



Request for Decision PLANNING COMMITTEE



Type of Decision					
Meeting Date	May 27, 2019			Report Date	April 9, 2019
Decision Requested	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	Direction Only	<input type="checkbox"/>	

Report Title
Wayne & Carrie-Ann MacLean – Request to extend a conditional approval on a rezoning application, 2687 Highway #144, Chelmsford

Section Review	Division Review	Department Review
 Alex Singbush, Manager of Development Approvals	 Jason Ferrigan, Director of Planning Services	Tony Cecutti, General Manager of Infrastructure Services

Budget Impact	
<input type="checkbox"/>	This report has been reviewed by the Finance Division and the funding source has been identified.
<input type="checkbox"/>	Background Attached
Recommended by the Department	
Report Prepared By:	File #
Glen Ferguson Senior Planner	751-5/15-10

Resolution	
THAT the City of Greater Sudbury approves the application by Wayne and Carrie-Ann MacLean to extend the approval of a Zoning By-law Amendment Application, File # 751-5/15-10, on those lands described as PIN 73350-0102, Parcel 16989 SWS, Lot 6, Concession 2, Township of Balfour, for a period of one year until April 25, 2020, as outlined in the report entitled "Wayne & Carrie-Ann MacLean" from the General Manager of Growth and Infrastructure, presented at the Planning Committee meeting of May 27, 2019.	
X	Resolution Continued
Recommended by the C.A.O.	
Ed Archer Chief Administrative Officer	

Date: January 9, 2019

Relationship to the Strategic Plan/Health Impact Assessment:

The application to extend the approval of a Zoning By-law Amendment from Council is an operational matter under the Planning Act to which the City is responding.

Report Summary:

This application reviews a request to extend the approval of a rezoning application that would recognize and permit the existing single-detached dwelling and a contractor's yard in the form of a truck and trailer haulage business where commercial vehicles are stored and parked along with related accessory buildings and structures on those lands known municipally as 2687 Highway #144 in the community of Chelmsford. The agent for the owners has advised that they continue to pursue clearing the conditions of approval as it relates to site plan control being applicable to the lands and resolving outstanding building permit matters. The Planning Services Division is recommending that the rezoning approval be extended for a one year period until April 25, 2020.

Date: January 9, 2019

STAFF REPORT

Applicant:

Wayne & Carrie-Ann MacLean

Location:

PIN 73350-0102, Parcel 16989 SWS, Lot 6, Concession 2, Township of Balfour (2687 Highway #144, Chelmsford)

Application:

The original application for rezoning for which an extension is being applied for sought 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 "A", Agricultural to "A(S)", Agricultural Special.

Proposal:

Staff received a letter from the agent for the owners dated April 5, 2019, requesting that the approval be extended for an additional one year until April 25, 2020. The agent for the owners has advised that they continue to work on the conditions of approval that were ratified by Council on April 25, 2017. No previous extensions to the rezoning approval have been granted. The rezoning once completed would recognize and permit the existing single-detached dwelling and a contractor's yard in the form of a truck and trailer haulage business where commercial vehicles are stored and parked along with related accessory buildings and structures on the subject lands.

Site Description & Surrounding Land Uses:

The subject lands are located on the south side of Highway #144 being to the west of Joannette Road and to the east of Vermilion Lake Road in the community of Chelmsford. The lands have a total lot area of 4.03 ha (9.95 acres) with approximately 120 m (400 ft) of lot frontage onto Highway #144. The lands contain a one-storey single-detached dwelling along with a gravel surfaced parking area containing a detached garage, shed and storage trailer. The owners have indicated that the gravel surfaced parking area along with the detached garage, shed and storage trailer are being used as a contractor's yard.

Surrounding uses are primarily rural residential in nature with the predominant built-form being that of single-detached dwellings. There are also a number of large vacant rural and agricultural parcels in the immediately surrounding area. There is an existing motel on the north side of Highway #144 to the west at McKenzie Road.

