

931 B Red Deer Lake Road, Wahnapitae

Presented To:	Planning Committee
Meeting Date:	May 27, 2024
Type:	Public Hearing
Prepared by:	Wendy Kaufman Planning Services
Recommended by:	General Manager of Growth and Infrastructure
File Number:	751-9/23-24

Report Summary

This report provides a recommendation regarding an application to rezone the subject lands from “RU”, Rural and “SLS”, Seasonal Limited Service in order to permit an existing seasonal dwelling to be converted to a permanent dwelling and permit the development of a new secondary dwelling unit.

This report is presented by Wendy Kaufman, Senior Planner.

Resolution

THAT the City of Greater Sudbury approves the application by Alistair and Michele Ross to amend Zoning By law 2010 100Z by changing the zoning classification on the subject lands from “RU”, Rural and “SLS” Seasonal Limited Service to “RU”, Rural on those lands described as PIN 73480-0338, Parcel 33112, Parts 4-6, Plan 53R-19699, Part 1, Plan SR-16888 & Part 1, Plan SR2044, Lot 3, Concession 4, Township of Cleland, as outlined in the report entitled “931 B Red Deer Lake Road, Wahnapitae”, from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting of May 27, 2024, subject to the following:

1. That prior to the enactment of the amending by-law:
 - a) the owner shall have applied for a building permit and submitted plans for the conversion of the seasonal dwelling to a permanent dwelling to the satisfaction of the Chief Building Official, and
 - b) the owner shall have obtained any approvals required from the Sudbury and District Health Unit for the septic system as part of the conversion of the existing seasonal dwelling to a permanent dwelling.
2. That conditional approval shall lapse on May 28, 2026, unless Condition #1 above has been met or an extension has been granted by Council.

Relationship to the Strategic Plan, Health Impact Assessment and Climate Action Plans

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 contributes to the 2019-2027 City of Greater Sudbury Strategic Plan goals related to housing and does not conflict with the Community Energy and Emissions Plan.

Financial Implications

If approved, staff is unable to estimate taxation revenues as the assessment value for this building as conversion from seasonal to permanent dwelling with a secondary dwelling unit and would be determined by Municipal Property Assessment Corporation (MPAC).

Any additional taxation revenue will only occur in the supplemental tax year. Any taxation revenue generated from new development is part of the supplemental taxation in its first year. Therefore, the City does not receive additional taxation revenue in future years from new development, as the tax levy amount to be collected as determined from the budget process, is spread out over all properties within the City. The amount of development charges will be based on final review of the property by the Building Services department.

Report Overview:

This report reviews an application for Zoning By-law Amendment that seeks to change the zoning classification on the subject lands from "RU", Rural and "SLS", Seasonal Limited Service in order to permit an existing seasonal dwelling to be converted to a permanent dwelling and permit the development of a new secondary dwelling unit. The Planning Services Division is recommending that the application be approved as outlined in the Resolution section of this report.

STAFF REPORT

PROPOSAL:

The application for Zoning By-law Amendment seeks to amend By-law 2010-100Z being the Zoning By-law for the City of Greater Sudbury by changing the zoning classification of the subject lands from “RU”, Rural and “SLS”, Seasonal Limited Service to “RU”, Rural to permit an existing seasonal dwelling to be converted to a permanent dwelling and permit the development of a new secondary dwelling unit. The applicant provided a potable water report in support of the application.

Existing Zoning:

The “SLS”, Seasonal Limited Service zone, permits a seasonal dwelling and an accessory private cabin. Secondary dwelling units are not permitted within a seasonal dwelling or in a building accessory to a seasonal dwelling.

Requested Zoning:

The “RU”, Rural Zone permits a single detached dwelling, mobile home dwelling, bed and breakfast establishment, group home type 1, seasonal dwelling on a legal existing waterfront lot, a private cabin accessory to a seasonal dwelling and private home daycare uses. The Rural Zone also permits secondary dwellings as a permitted use within the main dwelling and in an accessory structure on the lot. A mix of non-residential uses are also permitted in the “RU” zone including but not limited to agricultural use, forestry, kennel and veterinary clinic uses. The maximum lot coverage permitted in the “RU” zone is 10 percent and the side yard setbacks applicable to the property are 10 m. As the property abuts a lake the setback from the highwater mark is 30 m with exceptions for gazebos, boathouses, docks decks, stairs water pumps and saunas.

