

Title: François & Lucie Savoie

Date: December 8, 2017

STAFF REPORT

Applicant:

François & Lucie Savoie

Location:

PIN 73502-0759, Parts 1 to 3, Plan 53R-17784 in Lot 5, Concession 5, Township of Blezard (1193 Main Street, Val Caron)

Official Plan and Zoning By-law:

Official Plan

The lands are subject to the Area-Specific Policies for the Whitson Lake Area, as outlined in Section 21.3.3 and delineated on Schedule 2a of the [Official Plan](#). The following policies are applied:

1. Waterfront lands not designated as the Mining/Mineral Reserve shall continue to be designated as Rural; however, permanent residential waterfront development may be permitted, provided that:
 - a. the lot or parcel created by consent has frontage along a public road maintained year-round, a minimum size of 0.8 hectare and a minimum frontage of 45 metres;
 - b. a hydrogeological assessment establishes that soil conditions are suitable for a private sewage disposal system and the requirements of the *Environmental Protection Act* regarding private sewage disposal systems are met;
 - c. there is a proven water supply in both quantity and quality suitable for domestic purposes;
 - d. the proposed development will not degrade the water quality of Whitson Lake to exceed its current Level I water quality status; and,
 - e. fish and/or wildlife habitats are not adversely affected.
2. Due to the proximity of these lands to existing settlements, no seasonal waterfront development shall be permitted.
3. For the protection of the shoreline, a minimum 15-metre vegetation buffer shall be maintained.
4. For non-waterfront lands, policies related to Rural Areas or the Mining/Mineral Reserve, as the case may be, shall apply.

The application does not conform to the Official Plan as follows:

- The proposed lots are on a private road and do not have any public road frontage;
- The proposed lots do not meet the minimum lot area required.

Site-specific exceptions to applicable Official Plan policies are therefore required.

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Zoning By-law

The lands are currently zoned "RU", Rural under [Zoning By-law 2010-100Z](#). Residential uses are permitted in the form of a single detached dwelling or a mobile home on a permanent foundation.

Site Description & Surrounding Land Uses:

The subject property comprises a rural parcel extending from Main Street to the northwesterly shore of Whitson Lake. Vehicular access is via Fire Road 7, which is a private road owned by the applicant. The distance from Main Street to the northerly limit of the proposed waterfront lots is approximately 1.28 km. There are no municipal services provided on the private road, including sanitary sewer, municipal water, public transit, curbside garbage collection, street lighting or road maintenance.

Total area of the parent parcel is 15 ha, with 91 metres of frontage on Main Street and an approximate depth of 1 400 metres. There is approximately 156 metres of frontage on Whitson Lake. A designated flood plain extends along the shoreline, as delineated by a flood elevation of 291 metres on the rezoning sketch.

There are a number of buildings and structures on the site. A single detached dwelling and a detached garage built in the 1970s are located approximately 240 metres from Main Street on Part 1, Plan 53R-17784. The dwelling appears to be unoccupied as the windows are boarded up. Further south on the parcel closer to the lake, the land is occupied by a steel garage built in 2009 and a detached garage with a raised patio constructed in 2012. A field bed has been installed on the southeasterly portion of the land.

The building identified as "existing garage" on the rezoning sketch contains a dwelling unit that was installed without benefit of a permit. The dwelling unit is serviced by the septic system on the southeasterly portion of the property. Furthermore, there are five (5) shipping containers on the property being utilized for storage, which are located on Part 1, Plan 53R-17784.

Adjacent waterfront properties to the east and west have no public road frontage and are for seasonal residential use. The island opposite the subject land contains four (4) seasonal properties. The large parcels abutting the subject land to the east and west are both zoned Rural and assessed as a farm with residence (1155 and 1243 Main Street).

Application:

1. To amend the City of Greater Sudbury Official Plan to provide a site-specific exception from the policies of Section 21.3.3 of the Official Plan concerning Area-Specific Policies for Whitson Lake, in order to permit the creation of two waterfront lots for permanent residential use with no public road frontage.
2. To amend By law 2010-100Z being the City of Greater Sudbury Zoning By-law from "RU", Rural to "RU(S)", Rural Special, permitting reduced lot areas for two lots to be created with no public road frontage, and the use of shipping containers for storage purposes.

Proposal:

Applications for Official Plan Amendment and rezoning in order to:

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- Create two (2) waterfront lots for permanent residential use with no public road frontage and lot areas of approximately 0.67 ha and 0.43 ha where a minimum lot area of 0.8 ha and a minimum public road frontage of 45 metres are required;
- Permit the use of shipping containers for storage purposes.

