

Corporate Report

REPORT NUMBER Addendum to Report 253-2023-Infrastructure, Development & Operations-Planning Services

DATE PREPARED	November 16, 2023	FILE	Z-01-2023
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MEETING DATE Committee of the Whole – November 20, 2023

SUBJECT Proposed Zoning By-law Amendment – 2301 Government Rd

RECOMMENDATION

Corporate Report 253-2023-Infrastructure, Development & Operations-Planning Services, presented on October 23, 2023, did not recommend that a private event venue be permitted.

Should Council wish to support the request of the Applicant to define and permit a private event venue, with the support of a Noise Impact Assessment, the following Resolution is provided for Council's consideration.

WHEREAS a Public Meeting was held with respect to the application by P and J Sklazeski, relative to the property described as West Half of Southeast Quarter of Mining Location 24 less PARTS 1 to 4 on Plan 55R4133, municipally known as 2301 Government Road, for a site-specific amendment to the City of Thunder Bay Zoning By-law 1-2022.

AND WHEREAS Council has decided that an amendment which would have the effect of allowing the operation of a private venue on the subject property is compatible with surrounding land uses and represents good planning subject to a satisfactory Noise Impact Assessment.

THAT the following amendments to the Zoning By-law be approved for the property known as 2301 Government Road:

1. That a holding symbol be applied to the lands.
2. That a "private venue" be defined as "a **place** rented to private groups for a fee for the purpose of recreation, cultural, or social activities and events, including but not limited to the following:
 - Private events such as weddings, parties, and workshops.
 - Organized leisure and educational activities which primarily take place outdoors such as running, walking, skating, cycling,

horseback riding, foraging, outdoor fitness classes, and outdoor education related to the natural environment.

The term excludes any use involving **motor vehicles**, except for those used for general maintenance or personal **use**. The term also excludes concerts, festivals, fairs or retail markets, commercial swimming pools, commercial saunas, miniature golf courses, or any large-scale **outdoor recreation use** such as amusement parks, overnight cabins, recreational vehicle parks, driving ranges, golf courses, ski resorts, zoos, and racetracks.

3. That a “private venue” be permitted as a **secondary use** to a **detached house**.
4. That, in the case of a “private venue”, the following regulations be established:
 - a. The maximum total **gross floor area** (GFA) for **buildings** and roofed **structures** is 650.0 m².
 - b. The maximum overall **height** is 15.0 m.
 - c. The maximum number of **storeys** is two.
 - d. The minimum area reserved for parking must accommodate no less than 200 **parking spaces** and associated **parking aisles**.
5. That a “private venue” is not permitted while the holding symbol is in place.
6. That the holding symbol may be removed when the following condition is met:

That a Noise Impact Assessment prepared by a Qualified Professional is received that demonstrates compatibility with the surrounding land uses by establishing reasonable limits for noise impacts from the proposed use using any relevant guidelines or standards and may identify recommended mitigation measures to the satisfaction of Planning Services.

AND THAT the lands be designated as an area of Site Plan Control.

AND THAT the necessary By-laws are presented to City Council for ratification.

EXECUTIVE SUMMARY

At the Public Meeting held on October 23, 2023, Planning Services presented Corporate Report 253-2023-Infrastructure, Development & Operations-Planning Services with a recommendation that Council approve a modified Zoning By-law Amendment to define, permit, and establish development parameters for a recreation facility at 23-1 Government Road. This did not include a key portion of the Applicant’s

request which was to also define, permit, and establish development parameters for a private event venue.

The Planning Report explained that most planning concerns could be addressed, except for the levels, frequency, and hours of noise related to private events. As such, Administration could not recommend approval of a private event venue.

A significant number of objectors attended the meeting and expressed concerns with the Applicant's request; especially the broad scope of the requested land uses, and size of the proposed structures and buildings associated with those uses.

Council referred the matter back to Administration for the purpose of confirming plans for the recreation facility structure and the specific uses of an event venue, and any other planning act tools such as the application of site plan control or temporary use, being options that may be applied to regulate the intended use.

DISCUSSION

Applicant's revised request

The Applicant has revised their request to provide more clarity to the scope of their proposed development. They have combined the recreation and event venue components as one use, excluded several specific land uses of concern, and provided additional development parameters such as setback and minimum parking.

