

Presented To:	Hearing Committee
Presented:	Monday, Jul 19, 2010
Report Date	Friday, Jul 09, 2010
Type:	Managers' Reports

Request for Decision

Request to Waive Development Charge Fees - Northern Home Builders

Recommendation

THAT Council deny the request by Northern Home Builders Inc. to waive Development Charge fees for the 13 townhouse units at 291 St. Agnes Street, Azilda.

Signed By

Report Prepared By

Guido Mazza
Director of Building Services/Chief
Building Official
Digitally Signed Jul 9, 10

Division Review

Guido Mazza
Director of Building Services/Chief
Building Official
Digitally Signed Jul 9, 10

Recommended by the Department

Bill Lautenbach
General Manager of Growth and
Development
Digitally Signed Jul 15, 10

Recommended by the C.A.O.

Doug Nadorozny
Chief Administrative Officer
Digitally Signed Jul 15, 10

BACKGROUND

The property in question went before Council's Planning Committee on November 3, 2009, for a rezoning from "RU" Rural to R-3 to allow 13 townhouse Units in addition to the 12 units previously approved (see attached Appendix 'A' report and minutes of meeting).

The following was the chronological sequence of events that transpired on this project as it proceeded through the rezoning:

- Notice of Complete Application – September 21, 2009
- Notice of Public Hearing – October 15, 2009
- Planning Committee Hearing – November 3, 2009
- Council Ratification – November 12, 2009
 - Resolution #2009-221
 - Condition #1 required the submission of a plan of survey for the passing of the amending by-law
- Letter from Clerk to Peter Nault outlining the resolution and conditions – November 17, 2009
- Plan 53R-19169 recorded at Land Registry Office – December 1, 2009
- Recorded survey plan provided to Planning Services – December 15, 2009 (confirmed – Plan date stamped on receipt) – See Appendix 'B'
- Instructions to Legal Department for preparation of by-law – January 5, 2010
- By-law #2010-20Z passed January 27, 2010 – 20 day appeal period lapsed on February 17, 2010

The only meeting of Council in December was held on December 9, 2009, and the deadline for the receipt of by-laws for the December 9th meeting was December 2nd at 11:00 a.m. The research we have undertaken on this file indicates that Planning Services staff was not negligent in processing this rezoning to its completion. The obligation for providing documentation including a copy of the recorded survey plan, to comply to Planning Committee conditions rests with the applicant and/or their agents.

Further, Building Services and its Chief Building Official cannot collect Development Charges prior to the building permit application having met all "Applicable Law". The rezoning and thus Zoning By-law compliance was the item preventing Building Services from issuing a building permit prior to January 1, 2010, and the increase in Development Charges.

Therefore, the increased charges became applicable to Mr. Nault's project.

Based on the research undertaken and documentation provided herein, we can find no fault with the conduct of the City of Greater Sudbury staff in their processing of either the rezoning or building permit applications.

Recommendation

That Council deny the request by Northern Home Builders Inc. to waive Development Charge fees for the 13 townhouse units at 291 St. Agnes Street, Azilda.

Attachments

APPENDIX 'A'
Planning Committee Report
Dated October 14, 2009
& Excerpt from Planning Committee Minutes
Dated November 3, 2009

APPLICATION FOR REZONING IN ORDER TO PERMIT THE CONSTRUCTION OF 13 ROW DWELLINGS, ST. AGNES STREET, AZILDA – JASON BERGERON AND SHERI TOMCHIK

The Planning Committee meeting was adjourned and the Public Hearing was opened to deal with the following application.

Report dated October 14, 2009 was received from the General Manager of Growth & Development regarding an application for rezoning in order to permit the construction of 13 row dwellings, St. Agnes Street, Azilda – Jason Bergeron and Sheri Tomchik.

Peter Nault, the applicant, was present.

The General Manager of Growth & Development outlined the application to the Committee.

Councillor Dutrisac, Ward Councillor, stated she has received no phone calls or emails and is in support of this application.

The Chair asked whether there was anyone in the audience who wished to speak in favour or against this application and seeing none:

The Public Hearing concerning this matter was closed and the Planning Committee resumed in order to discuss and vote on the application.

