

Title: Julien & Janelle Gauvin

Date: January 25, 2021

Staff Report

Proposal:

The application for Zoning By-law Amendment would facilitate the construction of a secondary dwelling unit having an increased maximum separation distance from the main residential dwelling on the subject lands that have frontage on Deschene Road in Hanmer.

The proposed rezoning is intended to change the zoning classification of the subject lands from "RU", Rural to "RU(S)", Rural Special. The rezoning of the lands is proposed to include site-specific relief with respect to increasing the maximum distance between a primary residential dwelling and a secondary dwelling unit from 30 m (98.43 ft) to 75 m (246.06 ft).

The owners previously submitted an application for minor variance (File # A0098/2020) that was circulated to agencies and departments for comments. It was on this basis that the owners were not specifically required to submit an application for pre-consultation; however, in an abundance of caution the owners did opt to submit a pre-consultation application that was considered by the Sudbury Planning Application Review Team (SPART) on December 9, 2020 (File # PC2020-102). The owners met with staff following the SPART Meeting and signed their Pre-Consultation Understanding Agreement (PCUA) on January 21, 2021 and the owners have subsequently now submitted a Zoning By-law Amendment application to the City for consideration.

The above noted applications were submitted to the City on December 22, 2020, and deemed to be complete on January 8, 2021. The application included a Concept Plan in support of the rezoning that is being requested. 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

The "RU" Zone permits a single-detached dwelling, mobile home dwelling, bed and breakfast establishment within a single-detached dwelling and having a maximum of two guest rooms, a group home type 1 within a single-detached dwelling and 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. Permitted non-residential uses include an agricultural use, animal shelter, forestry use, hunting or fishing camp, garden nursery, kennel having a minimum buffer of 300 m (984.25 ft) from the nearest residential building or residential zone, public utility and a veterinary clinic. Secondary dwelling units are permitted in the subject to Section 4.2.10 of the City's Zoning By-law.

Requested Zoning: "RU(S)", Rural Special

The proposed rezoning to "RU(S)" is intended to facilitate the construction of a secondary dwelling unit having an increased separation distance from the main residential dwelling on the subject lands. Those development standards related to secondary dwelling units and within the "RU" Zone would otherwise be applicable to the development proposal.

Location and Site Description:

The subject lands are located on the east side of Deschene Road and to the north of Municipal Road #80 in the community of Hanmer. The lands have a total lot area of approximately 2.06 ha (5.10 acres) with approximately 106 m (347.77 ft) of public road frontage on Deschene Road. The lands are well vegetated and presently vacant.

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Surrounding Land Uses:

North: Rural residential land uses and several vacant rural lots.

East: Several larger lots containing rural residential land uses having frontage on Gravel Drive further to the north.

South: Vacant rural lots and general commercial land uses at the intersection of Deschene Road and Municipal Road #80.

West: Rural residential land uses along Deschene Road and several larger tracts of vacant rural land.

The existing zoning and location map are attached to this report and together indicate the location of the lands subject to the Zoning By-law Amendment request, as well as the applicable zoning on other parcels of land in the immediate area. Aerial photography of the subject lands is also attached to this report for reference purposes.

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 January 8, 2021. The statutory Notice of Public Hearing dated February 4, 2021 was provided to the public by newspaper and to nearby landowners and tenants located within 244 m (800 ft) of the subject lands.

The owners were 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 applications prior to the public hearing. Staff understand from the owner's that they have contacted immediate neighbours to discuss the development proposal and have advised that no concerns were expressed with respect to the proposed secondary dwelling unit having an increased maximum distance from the primary dwelling.

At the time of writing this report, the Planning Services Division has not received any phone calls, emails or letter submissions with respect to the development proposal.

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.

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Planning Act

The Planning Act under Section 16.3(b) requires that a municipality's Official Plan contain policies that authorize the establishment of additional residential dwelling units by authorizing said additional residential dwelling unit to be established within a residential unit in a building (e.g. single-detached dwelling) or within a structure ancillary to a detached house, semi-detached house or row-house.

