

Title: 1916596 Ontario Ltd. (Parking Lots)

Date: March 12, 2018

STAFF REPORT

Applicant:

1916596 Ontario Ltd.

Location:

Part of PINs 73561-0261, 73561-0264 & 73561-0282, Parts 2, 3, 5, 8, 14, 15, and part of Part 10, Plan 53R-19391, Lots 9 & 10, Concession 4, Township of Neelon (Kingsway, Sudbury)

Application:

To amend [By-law 2010-100Z](#) being the Zoning By-law for the City of Greater Sudbury by changing the zoning classification of the subject lands from "M2", Light Industrial and "M3", Heavy Industrial to "M2(S)", Business Industrial Special and "M3(S)", Heavy Industrial Special to add parking lot to the list of permitted uses.

Proposal:

The application proposes to rezone the property to permit parking lots in addition to the uses permitted in the M2 and M3 zones.

The parking lot use is proposed to be located on lands across the street from a 5,800 seat public arena with 1,250 parking spaces on a 11.96ha (29.56 ac.) site that is the subject of a separate rezoning application to permit a recreation and community centre in the form of a public arena in the M1-1 zone. The parking lot use is intended to support the anticipated demand for parking associated with special events at the proposed recreation and community centre which the [Traffic Impact Study](#) has identified as requiring 1,400 parking spaces beyond those proposed to be provided on the arena site.

Also proposed on adjacent lands is a 7,696 m² (82,839 sq. ft.) casino and 15 storey hotel project with 825 parking spaces on a 6.96 ha (17.2 ac.) site that is the subject of separate official plan amendment and rezoning applications to permit a place of amusement in the form of a casino in the M1-1 zone.

Studies and submittals made with respect to the application and in the review of the application have been attached as Appendix #2.

Site Description & Surrounding Land Uses:

The subject lands are located north of the Kingsway, west of the intersection of Levesque Street and the Kingsway, in a draft approved industrial plan of subdivision referred to as the Jack Nicholas Business and Innovation Park, City file reference 780-6/10002. The plan of subdivision was draft approved on October 26, 2010, proposing a total of 33 blocks of land to the north of Kingsway Boulevard in the community of Sudbury. The subdivision is accessed via two proposed roads (Streets "A" and "C" on the draft plan) from Kingsway Boulevard.

The parking lot use is proposed on lands encompassing approximately 23.5 ha (58.07 acres) located immediately north and east of the place of amusement and recreation and community centre sites (both subject to separate planning applications), on the north side of Street A and the east side of Street C within the draft approved industrial plan of subdivision as illustrated on the attached sketch. The lands are currently vacant and consist of undulating bedrock. An air photo of the subject lands has been attached to this report. The lands are subject to the Source Water Protection Plan, as lands are located within the Intake Protection Zone 3 of the Lake Ramsey Issue Contributing Area.

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Lands located to the east zoned “M6”, Disposal Industrial are occupied by the Sudbury Landfill & Waste Diversion Site. Vacant lands to the north are zoned “H2FD”, Holding Future Development and “FD”, Future Development. Lands to the west and south are within an undeveloped industrial draft plan of subdivision and are zoned “M1-1”, Business Industrial.

Neighbourhood Consultation:

The statutory notice of the public hearing was provided by newspaper along with a courtesy mail out to property owners and tenants within a minimum of 120 metres of the property. 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 two requests for notice of public meetings with respect to the proposal have been received by Planning Services.

The Planning Framework:

Council’s decision on this land use planning matter must be consistent with the Provincial Policy Statement (PPS), conform to the Growth Plan for Northern Ontario (Growth Plan) and conform to the City of Greater Sudbury Official Plan.

The PPS and Growth Plan indicate that they are to be read in their entirety and the relevant policies are to be applied to each situation; they are more than a set of individual policies. When more than one policy is relevant, consideration should be given to all of the relevant policies to understand how they work together. Similarly, the Official Plan for the City of Greater Sudbury provides a policy framework for the implementation of a wide range of land use planning policies that require consideration when evaluating multiple facets of a development application.

