must also be established for light industrial uses.*

### Section 4.5.2 Heavy Industrial

- 1) *Within areas designated Heavy Industrial, all industrial uses are permitted, including sanitary landfill sites, salvage yards, quarrying and sewage treatment facilities. Mining and related smelting, refining and processing operations are generally not permitted in Heavy Industrial areas, as the Mining/ Mineral Reserve designation applies to those uses.*
- 4) *Minimum setback distances from sensitive land uses may be required for certain uses in this designation.*

### Section 5.2 Rural Area Designation

- 1) *The following uses are permitted within the Rural Areas designation:*
  - a) *agricultural uses, agriculture-related uses and on-farm diversified uses;*

## 5.2 Zoning By-law

The City of Greater Sudbury is currently home to two small-scale breweries, one small-scale distillery and three brewpubs which were either permitted as of right, or required a rezoning process to permit the proposed use. This section of the report provides the zoning information relevant to breweries and distilleries throughout the City, including relevant definitions; location, size, and scale of existing operations in the City; and parking and loading requirements. This section provides the basis to our approach in the recommendations in Section 6.0 of this report.

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### 5.2.1 Relevant Definitions

The following definitions in the City's Zoning By-Law are most relevant to our discussion on breweries and distilleries:

#### Food Processing Plant:

*An industrial use where agricultural products are prepared, processed, preserved, graded or stored, and includes, without limiting the generality of the foregoing, a flour mill, dairy, soft drink manufacturing or bottling plant, brewery, bakery, catering establishment, grain elevator or egg grading station, but does not include a restaurant, or abattoir except where such uses are specifically permitted hereby.*

#### Restaurant:

*A premises in which the principal business is the preparation and serving of food and refreshments to the public for consumption at tables within or outside the building and which may include the preparation of food in a ready-to-consume state for consumption outside of the premises.*

#### Accessory Retail Store:

*A building, structure or lot, or part thereof, where goods, wares, merchandise, commodities, substances, foodstuffs, articles or things of any kind are stored, kept, offered or displayed for retail sale or rental to the general public, and includes, without limiting the generality of the foregoing, any use defined herein as a form of "retail store" but does not include any other use defined herein. The accessory retail store is only if accessory and clearly secondary to a light industrial use, and wherein products manufactured, produced or processed on the premises are kept or displayed for wholesale or retail sale, or wherein orders are taken for the delivery of such products.*

### 5.2.2 Zones

The City's Zoning By-law currently permits breweries and distilleries as a "food processing plant" in the Mixed Light Industrial/Service Commercial (M1), Light Industrial (M2) and Heavy Industrial (M3) Zones.

The City's existing breweries and distilleries are located in a variety of zones. Some have been able to locate and operate as of right, whereas others have required amendments, typically after initial operations of a restaurant, to permit the establishment of brewing facilities on the premises.

#### 5.2.2.1 Spacecraft, 854 Notre Dame Avenue, Business Industrial (M1-1) Zone

Spacecraft is located on Notre Dame Avenue in the converted former Greyhound Bus station. The Spacecraft restaurant opened January 2, 2019 and was zoned Business Industrial (M1-1). The establishment later applied to the City for an amendment to the Zoning By-law in order to

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## Policy Options Report for Small Scale Breweries, Distilleries and Brewpubs

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permit a food processing plant in the form of a brewery. On July 8, 2019 the City's Planning Committee approved a proposed Zoning By-law Amendment to rezone this property M1-1 (22) and permit a food processing plant in the form of a brewery. The brewing facility is approximately 43 square metres and is located within the same building as the restaurant. The rezoning application intended to permit the sale of beer for consumption off-site.

### **5.2.2.2 Stack Brewhouse, 947 Falconbridge Road, Mixed Light Industrial/Service Commercial (M1) Zone**

The Stack Brewhouse is owned by the Stack Brewing Company. The Stack Brewhouse is located on Falconbridge Road and is zoned Mixed Light Industrial/Service Commercial (M1). This zone permits a food processing plant, restaurant and accessory retail store. This establishment functions as a restaurant and contains a small brewing facility that produces the beer that is sold and consumed on site. No zoning exceptions or amendments were implemented to permit this brewery and brewpub in this zone.

### **5.2.2.3 Stack Brewery, 46 North Brewing Corp, and Crosscut Distillery, Kelly Lake Road, Light Industrial (M2) Zone**

Stack Brewery, 46 North Brewing Corp, and Crosscut Distillery are all located on Kelly Lake Road in close proximity to each other and in the Light Industrial (M2) Zone. A food processing plant, restaurant and accessory retail store are currently permitted in the M2 Zone. No zoning exceptions or amendments were required in order to permit these operations in the M2 zone.

### **5.2.2.4 Taphouse, 1500 Regent Street, Office Commercial (C4) Zone**

The Taphouse is located on Regent Street and is zoned Office Commercial (C4(6)) with a special exception to permit a food processing plant in the form of a brewery. The Taphouse restaurant had been in operation for years prior to adding the brewery as a permitted use. The C4 zone permits a restaurant, however, in order to operate a brewery within the restaurant the City required the applicant to obtain a special exception, in order to permit a food processing plant in the form of a brewery. The brewery is approximately 116 square metres.

The staff report provided several reasons why the Taphouse proposal conformed with the Official Plan, which include:

- No identified servicing constraints;
- Adequate on-site parking provided based on the mix of uses;
- No new access to the Secondary Arterial Road is required;
- No road improvements are required to accommodate development; and

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- No outdoor storage is required for the proposed use.