Location and Site Description:

The subject lands have an area of approximately 8.7 ha (21.5 acres) with 438 m (1437 ft.) of frontage onto the southeast side of Red Deer Lake Road. The property also has approximately 79 m (258 ft.) of shoreline along Red Deer Lake. A one-storey seasonal dwelling with a basement along with two garages, a sauna and five sheds are located on the property. The site is not serviced by municipal water or sanitary sewer, and a septic field is located to the northwest of the seasonal dwelling. All of the existing buildings on the lot appear to be located further than 30 m from the shoreline with the exception of the sauna and attached deck. Most of the property is forested with the area surrounding the buildings comprised of a lawn and scattered coniferous trees.

Photos of the property and surrounding area are attached to this report.

Surrounding Land Uses:

North: Red Deer Lake Road and a mix of occupied and vacant rural lands, zoned Rural

East: a mix of Rural and Seasonal Limited zoned lands occupied with dwellings

South: Red Deer Lake

West: a mix of rural and seasonal limited service zoned lands occupied with dwellings

Public Consultation:

The statutory Notice of Application was provided to the public by newspaper and by mail to landowners and tenants located within 244 m of the subject lands on March 20, 2024.

The statutory Notice of Public Hearing was provided to the public by newspaper on May 4, 2024 and to nearby landowners and tenants located within 244 m of the subject lands on May 2, 2024.

The owner 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. The owner's agent indicated on their application form that they would be discussing the application with their neighbours.

At the time of writing this report, no 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 Provincial Policy Statement 2020 (PPS). The following policies are relevant to this application.

1.1.4.1 Healthy, integrated and viable rural areas should be supported by (d) encouraging the conservation and redevelopment of existing rural housing stock on rural lands.

1.1.5.2 On rural lands located in municipalities, permitted uses are (c) residential development, including lot creation, that is locally appropriate.

1.1.5.4 Development that is compatible with the rural landscape and can be sustained by rural service levels should be promoted.

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 to rezone the lands 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 City's Official Plan. The Rural designation permits a mix of residential, agricultural, open space, mineral exploration and rural industrial /commercial uses. Section 5.2.1 of the Official Plan states:

1. Rural residential development compatible with the character of surrounding existing uses is permitted, provided no additional public services, including the extension of existing or creation of new partial services would be required.

2. One single detached dwelling is permitted on any existing lot, provided that it fronts onto a public road that is maintained year-round. The lot must also have the capability to provide an individual on-site sewage disposal system and water supply with both quantity and quality suitable for domestic uses.

3. Seasonal residential uses are permitted on waterbodies and watercourses that have public water access with adequate off-street parking and boat docking facilities.

4. The conversion of existing seasonal dwellings to permanent use is permitted provided that:

- (a) the dwelling has frontage on a public road maintained year-round;
- (b) Ontario Building Code standards for permanent dwellings are met;
- (c) minimum lot size requirements for the zone category set out in the Zoning By-law have been satisfied;
- (d) approval is obtained for a Class 4 sewage system; and,
- (e) there is an adequate supply of potable water.

9. A Second Suite is allowed in accordance with Section 2.3.6. Despite these policies a Second Suite may be served by its own individual on-site sewage and water services, where appropriate. Also, despite these policies a mobile home may be used as a Second Suite if it is built on its own foundation and in accordance with the Ontario Building Code. None of these policies are intended to result in the creation of new residential lots in the Rural Area.

Section 2.3.6 of the Official Plan sets out the following policies for secondary dwelling units that are relevant to the proposed development.

1. Secondary dwelling units are permitted in single detached, semi-detached, street townhouse and row dwellings and a Secondary dwelling unit is permitted in an accessory structure.

3. No more than two Secondary dwelling units will be permitted in association with each primary dwelling on the same lot. One within the primary structure and one within an accessory structure.

8. Secondary dwelling units must satisfy all applicable requirements of the Ontario Building Code, Ontario Fire Code as well as the Zoning By-law and Property Standards By-law.

Zoning By-law 2010-100Z:

The subject lands are presently zoned a combination of "RU", Rural and "SLS" Seasonal Limited Service, in the City's Zoning By-law. All the buildings on the property are located within the portion of the property currently zoned "SLS" except for one of the garages which is located in the "RU" zone.

The owner is requesting that all the property be zoned "RU" as part of the owner's conversion of the existing seasonal dwelling to a permanent year-round dwelling that would then permit the development of a new secondary dwelling.

Section 4.2.10 of the Zoning By-law sets out the provisions for secondary dwelling units and includes that they are not permitted within a seasonal dwelling or in a building accessory to a seasonal dwelling. The "RU" Zone however does permit a secondary dwelling accessory to a primary dwelling in the "RU" Zone provided that the maximum net floor area of the secondary dwelling does not exceed 45 percent of the gross floor area of the primary dwelling and that the secondary dwelling unit is not located more than 30 m from the primary dwelling.