Provincial Policy Statement

The PPS was issued under Section 3 of the Planning Act and came into effect on April 30, 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](#) (PPS). The PPS acknowledges the complex relationships between environmental, economic and social factors in land use planning. The PPS encourages the management of land to achieve efficient development and land use patterns by directing growth to settlement areas.

Growth Plan for Northern Ontario

The Growth Plan was prepared and approved under the Places to Grow Act and came into effect on March 3, 2011. 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

The Official Plan was adopted on June 14, 2006, approved by the then Ministry of Municipal Affairs and Housing on March 7, 2007 and upheld by the Ontario Municipal Board in an April 10, 2008 decision.

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The Official Plan establishes goals, objectives, and policies to manage and direct physical change and its effects on the social, economic and natural environment of Greater Sudbury. The goals, objectives, and policies of the plan provide guidance in making decisions affecting land use, economic, and social development. All applications for rezoning are reviewed against the policies of the Official Plan. It is the policy of Council to ensure that zoning by-law amendments conform to the plan, and the plan indicates that it is the intent of Council to evaluate each rezoning application according to all applicable policies.

The subject lands are designated “General Industrial” in the City of Greater Sudbury [Official Plan](#). General Industrial Policies contained in Section 4.5.1 indicate that:

1. Permitted uses may include manufacturing, fabricating, processing and assembling of industrial and consumer products, repair, packaging and storage of goods and materials, and related industrial activities.
2. Complementary uses, such as administrative offices, which do not detract from, and which are compatible with, the operation of industrial uses are also permitted.
3. General Industrial uses must have minimal environmental impacts. Any use which may impact surrounding areas and cause nuisance will be appropriately buffered and screened.

Zoning By-law

[By-law 2010-100Z](#), the Zoning By-law for the City of Greater Sudbury implements the policies of the City of Greater Sudbury Official Plan by regulating land uses and built form throughout the municipality.

The subject lands are currently zoned “M2”, Light Industrial and “M3”, Heavy Industrial permits a range of industrial and complimentary land uses but do not permit parking lots as a primary use, as such, the applicant is requesting a rezoning to “M2(S)”, Business Industrial Special and “M3(S)”, Heavy Industrial Special to permit parking lots which would support the anticipated demand for parking associated with special events at the recreation and community centre proposed for lands to the south of the subject lands.

Departmental/Agency Circulation:

The Nickel District Conservation Authority and Building Services have advised that they had no concerns with the application. Environmental Planning Initiatives, Environmental Services and Transit Services have not indicated any objection to the application and provided additional comments for the information of the applicant.

Development Engineering has advised that, through the development of the draft approved subdivision, municipal infrastructure will become available to the subject lands. Stormwater management can be finalized as part of the development of the review of the plans for the subdivision and at the site plan stage.

Infrastructure Capital Planning Services (Roads) have advised that sufficient parking can be provided within the subdivision lands to satisfy the needs of the arena. A single left turn lane is sufficient at Street “A” and Street “C” to accommodate the expected volume of vehicles that will be attending the site on event nights. Improvements to provide the turn lane are required in accordance with the current conditions of draft plan approval for the subdivision. A Transportation Demand Management Plan (TDM) detailing the operation, delivery, and funding of TDM measures should be considered.

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Water/Wastewater Services has indicated that a Risk Management Plan is required before the development application may receive final approval.

Detailed department and agency comments are attached in Appendix 1.

Planning Review and Considerations:

Location

The proposal to locate a parking lot use within the settlement area of the community of Sudbury adjacent to existing and planned development is consistent with the PPS, conforms/does not conflict with the Growth Plan and conforms to the pattern of development and urban structure policies of the Official Plan.

In terms of urban structure, the Official Plan recognizes three forms of settlement: communities, non-urban settlements, and rural and waterfront areas. The Official Plan sees communities as the primary focus of residential and employment growth. Within these communities, Sudbury is the regional service centre for the city and region and is the main residential and employment centre (Sections 2.1, 2.2.1). The proposal to locate a parking lot use within the settlement area of the community of Sudbury adjacent to existing and planned development is consistent with the PPS, conforms/does not conflict with the Growth Plan and conforms to the pattern of development and urban structure policies of the Official Plan.