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. The following PPS policies are applicable to the application for Zoning By-law Amendment:

1. With respect to Rural Areas policies, Section 1.1.4.1 outlines that healthy, integrated and viable rural areas should be supported by:
 - a) Building upon rural character, and leveraging rural amenities and assets;
 - b) Promoting regeneration, including the redevelopment of brownfield sites;
 - c) Accommodating an appropriate range and mix of housing in rural settlement areas;
 - d) Encouraging the conservation and redevelopment of existing rural housing stock on rural lands;
 - e) Using rural infrastructure and public service facilities efficiently;
 - f) Promoting diversification of the economic base and employment opportunities through goods and services, including value-added products and the sustainable management or use of resources;
 - g) Providing opportunities for sustainable and diversified tourism, including leveraging historical, cultural, and natural assets;
 - h) Conserving biodiversity and considering the ecological benefits provided by nature; and,
 - i) Providing opportunities for economic activities in prime agricultural areas, in accordance with applicable policies in the PPS 2020.
2. Section 1.1.5.2 outlines among other land uses that on rural lands permitted uses include residential development that is locally appropriate;
3. Section 1.1.5.4 outlines that rural development that is compatible with the rural landscape and can be sustained by rural service levels should be promoted;
4. Section 1.1.5.5 outlines that rural development shall be appropriate to the infrastructure which is planned or available, and avoid the need for the unjustified and/or uneconomical expansion of this infrastructure;
5. 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. This can be accomplished 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.

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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. Rural Areas contain a variety of land uses, such as farms, woodlots and forests, small industry, and clusters of rural residential development. Permitted uses within 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 5.2.1.1 of the City's Official Plan states that 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.

Section 5.2.1.2 of the Official Plan outlines that one single detached dwelling is permitted on any existing lot, provided that said lot fronts onto a public road that is maintained year-round. The lot must also have the capability to provide a private on-site sewage disposal system and private water supply with both quantity and quality suitable for domestic uses.

Section 5.2.1.9 of the Official Plan notes that a secondary dwelling unit 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. In the Rural land use designation, a mobile home may be used as a secondary dwelling unit if it is built on its own foundation and constructed in accordance with the Ontario Building Code. Section 5.2.1.9 also states that none of the Official Plan's secondary dwelling unit policies are intended to result in the creation of new residential lots within the Rural land use designation.

Section 2.3.6 of the City's Official Plan contains policies related to secondary dwelling units. Specifically, it notes that secondary dwelling units can provide an effective form of intensification and increase the availability of affordable housing choices for residents. Further to this, the following policies are applicable to the development of secondary dwelling units:

1. Secondary dwelling units are defined as a separate dwelling unit, which is ancillary to the primary residential dwelling and may be contained within the primary residential dwelling or in an ancillary building;
2. Secondary dwelling units are permitted in single-detached, semi-detached, street townhouse and row dwellings as well as in accessory structures;
3. Mobile homes are not permitted as secondary dwelling units in the Living Area designations;
4. No more than one secondary dwelling unit will be permitted in association with each primary residential dwelling on the same lot;
5. Adequate servicing must be available to service the secondary dwelling unit through either the municipal system or through individual, privately owned systems. Secondary dwelling units will be connected to the service lines of the primary residential dwelling to City specifications;

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6. Secondary dwelling unit are not permitted on or adjacent to any hazards identified in Section 10.0 of the City's Official Plan;
7. Secondary dwelling units will not cause alterations to the main building exterior that would change the character of an existing neighbourhood or streetscape;
8. Secondary dwelling units must satisfy all applicable requirements of the Ontario Building Code, Ontario Fire Code as well as the City's Zoning By-law and Property Standards By-law;
9. Secondary dwelling unit are not to be considered in the calculation of density requirements outlined in Section 3.2.1 of the City's Official Plan;
10. Additional regulations for secondary dwelling units will be established in the City's Zoning By-law; and,
11. Existing Garden Suites may be considered as secondary dwelling units provided they conform with these policies and the City's Zoning By-law.