### 5.2.3 Parking and Loading Provisions

The City's Zoning By-law sets out the minimum parking requirements for relevant uses:

- Food Processing Plant: 1/90 sq. m net floor area + 1/30 sq. m net floor area of accessory office net floor area
- Restaurant: 1/10 sq. m net floor area OR 1/3 persons seating capacity, whichever is greater
- Retail Store: 1/20 sq. m net floor area

Where there are multiple uses on a lot, Section 5.2.2.2 of the Zoning By-law provides that the required parking is the sum of the parking requirements for each component use.

Accessible parking spaces for the applicable uses noted above are based on the overall number of parking spaces provided on the property, as noted below:

Total Number of Automobile Parking Spaces Provided	Minimum Required Number of Barrier-free Accessible Parking Spaces
1-9	0
10-50	1
51-100	2
For each additional 50 spaces or part thereof	1 additional space

The number of loading spaces for an industrial or commercial use is based on the floor area of all the buildings on the lot, as stated in Section 5.6.3. The number of loading spaces is based on the following:

Gross Floor Area	Loading Spaces Required
Less than 300 m <sup>2</sup> gross floor area	0
300 m <sup>2</sup> to 4,500 m <sup>2</sup>	1
Over 4,500 m <sup>2</sup> gross floor area	1 additional loading space for each additional 9,000 m <sup>2</sup> gross floor area or part thereof

### 5.3 Site Plan Control

The development of a new site or renovation of an existing site will likely trigger the requirement for a site plan approval in accordance with the City's Site Plan Control By-law 2010-220. The By-law requires site plan for all commercial development. Industrial development also requires site plan control, except where it is located more than 152.4 metres from both the nearest Residential Zone and nearest Municipal Road or Provincial Highway.



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The City's Site Plan Control Guidelines set out the City's expectations and requirements for Site Plan Control. In this case attention should be paid to the need for removal of the waste (by-products) such as the mash from the brewing and distilling process

### **5.4 Sewer Use By-law 2010-188**

The City's Sewer Use By-law 2010-188, as amended, restricts what can be placed in the sanitary sewer system. A part of any permitting process should include a reviewed with the City by the proponent to ensure that the proponent can meet the City's standards can be met.

## **6.0 Recommendations**

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### **6.1 General**

Based upon our review of best practices and Sudbury's policy context, the City should implement zoning provisions that reflect the considerations made in this report and encourage the continued coordination between municipal departments, including Building Services, Planning, and Economic Development to ensure that breweries and distilleries are developed safely and within suitable areas in a coordinated fashion.

The City should amend its Zoning By-law to ensure the safe and adequate provision of opportunities for breweries and distilleries. The City's Zoning By-Law currently recognizes a brewery as a type of "food processing plant", or an industrial use. Depending on the scale of operation, however, not all breweries need to be considered industrial uses, and continuing to define them in this way would be inappropriate. Our recommendations would permit the development of these uses in specific zones subject to the criteria provided below.

While many of the municipalities identified in this report provide a combined definition for distilleries and breweries, we propose that definitions for these uses remain separate. In our discussions with City Staff and through our examination of the Ontario Building and Fire Codes, we have concluded that distilleries and breweries are not comparable uses, as they have a different set of requirements. Unlike breweries, distilleries are far more hazardous and cannot be combined with a residential, or office component. While the scale of a brewery may change the zone in which it may be permitted, a distillery faces the same hazardous potential at any scale of operation. As such, distilleries should be limited to industrial zones only.

Our approach further reflects the need to permit breweries and distilleries within zones that are deemed most appropriate in an attempt further mitigate potential concerns and any adverse effects that result from incompatible land use planning. We have clearly defined small-scale and large-scale brewing operations as a strategy to provide clarity and simplicity to the zoning process. We have added definitions for brewpubs and distilleries for reasons previously explained.

Business owners will also regard these zoning definitions and regulations when they are considering the development of a new facility or an expansion to their operations.

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The City could also consider more supportive language within the Official Plan that promotes the economic potential of breweries and distilleries within certain designated areas. There are also specific elements of the Site Plan Control process that would be triggered as a result of this report's recommendations. As such, we suggest that the City staff add to the O.P. and the City's Site Plan Guide to reflect this report's recommendations.

City staff may also want to review mobile bottling units and consider adding wineries and cideries to the definitions below, as other municipalities have done.

### 6.2 Definitions

The following definitions have been developed and are recommended to be integrated into the City's Zoning By-law:

**Small-Scale Brewing Facility\*:** A building or structure thereof that is used for the self-contained manufacturing, production, storage, packaging, bottling, canning and shipping of no more than 50,000 hectolitres of beer per year authorized by a licence issued by the Alcohol and Gaming Commission of Ontario. Self-contained means that the emission of odour, fumes, noise, cinder, vibrations, heat, glare or electrical interference is not possible. A Small-Scale Brewing Facility may be accompanied by:

- a) A private hospitality area where products made on the premises are provided to private groups for tasting and consumption;
- b) An area for the retail sale of products made on the premises for consumption off of the premises;
- c) An area where beer manufactured on the premises and alcoholic beverages made off of the premises, by or in collaboration with another Brewery, Winery and Distillery are sold to the general public for consumption on the premises;
- d) Special events and tours; and
- e) An office to be used for administrative purposes.

\*This new definition includes nano- and micro- breweries.

