

THE CORPORATION OF THE MUNICIPALITY OF MISSISSIPPI MILLS

STAFF REPORT

DATE: May 17, 2022

TO: Committee of the Whole

FROM: Melanie Knight, Senior Planner

SUBJECT: Zoning By-law Amendment Z-02-22
CON 12 PT LOTS 25; AND 26 RP 26R99 PART 5 RP;27R9218
PART 4 RP 27R11237; PARTS 1 TO 7
Pakenham Ward, Municipality of Mississippi Mills
Municipally known as 3232 12th Concession, Pakenham North

OWNER/APPLICANT: Michael Ryan

RECOMMENDATION:

THAT Committee of the Whole recommend that Council approve the Zoning By-law Amendment to amend the zoning of the lands municipally known as 3232 12th Concession 12, Pakenham from “Agricultural (A-31) Zone” and Limited Service Residential Zone to “Agriculture Special Exception” (A-44).

BACKGROUND:

The property is located on the northeast side of 12th Concession North, Pakenham. The property was originally a land-locked parcel with no frontage onto an opened municipal right of way. Access to the property was granted via a legal right-of-way easement over the property to the immediate south, in favour of the subject property. The original, land locked parcel is zoned Limited Service Residential (LSR). The lands continue to be vacant.

The property was subject to a lot addition application in 2018 (B18-058), which added a narrow strip of land providing proper frontage onto 12th Concession North, in addition to a small remnant parcel of land from the agricultural property. The area of the lot addition was ‘split zoned’ a site-specific Agricultural zoning (A-31) as well as LSR.

Attachment 1 is an image from the 2018 consent report that clearly shows the lot addition.

Figure 1 below shows the current zoning of the subject lands, split zoned as A-31 and LSR. The subject property, including the lot addition from 2018, is outlined in red below.

The applicant inquired with the Municipality in December 2021 regarding the required setbacks to construct a single detached dwelling in the spring of 2022. At that time, Planning staff informed the applicant of the Interim Control By-law which is in effect, that

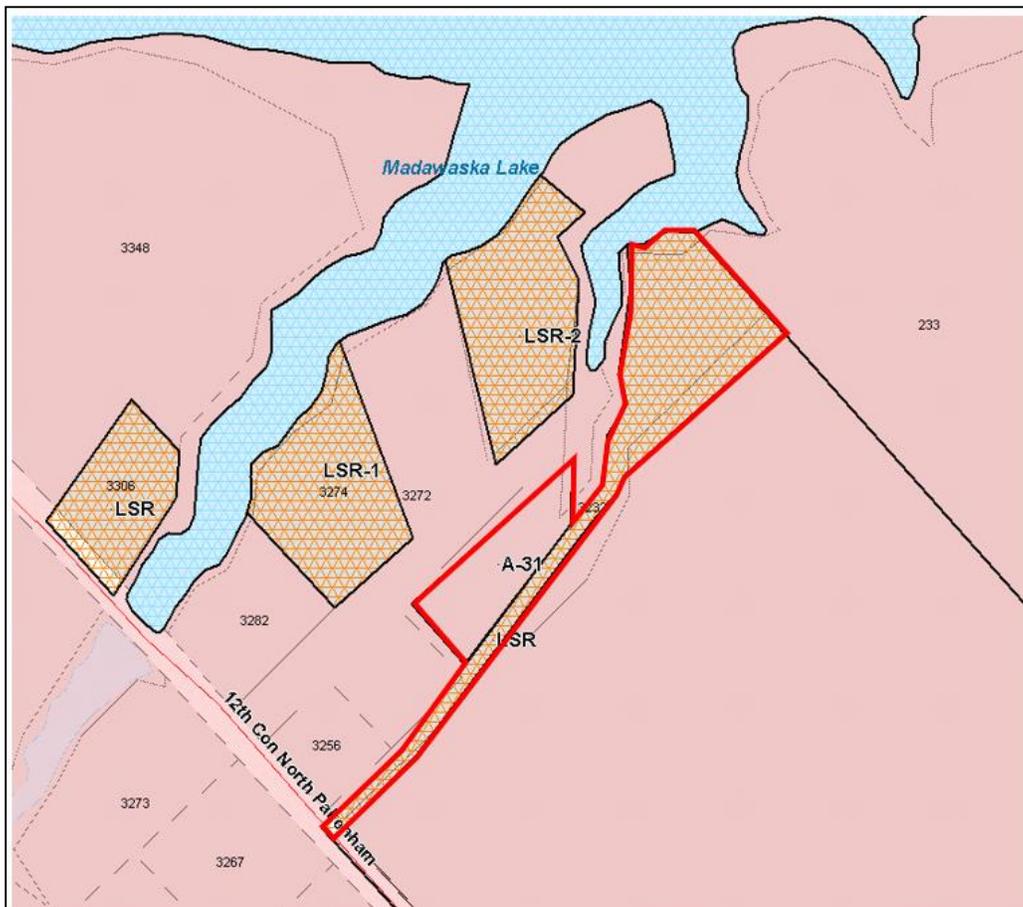
limits development of lots zoned LSR. As a result, the applicant is unable to obtain a building permit for the area of the property zoned LSR until the Interim Control By-law expires.

