

221 Linden Drive, Hanmer

Presented To:	Planning Committee
Meeting Date:	June 12, 2023
Type:	Public Hearing
Prepared by:	Glen Ferguson Planning Services
Recommended by:	General Manager of Growth and Infrastructure
File Number:	751-7/23-002

Report Summary

This report provides a recommendation regarding an application to extend a temporary use by-law in order to continue the use of a garden suite for an additional period of three years.

This report is presented by Glen Ferguson, Senior Planner.

Resolution

THAT the City of Greater Sudbury approves the application by Carol Kirwan to amend Zoning By-law 2010-100Z in order to extend a temporary use permission in the form of a garden suite for a period of three years in accordance with Section 39.1(4) of the Planning Act on those lands described as PIN 73508-1173, Parcel 49266, Plan 53R-12670, Lot 12, Concession 3, Township of Capreol, as outlined in the report entitled “221 Linden Drive, Hanmer”, from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting on June 12, 2023, subject to the following condition:

1. That the owner apply for a building permit for the garden suite to the satisfaction of the Chief Building Official.
2. That conditional approval shall lapse on October 13, 2023.

Relationship to the Strategic Plan, Health Impact Assessment and Community Energy & Emissions Plan (CEEP)

The application to amend the City’s Zoning By-law is an operational matter under the Planning Act to which the City is responding.

The application to extend a temporary use by-law for a garden suite for an additional period of three years does not either directly align with or negatively impact any of strategic goals and objectives that are identified within the City’s Strategic Plan.

The application to extend a temporary use by-law for a garden suite for an additional period of three years is not expected to have any direct negative impacts on the stated goals and recommendations that are contained within the CEEP.

Financial Implications

There are no financial implications associated with this report for the extension of a temporary use of an existing garden suite.

Report Overview:

This report reviews an application to extend a temporary use by-law for a period of three years pursuant to Section 39.1 of the Planning Act and would extend a temporary use permission (i.e. "T40") in the form of a garden suite for a period of three years on the subject lands.

Staff is satisfied that the development proposal would generally conform with garden suite policies contained within the Official Plan for the City of Greater Sudbury. The development proposal is also generally consistent with the land use planning policy directions identified in the PPS. Staff also notes that the application conforms to and does not conflict with the Growth Plan for Northern Ontario. In particular, it is noted that the existing garden suite continues to be used by the parents of the owner and as such it continues to provide a viable and important housing option within the larger context of affordable housing opportunities in the City.

The Planning Services Division is recommending that the application to extend a temporary use permission (i.e. "T40") in the form of a garden suite for a period of three years on the subject lands be approved in accordance with the Resolution section of this report.

STAFF REPORT

PROPOSAL:

This application to extend a temporary use by-law for a period of three years pursuant to Section 39.1 of the [Planning Act](#) and would extend a temporary use permission (i.e. "T40") in the form of a garden suite for a period of three years on the subject lands.

Staff notes for clarification purposes that the existing garden suite on the subject lands was initially approved by the City's Planning Committee on May 18, 2010 and ratified by Council on May 26, 2010. The amending temporary use by-law (i.e. By-law 2010-115Z) permitting the garden suite was also enacted by Council at the time of ratification on May 26, 2010. There have been no previous temporary use by-law extensions granted with respect to this garden suite. The temporary use by-law permitting the garden suite on the subject lands expired on May 19, 2020, however coming out of the global pandemic staff has now approached owners having expired or near expired garden suite land use permissions to determine if extensions are necessary.

The owner was not required to submit an application for pre-consultation for consideration by the Sudbury Planning Application Review Team (SPART) on the basis that a development proposal seeking to permit an extension to a temporary use permission is exempted from the pre-consultation process.

The current application to extend the temporary use permission (i.e. garden suite) was submitted to the City on March 3, 2023 and deemed to be complete on March 14, 2023. The application included the submission of a Concept Plan in support of the new request to extend the garden suite temporary use permission on the subject lands. Details with respect to the owner's public consultation strategy ahead of a public hearing at the Planning Committee was also provided.