**Large-Scale Brewing Facility:** A building or structure thereof that is used for the self-contained manufacturing, production, storage, packaging, bottling, canning and shipping of greater than 50,000 hectolitres of beer per year authorized by a licence issued by the Alcohol and Gaming Commission of Ontario. Self-contained means that the emission of odour, fumes, noise, cinder, vibrations, heat, glare or electrical interference is not possible. A Large Scale Brewing Facility may be accompanied by:

- a) A private hospitality area where products made on the premises are provided to private groups for tasting and consumption;
- b) An area for the retail sale of products made on the premises for consumption off of the premises;
- c) An area where beer manufactured on the premises and alcoholic beverages made off of the premises, by or in collaboration with another Brewery, Winery and Distillery are sold to the general public for consumption on the premises;
- d) Special events and tours; and
- e) An office to be used for administrative purposes.

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**Distilling Facility:** A building or structure thereof that is used for the self-contained manufacturing, production, storage, packaging, bottling, canning and shipping of alcohol, as authorized by a license issued by the Alcohol and Gaming Commission of Ontario. Self-contained means that the emission of odour, fumes, noise, cinder, vibrations, heat, glare or electrical interference is not possible. A Distilling Facility may be accompanied by:

- a) A private hospitality area where products made on the premises are provided to private groups for tasting and consumption as a special event;
- b) An area for the retail sale of products made on the premises for consumption off of the premises;
- c) An area where alcohol manufactured on the premises and alcoholic beverages made off of the premises, by or in collaboration with another Brewery, Winery and Distillery, are sold to the general public for consumption on the premises;
- d) Special events and tours; and
- e) An office to be used for administrative purposes.

**Brewpub\*:** A building or structure thereof that is used for two uses: a *Small-Scale Brewing Facility* and a *Restaurant*. The restaurant component will involve the preparation and serving of food and other refreshments to the public for consumption within, or outside of the building, as well as the preparation of food in a ready-to-consume state for consumption off the premises. In addition, 25% (or more) of the beer must be sold on site.

\*This definition includes all of the same components for a *Small-Scale Brewing Facility*. The only difference is that a *Brewpub* combines two separate uses, which includes the *Small-Scale Brewing Facility* and a *Restaurant*, as defined by the City's Zoning By-Law.

### 6.3 Appropriate Zones

#### ***Small-Scale Brewing Facility and Brewpubs***

*Small-Scale Brewing Facilities* and *Brewpubs* should be included as a permitted use in the following zones:

- General Commercial (C2);
- Limited General Commercial (C3);
- Office Commercial (C4);
- Shopping Centre (C5);
- Downtown Commercial (C6);
- Resort Commercial (C7);
- Business Industrial (M1-1);
- Mixed Light Industrial/Service Commercial (M1);
- Light Industrial (M2);
- Heavy Industrial (M3);
- Agricultural (A); and
- Rural (RU).

*Small-Scale Brewing Facilities* and *Brewpubs* are generally compatible with the uses permitted in the zones listed above. *Small-Scale Brewing Facilities* and *Brewpubs* can be recommended in the Mixed-Use Commercial, Town Centre, and Regional Centre designations where restaurants

# City of Greater Sudbury

## Policy Options Report for Small Scale Breweries, Distilleries and Brewpubs

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are normally permitted. Further, they can either be standalone, or integrated into a mixed-use building.

In addition, these facilities can be located in several industrial zones. The design, location and suitability of a *Small-Scale Brewing Facility* within one of the aforementioned zones should be closely considered by the City's Building Services department and through the Site Plan Control process.

As tourist destinations, *Small-Scale Brewing Facilities* and *Brewpubs* house various retail components in addition to the sale of beer, including shops, special event venues and bars. As such, they have become very lucrative and attractive business ventures to both entrepreneurs and municipalities. As breweries will continue to diversify with respect to their in-house uses and services, they should be permitted within commercial zones and as viable commercial uses within tourist commercial and rural areas.

It is recommended that *Small-Scale Brewing Facilities* be permitted in Downtown Sudbury, as a means to create a vibrant and attractive destination area for both tourists and people who live in and around the downtown core of the City. Sudbury's Downtown Master Plan works to provide strategies for improving the Downtown's level of economic, cultural and retail activity, its sense of place and its role as the urban centre for the region. Section 4.1.2. of the Official Plan, titled 'Create Downtown Attractions' identifies that the City should consider the level of investment that should be put towards the development of destination areas and determine the types of uses that will make the City more attractive to businesses and investors alike.

The Official Plan further directs the City to build on its base of existing restaurants and bars, independent shops and speciality food stores to help diversify the Downtown core, including the existing establishments. *Small-Scale Brewing Facilities* could contribute to the future commercial and economic vitality within the City's downtown core. The CGS should also consider the potential of cideries and wineries

### ***Large-Scale Brewing Facility***

A *Large Scale Brewing Facility* should be included as a permitted use in the following zones:

- Business Industrial (M1-1);
- Mixed Light Industrial/Service Commercial (M1);
- Light Industrial (M2); and
- Heavy Industrial (M3).

We agree that a *Large-Scale Brewing Facility* is similar to a *Food Processing Plant*, which is currently permitted in the City's industrial zones. However, a *Food Processing Plant* is not permitted in an M1-1. Based on our findings, it is our opinion that a *Large Scale Brewing Facility* is suitable for this zone. It is recommended that the City continue to view these operations as a more industrial and, therefore, permit *Large Scale Brewing Facilities* in the zones listed above.

### ***Distilling Facility***

A *Distilling Facility* should be included as a permitted use in the following zones:

- Mixed Light Industrial/Service Commercial (M1);

# City of Greater Sudbury

## Policy Options Report for Small Scale Breweries, Distilleries and Brewpubs

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- Light Industrial (M2);
- Heavy Industrial (M3);
- Agricultural (A); and
- Rural (RU).

