

Request for Decision

Norbury (Sudbury) Limited – Application for Zoning By-Law Amendment, 902 Newgate Avenue, Sudbury

Presented To: Planning Committee

Presented: Wednesday, May 20, 2020

Report Date: Friday, Mar 13, 2020

Type: Public Hearings

File Number: 751-6/20-04

Resolution

THAT the City of Greater Sudbury approves the application by Norbury (Sudbury) Limited to amend Zoning By-law 2010-100Z, as outlined in the report entitled “Norbury (Sudbury) Limited” from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting on May 20, 2020, to:

a) Change the zoning classification from “H47M1-1(21)”, Hold – Business Industrial Special to “M1-1(21)”, Business Industrial Special, and “H47OSP(6)”, Hold – Open Space Private to “OSP(6)” Open Space Private Special on those lands described as PIN 02123-0095, Parcel 49975, Parts 1-8, Plan 53R-13785; and Part of PIN 02123-0420, Parcel 573, located between a line connecting the southeast corner of Lot 3, Plan M-1059 and the northeast corner of Lot 4, Plan M-1059, and a line drawn due south between Lots 3 & 4, Plan M-1059 from a point located 30m west of the southwest corner of Part 7, Plan 53R-13785, in Lot 4, Concession 5, Township of McKim; and

b) Change the zoning classification on the subject lands to a revised “M1-1(19)”, Business Industrial Special, and “OSP(6)”, Open Space Private Special on those lands described as PIN 02123-0007, Parcel 46225, Lot 4, Plan M-1059; and Part of PIN 02123-0420, Parcel 573, located between the southwest corner of Lot 3, Plan M-1059 and the northwest corner of Lot 4, Plan M-1059, and a line connecting the southeast corner of Lot 3, Plan M-1059 to the northeast corner of Lot 4, Plan M-1059, in Lot 4, Concession 5, Township of McKim.

1. Prior to the enactment of the amending by-law, the following conditions shall be satisfied: a. That the amending by-law includes the following site-specific provisions:

(i) That the “M1-1(21)”, Business Industrial Special zone provisions be revised by:

Signed By

Report Prepared By

Wendy Kaufman
Senior Planner
Digitally Signed Mar 13, 20

Manager Review

Alex Singbush
Manager of Development Approvals
Digitally Signed Mar 13, 20

Reviewed By

Jason Ferrigan
Director of Planning Services
Digitally Signed Mar 13, 20

Financial Implications

Apryl Lukezic
Co-ordinator of Budgets
Digitally Signed Mar 17, 20

Recommended by the Department

Tony Cecutti
General Manager of Growth and Infrastructure
Digitally Signed Mar 18, 20

Recommended by the C.A.O.

Ed Archer
Chief Administrative Officer
Digitally Signed May 6, 20

- requiring a fence with a reptile barrier on a line 30 m from the boundary of the Ponderosa Provincially Significant Wetland; and
- prohibiting development or the use of land on the east side of the fence.

(ii) That the “OSP(6)”, Open Space Private Special zone provisions be revised by:

- adding recreation vehicle sales and service establishment, vehicle sales or rental establishment, and accessory outdoor display and sales as permitted uses in the OSP(6) zone; and
- requiring a fence with a reptile barrier along the north boundary beginning from the boundary of the Ponderosa Provincially Significant Wetland and extending 30 m west, and along the east boundary.

(iii) That the “M1-1(19)”, Business Industrial Special zone provisions be revised by:

- adding recreation vehicle sales and service establishment, and vehicle sales or rental establishment as permitted uses in the “M1-1(19)” zone; and
- requiring a fence with a reptile barrier along the east boundary.

b. The existing shipping and storage container must be removed to the satisfaction of the Director of Planning Services.

c. The owner shall enter into an amended site plan control agreement with the City.

2. Conditional approval shall lapse on June 9, 2022 unless Condition 1 above has been met or an extension has been granted by Council.

Relationship to the Strategic Plan / Health Impact Assessment

The application to amend the Zoning By-law is an operational matter under the Planning Act to which the City is responding. The applications contribute to the 2019-2027 City of Greater Sudbury Strategic Plan goals related to asset management and service excellence, as well as business attraction, development and retention.

Report Summary

An application has been submitted to remove the ‘H(47)’ holding provision from where it restricts development on lands zoned M1-1(21) and OSP(6), until criteria related to the protection of the adjacent Ponderosa Provincially Significant Wetland (PSW) and threatened species are met. The application also proposes to add recreation vehicle sales and service establishment, and vehicle sales or rental establishment, to the list of uses permitted in the OSP(6) and M1-1(19) zone. Accessory outdoor display and sales is also proposed in the OSP(6) zone.

The subject land is designated as Mixed Use Commercial in the Official Plan and zoned H47M1-1(21), H47OSP(6), M1-1(19), OSP(6).

