

## Request for Decision

**Wayne & Carrie Ann MacLean - Application for Official Plan Amendment and Rezoning in order to permit a contractor's yard, 2687 Highway 144, Chelmsford**

Presented To:	Planning Committee
Presented:	Monday, Apr 10, 2017
Report Date	Tuesday, Mar 21, 2017
Type:	Public Hearings
File Number:	751-5/15-10 & 701-5/15-5

### Resolution

Resolution regarding Official Plan Application:

THAT the City of Greater Sudbury denies the application by Wayne and Carrie Ann MacLean to amend the Official Plan for the City of Greater Sudbury by providing for a site-specific exception to those land uses permitted within the Rural designation under Section 5.2 of the Official Plan in order to permit a contractor's yard on those lands described as PIN 73350-0102, Parcel 16989 SWS, Lot 6, Concession 2, Township of Balfour.

Resolution regarding Rezoning Application:

THAT the City of Greater Sudbury denies the application by Wayne and Carrie Ann MacLean to amend Zoning By-law 2010-100Z to change the zoning classification from "A", Agricultural to "A(S)", Agricultural Special in order to permit a contractor's yard as a permitted use on those lands described as PIN 73350-0102, Parcel 16989 SWS, Lot 6, Concession 2, Township of Balfour.

### Finance Implications

If approved, the applicant would be required to obtain a building permit as well as incur the related development charges for the building on the property. Staff are unable to calculate the estimated development charges as related information is unavailable.

### STAFF REPORT

**Applicant:**

Wayne & Carrie Ann MacLean

**Location:**

#### Signed By

**Report Prepared By**

Glen Ferguson  
Senior Planner  
*Digitally Signed Mar 21, 17*

**Reviewed By**

Eric Taylor  
Manager of Development Approvals  
*Digitally Signed Mar 21, 17*

**Recommended by the Division**

Jason Ferrigan  
Director of Planning  
*Digitally Signed Mar 21, 17*

**Recommended by the Department**

Tony Cecutti  
General Manager of Growth and Infrastructure  
*Digitally Signed Mar 21, 17*

**Recommended by the C.A.O.**

Ed Archer  
Chief Administrative Officer  
*Digitally Signed Mar 27, 17*

PIN 73350-0102, Parcel 16989 SWS, Lot 6, Concession 2, Township of Balfour (2687 Highway #144, Chelmsford)

### **Site Description & Surrounding Land Uses:**

The subject lands are located on the south side of Highway #144 being to the west of Joannette Road and to the east of Vermilion Lake Road in the community of Chelmsford. The lands have a total lot area of 4.03 ha (9.95 acres) with approximately 120 m (400 ft) of lot frontage onto Highway #144. The lands contain a one-storey single-detached dwelling along with a gravel surfaced parking area containing a detached garage, shed and storage trailer. The owner has indicated that the gravel surfaced parking area along with the detached garage, shed and storage trailer are being used as a contractor's yard.

Surrounding uses are primarily rural residential in nature with the predominant built-form being that of single-detached dwellings. There are also a number of large vacant rural and agricultural parcels in the immediately surrounding area. There is an existing motel on the north side of Highway #144 to the west at McKenzie Road.

### **Official Plan Conformity & Zoning By-law:**

#### Official Plan

The subject lands are designated Rural in the Official Plan for the City of Greater Sudbury. Permitted uses in the Rural designation include residential uses, agricultural uses, conservation, open space and natural resource management activities, mineral exploration, rural industrial/commercial uses, resort and shoreline commercial uses and public uses including hydroelectric generation and associated facilities.

Section 5.2.5 outlines that some limited rural industrial/commercial uses are permitted in the Rural land use designation:

1. Rural industrial/commercial uses are generally resource-based and may include agriculture, dry industrial/commercial uses and forestry;
2. Rural industrial/commercial uses are to be located with adequate separation distances to residential areas and provide proper buffering and landscaping along Arterial Road frontages;
3. Entrances are restricted to Secondary Arterial and Local Roads and no temporary structures, outside storage or sales displays are to be visible from the frontage of abutting roads. All such development is subject to rezoning and site plan control; and,
4. New resource-related industries should not impact the natural resource base. Rural industrial/commercial uses must generate limited amounts of wastewater and minimize land use conflicts.

The application does not conform to the Official Plan for the City of Greater Sudbury based on the review of the above noted land use planning considerations provided later in this report.

#### Zoning By-law

The subject lands are zoned "A", Agricultural under By-law 2010-100Z being the Zoning By-law for the City of Greater Sudbury. Residential uses permitted in the "A" Zone include a single-detached dwelling, mobile home dwelling, bed and breakfast, group home type 1 and a private home daycare. Non-residential uses permitted in the "A" Zone include an agricultural use, animal shelter, forestry use, garden nursery, kennel, public utility and a veterinary clinic.