In addition, the A-31 zoning is a site-specific zoning as a result of a surplus farm dwelling severance from the farming operation to the south of the subject property. As with all surplus farm dwelling severances, the A-31 zoning restricts the development of single detached dwellings. Therefore, a building permit for a single detached dwelling was not able to be issued for either the LSR zoned portion of the property or the A-31 portion of the property.

At the time of the applicant's inquiry, Planning staff had reviewed the file in depth and determined that the LSR zoning could be amended for the property because as a result of the lot addition the property obtained proper frontage on an opened, municipal road. Thus, Planning staff could consider an application to amend the existing LSR zoning for the property.

Further detail regarding the Interim Control By-law and how it pertains to this property is contained in the Zoning By-law section of the report.

Figure 1 – Existing Zoning



PURPOSE AND EFFECT

The purpose and effect of the Zoning By-law Amendment is to rezone the property from “Limited Service Residential (LSR) and Agricultural Special Exception” (A-31) to an Agricultural Special Exception (A-44) zone to regularize the zoning on the property, recognize that the subject property has frontage on an opened, municipal road allowance and to permit the construction of a single detached dwelling as shown on the applicant’s sketch (contained in Attachment A).

The applicant also amended their application requesting a reduced setback of 18.28 metres from the highwater mark from the required 30 metre setback from required in the Zoning By-law (Section 6.24 Setbacks from Watercourses and Waterbodies).

DESCRIPTION OF PROPERTY & SURROUNDING LAND USES

The subject lands are located near the northern corner of the Municipality of Mississippi Mills, bordering the City of Ottawa, Town of Arnprior, and the Township of McNab/Braeside. The lands fall immediately adjacent to Madawaska Lake. The surrounding character is predominantly agricultural with non-farm, residential properties bordering Madawaska Lake.

SERVICING & INFRASTRUCTURE

The property is currently vacant. To facilitate the development of a single detached dwelling, the applicant will be required to obtain the necessary building permits, septic and well approvals to service the proposed single detached dwelling.

As previously mentioned, the property has frontage along 12th Concession North Pakenham.

COMMUNITY OFFICIAL PLAN (COP)

The property is designated Agricultural in the Community Official Plan. The Agricultural designation permits agricultural operations and accessory residential dwellings, non-farm residential dwellings, and home-based businesses (among others), as further detailed in the Zoning By-law.

ZONING BY-LAW #11-83

It is recognized that the municipality currently has an Interim Control By-law in effect restricting Planning Act applications proposing any new Limited Service Residential (LSR) zone or development without frontage on an opened, municipal road allowance and other related restrictions. The Interim Control By-law does not affect these lands as the property has frontage on an opened, municipal road allowance and is proposing to amend the existing LSR Zone, therefore not proposing a new LSR zone but rather regularize the zoning the lot to a Special Agricultural Zone.

The purpose of the LSR zone as contained Zoning By-law #11-83, is to:

*“(1) recognize and permit limited-service residential development in areas designated as Rural in the Community Official Plan;
(2) permit residential-only uses as well as related and accessory uses;
(3) regulate development in a manner that respects the rural character of the area.*

In this By-law, limited service means municipal services which may normally be provided on an opened public highway will not be guaranteed including, but not limited to, snow ploughing, road grading, school busing, garbage pickup, access by emergency vehicles, sanitary sewers, or piped water supply.”

In addition, Section 6.7 of the Zoning By-law provides the following General Provision as it relates to LSR zoned lots:

“6.7 FRONTAGE ON A PUBLIC STREET

(1) No building or structure shall be erected in any zone except the Limited Services Residential (LSR) Zone unless the lot on which such building or structure is located has frontage on a road which is an improved road and is part of the Corporation’s approved road system.”

As a result of the lot addition in 2018, there above noted LSR zoning provisions no longer apply to the subject lands.

After a review of the Zoning By-law Amendment through the circulation stage, two notable items were identified. First, the applicant has amended their application and requested a setback of 18.28 metres from the watercourse and two, the existing 12 metre lot frontage that was a result of the lot addition in 2018 is deficient for a non-farm residential dwelling. As a result, both of these items are discussed below in the Evaluation Section of the report. Staff are of the opinion that no further *Planning Act* notice is necessary as both of these zoning provisions are directly related to the construction of a single detached dwelling on the property, which is the purpose of the Zoning By-law Amendment.

PUBLIC AND AGENCY COMMENTS RECEIVED:

Staff circulated the application in accordance with the provisions of the Planning Act to the public, internal departments and external agencies and organizations.

The following comments were received:

Public Comments

Questions were received from the a few members of the public requiring further explanation of the requested Zoning By-law Amendment. After speaking with Planning staff, both members of the public were satisfied with the information and declined to be notified of the decision of Council regarding the Zoning By-law Amendment.