Planning Considerations:

The agent for the owners originally submitted applications for Official Plan Amendment and Zoning By-law Amendment on July 2, 2015 in order to recognize and permit the existing single-detached dwelling and a contractor's yard in the form of a truck and trailer haulage business where commercial vehicles are stored and parked along with related accessory buildings and structures on the subject lands. The Official Plan Amendment (File # 701-5/15-5) application was approved by Planning Committee through recommendation PL2017-47 and ratified by Council on April 25, 2017. There are no conditions of approval needing to be satisfied as it relates to the Official Plan Amendment. Staff advises that the Official Plan Amendment will be brought forward for enactment at the same time as the amending zoning by-law.

Date: January 9, 2019

The application for rezoning was originally approved by Planning Committee through recommendation PL2017-48 on April 10, 2017, and ratified by Council on April 25, 2017. The approval was conditional upon the owners having entered into a site plan control agreement with the City that is to be registered on-title and that the owners shall provide Building Services with a satisfactory application for a building permit as it relates to the existing detached metal-clad garage on the lands. The amending zoning by-law can only be passed once the above noted conditions are satisfied. The current request to extend the rezoning approval is the first request for an extension.

The agent for the owners has indicated that they continue to work toward satisfying the conditions of rezoning the lands and have requested a one year extension to the rezoning approval. Staff understands that the delay in clearing the conditions is related to a private family matter which prevented the owners from proceeding with the rezoning approval. Staff has reviewed the request and has no concerns with a one year extension at this time.

A copy of both the initial staff report regarding the Official Plan Amendment and Zoning By-law Amendment applications, as well as a copy of the approved Planning Committee minutes (see Pages 3 & 4) reflecting the decision made is attached to this report for information purposes.

Summary:

The agent for the owners has indicated to staff that they wish to continue pursuing the rezoning of the subject lands which would recognize and permit the existing single-detached dwelling and a contractor's yard in the form of a truck and trailer haulage business where commercial vehicles are stored and parked along with related accessory buildings and structures on the subject lands. The rezoning approval granted by Council is conditional upon the owner entering into a site plan control agreement with the City and resolving an outstanding building permit matter prior to the amending zoning by-law being enacted. Staff is supportive of and recommends approval of the request to extend the rezoning approval as it pertains to the subject lands for a period of one year until April 25, 2020.

Request for Decision

Wayne & Carrie Ann MacLean - Application for Official Plan Amendment and Rezoning in order to permit a contractor's yard, 2687 Highway 144, Chelmsford

Presented To: Planning Committee

Presented: Monday, Apr 10, 2017

Report Date Tuesday, Mar 21, 2017

Type: Public Hearings

File Number: 751-5/15-10 &
701-5/15-5

Resolution

Resolution regarding Official Plan Application:

THAT the City of Greater Sudbury denies the application by Wayne and Carrie Ann MacLean to amend the Official Plan for the City of Greater Sudbury by providing for a site-specific exception to those land uses permitted within the Rural designation under Section 5.2 of the Official Plan in order to permit a contractor's yard on those lands described as PIN 73350-0102, Parcel 16989 SWS, Lot 6, Concession 2, Township of Balfour.

Resolution regarding Rezoning Application:

THAT the City of Greater Sudbury denies the application by Wayne and Carrie Ann MacLean to amend Zoning By-law 2010-100Z to change the zoning classification from "A", Agricultural to "A(S)", Agricultural Special in order to permit a contractor's yard as a permitted use on those lands described as PIN 73350-0102, Parcel 16989 SWS, Lot 6, Concession 2, Township of Balfour.

Finance Implications

If approved, the applicant would be required to obtain a building permit as well as incur the related development charges for the building on the property. Staff are unable to calculate the estimated development charges as related information is unavailable.

