

**Ontario Municipal Board**  
Commission des affaires municipales  
de l'Ontario



**ISSUE DATE:** October 6, 2016

**CASE NO(S):** PL150416

**PROCEEDING COMMENCED UNDER** subsection 34(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant: Hautamaki Estates Limited  
Subject: By-law No. 2015-8OZ  
Municipality: City of Greater Sudbury  
OMB Case No.: PL150416  
OMB File No.: PL150416  
OMB Case Name: Hautamaki Estates Limited v. Greater Sudbury (City)

**PROCEEDING COMMENCED UNDER** subsection 53(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Hautamaki Estates Limited  
Subject: Consent - Conditions of provisional consent  
(Condition Nos. 3 to 10)  
Property Address/Description: PIN 73475 1262, Parcel 26450A, Lot 6 Con 6  
Municipality: City of Greater Sudbury  
Municipal File No.: B117/2014  
OMB Case No.: PL150416  
OMB File No.: PL150452

**PROCEEDING COMMENCED UNDER** subsection 53(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Hautamaki Estates Limited  
Subject: Consent - Conditions of provisional consent  
(Condition Nos. 3 to 9)  
Property Address/Description: PIN 73475 1262, Parcel 26450A, Lot 6 Con 6  
Municipality: City of Greater Sudbury  
Municipal File No.: B118/2014  
OMB Case No.: PL150416  
OMB File No.: PL150453  
Applicant and Appellant: Hautamaki Estates Limited  
Subject: Consent - Conditions of provisional consent  
(Condition Nos. 3 to 9)  
Property Address/Description: PIN 73475 1262, Parcel 26450A, Lot 6 Con 6  
Municipality: City of Greater Sudbury  
Municipal File No.: B119/2014  
OMB Case No.: PL150416

OMB File No.: PL150454

**PROCEEDING COMMENCED UNDER** subsection 53(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Applicant and Appellant: Hautamaki Estates Limited  
 Subject: Consent - Conditions of provisional consent  
 (Condition Nos. 3 to 9)  
 Property Address/Description: PIN 73475 1262, Parcel 26450A, Lot 6 Con 6  
 Municipality: City of Greater Sudbury  
 Municipal File No.: B120/2014  
 OMB Case No.: PL150416  
 OMB File No.: PL150455

**Heard:** August 3, 2016 in Sudbury, Ontario

**APPEARANCES:**

**Parties**

**Counsel**

Hautamaki Estates Limited

Mary Bull

City of Greater Sudbury

Stephen Watt

**MEMORANDUM OF ORAL DECISION DELIVERED BY DAVID L. LANTHIER ON  
 AUGUST 3, 2016 AND ORDER OF THE BOARD**

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**HEARING AND ISSUES**

[1] This Appeal relates to a parcel of lands located in the City of Greater Sudbury (the “City”) which is identified as Part of PIN 73475, Part of Parcel 26450 SES., Parts 19, 20 and 22 on Plan 53R-13886, being Parts 1 to 20 on Plan 53R-20217, and Part of Lot 6, Concession 6 in the Township of Broder, identified and shown in the two sketches appended to the Staff Report filed as Exhibit 3 and identified in the Draft By-law entered as Exhibit 4 (the “Subject Property”).

[2] Hautamaki Estates Ltd. (the “Applicant”) had previously sought consent to sever the Subject Property into four lots under four consent applications. The Consent Applications were approved by the City with conditions. In response to the Applicant’s site-specific zoning by-law amendment application the City also passed a site-specific zoning by-law, By-law No. 2015-80Z, for the Subject Property to amend Zoning By-law

No. 2010-100Z, amending the zoning from Future Development (“FD”) to Low Density Residential One (“R1-5”), with a holding condition requiring a satisfactory Geotechnical Report and satisfactory storm water management report to be prepared and submitted to the City.

[3] The Applicant appealed the conditions of consent and the zoning by-law pursuant to s. 53(19) and s. 34(19).