Existing Zoning: “RU”, Rural & “T40”, Temporary Use Symbol #40

The “RU” Zone permits a range of residential and non-residential land uses that can be found under Section 9.2, Tables 9.1 and 9.2 of the City’s Zoning By-law. Permitted residential uses include a single-detached dwelling, mobile home dwelling, bed and breakfast establishment within a single-detached dwelling and having a maximum of two guestrooms, group home type 1 having a maximum of ten beds, seasonal dwelling on a legal existing waterfront lot, private cabin accessory to a seasonal dwelling, and a private home daycare. There is a special provision applicable in the “RU” Zone which permits a maximum of one dwelling unit per rural lot (e.g. cannot situate a single-detached dwelling and a seasonal dwelling on the same rural lot). Those development standards that are applicable to the “RU” Zone can be found under Section 9.3, Table 9.3 – Standards for All Rural Zones of the City’s Zoning By-law.

The “T40” Symbol permits a second residential dwelling unit in the form of a garden suite on the subject lands. The “T40” Symbol includes an expiration date of May 19, 2020. Those further details associated with the “T40” Symbol can be found under Section 12.2, Table 12.1 – Temporary Uses of the City’s Zoning By-law.

Requested Zoning: Extension of “T40”, Temporary Use Symbol #40

The application seeks to extend the temporary use permission (i.e. “T40”) being that of a garden suite for an additional period of three years on the subject lands. The request would not have the effect of directly amending the standard “RU” Zone that is applicable to the subject lands.

Location and Site Description:

The subject lands are located on the south side of Linden Drive between Notre Dame Avenue to the west and Capreol Road to the east in the community of Hanmer. The lands have a total lot area of approximately 2.02 ha (5 acres) with approximately 91.44 m (300.00 ft) on Linden Drive. The lands at present contain an existing single-detached dwelling, a garden suite and several accessory buildings and structures including a detached garage. The garden suite is situated on a cleared area to the south-east of the single-detached dwelling and to the east of the detached garage. There is an existing driveway entrance from Linden Drive that provides access to the lands. The proposed temporary use by-law would extend the garden suite land use permission on the lands for an additional period of three years.

Surrounding Land Uses:

- North: Crown Land (i.e. Ministry of Natural Resources & Forestry), an extractive industrial use, and a small cluster of rural shoreline lots having frontage on Onwatin Road East, and Onwatin Lake.
- East: Rural residential land uses, several large and vacant rural lots, a lumber yard (i.e. Portelance Lumber), and Capreol Road.
- South: Rural residential lands uses (i.e. well-vegetated rear yards), low-density urban residential land uses having frontage on St. Michel Street and Timberglade Court, and Cote Boulevard.
- West: Rural residential land uses, École secondaire Hanmer, and Notre Dame Avenue.

The existing zoning and location map are attached to this report and together indicate the location of the lands subject to the temporary use by-law extension request, as well as the applicable zoning on other parcels of land in the immediate area. The initial [staff report](#) which outlined the introduction of a garden suite use onto the lands is also attached to this report for reference purposes and includes site photos depicting the existing single-detached dwelling and at the time the proposed location of the garden suite.

Public Consultation:

The statutory Notice of Application was provided to the public by newspaper and to nearby landowners and tenants located within 244 m (800 ft) of the subject lands on March 14, 2023. The statutory Notice of Public Hearing dated May 25, 2023 was provided to the public by newspaper and to nearby landowners and tenants located within 244 m (800 ft) of the subject lands.

The owner was also 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. The owner did not indicate on their application form whether or not they would not be conducting any public consultation beyond the statutory public meeting held before the City's Planning Committee.

At the time of writing this report, no phone calls, emails or letter submissions with respect to the development proposal have been received by the Planning Services Division.

