

REPORT TO COUNCIL



Report No.:	PL-2024-20
Council Date:	November 20, 2024
From:	Danielle Waters, Planner
Reviewed By:	Bob List, List Planning
Subject:	Consent Application B46/2021 (Sim)
Applicant(s):	David & Debbie Sim
Owner(s):	David & Debbie Sim

Recommendation

It is recommended:

1. That Report PL-2024-20 be received, adopted, and forwarded to PSAPB;
2. That the Parry Sound Area Planning Board impose the following conditions:
 - a. That the applicant applies for and obtains a Zoning By-law Amendment to, among other matters:
 - i. Increase front yard setback for habitable buildings in accordance with the Noise Impact Study for the severed and retained lands;
 - ii. reduced required frontage for retained lands;
 - b. That the applicant enters into and registers on title a Consent Agreement (51(26)) for the severed and retained lands to reference the Noise Impact Study recommendations, amongst other matters;
 - c. That approval of driveway location(s) for the proposed severed lots to the satisfaction of the Municipality's Public Works Department to be confirmed;
 - d. That the applicant conveys to the Municipality any portion of Burnside Bridge Road, 10.0 metres from the centre of the travelled road controlled by the applicant;
 - e. That cash in lieu of Parkland in accordance with the Municipality's fee By-Law, be received by the Municipality;
 - f. That all municipal taxes be paid to the Municipality of McDougall;
 - g. That adequate 911 addressing be assigned by the Municipality; and
 - h. That any applicable planning fees be paid to the Municipality.

Background

The subject property is legally described as being Part of Lots 69 & 71 RCP Plan 328, Geographic Township of McDougall Township, now in the Municipality of McDougall and has a current municipal address of 41 Burnside Bridge Road. The subject land is approximately 26 hectares with 365 metres of frontage along the river and an equal amount of frontage on the municipal road. The lands are currently used residentially with a single detached dwelling (as shown in Schedule 2).

This application was originally submitted in March 2021 and brought forward at the July 13, 2022 Council Meeting. At this time the application was deferred to allow the applicant time to address concerns regarding the potential noise of the adjacent quarry. The following studies have been submitted:

- Land use Compatibility/Mitigation Study RWDI (Applicant)
- Environmental Noise and Vibration Assessment SLR (Quarry)

With the addition of the data from the quarry's study, the applicant increased the depths of the proposed lots. Schedule 5 shows an overlay of the "worst case scenario" noise (50-dBA), the 300 m

recommended separation (if a site-specific study had not been conducted) the original lot layouts and the revised lot layouts lots.

The application as submitted proposes to create three (3) new residential lots and one retained lot located on Burnside Bridge Road.

	Lot Area	Lot Depth	Minimum Lot Frontage
Minimum Lot Requirements of the RU Zone	1.0 ha (2.47 acres)	100 m	100 m
Retained Land	Approximately 21.5 ha (53.1 acres)	Irregular	Approximately 65.0 m
Severed 1 Land	Approximately 3.5 ha (8.6 acres)	Approximately 381 m	Approximately 100.0 m
Severed 2 Land	Approximately 3.0 ha (7.4 acres)	Approximately 356 m	Approximately 100.0 m
Severed 3 Land	Approximately 2.6 ha (6.4 acres)	Approximately 276 m	Approximately 100.0 m

Analysis

The application has been reviewed under the context of applicable Provincial and Municipal policy framework.

Provincial Planning Statement (PPS), 2024

The Provincial Planning Statement (PPS) provides policy direction on matters of provincial interest related to land use planning and development. The intent of the PPS is to build strong and healthy communities while at the same time, promoting efficient land use and development patterns. Section 8.0 of the PPS defines development as the creation of new lots, a change in land use, or the construction of buildings and structures requiring approval under the Planning Act.

Section 2.5 – Rural Areas and more specifically Section 2.6 – Rural Lands is applicable to this application. Section 2.6.1 (c) of the PPS identifies residential development, including lot creation, as permitted within rural area if it is locally appropriate. The lots will be serviced by private individual services (Section 3.6.4) and will be accessed by a municipally maintained public year-round road. Furthermore, the proposed severed lots would contribute to creating additional housing stock for the community (Sections 2.1 and 2.2).

