

**Title: A. Scott & Son Distributors Sudbury Ltd.**

**Date: October 8, 2019**

## **STAFF REPORT**

### **PROPOSAL:**

The application for the 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 south-easterly portion of the subject lands from “H3RU”, Holding – Rural to “RU”, Rural.

The application is intended to remove a holding provision related to lands adjacent to a Provincially Significant Wetland in order to facilitate the reconstruction of an indoor riding arena in a different location on a south-easterly portion of the subject lands. The former indoor riding arena collapsed and the owner is proposing to rebuild. The owner has not indicated to staff that any other new buildings or structures are being proposed at this time.

The owner has submitted a Concept Plan and Elevation Plans in support of the proposed rezoning that would removing the “H3” holding provision from the lands in order to facilitate the development of a new indoor riding arena in a different location and configuration on the subject lands.

### **Existing Zoning:** “H3RU”, Holding – Rural

The “RU” Zone generally permits a single-detached dwelling, mobile home dwelling, bed and breakfast establishment, group home type 1, seasonal dwelling, private cabin and private home daycare. Permitted non-residential uses generally include an agricultural use, animal shelter, forestry use, hunting or fishing camp, garden nursery, kennel, public utility and veterinary clinic. The minimum lot area for lands zoned “RU” is 2 ha (5 acres) along with a minimum lot frontage requirement of 90 m (300 ft).

The “H3” holding provision under Part 13 – Holding Provisions of the Zoning By-law applies to lands adjacent to Provincially Significant Wetlands (PSW) and until such time as an “H3” holding provision has been removed only the replacement, alteration, and reconstruction of legal existing non-conforming buildings and structures are permitted. Expansions to legal existing buildings and structures are also permitted where an “H3” is in place provided that any addition does not comprise more than 50% of the gross floor area of the building or structure that existed on the date that the “H3” holding provision came into effect. In addition, new buildings and structures having a maximum gross floor area of 38 m<sup>2</sup> (409.03 ft<sup>2</sup>) may be constructed that are accessory to a legally existing permitted use, but this shall not include a garden suite.

The “H3” holding provision may be removed from lands if a development permit or exemption from Conservation Sudbury has been obtained, an approval has been obtained from the Sudbury District Health Unit (SDHU) and provided that it has been demonstrated that the proposed development will not have a negative impact on the PSW and its associated ecological functions.

### **Requested Zoning:** “RU”, Rural

The application is intended to remove a holding provision (ie. H3) from the lands in order to facilitate the reconstruction of an indoor riding arena in a different location on a south-easterly portion of the subject lands. The former indoor riding arena collapsed and the owner is proposing to rebuild. No other new buildings or structures are proposed.

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**Location and Site Description:**

The subject lands are located on the north side of Nickel Offset Road and to the north of Morgan Road in the community of Chelmsford. The lands have a total lot area of approximately 83 ha (289 acres) with approximately 740 m (2,427.82 ft) of lot frontage onto Nickel Offset Road. The indoor riding arena which collapsed was located on a south-easterly portion of the lands where Nickel Offset Road turns north toward Fire Route "B" and Watson's Lake, which is depicted on the location and zoning map attached to this report. The lands also contain a number of other buildings accessory to the indoor riding arena, such as equipment and storage sheds, stables, a camp kitchen and washrooms. There are also a number of cleared areas used for paddocks and riding rings. The Vermilion River is located to the south-east of the subject lands and is an identified PSW.

Surrounding uses are agricultural and rural residential in nature with the predominant residential built-form being that of single-detached dwellings. There are also a number of large and vacant rural lots in the area on both sides of Nickel Offset Road. The vacant lots in the area are generally well vegetated.

**Surrounding Land Uses:**

- |        |  |
|--------|--|
| North: | Large vacant and well vegetated rural lands zoned for mining industrial purposes.                        |
| East:  | Large vacant rural lots along with limited rural residential uses located along the Vermilion River PSW. |
| South: | Rural residential, agricultural uses, vacant rural and agricultural lands, and the Vermilion River PSW.  |
| West:  | Rural residential and agricultural uses.   |

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

**Public Consultation:**

There is no statutory public notice requirement for the removal of a holding provision under Section 36 of the [Planning Act, R.S.O. 1990, c.P.13](#). There is also no statutory requirement to hold a public hearing with respect to the removal of a holding provision.

