

Request for Decision

Carpenter Investment Ltd. - Application for a temporary use by-law in order to permit the outdoor sale of blueberries for a period of three (3) years, South Lane Road, Sudbury

Presented To: Planning Committee

Presented: Wednesday, Feb 19, 2020

Report Date: Wednesday, Jan 22, 2020

Type: Public Hearings

File Number: 751-6/19-16

Resolution

THAT the City of Greater Sudbury approves the application by Carpenter Investments Ltd. to amend Zoning By-law 2010-100Z in order to extend the existing temporary zoning "RU T91" Rural Temporary, in order to permit the outdoor sale of blueberries in accordance with Section 39 of the Planning Act for a temporary period of three years until May 30, 2023, on those lands described as PIN 73479-0262, Parcel 22728 SES, Part 3, Plan 53R-7705, Lot 12, Concession 5, Township of Dill, as outlined in the report entitled "Carpenter Investments Ltd.", from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting on February 19, 2020.

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 business attraction, development and retention.

Report Summary

An application to extend a temporary use by-law has been submitted pursuant to Section 39 of the Planning Act in order to permit the outdoor sale of blueberries for an additional temporary period of three years. The subject land is designated and zoned Rural in the Official Plan and Zoning By-law. Staff recommends approval of the application.

Financial Implications

Signed By

Report Prepared By

Wendy Kaufman
Senior Planner
Digitally Signed Jan 22, 20

Manager Review

Alex Singbush
Manager of Development Approvals
Digitally Signed Jan 22, 20

Recommended by the Division

Jason Ferrigan
Director of Planning Services
Digitally Signed Jan 23, 20

Financial Implications

Apryl Lukezic
Co-ordinator of Budgets
Digitally Signed Jan 31, 20

Recommended by the Department

Tony Cecutti
General Manager of Growth and Infrastructure
Digitally Signed Feb 2, 20

Recommended by the C.A.O.

Ed Archer
Chief Administrative Officer
Digitally Signed Feb 5, 20

This report has no financial implications.

Title: Carpenter Investments Limited

Date: January 20, 2020

STAFF REPORT

PROPOSAL:

The application proposes to amend By-law 2010-100Z being the Zoning By-law for the City of Greater Sudbury in order to extend a temporary use by-law for a period of three years, pursuant to Section 39 of the Planning Act, to permit the temporary outdoor sale of blueberries. The temporary use was originally approved in 2014, and extended in 2017. This is the second extension that has been requested.

The blueberries are sold from a 3 m by 3 m stand with a tent frame that is covered with canvas when in use. The tent frame remains in place year-round.

Existing Zoning:

The existing zoning on the subject lands is "RU T91", Rural Temporary, which permits the outdoor sale of blueberries until May 30, 2020. A portion of the property is located within the "FP", Flood Plain Overlay due to a drainage course between Richard Lake and McFarlane Lake.

Requested Zoning:

The proposed zoning is to extend the existing temporary zoning, "RU T91", Rural Temporary, to permit the outdoor sale of blueberries for an additional three years until May 30, 2023.

Location and Site Description:

The subject property is described as PIN 73479-0262, Parcel 22728 SES, Part 3, Plan 53R-7705, Lot 12, Concession 5, Township of Dill. The lands are located at the southeast corner of Highway 69 North and South Lane Road in Sudbury. The property is vacant with a regrowth of vegetation and there is a gravel area at the northwest corner of the property where the blueberry sales occur extending 16 m (53 ft) south of Highway 69 and 24 m (80 ft) east of South Lane Road.

The subject lands are approximately 1.21 ha (3 acres) in size, with 53 m of frontage on Highway 69 North and 492 m of frontage on South Lane Road.

Surrounding Land Uses:

The area surrounding the site includes:

North: residential use

East: vacant rural land

South: mobile home park

West: institutional use (Cecil Facer Youth Centre), vacant residential lot

Title: Carpenter Investments Limited

Date: January 20, 2020

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 the subject lands and the tent frame, the highway and residential uses to the north, and the institutional use to the west

Previous Temporary Rezoning Applications

The applicant's agent, Mr. Choquette, has been selling blueberries from this location for approximately sixteen (16) years. In 2013 a complaint was received by By-law Services with respect to the blueberry sales on this property. In February 2014, the current property owners submitted an application for a temporary use by-law in order to permit the outdoor sale of blueberries for a period of three years. The 2014 application was approved, and a three-year extension was granted in 2017. A copy of the 2014 staff report and minutes of the Planning Committee meeting are attached.