Section 17.2 of the Official Plan generally encourages diversity in housing types and forms. Specifically, Section 17.2.1 more specifically encourages a greater mix of housing types and tenure through the following applicable housing policies:

- 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 encourage production of smaller (ie. one and two bedroom) units to accommodate the growing number of smaller households;
- c. To promote a range of housing types suitable to the needs of senior citizens;
- d. Discourage downzoning to support increased diversity of housing options; and,
- e. 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 the subject lands be rezoned to "RU(S)", Rural Special in order to facilitate the construction of a secondary dwelling unit having an increased separation distance from the primary residential dwelling on the subject lands that have frontage on Deschene Road in Sudbury. As noted previously in this report, the rezoning of the lands is also proposed to include site-specific relief with respect to permitting a maximum distance of 75 m (246.06 ft) between a primary residential dwelling and a secondary dwelling unit whereas 30 m (98.43 ft) is permitted under Section 4.2.10.3 c) ii) of the City's Zoning By-law.

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 formulate 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:

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Active Transportation, the City's Drainage Section, Fire Services, Leisure Services, Operations, Roads, Traffic and Innovation, and Transit Services have each advised that they have no concerns from their respective areas of interest.

Building Services notes that the secondary dwelling unit (and detached garage) as depicted on the Concept Plan will require building permit applications to the satisfaction of the Chief Building Official. Building Services also notes and advises the owners that the net floor area of the proposed secondary dwelling unit may not exceed 45% of the gross floor area of the primary dwelling.

Development Engineering has no concerns with the application to amend the City's Zoning By-law. The lands are not serviced with municipal water and sanitary sewer infrastructure.

Planning Analysis:

The Planning Act, 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 applications with respect to the applicable policies, including issues raised through agency and department circulation.

The proposed rezoning is consistent with the PPS for the following reasons:

1. Regarding Rural Areas policies in the PPS, staff is satisfied that the development proposal would positively contribute to the rural character that is emerging around the provision of secondary dwelling units that are capable of leveraging rural amenities and assets;
2. Staff understands from the owners that the proposed secondary dwelling unit will utilize and share the rural infrastructure (e.g. private sanitary sewer and water systems, driveway access, etc.) that is required for the primary residential dwelling that is to be constructed and fronting Deschene Road;
3. With respect to Rural Lands policies in the PPS, staff has the following comments:
 - a) Staff has reviewed the site and area context of the development proposal and are of the opinion that in general the addition of a secondary dwelling unit having an increased maximum distance from a primary residential dwelling is locally appropriate;
 - b) Staff is satisfied that the development proposal being that of a secondary dwelling unit with an increased maximum distance from the primary residential dwelling represents appropriate rural development that is compatible with the rural landscape along Deschene Road and would benefit from existing rural service levels in this part of Hanmer;
 - c) Staff is satisfied that the proposed rural development in the form of a secondary dwelling unit with an increased maximum distance from the primary residential dwelling is appropriate to the infrastructure available along Deschene Road and it would avoid the need for the unjustified and/or uneconomical expansion of this infrastructure; and,
4. With reference to Housing Policies in the PPS, staff is generally of the opinion that the development proposal, being that of a secondary dwelling unit at an increased maximum distance from a primary residential dwelling, would increase and contribute positively to ensuring that an appropriate range and mix of housing options and densities are available to meet projected requirements for current and future residents living in the community of Hanmer. The development proposal is also responsive to the social, health, economic and well-being needs of current and future residents, including special needs requirements and needs arising from potential demographic changes and employment opportunities.

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With respect to the City's Official Plan, staff in general is supportive of the request to amend the City's Zoning By-law. Those policies relevant to the development proposal that would facilitate the construction of a secondary dwelling unit having an increased separation distance from the main residential dwelling on the on the subject lands are discussed below.

With respect to the general Rural Areas policies under Section 5.2.1 of the Official Plan, staff notes that rural residential land uses are permitted. Rural residential land uses are also permitted to have accessory buildings and structures.