The Applicant has requested the following site-specific zoning amendments:

1. Define "private venue" as follows:

Private venue – a **place** rented to private groups for a fee for the purpose of recreation, cultural, or social activities and events, including but not limited to the following:

- Private events such as weddings, parties, and workshops.
- Organized leisure and educational activities which primarily take place outdoors such as running, walking, skating, cycling, horseback riding, foraging, outdoor fitness classes, and outdoor education related to the natural environment.

The term excludes any **use** involving **motor vehicles**, except for those used for general maintenance or personal **use**. The term also excludes concerts, festivals, fairs or retail markets, commercial swimming pools, commercial saunas, miniature golf courses, or any large-scale **outdoor recreation use** such as amusement parks, overnight cabins, **recreational vehicle** parks, driving ranges, golf courses, ski resorts, zoos, and racetracks.

2. Permit "private venue" as a **secondary use** to a **detached house**.
3. Establish the following regulations for a "private venue":

- a. The maximum total **gross floor area** (GFA) for **buildings** and roofed **structures** is 650.0 m².
- b. The maximum overall **height** is 15.0 m.
- c. The maximum number of **storeys** is two.
- d. The minimum **front setback** is 150.0 m.
- e. The minimum area reserved for parking must accommodate no less than 200 **parking spaces** and associated **parking aisles**.

The proposed changes clarify the scope of the proposed use, but do not address compatibility concerns related to large events such as weddings. As such, Administration does not recommend approval of the requested amendment.

The recommendation contained in Corporate Report 253-2023-Infrastructure, Development & Operations-Planning Services, presented on October 23, 2023, recommends that a recreation facility be permitted at the subject location, but does not recommend that a private event venue be permitted. The Applicant indicated that the recreation component is not desired without the event venue component, as such they have requested that both uses be approved. They have indicated that the event venue is their main request and recreation uses would be minor complementary activities.

Land Use Compatibility

Land use compatibility is achieved where different uses can coexist now and in the future without significant adverse impacts on each other and without hindering the normal activities associated with those uses.

The intensity of potential adverse impacts is related to both the nature and scale of the development. Administration supported the scale of the development for the purposes of recreation. Recreation, as opposed to an event venue, generally requires more space per person, would not be associated with amplified sound, and would typically not occur past 11 p.m.

Administration is concerned that the frequency, level, and time of day (i.e. after 11 p.m.) of noise related to the proposed event venue would not be compatible with the surrounding rural area. Other adverse impacts may be caused by the proposed scale of the use such as inconvenience from increased traffic or the visual impacts of parking in the front field.

City Engineering is not concerned with the increase in traffic related to the proposed use. Government Road is a Rural Arterial and has more than sufficient capacity to accommodate the traffic.

Parking in the front yard is not desirable from a streetscape perspective and would not be consistent with a rural setting. While the Applicant is not intending to pave or add gravel to this area, repeated use may degrade the existing green field and create the need to construct a solid surfaced parking lot. Site Plan Control would be the best tool

to address this matter as a suitable parking area could be identified and any recommended visual screens (e.g. trees) could be incorporated.

Suitable development controls exist already to protect Natural Heritage features and address any risks from Natural Hazards (i.e. flooding). Any development proposed in proximity to the creek will require an Environmental Impact Study (EIS) and a permit from the Lakehead Region Conservation Authority.

Other concerns such as property values, crime, or the duplication of services are not explicitly related to land use planning. Planning has consideration for matters that may impact property values and crime such as land use compatibility and site design, but there are many other factors which have greater impacts on these matters. Restricting market competition between businesses through zoning is not under the purview of planning.

Scale

The Applicant has modestly reduced their requested maximum size for the event venue from 700 to 650 m². The Applicant's immediate plans are to use an approximate 375 m² tent for events along with a small tent for catering and a portable washroom (max 50 m²). The additional 225 m² would allow the Applicant to construct a larger permanent building in the future. They had stated that this would accommodate ceremony space (for inclement weather) and storage.

Without a building design, it's challenging to assess the proposed scale of the building and its potential capacity as an event space. There is a difference between occupant load as determined by Building Code requirements (e.g. access/egress, number of washrooms) and what an event space can actually accommodate comfortably. Maximum occupant load is usually higher than seating capacity. The best way to limit the size of events is through the size of the GFA for a built structure.

650 m² for up to 400 guests would be one of the larger wedding venues in the City. Several are currently advertising maximum seating capacity for 200-375 guests. While the intent may be for ceremonies, the additional space could be used to increase the size of the events.

