

10 Willow Street, Wahnapiatae

Presented To:	Planning Committee
Meeting Date:	June 24, 2024
Type:	Public Hearing
Prepared by:	Stephanie Poirier Planning Services
Recommended by:	General Manager of Growth and Infrastructure
File Number:	751-3/24-01

Report Summary

This report provides a recommendation regarding an application to extend a temporary use by-law permitting a garden suite for a time period of three years.

This report is presented by Stephanie Poirier, Senior Planner.

Resolution

THAT the City of Greater Sudbury approves the application by Joey Talbot & Natalie Olivier to amend Zoning By-law 2010-100Z in order to extend the use of a garden suite in accordance with Section 39.1(4) of the Planning Act for a temporary period of three (3) years, on lands described as PIN 73481-0808, Parcel 51055, Plan 53R-18233 Parts 1-4, Part Lot 8, Concession 3 & 4, Township of Dryden, as outlined in the report entitled “10 Willow Street, Wahnapiatae”, from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting on June 24, 2024, subject to the following conditions:

1. That prior to the enactment of the amending zoning by-law, the Owner shall finalize the building permit for the garden suite to the satisfaction of the Chief Building Official.
2. That conditional approval shall lapse on December 24, 2024 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 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 by adding to the range and mix of housing available in this area. There is no conflict with the Community Energy and Emissions Plan.

Financial Implications

There are no financial implications associated with this report.

Report Overview:

An application to extend a temporary use by-law has been submitted in order to permit the continued use of a detached structure as a garden suite. Staff recommends approval of the application.

Staff Report

Proposal:

The subject lands are located on the south side of Willow Street, west of Dempsey Road, and are known municipally as 10 Willow Street, Wahnapiatae. The subject land has an area of approximately 1.58 ha (3.91 ac) and contains a single detached dwelling, a garden suite, and two accessory buildings. The lands are serviced by an individual well and septic system and have an existing access off of Willow Street.

The lands are subject to Temporary Use Zoning By-law Amendment Application 751-3/13-05, which temporarily allowed a garden suite on the subject lands for a period of 10 years effective March 25th 2014 and expiring March 25th 2024. The purpose and effect of the Temporary Use Zoning By-law Amendment (751-3/24-01) is to rezone the subject lands from “RU”, Rural to “RU -T87”, Rural Temporary in order to continue to permit a garden suite on the subject lands for an additional period of 3 years. This is the first three-year extension request. There is no limit on the number of extensions.

Garden suites are small, self-contained independent living units that are ancillary to a single detached dwelling and designed to be portable and/or temporary. The existing garden suite is a single-storey dwelling with a ground floor area of 154.58 m². The garden suite is located 9m to the south of the main single detached dwelling, approximately 30m from the railroad tracks to the east. The garden suite is serviced by a municipal water connection and private septic system, and is accessed by a shared driveway off of Willow Street.

The subject lands are designated “RU”, Rural within the City’s Official Plan, are zoned “RU -T87”, Rural Temporary within By-law 2010-100Z being the Zoning By-law for the City of Greater Sudbury, fall within a wellhead protection area within the Source Water Protection Plan, and are regulated by the Nickel District Conservation Authority.

The surrounding land uses are rural in nature.

A location map is attached for reference.

Policy & Regulatory Framework:

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

- [Planning Act](#);
- [2020 Provincial Policy Statement](#);
- [2011 Growth Plan for Northern Ontario](#);
- [Official Plan for the City of Greater Sudbury, 2006](#); and,
- [Zoning By-law 2010-100Z](#).

The Planning Act, 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.

Planning Act:

Section 39.1 of the Planning Act permits municipalities to allow a garden suite through a temporary use zoning by-law amendment with the option to renew in the future for a period not exceeding three years per temporary use application.

A garden suite is defined in the Planning Act as ‘a one-unit detached residential structure containing bathroom and kitchen facilities that is ancillary to an existing residential structure and that is designed to be portable’.