STAFF REPORT

Applicant:

Wayne & Carrie Ann MacLean

Location:

Signed By

Report Prepared By

Glen Ferguson
Senior Planner
Digitally Signed Mar 21, 17

Reviewed By

Eric Taylor
Manager of Development Approvals
Digitally Signed Mar 21, 17

Recommended by the Division

Jason Ferrigan
Director of Planning
Digitally Signed Mar 21, 17

Recommended by the Department

Tony Cecutti
General Manager of Growth and Infrastructure
Digitally Signed Mar 21, 17

Recommended by the C.A.O.

Ed Archer
Chief Administrative Officer
Digitally Signed Mar 27, 17

PIN 73350-0102, Parcel 16989 SWS, Lot 6, Concession 2, Township of Balfour (2687 Highway #144, Chelmsford)

Site Description & Surrounding Land Uses:

The subject lands are located on the south side of Highway #144 being to the west of Joannette Road and to the east of Vermilion Lake Road in the community of Chelmsford. The lands have a total lot area of 4.03 ha (9.95 acres) with approximately 120 m (400 ft) of lot frontage onto Highway #144. The lands contain a one-storey single-detached dwelling along with a gravel surfaced parking area containing a detached garage, shed and storage trailer. The owner has indicated that the gravel surfaced parking area along with the detached garage, shed and storage trailer are being used as a contractor's yard.

Surrounding uses are primarily rural residential in nature with the predominant built-form being that of single-detached dwellings. There are also a number of large vacant rural and agricultural parcels in the immediately surrounding area. There is an existing motel on the north side of Highway #144 to the west at McKenzie Road.

Official Plan Conformity & Zoning By-law:

Official Plan

The subject lands are designated Rural in the Official Plan for the City of Greater Sudbury. Permitted uses in 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 5.2.5 outlines that some limited rural industrial/commercial uses are permitted in the Rural land use designation:

1. Rural industrial/commercial uses are generally resource-based and may include agriculture, dry industrial/commercial uses and forestry;
2. Rural industrial/commercial uses are to be located with adequate separation distances to residential areas and provide proper buffering and landscaping along Arterial Road frontages;
3. Entrances are restricted to Secondary Arterial and Local Roads and no temporary structures, outside storage or sales displays are to be visible from the frontage of abutting roads. All such development is subject to rezoning and site plan control; and,
4. New resource-related industries should not impact the natural resource base. Rural industrial/commercial uses must generate limited amounts of wastewater and minimize land use conflicts.

The application does not conform to the Official Plan for the City of Greater Sudbury based on the review of the above noted land use planning considerations provided later in this report.

Zoning By-law

The subject lands are zoned "A", Agricultural under By-law 2010-100Z being the Zoning By-law for the City of Greater Sudbury. Residential uses permitted in the "A" Zone include a single-detached dwelling, mobile home dwelling, bed and breakfast, group home type 1 and a private home daycare. Non-residential uses permitted in the "A" Zone include an agricultural use, animal shelter, forestry use, garden nursery, kennel, public utility and a veterinary clinic.

Applications:

1. To amend the Official Plan for the City of Greater Sudbury by providing for a site-specific exception to

- planning principle established in the PPS;
2. Opportunities to support a diversified rural economy should be promoted by protecting agricultural and other resource-related uses and directing non-related development to areas where it will minimize constraints on these uses. Staff note that a contractor's yard is not directly related to agricultural and other resource-based uses and accordingly should be directed to employment areas in the City which permit industrial uses such as a contractor's yard; and,
 3. Municipalities are required to promote economic development and competitiveness by providing for an appropriate mix and range of employment and institutional uses to meet longer term needs. There are several land use designations in the Official Plan which permit industrial uses such as a contractor's yard and the proposed use would more appropriately be located inside an identified employment area designation.