### **Applications:**

1. To amend the Official Plan for the City of Greater Sudbury by providing for a site-specific exception to

- those land uses permitted within the Rural designation under Section 5.2 of the Official Plan in order to permit a contractor's yard on the subject lands; and,
2. To amend By-law 2010-100Z being the Zoning By-law for the City of Greater Sudbury by changing the zone classification of the subject lands from "A", Agricultural to "A(S)", Agricultural Special.

**Proposal:**

The applications would together permit the operation of a contractor's yard on the subject lands. The lands also will continue to contain a one-storey single-detached residential dwelling.

**Departmental & Agency Circulation:**

The Drainage Section, the Ministry of Transportation, Nickel District Conservation Authority, Roads, Traffic and Transportation have advised that they have no concerns from their respective areas of interest.

Building Services has noted they have no record of a building permit for the detached garage and that appropriate landscaping is to be provided between the contractor's yard and the abutting residential lots.

Development Engineering has noted that municipal water is available in this location but sanitary sewer is not available. Their preliminary assessment of the municipal water system in this location shows a lack of fire flow to support the proposed use. It is recommended that site plan control be applied to address this issue.

**Public Consultation:**

The statutory notice of the public hearing was provided by newspaper along with a courtesy mail-out to landowners and tenants within a minimum of 244 m (800 ft) of the subject lands. The applicant was advised of the City's policy recommending that applicants consult with their neighbours, ward councilor and key stakeholders to inform area residents of the application prior to the public hearing. At the time of writing this report, several phone calls and one written submission with respect to this application have been received by the Planning Services Division.

**Planning Considerations:**

Background

By-law Enforcement Services has previously issued an order on the subject lands in relation to the operation of a contractor's yard on the subject lands. The Ontario Court of Justice issued an order on July 3, 2015 requiring that the owner of the lands immediately make necessary land use planning applications to the City of Greater Sudbury in order to permit said contractor's yard on the lands. Further to this, the order included instruction that the contractor's yard use is to cease should the applications be denied by the City. The applications were filed with the City prior to the issuance of the above noted order on July 2, 2015 and were deemed complete on July 27, 2016.

Provincial Policy Statement

Municipalities in the Province of Ontario are required under Section 3 of the Planning Act to ensure that decisions affecting land use planning matters are consistent with the Provincial Policy Statement (PPS). The proposed Official Plan Amendment and rezoning is not consistent with the PPS for the following reasons:

1. On rural lands, permitted uses are to be limited to management or use of resources, resource-based recreational uses, limited residential development, home occupation and home industries, cemeteries and other rural land uses. Staff would advise that a contractor's yard as proposed in the subject applications is not a permitted use on rural lands and is therefore contrary to a key rural land use

- planning principle established in the PPS;
2. Opportunities to support a diversified rural economy should be promoted by protecting agricultural and other resource-related uses and directing non-related development to areas where it will minimize constraints on these uses. Staff note that a contractor's yard is not directly related to agricultural and other resource-based uses and accordingly should be directed to employment areas in the City which permit industrial uses such as a contractor's yard; and,
  3. Municipalities are required to promote economic development and competitiveness by providing for an appropriate mix and range of employment and institutional uses to meet longer term needs. There are several land use designations in the Official Plan which permit industrial uses such as a contractor's yard and the proposed use would more appropriately be located inside an identified employment area designation.

### Official Plan

With respect to Rural land use designation policies, staff has the following comments:

1. Staff is of the opinion that a contractor's yard as is being proposed in the Rural land use designation is not an appropriate rural industrial/commercial use, as it is not resource-based and does not directly serve permitted rural land uses under the Official Plan;
2. There are a number of rural residential land uses in the immediate area which could be adversely impacted should a contractor's yard be permitted in this location. Staff also notes that no buffering or landscaping exists currently along Highway #144 which would screen or appropriately separate the contractor's yard from abutting lots which are or could be used for rural residential purposes. The land use being proposed would more appropriately be directed to Employment Area designations such as the General Industrial land use designation;
3. Entrances for rural industrial/commercial uses are to be restricted to Secondary Arterial and Local Roads as identified on Schedule 6 – Transportation Network of the Official Plan. The contractor's yard would not be accessed from a Secondary Arterial or Local Road but rather from a Provincial Highway. Staff also noted on recent site visits to the lands that there are temporary structures in the form of a storage trailer, as well as a fabric shelter attached to the detached garage on the lands. Outdoor storage is also taking place on the lands. Staff advises that the contractor's yard in this setting is not an appropriate rural industrial/commercial use within the Rural land use designation; and
4. Staff is generally concerned with land use planning conflicts between abutting rural land uses and the proposed contractor's yard and would advise that such a use be directed toward employment areas which would permit a contractor's yard in the Official Plan.

