

## 440 Falconbridge Road, Sudbury

Presented To:	Planning Committee
Meeting Date:	April 24, 2023
Type:	Public Hearing
Prepared by:	Glen Ferguson Planning Services
Recommended by:	General Manager of Growth and Infrastructure
File Number:	751-6/23-001

## Report Summary

This report provides a recommendation with respect to an application to rezone a portion of the subject lands to “M1(41)” in order to prevent a split-zoning, which would result from an anticipated future consent application that would be intended to facilitate the creation of a new business industrial lot with the lands being rezoned forming a portion of the retained lands.

This report is presented by Glen Ferguson, Senior Planner.

## Resolutions

### Resolution 1:

#### Resolution regarding the Zoning By-law Amendment:

THAT the City of Greater Sudbury approves the application by 1929874 Ontario Inc. to amend By-law 2010-100Z being the Zoning By-law for the City of Greater Sudbury by changing the zoning classification on a north-westerly portion of the subject lands from “M1-1”, Business Industrial to “M1(41)”, Mixed Light Industrial/Service Commercial Special on those lands described as PIN 73570-0551, Parts 3-9, 11 & 12, 15-19, 25 & 26, Plan 53R-20690, Part 1, Plan 53R-21281, Part of Lot 11, Concession 5, Township of Neelon, as outlined in the report entitled “440 Falconbridge Road, Sudbury” from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting of May 8, 2023, subject to the following conditions:

1. That prior to the enactment of an amending zoning by-law the owner shall submit a registered survey plan describing the lands to be rezoned to the satisfaction of the Director of Planning Services;
2. That the amending zoning by-law include a site-specific provision that a minimum lot frontage of 10 metres be required for the retained lands that are to be rezoned to “M1(41)”; and,
3. That conditional approval shall lapse on May 9, 2025, unless Condition #1 above has been met or an extension has been granted by Council.

**Resolution 2:****Resolution regarding the Consent Referral:**

THAT the City of Greater Sudbury approves the request by 1929874 Ontario Inc. to permit the creation of one additional business industrial lot on lands described as PIN 73570-0551, Parts 3-9, 11 & 12, 15-19, 25 & 26, Plan 53R-20690, Part 1, Plan 53R-21281, Part of Lot 11, Concession 5, Township of Neelon, to proceed by way of the consent process, as outlined in the report entitled “440 Falconbridge Road, Sudbury” from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting of April 24, 2023.

**Relationship to the Strategic Plan, Health Impact Assessment and Community Energy & Emissions Plan (CEEP)**

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

The rezoning application to prevent a split-zoning that would result from a lot boundary re-alignment between two abutting properties does not either directly align with or negatively impact any of strategic goals and objectives that are identified within the City’s Strategic Plan.

The rezoning application would facilitate a lot boundary re-alignment between two abutting properties and it is not expected to have any direct negative impacts on the stated goals and recommendations that are contained within the CEEP.

**Financial Implications**

There are no financial implications associated with this report.

**Report Overview**

This report reviews an application for Zoning By-law Amendment that seeks to change the zoning classification on a north-westerly portion of the subject lands from “M1-1”, Business Industrial to “M1(41)”, Mixed Light Industrial/Service Commercial Special in order to prevent a split-zoning. The split-zoning would result from an anticipated future consent to sever application that is intended to facilitate the creation of a new business industrial lot zoned “M1-1” with the proposed rezoning ensuring that the retained lands would be entirely situated within the “M1(41)” Zone. If approved, the rezoning of the lands to be retained would address and clear or entirely prevent the need for an anticipated future condition of provisional consent from the City’s Consent Official.

In accordance with Section 20.4.1 of the City’s Official Plan, staff have also reviewed the development proposal and are recommending that the creation of the additional business industrial lot having frontage on Falconbridge Road be permitted to proceed by way of the consent process as opposed to the subdivision planning process.

The Planning Services Division is recommending that the application be approved as outlined and noted in the Resolution section of this report.

## **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 on a north-westerly portion of the subject lands from “M1-1”, Business Industrial to “M1(41)”, Mixed Light Industrial/Service Commercial Special in order to prevent a split-zoning, which would result from an anticipated future consent application that would be intended to facilitate the creation of a new business industrial lot having frontage on Falconbridge Road in Sudbury.