Official Plan

With respect to Rural land use designation policies, staff has the following comments:

1. Staff is of the opinion that a contractor's yard as is being proposed in the Rural land use designation is not an appropriate rural industrial/commercial use, as it is not resource-based and does not directly serve permitted rural land uses under the Official Plan;
2. There are a number of rural residential land uses in the immediate area which could be adversely impacted should a contractor's yard be permitted in this location. Staff also notes that no buffering or landscaping exists currently along Highway #144 which would screen or appropriately separate the contractor's yard from abutting lots which are or could be used for rural residential purposes. The land use being proposed would more appropriately be directed to Employment Area designations such as the General Industrial land use designation;
3. Entrances for rural industrial/commercial uses are to be restricted to Secondary Arterial and Local Roads as identified on Schedule 6 – Transportation Network of the Official Plan. The contractor's yard would not be accessed from a Secondary Arterial or Local Road but rather from a Provincial Highway. Staff also noted on recent site visits to the lands that there are temporary structures in the form of a storage trailer, as well as a fabric shelter attached to the detached garage on the lands. Outdoor storage is also taking place on the lands. Staff advises that the contractor's yard in this setting is not an appropriate rural industrial/commercial use within the Rural land use designation; and
4. Staff is generally concerned with land use planning conflicts between abutting rural land uses and the proposed contractor's yard and would advise that such a use be directed toward employment areas which would permit a contractor's yard in the Official Plan.

Zoning By-law

The applicant is requesting that the subject lands be rezoned from "A", Agricultural to "A(S)", Agricultural Special in order to permit a contractor's yard on the subject lands. Staff has reviewed the request and does not support the rezoning on the basis that a contractor's yard does not conform to the Rural policies of the Official Plan with respect to rural industrial/commercial land uses.

Summary:

Staff does not support the Official Plan Amendment and Zoning By-law Amendment applications. The proposed contractor's yard is not consistent with the Provincial Policy Statement with respect to development in rural areas and the proposed use is not in conformity with the Rural land use designation policies of the Official Plan for the City of Greater Sudbury. There is no land use planning rationale for amending the Official Plan and Zoning By-law in order to allow for a contractor's yard in this location and the development proposal does not represent good rural land use planning.

The Planning Services Division therefore recommends that the applications to amend the Official Plan and

- those land uses permitted within the Rural designation under Section 5.2 of the Official Plan in order to permit a contractor's yard on the subject lands; and,
2. To amend By-law 2010-100Z being the Zoning By-law for the City of Greater Sudbury by changing the zone classification of the subject lands from "A", Agricultural to "A(S)", Agricultural Special.

Proposal:

The applications would together permit the operation of a contractor's yard on the subject lands. The lands also will continue to contain a one-storey single-detached residential dwelling.

Departmental & Agency Circulation:

The Drainage Section, the Ministry of Transportation, Nickel District Conservation Authority, Roads, Traffic and Transportation have advised that they have no concerns from their respective areas of interest.

Building Services has noted they have no record of a building permit for the detached garage and that appropriate landscaping is to be provided between the contractor's yard and the abutting residential lots.

Development Engineering has noted that municipal water is available in this location but sanitary sewer is not available. Their preliminary assessment of the municipal water system in this location shows a lack of fire flow to support the proposed use. It is recommended that site plan control be applied to address this issue.

Public Consultation:

The statutory notice of the public hearing was provided by newspaper along with a courtesy mail-out to landowners and tenants within a minimum of 244 m (800 ft) of the subject lands. The applicant 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. At the time of writing this report, several phone calls and one written submission with respect to this application have been received by the Planning Services Division.

Planning Considerations:

Background

By-law Enforcement Services has previously issued an order on the subject lands in relation to the operation of a contractor's yard on the subject lands. The Ontario Court of Justice issued an order on July 3, 2015 requiring that the owner of the lands immediately make necessary land use planning applications to the City of Greater Sudbury in order to permit said contractor's yard on the lands. Further to this, the order included instruction that the contractor's yard use is to cease should the applications be denied by the City. The applications were filed with the City prior to the issuance of the above noted order on July 2, 2015 and were deemed complete on July 27, 2016.