Provincial Policy Statement (PPS):

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 (PPS).

Section 1.4 of the PPS encourages a range of housing types in order to address housing needs within the community, including persons who need to live within close proximity of family members but also desire a measure of independent living. Garden suites are intended to provide such accommodation subject to the provisions of Section 39.1 of the Planning Act.

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. This application is considered to conform to the Growth Plan.

Official Plan for the City of Greater Sudbury:

The subject property is designated 'Rural' in the City of Greater Sudbury Official Plan.

Section 2.3.5 of the Official Plan states that garden suites are small, self-contained independent living units that are designed for persons who require some level of support. Garden suites support small scale intensification and meet affordable housing needs.

Subject to rezoning under the provisions of a Temporary Use By-law in Section 19.5.3, Garden Suites are permitted in all Living Area designations in accordance with the following conditions:

- a. a Single Garden Suite is allowed as an accessory unit on a lot with only one existing dwelling unit;
- b. services will be connected to the service lines of the host dwelling unit to City specifications;
- c. a Garden Suite can be integrated with the prevailing character of the surrounding area, and will be removed at no expense to the City at the termination of its use; and,
- d. an agreement may be required between the application and the City dealing with such conditions as the installation, location, maintenance, occupancy and removal of the structure.

Mobile homes are not permitted as Garden Suites.

Further to these policies, section 5.2.1 Rural Residential states that a garden suite is allowed in accordance with Section 2.3.5. Despite these policies a Garden 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 Garden 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 Secondary Suites states that existing Garden Suites may be considered as accessory dwellings provided they conform with the applicable policies and the Zoning By-law.

Zoning By-law 2010-100Z:

The Zoning By-law defines a garden suite as 'A one unit detached residential structure containing bathroom and kitchen facilities that is ancillary to a single detached dwelling and that is designed to be temporary and/or portable.'

Section 4.10 of the zoning by-law speaks to garden suites and states that where a garden suite is permitted it shall meet the requirements for accessory buildings. Garden suites may be converted to secondary dwelling units subject to the applicable provisions including registration of the unit with Building Services.

The subject land is zoned “RU”, Rural. Residential uses in the form of a single detached dwelling or a mobile home on a permanent foundation are permitted. Garden suites are also permitted subject to the accessory buildings standards.

Consultation:

Public Comments:

Notice of Application was provided to the public by newspaper on May 14th, 2024 and by mail out to nearby landowners and tenants located within 244 m of the subject lands on May 3rd, 2024. Statutory Notice of the Public Hearing was provided by newspaper on June 1st, 2024, along with a courtesy mail out to public property owners and tenants within a minimum of 244 m of the property on May 30th, 2024.

At the time of writing this report, no oral or written submissions were received from members of the public.

Department/Agency Comments:

The application including relevant accompanying materials have 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. No concerns were noted by the circulated agencies and departments. Strategic and Environmental Planning advised that the owner is solely responsible for ensuring that vegetation removal, site alteration, and development undertaken on the subject lands do not result in a contravention of the provincial Endangered Species Act and the federal Migratory Birds Convention Act. Conservation Sudbury has advised that requested prior to the next extension request that verification of floodproofing be provided for the garden suite. Building Services has requested that the building permit for the existing garden suite be completed as a condition of approval for the extension request. Additionally, advisory comments were provided in regards to outstanding permits for accessory buildings and additions.

A detailed summary of comments can be found in Appendix 1.

Planning Analysis:

The Provincial Policy Statement, the Growth Plan for Northern Ontario, and the City of Greater Sudbury Official Plan all encourage mixed forms of housing in order to accommodate a wide range of people, such as garden suites which are typically used to house additional family members on a temporary basis.

The application conforms to the Official Plan policies pertaining to garden suites, which permit one garden suite accessory to an existing single detached dwelling on private servicing for a period of 10 years, with option for 3 year renewal through a temporary use zoning by-law amendment application.