As discussed in this report, regardless of the scale of operation, a distillery is far more disruptive than a brewing facility. As an F1 Classification in the Building Code, a distillery should be limited to only industrial zones. As such, we recommend limiting the extent to which a distilling facility can be combined with another other use.

Based on market demand and the best practices discussed in this report, we suggest that a *Distilling Facility* be allowed to have a *restaurant* as an ancillary use. A distillery will not be allowed in a building with a residential occupancy, as this is prohibited by the Building Code. In Rural and Agricultural Zones the distillery should be located within a stand-alone building only.

### 6.4 Minimum Parking and Loading Requirements

The minimum parking and loading requirements for a *Small-Scale Brewing Facility*, *Large-Scale Brewing Facility* and a *Distilling Facility* are recommended to remain the same as what is currently required for a *Food Processing Plant*, as described in Section 5.3.3 of this report.

Parking and loading requirements for all other proposed uses associated with the brewing and distilling component a building will need to be calculated in accordance with the general parking provisions, as displayed in Section 5.2 of the Zoning By-Law. (i.e. restaurant, tasting room)

Landowners and business applicants will also have the right to pursue a *Cash-in-Lieu of Parking* agreement in accordance with Section 5.2.8 of the Zoning By-Law.

### 6.5 Site Plan Control

The City's Site Plan Control Agreement (SPCA) process needs to be considered in the context of land use compatibility issues as they apply to breweries and distilleries. Although uses on site may be compatible due to the operational considerations, the placement of a distillery in close proximity to residential uses would need to be done with extreme care through SPCA, where zoning has already been established. In particular, there are some notable design solutions that could help to mitigate concerns related to land use compatibility, which include the use of appropriate materials in the building's design and establishing the appropriate setbacks and distances through the placement of landscaped buffer areas. The placement and suitability of breweries and distilleries will need to be reviewed and studied in the context of the City's SPCA process.

## 7.0 Disclaimer

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This report has been prepared for the exclusive use of City of Greater Sudbury, for the stated purpose, for the named facility. Its discussions and conclusions are summary in nature and cannot be properly used, interpreted or extended to other purposes without a detailed understanding and

# City of Greater Sudbury

## Policy Options Report for Small Scale Breweries, Distilleries and Brewpubs

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discussions with the client as to its mandated purpose, scope and limitations. This report was prepared for the sole benefit and use of City of Greater Sudbury and may not be used or relied on by any other party without the express written consent of J.L. Richards & Associates Limited.

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## For Information Only

### Local Planning Appeal Tribunal Decision-Case PL190425-Application for Minor Variance A0092/2019-2220 South Bay Road, Sudbury

Presented To:	Planning Committee
Presented:	Monday, Jun 08, 2020
Report Date	Friday, May 08, 2020
Type:	Correspondence for Information Only
File Number:	A0092/2019 & LPAT File PL 190425

### Resolution

For Information Only

### Relationship to the Strategic Plan / Health Impact Assessment

The application for minor variances is an operations mater under the Planning Act to which the City is responding

### Report Summary

This report is for information purposes only and summarizes a recent decision issued by the Local Planning Appeal Tribunal (LPAT Case # PL190425) with respect to a minor variance application (CGS File # A0092/2019) involving those lands known municipally as 2220 South Bay Road in Sudbury.

The minor variances as applied for were intended to facilitate an addition to an existing residential dwelling and also to reconstruct an accessory structure including a deck and gazebo on the subject lands. Staff was supportive of the minor variances being requested and the Committee of Adjustment (COA) approved the application at their meeting on August 21, 2019.

The owners of abutting lands known municipally as 2196 South Bay Road proceeded to appeal the decision made by the City's COA to LPAT on September 9, 2019 and a hearing at LPAT was held on February 12, 2020.

LPAT allowed the appeal in part as the variances pertaining to the existing residential dwelling and the proposed additions and modifications were authorized, while the variance pertaining to the proposed replacement of an accessory structure and expansion of the existing deck with the gazebo were not authorized.

#### Signed By

##### Report Prepared By

Glen Ferguson  
Senior Planner  
*Digitally Signed May 8, 20*

##### Manager Review

Alex Singbush  
Manager of Development Approvals  
*Digitally Signed May 8, 20*

##### Recommended by the Division

Jason Ferrigan  
Director of Planning Services  
*Digitally Signed May 11, 20*

##### Financial Implications

Apryl Lukezic  
Co-ordinator of Budgets  
*Digitally Signed May 14, 20*

##### Recommended by the Department

Tony Cecutti  
General Manager of Growth and Infrastructure  
*Digitally Signed May 15, 20*

##### Recommended by the C.A.O.

Ed Archer  
Chief Administrative Officer  
*Digitally Signed May 27, 20*

## **Financial Implications**

There are no financial implications at this time.

Date: April 28, 2020

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## STAFF REPORT

On August 21, 2019, the Committee of Adjustment in considering a minor variance application (File # A0092/2019) on those lands known municipally as 2220 South Bay Road in Sudbury approved a request for relief from certain provisions of By-law 2010-100Z being the Zoning By-law for the City of Greater Sudbury in order to facilitate an addition to an existing residential dwelling and also to reconstruct an accessory structure including a deck and gazebo on the subject lands.