The following recommendation was presented:

Recommendation #2009-221:

Dutrisac – Berthiaume: That the application by Jason Bergeron & Sheri Tomchik to amend By-law 83-302 being the Comprehensive Zoning By-Law for the (former) Town of Rayside Balfour as it applies to PINs 73347-1539 & 73347-1537, Part of Parcels 10690 'A' & 13885 'A' S.W.S., Lot 6, Concession 1, Township of Rayside, Azilda, City of Greater Sudbury, by changing the zoning classification from "RU", Rural Zone to "R3", Medium Density Residential zone be approved subject to the following:

- 1) That the applicant provide the Development Services Section with a registered plan of survey in order to enable the preparation of the amending by-law.
- 2) That the amending by-law specify that a privacy yard of 6 metres shall be provided.

YEAS: Councillors Berthiaume, Dutrisac, Rivest, Caldarelli

CARRIED

Request for Recommendation Planning Committee



Type of Decision									
Meeting Date	November 3, 2009				Report Date	October 14, 2009			
Recommendation Requested	X	Yes		No	Priority	X	High		Low
	Direction Only				Type of Meeting	X	Open		Closed

Report Title

Application for Rezoning in order to permit the construction of 13 row dwellings, St. Agnes Street, Azilda - Jason Bergeron & Sheri Tomchick

Section Review	Division Review	Department Review
 A.J. Potvin Manager of Development Approvals	 W.E. Lautenbach	 W.E. Lautenbach, General Manager, Growth & Development

Policy Implication + Budget Impact		Recommendation	
This report has been reviewed by the Finance Division and the funding source has been identified.			
		<p>That the application by Jason Bergeron & Sheri Tomchick to amend By-law 83-302 being the Comprehensive Zoning By-Law for the former Town of Rayside Balfour as it applies to PINs 73347-1539 & 73347-1537, Part of Parcels 10690 'A' & 13885 'A' S.W.S, Lot 6, Concession 1, Township of Rayside, Azilda, City of Greater Sudbury, by changing the zoning classification from "RU", Rural Zone to "R3", Medium Density Residential zone be approved subject to the following:</p> <p>1) That the applicant provide the Development Services Section with a registered plan of survey in order to enable the preparation of the amending by-law.</p>	
Background Attached		Recommendation Continued	
Planning Staff Report		Recommended by the C.A.O.	
Report Prepared by:	File #:		
Appendix 3/15 Celia Teale Senior Planner	751-5/09-7	Doug Nadorozny Chief Administrative Officer	

Date: October 14, 2009

Recommendation Cont'd

2) That the amending by law specify that a privacy yard of 6 metres shall be provided.

STAFF REPORT

Applicant:

Jason Bergeron & Sheri Tomchick

Location:

PINs 73347-1537 & 73347-1539, Part of Parcels 10690A and 13885A SWS, Lot 6, Concession 1, Township of Rayside, south side of St. Agnes Street, Azilda

Application:

To amend By-law 83-302 being the Comprehensive Zoning By-law for the former Town of Rayside Balfour by changing the zoning classification from "RU", Rural to "R3", Medium Density Residential Special.

Proposal:

The applicant wishes to develop the property with thirteen row house dwellings as shown on the attached sketch.

Official Plan Conformity:

The subject lands are designated Living Area One which allows for a mixture of dwelling types with medium density housing permitted where municipal services are available.

The new Official Plan places an emphasis on maintaining the existing physical character of established residential neighbourhoods with special consideration extended to the proposed built form and density. This is balanced with the need to expand the range of housing options throughout the community.

The following criteria under Section 3.2.1 of the Official Plan shall be considered:

- suitability of the site to accommodate the proposed density and building form;
- physical compatibility with the surrounding neighbourhood in terms of scale, massing, height, siting, and setbacks;
- adequate on-site parking; and,
- traffic impact on local streets.

Other matters under review include the availability of municipal sewer and water, and the proximity to community services, employment areas and public transit. Conformity with the Official Plan is based on a review of the above noted considerations.

Date: October 14, 2009

Site Description & Surrounding Land Uses:

The subject lands consist of an irregular parcel of lands with 16 metres (52 feet) of frontage along St. Agnes Street. The lands have an area of 5,518 square metres (48,642 square feet). These lands will be consolidated with lands directly to the north which have recently been approved for a similar development consisting of 12 row dwellings. The subject property is relatively flat and the vegetation on the site consists of mostly grass. The lands to the west consist of a 12 unit apartment building and parkland owned by the City of Greater Sudbury. Across the street to the north of the site there is a former school that has been converted into an apartment dwelling containing approximately 36 units. The area to the east of the site consists of single family dwellings.

