

**Title: Mark Knaub**

**Date: February 5, 2019**  
**STAFF REPORT**

**Applicant:**

Mark Knaub

**Location:**

PINs 73382-0001 & 73382-0018, Parcels 10086 & 11696, Lot 1, Concession 1, Township of Denison and PIN 73380-0010, Parcel 728, Lot 12, Concession 1, Township of Graham (Municipal Road #55, Whitefish)

**Official Plan and Zoning By-law:**

[Official Plan](#)

The subject lands are designated Rural in the Official Plan for the City of Greater Sudbury. Rural Areas permit 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. Rural waterfront lot creation is permitted under Section 5.2.2(3) subject to the following policies:

1. Excluding those lakes/areas covered by Chapter 21.0, Special Policy Areas, new lots on lakes and watercourse in Rural Areas will be a minimum of 0.8 ha (2 acres) in size and have a minimum water frontage of 45 m (148 ft), unless detailed waterbody studies indicate a change in the standard. The appropriate regulations will be set out in the Zoning By-law;
2. New lots for permanent waterfront residential use must front onto a public road that is maintained year round; and,
3. New lots for seasonal waterfront residential uses are permitted on lakes with public water access with adequate off-street parking and boat docking facilities.

[Zoning By-law](#)

The subject lands are presently zoned "RU", Rural under By-law 2010-100Z being the Zoning By-law for the City of Greater Sudbury. The "RU" Zone permits a single-detached dwelling, mobile home dwelling, bed and breakfast establishment, group home type 1, seasonal dwelling, private cabin and private home daycare subject to certain special provisions. Permitted non-residential uses in the "RU" Zone include agricultural use, animal shelter, forestry use, hunting or fishing camp, garden nursery, kennel, public utility and veterinary clinic subject again to certain special provisions. Seasonal dwellings in particular are only permitted in the "RU" Zone on legal existing waterfront lots.

**Site Description & Surrounding Land Uses:**

The subject lands are located on the south side of Municipal Road #55 in the community of Whitefish. The lands also have water frontage on the Vermilion River. The lands in total have a lot area of approximately 103.14 ha (254.86 acres) with the northerly portion of the lands having approximately 316 m (1,036.75 ft) of frontage onto Municipal Road #55. The lands are presently vacant and there is an existing driveway and trail access from Municipal Road #55 leading toward the proposed rural waterfront lots on the Vermilion River. There is also a small creek which traverses the southerly portion of the lands where the proposed rural waterfront lots would be located.

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Surrounding uses are predominantly rural residential in nature along the south side of this portion of Municipal Road #55 with a number of large rural and vacant parcels also being located in the immediate area. There is a place of worship on a separate lot which is located in between the two lengths of public road frontages that the subject lands maintain on Municipal Road #55. There is a cemetery located to the immediate west which appears to be accessed in part from the existing driveway located on the subject lands. There is also a cluster of urban residential, light industrial/service commercial, institutional uses and a railway corridor located on the north side of Municipal Road #55.

**Application:**

To amend By-law 2010-100Z being the Zoning By-law for the City of Greater Sudbury by changing the zoning classification on a portion of the subject lands from "RU", Rural to "RU(S)", Rural Special on a southerly portion of the subject lands.

In accordance with Section 20.4 of the Official Plan, the City's Consent Official has also referred the associated consent applications to the Planning Committee and Council in order to determine whether the development proposal should be permitted to proceed by way of the consent process or alternatively if a plan of subdivision is required.

**Proposal:**

The application is intended to facilitate the creation of four rural waterfront lots having water frontage on the Vermilion River. The lots being created have no public road frontage onto Municipal Road #55.

**Departmental/Agency Circulation:**

The Drainage Section, Roads, Traffic and Transportation, and Operations have each advised that they no concerns from their respective areas of interest. The Whitefish Lake First Nation was also provided notice of the development proposal.

Building Services has commented that the surveyor shall verify that the creek shown on the submitted sketch is a navigable water body.

Development Engineering has advised that the lands are not services with municipal sanitary or water service.

The Nickel District Conservation Authority (NDCA) has no concerns with application but notes that a based on flood plain mapping and ground conditions a portion of the lands being severed would be subject to flooding. NDCA has advised that an application under Ontario Regulation 156/06 is to be approved prior to any development or interference with any water body, watercourse, wetlands and hazard lands. NDCA has further advised that the owner has a permit for an access road and water crossing dated November 19, 2018, with an expiry date of November 19, 2019.

**Neighbourhood Consultation:**

The statutory notice of the public hearing was provided by newspaper along with an initial courtesy mail-out to landowners and tenants within a minimum of 240 m (800 ft) of the subject lands. 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 applications prior to the public hearing. Staff understands that due to the minor nature of the application, the owner has spoken with only the immediately abutting property owners in the area in terms of their neighbourhood consultation ahead of the public hearing at Planning Committee. At the time of writing this report, no phone calls, letters or emails related to the application were received by the Planning Services Division.