[4] The hearing of this appeal proceeded on August 3, 2016. The Affidavit of Service of the Notice of Hearing was filed as Exhibit 1. Counsel for the City and the Applicant attended before the Board, and no other party appeared in support of, or against, the Appeal. The Board was advised that the parties had reached an Agreement in regards to the matter of the conditions due to the completion of certain reports. The Applicant withdrew the appeals filed in relation to the Consents and the parties agreed that By-law No. 2015-80Z, amending By-law No. 2010-100Z could be implemented in an amended form, subject to the approval of this Board. The draft Amended By-law agreed to by the parties was presented to the Board and filed as Exhibit 4 to the hearing (“the Draft Zoning Amendment By-law”).

[5] The Board heard expert land use and planning evidence from Glen Ferguson, on behalf of the City, who was qualified as an expert to provide planning evidence following review of his Curriculum Vitae (Exhibit 2) and his qualifications presented orally. Mr. Ferguson provided his Acknowledgement of Expert’s Duty filed as Exhibit 5. The Board also reviewed the Staff Report authored by Mr. Ferguson dated June 24, 2013 which was entered as Exhibit 3 to the hearing.

[6] The issue before the Board was whether the proposed zoning by-law amendment, rezoning the Subject Property to R1-5, Low Density Residential 1 from its existing zoning classification of FD without the need for conditions, should be approved.

[7] At the conclusion of the hearing, the Board delivered an oral decision on the basis that the Board would subsequently provide reasons, with such modifications or

amendments determined to be appropriate, as set out in a written Memorandum. The Board approved the Draft Zoning Amendment By-law submitted as Exhibit 4.

## **EVIDENCE, ANALYSIS AND FINDINGS**

### **Subject Properties**

[8] The Subject Property is designated Living Area One in the Official Plan for the City of Greater Sudbury. The lands are currently zoned FD and the Applicant requests that the zoning classification be changed to R1-5. The four proposed lots forming the Subject Property are located on the north side of Countryside Drive and to the west of Rinkside Court in an area that is predominantly residential with a mixture of single-detached and semi-detached dwelling lots. The sketch forming part of Exhibit 3, confirms that the development on the Subject Property is essentially an extension or continuation of similar residential lot development on the north side of Countryside Drive and, with its location, very much consistent with the pattern of lot development in this area.

### **Provincial Policy Statement**

[9] Mr. Ferguson, in his planning considerations, testified that he was satisfied that the proposed rezoning was consistent with the 2014 Provincial Policy Statement (the "PPS") because the development that would occur was in an already identified and existing settlement area. The proposed development would, in his view, also make efficient use of this under-utilized parcel of land, and would constitute an economical use of existing services infrastructure since the lots would have access to in-place municipal services without additional cost. This rezoning would allow for the effective addition of four development lots, and promote an orderly intensification and use of vacant underutilized lands, with resultant continuity of development immediately adjacent to already developed residential lots on an existing roadway with existing services.

## Official Plan

[10] Section 3.2.1 of the Official Plan (“OP”) was also considered by Mr. Ferguson who concluded that the proposed zoning amendment was supportive of, and consistent with, the OP and its policies. The primary policies under s. 3.2.1 required that the site: be suitable to accommodate the proposed density and form; be compatible with the surrounding neighborhood in terms of scale, massing, height, siting, and setbacks; have adequate parking, landscaping, lighting, and amenity areas; and not adversely impact traffic on local streets. Section 3.3 of the Greater Sudbury Official Plan Amendment also included policies regarding intensification and, in particular, how vacant and underutilized lots were to be developed.

[11] Mr. Ferguson was of the opinion that the development proposal arising from the amendment was consistent with the OP policies in that it would certainly conform to the density and built form policies within the Living Area One, was within a fully serviced urban area, and as such, the four new single-detached dwellings would be supportive of the intensification policy since the lands were currently vacant and underutilized. Mr. Ferguson was also satisfied that the lots created within the Subject Property were suitable, in terms of size and shape, to accommodate the proposed development, since they were consistent with the existing lot sizes and pattern in the local residential area. The four proposed lots actually exceeded the minimum requirements for frontage area and depth, as confirmed by Mr. Ferguson.