Departmental & Agency Comments:

Development Engineering

Development Engineering has reviewed the above noted application. Based on the upcoming lot consolidation with the parcel of land to the north, municipal water and sanitary sewer services are available for this site. We currently have an approved site plan for the development of the northern portion of the site and have no objection to amend the "R1", Single Residential to "R3-S", Medium Density Residential Special to allow the construction of thirteen row house dwellings provided that the site plan be amended to suit this new development.

Transportation Engineering Services

No concerns provided development occurs under a Site Plan Control Agreement.

Background:

The subject lands were subject of applications for rezoning and official plan amendment in 2004 that proposed the development of a seniors building containing twenty guest rooms in addition to the uses permitted in the Medium Density zone. This proposal was never followed through and subsequently the land has been sold. Lands to the north of the subject lands were recently rezoned for 12 row dwellings. It is the applicant's intent to rezone the subject lands in order to permit the construction of an additional 13 row dwellings that will be added to the 12 row dwellings previously approved.

Planning Considerations:

The applicant was advised that the immediate neighbours should be contacted and updated as to the plans for development. At the time of this report, planning services had not received any calls regarding this proposal.

As indicated earlier, the Official Plan permits a variety of housing forms. Based on a review of the mixture of dwelling types in the area and the availability of municipal services, this proposal would be deemed to conform with the Official Plan.

The subject land is currently zoned "RU", Rural. Since the applicant wishes to construct thirteen row dwellings on the subject property a rezoning is required.

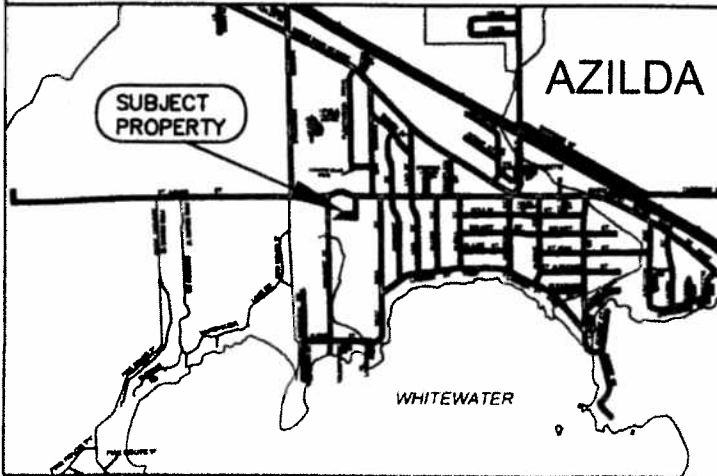
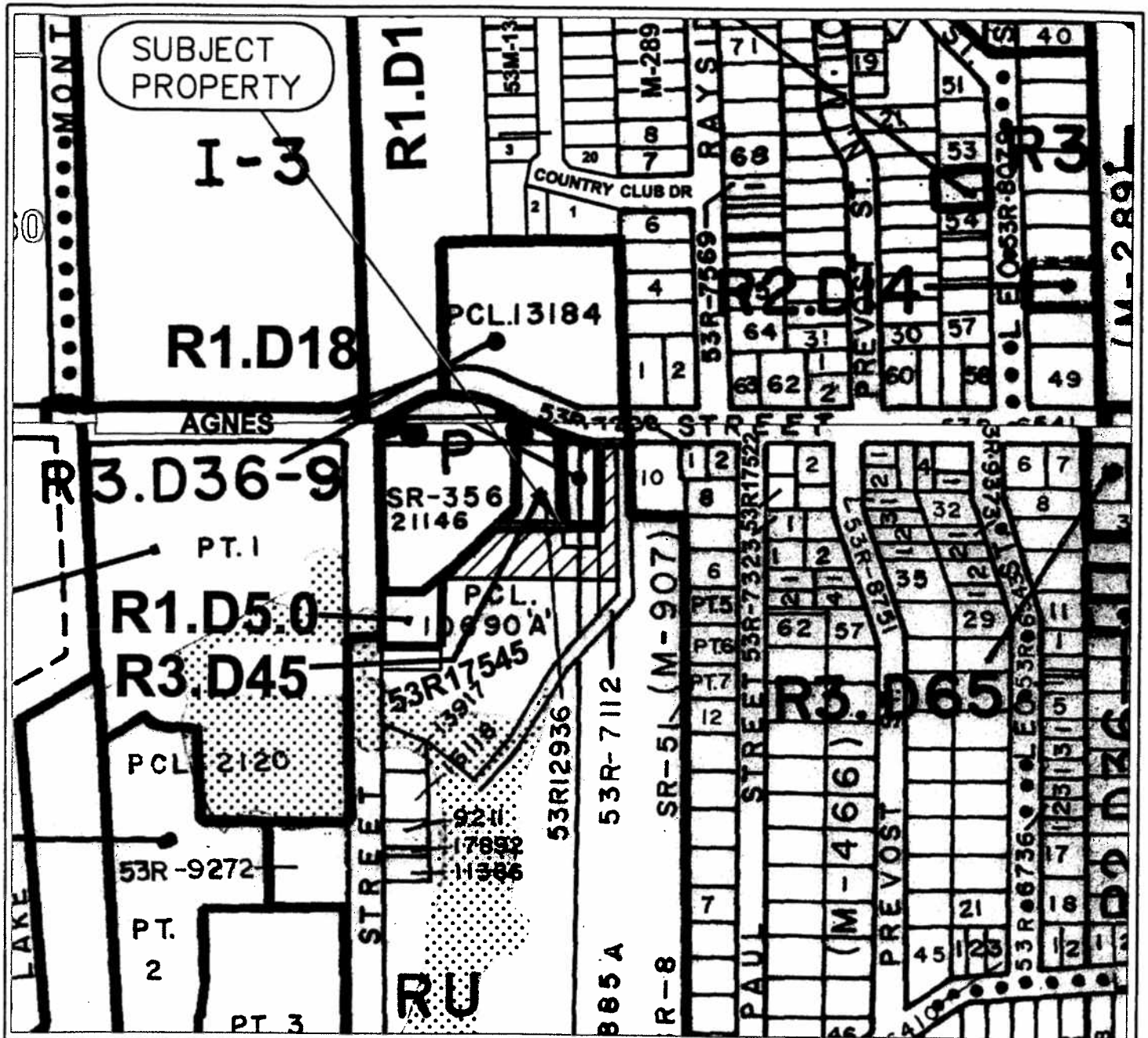
Date: October 14, 2009