Land Use

The application proposes to establish a parking lot use on the subject lands, in addition to the other uses permitted by the underlying M2 and M3 zones, which are designated and zoned for industrial land uses.

The proposed parking lot use will preserve and protect employment lands, consistent with Section 1.3.2.1 of PPS, by introducing a transitional land use that can accommodate the current peak parking needs of the proposed arena while not precluding the development of the lands. In the future, a shared parking model may be implemented to allow the arena continued access to the parking areas of future industrial uses.

Within the General Industrial land use designation complementary uses which are compatible with the operation of industrial uses are permitted. Staff notes that the parking lot use is permitted in the M1-1 and M1 industrial zones. No issues with respect to land use compatibility are anticipated should this application be approved. In this respect, the application is considered to conform to Official Plan.

Transportation Systems

Infrastructure Capital Planning Services (Roads) have advised that sufficient parking can be provided within the subdivision lands to satisfy the needs of the arena site in conformity with the Official Plan (Section 4.4 2. c)). They have advised the applicant that maintenance agreements between arena site and proposed overflow parking lot site(s) should be required in order to ensure that an appropriate standard of maintenance is provided.

Roads have advised that a single left turn lane is sufficient at Street "A" and Street "C" to accommodate the expected volume of vehicles that will be attending the site on event nights. Condition of approval #15 on the industrial draft plan of subdivision currently requires that the owner agrees to participate in the cost of any improvements or upgrades identified in the Traffic Impact Study. The developer will be required to satisfy this condition before this phase of the subdivision will be permitted to proceed to registration. This is consistent with the PPS (1.3.1 d., and 1.6.1 b.) and conforms to the Official Plan (Section 4.4. 2.b).

The Traffic Impact Study Addendum dated March 9, 2018 has identified several Transportation Demand Management (TDM) measures related to events at the arena to help ensure that a minimum of 5% of event goers utilize transit. However, the study did not provide details about how these measures would be operated and what the financial implications would be. With over 2,200 vehicle trips expected to be generated from a sold out OHL game, a small increase in the percentage of event goers utilizing transit will result in a significant reduction in the number of vehicles traveling to the site. Staff recommend that a detailed TDM plan be developed for the arena to determine the details of the identified TDM measures and potentially identify additional measures to be implemented during the operation of the event site. These discussions are ongoing.

Holding Provision

In order to address these circumstances and ensure that Transportation Demand Management has been comprehensively addressed before development proceeds, the use of a holding provision is recommended.

Policy 20.5.4 of the Official Plan provides for the use of holding symbols (H) in certain instances which include:

- i. when certain details of development have not yet been determined, or where certain conditions of development have not yet been met such as, but not limited to, development or servicing agreement with the City;
- ii. when the level of community services and/or infrastructure is not yet adequate to support the proposed use;
- iii. where environmental conditions or constraints temporarily preclude development; and,
- iv. where required studies have not yet been approved by the City.”

The “H”, Holding symbol should only be removed by Council upon the General Manager of Growth and Infrastructure being satisfied with the Transportation Demand Management Plan.

Infrastructure

Water and sewer infrastructure are not required to support the proposed parking lot land use. Municipal services will be provided to the subject lands through the conditions of approval of the underlying draft plan of subdivision.

Stormwater Management and Water Quality

The PPS addresses issues related to water to planning for stormwater in Section 1.6.6.7. Section 8 of the Official Plan, Water Resources, contains policies with respect to stormwater (8.6). Stormwater management for the subject lands will be addressed through the implementation of existing conditions of draft plan approval and the provision of additional volumes of stormwater retention, as the project is located within the Ramsey Lake watershed, and applied through the City’s review of the development proposal for the public arena consistent with the PPS and in conformity with the Official Plan. A stormwater management pond, intended to serve the stormwater requirements of the arena site, casino site and a portion of the needs of the balance of the industrial subdivision has been identified on the southern portion of the arena site.