### Zoning By-law

The applicant is requesting that the subject lands be rezoned from "A", Agricultural to "A(S)", Agricultural Special in order to permit a contractor's yard on the subject lands. Staff has reviewed the request and does not support the rezoning on the basis that a contractor's yard does not conform to the Rural policies of the Official Plan with respect to rural industrial/commercial land uses.

### **Summary:**

Staff does not support the Official Plan Amendment and Zoning By-law Amendment applications. The proposed contractor's yard is not consistent with the Provincial Policy Statement with respect to development in rural areas and the proposed use is not in conformity with the Rural land use designation policies of the Official Plan for the City of Greater Sudbury. There is no land use planning rationale for amending the Official Plan and Zoning By-law in order to allow for a contractor's yard in this location and the development proposal does not represent good rural land use planning.

The Planning Services Division therefore recommends that the applications to amend the Official Plan and

Zoning By-law 2010-100Z in order to permit a contractor's yard as a permitted use on the subject lands be denied.

# Appendix 1

## Departmental & Agency Comments

**File:** 751-5/15-10 & 701-5/15-5

**RE:** Application for Rezoning & Official Plan Amendment  
Wayne & Carrie Ann MacLean  
PIN 73350-0102, Parcel 16989 SWS, Lot 6, Concession 2, Township of Balfour  
2687 Highway 144, Chelmsford

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### **Building Services**

Building Services has the following comments prior to the passing of the amending by-law:

1. We have no record of a building permit for the metal clad garage, therefore a building permit is required.
2. A 5 m planting strip is required between a contractor's yard and a residential lot.

### **Development Engineering**

Municipal water is available within the Highway 144 right-of-way. Sanitary sewer is not available. A preliminary assessment of the municipal water system at this location shows a lack of available fire flow to support the proposed use. Should this application be approved, we ask for it to proceed under Site Plan Control. The Site Plan Control Agreement would address such things as providing alternate sources of water for fire suppression.

**SUBJECT  
PROPERTY**

RU

LOT 6  
CON 3

LOT 5  
CON 3

C2(15)  
1977

2592

2730

2840

144

2687

2719

2759

2799

2803

2809

LOT 6  
CON 2

LOT 5  
CON 2

A

**SUBJECT  
PROPERTY**

McKenzie

Marion

Omer

Rita

Aurore

Leroux

Joanette

Bradley

Vermilion Lake  
Nickel Basin

144

### Growth and Development Department



Subject Property being PIN 73350-0102,  
Pcl. 16989 SWS, Lot 6, Con. 2, Twp. of  
Balfour, 2687 Highway 144, Chelmsford,  
City of Greater Sudbury

NTS  
Sketch 1

751-5/15-10 & 701-5/15-05  
Date: 2015 07 08





PHOTO 1 EXISTING SINGLE DETACHED DWELLING ON THE SUBJECT LANDS WITH EXISTING CONTRACTOR'S YARD AS VIEWED FROM HIGHWAY 144 LOOKING SOUTH



PHOTO 2 EXISTING CONTRACTOR'S YARD ON THE SUBJECT LANDS LOOKING SOUTH FROM HIGHWAY 144

751-5/15-10 & 701-5/15-5  
PHOTOGRAPHY JULY 10, 2016



PHOTO 3 EXISTING DETACHED GARAGE, SHED, STORAGE TRAILER  
AND OUTDOOR STORAGE ON THE SUBJECT LANDS

751-5/15-10 & 701-5/15-5  
PHOTOGRAPHY JULY 10, 2016

RECEIVED

AUG 17 2016

PLANNING SERVICES DIV

August 10, 2016

Planning Services Division

Box 5000, Station A

Sudbury, Ontario

P3A 5P3

RE: 2687 Highway 144- Chelmsford Zoning Change

Dear Mr. Eric Taylor,

As per the notice sent July 27, 2016, in regards to the application for a zoning change, I am writing to share my concerns as a resident of the area. I currently own the land located at 2730 Highway 144, nearly across the street from this property.

As we live in a rural area, it is not uncommon for residents to have various trucks, tractors and other heavy machinery to tend to their land as they generally consist of significant parcels of land in regards to acreage. These items are almost required to properly work the land and keep it livable for generations to come.

As a resident in the area, I as well as many others require these items and requiring zoning changes causes a financial hardship to what may be a family that has lived many generations on these parcels of land. If you begin to require every resident in the area to change their zoning to simply live within the means they possess is unfair.

Though generating a great revenue for the City of Greater Sudbury, this can leave simple farmers, workers and other residents without the means to survive. I am hoping that if this zoning change is required for one, you will look at the overall impact on the area and consider zoning all others in the area in the same manner to ensure residents aren't dealing with complaints in regard to their vehicle/machinery requirements.

Regards,

Richard Thibert