Site Plan Control

Site plan control does not apply to the proposed development.

Department/Agency Review:

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

Transit, Development Engineering, Roads, Transportation and Innovation Support, Active Transportation and Roads Operations and Drainage have advised that they have no comments or concerns with the application. Conservation Sudbury has advised these lands are located outside of their jurisdiction.

Building Services has advised that a building permit to the satisfaction of the Chief Building Official is required for the proposed secondary dwelling unit and addition. Additionally, due to the absence of a building permit for the existing dwelling, the applicant must provide layouts of the existing dwelling with safety items and required ventilation when applying for the proposed building permit. Submission requirements and sample plot plan can be found on the City's website.

Technical Services has reviewed the submitted potable water assessment and has provided the following comments: A water sample was taken from the existing well at #931 B Red Deer Lake Road South. All Ontario Drinking Water Standards (ODWS) for health-related parameters were within acceptable limits. Several exceedances were noted for aesthetic and operational objectives (see EXP Services Inc. Report Dated March 15, 2024 Project No. SUD-24003172-A0), which do not cause health effects. Sodium is classified as a non-health related aesthetic objective under the ODWS. The aesthetic objective is high, therefore the Sudbury and District Health Unit will be informed as per the Ontario Drinking Water Objectives. The homeowner will also be copied by registered letter in case the water consumer is on a sodium restricted diet.

Strategic and Environmental Planning has provided the following comments for informational purposes only. Shoreline property owners are encouraged to continue adopting lake-friendly practices. Phosphorus is an essential element for all life forms and is the most limiting major nutrient for aquatic plant growth in freshwater streams and lakes. Increasing levels of phosphorus in lakes, streams and rivers can lead to an increasing incidence of nuisance aquatic vegetation, green algae, and, in some cases, toxic cyanobacterial (blue-green algae) blooms. Public Health Sudbury & Districts confirmed the presence of cyanobacterial blooms in Red Deer Lake in 2015 and 2018.

Shoreline residents can help reduce phosphorus levels or maintain them at low levels by following a few guidelines:

1. A shoreline buffer area is to remain in a natural vegetated state to a depth of at least 20 metres (the wider the better) from the high-water mark and supplemented with additional trees and shrubs where necessary. Shoreline vegetation has beneficial effects, such as habitat creation, cooling of the lake edge through shading, reducing soil erosion, filtering nutrient-laden soil and pollutants, and visual enhancement from the lake. As per the City's Official Plan and Zoning By-law, a maximum cleared area of 25% of the shoreline or river bank or up to 23 metres, whichever is less, is allowable. The area to be cleared within the shoreline buffer area is not to exceed 276 sqm.
2. Residents should minimize the amount of lawn on their property. Lawns generally require removing existing vegetation that is currently preventing soil erosion. Lawns may also require that soil be imported to the property, which can introduce significant amounts of phosphorus to the lake through erosion. Finally, lawns are expensive and time-consuming to maintain.

3. General use lawn fertilizers containing phosphorus should never be used. It is illegal to apply lawn fertilizers containing phosphorus in the City of Greater Sudbury unless establishing a new lawn. Before applying fertilizer of any kind on their lawns, owners should have the soil tested by a professional. The soil might only need crushed limestone to make it less acidic and allow soil nutrients to be more available for uptake by the turf grass.
4. Application of fertilizer containing phosphorus to flower or vegetable beds or shrubs should not be applied any closer than 30 metres from the water's edge – the farther the better.
5. Any soil that is disturbed onsite or that is brought onto the subject lands should be covered with vegetation as quickly as possible to ensure that it doesn't erode into the lake. Soil particles can contain large amounts of phosphorus. Tarps should be used to cover the soil piles if rain is in the forecast.
6. Detergents (soaps and shampoos) should never be used in a lake or river. Only phosphorus-free detergents should be used for washing vehicles on the subject lands and washing should be done as far from the lake as possible.
7. Private sewage systems should be inspected and pumped at least every three years.

Property owners are encouraged to contact the City's Lake Water Quality Program at (705) 674-4455 ext. 4604 to book a free, confidential and non-regulatory shoreline home visit. During the visit, qualified staff will provide ideas and advice on shoreline management techniques to maintain and improve lake water quality.

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 applicable policies, including any issues raised through agency and department circulation.