POLICY AND REGULATORY FRAMEWORK:

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

- [2020 Provincial Policy Statement \(PPS\)](#);
- [2011 Growth Plan for Northern Ontario](#);
- [Official Plan for the City of Greater Sudbury](#); and,
- [Zoning By-law 2010-100Z](#).

The PPS and the Growth Plan for Northern Ontario, along with the City's Official Plan, provide a policy framework for land use planning and development in the City of Greater Sudbury. This framework is implemented through a range of land use planning controls such as, but not limited to, zoning by-laws, plans of subdivision and site plans.

2020 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 2020 PPS.

With respect to Housing Policies, Section 1.4.3 outlines that municipalities shall provide for an appropriate range and mix of housing options and densities to meet projected market-based and affordable housing needs of current and future residents of the regional market area by permitting and facilitating all housing options required to meet the social, health, economic and well-being requirements of current and future residents, including special needs requirements and needs arising from demographic changes and employment opportunities, as well as all types of residential intensification, including additional residential units, and redevelopment.

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. Staff has reviewed the planning matters contained within the Growth Plan for Northern Ontario and are satisfied that the application for Zoning By-law Amendment conforms to and does not conflict with the Growth Plan for Northern Ontario.

Official Plan for the City of Greater Sudbury:

The subject lands are designated Rural in the Official Plan for the City of Greater Sudbury.

Section 5.2.1(8) of the City's Official Plan permits garden suites in the Rural land use designation subject to the following conditions set out under Section 2.3.5:

1. A single garden suite is allowed as an accessory residential dwelling unit on a lot with only one existing residential dwelling unit;
2. Services to the garden suite are to be connected to the service lines of the host residential dwelling unit to municipal requirements and specifications;
3. A garden suite is to be integrated within the prevailing character of the surrounding area and will be removed at no expense to the municipality at the termination of its use; and,
4. An agreement may be required between the owner(s) and the municipality dealing with such conditions as the installation, location, maintenance, occupancy and removal of the garden suite.

Section 5.2.1(8) also outlines that despite the above policies a garden suite may be serviced by its own individual on-site sewage and water services where it is determined to be appropriate. Garden suites within the Rural land use designation may also be constructed on its own foundation and in accordance with the Ontario Building Code. Section 5.2.1(8) also notes that none of the garden suite policies are intended to result in the creation of new residential lots in the Rural land use designation.

Section 2.3.6(11) of the City's Official Plan outlines that existing garden suites may be converted to a secondary dwelling unit provided that it would conform with applicable policies in the Official Plan and comply with applicable development standards in the City's Zoning By-law.

Section 17.2 of the City's Official Plan generally encourages diversity in housing types and forms, including the provision of affordable housing. Specifically, Section 17.2.1 encourages a greater mix of housing types and tenure through applicable housing policies. Specifically, it is the policy of the City's Official Plan:

- a. To encourage a wide range of housing types and forms suitable to meet the housing needs of all current and future residents;
- b. To promote a range of housing types suitable to the needs of senior citizens; and,
- c. To support new development that is planned, designated, zoned and designed in a manner that contributes to creating complete communities designed to have a mix of land uses, supportive of transit development, the provision of a full range of housing including affordable housing, inclusive of all ages and abilities, and meet the daily and lifetime needs of all residents.

Zoning By-law 2010-100Z:

The owner is requesting that a temporary use by-law applicable to the subject lands be extended for a period of three years pursuant to Section 39.1 of the Planning Act. The application would have the effect of extending a temporary use permission (i.e. "T40") in the form of a garden suite for a period of three years on the subject lands.

Department/Agency Review:

The application including relevant accompanying materials has been circulated to all appropriate agencies and departments. Responses received from agencies and departments have been used to assist in evaluating the application and to inform and identify appropriate development standards in an amending zoning by-law should the application be approved.