Staff recommend approval of the application 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.

Financial Implications

Based on the information available, staff is unable to determine the implications for property taxes for the rezoning of this land. Development charges would only apply if new or expanded buildings are constructed on this property, which is unknown at this time.

STAFF REPORT

PROPOSAL

The application proposes to amend By-law 2010-100Z being the Zoning By-law for the City of Greater Sudbury by removing the 'H(47)' holding provision from where it restricts development on lands zoned M1-1(21) and OSP(6), until criteria related to the protection of the adjacent Ponderosa PSW and threatened species are met. The application also proposes to add recreation vehicle sales and service establishment, and vehicle sales or rental establishment, to the list of uses permitted in the OSP(6) and M1-1(19) zone. Accessory outdoor display and sales is also proposed in the OSP(6) zone.

The applicant has taken steps to develop the site since a previous rezoning was approved by Council on July 10, 2018. The applicant has installed a stormwater management pond, has worked to address the criteria related to the holding provision, and is completing the process of amending the site plan control agreement with the City.

The application proposes to remove the 'H(47)' holding provision based on the recommendations of an Environmental Impact Study (EIS) and information received from the Ministry of Natural Resources and Forestry.

The application also proposes additional uses to be permitted in certain zones in order to reflect business needs. While automotive sales (which includes utility trailer sales) are already permitted in the M1-1(19) and (21) zone, this application proposes to broaden the permitted vehicle sales and/or service. They are also requesting these same uses be permitted in the OSP(6) zone to enable accessory outdoor display and parking on those lands.

The applicant's site sketches show the location of the H47 holding provision, the proposed rezoning requests, as well as the proposed site layout including outdoor display areas, storage areas, parking, and landscaping.

Existing Zoning: H47M1-1(21), H47OSP(6), M1-1(19), OSP(6)

The M1-1 zone permits a wide range of business industrial uses. At the applicant's request, on July 10, 2018, the M1-1(19) zone was created to also permit a vehicle repair shop. The M1-1(21) zone was created to also permit the outdoor storage of vehicles accessory to a vehicle repair shop in that zone. The OSP(6) zone was created to permit an access driveway in addition to public park uses.

The H47 holding provision applies to all of the M1-1(21) zone and a portion of the OSP(6) zone. It restricts the use of the lands to uses which legally existed on July 10, 2018. The H47 holding provision shall only be removed by Council if following criteria have been satisfied:

1. Approval from the Ministry of Natural Resources and Forestry of a re-delineation of a portion of the Ponderosa Provincially Significant Wetland (PSW) boundary such that lands are located outside of the PSW to the satisfaction of the City's Director of Planning Services; and,
2. The submission of an Environmental Impact Study (EIS) to the satisfaction of the Director of Planning Services that demonstrates that there will be no negative impacts on the Ponderosa PSW or its ecological functions, including habitat for species at risk.

Date: March 9, 2020

Requested Zoning: Removal of the H47 holding provisions, and a revised M1-1(19) and OSP(6) zone.

The proposed removal of the H47 holding provisions would enable development in accordance with the underlying zones, being M1-1(21) and OSP(6).

The application also proposes to add the following to the list of uses permitted in the M1-1(19) zone and OSP(6) zone:

- Recreation Vehicle Sales and Service Establishment; and
- Vehicle Sales or Rental Establishment.

Accessory outdoor display and sales is also proposed in the OSP(6) zone.

Location and Site Description

The subject lands are located on the east side of Newgate Avenue, east of Notre Dame Avenue in Sudbury. The lands have an area of approximately 14,604 m² (3.6 ac) with approximately 95 m (311.7 ft) of frontage on Newgate Avenue. The northerly portion of the property, immediately behind the adjacent fast food restaurant is undeveloped. The lands are occupied by an industrial building with a floor area of approximately 3,384m² (36,426 ft²). There are transit stops located at the site on the west side of Notre Dame Avenue, and within 115 m on the east side of Notre Dame Avenue.

Surrounding Land Uses

The area surrounding the site includes:

North:	Restaurant (McDonald's)
East:	vacant, Ponderosa PSW
South:	Automotive use (Palladino RV)
West:	Notre Dame Avenue, and mix of commercial and business industrial uses

The existing zoning & location map indicates the location of the subject lands to be rezoned and the zoning in the immediate area.

Site photos show there are mix of commercial and business industrial uses along this section of Notre Dame Avenue.

Related Applications

On Monday, April 9, 2018, Planning Committee recommended approval of a rezoning application to add vehicle repair shop to the list of uses permitted in the M1-1(19) zone, permit vehicle access within the OSP(6) zone, and add the outdoor storage of vehicles accessory to a vehicle repair shop in the M1-1(21) zone (File #751-6/17-29). The approval included a holding provision which was passed by Council on July 10, 2018 that restricted development on a portion of the lands until criteria related to the protection the adjacent Ponderosa PSW and threatened species are met. The amending by-law was not appealed and is in full force and effect.