As outlined in the comments from Development Engineering sewer and water services are available on St. Agnes Street.

From a land use perspective the prevailing character of the area will be maintained with the development of the lands for row dwellings.

The concern that arises with this application is the lack of frontage on St. Agnes Street and in order to address this concern the lands will be consolidated with the abutting lands to the north as a condition of the severance that will be required.

We do not anticipate any land use conflicts arising from this application, and therefore it is recommended for approval subject to the conditions outlined.



Growth and Development Department

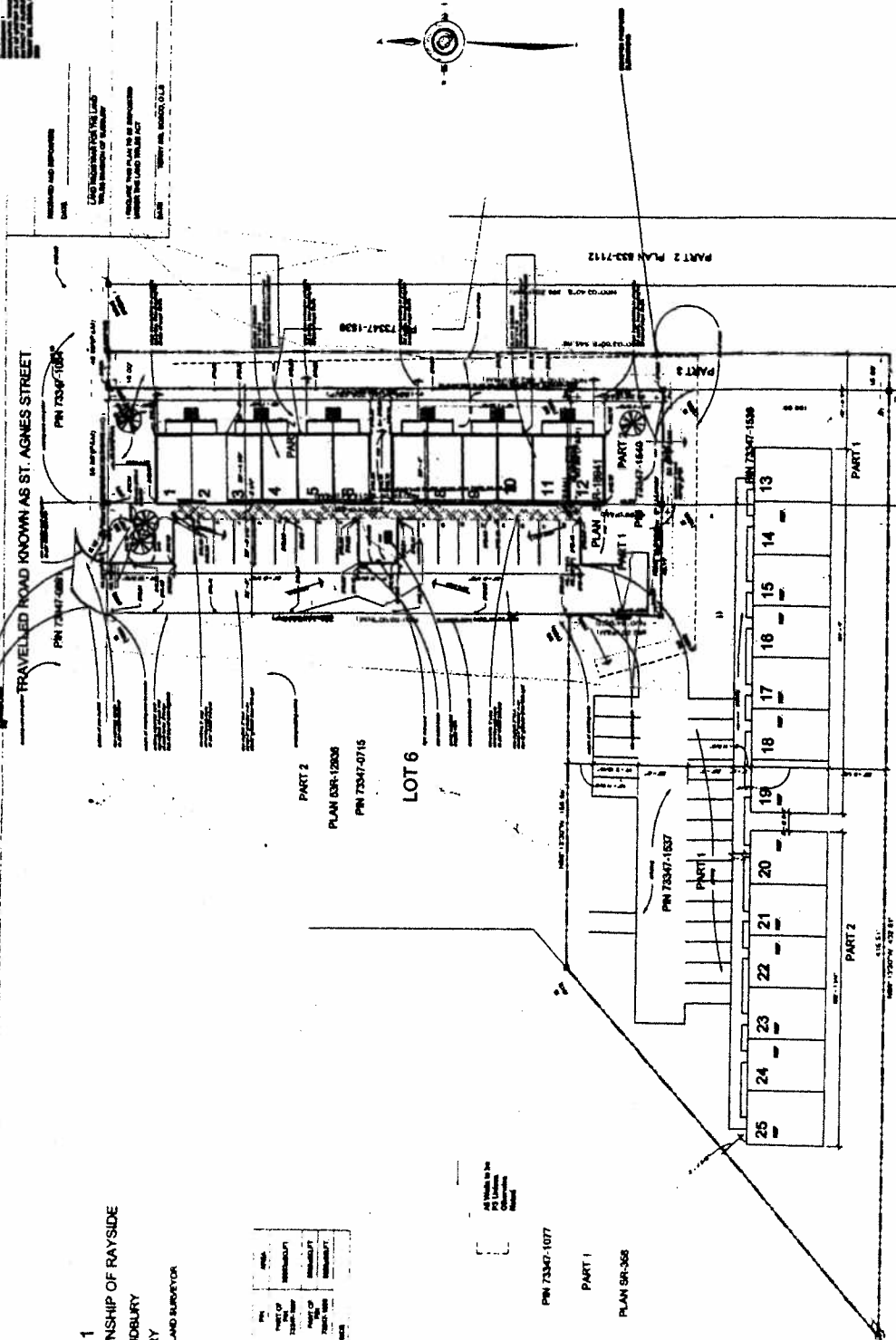
Subject Property being part of PINs 73347-1539 & 73347-1537, part of Pcls 10690A & 13885A, Lot 6, Con. 1, Twp. of Rayside, St. Agnes Street, Azilda, City of Greater Sudbury

Sketch 1
Not to Scale

751-5/09-7
Date: 2009 09 15

PLAN OF SURVEY OF
 PART OF
 LOT 6
 CONCESSION 1
 GEOGRAPHIC TOWNSHIP OF RAYSIDE
 CITY OF GREATER SUDBURY
 DISTRICT OF SUDBURY
 TERRY DEL BONO, ONTARIO LAND SURVEYOR
 2009

Part	Lot	Concession	Pin	Area
1	1	1	73347-0715	1.0000
2	2	1	73347-0715	1.0000
3	3	1	73347-0715	1.0000
4	4	1	73347-0715	1.0000
5	5	1	73347-0715	1.0000
6	6	1	73347-0715	1.0000
7	7	1	73347-0715	1.0000
8	8	1	73347-0715	1.0000
9	9	1	73347-0715	1.0000
10	10	1	73347-0715	1.0000
11	11	1	73347-0715	1.0000
12	12	1	73347-0715	1.0000
13	13	1	73347-0715	1.0000
14	14	1	73347-0715	1.0000
15	15	1	73347-0715	1.0000
16	16	1	73347-0715	1.0000
17	17	1	73347-0715	1.0000
18	18	1	73347-0715	1.0000
19	19	1	73347-0715	1.0000
20	20	1	73347-0715	1.0000
21	21	1	73347-0715	1.0000
22	22	1	73347-0715	1.0000
23	23	1	73347-0715	1.0000
24	24	1	73347-0715	1.0000
25	25	1	73347-0715	1.0000



1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25
AD.1	AD.1	AD.1	AD.1	AD.1	AD.1	AD.1	AD.1	AD.1	AD.1	AD.1	AD.1	AD.1	AD.1	AD.1	AD.1	AD.1	AD.1	AD.1	AD.1	AD.1	AD.1	AD.1	AD.1	AD.1