Public Consultation:

Notice of complete application was circulated to the public and surrounding property owners on December 17, 2019. The statutory notice of the public hearing was provided by newspaper along with a courtesy mail-out circulated to the public and surrounding property owners on January 30, 2020.

The applicant was advised of the City's policy which recommends that applicants consult with their neighbours, ward councillor and key stakeholders to inform area residents of the application. As of the date of this report no telephone calls or written submissions have been received with respect to the proposal.

POLICY & REGULATORY FRAMEWORK:

The property is subject to the following policy and regulatory framework:

- [2014 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:

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 1.3.1 states that planning authorities shall promote economic development by providing opportunities for a diversified economic base, including maintaining a range and choice of suitable sites for employment uses which support a wide range of economic activities and ancillary uses, and take into account the needs of existing and future businesses.

Section 1.6.8.3 states that new development proposed on adjacent lands to existing corridors and transportation facilities should be compatible with, and supportive of, the long-term purposes of the corridor and should be designed to avoid, mitigate or minimize negative impacts on and from the corridor.

Title: Carpenter Investments Limited

Date: January 20, 2020

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. There are no policies that are relevant to this application, therefore the application is considered to conform to the Growth Plan.

Official Plan for the City of Greater Sudbury:

The subject lands are designated Rural in the Official Plan. Section 20.5.3 of the Official Plan states that conformity with the land use policies of the Plan are not required for temporary use by-laws.

Zoning By-law 2010-100Z:

The subject lands are zoned "RU T91", Rural Temporary. The outdoor sale of blueberries is permitted at this location until May 30, 2020. The minimum building setbacks for structures on this property are 15 m from Highway 69 and 10 m from the other property lines.

Site Plan Control:

Site plan control is not required for this development given the temporary nature and scope of the proposed use.

Department/Agency Review:

The application has been circulated to all appropriate agencies and City divisions. Building Services, Development Engineering, and Roads and Transportation Services have advised that they have no concerns from their area of interest. These responses have been used to assist in evaluating the application and to formulate appropriate zoning by-law standards.

The applicant has provided a copy of a Ministry of Transportation building and land use permit which permits the proposed use and restricts access to South Lane Road, as proposed by the applicant.

PLANNING ANALYSIS:

Planning staff circulated the development application to internal departments and external agencies in June, 2019. 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.

Outdoor retail sales are not permitted in the Rural zone. The applicant has requested a rezoning to continue to permit the outdoor sale of blueberries for an additional three years. The applicant has used this site in this manner for the past 16 years, and for the past six years as a formally permitted temporary use.

The application aligns with the Provincial Policy Statement by providing a location for local economic activities, and is compatible with the adjacent Highway 69 corridor. The Ministry of Transportation has issued a land use permit in order to permit the proposed use and restricts vehicular access to South Lane Road.

Given this is an application for a temporary use, there is no requirement for the by-law to conform to the

Title: Carpenter Investments Limited

Date: January 20, 2020

Official Plan. In general, the proposed use is considered to be compatible with the adjacent uses and will not result in land use conflicts. The applicant has indicated that no structures are proposed in conjunction with the temporary use, however, the applicant is advised that the tent is to be placed so that it is not located within the required setbacks prescribed by the zoning by-law.

It is recommended that further extension of the temporary use would be appropriate given the seasonal nature of the proposed use (e.g. no permanent structures). However, the Ministry of Transportation has indicated that future highway improvement plans for Highway 69 and South Lane Road may affect future support of this temporary use. Going forward, the applicant should be encouraged to identify an appropriately-zoned location for their business.