Provincial Policy Statement

Municipalities in the Province of Ontario are required under Section 3 of the Planning Act to ensure that decisions affecting land use planning matters are consistent with the Provincial Policy Statement (PPS). The proposed Official Plan Amendment and rezoning is not consistent with the PPS for the following reasons:

1. On rural lands, permitted uses are to be limited to management or use of resources, resource-based recreational uses, limited residential development, home occupation and home industries, cemeteries and other rural land uses. Staff would advise that a contractor's yard as proposed in the subject applications is not a permitted use on rural lands and is therefore contrary to a key rural land use

Appendix 1

Departmental & Agency Comments

File: 751-5/15-10 & 701-5/15-5

RE: Application for Rezoning & Official Plan Amendment
Wayne & Carrie Ann MacLean
PIN 73350-0102, Parcel 16989 SWS, Lot 6, Concession 2, Township of Balfour
2687 Highway 144, Chelmsford

Building Services

Building Services has the following comments prior to the passing of the amending by-law:

1. We have no record of a building permit for the metal clad garage, therefore a building permit is required.
2. A 5 m planting strip is required between a contractor's yard and a residential lot.

Development Engineering

Municipal water is available within the Highway 144 right-of-way. Sanitary sewer is not available. A preliminary assessment of the municipal water system at this location shows a lack of available fire flow to support the proposed use. Should this application be approved, we ask for it to proceed under Site Plan Control. The Site Plan Control Agreement would address such things as providing alternate sources of water for fire suppression.

Zoning By-law 2010-100Z in order to permit a contractor's yard as a permitted use on the subject lands be denied.

**SUBJECT
PROPERTY**

RU

LOT 6
CON 3

LOT 5
CON 3

C2(15)
1977

2592

2730

2840

144

2697

2719

2759

2799

2803

2809

LOT 6
CON 2

LOT 5
CON 2

A

**SUBJECT
PROPERTY**

McKenzie

Vermilion Lake
Nickel Basin

144

Joanette

Aurore

Marion
Omer
Rita
Leroux

Bradley

Growth and Development Department



Subject Property being PIN 73350-0102,
Pcl. 16989 SWS, Lot 6, Con. 2, Twp. of
Balfour, 2687 Highway 144, Chelmsford,
City of Greater Sudbury