12 Units to be Provided, One per Lot
 13 Units to be Provided, One per Lot
 14 Units to be Provided, One per Lot
 15 Units to be Provided, One per Lot
 16 Units to be Provided, One per Lot
 17 Units to be Provided, One per Lot
 18 Units to be Provided, One per Lot
 19 Units to be Provided, One per Lot
 20 Units to be Provided, One per Lot
 21 Units to be Provided, One per Lot
 22 Units to be Provided, One per Lot
 23 Units to be Provided, One per Lot
 24 Units to be Provided, One per Lot
 25 Units to be Provided, One per Lot



PROFESSIONAL SURVEYOR

NEW SITE PLAN

SCALE: 1" = 100'

DRAWINGS NOT TO BE SCALED



Photo 1 SUBJECT PROPERTY LOOKING SOUTH FROM
ST. AGNES STREET



Photo 2 SUBJECT PROPERTY LOOKING SOUTH FROM
ST. AGNES

751-5/09-7 Photography Sept 13, 2007

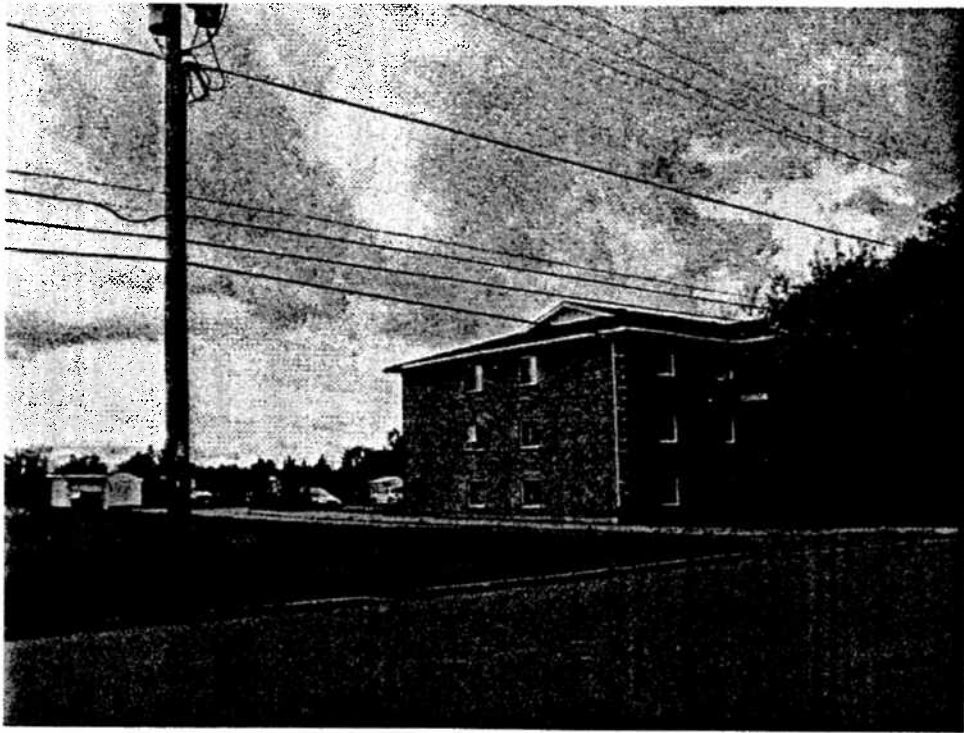


Photo 3 12 UNIT APARTMENT BUILDING LOCATED TO THE WEST OF THE SUBJECT PROPERTY



Photo 4 LOOKING EAST DOWN ST. AGNES STREET

751-5/09-7 Photography Sept 13, 2007



**Photo 5 APARTMENT BUILDING LOCATED ACROSS THE
STREET TO THE NORTH OF THE SUBJECT LANDS**

751-5/09-7 Photography Sept 13, 2007

APPENDIX 'B'
Plan 53R-19169
Dated December 1, 2009

PLAN OF SURVEY OF
PART OF
LOT 6
CONCESSION 1
GEOGRAPHIC TOWNSHIP OF RAYSIDE
 CITY OF GREATER SUDBURY
 DISTRICT OF SUDBURY
 TERRY DEL BOSCO, ONTARIO LAND SURVEYOR
 2008

