

Presented To:	Planning Committee
Presented:	Monday, Jan 26, 2015
Report Date	Monday, Jan 12, 2015
Type:	Public Hearings
File Number:	751-3/14-4

## Request for Decision

**Application for rezoning in order to facilitate a residential lot addition, 100 Carr Avenue, Garson – Cedar Green Enterprises Ltd**

### Recommendation

THAT the City of Greater Sudbury approve the application by Cedar Green Enterprises Ltd. to amend Zoning By-law 2010-100Z by changing the zoning classification on a portion of the lands described as Part of PIN 73496-0645, Part of Parcel 39056, Lot 9, Concession 1, Township of Garson from “OSR”, Open Space - Recreation to “R1-5(S)”, Low Density Residential One Special subject to the following conditions:

1. That prior to the enactment of the amending by law:
  - a) The owner shall submit to the Planning Services Division a registered survey of the lands to be rezoned in order to allow the preparation of the by law;
  - b) A building permit application for the retaining walls on the north-west side of the dwelling, complete with a design by a professional engineer licensed in the Province of Ontario, be submitted to the satisfaction of the Chief Building Official;
  - c) Verification of founding sub-grade and soil-bearing capacity be provided from a qualified geotechnical engineer to the satisfaction of the Chief Building Official; and,
2. That the amending by-law permit a maximum height for the retaining wall as identified in the associated building permit application to the satisfaction of the Chief Building Official.

### Signed By

**Report Prepared By**

Glen Ferguson  
Senior Planner  
*Digitally Signed Jan 12, 15*

**Reviewed By**

Eric Taylor  
Manager of Development Approvals  
*Digitally Signed Jan 12, 15*

**Recommended by the Division**

Mark Simeoni  
Acting Director of Planning Services  
*Digitally Signed Jan 12, 15*

**Recommended by the Department**

Paul Baskcomb  
Acting General Manager of Growth & Development  
*Digitally Signed Jan 12, 15*

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

Doug Nadorozny  
Chief Administrative Officer  
*Digitally Signed Jan 12, 15*

### STAFF REPORT

**Applicant:**

Cedar Green Enterprises Ltd.

**Location:**

Part of PIN 73496-0645, Part of Parcel 39056, Lot 9, Concession 1, Township of Garson (100 Carr Avenue, Garson)

**Application:**

To amend By-law 2010-100Z being the Zoning By-law for the City of Greater Sudbury by changing the zoning classification on a portion of the subject lands from “OSR”, Open Space - Recreation to “R1-5”, Low Density Residential One.

**Proposal:**

The application is intended to facilitate a lot addition in order to recognize an existing swimming pool intended to be accessory to the residential use on those lands known municipally as 97 Carr Avenue.

**Official Plan Conformity:**

The subject lands are located at the boundary of a Living Area 1 and Parks & Open Space land use designation in the Official Plan for the City of Greater Sudbury. Section 20.9 of the Official Plan provides that boundary designation on the map are considered as general guidelines only, except where such areas or boundaries coincide with existing roads, railways, rivers, waterbodies and other defined features. The Official Plan also allows for minor adjustments without a formal amendment through the passing of by-laws provided the general purpose and intent of the Official Plan is maintained. Staff is satisfied that the subject lands can be considered to be located within the Living Area 1 designation.

Living Area 1 includes urbanized communities that are fully serviced and are the primary focus of residential development in the City. Low density, medium density and high density residential development are permitted in the Living Area 1 designation subject to densities of 36 units/ha, 90 units/ha and 150 units/ha respectively.

Section 3.2.1 of the Official Plan outlines policies for considering applications to rezone lands situated within Living Area 1. These considerations are as follows:

1. That the site is suitable in terms of size and shape to accommodate the proposed density and form;
2. That 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;
3. That adequate on-site parking, lighting, landscaping and amenity areas are provided; and,
4. That the impact of traffic on local streets is minimal.
5. The application conforms to the Official Plan for the City of Greater Sudbury subject to a review of the above noted land use planning considerations.

**Site Description & Surrounding Land Uses:**

The portion of the lands which are the subject of the rezoning proposal are located to the immediate north of those lands known municipally as 97 Carr Avenue in Garson. The lands at 97 Carr Avenue presently contain a single-detached dwelling and the owner has recently constructed a swimming pool along with retaining walls which partially encroach onto those lands to the north known municipally as 100 Carr Avenue. The lands subject to the rezoning would allow for those lands containing the encroaching structures to be added to 97 Carr Avenue. These lands have an area of approximately 942 m<sup>2</sup> (10,139.94 ft<sup>2</sup>) and would add approximately 10.67 m (35 ft) of frontage onto Carr Avenue for the benefitting lands.