Section 1.2.6.1 and 2.5.2.4 provides policy respecting the importance of land use compatibility and mineral aggregate operations. There is an active quarry on the lands immediately north of the subject lands and across Burnside Bridge Road. A noise study has been submitted for the subject lands and another for the existing adjacent quarry. The applicant has adjusted the lots, particularly the depth in order to meet the requirements of those studies. Staff are also requiring a condition for a zoning by-law amendment to prohibit habitable structures on certain parts of the proposed lots that would not meet the 50-dBA noise limits.

In consideration of the above, planning staff is of the opinion the submitted application is consistent with the PPS.

Growth Plan for Northern Ontario (2020)

The Growth Plan (2020), is a strategic framework to guide decision making, investment planning, growth, and economic development in Northern Ontario. Section 3.4.3 encourages the Municipality to support and promotes healthy living by providing for communities with a diverse mix of land uses, a range and mix of employment and housing types, high-quality public open spaces, and easy access to local stores and services. These consent applications will encourage development and allow for the increase in the housing stock.

Planning Staff is of the opinion that the application conforms to Growth Plan for Northern Ontario, 2020.

Municipality of McDougall Official Plan

The subject property is generally designated Waterfront in the Municipality's Official Plan. Section 8.01 of the Official Plan outlines general consent policies for all land designations. Based on this section:

- Three (3) new lots are being proposed;
- The proposed new lots and retained lot are consistent with the pattern of development within the vicinity;
- The severed parcels will meet all of the minimum requirements of the zone;
- The retained lot will not meet the minimum requirements of the zone; however, this will be addressed in the required zoning by-law amendment condition.

In accordance with Section 21.02, the designation boundaries illustrated on Schedule 'A' - Land Use Plan are to be considered as approximate only. Amendments to the designation limits will not be required for minor interpretations of boundary locations or other directions provided in the plan. Once the lands, or a portion of the lands have the waterfrontage removed, it can be interpreted that the lands more appropriately belong in the Rural designation. Given the minor nature in boundary location, the application should also consider the Rural designation consent policies. Section 19.02.4 Consents to create new lots in the Rural designation will be subject to the following:

- a) the lot is located on and has access to a road which has been opened, established and publicly owned and maintained on a year-round basis - *conforms*
- b) the proposed driveway location must be satisfactory to the Municipal Road Superintendent and must not be located on a curve or hill where a dangerous condition would be caused for other drivers - *conforms*
- c) the resulting development will not contribute to an unreasonable demand for the enlargement of municipal services – *conforms*
- d) the lot sizes are generally greater than 1.0 hectare and road frontages are approximately 100 metres - *conforms*

Section 14.05 Mineral Extraction ensures that no future development will hinder the activity of the existing extraction site. The quarry adjacent to the subject lands submitted a study titled "Environmental Noise & Vibration Assessment" by SLR Consulting (Canada) LTD. The study evaluates the MOECP Guideline D-6 which recommends, in absence of a site-specific study, a Minimum Separation Distance of 300m for a Class III Heavy Industrial use. However, it should be noted that this is a recommendation only. Section 4.10 of the Guideline allows for development within the separation distance, if a site-specific study indicates that the applicable noise guidelines are met. As such, residential development

(and the severance of the lot in question) would be allowed under Guideline D-6. This is consistent with the existence of residences within 300 m of the Quarry.

Staff are recommending a Zoning By-law Amendment to add an exception zone that will limit the location of habitable structures on certain parts of the proposed lots by increasing the front yard setback from the road on each of the severed parcels, in order to ensure that the building locations can comply with the noise study completed. The applicant has submitted a revised lot layout (Schedule 4) which doubled the original depth of the proposed lots in order to comply with the noise studies submitted. Schedule 5 shows an overlay of the “worst case scenario” noise (50-dBA), the 300 m recommended separation (if a site-specific study had not been conducted) and the proposed lots. As shown in this schedule, there is a portion of each lot that is located outside of 300m recommended setback and outside the 50-dBA safe noise area. With the site-specific study which indicated the location of the 50-dBA noise limit, there is also a portion of each lot that is located within the 300m recommended setback. With this restriction, the condition of prohibiting the location of habitable structures on the lots to meet the 50-dBA noise limits will be met and satisfy the intent of the Official Plan (to not impede on the operations of mineral/aggregate resources).

Planning Staff are of the opinion that the proposed consents of the lands would conform to the general intent and purpose of the Municipality’s Official Plan.

