

**Title:** Housekeeping #9

**Date:** December 8, 2017

## **STAFF REPORT**

### **Applicant:**

City of Greater Sudbury

### **Location:**

All lands within the City of Greater Sudbury

### **Background:**

On September 29, 2010 Council enacted [By-law 2010-100Z](#), being the Zoning By-law for the City of Greater Sudbury. By-law 2010-100Z replaced the eight Zoning By-laws from the former Municipalities and Townships that were amalgamated into the City in 2001. No appeals were filed on the By-law at the end of the appeal period and in accordance with the [Planning Act](#) the By-law was deemed to have come into force on the day it was enacted on September 29, 2010.

Since the enactment of Zoning By-law 2010-100Z various matters have been identified that have required the need for “housekeeping” amendments respecting typographical, punctuation, mapping errors, along with changes which assist in the interpretation and application of the By-law. Eight housekeeping amendments have been enacted since 2010 and this report addresses further housekeeping amendments to the By-law.

This report identifies the By-law Section and the issue which requires addressing, along with the suggested amendment. The draft amendments are set out in detail on Attachment 1 to the report. One change to the zone map is also proposed.

### **Public Consultation:**

The statutory notice of public hearing was provided by newspaper. At the time of writing this report, no comments had been received from the public.

### **Proposed Amendments:**

#### 1. Part 3 Definitions, Definition 152 Heavy Equipment Sales and Rental

Planning and Building Services staff, in working with the Zoning By-law, has identified a potential refinement to the By-law to address the repairing of heavy machinery and equipment.

It is noted that the current definition in the By-law for a Heavy Equipment Sales and Rental use does not provide for the servicing or repair of the commercial vehicles, machinery or equipment being sold or leased from the premises.

Heavy Equipment Sales and Rental is currently defined in the Zoning By-law as follows:

*“A building, structure or lot, or part thereof, where commercial vehicles, heavy machinery and equipment are offered or kept for sale, rent, or lease or hire under agreement for compensation, but shall not include any other establishment defined or classified in this By-law.”*

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Staff note that in some instances the heavy machinery and equipment will not satisfy the definition of a vehicle in the By-law and as such the repair of the heavy machinery and equipment, would not be permitted in a vehicle repair shop which is currently a permitted use in the "M1", Light Industrial/Service Commercial, "M2", Light Industrial and "M3", Heavy Industrial zones.

The Heavy Equipment Sale and Rental use is only permitted in the "M2", Light Industrial and "M3", Heavy Industrial Zones and in three site specific exception zones as follows: C2(99) located at 6866 Hwy 17 East, C2(101) at 833 Lorne Street and M4(1) at 400 Hwy 69 North.

It is considered appropriate that the repair of heavy machinery and equipment should be permitted as part of a heavy equipment sales and rental establishment, particularly given that a vehicle repair shop would allow for the repair of a wide range of vehicles including but not limited to passenger automobiles, trailers, trucks, boats, aircraft, tractors, farm implements, mobile cranes, shovels, snowmobiles and motorcycles in M1, M2 and M3 zones.

In consideration of the above, it is recommended that the Definition for Heavy Equipment Sales and Rental be amended to include reference to repair and servicing and sale of replacement parts as follows:

"Heavy Equipment Sales and Rental

*A building, structure or lot, or part thereof, where commercial vehicles, heavy machinery and equipment, are offered or kept for sale, rent, or lease or hire under agreement for compensation and may include the servicing and repairing of commercial vehicles and heavy machinery and equipment and the sale of replacement parts, but shall not include any other establishment defined or classified in this By-law."*

## 2. Table 4.1 Accessory Buildings and Structures

In 2016, Zoning By-law 2010-100Z was amended by By-law 2016-133Z which added Section 4.2.10 respecting Secondary Dwelling units and also renumbered the Swimming Pool Section of the By-law to 4.2.11. The reference on Table 4.1 to the Swimming Pool section however was not changed to reflect the new Section 4.2.11. It is recommended that Table 4.1 be amended to reflect the correct Section number being 4.2.11.

### 3. 4.2.10.1 Secondary Dwellings

In 2016 Council amended the Zoning By-law to permit secondary dwelling units in single, semi-detached, row and street townhouse dwellings or buildings accessory to them, subject to specific provisions as set out in the By-law. Secondary dwelling units were not permitted where the dwelling was legal existing under Section 4.16 of the By-law, in an "EP", Environmental Protection Zone, where the dwelling was permitted as an accessory use to a non-residential use, or on a lot containing a garden suite. The above restrictions do not address the situation of seasonal dwellings which in most instances are located on lots which do not have frontage onto an open publicly maintained road. The definition of seasonal dwelling includes reference to a single detached dwelling which could lead to an interpretation that seasonal dwellings are permitted to have secondary dwelling units. It was not Planning Staff's intention that secondary units would be permitted in seasonal dwellings or in structures accessory to them. The increase and intensification of dwelling units in seasonal dwellings which in most cases are not located on publicly maintained roads and are only accessible by private roads or by boat is not what was intended and should not be a situation where residential intensification is encouraged or permitted. As such it is recommended that wording be added to Section 4.2.10.1 Secondary Dwellings to prohibit secondary dwellings in seasonal dwellings or buildings accessory to them as set out in Attachment 1 to the report.