Surrounding uses are mostly urban residential in nature with the predominant built-form being single-detached dwellings. There is a large tract of open space to the immediate north that contains a golf course with club house building. The portion of land that is the subject of this rezoning application is contained within the southerly part of the golf course. There are several industrial and commercial uses to the south along Falconbridge Road.

### **Departmental & Agency Comments:**

#### Building Services

No objections. We have the following comments:

1. A building permit application for the retaining walls on the north-west side of the dwelling, complete with a design by a professional engineer licensed in the Province of Ontario, is required to the satisfaction of the Chief Building Official.
2. Verification of founding sub-grade and soil-bearing capacity is to be provided from a qualified geotechnical engineer; and,
3. The east retaining wall will require minor variance (or an exception to the By-law) where the retaining wall is greater than 1 metre in height.

#### Development Engineering

No concerns. The lands are presently serviced by municipal water and sanitary sewer.

#### Drainage

No concerns.

#### Nickel District Conservation Authority

No concerns. However, please be advised that the lot addition as well as a portion of the existing lot is located in a designated floodplain. No other development will be permitted on this property. The property must remain as is, with the existing grades as per the survey prepared by A. Bortolussi dated April 12, 2007. No new development will be permitted, including additional buildings, placing of fill material or re-grading the property. Any other proposed changes to this property will require a direct application to the NDCA.

#### Roads, Transportation and Traffic

No concerns.

### **Neighbourhood Consultation:**

The owner 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. At the time of writing this report, no phone calls and no written submissions objecting to the application have been received by the Planning Services Division.

### **Planning Considerations:**

## Provincial Policy Statement 2014

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 2014 (PPS). Staff has reviewed the PPS 2014 and is satisfied that no matters of provincial interest are impacted should the rezoning be approved.

## Official Plan

Staff has reviewed the applicable policies with respect to rezoning lands that are within the Living Area 1 designation. Staff is generally supportive of the development proposal from an Official Plan policy perspective and notes the following:

1. Staff is satisfied that the resulting lot fabric is suitable in terms of size and shape to accommodate the existing single-detached residential dwelling along with a swimming pool and retaining walls. The resulting lot would also comply with minimum lot area, lot frontage and lot depth requirements of the proposed "R1-5" Zone;
2. Staff is satisfied that the lot addition would not negatively impact the surrounding neighbourhood in terms of scale, massing, height, siting, setbacks and the location of parking and amenity areas. The lot addition is intended only to correct for an encroaching swimming pool and retaining wall that was constructed on a portion of the abutting golf course's land holding;
3. Staff has no concerns with respect to the lot addition and any impacts on existing on-site parking, open space landscaping and amenity areas; and,
4. Staff is satisfied that no traffic issues on Carr Avenue would be generated should the rezoning be permitted.

## Consent Application

The owner also applied concurrently on September 24, 2014, for consent to sever the portion of the subject lands that is to be consolidated with 97 Carr Avenue (File # B0095/2014). The related consent application received approval with conditions from the Consent Official on October 30, 2014. The decision included a condition that the lands be rezoned to "R1-5" and that the rezoning be final and binding prior to the Consent Official issuing a final consent certificate. The rezoning that is the subject of this report is anticipated to clear this condition once an amending by-law is passed and the associated appeal period has expired.

## Zoning By-law

The owner is requesting that the lands be rezoned from "OSR", Open Space - Recreation to "R1-5", Low Density Residential One. Staff advises that the lands to the south which the "OSR" portion of the subject lands are to be consolidated with are presently zoned "R1-5", Low Density Residential One. Staff has no objection to the proposed zone category as the rezoning would serve to eliminate a split-zoning that would result from the approved consent application. The elimination of the split-zoning is to the benefit of the landowners at 97 Carr Avenue as Section 4.23 of By-law 2010-100Z would require the more restrictive zone to apply to the benefitting lands where two zones are present on one lot. Staff notes that the retaining wall which supports the swimming pool may require a special exception to accessory structure height provisions under Table 4.1 of By-law 2010-100Z as noted in comments from Building Services. Staff is therefore recommending that the resulting lot fabric at 97 Carr Avenue be rezoned "R1-5(S)", Low Density Residential One Special in order to recognize the retaining wall height as confirmed in the building permit application.