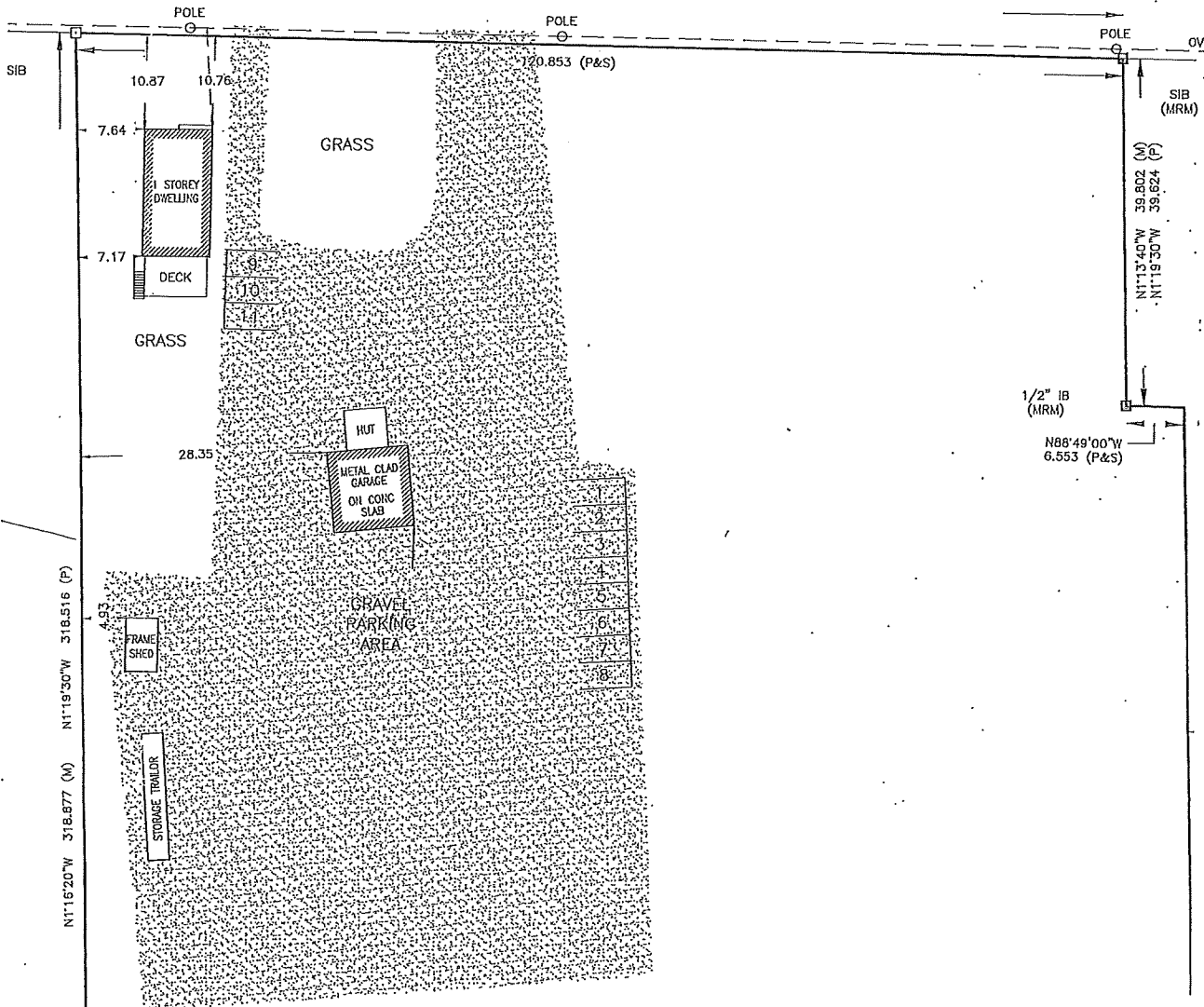
NTS
Sketch 1

751-5/15-10 & 701-5/15-05
Date: 2015 07 08

HIGHWAY No 144

PIN 73350-0516

49°00'W (REFERENCE BEARING)



262.96

PIN 73350-0102

BUSH AND SWAMP

CONCESSION 2

TOWNSHIP OF BALFOUR

1/2" IB (MRM)

N88°58'10"W 128.634 (M) N88°49'00"W 127.406 (P)

PIN 73350-0005

BORTOLUSSI
SURVEYING LTD.