CONCLUSION:

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

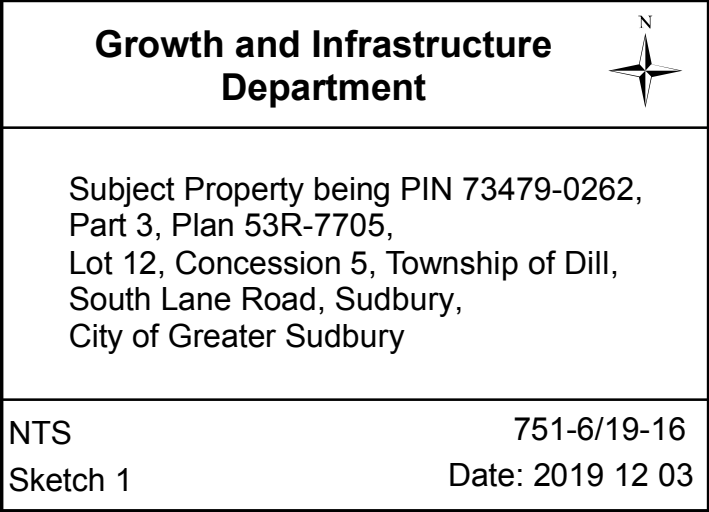
The following are the provisions of the proposed temporary use by-law:

- extend the existing temporary zoning, "RU T91", Rural Temporary, to permit the outdoor sale of blueberries for an additional three years until May 30, 2023.

Staff are of the opinion that the proposed temporary use by-law amendment is appropriate based on the following:

- The application will enable the temporary use of the lands for outdoor blueberry sales and support local economic activity, consistent with the Provincial Policy Statement.
- The use is compatible with the surrounding uses and the abutting Highway 69 corridor, and the applicant has obtained a building and land use permit from the Ministry of Transportation.

Staff is satisfied that the application is consistent with the PPS and conforms to the Growth Plan. Conformity with the Official Plan is not required given the application would permit the use on a temporary basis. Staff recommends approval of the application.



X T T T T T X Hg 52 4 lane

TURBING LAKE

DITCH

South Lane

PRC:1 FASER
REFORM
SCHOOL

GRAVEL

80 Feet

Swamp
BUSH

53 feet
DITCH



Photo 1. Subject lands showing the existing tent frame, looking east from South Lane Road.



Photo 2. Intersection of Highway 69 and South Lane Road showing residential use to the north, looking north from South Lane Road.



Photo 3. Institutional use (Cecil Facer) west of the subject lands, looking west from South Lane Road.

Presented To:	Planning Committee
Presented:	Monday, May 12, 2014
Report Date	Monday, Apr 28, 2014
Type:	Public Hearings
File Number:	751-6/14-4

Request for Decision

Application for a temporary use by-law in order to permit outdoor sale of blueberries for a temporary period of three (3) years, South Lane Road, Sudbury - Carpenter Investments of Sudbury Limited

Recommendation

THAT the City of Greater Sudbury approve the application by Carpenter Investments of Sudbury Limited to amend the Zoning By-law 2010-100Z with respect to lands described as PIN 73479-0262, Parcel 22728 S.E.S., Part 3, Plan 53R-7705, Lot 12, Concession 5, Township of Dill in order to permit the outdoor sale of blueberries in accordance with Section 39 of the Planning Act for a temporary period of three (3) years subject to the following condition:

a) That prior to the enactment of the amending by-law the owner shall provide evidence, to the satisfaction of the Director of Planning Services, of an approved Ministry of Transportation building/land use permit.

STAFF REPORT

Applicant:

Carpenter Investments of Sudbury Limited

Location:

PIN 73479-0262, Parcel 22728 SES, Part 3, Plan 53R-7705, Lot 12, Concession 5, Township of Dill (South Lane Road, Sudbury)

Application:

To amend By-law 2010-100Z being the City of Greater Sudbury Zoning By-law in order to permit the temporary sale of blueberries for period of three (3) years pursuant to Section 39 of the Planning Act.

Proposal:

Signed By

Report Prepared By

Alex Singbush
Senior Planner
Digitally Signed Apr 28, 14

Reviewed By

Eric Taylor
Manager of Development Approvals
Digitally Signed Apr 28, 14

Recommended by the Division

Mark Simeoni
Acting Director of Planning Services
Digitally Signed Apr 28, 14

Recommended by the Department

Paul Baskcomb
Acting General Manager of Growth & Development
Digitally Signed Apr 28, 14

Recommended by the C.A.O.