Public Consultation

There have not been comments from the public to date on this application. Notice of complete application of the application was circulated to the public and surrounding property owners on February 6, 2020. Notice of Public Hearing was circulated to the public and surrounding property owners on April 30, 2020. As of the date of this report, no concerns or objections have been received regarding the proposed zone change application.

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](#)
- [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 (PPS)

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.

Section 1.1.3 of the PPS directs that settlement areas shall be the focus of growth and development.

Planning authorities shall also identify appropriate locations for redevelopment taking into account existing building stock. The need for the unjustified and/or uneconomical expansion of services shall be avoided.

Section 1.3.1 of the PPS requires planning authorities to promote economic development and competitiveness by providing for an appropriate mix and range of employment uses to meet long-term needs, and maintaining a range and choice of suitable sites which take into account the needs of existing and future businesses.

Section 1.7.1 states that long-term economic prosperity should be supported by promoting opportunities for economic development and community investment-readiness, and by optimizing the use of land and infrastructure.

Section 2.0 of the PPS, Wise Use and Management of Resources, addresses protecting the Province's natural resources for their economic, environmental and social benefits. 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. Section 2.1.8 of the PPS, requires that no development or site alteration occur on adjacent lands to significant wetlands 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 features or on their ecological functions.

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.

Official Plan for the City of Greater Sudbury

Section 1.3.2 of the Official Plan acknowledges the link between planning, design and economic development, such as by providing a framework to reinforce the urban structure and achieve efficient urban form and use of infrastructure.

The subject lands are designated as Mixed Use Commercial in the Official Plan. Section 4 of the Official Plan identifies that the Mixed Use Commercial designation is intended to reflect lands where people presently work and lands where employment opportunities will be provided in the future.

Given the function and high visibility of these areas, special attention is to be given to sound urban design principles including supporting active transportation and transit.

All uses except Heavy Industrial may be accommodated in the Mixed Use Commercial designation through the rezoning process, subject to the following criteria listed in section 4.3:

- sewer and water capacities are adequate for the site;
- parking can be adequately provided;
- no new access to Arterial Roads will be permitted where reasonable alternate access is available;
- the traffic carrying capacity of the Arterial Road is not significantly affected;
- traffic improvements, such as turning lanes, where required for a new development, will be provided by the proponent;
- landscaping along the entire length of road frontages and buffering between non-residential and residential uses will be provided; and
- the proposal meets the policies of Sections 11.3.2 (transit) and 11.8 (accessibility), and Chapter 14.0, Urban Design.

Section 9.2.2 contains policies pertaining to significant habitat of endangered species and threatened species. Development and site alteration is not permitted in such habitat, nor is it permitted on adjacent lands unless the ecological function of the lands has been evaluated and it has been demonstrated that there will be no negative impact on the feature or their ecological functions. Section 9.2.3 contains policies pertaining to provincially significant wetlands. Development and site alteration are not permitted on lands adjacent to a sensitive wetland or a provincial significant wetland 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 features or ecological functions. Adjacent lands are considered to be within 50 metres of any sensitive wetland, and within at least 120 metres of a provincially significant wetland. This area can be modified if justified by a study.

Section 10.2 of the Official Plan identifies situations where development is not permitted in a floodplain, and the approval role of Conservation Sudbury. Section 20.7.1 contains hazard land policies specific to this section of Notre Dame Avenue (known as 'Area B') and states that development may occur subject to the approval of Conservation Sudbury. New development as well as redevelopment of existing buildings may be permitted up to 95 metres east of Notre Dame Avenue. No development will occur closer than 25 metres to Junction Creek.

Zoning By-law 2010-100Z

The development standards for the M1-1 zone require a maximum height of 12 m. The minimum required front yard is 9.0 m, the minimum required rear yard is 6.0 m, and the minimum required interior side yard is 3.0 m. The maximum lot coverage is 50%, and the minimum landscaped open space is 5%.

The development standards for the OSP zone require a maximum height of 10 m. The minimum requirement for all yards is 10 m, the maximum lot coverage is 5%, and the minimum landscaped open space is 40%.

The general provisions of the zoning by-law permit outdoor display and sales accessory to automotive sales, vehicle sales or rentals, and recreation vehicles sales and service in required yards, outside of required landscaped open space, parking, or loading spaces. A minimum 3 m landscaped area is required adjacent to Newgate Avenue.

Outdoor storage is only permitted in the M1-1(21) zone, and is limited to the storage of vehicles accessory to a vehicle repair shop. The outdoor storage of vehicles is not required to be screened by opaque fencing.