With respect to Section 5.2.1.1 of the Official Plan, staff is satisfied that the proposed secondary dwelling unit, having an increased maximum distance from the primary residential dwelling, is compatible with and would not detract from the rural character that exists along this portion of Deschene Road in Hanmer. It is noted that immediate surrounding development is largely rural residential in nature with several rural properties already having accessory buildings and structures. There is also an existing garden suite on the west side of Deschene Road and to the north of the subject lands that denoted by a "T57" symbol in the City's Zoning By-law. Staff notes that the garden suite on the above referenced lands is to the south of the primary residential dwelling and is visible from Deschene Road. Staff also notes no additional public services, including the extension of existing or creation of new partial services would be required, as both the primary residential dwelling and the proposed secondary dwelling unit would rely upon private sanitary sewer and water infrastructure.

With regard to Section 5.2.1.2 of the Official Plan, staff notes that Deschene Road is a publicly maintained road year-round and as such, single-detached dwelling and accessory uses such as a secondary dwelling unit are considered to be permitted uses. Staff notes that the lands appear to be capable of accommodating a private sanitary sewer system (i.e. septic system) but cautions the owner that approvals from the Sudbury District Health Unit (SDHU) will be required.

In regards to Section 5.2.1.9 of the Official Plan, staff would note the following:

1. Secondary dwelling units are permitted accessory uses on lands designated Rural;
2. Should the owner choose, the proposed secondary dwelling unit may be serviced by its own private sanitary sewer and water infrastructure;
3. While the proposed secondary dwelling unit does not appear to be a mobile home dwelling, staff notes that a secondary dwelling unit is permitted in the Rural land use designation to take the built-form of a mobile home dwelling; and,
4. Staff notes that no new rural residential dwelling lot is being proposed at this time by the owner and would caution that any future development proposal to sever the proposed secondary dwelling unit from the primary residential dwelling would not be supported, as it would not represent good rural land use planning. Staff also further note that the lands have an existing lot area of approximately 2.06 ha (5.10 acres) with approximately 106 m (347.77 ft) of public road frontage on Deschene Road whereas the minimum "RU" Zone requirements are 2 ha (5 acres) and 90 m (295.28 ft) respectively. Staff advise therefore that the lands would not meet minimum lot area and lot frontage requirements in order to facilitate a rural severance as of right.

With respect to Section 2.3.6 of the Official Plan, staff notes that the proposed secondary dwelling unit represents a good opportunity to facilitate and appropriate amount of intensification within the Rural land use designation and would certainly provide for an additional and affordable housing choice for residents living in Hanmer. More specifically, staff has the following comments:

1. The proposed built-form for the secondary dwelling unit being that of an accessory building that is detached from the primary residential dwelling is permitted;

2. At this time, the owners are proposing one secondary dwelling unit on the lands that would be accessory to a single-detached dwelling that is also to be constructed on the lands;
3. The proposed secondary dwelling unit would not take the form of a mobile home dwelling;
4. Development Engineering has noted that the lands are not serviced with municipal sanitary sewer and water infrastructure and the owner is again cautioned that the provision of private sanitary sewer infrastructure on the lands will require the approval of the SDHU. Staff also note that within the Rural land use designation that a secondary dwelling unit may have its own separate private sanitary sewer system, but it should otherwise share and connect to the service lines of the primary residential dwelling. Staff understands from the owner that the secondary dwelling unit will utilize the same driveway access to Deschene Road as the primary residential dwelling, along with sharing all services including a private sanitary sewer system;
5. Staff notes that in the review of the rezoning application that no issues with respect to flooding, erosion, unstable soils, mine hazards, pits or quarries, contaminated lands, waste disposal, noise, vibration or odour, or risks associated with land fires as described under Section 10.0 were identified;
6. Staff notes that the proposed secondary dwelling unit would take the form of an accessory building and therefore there are no land use planning concerns with respect to any alterations to the primary residential dwelling exterior that would change the character of an existing neighbourhood or streetscape;
7. Building Services has noted in their comments and the owner is therefore advised that the proposed secondary dwelling unit must satisfy all applicable requirements of the Ontario Building Code, Ontario Fire Code as well as the City's Zoning By-law and Property Standards By-law;
8. Staff notes that the lands are not designated Living Area 1 and therefore the calculation of density requirements as outlined in Section 3.2.1 of the City's Official Plan is not relevant to this particular development proposal;
9. Staff advises that later in this report those applicable provisions and development standards relating to secondary dwelling units within the City's Zoning By-law will be discussed in further; and,
10. Staff notes that the lands are vacant and the proposed secondary dwelling unit would not involve the conversion of an existing garden suite to a secondary dwelling unit.