Doug Nadorozny
Chief Administrative Officer
Digitally Signed Apr 28, 14

To permit the outdoor sale of blueberries for a temporary period of three (3) years. The property is owned Carpenter Investments of Sudbury Limited and Mr. Arthur Choquette leases the land for the outdoor sale of blueberries.

Background:

Mr. Choquette has been selling blueberries from this location for approximately ten (10) years. Recently, a complaint was received by By-law Services with respect to the blueberry sales on this property. A tent, shed, and shipping container had been added to the site over time to support the use. In 2013 Mr. Choquette was advised that retail uses are not permitted within the "RU", Rural Zone and that sales from the subject lands were not permitted. At this time, all buildings, with the exception of a tent frame, have been removed from the property. Mr. Choquette advised that he has a 3 m by 3 m (10 ft. by 10 ft.) stand on the property and that the tent frame remains in place year-round and that a canvas cover is placed over it during the blueberry sales season.

Site Description & Surrounding Land Uses:

The subject property, which is zoned "RU", Rural, is located at the south east corner of Highway 69 North and South Lane Road in Sudbury. A portion of the property is located within the "FP", Flood Plain Overlay as the property is traversed by a drainage way between Richard Lake and McFarlane Lake. The property is vacant with a regrowth of vegetation and there is a gravel area at the north end of the property where the blueberry sales occur. Total property area is approximately 1.21 ha (3 acres), with approximately 53 m of frontage on Highway 69 North and approximately 492 m of frontage on South Lane Road.

Lands to the east are vacant and zoned "RU", Rural, portions of which are also within the floodplain overlay. Lands to the south are occupied by a mobile home park on lands zoned "RU", Rural. To the west of the subject land, on the west side of South Lane Roads is the Cecil Facer Youth Center, zoned "I", Institutional, and a vacant parcel impacted by the floodplain overlay that is zoned "R1-1", Low Density Residential One. To the north of the subject lands, on the north side of Highway 69 North is a residence zoned "R1-2", Low Density Residential One.

Departmental & Agency Comments:

Building Services

No objection. The owners are advised that they shall acquire a building permit prior to constructing any proposed structure(s) that are greater than 108 square feet in area used for the sale of blueberries. The structure(s) must also be in compliance with zoning setbacks.

Development Engineering

This site is not presently serviced with municipal water or sanitary sewer. We have no objection to the temporary use of outdoor blueberry sales on the subject property provided the owner satisfies the requirements of the Ministry of Transportation.

Roads and Traffic & Transportation

The existing entrance is located at the north limit of the subject property close to the intersection of Highway

69. While staff is not opposed to the temporary use of the subject property, it is recommended that the applicant relocate the entrance further south to the satisfaction of the General Manager of Infrastructure Services. Relocation of the entrance will be a requirement of any future By-law extension or Planning application.

Drainage Section and Operations

No concerns

Ministry of Transportation

MTO would advise that subject to the landowner obtaining the required MTO permit(s), the ministry would be supportive of this temporary amendment. Since the subject property is located within the MTO's permit control area, the applicant must be advised of the following:

- An MTO building/land use permit will be required prior to the construction of any buildings, vending stands, placing of trailers etc. New buildings, vending stands, trailers etc. must be setback a minimum of 8 metres from the limits of the MTO right-of-way.
- An MTO sign permit will be required prior to the placing of any signage visible from Highway 69. The applicant must be informed that signage will be restricted to a maximum of 3 square metres.

Also, any entrance along South Lane Road must have a minimum spacing of 45 metres from Highway 69.

Nickel District Conservation Authority

No concerns or objections.

Public Consultation:

The applicant was advised of the City's policy which recommends that applicants consult with their neighbours, ward councillor and key stakeholders to inform area residents on the application. As of the date of this report no correspondence or telephone calls have been received by the Planning Services Division.

Planning Considerations:

Official Plan Conformity

The subject lands are designated Rural in the City of Greater Sudbury Official Plan, permitting residential, agricultural, rural industrial/commercial, and a number of other uses.

Section 20.5.3 of the Official Plan indicates that conformity with the land use policies of the Plan are not required for temporary use by-laws.