Site Plan Control

The property is currently subject to a site plan control agreement that was registered on August 19, 1987, and amended on October 7, 1992, and only applies to the lands containing the existing structure (Parcel 46225). The expanded use of the property and improvements proposed through the previous rezoning application triggered the existing site plan to be amended, and an amendment process is underway.

Department/Agency Review

The application, together with the applicable reports noted above, has been circulated to all appropriate agencies and City divisions. Responses received have been used to assist in evaluating the application and to formulate appropriate zoning by-law standards.

Comments from Development Engineering identify matters to be addressed at the site plan stage, including quality control of stormwater, and the need for an easement for a storm main that crosses the lands.

Building Services has advised that the existing shipping and storage containers are not permitted within an M1-1 zone and are required to be removed.

Conservation Sudbury has identified that the subject lands are within the regulatory floodplain and include a small portion of the Ponderosa PSW. Conservation Sudbury has issued a permit for a new driveway, a holding pond for storm water management, and an oil grit separator on site. The permit is still open. When the associated works are complete, the applicant must contact Conservation Sudbury for a final inspection and to close the permit. Any additional work will require a permit pursuant to Section 28 of the *Conservation Authorities Act*. Conservation Sudbury has recommended that the portion of the Ponderosa PSW that is subject to be rezoning be zoned restrictively to prohibit any future development. Conservation Sudbury has also commented that certain uses are not permitted within the floodplain (e.g. hospitals, essential emergency services, uses associated with the hazardous substances).

Environmental Planning Initiatives has commented that the materials submitted with the application are sufficient to meet the requirements for removal of the holding provision. Specifically, the accurate delineation of the Ponderosa PSW, and demonstration that the proposed uses are not anticipated to have significant negative impacts on the Ponderosa PSW or the habitat of species protected under the Endangered Species Act. In order to protect Blanding's Turtle habitat, the upland area 30 metres from the

Ponderosa PSW must be protected by a chain link fence (with reptile barrier). The draft site plan which shows a chain link fence demonstrates that site alterations will be prevented from occurring in Category 2 Blanding's Turtle habitat, and the details of the 'reptile barrier' component of the fence must be included in the final site plan.

As described below, these comments have been addressed to the satisfaction of reviewing departments and agencies.

PLANNING ANALYSIS

Planning staff circulated the development application to internal departments and external agencies in February, 2020. The PPS (2014), the Growth Plan (2011), and 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 circulation.

Holding Provisions

Holding provisions were applied to portions of the subject lands restrict development adjacent to the Ponderosa PSW and the habitat of Blanding's Turtle.

In accordance with the policies of Section 9.2.2 of the Official Plan, an EIS was required to ensure that any development or site alteration is restricted to portions of the subject land that will not impact the lands identified as habitat.

At the time of the previous rezoning, preliminary mapping indicated that a portion of the subject lands was included as part of the adjacent Ponderosa PSW. Staff from the Environmental Planning Initiatives Section conducted a site inspection and determined that while the lands should not be classified as part of the Ponderosa PSW itself, they are adjacent and require assessment through an EIS. The applicant has worked with the Ministry of Natural Resources and Forestry to confirm that the boundary of the Ponderosa PSW (correspondence dated April 5, 2019). The majority of the lands are outside the Ponderosa PSW, though a small sliver approximately 2 m² in size is on the site.

An EIS has been submitted which demonstrates that the proposed activities lands are outside the habitat of Blanding's turtle, and there will be no negative impacts on the natural features or ecological functions of the adjacent wetlands. Environmental Planning Initiatives has reviewed the EIS and correspondence received from the Ministry of Natural Resources and Forestry and confirm the materials are satisfactory for the holding provision being lifted. A fence with a reptile barrier is required to be constructed 30 m from the wetland boundary in order to prevent site alteration in Blanding's Turtle Habitat as well as keep Blanding's Turtle from moving into areas where activities that could harm them are occurring. Further to the formal comments provided, Environmental Planning Initiatives staff has also recommended that a fence with a reptile barrier be used to exclude Blanding's Turtles from the pond that has been constructed on the OSP(6) lands and the already-developed M1-1(19) lands. A small portion of the Ponderosa PSW is on the subject lands, and Conservation Sudbury has requested these lands be zoned restrictively. The EIS also recommends protection of existing vegetation adjacent to the Ponderosa PSW to prevent negative impacts. Therefore, to ensure conformity with the official plan and consistency with the PPS, as well as implement agency comments, it is recommended that the site-specific zoning provisions for the subject lands include the requirement for a fence with a reptile barrier as well as prohibit development or use of land on the east side of the barrier where the lands are undisturbed.

Staff have reviewed the request in detail and are satisfied that the criteria have been met and further that it would now be appropriate to lift the holding provision, which would allow the uses permitted in the OSP(6) and M1-1(21) zones. Staff therefore recommend that the application to remove the holding provision be approved, subject to the implementation of the recommended site-specific provisions.