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4. Part 4.3 Access onto an Assumed Road d) Lands in Plans of Condominium

Part 4.3 of the Zoning By-law addresses the requirement to have access onto an assumed road in order for a building permit to be able to be issued. Four exceptions to this requirement are provided in the By-law respecting, seasonal dwellings, lots in new plans of subdivision where the road has not yet been assumed by the City, lands in plans of condominium and mobile home sites in mobile home parks. The current wording of exception d) respecting condominiums, addresses the situation of standard and vacant land condominiums where the condominium units and the driveway providing access to the public road are located within the limits of condominium corporation. The current wording of the exception in the By-law however does not address the situation where an access road forms a common element condominium that attaches a common interest on title to freehold lots that are accessed via the common element condominium road. It is recommended that the wording of 4.3d) of the By-law be deleted and replaced with wording which would address all forms of condominium.

Section 4.3 d) is deleted and replaced with the following:

“d) Plans of Condominium

Where lands are a parcel of tied land to a condominium corporation, or are located within a condominium corporation which has access to a roadway owned and maintained by a registered condominium corporation said roadway shall be deemed to be an *assumed road* for the purposes of this Section.”

5. 4.25.1 Non Complying Lots, Buildings and Structures, Permitted Buildings or Structures

Section 4.25.1 addresses situations of enlarging, reconstructing, repairing or renovating building or structures that are located on a lot having less than the minimum lot frontage, lot area, setback or side yard or rear yard required by the By-law. The wording in the section does not address situations where the lot has less than the minimum lot depth which are specified as part of the zone standards for Residential and Industrial Zones. In order to address this, it is recommended that lot depth also be included in the wording in this section as set out on Attachment 1 to this report.

6. 4.30 Reduction of Lot by Public Acquisition, 4.30.2 Buildings and Structures

Section 4.30 of the By-law addresses situations where the City or another public agency, (provincial or federal governments) have acquired a portion of a lot, and as a result of the acquisition a non-compliance with the Zoning By-law results with the remaining lot. A typical situation of this occurring is with the acquisition of a road widening by the City which may result in reductions to the lot area, front yard setback, planting strip width or parking provided on the lot, in such a way that the lot no longer complies with the By-law standards.

Section 4.30.2 currently provides that where an acquisition of land by a public agency results in a contravention of the By-law related to minimum yards and/or setbacks, lot coverage, floor space index or maximum permitted gross floor area or net floor area, the buildings and structures so affected shall be deemed to conform to the provisions of the By-law.

Although not specifically noted, non-compliance with parking, loading and landscaping resulting from public acquisition have been interpreted as being addressed by this provision. The wording in the previous Zoning By-laws (95-500 and 83-300 series), contained wording which captured a broader range of matters where non-compliance may result from the public acquisition. In order to clarify this matter, it is recommended that this section of the By-law be amended to also refer to “parking and loading and landscaping”, in order that matters of non-compliance relating to them as a result of a public acquisition are also addressed by this section.

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7. Amending Schedule A, by rezoning from "P", Park to "R1-5", Low Density Residential One Zone, Parts 1, 2 and 3 on Plan 53R-14976, in Lot 4, Concession 6, Broder Township

The subject lands are 6.1 m by 191.7 m (20 ft. X 629 ft.) in size and are zoned "P", Park. In 1994 the City of Sudbury authorized an agreement with Broder-Sudbury Development Ltd. and Dalron Construction Limited which contemplated the exchange of certain lands for improvements to Mallard's Green Park. The City received consideration for the park but failed to honor the obligation to transfer the subject land to the developer.

In 1994, the owner received draft approval for a plan of subdivision which included the subject land along with abutting lands to the west and north of Algonquin Road. At that time the lands were rezoned to permit residential development. In 2010, the subject lands were inadvertently rezoned from "R1", Single Residential Zone in By-law 95-500Z to "P", Park in By-law 2010-100Z. The error was a direct result of the lands not being transferred to Dalron Construction in 1994. The owner's servicing plans for the servicing of the 20 single detached lot subdivision have been approved by the City. The subject lands form the rear portions of 11 lots and part of a walkway block in the draft approved plan. The owner is in the process of clearing their conditions on the draft approval in order that the subdivision plan can be registered.

On September 25, 2017 Planning Committee recommended that the City declare the above noted lands surplus to the City's needs and that the lands be transferred to Dalron Construction Limited. The Committee's recommendation was ratified by Council on September 26, 2017.

It recommended that the mapping error which rezoned the property "P", Park, be corrected by rezoning the lands to "R1-5", Low Density Residential One Zone.