During the review of the proposal, comments provided by circulated agencies and departments included the following:

Building Services has advised that the owner has not applied for a building permit to allow for the construction of the garden suite. Building Services also notes that it would appear that additions to the residential dwelling and accessory deck structures have been made without benefit of building permits.

The owner is advised in particular that a building permit is required for the garden suite and it is therefore recommended as a condition of approval that the owner be required to apply for a building permit for the garden suite to the satisfaction of the Chief Building Official.

Development Engineering advises that the lands are not serviced with municipal sanitary sewer infrastructure. It is noted that the lands are however serviced with municipal water infrastructure.

Water and Wastewater has advised that no activity or activities engaged in or proposed to be engaged in on the subject lands (i.e. 221 Linden Drive) are considered to be significant drinking water threats at this time. The owner is advised that they may undertake the activity or activities described in the rezoning application and proceed to apply for a building permit or any further planning approvals as they are neither prohibited nor restricted for the purpose of Part IV of the [Clean Water Act](#).

PLANNING ANALYSIS:

The 2020 PPS, the 2011 Growth Plan, and the City of 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 with respect to the applicable policies, including issues raised through agency and department circulation.

With respect to Housing Policies, the application to extend the temporary use permission on the subject lands is consistent with the PPS given that garden suites provide for an affordable housing option that contributes positively to the social, health, economic and well-being requirements of individuals needing to live in close proximity to family members while at the same time desiring and/or maintaining a measure of independent living. Staff would note that garden suites are intended to provide this form of living accommodation subject to the applicable provisions of Section 39.1 of the Planning Act.

With respect to the City's Official Plan, staff in general has no concerns with respect to conformity and the proposed extension of the temporary use by-law applicable to the subject lands for a period of three years pursuant to Section 39.1 of the Planning Act. Staff understands that the garden suite is still being utilized as living accommodations for the parents of the owner. Staff would further note and understands that the owner does not wish to convert the existing garden suite permission to a permanent secondary dwelling unit at this time. Staff have advised the owner in the past and would continue to advise that once the garden suite temporary use ceases it is to be removed at no cost to the municipality.

With respect to the City's Zoning By-law, staff in general have no zoning-related concerns with the request to extend the temporary use by-law applicable to the lands in order to permit the garden suite to remain for an additional period of three years. Staff are however recommending that a building permit application be submitted to the Building Services Division as a condition of approval. The owner is also advised that it would appear other building permits related to the primary residential dwelling and accessory deck structures are also required. Should the application be approved and the recommended condition related to a building permit be cleared, an amending temporary use by-law would be forwarded to Council following ratification in order to amend the "T40" entry under Part 12, Section 12.2, Table 12.1 by specifically indicating a new expiry date beginning from the date on which Council enacts the temporary use by-law. The owner is therefore advised that until the enactment of the temporary use by-law the garden suite is not in compliance with the City's Zoning By-law as the temporary use has expired as of May 19, 2020.

Staff also further notes that a registered survey plan is not required in order to prepare the amending zoning by-law as lands that subject to the rezoning are already described capably and legally as being PIN 73508-1173, Parcel 49266, Plan 53R-12670, Lot 12, Concession 3, Township of Capreol. This legal description is also referenced already in the "T40" entry under Part 12, Section 12.2, Table 12.1 of the City's Zoning By-law.

CONCLUSION:

Staff has reviewed the development proposal and is satisfied that it conforms with the Official Plan for the City of Greater Sudbury. The development proposal is also generally consistent with the land use planning policy directions identified in the PPS. Staff also notes that the application conforms to and does not conflict with the Growth Plan for Northern Ontario.

In particular, staff have noted in this report that the garden suite continues to be used by the parents of the owner and as such it continues to provide a viable and important housing option within the larger context of affordable housing opportunities in the municipality.

The Planning Services Division therefore recommends that the application to extend a temporary use permission (i.e. "T40") in the form of a garden suite for a period of three years on the subject lands be approved subject to a condition that a building permit application is submitted to the Building Services Division and in accordance with the Resolution section of this report.