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**Planning Considerations:**

[2014 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 2014 (PPS). The proposed rezoning is consistent with the PPS for the following reasons:

1. Section 1.1.4 and Section 1.1.5.4 outlines that development within a rural area should be compatible with the character and landscape of the rural setting. The introduction of an additional four rural waterfront lots to accommodate one seasonal dwelling per lot within the context of surrounding uses along this portion of the Vermilion River would be compatible with the rural waterfront setting. There are a number of water access only rural lots in the area and along many portions of the Vermilion River. Staff is therefore satisfied that the rural character of the surrounding area will not be negatively impacted from what exists already in the area should the four rural waterfront lots for seasonal use be introduced into this setting; and,
2. Section 1.1.5.2 outlines that limited residential development is permitted on Rural Lands. Staff is of the opinion that the four new rural waterfront lots is not excessive and represents a limited increase in the number of rural waterfront lots along this portion of the Vermilion River. Each of the lots well exceeds the minimum lot area and minimum water frontage requirements set out in the City's Official Plan and implementing Zoning By-law.

[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 do not conflict with the Growth Plan for Northern Ontario.

[Official Plan](#)

With respect to the general Rural policies under the Official Plan, staff are supportive of the rezoning and would note that residential uses are permitted within the Rural designation, including rural waterfront residential uses. With respect to the rural and waterfront lot creation policies set out under Section 5.2.2(3) of the Official Plan, staff have the following comments:

1. The lots being created in each case exceed the minimum lot area requirement of 0.8 ha (2 acres) for rural waterfront lots and each of the lots proposed to be created would also exceed the minimum water frontage requirement of 45 m (148 ft);
2. The owner is not proposing permanent residential use as they have noted that the rural waterfront lots being created do not have public road frontage onto Municipal Road #55. Staff does note however that the owner is proposing an easement for access purposes to Municipal Road #55 from the proposed four new waterfront lots; and,
3. The owner did provide sufficient evidence that the four new rural waterfront lots can be accessed via a public water access point at the end of Karla Street to the south-west. The public water access at this location appears to include adequate off-street parking and boat docking facilities. Karla Street is accessed from Panache Lake Road and Kusk Road. The estimated distance between the boat docking facilities and the proposed four new rural waterfront lots is 6.3 km (3.91 miles).

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Staff has no concern with respect to the proposed rezoning and resulting four new rural waterfront lots conforming with the above noted policies contained within the Official Plan for the City of Greater Sudbury.

### Zoning By-law

The applicant is requesting that a portion of the subject lands be rezoned from "RU", Rural to "RU(S)", Rural Special. The portions of the lands to be rezoned would allow for the construction of seasonal dwellings on four proposed new rural lots whereas seasonal dwellings are only permitted on legal existing waterfront lots in the standard "RU" Zone. Staff has no concerns with the requested zone category, but would note that a registered survey delineating the lands to be rezoned should be required as a condition of the rezoning being approved. Staff would further advise that the amending by-law limit the permitted uses on the proposed four new rural lots to seasonal dwellings and their related accessory uses as the lots being created have no public road frontage onto Municipal Road #55. The related consent applications do propose an easement for access purposes from the existing driveway at Municipal Road #55 to the four rural waterfront lots that are to be created. Staff advises that this does not establish public road frontage for the new waterfront lots and staff are of the opinion it would not be good rural waterfront land use planning to allow for permanent residential uses where there is only an easement for access purposes to a public road.

### Consent Referral

The owners previously submitted three applications for consent (Files # B0030/2018, B0031/2018 and B0032/2018) on May 9, 2018, in order to facilitate the creation of three rural waterfront lots on the southerly portions of the subject lands. In accordance with Section 20.4.1 of the Official Plan for the City of Greater Sudbury the City's Consent Official has referred the above noted consent applications to Planning Committee and Council in order to determine if they may proceed by way of the consent process or if a draft plan of subdivision application would be necessary. Staff advises that it is standard practice to have the Planning Committee and Council make a decision on the related consent referral at the same time as when a related and concurrent land use planning application goes to a public hearing. This report also considers this request from the Consent Official and Resolution B in the report addresses this matter.

Staff notes however that a fourth application for consent is anticipated to be submitted by the owner should the rezoning of the lands be approved. In the absence of a fourth consent application, staff is not able to reference a file number at this point in time. Staff has reviewed the matter in detail and are of the opinion that the resolution section of this report can adequately reference a fourth consent application that would facilitate the creation of the fourth rural waterfront lot as depicted on the submitted sketch that accompanied both the consent applications and the application for Zoning By-law Amendment.

Through the circulation of the Zoning By-law Amendment application to commenting agencies and departments, staff notes that in general there appears to be no land use planning matters which would prescribe the subdivision planning process as the preferred method for lot creation in this case. The owner is however advised that at the consent stage of the development proposal staff cannot support the creation of any lots which would result in natural severances due to the creek which traverse the subject lands. Staff is recommending that the three above noted consent applications along with the anticipated fourth consent application be permitted to proceed by way of the consent process. Staff would caution the owner that the fourth consent application must represent that of which is shown on the consent applications and the Zoning By-law Amendment application that are currently filed with the City.

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**Summary**

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 rural land use planning policy directions identified in PPS and further there would be no matters of provincial interest impacted should the rezoning be approved. Staff also notes that the application conforms to and does not conflict with the Growth Plan for Northern Ontario. Staff has no concerns with the requested zone category however the submission of a registered survey is required in order to describe the lands being rezoned and to allow for the preparation of the amending zoning by-law. Staff further recommends that the amending zoning by-law limit the use of the newly created four rural waterfront lots to that of seasonal dwellings. The Planning Services Division therefore recommends that the application for Zoning By-law Amendment be approved in accordance with the resolution section of this report. The Planning Services Division is further recommending that the related consent applications referenced in this report be permitted to proceed by way of the consent process as in general there are no land use planning matters which would prescribe the subdivision planning process as the preferred method for lot creation in this case.