The existing garden suite maintains the character of the surrounding area, being rural with low-density forms of housing. Staff does not anticipate compatibility concerns with surrounding land uses as a result of the continued use of the garden suite. No visual or use changes are being proposed at this time.

Staff has reviewed the existing garden suite and is satisfied that the zoning standards of Section 4.2, being the ‘Accessory Buildings, Structures, and Uses’ provisions are being maintained.

Through circulation of the application Building Services has requested that the building permit for the garden suite be completed as a condition of approval. Staff has included a condition within the recommendation. The applicant will have a 6 month period to fulfill the condition.

The owner has not indicated that they wish to make the garden suite a permanent use under the secondary dwelling unit provisions of the Zoning By-law at this time. The owner is advised that once the garden suite is no longer required for its intended purpose, the City shall be notified, and the dwelling unit must be removed or otherwise made uninhabitable.

Conclusion:

Overall, staff is on the opinion that the application to permit the continuation of a garden suite on a rural parcel of land for a period of three years 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. It is on this basis that staff recommends the application be approved subject to the conditions outlined in the resolution.

Appendix 1

Department and Agency Comments

a) Transit Services

No comments or concerns on this application.

b) Source Water Protection

There is no significant drinking water threat identified at this time.

c) Infrastructure Capital Planning

No concerns.

d) Fire

Fire services has no comments.

e) Building Services

As a condition of the requested extension, a final inspection and completion of Building Permit 14-0191 for the garden suite is required.

The applicant is also to be advised of the following:

1. Building Permit 14-1405 for two accessory garages has not been completed. Please contact Building Services to arrange for required inspections to complete the permit. The two structures do not appear to have been constructed as per plans, and may require as-constructed plans for review and approval.

2. Additional construction at the front and rear of the garden suite appears to have been completed without benefit of permit. A Building Permit to the satisfaction of Chief Building Official is required.

f) Conservation Sudbury

Subject property contains flood hazards regulated by Conservation Sudbury.

Conservation Sudbury has no objection to the extension of the temporary use zoning by-law amendment for 10 Willow Street. Please note that prior to the next approval of extension of zoning by-law amendment for the garden suite, Conservation Sudbury will require verification that the garden suite meets floodproofing requirements. Please contact NDCA@conservationsudbury.ca for more details.

g) Strategic and Environmental Planning

The owner is solely responsible for ensuring that vegetation removal, site alteration, and development undertaken on the subject lands do not result in a contravention of the provincial Endangered Species Act and the federal Migratory Birds Convention Act.

In addition, the following advise is provided for information purposes only:

Shoreline property owners are encouraged to continue adopting lake- and river- 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 increasing incidence of nuisance aquatic vegetation, green algae, and in some cases, toxic cyanobacterial (blue-green algae) blooms. Existing vegetation on the subject lands act as an important buffer, absorbing runoff nutrients and holding soil in place. Vegetation removal on the subject lands should be kept to a minimum during any site preparation or construction activities or for purposes of converting existing natural vegetation to lawns. Lawns require higher maintenance and expense and generally require importing soil from outside of the lot.

Imported soil can introduce considerable quantities of phosphorus.

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

1. A natural vegetated buffer of at least 20 metres (the wider the better) from the high-water mark should be retained and supplemented with additional shrubs where necessary. As per the City's Official Plan and Zoning By-law, a maximum cleared area of 25% of the shoreline or riverbank or up to 23 metres, whichever is less, is allowable. Cleared areas are allowed up to 276 square metres.
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 phosphorus to the lake or river 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 fertilizer containing phosphorus in the City of Greater Sudbury unless establishing a new lawn. Before applying fertilizer to 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 or river. 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 or river 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) 647-4455 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.

The applicant or owner must contact Conservation Sudbury at (705) 674-5249 before starting any work in water or on the shoreline or riverbank (retaining walls, etc.).