Zoning By-law Conformity

The subject lands are zoned "RU", Rural under By-law 2010-100Z. The minimum building setbacks for structures on this property would be 15 m (49.2 ft) from Highway 69 and 10 m from the balance of the property lines. The temporary blueberry sales location as indicated on the applicant's sketch is an area extending 10.7 m (35 ft.) south of Highway 69 and 34.4 m (80 ft.) east from South Lane Road. The applicant has indicated that no structures are proposed in conjunction with the temporary use; however, the applicant

is advised that the tent is to be placed so that it is not located within the required setbacks.

Summary:

The proposed temporary use of the subject lands for blueberry sales for a period of three (3) years is expected to have minimal impacts on surrounding land uses. Roads and Transportation Services have indicated that they have no objection to the proposal, but that the applicant may be requested to relocate the entrance further south on the property should an application for the extension of the temporary approval be requested in the future. The applicant has been advised of the comments provided by the Ministry of Transportation which indicate that permits from MTO are required and that the entrance to the property should be no closer than 45 m (147.3 ft.) to the Highway 69 right-of-way. As a result, some clearing of the bush area to the south of the existing gravel surfaced area may be necessary to accommodate a structure and revised entrance. Planning Services recommends that the application be approved, with a condition requiring that an MTO building/land permit be issued prior to the passing of the amending by-law.