Departmental/Agency Circulation:

Building Services advise that the garage was converted to a dwelling without benefit of a building permit, and further, that shipping containers were installed in contravention of the Zoning By-law and without benefit of a permit. An Order to Comply has been issued. These matters need to be rectified regardless of the decision on this application.

Neighbourhood Consultation:

The statutory notice of the public hearing was provided by newspaper along with a courtesy mail-out to property owners and tenants within a minimum of 240 metres of the property.

The applicant was advised of the City's policy recommending that applicants consult with their neighbours, ward councillor and key stakeholders to inform area residents on the application prior to the public hearing.

The applicants indicated that adjacent residents would be canvassed prior to the hearing.

As of the date of this report, no written submissions or phone calls have been received.

Background:

In 2008 a building permit application was submitted in order to construct a single detached dwelling on the southerly portion of the property (B08-1983). The permit was subsequently cancelled at the request of the applicant. However, a sewage septic system was installed on the southeasterly portion of the property.

In 2009 a building permit was issued for a detached steel garage, identified as the "hut on concrete pad" on the rezoning sketch (B09-1421).

In 2012 a building permit was issued for a detached garage on the southerly portion of the property, which is identified as "existing garage" on the rezoning sketch (B12-0034). It has been determined that the garage was converted to a dwelling unit without benefit of a permit.

Planning Considerations:

The land use issues concerning this application are summarized as follows:

- Lot creation with no public road frontage for permanent residential use on a private road;
- Development on a sensitive waterbody subject to area-specific policies including enhanced vegetative buffering;
- Proposed lots do not have the minimum lot area required for unserviced waterfront lots in a rural area;

- A detached garage was converted to a dwelling unit without benefit of a building permit and in contravention of the Zoning By-law; and,
- Shipping containers have been installed without benefit of a building permit and in contravention of the Zoning By-law.

2014 Provincial Policy Statement (PPS)

Within the context of the [2014 Provincial Policy Statement](#), the subject property is defined as Rural Lands, which are Rural Areas located outside Settlement Areas and which are outside Prime Agricultural Areas. It is Planning Staff's opinion that the application is not consistent with the PPS as follows:

- Policy 1.1.1. a: *"Promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term."*

Lot creation on a private road represents a future financial liability to the municipality based on potential demand for services and pressure by current and future owners to assume the road. The proposal is not an efficient use of existing infrastructure and municipal services.

- Policy 1.1.1. c: *"Avoiding development and land use patterns which may cause environmental or public health and safety concerns."*

Undersized lots on a sensitive waterbody should not be supported. The private road is not maintained by a public body, which may compromise emergency services response. This raises health and safety concerns and is also a liability to the municipality.

- Policy 1.1.1. g: *"Ensuring that necessary infrastructure...and public service facilities are or will be available to meet current and projected needs."*

No municipal infrastructure or services are provided in this area, making it inappropriate for permanent residential development.

- Policy 1.1.5.2: *"On rural lands located in municipalities, permitted uses are: c) limited residential development."*

As set out in the Official Plan, limited residential development does not encompass lot creation on private roads, which is not considered good land use planning.

- Policy 1.1.5.4: *"Development that is compatible with the rural landscape and can be sustained by rural service levels is promoted."*

No municipal services are provided at this rural location.

- Policy 1.1.5.5: *"Development shall be appropriate to the infrastructure which is planned or available, and avoid the need for the unjustified and/or uneconomical expansion of infrastructure."*

No municipal infrastructure is planned or available for this site. The approval may result in future demand for services including municipal assumption of the private road and associated costs.

Development on private roads: local context

As reviewed above, permanent residential development on private roads is a matter of Provincial and municipal interest. The potential supply of new rural lots under the current policies would yield a twenty-nine (29) year supply, which is more than adequate to meet demand. Given the lot creation potential that already exists in rural areas within Greater Sudbury, there is no land use rationale to support this proposal.

- Rural service levels do not support lot creation on private roads. There is no garbage collection, transit service, municipal road maintenance, snow plowing or street lighting.
- Winter maintenance of the private road cannot be guaranteed and may impact emergency services response.
- Council should consider the long-term capital and operating costs associated with assuming a private road and the impact on municipal finances.
- Private roads are not constructed to a municipal standard and are inappropriate for permanent residential use.
- Approval may incentivize current and future landowners to create even more lots on Fire Road 7, which extends more than 1 km from the serviced public road.