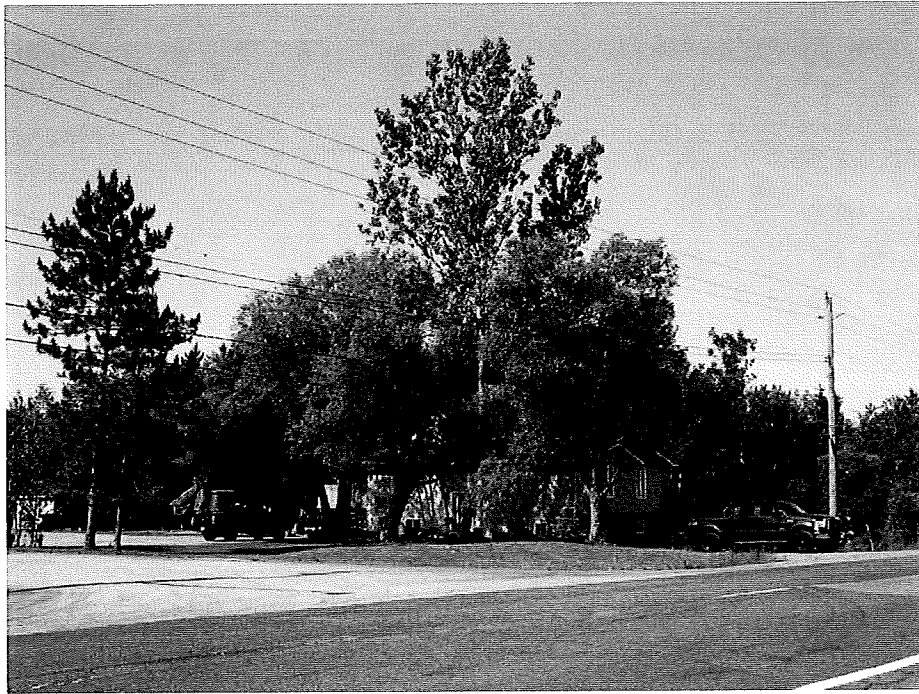


PHOTO 1 EXISTING SINGLE DETACHED DWELLING ON THE SUBJECT LANDS WITH EXISTING CONTRACTOR'S YARD AS VIEWED FROM HIGHWAY 144 LOOKING SOUTH



PHOTO 2 EXISTING CONTRACTOR'S YARD ON THE SUBJECT LANDS LOOKING SOUTH FROM HIGHWAY 144

751-5/15-10 & 701-5/15-5
PHOTOGRAPHY JULY 10, 2016

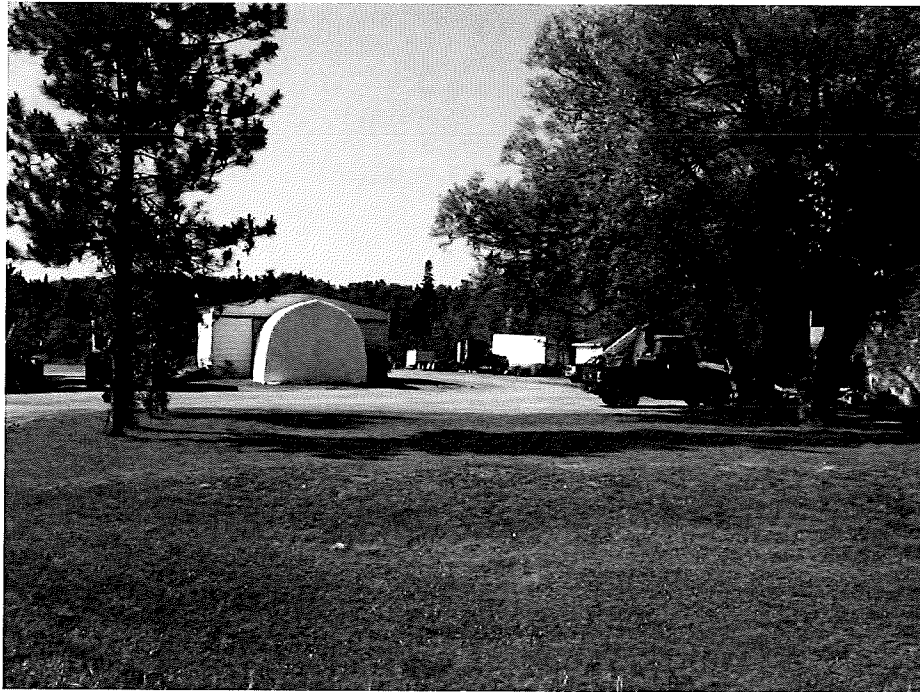


PHOTO 3 EXISTING DETACHED GARAGE, SHED, STORAGE TRAILER
AND OUTDOOR STORAGE ON THE SUBJECT LANDS

751-5/15-10 & 701-5/15-5
PHOTOGRAPHY JULY 10, 2016

RECEIVED

AUG 17 2016

PLANNING SERVICES DIVISION

August 10, 2016

Planning Services Division

Box 5000, Station A

Sudbury, Ontario

P3A 5P3

RE: 2687 Highway 144- Chelmsford Zoning Change

Dear Mr. Eric Taylor,

As per the notice sent July 27, 2016, in regards to the application for a zoning change, I am writing to share my concerns as a resident of the area. I currently own the land located at 2730 Highway 144, nearly across the street from this property.