Municipality of McDougall Zoning By-Law

The subject property is zoned Waterfront Residential One Limited Service (WF1-LS) and Rural (RU) due to its location fronting on Mill Lake. As the proposed lots are not to be located fronting on the lake, they have been evaluated based on the Rural (RU) Zone in the Municipalities Zoning By-law. This zone permits residential uses and is a more appropriate zone for the proposed lots. Staff recommend a condition of consent to require a Zoning By-Law Amendment to change the zoning of the severed lots from WF1-LS/RU to RU Exception Zone and the retained lands from WF1-LS/RU to WF1.

Section 4.02 a), b), c) and 7.02 a), b), c) outline the zone standards for the RU and WF1 zone. The below chart outlines the minimum requirements and the resulting lot area, depth and frontage as per the proposed lot configuration. The proposed severed lots meet all of the minimum requirements for the Rural zone.

	Lot Area	Lot Depth	Minimum Lot Frontage
Minimum Lot Requirements of the RU Zone	1.0 ha (2.47 acres)	100.0 m	100.0 m
Severed 1 Land	Approximately 3.5 ha (8.6 acres)	Approximately 381.0 m	Approximately 100.0 m
Severed 2 Land	Approximately 3.0 ha (7.4 acres)	Approximately 356.0 m	Approximately 100.0 m
Severed 3 Land	Approximately 2.6 ha (6.4 acres)	Approximately 276.0 m	Approximately 100.0 m
Minimum Lot Requirements of the WF1 Zone	0.5 ha (1.2 acres)	60.0 m	70.0 m
Retained Land	Approximately 21.5 ha (53.1 acres)	Irregular	Approximately 65.0 m

Based on the above, Planning Staff is satisfied that the application conforms to the general intent and purpose of the Municipality’s Zoning By-law.

Section 3(5) of the Planning Act requires that all decisions in respect of the exercise of any authority that affects a planning matter shall be consistent with provincial policy statements and shall conform with or shall not conflict with the provincial plans that are in effect on the date of the decision.

It is Planning Staff's opinion that the requested consent is consistent with the PPS 2024, the Growth Plan for Northern Ontario, the applicable matters of Provincial interest and the Municipality's Official Plan.

Policies/Legislation

- Planning Act, R.S.O. 1990, c. P.13
- Provincial Planning Statement (PPS), 2024
- Growth Plan for Northern Ontario, 2020
- Municipality of McDougall Official Plan
- Municipality of McDougall Zoning By-law No. 2017-05, as amended

Consultation

The Municipality of McDougall is a commenting agency for consent applications. Notice of this application is to be circulated to the public and various review agencies by the Parry Sound Area Planning Board (PSAPB) as well as a notice sign to be posted on the lands. Council for the Municipality of McDougall and Committee for PSAPB shall have regard for any comments received after the preparation of this report. At the time of the preparation of this report, the Municipality has the following comments:

- Director of Corporate Services/Clerk
 - Lands should be rezoned to establish increased front yard setback, and to implement vegetative buffers and building criteria. Notice should also be registered on title acknowledging the quarry operations.
- Chief Building Official
 - These lots should be subject to site plan control to implement the recommendations of the study.
- Adjacent Landowner
 - The property owner that operates a pit adjacent to the north of the subject lands has provided comments in respect to the application previously. They had previously launched concerns with the design of the lots. Noise impact studies completed by both the applicant and the adjacent land owner confirmed the need for larger lots. As a result of ongoing consultation with the applicant and adjacent land owner, the applicant has revised the lot sizes by increasing the depth and front yard setbacks, to allow all lots to meet the noise guidelines. Additionally, several conditions of consent will mitigate the noise on the proposed lands and ensure further purchasers are aware of the active quarry.
 - Notwithstanding the above, the adjacent quarry owner, has requested a deferral of this application. In the opinion of staff, said deferral request is unwarranted given the alterations made to the proposed lots, and conditions to be imposed to ensure the noise impact studies are met (including site regulations to limit developable area on each lot).

Financial Budget Impact

There are no budgetary impacts because of the recommendation of this report. Should the application be appealed to the Ontario Land Tribunal, there could be additional cost for staff representation if required.

Attachments

- Schedule 1: Location Map
- Schedule 2: Aerial
- Schedule 3: Original Lot Layout
- Schedule 4: Revised Lot Layout
- Schedule 5: Quarry Study and Revised Lots overlay
- Schedule 6: McDougall Official Plan
- Schedule 7: McDougall Zoning By-law

Conclusion

Planning staff does not anticipate an adverse impact on abutting property with the proposed severed lots therefore planning staff is of the opinion that submitted consent application conforms to and is consistent with applicable Provincial and Municipal land use policies, and represents good planning.