With reference to housing policies set out under Section 17.2 of the Official Plan, staff notes that the proposed secondary dwelling unit, regardless of the maximum distance it would maintain from the primary residential dwelling, in general represents an opportunity to provide for a greater mix of housing types and tenure in the community of Hanmer. Specifically, staff has the following comments:

1. Staff advises that the addition of a secondary dwelling unit in this location along Deschene Road would contribute positively to achieving a widened range of housing types and forms suitable to meet the housing needs of all current and future residents living in Hanmer;
2. Staff understands from the owner that the proposed secondary dwelling unit would have two bedrooms or less, and as such it can be reasonably expected to provide for an attractive housing option for those with smaller household sizes living in Hanmer;
3. Staff is satisfied that in general the proposed built-form being that of secondary dwelling unit as an accessory building to the primary residential dwelling will contribute positively to ensuring that a range of suitable housing types are available to meet the needs of senior citizens living in Hanmer. Staff also notes that the owner has advised that the secondary dwelling unit would be a one-storey and slab-on-grade building;

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4. Staff advises that the development proposal does not represent a down-zoning of the residential permissions that exist presently on the lands. The proposed rezoning would in fact have the opposite effect as it would allow for an additional residential dwelling unit on the lands and would certainly increase the diversity of housing options available in Hanmer; and,
5. Staff is satisfied that the proposed secondary dwelling unit would contribute positively to the mix of rural land uses along Deschene Road and to the range of housing including affordable housing that is available within the community of Hanmer. Staff also notes that the development proposal would cater to, be inclusive of all ages and abilities, and help meet the daily and lifetime needs of residents living in Hanmer.

Based on the above analysis of the City's Official Plan, staff is of the opinion that the proposed rezoning that would facilitate the construction of a secondary dwelling unit having an increased separation distance from the main residential dwelling conforms to the Official Plan for the City of Greater Sudbury.

With respect to the City's Zoning By-law, staff in general have no concerns with the requested zone category and have the following comments:

1. The owner is requesting that the lands be rezoned to "RU(S)", Rural Special in order to facilitate the construction of a secondary dwelling unit having an increased separation distance from the main residential dwelling on the subject lands that have frontage on Deschene Road in Sudbury;
2. In order to provide for the above noted development, staff can advise that the amending zoning by-law should include a site-specific development standard that a secondary dwelling unit be permitted having a maximum setback distance of 75 metres from the primary residential dwelling; and,
3. Staff noted that a registered survey plan is not required in order to prepare the amending zoning by-law as the portion of the lands subject to the rezoning are already described legally as PIN 73504-3118, Part 2, Plan 53R-20867, Lot 4, Concession 3, Township of Hanmer.

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.

Staff has noted in the report that no new rural residential dwelling lot is being proposed at this time by the owner and would caution that any future development proposal to sever the proposed secondary dwelling unit from the primary residential dwelling would not be supported as it would not represent good rural land use planning. Staff also notes that the lands would not have sufficient lot area or lot frontage to facilitate a rural severance under current rural lot creation policies in the City's Official Plan and under the applicable development standards of "RU" Zone. It is on this basis that staff is able to be supportive of the rezoning request to permit an increased maximum distance between the proposed secondary dwelling unit and its primary residential dwelling.

Staff is recommending that the amending zoning by-law include a site-specific provision permitting the proposed secondary dwelling unit to maintain a maximum setback distance of 75 m (246.06 ft) from the primary residential dwelling. Staff would advise that beyond the above noted site-specific provision that all development standards under the standard "RU" Zone, as well as the general provisions and parking provisions contained within the City's Zoning By-law would be applicable to the development of the subject lands.

The Planning Services Division is therefore recommending approval of the application for Zoning By-law Amendment in accordance with the Resolution section of this report.