

0 Highway 69 S, Sudbury

Presented To:	Planning Committee
Meeting Date:	August 12, 2024
Type:	Public Hearing
Prepared by:	Stephanie Poirier Planning Services
Recommended by:	General Manager of Growth and Infrastructure
File Number:	751-6/24-05

Report Summary

This report provides a recommendation regarding an application to rezone the subject lands from the “RU” Rural Zone to the “RU(18) Rural Special” Zone in order to prevent a split-zoning of the subject lands as a result of future land merger of PINs 73479-0566 and 73479-0195, and to amend the site specific provisions of the “RU(18)” to reflect the multiple uses of the property.

This report is presented by Stephanie Poirier, Senior Planner.

Resolution

THAT the City of Greater Sudbury approves the application by 1840272 Ontario Inc., and 1323318 Ontario Inc. to amend Zoning By-law 2010-100Z by changing the zoning classification from “RU” Rural Zone to the “RU(18) Rural Special” Zone, on lands described as PINs 73479-0566 and 73479-0195, Lot 9, Concession 5, and Plan 53R-21665 Part 1, Township of Dill, as outlined in the report entitled “0 Highway 69, Sudbury”, from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting on August 12th, 2024, subject to the following conditions:

1. A Holding symbol which shall not be removed by the City of Greater Sudbury until the following conditions have been addressed:
 - a) The owner shall have completed an amendment to the site plan agreement with the City and said site plan control agreement shall be registered on title to the satisfaction of the Director of Planning Services;
 - b) b) The owner shall apply for and obtain all necessary building permits in accordance with the Ontario Building Code on PINS 73479-0566 and 73479-0195 to the satisfaction of the Chief Building Official; and
 - c) That an MTO Commercial Entrance permit be obtained, to the satisfaction of the Ministry of Transportation.

Until such time as the H symbol has been removed, the only permitted uses shall be those legally existing on the date that the amending by-law comes into effect.

2. That the amending zoning by-law include the following additional site-specific provisions to the “RU(18)” Zone:

- a) In addition to the uses permitted in a RU(18) Zone, a warehouse and related accessory uses including shipping and storage containers shall also be permitted;
- b) Shipping and storage containers shall only be permitted in the rear and interior side yards;
- c) In addition to the uses permitted in a RU(18) Zone, a taxi stand shall also be permitted;
- d) In addition to the uses permitted in a RU(18) Zone, outdoor storage as an accessory use associated with a Salvage Business shall also be permitted;
- e) Outdoor storage shall only be located in the rear and interior side yards. No opaque fence screening is required;
- f) The minimum lot frontage for existing buildings and structures as of the date of passing by-law is 2.9 m.

Relationship to the Strategic Plan, Health Impact Assessment and Climate Action Plans

The application to amend the Zoning By-law is an operational matter under the Planning Act to which the City is responding. The rezoning application does not directly align with or negatively impact any of the strategic goals and objectives that are identified within the City's Strategic Plan. The rezoning application 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:

An application for rezoning has been submitted to prevent a split-zoning of the subject lands as a result of future land merger of PINs 73479-0566 and 73479-0195, and to amend the site specific provisions of the "RU(18)" to better reflect the use of the lands.

Staff recommends 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.

Staff Report

Proposal:

The purpose and effect of the application is to rezone the subject lands from the “RU” Rural Zone to the “RU(18) Rural Special” Zone in order to prevent a split-zoning of the subject lands as a result of future land merger of PINs 73479-0566 and 73479-0195, and to amend the site specific provisions of the “RU(18)” to include the following:

- In addition to the uses permitted in a RU(18) Zone, a *warehouse* and related *accessory uses* including *shipping and storage containers* shall also be permitted;
- *Shipping and storage containers* shall only be permitted in the rear and interior side yards;
- In addition to the uses permitted in a RU(18) Zone, a *taxi stand* shall also be permitted;
- In addition to the uses permitted in a RU(18) Zone, *outdoor storage* as an *accessory use* associated with a Salvage Business shall also be permitted.
- *Outdoor storage* shall only be located in the rear and interior side yards. No opaque fence screening is required;
- The minimum lot frontage for existing buildings and structures as of the date of passing by-law is 2.9 m

The subject lands are designated ‘Rural’ within the City’s Official Plan and are zoned “RU” Rural and “RU(18)” Rural Special within By-law 2010-100Z being the Zoning By-law for the City of Greater Sudbury. The subject lands are serviced by a private well and septic system and have an existing access from Highway 69.

Surrounding uses are rural in nature.

A location map has been attached for reference.

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](#); and,
- [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 1.1.5 of the PPS speaks to rural lands in Municipalities and states that recreational, tourism, and other economic opportunities should be promoted that is compatible with the rural landscape and can be sustained by rural service levels.

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 is satisfied that the application conforms to the Growth Plan.