PLAN 53R-19169

RECEIVED AND DEPOSITED
 DATE 2008-11-13 - 01
 A.L.M. TERRY DEL BOSCO
 TERRY DEL BOSCO
 TITLE DIVISION OF SURVEY

NOTE: THIS PLAN IS TO BE CONSIDERED VALID FROM THE DATE OF REGISTRATION ON OCTOBER 1, 2009
 DATE

RECEIVED
 DEC 15 2008



TRAVELLED ROAD KNOWN AS ST. AGNES STREET

PART 3
 PLAN 53R-19042
 PIN 73347-1064

PART 2
 PLAN 53R-19042
 PIN 73347-1064

PLAN 53R-18535

PART 2

PART 2
 PLAN 53R-12936
 PIN 73347-0715

LOT 6

PIN 73347-1540

PLAN 53R-17545
 PIN 73347-1537

PART 1

TOWNSHIP OF RAYSIDE
 EASEMENT No. LT 119559

PART 2

PLAN 53R-17545

PIN 73347-1537

CONCESSION 1

Doi Bosco
SURVEYING LTD.
 UNIT 7 135 5th
 705-671-2266
 2nd FLOOR
 SUDBURY, ONTARIO

BEARING NOTE
 ALL BEARINGS ARE TO THE RIGHT UNLESS OTHERWISE NOTED
 ALL DISTANCES ARE IN FEET AND CAN BE CONVERTED TO METERS BY DIVIDING BY 3.2808

SUBJECT'S DECLARATION
 I, TERRY DEL BOSCO, SURVEYOR, DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT REPRESENTATION OF THE SURVEY AND THE RESULTS THEREOF AND THAT I AM A MEMBER OF THE ONTARIO SURVEYORS ASSOCIATION AND AM REGISTERED AS A SURVEYOR IN THE PROVINCE OF ONTARIO.
 TERRY DEL BOSCO
 SURVEYOR

PART	LOT	CONVEYANCE	PIN	AREA
1	PART OF LOT 6	1	73347-1537	154.87 (0.2)
2	PART OF LOT 6	2	73347-1537	152.13 (0.2)

PARTS 1, 2 & 3 SUBJECT TO EASEMENT No. LT 119559

LEGEND
 BOUNDARY LINE
 TRAVELLED ROAD
 EASEMENT
 CONVEYANCE
 DISTANCE
 BEARING
 AREA
 PIN

SCALE 1" = 30'
 0 20 40 60 FEET

APPENDIX 'C'
Letter dated May 10, 2010
From Northern Home Builders Inc.

RECEIVED

JUN 01 2010

CLERK



May 10 2010

To: Angie Hache

Re: Appeal Development Charge

St-Agnes Development Phase 2

I'm writing this letter to appeal the Development Charge increase on my 2nd phase development on the above noted project. My appeal is based on my attempts to fulfill all required information required in order to avoid a large increase of development charge that would impact the cost of the proposed project.

An application for Re-Zoning was submitted Sept 21 2009 and I had emphasized the need for the completion of zoning to beat the development charge as did many other Builders and Developers who succeeded. It was expected to be completed by Dec 29 2009 which would have allowed me to obtain my building permit and pay current development charge levy. This would have saved me \$42,133.00

The process of Re-Zoning went as planned apart from a confusion in the submission or registered plan which was deposited at land registry on Dec 01 2009. The plan in question was assumed to be delivered to the planning department well in advance although it did not have the Plan's 53R-19169 number on the above right hand corner. The plan was deposited in sufficient time to be presented at the Dec 09 meeting.

Therefore I am pleading that you assume the 2009 development charge fee for this project as it is still a sufficient contribution.

Thank you,

Peter Nault
(President)



PO BOX 100 Azilda ON P0M 1B0
Phone (705) 983-4663 Fax (705) 983-4465 Mobile (705) 669-8306
E-Mail - northernhomebuilders@live.ca



PLAN OF SURVEY OF

**PART OF
LOT 6
CONCESSION 1**

5500 AGRIC TOWNSHIP OF RAYSIDE

CITY OF GREATER SUDBURY

MUNICIPALITY OF SUDBURY

TERRY DEL BOSCO, ONTARIO LAND SURVEYOR

2008

1/1

SCHEDULE

PART	LOT	CONCESSION	PIN	AREA
1	PART OF LOT 6	1	PART OF PIN 73347-1537	380334 SQ.FT.
2			PART OF PIN 73347-1539	50894 SQ.FT.
3				55204 SQ.FT.