If approved, the rezoning of the lands to be retained would address or remove the need for an anticipated condition of provisional consent. The related and anticipated future consent application has not yet been submitted to the City’s Consent Official for consideration.

The owner’s agent has submitted a Concept Plan in support of the proposed rezoning that would facilitate the above noted and described business industrial lot creation.

### **Existing Zoning:** “M1-1”, Business Industrial

The “M1-1” Zone permits a range of business industrial land uses that can be found under Section 8.2, Table 8.1 – Permitted Uses for Industrial Zones of the City’s Zoning By-law. Permitted uses range from accessory outdoor display and sales to a winery. Those development standards that are applicable to the “M1-1” Zone can be found under Section 8.3, Table 8.2 – Standards for Industrial Zones of the City’s Zoning By-law.

### **Requested Zoning:** “M1(41)”, Mixed Light Industrial/Service Commercial Special

The proposed rezoning seeks to prevent a split-zoning which would result from a future anticipated consent application that is intended to facilitate the creation of a new business industrial lot. The retained lands would establish frontage on Falconbridge Road and in order to do so there is a strip of land that would need to be rezoned to “M1(41)” in order to prevent a split-zoning on the future retained lot.

The “M1(41)” Zone permits an automotive body shop in addition to all those land uses permitted in the standard “M1” Zone. Those land uses permitted in the standard “M1” Zone can be found under Table 8.1 – Permitted Uses for Industrial Zones of the City’s Zoning By-law.

The added permission for an automotive body shop is found under Part 11: Exceptions, Section 3 – Special Industrial Zones, Subsection (1) of the City’s Zoning By-law. Those development standards applicable to the “M1(41)” Zone can be found under the standard “M1” Zone in under Section 8.3, Table 8.2 – Standards for Industrial Zones of the City’s Zoning By-law.

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

The subject lands are located on the east side of Falconbridge Road to the north of Frobisher Drive and to the south of Auger Avenue in the community of Sudbury. The lands to be rezoned have an area measuring approximately 1,085 m<sup>2</sup> (11,678.84 ft<sup>2</sup>). The lands to be rezoned contain a private driveway providing access to an existing automotive body shop in the rear of the proposed retained lands. The lands to be severed in a future anticipated consent application contain an automotive sales establishment (ie. Laurentien Chrysler, Dodge, Jeep & Ram).

### **Surrounding Land Uses:**

North: Business industrial uses (eg. Centis) and general commercial uses (eg. Gongga’s Grill, Victory Lube, etc.) on Falconbridge Road, and a mix of urban residential land uses and built-forms having frontage on or being accessed from Auger Avenue.

- East: Several large tracts of well-vegetated vacant land with rocky topography designated in the City's Official Plan for general industrial development, and a waste disposal area (ie. Sudbury Landfill).
- South: Large tract of municipally owned land containing a mix of uses (eg. Frobisher Depot, Recycling Centre, Hazardous Waste Depot, etc), and Kingsway Boulevard.
- West: Business industrial plaza (ie. Kristi Place) and general commercial uses along Falconbridge Road, and low density urban residential land uses on the west side of Falconbridge Road.

The existing zoning and location map along with an aerial photograph are attached to this report indicating the location of the subject lands that are to be rezoned, as well as the applicable zoning in the immediate area. The submitted Concept Plan is also attached to this report for reference purposes.

### **Public Consultation:**

The statutory Notice of Application was provided to the public by newspaper and to nearby landowners and tenants located within 122 m (400.26 ft) of the subject lands on March 2, 2023. The statutory Notice of Public Hearing was provided to the public by newspaper on April 8, 2023 along with courtesy mail out to nearby landowners and tenants located within 122 m (400.26 ft) of the subject lands.

The owner's agent was 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 application prior to the public hearing. The owner's agent indicated on their application form that they would not be engaging in any public consultation ahead of the public hearing at the City's Planning Committee given that the proposed rezoning is largely technical in nature (ie. to facilitate the creation of a business industrial lot) and is intended to prevent a split-zoning.

At the time of writing this report, no phone calls, emails or letter submissions with respect to the development proposal have been received by the Planning Services Division.