As we live in a rural area, it is not uncommon for residents to have various trucks, tractors and other heavy machinery to tend to their land as they generally consist of significant parcels of land in regards to acreage. These items are almost required to properly work the land and keep it livable for generations to come.

As a resident in the area, I as well as many others require these items and requiring zoning changes causes a financial hardship to what may be a family that has lived many generations on these parcels of land. If you begin to require every resident in the area to change their zoning to simply live within the means they possess is unfair.

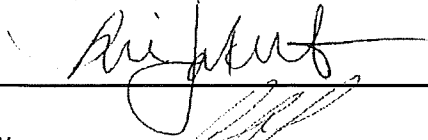
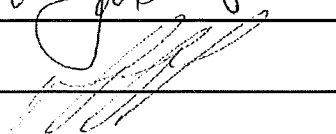
Though generating a great revenue for the City of Greater Sudbury, this can leave simple farmers, workers and other residents without the means to survive. I am hoping that if this zoning change is required for one, you will look at the overall impact on the area and consider zoning all others in the area in the same manner to ensure residents aren't dealing with complaints in regard to their vehicle/machinery requirements.

Regards,

Richard Thibert

Planning Committee Resolutions



Moved By  No. PL2017- 47
Seconded By  Date Monday April 10, 2017

Resolution regarding Official Plan Application:

THAT the City of Greater Sudbury approves the application by Wayne and Carrie Ann MacLean to amend the Official Plan for the City of Greater Sudbury by providing for a site-specific exception to those land uses permitted within the Rural designation under Section 5.2 of the Official Plan in order to permit a contractor's yard in the form of a truck and trailer haulage business where commercial vehicles are stored and parked on those lands described as PIN 73350-0102, Parcel 16989 SWS, Lot 6, Concession 2, Township of Balfour.

Yeas:
McIntosh
Sizer
Jakubo
Lapierre



Planning Committee Resolutions



Moved By

No. PL2017-48

Seconded By

Date Monday April 10, 2017

Resolution regarding Rezoning Application:

THAT the City of Greater Sudbury approves the application by Wayne and Carrie Ann MacLean to amend Zoning By-law 2010-100Z to change the zoning classification from "A", Agricultural to "A(S)", Agricultural Special in order to permit a contractor's yard as a permitted use on those lands described as PIN 73350-0102, Parcel 16989 SWS, Lot 6, Concession 2, Township of Balfour, subject to the following conditions:

1. That prior to the enactment of an amending zoning by-law the owner shall have entered into a site plan agreement with the City that is to be registered on-title to the satisfaction of the Director of Planning Services;
2. That prior to the enactment of an amending zoning by-law the owner shall have applied for and received approval for a building permit relating to the existing detached metal clad garage on the lands to the satisfaction of the Chief Building Official; and,
3. That the amending zoning by-law include the following site-specific provisions:
 - a. That the only permitted use of the subject lands be a single-detached dwelling and a contractor's yard in the form of a truck and trailer haulage business where commercial vehicles are stored and parked along with related accessory buildings and structures as well as all other uses permitted under Section 4.40 of the Zoning By-law; and,
 - b. That the extent of the contractor's yard use permission be limited to the northerly 160 m of the subject lands.

Yea
McIntosh
Sizer
Jakubo
Lapierre



Bill 73 Requirements

Public Hearing No. -1-

Regarding Resolution No. PL2017-47/48

Date April 10, 2017

Option 1:

- ☒ As no public comment, written or oral, has been received, there was no effect on the Planning Committee's decision.

Option 2:

- ☐ Public comment has been received and considered and had no effect on Planning Committee's decision as the application represents good planning.

Option 3:

- ☐ Public comment has been received and considered and has effected Planning Committee's decision in the following manner:


a) _____

b) _____

c) _____

d) _____

e) _____



Chair