Environmental considerations

a. Shoreline assessment

Whitson Lake is subject to site-specific policies in the Official Plan in order to protect water quality and assess the potential impact of development on fish and/or wildlife habitats. As part of the pre-consultation process for this file, it was determined that in lieu of a full-site Environmental Impact Study, the owner shall provide a Letter of Opinion from a qualified person with a particular focus on shoreline conditions.

As part of a complete application, the owner subsequently submitted a Letter of Opinion - Summary of Shoreline Assessment prepared by FRi Ecological Services and dated July 10, 2017.

The conclusions and recommendations are summarized as follows:

- Suitable fish habitat is located within 5 to 10 metres of the westerly shoreline based on the aquatic vegetation present in this area;
- Sandy portions of the shoreline, which are extensive, may be used for nesting by snapping turtles;
- No significant wildlife habitat is present on the property;
- Rock protection should be added along the shoreline to prevent further erosion, particularly along the westerly portion;
- Native tree and shrub species should be planted within 5 metres of the shoreline along the westerly section of the land and on exposed soils on the easterly portion;
- Any new dock should be placed where there is limited aquatic vegetation and installed outside of turtle nesting season; and,
- Silt fencing during construction and eavestrough outlets directed away from the lake and into soakaway pits are recommended.

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Staff have reviewed the report and agree with the recommendations with the exception of the proposed shoreline buffering. The recommended 5-metre buffer is deemed insufficient and is not consistent with Official Plan policies applied to Whitson Lake, which require a minimum 15-metre vegetative buffer.

Environmental Planning Initiatives advise that the development of a functional vegetation buffer can be achieved by ceasing to mow within 15 meters of the shoreline and planting some native tree and shrub seedlings. Over time the buffer would develop sufficient vegetation cover to mitigate erosion and create wildlife habitat. A maximum 25% of the shoreline not exceeding 23 metres in length may remain cleared of vegetation in order to accommodate water access and shoreline structures as per the provisions of Section 4.40 of the Zoning By-law.

If this application is approved, the Committee may wish to impose Site Plan Control as a condition of approval in order to ensure that shoreline buffering is implemented in an appropriate manner.

b. Private servicing

The owner provided two (2) documents in support of private servicing:

- Bacteriological Analysis of Drinking Water, which tests private drinking water systems for E. coli and total coliforms (Public Health Ontario – August 3, 2017); and,
- Estimation of Soil Percolation Rate, which analyzed grain size distribution of a soil sample from the site (Terraprobe – July 29, 2017).

The water sampling results were acceptable. Concerning the geotechnical information, only a soil percolation test was conducted based on a hand-delivered sample. There was no on-site investigation by the consultant and no test pits were conducted. There is no description of the geological setting, groundwater levels, or depth of bedrock. As a result, there are no recommendations related to the installation of a private sewage disposal system.

Other land use issues

a. Dwelling unit installed without benefit of a permit

In 2012 a building permit was issued to construct a garage. As part of the review of this application, Building Services attended the site and noted that a dwelling unit has been installed in the garage. An Order to Comply was subsequently issued in November 2017.

Sudbury & District Health Unit advised that a sewage system permit was issued in 2008 for a single detached dwelling. The dwelling was not constructed and the building permit was cancelled. However, the septic system was installed on the southeasterly portion of the property. The owner confirmed that the dwelling unit in the garage is tied into this system.

Building Services advised that the owner has since submitted plans to rectify the matter. If the Committee approves this application, a building permit application to the satisfaction of the Chief Building Official should be required prior to the adoption of the amending by-law.

b. Shipping containers

There are five (5) shipping containers on the property being utilized for storage. The containers were installed in contravention of the Zoning By-law and without benefit of a building permit. The owner advised that four (4) of the containers were purchased approximately 8 years ago and that the fifth shipping container was purchased and installed July 2017.

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Shipping containers are intended for the shipment of goods, not to function as a type of storage building, which presents public safety concerns. Shipping containers have been proliferating throughout the City because the units are inexpensive and easy to install. There are aesthetic concerns due to the negative visual impact.

Planning Services does not support the use of shipping containers on residential properties. An accessory building in the form of a shed or detached garage is the more appropriate form of storage.

Summary

The application to create undersized lots for permanent waterfront residential use on a private road is not consistent with the 2014 Provincial Policy Statement and does not represent good land use planning.

Staff recommend that the applications for Official Plan Amendment and rezoning be denied.