### **POLICY AND REGULATORY FRAMEWORK:**

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

- [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 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 the rezoning application be approved.

### **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 Mixed Use Commercial and General Industrial in the Official Plan for the City of Greater Sudbury. Staff in general have no concerns with respect to the proposed rezoning conforming to the applicable Mixed Use Commercial and General Industrial policies contained within the City's Official Plan. Staff acknowledges that the proposed rezoning is largely technical in nature and is intended to prevent a split-zoning from occurring as a result of an anticipated consent application related to the creation of a new business industrial lot having frontage on Falconbridge Road. The rezoning application would ensure that the proposed retained lands are not split-zoned.

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

The subject lands are presently zoned both "M1-1" and "M1(41)" in the City's Zoning By-law. The lands are presently split-zoned however this is an existing situation where one landowner remains in the process of developing a larger block of industrial land. The development proposal has now shifted whereby the owner intends on having the existing automotive sales establishment on a separate lot from the balance of the industrial area that is evolving. The owner's agent is therefore requesting that a north-westerly portion of the lands be rezoned from "M1-1" to "M1(41)" in order to prevent a split-zoning from occurring as a result of a future anticipated consent application that would seek to create one new business industrial lot having frontage on Falconbridge Road. The owner's agent has also requested that a reduced minimum lot frontage for the future retained lands be included in an amending zoning by-law. No further site-specific relief from any general or parking and loading provisions or from the development standards of either the "M1-1" and/or "M1(41)" Zone is being requested by the owner.

**Department/Agency Review:**

The application including relevant accompanying materials was 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.

It should be noted that the commenting period associated with this rezoning application was appropriately reduced given the technical nature of the development proposal being that of a split-zoning matter. Further to this, staff notes that only those agencies and departments that are integral to the review of the split-zoning matter were circulated the rezoning application. The owner is therefore cautioned that the related consent application is circulated to a wider range of agencies and departments that may have interest in matters extending beyond the split-zoning issue that this rezoning application is intended to resolve.

Building Services have advised that they have no concerns with respect to the rezoning application from their respective area of interest. Building Services does however acknowledge the request to permit a reduced minimum lot frontage of 10 m (32.81 ft) for the proposed retained lands on Falconbridge Road whereas 45 m (147.64 ft) is required in the "M1(41)" Zone.

Conservation Sudbury has no concerns with the proposed rezoning of the lands. Conservation Sudbury advised the owner that they should be aware that the retained lands are adjacent to a wetland situated with a regulated area. The owner is therefore further advised that any future development within 30 m (98.43 ft) of the wetland boundary would require permits from Conservation Sudbury.

Development Engineering has no concerns with respect to the rezoning of a portion of the lands in order to prevent a split-zoning from occurring on the proposed retained lands.

Water and Wastewater has advised that no activity or activities engaged in or proposed to be engaged in on the subject lands (ie. 440 Falconbridge Road) are considered to be significant drinking water threats at this time. The owner is advised that they may undertake the activity or activities described in the rezoning application and proceed to apply for a building permit or any further planning approvals as they are neither prohibited nor restricted for the purpose of Part IV of the [Clean Water Act](#).

## **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 with respect to applicable policies, including any issues raised through agency and department circulation.

As noted previously in this report, the owner is requesting that a north-westerly portion of the subject lands be rezoned from “M1-1” to “M1(41).” Staff has no concerns with respect to the requested zone category and would note that the portion of the lands to be rezoned would act to prevent a split-zoning from occurring as a result of the proposed new business industrial lot having frontage on Falconbridge Road.

It is noted that Section 4.23 – Multiple Zones on One Lot of the City’s Zoning By-law outlines where a lot is divided into more than one zone that the lot area and lot frontage requirements of the most restrictive zone on the lot shall be applied to the entirety of the lot. In this particular case, both the “M1-1” Zone and “M1(41)” Zone require the same minimum lot area and minimum lot frontage under Section 8.3, Table 8.2 – Standards for Industrial Zones. Staff notes that there is no more restrictive zone in this regard, however the balance of Section 4.23 is an area of concern unless the lands are rezoned to avoid a split-zoning.