## Summary

Staff has reviewed the development proposal and is satisfied that it conforms to the Official Plan for the City of Greater Sudbury, as well as the PPS. The rezoning would prevent a split-zoning from occurring as a result of a related consent which intends to facilitate a residential lot addition and resolve the encroachment of a swimming pool and retaining walls on the abutting golf course lands. The Planning Services Division is therefore recommending that the application to rezone the lands be approved subject to the conditions noted in the recommendation section of this report.

**SUBJECT  
PROPERTY**

OSR

100

R1-1(2)

OSC

87

77

65

71

59

55

49

R1-5

39

27

15

11

R1-1 93

OSP

R1-5 41

Chriskal

R3.D10

2085 R1-5

2164 M1(5)

OSP

Falconbridge

M1

R1-5

Alice

O'Neil

## Growth and Development Department



**SUBJECT  
PROPERTY**

National

Gladys

Alice

Carr

Donnelly

Ashgrove  
Alpine

Falconbridge

Maley

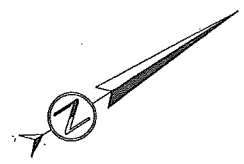
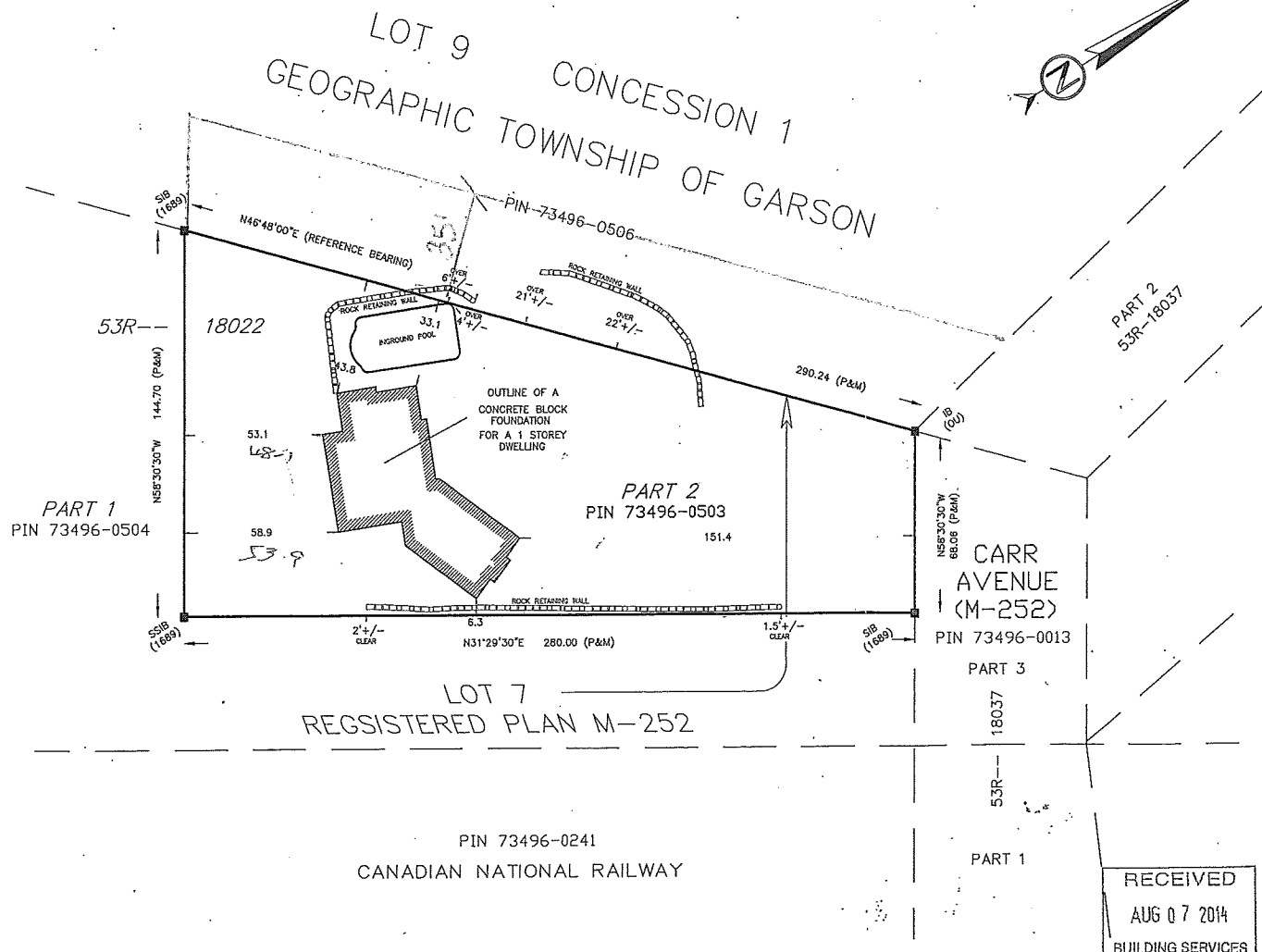
Subject Property being part of PIN 73496-0645,  
part of Pcl. 39056, Lot 9, Con. 1, Twp. of  
Garson, 100 Carr Avenue, Garson, City of  
Greater Sudbury