The owner 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 applications prior to the public hearing. Staff understands that the owner intended to consult with their most immediate neighbours to inform them that they would be applying to remove the "H3" holding provision in order to facilitate the reconstruction of the indoor riding arena in a different location and configuration on the lands. At the time of writing this report, no phone calls, emails or letter submissions with respect to the removal of the "H3" holding provision on the lands have been received by the Planning Services Division.

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## **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. Holding provisions are a form of land use planning control permitted under Section 37 of the Planning Act, which permits a municipality to restrict the use of lands, buildings and/or structures until such time as certain conditions are met for the further development of a property.

### **2014 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 2014 Provincial Policy Statement (PPS). The following PPS policies are applicable to this application for rezoning:

1. Section 2.1.5 states that development and site alteration is not permitted within a significant wetland unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions;
2. Section 2.1.7 states that development and site alteration shall not be permitted in habitat of endangered species and threatened species, except in accordance with provincial and federal requirements; and,
3. Section 2.1.8 states that development and site alteration shall not be permitted on adjacent lands to a natural heritage feature or area identified under Section 2.1.5 unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural heritage feature or their ecological function.

### **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 by removing a holding provision related to a PSW 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 Rural and Parks & Open Space in the Official Plan for the City of Greater Sudbury.

Rural Areas contain a variety of land uses, such as farms, woodlots and forests, small industry, and clusters of rural residential development. Permitted uses within 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.

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Parks and Open Spaces Areas held in private ownership form an integral part of the open space network in the City of Greater Sudbury. The protection of privately owned Parks and Open Space lands are encouraged. Private lands designated Parks and Open Space primarily consist of lands with natural hazards that are not suitable for development, lands which are difficult and uneconomical to develop and service, lands intended be left undeveloped to serve as buffers between mining and heavy industrial areas and built-up areas, hydro corridors and lands occupied by private outdoor recreational facilities (eg. golf courses). Permitted uses within the Parks and Open Space designation include conservation, passive and active recreational uses, agriculture, forestry or other activities where buildings are incidental to these uses. It is not the intent of the City to purchase privately owned Parks and Open Space lands unless said lands could be integrated into the public open space network.

The City's Official Plan also includes policies under Section 19.5.4 with respect to the use of holding provisions. Specifically, the City may utilize holding provisions to specify the use to which lands, buildings, or structures may be put to in the future provided that, in this case, the holding provision is used where environmental conditions or constraints temporarily preclude development or redevelopment and where studies have not yet been approved by the City. Holding provisions may specify the interim land uses to be permitted, the conditions for removing a holding provision and any regulations or restrictions applying to the lands during the time in which the holding provision is in place. When a holding provision is to be removed from lands an amending zoning by-law is to be adopted by Council when all conditions set out in the holding provision have been satisfied.

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

The owner is requesting that the "H3" holding provision applicable on a south-easterly portion of the subject lands be removed in order to allow for the construction of an indoor riding arena in the same general location, but differently configured in comparison to a former indoor riding area which recently collapsed on the lands. The owner is not proposing any further site-specific relief beyond the removal of the holding provision. The owner is also not intending to change those uses permitted and/or alter any of the development standards in the parent "RU" Zone. The development standards for the "RU" Zone with respect to minimum lot area, minimum lot frontage and minimum yard setbacks, would otherwise continue to be applicable.

#### **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 (if required) in an amending zoning by-law should the application to remove the holding provision on a portion of the lands be approved.

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

Building Services has no concerns with the application to remove the holding provision on a portion of the subject lands.

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Conservation Sudbury has noted that a portion of the subject lands are within a regulated area. Conservation Sudbury has no objections to the removal of the holding provision as the new indoor riding arena is to be constructed in the same general location as the former indoor riding arena which recently collapsed. The lifting of the holding provision should be for the reconstruction of the new indoor riding arena only. Any development within regulated areas located on the subject lands will require approval from Conservation Sudbury prior to commencing any works.