The owner is requesting to change the zoning classification of the subject lands from "RU", Rural and "SLS", Seasonal Limited Service to "RU", Rural to permit an existing seasonal dwelling to be converted to a permanent dwelling and permit the development of a new secondary dwelling unit.

The conversion of the existing seasonal dwelling to a permanent dwelling which will permit the creation of a new secondary dwelling unit is supported by the PPS, specifically policy 1.1.4.1 d), respecting healthy, integrated and viable rural areas should be supported by encouraging the conservation and redevelopment of existing rural housing stock on rural lands.

Both the PPS and the Official Plan permit permanent residential development in this rural area. The proposal is considered to be compatible with the surrounding mix of residential uses.

The Official Plan criteria in Section 5.2.1(4) for the conversion of a seasonal dwelling to permanent use will need to be satisfied prior to the enactment of the amending by-law. In respect of the criteria, it is noted that the dwelling has frontage onto Red Deer Lake Road which is a public road maintained year-round. The 8.7 ha lot complies with the minimum 2 ha lot area standard for the Rural zone. With respect to potable water, the owner has provided the City with a letter of opinion from a professional engineer confirming that the well supplying the existing dwelling will supply potable water at a rate in excess of the 3 gallons per minute as set out in Ontario Regulation 170/03 for dwelling units and that, the existing well has the capacity to serve a second dwelling unit. Technical Services staff has reviewed this report and confirmed it is satisfactory.

Staff notes that the owner will need to submit a building permit and plans to the satisfaction of the Chief Building Official for the conversion of the existing seasonal dwelling to a permanent dwelling and as part of that process, confirmation will be required from the Sudbury and District Health Unit that the septic system meets the requirements for a permanent dwelling.

Wording to address this requirement has been included in the Resolution Section of this report. Section 5.2.1(9) of the Official Plan, provides that a secondary dwelling unit can be serviced with its own septic system, which is shown on the applicant's plans as being located to the northeast of the secondary dwelling. The proposal also conforms to the policies in Section 2.3.6 of the Official Plan respecting secondary dwellings.

Overall, staff has no concerns with respect to the requested "RU", Rural zone category and note that having the entire lot zoned "RU" will eliminate the current split zoning ("RU" and "SLS") on the property.

The applicant is proposing to construct the secondary dwelling as an approximate 84 sqm (900 sq.ft.) addition to the one of the existing garages. The existing one storey dwelling which includes a finished basement is identified on the plan and application form as having a gross floor area of 185.8 sqm (2,000 sq. ft.). As such, the proposed secondary dwelling unit with approximately 84 m (900 sq.ft.), would appear to comply with the maximum 45 percent Zoning By-law standard. In this regard staff notes that the area of the attached garage is excluded from the net floor area calculation of the secondary dwelling. The proposed secondary dwelling is to be located approximately 20.7 m (68 ft.) from a proposed addition to the existing dwelling, complying with the maximum 30 m distance separation standard between the primary and secondary dwellings as set out in the By-law. The secondary dwelling is to be set back approximately 55 m from Red Deer Lake in compliance with the minimum setback of 30 m as set out in Section 4.41.2 of the Zoning By-law. No exceptions to the Rural Zone standards would appear to be required as part of the proposed development.

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 principles of the proposed site specific zoning by-law:

- to change the zoning classification on the subject lands from "RU", Rural and "SLS", Seasonal Limited Service in order to permit an existing seasonal dwelling to be converted to a permanent dwelling and permit the development of a new secondary dwelling unit.

The development of the subject lands aligns with a number of policy directives related to rural residential development and secondary dwelling units. Staff has considered, amongst other matters, a full range of factors through a detailed review when forming the recommendation of approval for this application. Staff is satisfied that the application is consistent with the PPS and conforms to the Growth Plan and the Official Plan. Staff is of the opinion that the proposed zoning by-law amendment is appropriate based on the following:

- The proposal will result in the redevelopment of existing rural housing stock on rural lands.
- The permanent residential dwelling and secondary dwelling unit are considered to be compatible with the surrounding mix of uses.
- Key criteria for the conversion of a seasonal dwelling to permanent dwelling have been met including frontage on a publicly maintained road, lot size for the "RU" zone, and an adequate supply of potable water.
- Conditions of approval and the associated building permit process will ensure the standards for the permanent dwelling and the associated septic system are met.

Staff recommends approval of the application as described in the Resolution section on the basis that it is consistent with the Provincial Policy Statement, conforms to the Growth Plan for Northern Ontario, the Official Plan for the City of Greater Sudbury, has regard for matters of provincial interest and represents good planning.