Staff was supportive of the variances being requested and provided the following comments to the Committee of Adjustment prior to the hearing:

“The variances being sought would generally facilitate an addition to an existing residential dwelling and also to reconstruct an accessory structure on the subject lands which have frontage on South Bay Road in Sudbury. The lands also have water frontage on Ramsey Lake. The lands are zoned “R1-1(6)”, Low Density Residential Special under By-law 2010-100Z being the Zoning By-law for the City of Greater Sudbury. Staff recognizes that many of the lots along South Bay Road have development constraints related to the sloping topography toward Ramsey Lake. There are also a number of legal existing undersized lots of record along South Bay Road. Staff has no concerns with respect to the variances associated with the addition to the residential dwelling including the deck, stairs and landing. Staff has also reviewed aerial photography and note that the cleared lands at the water located within the shoreline buffer area required under Section 4.41 of the Zoning By-law are legal non-complying in nature. Staff was able to determine these lands were already cleared in 2009 and while changes may have occurred to the landscaping across time they have not been naturally vegetated in some time. It is on this basis that staff is supportive of the rebuilding of the accessory building at the water and further is of the opinion that a variance to recognize an increased shoreline buffer as it is today would solidify the amount of clearance that is permitted on a going forward basis. Staff recommends that the variances be approved as they are minor, appropriate development for the area and the intent of both the Official Plan and Zoning By-law are maintained.”

The owners of abutting lands known municipally as 2196 South Bay Road proceeded to appeal the decision made by the City’s Committee of Adjustment to the Local Planning Appeal Tribunal (LPAT) on September 9, 2019 and a hearing at LPAT (Case # PL190425) was held on February 12, 2020.

At the LPAT hearing, both the applicant and the appellants were self-represented. Staff notes that the appeal was a third party appeal that was filed by the owners of abutting land. The City did not attend the hearing as per Section 6 – Contributions to Appeals – Planning Applications under [By-law 2020-26](#) being the Miscellaneous User Fees for Certain Services By-law for the City of Greater Sudbury. It is further noted that the owner of the lands did not request that Legal Services attend the hearing as outlined in the above referenced Miscellaneous User Fees for Certain Services By-law.

LPAT issued their decision on April 27, 2020. LPAT allowed the appeal in part as the variances pertaining to the existing residential dwelling and the proposed additions and modifications were authorized, while the variance pertaining to the proposed replacement of an accessory structure and expansion of the existing deck with the gazebo were not authorized.

A copy of the decision from LPAT is attached to this report for reference purposes.

**Local Planning Appeal Tribunal**  
Tribunal d'appel de l'aménagement  
local



**ISSUE DATE:** April 27, 2020

**CASE NO(S):** PL190425

The Ontario Municipal Board (the “OMB”) is continued under the name Local Planning Appeal Tribunal (the “Tribunal”), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

**PROCEEDING COMMENCED UNDER** subsection 45(12) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	Susan Jean Lane
Applicant:	Sara Kate Holling
Subject:	Minor Variance
Variance from By-law No.:	2010-100Z
Property Address/Description:	2220 South Bay Road
Municipality:	City of Greater Sudbury
Municipal File No.:	A0092/2019
LPAT Case No.:	PL190425
LPAT File No.:	PL190425
LPAT Case Name:	Lane v. Greater Sudbury (City)

**Heard:** February 12, 2020 in Sudbury, Ontario

**APPEARANCES:**

**Parties**

**Representative**

Susan Jean Lane	Self-represented
Sara Kate Holling	Self-represented
City of Greater Sudbury	No one appeared

**DECISION DELIVERED BY JOHN DOUGLAS AND ORDER OF THE TRIBUNAL**

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## INTRODUCTION

[1] This was a hearing in the matter of an appeal to the Local Planning Appeal Tribunal (the “Tribunal”) by Susan Jean Lane (the “Appellant”) of a decision by the City of Greater Sudbury (the “City”) Committee of Adjustment (the “CofA”) to approve an application for minor variance made by Sara Kate Holling (the “Applicant”) for lands known municipally as 2220 South Bay Road (the “subject property”, PIN 73593-0135).

[2] The subject property is a long narrow lot with frontage on Ramsay Lake (the “Lake”) along its north property line. The subject property has street frontage on South Bay Road along its south property line. The subject property slopes down from South Bay Road towards the waterfront at a fairly steep grade until it flattens out for about the last 15 to 20 metres (“m”) to the shoreline.

[3] The Tribunal was advised that access to the subject property and the neighbouring waterfront lots was taken from a road that ran along the original shoreline road allowance approximately 60 years ago or more. The road running along the shoreline road allowance was closed and title to the shoreline road allowance transferred to the lot owners. Access to the subject property, and neighbouring properties, is now taken from South Bay Road.

[4] The subject property is currently improved with an existing three-storey dwelling (the “existing dwelling”) at the south end of the property situated in relatively close proximity to South Bay Road. There is also an existing accessory structure, which includes a sauna, pump house and deck (the “accessory structure”) located by the west property line not far from the shoreline of the Lake.

[5] The Tribunal heard from two lay witnesses in this matter: the Appellant provided evidence in opposition to the proposed variances; and, Joshua Watson, partner of the Applicant, provided evidence in support of the proposed variances.



[6] Given that neither the Appellant nor the Applicant were qualified to provide expert opinion evidence in land use planning, the Tribunal filed and entered a Report to the City's CofA dated August 21, 2019 ("Planning Report") as Exhibit 1.