[12] As well, the four lots were also compatible with the surrounding neighborhood in that the lots were to be zoned in a predominantly similar zone classification in the immediate area. As to the other policy requirements, there was no suggestion that there would be any adverse impact upon traffic as a result of the creation of the four new single-detached dwellings and the additional lots would make efficient use of existing municipal services.

## **Zoning By-Law**

With respect to the rezoning, the proposed R1–5 Zone requires minimum lot areas of 465 square metres (“sq m”) and minimum frontage of 15 metres (“m”) with a minimum lot depth of 30 m. Each of the four proposed lots would comply with these development standards and as indicated, there were no concerns on Mr. Ferguson’s part, or the municipality, with respect to the proposed zone classification. There were also no unique site-specific provisions required to accommodate the four lots development.

## **Summary of Opinion and Recommendations**

[13] Upon all of the facts as described by Mr. Ferguson, it was his expert planning opinion that the zoning amendment proposed in the form set out in Exhibit 4 was appropriate for the reasons outlined above, and represented good planning under all of the circumstances. The Board accepts this planning evidence as provided by Mr. Ferguson.

## **Conditions**

[14] At the time that the application had been approved by Council, conditional requirements had been imposed with respect to the preparation of a proper geotechnical report and a storm water management report. It was Mr. Ferguson’s evidence that these conditions were appropriate, at that time, due to the ground conditions in order to ensure there would be no adverse implications for the storm water system. Mr. Ferguson confirmed, as the senior planner, on behalf of the City, that these issues have now been fully reviewed by the City and all required reports had been received to the satisfaction of the City. It was Mr. Ferguson’s opinion that no further conditions were required for the purposes of this rezoning and four-lot development.

## **Findings of the Board**

[15] On the basis of the planning opinion evidence provided by Mr. Ferguson, the appeals of the consents being withdrawn, and no other evidence having been presented, the Board finds that the proposed rezoning is consistent with the PPS, is in

conformity with the OP for the Greater City of Sudbury, and is appropriate. The Board finds that the four lots will allow for the continuity of the lot pattern and the built-forms in the neighbourhood and that the development will have cost-effective access to existing services and roads without new infrastructure, utilize under-used lands, and will be appropriate, economical and desirable for this existing settlement area. On a whole, the evidence before the Board demonstrates that the proposed rezoning represents good planning.

[16] Accordingly, the Board approves the application that the subject lots be rezoned from the existing zoning classification of FD under Zoning By-law No. 2010-100Z to the new zoning classification of R1-5 and that the provisions of By-law No. 2010-100Z applicable to the R15 zone apply to the Subject Lands. Under the circumstances, as all required reports and conditions had been satisfied, with the consensual removal of the conditions contained in the original by-law amendment, it is also appropriate that the by-law amendment be granted without the necessity of any conditions or the requirement for a Holding Symbol.

## **ORDER**

[17] The Board accordingly orders that the Draft Zoning Amendment By-law submitted by the parties as Exhibit 4 to this Hearing, amending By-law No. 2010-100Z, as it applies to the Subject Property, be approved.

[18] **Board Rule 107 states:**

**107. Effective Date of Board Decision.** A Board decision is effective on the date that the decision or order is issued in hard copy, unless it states otherwise.

[19] Pursuant to this Board Rule, this Decision shall take effect on the date that it is emailed by the Board administrative staff to the City staff.

*“David L. Lanthier”*

DAVID L. LANTHIER  
MEMBER

If there is an attachment referred to in this document,  
please visit [www.elto.gov.on.ca](http://www.elto.gov.on.ca) to view the attachment in PDF format.

**Ontario Municipal Board**

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