NTS

Sketch 1

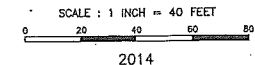
751-3/14-04

Date: 2014 09 25



SURVEYOR'S REAL PROPERTY REPORT  
 PART OF LOT 7  
 REGISTERED PLAN M-252  
 CITY OF GREATER SUDBURY

DISTRICT OF SUDBURY



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

LEGEND:

- SURVEY MONUMENT FOUND
- SURVEY MONUMENT PLANTED
- SB STANDARD IRON BAR
- SB SHORT STANDARD IRON BAR
- IB IRON BAR
- P PLAN 53R-18022
- M MEASURED
- S SET
- PR PROPORTIONED
- 1589 A BORTOLUSSI, OLS
- 01 GROSS UNKNOWN

ASSOCIATION OF ONTARIO  
 LAND SURVEYORS  
 PLAN SUBMISSION FORM  
 1653044



THIS PLAN IS NOT VALID  
 UNLESS IT IS AN EMBOSSED  
 ORIGINAL COPY  
 ISSUED BY THE SURVEYOR  
 In accordance with  
 Regulation 1026, Section 29(3).

BEARING NOTE:

BEARINGS ARE ASTRONOMIC AND ARE REFERRED TO PART OF THE NORTHERLY LIMIT OF LOT 7, REGISTERED PLAN M-252 HAVING A BEARING OF N46°48'00\"/>

SURVEYOR'S CERTIFICATE:

I CERTIFY THAT:  
 1) THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT, AND THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THEM.  
 2) THE SURVEY WAS COMPLETED ON JULY 30, 2014.

REVISED  
 AUGUST 2, 2014

*A. Bortolussi*  
 A BORTOLUSSI, OLS

REPORT

THIS PLAN & REPORT IS PREPARED FOR: MS

DESCRIPTION:

PIN 73496-0503, BEING PART OF LOT 7, REGISTERED PLAN M-252 BEING PART 2, PLAN 53R-18022

REGISTERED EASEMENTS AND/OR RIGHTS-OF-WAY:

THERE ARE NO REGISTERED EASEMENTS OR RIGHTS-OF-WAY

COMPLIANCE WITH MUNICIPAL ZONING BY-LAWS:

NOT CERTIFIED BY THIS REPORT

NOTES:

TIES TAKEN TO THE FOUNDATION  
 ROCK RETAINING WALLS EXTEND ONTO PIN 73496-0506 AS SHOWN

RECEIVED  
 AUG 07 2014  
 BUILDING SERVICES

BORTOLUSSI  
 SURVEYING LTD.

FILE: 1341





PHOTO 1 SUBJECT LANDS CONTAINING AN EXISTING RETAINING WALL AND A PORTION OF AN EXISTING SWIMMING POOL WITH PATIO AREA



PHOTO 2 EXISTING RETAINING WALL ON THE SUBJECT LANDS AS VIEWED FROM CARR AVENUE LOOKING WEST

751-3/14-4 PHOTOGRAPHY OCT 31, 2014





PHOTO 3 EXISTING SWIMMING POOL WITH PATIO AREA LOOKING WEST



PHOTO 4 EXISTING GOLF COURSE TO THE NORTH OF THE SUBJECT LANDS