[7] As set out in its decision, the CofA approved the application for minor variance to provide relief from Part 4, Section 4.2.5 and 4.41.3 and Part 5, Section 5.3 of Zoning By-law No. 2010-100Z ("ZBL 2010-100Z"), as amended, for approval of the following:

- 1) construct a two (2) storey addition, with decks on the north elevation of the existing dwelling, providing a minimum 0.6 m side yard setback for the addition and 0.43 m side yard setback for the decks, where a minimum 1.8 m side yard setback is required for the addition and decks may encroach 1.2 m into the required yard, but not closer than 1.2 m to the lot line;
- 2) approval of the location of the existing three (3) storey dwelling on the subject property maintaining a minimum 0.9 m side yard setback, where a minimum 2.4 m side yard setback is required;
- 3) approval of the location of the existing stairs and landing on the west elevation of the dwelling maintaining a minimum 0.03 m side yard setback, where steps and landings can be no closer than 0.6 m to the lot line;
- 4) approval to rebuild the existing accessory structure, being a sauna, pump house and also, construct an attached gazebo, providing a minimum 0.3 m side yard setback where a minimum 3.0 m interior side yard setback located above the high water mark is required;
- 5) permit the eaves to encroach to the lot line, where eaves may encroach 0.6 m into the required yard, but not closer than 0.6 m to the lot line;
- 6) permission for the clearing of a maximum 80.0% of the shoreline buffer area, where clearing a maximum of 25% of the shoreline buffer area is permitted, be granted.

[8] The variances have been requested with respect to two separate structures on the subject property. One set of variances as noted in paragraph [7] as item numbers 1), 2), 3) and 5) deal with the existing dwelling on the subject property. The requested variances are intended to provide relief from the ZBL 2010-100Z to legalize the existing dwelling where it currently does not conform to standards set out in ZBL 2010-100Z, and to permit a proposed addition and modifications to the existing dwelling. The second set of variances as noted in paragraph [7] as item numbers 4), 5), and 6)

address the accessory structure on the subject property. The purpose of these variances is to permit the replacement and expansion of the existing accessory structure and deck with the addition of a gazebo, in relatively close proximity to the shoreline on the subject property.

[9] When considering an appeal of an application for minor variance, the Tribunal must consider the four-part test set out in s. 45(1) of the *Planning Act* (the “PA”): do the variances maintain the general intent and purpose of the Official Plan (“OP”); do the variances maintain the general intent and purpose of the Zoning By-law (“ZBL”); are the variances desirable for the appropriate development or use of the land; and, are the variances minor? The Tribunal must also be satisfied that the proposed variances would result in good planning in the public interest.

[10] The following is a summary of the issues raised by the Appellant:

- a. concerns about past process and decisions of the City with respect to the subject property. The Appellant indicated that at least one previous owner undertook construction on the subject property possibly without a building permit and/or without inspections during construction. She provided a brief history of previous variances granted for the subject property, in 1975, 1988, 1990 and 2014, which in her opinion were not considered in light of the four tests. The Appellant opined that cumulatively the intent and purpose of the ZBL has been ignored repeatedly.
- b. concerns that the neighbour to the east of the subject property has with respect to the proposed variances and potential impacts that might result if the requested variances are granted.
- c. concerns with respect to the septic system for the subject property.

- d. Concerns regarding potential trespass and property damage to the Appellant's property, as well as the property of the neighbour to the west during construction because of the narrow side yards to the east and west of the existing dwelling, which may force the owners to trespass on neighbouring property.
- e. Concerns about potential environmental impacts related to the replacement and expansion of the accessory building and deck, including: potential impacts on water quality resulting from vegetation removal and the steep slopes on the subject property; potential impacts on vegetation on the Appellant's property, in particular, a red pine near the property line in close proximity to the proposed new accessory building and expanded deck. She also noted that the subject property is located in a vulnerable area near a drinking water source.

[11] The extent to which some of these grounds can be considered or determined by the Tribunal, is summarized as follows:

- a. The Appellant's concerns with respect to process and decision made by the CofA for this application or past applications is not relevant to the Tribunal's disposition in this matter. This is a hearing *de novo* in which the Tribunal will make a decision on the requested variances based on the evidence produced at this hearing.
- b. If the neighbour to the east of the subject property has any concerns with the proposed variances, it is that neighbour's responsibility to appear at the hearing, or have an authorized representative appear at the hearing on their behalf, to seek status before the Tribunal to make those concerns known. The Tribunal was provided no documentation authorizing anyone to speak on behalf of the neighbour.

- c. With respect to the concerns raised by the Appellant regarding the septic system, the Tribunal notes that the Planning Report explains that the addition to the existing dwelling is not large enough to require any change to the size of the existing septic system. There is no variance before the Tribunal with respect to the septic system in this matter.
- d. The Appellant's concerns about potential trespass and damage to their property during construction is not a matter before the Tribunal under s. 45(1) of the PA. There are avenues other than this hearing for the Appellant to address trespass and property damage should they occur at any time.
- e. The Appellant's concerns regarding non-conformity with the OP and ZBL 2010-100Z, potential environmental impacts on the Lake and potential impacts on trees on the Appellant's property are legitimate focused grounds of Appeal by the Appellant.

[12] The Tribunal will address the variances with respect to the existing dwelling, and the variances as they relate to the accessory structure separately with respect to the four tests pursuant to s. 45(1) of the PA, and whether they represent good planning in the public interest.

### **Variances requested with respect to the Existing Dwelling and proposed addition/modifications**

[13] Mr. Watson testified that a number of variances are required to address existing infractions of ZBL 2010-100Z based on past construction by previous owners of the subject property. He advised that the variances requested are intended to legalize the existing dwelling as well as permit the proposed addition and modifications to the dwelling.

[14] The Tribunal has reviewed the Planning Report and noted no concerns raised with respect to the variances proposed, with respect to the existing dwelling or the proposed addition and modifications to the dwelling.