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A stormwater management pond is proposed to the east and south of the proposed arena and casino sites which will also serve the applicant's industrial subdivision. The storm water management for the site will need to address the requirements of the Ministry of Environment and Climate Change (MOECC), respecting source water protection under the Clean Water Act, 2006 as this area is located with the Intake Protection Zone (IPZ) 3 of Ramsey Lake with a vulnerability score of 9 in the Greater Sudbury Source Protection Plan. As a result, storm water facilities in this area, must provide enhanced level water quality control and an additional 20 percent water quantity control in addition to the requirements for the MOECC Stormwater Management and Planning Manual. The details of the stormwater management for the site will be finalized as part of satisfying the servicing conditions on the draft plan of subdivision, prior to registration and as part of the site plan for the subject lands.

The PPS addresses issues related to water in Section 2.2 of the PPS and Section 8 of the Official Plan, Water Resources, contains policies with respect to drinking water resources (8.3).

Section 1.6.6.7 of the PPS provides that planning for stormwater management shall address various matters to prevent contaminant loads, minimizing changes in water balance and erosion, risks to human health, safety and property damage, use of pervious surfaces and promoting stormwater management best practices. Section 8.6 of the City's Official Plan includes policies which address storm water management and the requirement for a stormwater management reports for new development. The draft plan of subdivision on the subject lands includes conditions 18 and 19, requiring the preparation of a storm water management report and plan. Additional storm water management details will be finalized as part of the required site plan for the casino and arena development.

Sourcewater Protection

The PPS addresses issues related to water in Section 2.2 of the PPS and Section 8 of the Official Plan, Water Resources, contains policies with respect to drinking water resources (8.3).

The applicant has submitted an application for Restricted Land Use Review Application for Section 59 Notice in accordance with the Greater Sudbury Source Protection Plan. On January 12, 2018 the applicant was advised that a Risk Management Plan (under Section 58 of the Clean Water Act) is required to manage the future threats related to the handling and storage of road salt, the on-site application of road salt, and the storage of snow. The Clean Water Act requires that decisions under the Planning Act conform with significant threat/condition policies identified in the Greater Sudbury Source Protection Plan.

Two significant threat policies, Sa3EF-RMP and Sa4E-RPM, have been identified by Water/Wastewater Services with respect to the subject lands; these threats are described as follows in the Greater Sudbury Source Protection Plan:

Sa3EF-RMP Where it could be a significant threat and where Policy Sa6F-SA does not apply, the application of road salt (existing and future) and storage of snow (existing) is designated for the purpose of Section 58 of the *Clean Water Act*, requiring risk management plans for those properties with exterior parking lots equal to or greater than one (1) hectare in area. Expansions to existing activities are permitted provided that the activity can be adequately managed.

All land uses except residential in the City of Greater Sudbury Zoning By-Law 2010-100Z are designated for the purpose of Section 59 of the *Clean Water Act* in the vulnerable areas where the application of road salt and the storage of snow could be a significant threat.

Sa4E-RMP The existing handling and storage of road salt is designated for the purpose of s. 58 requiring Risk Management Plans in the vulnerable areas where the activity is a significant threat. In the Ramsey Lake Issue Contributing Area, this policy applies to 0.5 tonnes of road salt and greater.

The risk management plan shall require at a minimum that a permanent structure be constructed to house the salt and/or sand/salt mixture. The structure will be constructed on an impermeable pad and drainage will either be treated (e.g. collected and transferred to an appropriate treatment facility) or directed to flow away from sources of municipal drinking water. If excess outdoor storage space is required, the sand/salt will be stored on an impermeable pad, covered by a tarp, and drainage will either be treated or redirected to flow away from sources of municipal drinking water. Expansions to existing activities are permitted provided that the activity can be adequately managed.

All land uses except residential in the City of Greater Sudbury Zoning By-Law 2010-100Z are designated for the purpose of Section 59 of the *Clean Water Act* in the vulnerable areas where the handling and storage of road salt could be a significant threat.