With respect to the balance of Section 4.23, it is noted that where a lot is divided into more than one zone that each such portion of the lot shall be used in accordance with the permitted uses and zone provisions of the applicable zone as if it were a separate lot. Staff would advise that the “M1(41)” Zone permits an automotive body shop whereas the lands to be severed and added to the future anticipated retained lands are presently zoned “M1-1” which does not permit an automotive body shop. Staff advises that it is considered to be good land use planning that the split-zoning provides clarity around the types of industrial uses that are intended to be permitted on the lands. The proposed rezoning would resolve this concern and provide clarity in terms of how the subject lands may be utilized from an industrial land use perspective.

Based on the above, staff notes that the anticipated future retained lands are therefore required to be rezoned in order to prevent the creation of a lot fabric that does not comply with the City’s Zoning By-law.

Staff would also note that preventing a split-zoning is desirable from a good land use planning perspective in order to avoid interpretation challenges as it relates to the City’s Zoning By-law. For example, the intended geographic limit of each zone on a single lot may be unclear based on the zoning map and associated interpretations may lead to disagreement or conflict. Further to the above example, the text of each zone involved (eg. “M1-1” and “M1(41)”) can become cumbersome to understand especially where site-specific development standards are present. An example of where split-zonings are intended and contemplated by Section 4.23 of the City’s Zoning By-law would include where zoning is applied to a block of land before a draft plan of subdivision proceeds to registration across one large block of land having multiple zones (eg “R1-5”, “R2-2”, “R3”, “OSP”, and “OSC”) for the time being.

The proposed “M1(41)” Zone is also more appropriate and desirable from the perspective of preventing land use planning disputes between abutting landowners and bringing clarity to how the City’s Zoning By-law is to be interpreted. Staff notes that the proposed rezoning would align the applicable zoning on the retained lands with the intended future lot fabric in terms of bringing resolution to the location of the existing driveway access that would provide access to the rear of the lands. Staff anticipates that the existing automotive sales establishment (ie. severed lands) would then benefit from an easement for access purposes across said private driveway that provides access to Falconbridge Road.

It is on this basis that staff has no concerns with the requested zone category and would note that a registered survey plan providing a legal description of the lands to be rezoned is required in order to prepare an amending zoning by-law should the rezoning application be approved.

With respect to the subdivision of land policies in the City's Official Plan, staff notes that the subject lands have been the subject of six previous lot creations between 1972 and 2015 from the original parent parcel and the current application to rezone the lands would in part facilitate the creation of a seventh lot having frontage in this case on Falconbridge Road. Staff advises that in general those agencies and departments circulated on the current rezoning application have not identified any concerns with respect to the proposed business industrial lot creation proceeding by way of the consent process as opposed to the subdivision planning process. Staff further advises that no land use planning matters which would prescribe the subdivision planning process as the preferred method for lot creation in this case have been identified during the review of the current rezoning application. It is on this basis that staff is recommending that it would be appropriate for the proposed new business industrial lot that is the subject of this planning report be created by way of the consent process.

## **Conclusion**

Staff has noted in this report that the proposed rezoning would change the zoning classification on a portion of the subject lands from "M1-1" to "M1(41)" in order to prevent a split-zoning, which would result from a related consent application that is intended to facilitate the creation of a new business industrial lot having frontage on Falconbridge Road. Staff has no concerns with the requested zone category. If approved, the amending zoning by-law would prevent said split-zoning from occurring and would address and clear an anticipated future condition of provisional consent from the City's Consent Official.

Staff has reviewed the development proposal and is satisfied that it conforms with the City's Official Plan. The development proposal is also generally consistent with the land use planning policy directions identified in PPS and further there would be no matters of provincial interest impacted should the rezoning application be approved. Staff also notes that the application both conforms to and does not conflict with the Growth Plan for Northern Ontario.

Staff are further recommending that the new business industrial lot having frontage on Falconbridge Road be permitted to proceed by way of the consent process as opposed to the subdivision planning process. This is recommended in accordance with Section 19.4.1 of the City's Official Plan and on the basis that no land use planning matters which would prescribe the subdivision planning process as the preferred method for lot creation in this case have been identified during the review of the current planning applications.

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.