[15] In final submissions, the Appellant acknowledged that their primary concern is with the potential impacts of the expansion of the accessory structure.

[16] Based on the evidence provided by the Applicant, the Appellant, as well as the City's Planning Report, the Tribunal is satisfied that the proposed variances 1, 2, 3 and 5 as they relate to the existing dwelling and the proposed addition and modifications to the existing dwelling: maintain the general intent and purpose of the OP; maintain the general intent and purpose of the ZBL 2010-100Z; are minor and desirable for the appropriate development of the subject property.

**Variances required for the proposed replacement and expansion of the accessory structure and deck**

[17] The Appellant testified that, in her opinion, the proposed variances with respect to replacement of the accessory structure and expansion of the deck do not maintain the general intent and purpose of the City's OP or ZBL 2010-100Z. She noted that the City's OP speaks repeatedly and clearly to "protected natural areas and healthy lakes and rivers" as part of a healthy community. She noted that this is a consistent theme throughout the OP.

[18] The Appellant testified that there is little vegetation in the buffer area near the shoreline on the Applicant's property. She further testified that the Applicant has removed additional vegetation from the subject property. She is concerned that the lack of vegetation combined with the steep slope on the property will decrease water and nutrient retention on the subject property, which will negatively impact water quality in the Lake.

[19] Mr. Watson testified that approximately 80% of the vegetation near the shoreline had been removed before the Applicant purchased the property. He also testified that the removal of vegetation, from the subject property, the Appellant referred to, were weeds and brush located on the slope in the middle of the property and not within the shoreline buffer. After the brush was cleared, the Applicant replanted the area and put down mulch.

[20] Mr. Watson directed the Tribunal to aerial views of the subject property and neighbouring properties, as well as photos he had taken of the shoreline from the Lake. He pointed out that many of the neighbouring properties have removed more than 25 percent of the vegetation within the buffer zone near the shoreline. Mr. Watson also noted that there are other properties with existing accessory structures in relatively close proximity to the shoreline (distances from the shoreline were not provided).

[21] Mr. Watson provided the Tribunal a copy of a letter from the Nickel District Conservation Authority ("NDCA") dated October 16, 2019 regarding an application made under s. 28 of the *Conservation Authorities Act* ("CAA") to replace the roof on the gazebo and extend the deck to the existing retaining wall at the shoreline. In the letter, the NDCA granted permission for the proposed development or interference based upon the information and drawings provided with the application, subject to five conditions to be cleared by the NDCA.

[22] The City's Planning Report states that staff had reviewed aerial photography of the subject property and noted that the cleared lands at the water located within the shoreline buffer area required under section 4.4.1 of the ZBL are legal non-conforming in nature. This supports the Applicant's claim that the removal of vegetation within the shoreline buffer occurred before the Applicant purchased the property.

[23] Comments from the City's Environmental Planning Initiatives (August 16, 2019) state that:



Vegetation clearing or hard surfacing beyond the City's requirement of a maximum length of 25% of the shoreline of the lot (OP policy 8.4.5) should not be approved for the reasons outlined below.

[24] The reasons set out by the City's Engineering Planning Initiatives for maintaining a vegetated shoreline buffer include the importance of water and nutrient retention on site to reduce the impacts on water quality in the Lake due to nutrient loading.

[25] The Appellant expressed concerns with the proposed design for the replacement accessory structure and deck. Currently, the roof of the existing accessory structure slopes from a central peak to the north and south. The roof of the proposed replacement accessory structure slopes to the east and west and the eaves of the replacement structure are proposed to be as close as 0.6 m from the property line. As a result of the proposed east/west slope of the roof, the Appellant is concerned that precipitation will now flow from the roof onto the Appellant's property.

[26] The Appellant was also concerned that the proposed expansion of the accessory structure and deck (with the gazebo), which is proposed to be located as close as 0.3 m from the property line, where a minimum 3.0 m interior side yard setback is required by the By-law, may impact the root systems of trees located on the Appellant's property, which are growing in close proximity to the property line. The Appellant was most concerned about a mature Red Pine, which she had planted with her father. There is no testimony or evidence before the Tribunal, from a qualified arborist (or related profession) addressing whether or not existing trees on the Appellant's property, near the proposed replacement accessory structure and expanded deck, would be impacted by the proposal or whether any potential impacts could be mitigated.

[27] Mr. Watson testified that the City's CofA had considered and decided in favour of the proposal. He noted that the Appellant had raised the same concerns at the CofA hearing and the CofA had still decided in favour of the application. Mr. Watson opined that all the proposed variances meet the four tests pursuant to s. 45(1) of the PA.

**Analysis and Findings regarding the variances required for the proposed replacement and expansion of the accessory structure and deck.**

[28] Based on the photos provided by both the Applicant and the Appellant, the Tribunal notes that the existing accessory structure and deck on the subject property already occupy a significant percentage of the shoreline buffer. Based on the sketches provided, it appears to the Tribunal that as much as 50% of the shoreline buffer would be covered by the new accessory structure and deck if the variances were approved.

[29] With respect to the NDCA letter, the Tribunal notes that the permission granted by the NDCA is under s. 28 of the CAA not the PA. The tests for a permit issued under s. 28 of the CAA are different than those for a minor variance issued under s. 45(1) of the PA. The NDCA letter states that “this permit does not relieve the applicant from the responsibility of acquiring any other approvals required under federal, provincial or municipal legislation.”