Internal Departments and External Agencies/Organizations

- Mississippi Mills Parks Department: No comment
- Mississippi Mills Public Works Department: No concerns, if the owner has not already obtained an entrance permit and civic address, these will be required to be obtained.
- Ministry of Natural Resources and Forestry (MNDMNR): provided the following comments after staff inquired if the MNDMNR was able to provide feedback with respect to the proposed 18.28 metre setback from the shoreline:

Input from MNDMNR is typically via the MMAH One-window process and re-Zoning is not our mandate to review unless the Crown is an adjacent landowner or there is a significant PPS interest at stake. Neither of these apply to this application. The establishment of the vegetated delineation of the high watermark is a local determination in support of the municipal Zoning requirements.

After receiving the above comment from MNDMNR, staff reached out to the MVCA for guidance on this matter. The MVCA has provided staff with a guidance document to evaluate proposals such as this, where no highwater mark information exists. Further discussion on the requested reduced setback is contained below in the Evaluation Section.

EVALUATION

Community Official Plan

The subject property is designated Agricultural (A) in the Community Official Plan. The Agricultural designation permits agricultural operations and accessory residential dwellings, non-farm residential dwellings, and home-based businesses (among others), as further detailed in the Zoning By-law. The proposed Zoning By-law Amendment meets the intent of the Agricultural designation as it relates to non-farm residential dwellings.

Section 4.1.1.4.1 General Policies of the Community Official Plan speaks to setbacks from highwater mark. In the event that a proposed development is requesting a reduction in the setback from (a known) highwater mark, the Official Plan policies requires an EIS to be completed to evaluate the proposed setback; however, the policies are silent on determining the established highwater mark where one is not available.

Based on the information provided to staff by their colleagues at the MVCA (Surface Water Features Protection Discussion Paper, City of Ottawa), many municipalities also use a setback from the top of bank to determine appropriate setbacks for development near watercourses. Recently, the Planning Department has had contour information added to CGIS. Using the contours that are in CGIS, staff are recommending that the

setback to the proposed dwelling be measured from the top of bank since the highwater mark is unknown. Based on the municipal scan contained in the guidance document, staff are recommending a 15-metre setback from the top of bank as appropriate and consistent with many other municipalities approach to top of bank setbacks.

Zoning By-law #11-83

As previously mentioned, the property is split zoned A-31 and LSR. The A-31 originated from a surplus farm dwelling severance on the adjacent farm parcel to the south. In 2018, a lot addition was completed to add a small portion of the A-31 property to the subject property; however, at that time, the property was not rezoned to regularize the split zoning.

As previously noted, the LSR zone is no longer applicable as the property has frontage onto an open, municipal road as a result of the 2018 lot addition.

Staff are of the opinion that the Zoning By-law Amendment to amend the zoning to provide a site-specific setback for the dwelling from the watercourse and to regularize the zoning meets the intent of the Zoning By-law. As previously mentioned in the above section, staff are recommending a 15-metre setback from the top of bank for the proposed dwelling as an appropriate setback from the watercourse. Attachment B contains the applicant's site sketch and the image illustrating the top of bank location as delineated by the municipality's contours in CGIS.

The performance standards for a non-farm residential use are shown in the chart below:

Provisions	Agricultural	Non-Farm Residential
Lot Area, Minimum (ha)	40	0.4
Lot Frontage, Minimum (m)	150	45
Side Yard, Minimum (m)	20	6
Rear Yard, Minimum (m)	20	9
Front Yard, Minimum (m)	20	9
Exterior Side Yard, Minimum (m)	20	9
Maximum Height of detached dwelling (m)	11	11
Lot Coverage, Maximum	5%	15%
Minimum Separation from an accessory detached dwelling to any structure where animals are housed (m)	30	30

As noted previously in the report, the lot addition in 2018 provided the property with legal frontage onto an opened, municipal road; however, for a non-farm residential use, the minimum lot frontage required (above) is 45 metres. The lot addition provided a frontage onto 12th Concession of 12 metres wide which does not meet the minimum 45 metres. As such, staff are recommending that a site-specific provision be added to the requested Zoning By-law Amendment recognizing the existing 12 metre lot frontage.

Staff note that the property is irregularly shaped, which can often result in different interpretations of yards. For the purposes of clarity, staff have included a schedule within the By-law which provides the interpretation of the lot lines for the purposes of development to ensure consistent implementation of the lot lines and required setbacks for any development on this property.

The by-law has been drafted and is appended to this report.

SUMMARY

Having reviewed and assessed the proposed Zoning Amendment application, staff are satisfied that the proposal is consistent with the Provincial Policy Statement 2020, conforms to the intent of the Community Official Plan and satisfies the applicable sections of Zoning Bylaw #11-83. As the development proposal complies and conforms to all applicable policies based on the analysis included herein, staff have no concerns regarding the proposed zoning by-law amendment.

It is the professional opinion of the Planning Department that the proposed development to amend the Zoning By-law is appropriate and desirable.

Respectfully submitted by,

Reviewed by:



Melanie Knight
Senior Planner

Ken Kelly
CAO

ATTACHMENTS:

Attachment A – Location Map and 2018 Lot Addition

Attachment B – Property Sketch and Top of Bank

Attachment C – Draft By-Law