Official Plan for the City of Greater Sudbury:

The subject property is designated as 'Rural' in the City of Greater Sudbury Official Plan. The intent of this designation is to accommodate a variety of land uses that are appropriate for a rural location, especially those that provide rural economic benefits that are balanced with protection of the natural environment and the agricultural resource base. Objectives of the rural designation include encouraging a strong rural economy with a range of rural uses that can be adequately serviced, remain compatible with surrounding area, and not impact the environment or agriculture. Rural industrial/commercial uses are permitted within the 'Rural' land use designation subject to the following applicable policies:

Policy 5.2.5(1) states that rural industrial/commercial uses are generally resource-based and may include agriculture, dry industrial/commercial uses, and forestry uses, and forestry.

Policy 5.2.5(3) states that rural industrial/commercial sites are to be located with adequate separation distances from residential areas, and provide proper buffering and landscaping along Arterial Road frontages. Entrances are restricted to Secondary Arterial and Local Roads, and no temporary structures, outside storage or sales displays may be visible from the frontage of abutting roads. All such development is subject to rezoning and site plan control.

Section 19.5.4 contains policies on Holding Provisions and states that the City may pass Zoning By-laws containing "holding" provisions to specify the use to which lands, buildings, or structures may be put at some time in the future, providing:

a. the holding symbol (H) is used only in the following instances:

- i. when certain details of development have not yet been determined, or where certain conditions of development have not yet been met such as, but not limited to, development or servicing agreements with the City;
- ii. when the level of community services and/or infrastructure is not yet adequate to support the proposed use;
- iii. where environmental conditions or constraints temporarily preclude development or redevelopment;
- iv. where required studies have not yet been approved by the City; and
- v. where a risk management plan for drinking water source protection is being developed.

b. the zoning by-law containing the holding provisions may specify the interim land uses to be permitted, the conditions for removal of the holding provision, and any regulations or restrictions applying to the lands during the time the holding provision is in place; and,

c. a by-law to remove the holding symbol may be adopted when all the conditions set out in the holding provision have been satisfied.

Zoning By-law 2010-100Z:

The subject lands are zoned "RU" Rural and "RU(18)" Rural Special within the City's Zoning By-law.

The development standards for the "RU", Rural Zone are as follows:

- Minimum lot area of 2 ha
- Minimum lot frontage of 90 m
- Minimum front yard setback 10 m
- Minimum rear yard setback 10 m
- Minimum interior side yard setback 10 m
- Maximum lot coverage 10%
- Maximum height of non-residential uses 21 m

The development standards for the “RU(18)”, Rural Special Zone are as follows:

- The only permitted *uses* shall be a *single detached dwelling*, a salvage business, and related *accessory uses* which may include casting of metals, metal crushing, sale of new and used cars, a *public garage* for mechanical repairs and auto body work, mechanical fitness repairs, retailing of new and used auto parts, reconditioning including painting of auto parts, manufacturing of fibreglass and plastic parts and repair of fibreglass and plastic parts.
- No storage shall be permitted in the *required front yard*.

2.6 Holding Zones

Notwithstanding any other provision in this By-law, where a Zone symbol is preceded by, a letter “H” and a number— for example H1M1 – the symbol refers to a Holding provision that applies to the lands noted. No person shall use or permit the land to which the Hold applies for any use other than the use which legally existed on the date the By-law applying the Holding provision came into effect or the use(s) permitted in the By-law enacting the Hold, or expand or replace an existing building or structure as the case may be, until the Hold (H) is removed in accordance with the policies of the Official Plan and Section 36 of the Planning Act, R.S.O. 1990, c.P.13, as amended.

Consultation:

Public Consultation:

The statutory notice of the application was provided by newspaper on June 15th 2024 along with a courtesy mail-out to surrounding property owners and tenants within 244 m of the property on June 13th, 2024. The statutory notice of the public hearing was provided by newspaper on July 20th, 2024, and courtesy mail-out within 244 m of the property on July 18th, 2024.

At the time of writing this report no oral or written submissions from members of the public have been received with respect to this application.

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 inform and identify appropriate development standards in an amending zoning by-law should the application be approved. Comments received from departments generally had no concerns with the rezoning request. Building Services required that as a condition of approval all buildings constructed without benefit of permit obtain a building permit and that all shipping containers 10 m² in area of larger require a building permit. Additionally, Building Services advised that the storage of shipping containers and vehicles within the right of way is not permitted and will need to be removed. The Ministry of Transportation has required that a commercial entrance permit be obtained.

Detailed comments can be found in Appendix 1 to this report.

Planning Analysis:

The subject lands contain an existing salvage business that the applicant has advised has been in operation since prior to 1972. The operation unintentionally has expanded from 5238 Highway 69 onto the subject lands and as such is requested to be rezoned to legally permit the existing uses.