[30] With respect to the removal of vegetation and accessory structures located within the shoreline buffer, one of the key pieces of evidence considered by the Tribunal were the Google images and photos of neighbouring shoreline properties provided by the Applicant. Based on those images, the Tribunal accepts the Applicant’s contestation that more than 25% of the vegetation in the shoreline buffer has been removed from many of the lots in this shoreline community. The Tribunal also observes that, as testified to by the Applicant, there are accessory structures on some of the neighbouring properties that appear to be located within the shoreline buffer. However, it does not appear that the accessory structures on the neighbouring properties occupy anywhere near the nearly 50 percent cover of the shoreline buffer that would result should the variances for the subject property be approved. Further, the Tribunal heard no evidence with respect to whether the accessory structures on neighbouring properties also predated the City’s current OP and ZBL 2010-100Z. Accessory structures that may have been allowed under past OPs and ZBLs, may not be permitted under the updated OP and ZBL 2010-100Z.

[31] Based on the evidence, the Tribunal understands that the purpose of limiting vegetation clearing or hard surfacing beyond the City's requirement of a maximum length of 25% of the shoreline of the lot as per OP policy 8.4.5, is to protect the water quality of the Lake. The reason these shoreline properties are desirable is because of the proximity to the Lake. Based on the City's Planning Report, the Tribunal infers that the purpose of the City's shoreline buffer policies and standards is to maintain the water quality to ensure the Lake remains a suitable drinking water source and the attractive asset that made the shoreline properties desirable in the first place.

[32] The size, shape, slope and narrow lake frontage of the subject property poses inherent limits to the extent of development permitted, based on the policies of the City's OP and ZBL. Simply put, there is limited developable area on the subject property given the City's OP policies and the standards in ZBL 2010-100Z, particularly within the shoreline buffer along its narrow lake frontage.

[33] Based on the evidence, the Tribunal understands that the existing accessory structure and deck are legal non-conforming uses, which the Applicant has the right to maintain in good condition. However, the Applicant did not provide the Tribunal with independent, objective expert testimony that supports an expansion to the existing accessory structure and deck, and addresses the potential impacts on the water quality of the Lake, and potential impact on trees (the mature Red Pine, in particular) on the Appellant's property. While a property owner is permitted to maintain an existing legal non-conforming use or structure, legal non-conforming uses are intended to fade out over time. To approve the proposed expanded replacement accessory structure and deck would entrench a use that is not permitted under the current policies of the OP and zoning regulations.

[34] The onus is on the Applicant to make its case that the proposed variances meet the four tests pursuant to s. 45(1) of the PA, individually and collectively. The Tribunal finds that the Applicant has not produced sufficient evidence to satisfy the Tribunal that the four tests for minor variance have been met with respect to variances set out in

items 4), 5) and 6) of paragraph [7] as they relate to the proposed replacement of the accessory structure and deck with the gazebo. The Applicant did not provide sufficient evidence to the Tribunal to demonstrate that the proposed variances for the accessory structure meet the general intent of the City's OP or ZBL 2010-100Z regarding percentage of vegetative or hard surface cover, or that the proposed replacement structure and expanded deck would not impact the water quality of the Lake, and would not impact trees on the Appellant's property.

[35] Without objective expert evidence in support of the proposal and addressing potential impacts, the Tribunal is challenged to accept that the replacement of the accessory building as proposed and expansion of the deck represents good planning in the public interest.

[36] The Tribunal finds that the requested variances with respect to the proposed accessory structure do not maintain the general intent and purpose of the OP or ZBL 2010-100Z and are not minor nor desirable for the appropriate development of the subject property.

## **CONCLUSION**

[37] The onus is on the Applicant to make its case that the requested variances meet the four tests pursuant to s. 45(1) of the PA.

[38] Based on the whole of the evidence inclusive of the documentary record, regarding the proposal in respect of the dwelling, the Tribunal finds that it has sufficient evidence to determine that the variances requested meet the four tests pursuant to s. 45(1) of the PA and represent good planning in the public interest. For these reasons the Tribunal will allow the appeal in part and authorize the variances with respect to the dwelling on the subject property.

[39] However, based on the whole of the evidence inclusive of the documentary record, the Tribunal finds that the Applicant did not produce sufficient evidence in support of the requested variances regarding the replacement accessory structure and expanded deck (with the gazebo). Based on the evidence provided, the Tribunal is not prepared to entrench a non-conforming use that is not permitted under the current policies of the OP and zoning regulations. The Tribunal finds that the variances requested with respect to the replacement accessory structure and expanded deck do not meet the general intent and purpose of the City's OP and ZBL 2010-100Z, are not minor and desirable for the appropriate development of the subject property, and do not represent good planning in the public interest. For these reasons, the Tribunal will allow the appeal in part and the variances to ZBL 2010-100Z with respect to the replacement accessory structure and expanded deck are not authorized.

## **ORDER**

[40] The Tribunal orders that the appeal is allowed in part and:

- the variances to Zoning By-law No. 2010-100Z, as set out in items 1), 2), 3) and 5) of paragraph [7], as they relate to the existing dwelling, the proposed addition and modifications, are authorized;
- the variances to Zoning By-law No. 2010-100Z, as set out in items 4), 5), and 6) of paragraph [7], as they relate to the proposed replacement of the accessory structure and expansion of the deck (with the gazebo) are not authorized.

*"John Douglas"*

JOHN DOUGLAS  
MEMBER

If there is an attachment referred to in this document,  
please visit [www.elto.gov.on.ca](http://www.elto.gov.on.ca) to view the attachment in PDF format.

**Local Planning Appeal Tribunal**

A constituent tribunal of Tribunals Ontario - Environment and Land Division  
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