Development Engineering has indicated that the lands are not presently serviced with municipal water or sanitary sewer infrastructure.

Environmental Planning Initiatives has provided comments that based on their review of the application that they have no environmental concerns with respect to the application.

### **PLANNING ANALYSIS:**

The 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 application in respect of the applicable policies, including issues raised through agency and department circulation.

The proposed rezoning to remove the “H3” holding provision is consistent with the PPS for the following reasons:

1. The application was circulated to Conservation Sudbury and the City’s Environmental Planning Initiatives Section and no concerns with respect to any negative impacts on the Vermilion River PSW and its ecological functions were identified should the indoor riding arena be permitted to be constructed in generally the same location as the former indoor riding arena which collapsed in March 2019;
2. No issues with respect to development and site alteration that would negatively impact any endangered or threatened species within the Vermilion River PSW were identified in the circulation of the application. Staff notes that the proposed new indoor riding arena is physically separated and buffered from the PSW by a yard setback to the lot line and the Nickel Offset Road right-of-way and across the paved road surface and opposite from the Vermilion River itself. The proposed new indoor riding arena would also be replacing an existing indoor riding arena building which collapsed in March 2019; and,
3. The lands are adjacent to an identified PSW and staff is satisfied that given the site context that no negative impacts on the ecological functioning of the natural heritage feature being that of the Vermilion River PSW would result should the holding provision be lifted in order to facilitate the development of an indoor riding arena in place of a former indoor riding arena which collapsed in March 2019.

Staff in general has no concerns with respect to the proposed removal of the “H3” holding provision conforming to the applicable policies in the Official Plan for the City of Greater Sudbury. Staff is satisfied that the owner has demonstrated that those policies relevant to the removal of the “H3” holding provision in order to facilitate the reconstruction of an indoor riding arena in a different location on a south-easterly portion of the subject lands have been satisfied. The application was circulated to Conservation Sudbury, the SDHU and the City’s Environmental Planning Initiatives Section. In each case, no concerns were raised by these relevant agencies and departments. The intended use of the lands as an indoor riding arena is also considered to be a permitted use within the Rural land use designation. The location of the indoor riding arena is physically separated and buffered by Nickel Offset Road and it is on the opposite

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side of said road where the applicable Parks & Open Space portions of the current land holding is located. Staff is satisfied that no areas of non-conformity with respect to the development proposal would be introduced should the "H3" holding provision be removed from the subject lands. Staff is therefore of the opinion that the application to remove the "H3" holding provision from the subject lands conforms to the Official Plan for the City of Greater Sudbury.

The owner is requesting that the "H3" holding provision applicable to the lands be removed entirely. This would result in an amending zoning by-law changing the zoning classification of the subject lands from "H3RU", Holding – Rural to "RU", Rural. Staff has no concerns with the requested zone category. Staff would however note and caution the owner that in order to ensure the continued and longer term protection of the Vermilion PSW that the "H3" holding provision may be placed back on the lands in the future. The removal of the holding provision therefore can be viewed as temporary in nature and said removal is intended only to facilitate the construction of the indoor riding arena that is depicted on the submitted sketches.

### **CONCLUSION:**

The removal of the "H3" holding provision is intended to facilitate the reconstruction of an indoor riding arena in a different location on a south-easterly portion of the subject lands. The former indoor riding arena collapsed and the owner is proposing to rebuild. No other new buildings or structures are proposed. Staff has reviewed the development proposal to remove the "H3" holding provision on a portion of the lands 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. The application was circulated to appropriate agencies and departments in order to determine that no negative impacts on the Vermilion River PSW would occur should the reconstruction of the indoor riding arena be permitted and no concerns were identified. Staff also notes that the application conforms to and does not conflict with the Growth Plan for Northern Ontario.

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

- That the "H3" holding provision is to be removed from the lands in order to facilitate development of an indoor riding arena on a south-easterly portion of the subject lands; and,
- That Part 13 – Section 13.3, Table 13.1 be amended accordingly to remove the "H3" holding provision from the subject lands as identified in this report.

The Planning Services Division therefore recommends that the application to remove the "H3" holding provision from the subject lands in order to facilitate construction of an indoor riding arena be approved in accordance with the resolution section of this report.