Additional Uses

The application conforms with the general economic policies and guiding land use principles of the Growth Plan for Northern Ontario. The applications are consistent with PPS policies and conform with Official Plan policies that acknowledge the link between land use planning and economic prosperity, and maintaining a range of sites to provide economic opportunities.

The subject lands are within a fully-serviced settlement area. The application aligns with the PPS as well as Official Plan section 1.3.2 regarding directing development to settlement areas to promote long-term economic prosperity by optimizing the use of land and infrastructure.

The proposed use is within a floodplain, and the recommended site-specific zoning provisions described above will prohibit development in the small portion of the Ponderosa PSW that extends onto the subject lands as recommended by Conservation Sudbury. Conservation Sudbury has also commented that certain uses are not permitted within the floodplain (e.g. hospitals, essential emergency services, uses associated with the hazardous substances). These uses would not be permitted as a result of this application. Any future construction of buildings or structures would be subject to Conservation Sudbury permit requirements.

The application meets the specific considerations for a rezoning as listed in policy 4.3 of the Official Plan:

- There are no identified servicing constraints.
- Adequate on-site parking can be provided. The proposed trailer display area would displace 6 parking spaces, with 18 are proposed to be added in the OSP(6) zone, for a net gain of 12 spaces. The site plan demonstrates that 97 spaces can be accommodated on the site. This is expected to be adequate for the uses that are proposed. Detailed calculations will be reviewed as part of the site plan process.
- There is sufficient traffic carrying capacity available to support the development. Traffic improvements, such as turning lanes are not required to support this development.
- Landscaping will be provided along Newgate Avenue, and will be further reviewed as part of the site plan process.
- Policies pertaining to transit and accessibility (e.g. pedestrian connections), as well as urban design, will be further considered as part of the site plan process. Generally, the proposal meets these policies.

In reviewing the application, staff notes the abutting commercial uses, in particular the automotive related businesses to the south. Staff is of the opinion that the request is appropriate at this location and that the added uses of the lands will be compatible with the surrounding land uses.

It is recommended that a condition be implemented requiring the shipping container on the subject lands be removed, given the shipping container is not permitted.

In order to ensure that site works are constructed to the satisfaction of the City it is recommended that a condition be implemented requiring the owner enter into an amended site plan control agreement with the City.

CONCLUSION

The Planning Division undertook a circulation of the application to ensure that all technical and planning matters have been satisfactorily addressed.

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

- remove the 'H(47)' holding provision from where it restricts development on lands zoned M1-1(21) and OSP(6);
- add recreation vehicle sales and service establishment, and vehicle sales or rental establishment, to the list of uses permitted in the OSP(6) and M1-1(19) zone;
- add accessory outdoor display and sales to the list of uses permitted in the OSP(6) zone;
- require a fence with reptile barrier; and
- prohibit development on the east side of the fence where the lands are undisturbed.

The development of the subject lands achieves a number of policy directives, including the efficient use of existing infrastructure, promoting a mix and range of employment uses and a diverse economic base. Staff has considered, amongst other matters, a full range of factors through a detailed review when forming the recommendation of approval for this application.

Staff is satisfied that the application is consistent with the PPS and conforms to the Growth Plan and the Official Plan. Staff is of the opinion that the proposed zoning by-law amendment is appropriate based on the following:

- Development in this location aligns with economic policies and directing development to an area with existing infrastructure.
- The proposal has been evaluated in the context of the surrounding and future land uses and is considered appropriate.
- Site-specific zoning restrictions will prohibit development from occurring in the Ponderosa PSW, protect lands adjacent to the Ponderosa PSW to ensure no negative impacts to the PSW as well as prohibit development in the habitat of a threatened species (Blanding's Turtle).
- There are no identified servicing constraints and the traffic increase can be accommodated. Adequate on-site parking is provided.
- The site design, including landscaping provisions, will be further addressed through the site plan control agreement process.

Staff recommend approval of the application on the basis 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

File: 751-6/20-04

RE: Application for Rezoning – Norbury (Sudbury) Limited

PIN 02123-0095, 02123-0007 and 02123-0420, Parcels 46255, 49975 & part of 573, Lot 4, Plan M-1059, Parts 1-8 Plan 53R-13785 in Lot 4, Concession 5, Township of McKim (902 Newgate Avenue, Sudbury)

Development Engineering

Development Engineering has reviewed the above noted application. This site is currently serviced with sanitary and municipal water.

Due to the nature of the proposed business, there is a concern with the quality of stormwater runoff from these lands entering Junction Creek. As such, we request that quality control of the stormwater be provided as part of an amended Site Plan Agreement for this location in compliance with the Junction Creek sub-watershed study. There is a 850mm diameter storm main that traverses the site from Newgate Avenue easterly to Junction Creek. A 5 meter wide easement must be provided for this pipe across the applicant's lands.