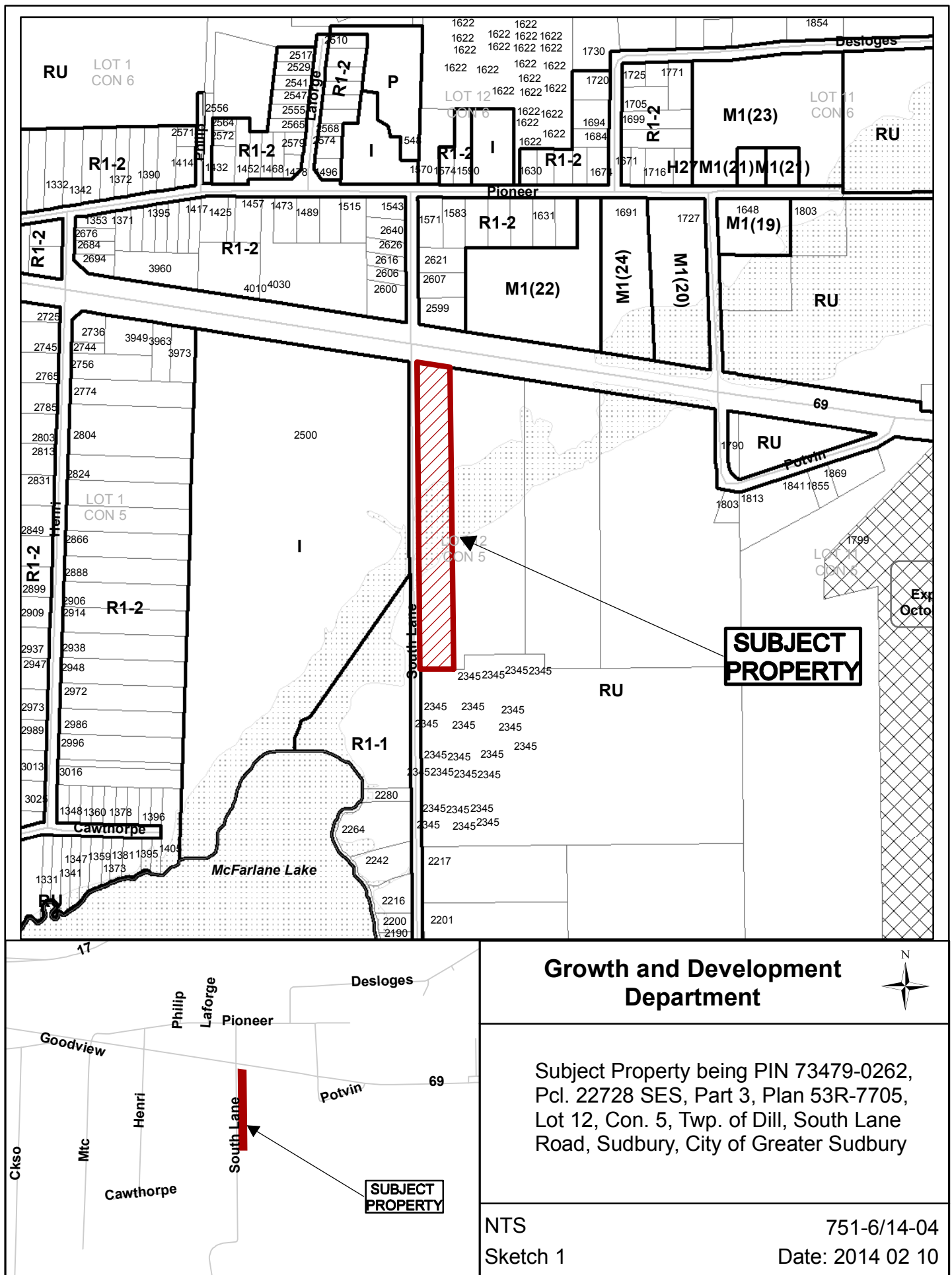






PHOTO 1 SUBJECT LANDS, NORTH EAST CORNER OF HIGHWAY 69 AND SOUTH LANE ROAD, VIEWED LOOKING SOUTH FROM HIGHWAY 69



PHOTO 2 SUBJECT LANDS, VIEWED LOOKING EAST FROM SOUTH LANE ROAD

751-6/14-4 PHOTOGRAPHY APRIL 18, 2014



PHOTO 3 2599 SOUTH LANE ROAD, NORTH OF THE SUBJECT LANDS,
VIEWED LOOKING NORTH FROM HIGHWAY 69



PHOTO 4 VACANT LANDS EAST OF THE SUBJECT PROPERTY VIEWED
LOOKING SOUTH FROM HIGHWAY 69

751-6/14-4 PHOTOGRAPHY APRIL 18, 2014



PHOTO 5 2345 SOUTH LANE ROAD, MOBILE HOME PARK SOUTH OF THE
SUBJECT LANDS, VIEWED LOOKING EAST FROM SOUTH LANE ROAD



PHOTO 6 CECIL FACER, WEST OF THE SUBJECT LANDS, VIEWED LOOKING
WEST FROM SOUTH LANE ROAD

751-6/14-4 PHOTOGRAPHY APRIL 18, 2014

Minutes from the May 12, 2014 Planning Meeting
File: 751-6/14-4

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

Report dated April 28, 2014 was received from the Acting General Manager of Growth and Development regarding an application for a temporary use by-law in order to permit outdoor sale of blueberries for a temporary period of three (3) years, South Lane Road, Sudbury - Carpenter Investments of Sudbury Limited.

Arthur Choquette, the applicant, was present.

The Manager of Development Approvals outlined the application to the Committee.

Mr. Choquette requested clarification regarding how to measure the required set back. He stated the property is approximately 100 feet from the gravel portion of the highway and the booth has to be located behind the green hydro lines as per the Ministry of Transportation of Ontario regulations.

The Manager of Development Approvals stated as per the Zoning By-law buildings or structures must be 15 metres from the property line. The Ministry of Transportation of Ontario (MTO) has requested the entrance to the property be located 45 metres from the boundary of the property and they need to be satisfied with the land use and the entrance.

Mr. Choquette stated he has permission to sell blueberries at this location provided he is behind the green hydro lines. In response to a question he stated that customers would have to turn off of Highway 69 on to South Lane to access the parking lot of the blueberry stand, therefore there will be no parking along the Highway or on South Lane.

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:

PL2014-093 Rivest/Dutrisac: THAT the City of Greater Sudbury approve the application by Carpenter Investments of Sudbury Limited to amend the Zoning By-law 2010-100Z with respect to lands described as PIN 73479-0262, Parcel 22728 S.E.S., Part 3, Plan 53R-7705, Lot 12, Concession 5, Township of Dill in order to permit the outdoor sale of blueberries in accordance with Section 39 of the *Planning Act* for a temporary period of three (3) years subject to the following condition:

a) That prior to the enactment of the amending by-law the owner shall provide evidence, to the satisfaction of the Director of Planning Services, of an approved Ministry of Transportation building/land use permit.

YEAS: Councillors Dutrisac, Rivest, Craig, Kilgour