PARTS 1, 2, & 3: SUBJECT TO EASEMENT No. LT 119559

TRAVELLED ROAD KNOWN AS ST. AGNES STREET

PART 2
PIN 73347-1064
PLAN 53R-19042

PART 3
PIN 73347-1064
PLAN 53R-19042

PLAN 53R-18535

PART 1

PART 2

PLAN 53R-12936
PIN 73347-0715

LOT 6

PIN 73347-1540

PIN 73347-1077

PART 1

PLAN SR-356

PLAN 53R-17545

PIN 73347-1537

PART 1

TOWNSHIP OF RAYSIDE

EASEMENT No. LT 119559

PART 2

PLAN 53R-17545

PART 3

- LEGEND**
- DENOTES SURVEY MONUMENT FOUND
 - DENOTES SURVEY MONUMENT SET
 - ▣ DENOTES STANDARD IRON BAR
 - ▤ DENOTES SHORT STANDARD IRON BAR
 - ▥ DENOTES IRON BAR
 - ▦ DENOTES ROCK BAR
 - ▧ DENOTES PLYWOOD MEASURED
 - ▨ DENOTES SET
 - ▩ DENOTES NO VISIBLE MARKINGS
 - DENOTES WITNESS MONUMENT
 - DENOTES PROPORTIONED
 - ▬ DENOTES PROPERTY IDENTIFIER NUMBER
 - ▭ DENOTES TERRY DEL BOSCO, O.L.S.
 - ▮ DENOTES P.W. LANE
 - ▯ DENOTES D.W. ENGLEMAN, O.L.S.
 - ▰ DENOTES J. A. COLE, O.L.S.
 - ▱ DENOTES ADRIAN EORTOLUSS, O.L.S.
 - ▲ DENOTES PLAN 53R-18941
 - △ DENOTES PLAN 53R-17545
 - ▴ DENOTES PZ

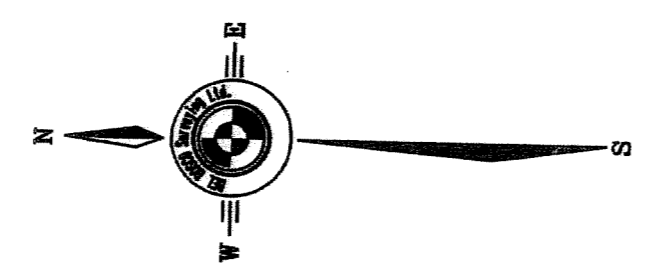
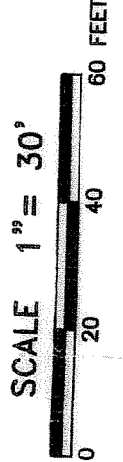
Del Bosco
SURVEYING LTD.

1942 REGENT STREET
SUDBURY, ONTARIO
UNIT A P3E 5V5 705-671-2295

FILE 8020 AZILDA 2nd REF PLAN

BEARING NOTE
BEARINGS SHOWN HEREON ARE ASTROMONIC AND ARE REFERRED TO PART OF THE SURVEY OF LOT 6, CONCESSION 1, TOWNSHIP OF RAYSIDE, SUDBURY, ONTARIO, PLAN 53R-18535 TO HAVE A BEARING OF N89°15'25" W.

NOTE : DISTANCES SHOWN HEREON ARE IN FEET AND CAN BE CONVERTED TO METERS BY MULTIPLYING BY 0.3048.



RECEIVED
DEC 15 2009

PLAN 53R-19169

RECEIVED AND DEPOSITED
DATE 2009-12-01

M. Teherani
LAND REGISTRAR FOR THE LAND
TITLES DIVISION OF SUDBURY

I REQUIRE THIS PLAN TO BE DEPOSITED UNDER THE LAND TITLES ACT.
DECEMBER 1, 2009
DATE

TERRY DEL BOSCO, O.L.S.

SURVEYOR'S CERTIFICATE

- I CERTIFY THAT
- THIS SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEY ACT, THE SURVEY REGULATIONS AND THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THEM.
 - THE SURVEY WAS COMPLETED ON THE 28th DAY OF AUGUST, 2009.

AUGUST 31, 2009
DATED AT SUDBURY, ONTARIO

TERRY DEL BOSCO, O.L.S.