We have no objection to removing the 'H(47)' holding provision from where it restricts development on lands zoned M1-1(21) and OSP(6) and adding Recreation Vehicle Sales and Service Establishment and Vehicle Sales or Rental Establishment to the list of uses permitted in the OSP(6) and M1-1(19) zone.

Infrastructure and Capital Planning Services - Roads, Traffic and Transportation, Active Transportation, Operations

No concerns.

Infrastructure and Capital Planning Services - Drainage Section

Further to Alex Singbush's email dated February 6, 2020, the Infrastructure Capital Planning Services Drainage Section has reviewed the above application and can advise we have no comments.

Building Services

We have reviewed your memo dated February 6 2020, regarding the above noted application requesting to amend *CGS Zoning By-law 2010-100Z* of the subject lands to remove the "H47" holding provision from where it restricts development on lands zoned M1-1(21) and OSP(6), until criteria related to the protection of the adjacent provincially significant wetland are met.

The application also proposes to add the following to the list of uses permitted on the OSP(6) and M1-1(19) zone:

- Recreation Vehicle Sales and Service Establishment; and
- Vehicle Sales or Rental Establishment

Based on the information and site plan drawing provided, we can advise that Building Services has the following comments.

1. The existing shipping and storage containers are not a permitted use within an M1-1 zone, and are required to be removed.
2. As a condition of this application, the requirements of the Holding Provision "H47" are required to be satisfied.

Conservation Sudbury

Conservation Sudbury staff has reviewed the above-noted application to amend By-law 2010-100Z being the City of Greater Sudbury Zoning By-law, to remove the 'H(47)' holding provision from where it restricts development on lands zoned M1-1(21) and OSP(6) until criteria related to the protection of the adjacent provincially significant wetland are met. The application also proposes to add the following to the list of uses permitted in the OSP(6) and M1-1(19) zone:

- Recreation Vehicle Sales and Service Establishment; and,
- Vehicle Sales or Rental Establishment.

Staff has reviewed the following documents as part of this application:

- Findings of an Environmental Impact Study dated June 8, 2018 (prepared by Pinchin Ltd.); and,
- Letter detailing newly confirmed Provincially Significant Wetland – Ponderosa Wetland, Sudbury District from the Ministry of Natural Resources and Forestry dated April 5, 2019.

The subject parcel is adjacent to the Ponderosa Wetland, a Provincially Significant Wetland (PSW). As such, the entire site is regulated by Ontario Regulation 156/06. A small portion of the PSW falls within the limits of the proposed rezoning.

The subject lands are previously developed, with an existing commercial/industrial multi-tenanted business on the southern parcel and an existing driveway along the central portion. All three parcels are within the regulatory floodplain.

Conservation Sudbury has issued a permit for a new driveway, holding pond for storm water management, and an oil grit separator on site. The permit is still open. When the associated works are complete, the applicant must contact Conservation Sudbury for a final inspection and to close the permit.

Staff has reviewed this application as per our delegated responsibility from the Province to represent provincial interests regarding natural hazards identified in Section 3.1 of the Provincial Policy Statement (PPS, 2014) and as a regulatory authority under Ontario Regulation 156/06. The application has also been reviewed through our role as a public body under the *Planning Act* as per our CA Board approved policies.

Policy 3.1.1c. of the PPS identifies that *“development shall generally be directed to areas outside of hazardous sites”*. The PPS includes a change in land use requiring approval under the *Planning Act* as part of the definition of ‘development’. The PPS defines hazardous lands as *“property or lands that could be unsafe for development and site alteration due to naturally occurring hazards. These may include unstable soils (sensitive marine clays [leda], organic soils) or unstable bedrock (karst topography)”*.

Policy 20.7.1.2 of the City of Greater Sudbury’s Official Plan allows for the replacement, alteration, or expansion of existing buildings on this site, along with new development within 95 metres east of Notre Dame Avenue, provided that no development occurs closer than 25 metres to Junction Creek. However, policy 3.1.5 of the PPS states that Development shall not be permitted to locate in hazardous lands and hazardous sites where the use is:

1. An institutional use including hospitals, long-term care homes, retirement homes, pre-schools, school nurseries, day cares and schools;
2. An essential emergency service such as that provided by fire, police and ambulance stations and electrical substations; or
3. Uses associated with the disposal, manufacture, treatment or storage of hazardous substances.

Conservation Sudbury would not object to the removal of the Holding Provision and the additional uses so long that as:

- The portion of the parcel that is within the Ponderosa PSW be zoned restrictively to prohibit any future development; and,
- The uses of the property do not include any of those uses listed in policy 3.1.5 of the PPS.