Dillon Consulting has provided the City with a Preliminary Report on the Risk Management Plan (RMP), providing a summary of the components to be included and outlining best management practices for design and operation of the site that will be considered for application after additional details regarding the site are determined. The components to be included in the RMP are summarized below:

1. The identification of traffic areas and sensitive features that may provide an opportunity for increased infiltration of salt into the subsurface or that may need to be protected.
2. The identification of snow storage areas and the transport of snow from these areas to approved snow dump facilities.
3. Consideration of alternatives to the use of road salt, or lower sodium concentrations, such as the application of sand, where it is safe and effective to do so.
4. Engineering measures, such as on-site grading and the location of roof downspouts to reduce ice formation and the use of fencing and vegetation to minimize snow drifting.
5. A winter operations plan with measures to minimize the use of road salt including details on the amount of salt to be stored on-site, the maintenance and washing of snow removal equipment to occur offsite, monitoring of weather conditions to remove snow quickly after snowfall events, and limiting the use of road salt.
6. On-going monitoring and management through logging winter maintenance activities including the amount of road salt used and the creation of a baseline winter maintenance conditions at the site to identify opportunities for improvement.

Planning staff note that the Preliminary Report on the RMP, provides an overview of the components to be considered in finalizing the RMP.

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It is recommended that the amending by-law include an “H”, Holding provision restricting the use of the subject lands to those uses which legally existed on the date the by-law applying the “H”, Holding symbol is enacted.

In order to ensure that a Risk Management Plan has been accepted as part of the planning approvals, the use of a holding provision is recommended.

The “H”, Holding symbol should only be removed by Council upon the Risk Management Official advising that they have agreed to a Risk Management Plan, as required by the Clean Water Act.

Subject to the comments noted above, the proposal is consistent with the PPS, conforms/does not conflict with the Growth Plan and conforms to the policies of the Official Plan.

Natural Environment

The PPS prohibits development and site alteration in significant wildlife habitat, habitat of endangered and threatened species (except in accordance with provincial and federal requirements) and on adjacent lands, provided certain conditions have been met (Policy 2.15 d., 2.1.7 and 2.1.8). These outcomes are reiterated in Section 9.2.2 of the Official Plan.

The applicant has submitted correspondence from the Ministry of Natural Resources and Forests dated September 23, 2015 indicating that the Ministry has determined that activities associated with development of the site have a low probability of contravening the Endangered Species Act for Blanding’s Turtle and Whip-poor-will, consistent with the policies of Section 2.1 (2.1.5 d., 2.1.7, and 2.1.8) of the PPS and consistent with Section 9.2.2 of the Official Plan.

In these respects, the proposal is consistent with the PPS, conforms/does not conflict with the Growth Plan and conforms to the policies of the Official Plan.

Site Plan Control

With respect to the Community Design (Section 14.2), Built Heritage and Natural Environment Feature Integration (Section 14.4), and Design Features, Views and Corridors (Section 14.5) policies of the Official Plan, review for compliance with the policies will form a part of the City’s review of the development project.

The City’s Site Plan Control By-law 2010-220 designates the whole of the municipality as a site plan control area under Section 41 of the Planning Act and excludes specific zones from being subject to site plan control. Lands zoned Industrial that are located more than 152.4 m (500 feet) from the nearest residential zone and from the nearest Municipal Road (designated with an “MR” number) or Provincial Highway are excluded from site plan control. The subject lands are located beyond 152.4 m of the Kingsway (MR #55) and would not be subject to site plan control.

Section 20.6 of the Official Plan provides that, “Council may impose site plan control on exempted properties during the development application review process where warranted”. Given the significance of the development being proposed, the extension of site plan control to apply to all lands abutting Streets A and C on the draft plan of subdivision is recommended. This will permit the City to review the design details of the development surrounding the arena and casino sites to ensure that they reflect a high level of urban design, and landscaping features.

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To assist in the implementation of site plan control on the subject lands and the lots abutting Streets “A” and “C” on the draft plan, it is recommended that urban design guidelines specific to the draft plan be prepared by the owner. The design guidelines will encourage a high level of design quality and promote a built environment that is safe and aesthetically pleasing. The design guidelines will establish recommendations respecting but not limited to, building massing and placement, building materials, landscaping, parking lot design, lighting, paving, fencing, pedestrian walkways and signage. It is recommended that the conditions of draft approval be amended by adding a condition requiring urban design guidelines for the subdivision.

Summary

The proposed rezoning application is considered to be consistent with the Provincial Policy Statement, in conformity with the Northern Growth Plan and in conformity with the relevant sections of the City of Greater Sudbury Official Plan. The application represents good planning and should be approved subject to the conditions noted in the resolution section of this report.