The Provincial Policy Statement and City’s Official Plan permit rural dry industrial/commercial uses which provide an economic benefit to the rural area, are compatible with surrounding uses, can be adequately serviced, and not impact rural resources. Due to the topography and natural vegetation of the subject lands, the salvage business is not visible from the road or abutting properties. The lands are serviced by private well and septic and do not require municipal services to operate. Staff do not anticipate impacts to

surrounding land uses or rural resources as a result of the application. Conservation Sudbury has identified a watercourse located on the subject lands, but had no concerns with the requested rezoning, as such staff do not anticipate impacts to the environment as a result of the application.

As part of the rezoning application, the applicant has requested amendments to the existing site specific zoning to more accurately reflect the existing uses of the lands. More specifically the applicant has requested to add permission for outdoor storage associated with a salvage business, warehouse for auto storage, shipping containers for auto storage, and limousine service within the site specific zoning. The subject lands contain an existing warehouse used for the storage of auto parts. It is noted that shipping containers are permitted as an accessory use to a warehouse as of right in the zoning by-law. The subject lands currently contain shipping containers that are being used for storage purposes as well as outdoor storage. While these storage uses may be considered accessory to the salvage business under the current permissions, given the specific nature of the RU(18) zone which only permits uses that are identified in the site specific standards, staff are of the opinion that outdoor storage, warehouse and accessory shipping containers should be specifically identified to reflect the existing uses. The applicant has advised that the limousine service is operated from the single detached dwelling. Staff are of the opinion that the additional permitted uses are considered to be dry industrial/commercial in nature which are uses contemplated within the rural area.

Staff have recommended as part of the site specific zoning to limit the location of the outdoor storage areas and shipping containers to the rear and interior side yards, remaining consistent with official plan direction to prevent visibility of these uses from the road. The applicant has requested that no opaque fencing be required as a screening measure for the outdoor storage use. Due to the topography and natural vegetation of the lands, staff are of the opinion that screening is not required. Lastly, the applicant has requested that a front yard setback of 2.93 m be permitted in order to recognize the location of an existing structure. Staff have no concerns in regards to the setback request as a natural vegetative buffer exists between the existing structure and the road.

Staff recommends that a holding provision be placed on the lands which would prevent new development from occurring until an amendment to the site plan has been completed, all required building permits have been obtained, and a commercial entrance permit from MTO has been obtained. Removal of the holding provision is contingent upon the completion of these items in accordance with the resolution section of the report. There are no lapsing date provisions associated with the removal of a holding provision.

Overall, staff is of the opinion that the proposed rezoning is appropriate given the context of the subject lands. Staff will continue to review the proposal through the site plan control amendment process. The applicant should be advised that if additional relief is required, a subsequent planning act application will be required.

Conclusion:

Staff recommends 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.

Appendix 1:

Departmental & Agency Comments

a) Building Services

No objection with the rezoning of the subject lands from RU to RU(18).

As it pertains with the site-specific provisions and permitted uses, we have the following comments:

- Shipping/Storage containers are not permitted in the current Zoning.
- The current zoning does not permit storage in the required front yard (15 m). We have no concerns with outdoor storage in the rear or side yards without screening.
- There appears to be storage (vehicles/containers) located beyond the front property line. These will need to be removed.
- We have no concerns with the Limousine Service being included as a permitted use.
- We have no concerns with the location of the storage trailer within the required front yard.

A search of our records has determined some concerns with construction on the site. As a condition of the rezoning, Building Permits to the satisfaction of the Chief Building Official will be required for the following structures constructed without benefit of Permit:

- The Covered Transport Trailer Warehouse,
- The Storage Trailer located north of the Garage,
- The Storage Container located south of the Garage, and
- Should approval be granted for the use of shipping/ storage containers, all containers exceeding 10 m²

b) Development Engineering

No objection to the zone change. This area is not presently serviced with municipal water and sanitary sewer.

c) Infrastructure Capital Planning

No concerns.

d) Ministry of Transportation (MTO)

The subject lots are located within the MTO's permit control area (PCA); and therefore are subject to review under the *Public Transportation and Highway Improvement Act* R.S.O 1990. The MTO supports the proposed rezoning in principle, with the following comments to consider:

- The MTO has no objections regarding the proposed rezoning
- There is currently no MTO entrance permit on record for the existing access on Highway 69 South. The applicant should apply for an MTO Commercial Entrance (Change of Ownership) permit in order to formalize the access on Highway 69 South. This permit will come at no cost to the client.
- Any future development will be subject to MTO review.

Permit applications can be made online at the following link: <https://www.hcms.mto.gov.on.ca/>

e) Nickel District Conservation Authority

Conservation Sudbury has no objection to the above listed rezoning. Features regulated by Conservation Sudbury exist on the subject property, including a watercourse. Any future development within 15 m of the watercourse requires permission of Conservation Sudbury.

f) Strategic & Environmental Planning

No concerns.

g) Source Water Protection

No source protection related concerns with the application.

h) Transit Services
No concerns or comments.