Should the applicant propose any additional works a permit pursuant to Section 28 of the *Conservation Authorities Act* will be required. More information regarding Section 28 permits can be found here: <https://conservationsudbury.ca/en/permits-planning.html>.

We respectfully request to receive a copy of the decision and notice of any appeals filed.

Environmental Planning Initiatives

The supporting materials submitted with this application are sufficient to meet the requirements for the removal of the ‘H(47)’ holding provision. Further, these materials satisfactorily demonstrate that the uses associated with the rezoning are not anticipated to have significant, negative environmental impacts on the Ponderosa provincially significant wetland (PSW) or the habitat of species protected under the Endangered Species Act.

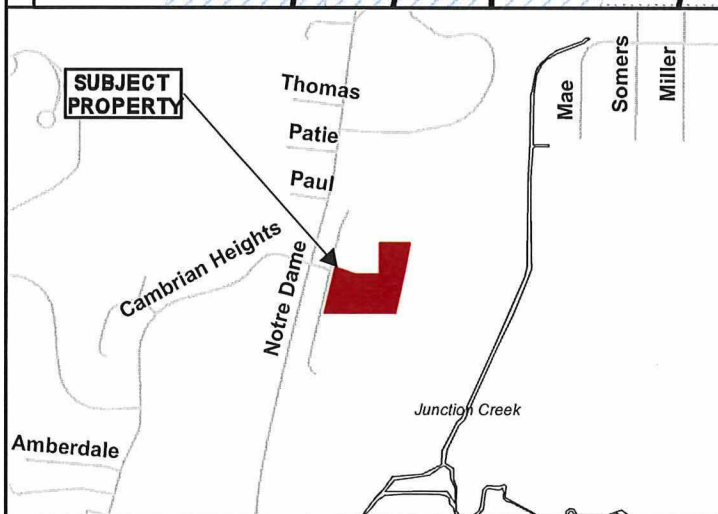
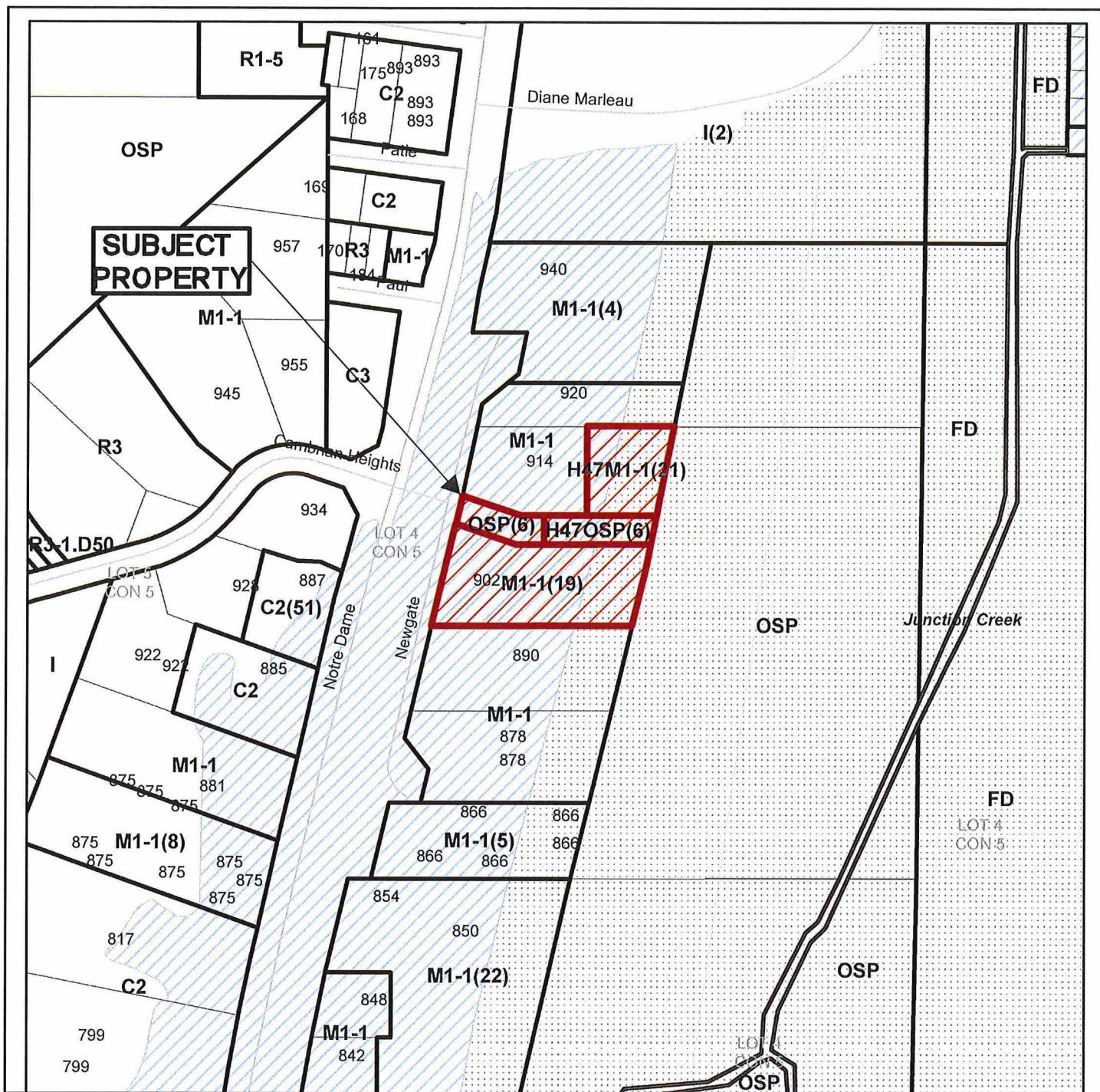
The environmental impact study (EIS) prepared by Pinchin (June 8, 2018), which is based on work undertaken by Northern Bioscience Environmental Consulting (June 3, 2018), has established two key findings:

- 1) The accurate delineation of the boundary of the Ponderosa PSW that is located adjacent to the subject lands. Two City staff that are certified wetland evaluators confirmed the delineated wetland boundary in the field in the summer of 2018.
- 2) The proposed development is not expected to have significant, negative environmental impacts on the PSW.

Based on existing Blanding’s Turtle records, this species is known to inhabit the Ponderosa wetland. The Province of Ontario’s General Habitat Description for the Blanding’s Turtle identifies three categories of habitat: 1, 2, and 3, in order of increasing tolerance to disturbance.

Past practice at the provincial ministry responsible for oversight of matters relating to the Endangered Species Act has been to consider the protection of Category 1 habitat (the nest and its immediate surroundings up to 30 meters away) and Category 2 habitat (the upland area that is within 30 meters of suitable wetland) in most instances. The upland area up to 30 meters from the Ponderosa PSW is considered to be Category 2 Blanding's Turtle habitat.

The draft site plan submitted in support of this application demonstrates that site alterations will be prevented from occurring in Category 2 Blanding's Turtle habitat by a chain link fence (with reptile barrier) constructed 30 meters from the edge of the Ponderosa wetland. This fence must be constructed such that Blanding's turtles are prevented from passing under the fence and, as such, the final site plan must include details relating to the 'reptile barrier' component of the fence.



Growth and Infrastructure Department



Subject Property being PINs 02123-0095, 02123-0007, and part of PIN 02123-0420, Parcels 46225, 49975, & part of Pcl 573. Lot 4, Plan M-1059, Parts 1 - 8, Plan 53R-13785, Lot 4, Concession 5, Township of McKim, 902 Newgate Avenue, Sudbury, City of Greater Sudbury

NTS
Sketch 1

751-6/20-04
Date: 2020 02 04

File: 751-6/17-29
902 Newgate Ave.,
Sudbury
2017 Orthophotography

Paul Street

Request for vehicle
sales or rentals
Establishment

Request for
Recreational sales
and service
Establishment

Pcl. 49975

M1-1(21)

Request for
Holding Zone to
be Removed.

OSP(6) Part Pcl. 573

Pcl. 46225

Notre Dame Av

Newgate Avenue

Subject Property





Photo #1: Existing business industrial use on the south portion of the subject lands, looking southeast.

File 751-6/20-4, 902 Newgate Avenue, Sudbury, February 12, 2020



Photo #2: Existing automotive use to the south of the subject lands, looking northeast.

File 751-6/20-4, 902 Newgate Avenue, Sudbury, February 12, 2020



Photo #3: Existing restaurant to the north of the subject lands, looking southeast.

File 751-6/20-4, 902 Newgate Avenue, Sudbury, February 12, 2020



Photo #4: Existing commercial and business industrial uses on the west side of Notre Dame Avenue, west of the subject lands, looking west.

File 751-6/20-4, 902 Newgate Avenue, Sudbury, February 12, 2020



Photo #5: Access driveway extending from Newgate Avenue across the subject lands, looking east. The driveway area around the driveway is proposed to include additional parking and accessory outdoor display.

File 751-6/20-4, 902 Newgate Avenue, Sudbury, February 12, 2020



Photo #6: View to the rear of the subject lands, looking east. The area in the left of the photo is proposed to include additional parking and accessory outdoor display.

File 751-6/20-4, 902 Newgate Avenue, Sudbury, February 12, 2020



Photo #7: Area beyond the fence to be used for vehicle storage, with the Ponderosa provincially significant wetland on the right, looking north.

File 751-6/20-4, 902 Newgate Avenue, Sudbury, February 12, 2020