Storage would not be included in the maximum GFA as it is accessory and would not increase the scale or intensity of the venue use.

Noise Impact Assessment

Administration has not received a written Noise Impact Assessment prepared by a Qualified Professional such as a Professional Acoustic Engineer. Preliminary sound measurements may have been taken that would contribute to a future study, but at this time no report has been provided. Should Council wish to approve the Applicant's request, it is recommended that approval be conditional upon the receipt of a satisfactory Noise Impact Assessment prepared by a Qualified Professional, which demonstrates compatibility with the surrounding land uses by establishing reasonable

limits for noise impacts from the proposed use on the surrounding rural area, using any relevant guidelines and standards. Through this assessment, any recommended mitigations to reduce impacts should be identified.

A Noise Impact Assessment may make recommendations which affect the scope of the proposed development, the type of structure, or the site design. Mitigation measures could be implemented through the Site Plan Approval process.

Holding Provision By-law

Section 36 of the Planning Act allows for Council to apply holding provisions through zoning which prohibits specified types of development on the property until prescribed conditions are fulfilled. The Official Plan states that holding provisions may be applied when the completion of studies or plans that address environmental, economic, or other technical concerns are necessary prior to development. A holding provision could be applied to the subject property which would prevent the proposed use until a satisfactory Noise Impact Assessment is received.

Studies are sometimes required as part of a complete Zoning By-law Amendment Application. In these instances, guidelines or policies typically exist which direct staff to request studies for certain types of development or constraints. A private event venue in a rural area is not specifically contemplated by the Official Plan and may be an emerging trend. As such, no studies were required through Pre-Consultation. Through further research, staff have reviewed similar zoning applications in Ontario and found that Noise Impact Assessments have been used to address noise concerns.

Municipal Noise By-law

The City of Thunder Bay's Noise By-law regulates noise nuisances associated with modern municipalities. It is not intended to address compatibility issues between land uses.

This by-law prohibits amplified music and other event related noises such as yelling or singing between the hours of 11:00 p.m. and 7:00 a.m. on weeknights and 9:00 a.m. on weekends and holidays. As discussed in Report 253-2023, activities associated with a lawful commercial use are exempt from this by-law.

City Council may amend this by-law to exclude special event venues from this exemption, but it would impact all existing venues not just the proposed venue. The Noise By-law applies to all properties across the City. Amending this by-law would require significant administrative work and public consultation. Amending this by-law to remove the exemption could result in more frequent noise complaints and put unnecessary pressure on municipal enforcement and police to respond. As such, Administration does not recommend that the Noise By-law be amended.

Temporary Use By-laws

Section 39 of the Planning Act allows for Council to pass a temporary use by-law. These by-laws authorize the temporary use of land or buildings for purposes that would otherwise be prohibited, for a period not to exceed three years. A use allowed under this by-law does not obtain legal non-conforming use status after the three years. Unless Council passes a by-law to extend the use, it must cease. Council may extend the by-law continuously, but each extension is limited to a maximum of three years.

The Official Plan allows temporary use by-laws provided the following criteria can be met:

1. The temporary use does not require major capital investment or alteration to the existing built form or lands, including extension to public services.
2. The proposed use is compatible with surrounding uses and meets general development standards.
3. The use is permitted for a period not exceeding 3 years.

It is Administration's opinion that it has not been demonstrated that the proposed private venue is compatible with surrounding uses. As such, Administration does not recommend that a temporary use by-law be passed to permit the proposed use.

If Council is satisfied that the proposed development is compatible with surrounding land uses, it may pass a site-specific Zoning By-law Amendment on the subject property that would expire after three years. At that time, Council may consider extending the temporary use permission or allowing the use indefinitely.

The Applicant has indicated they would like the amendment to be applied on a permanent basis.

Site Plan Control

Section 41 of the Planning Act allows for Council to pass a by-law to designate all or a portion of the municipality as a Site Plan Control area. Any development within the designated area requires the Applicant to complete the Site Plan Approval process. Through Site Plan Approval, Administration can review a range of site design matters such as parking areas, grades, elevations, landscaping, building location, drainage and stormwater management. Once a satisfactory site plan is approved, a site plan agreement between the city and the owner is registered on title. This agreement ensures the development is constructed as agreed and is enforceable against the current and all subsequent owners.

Council may pass a by-law to designate the subject property as an area of Site Plan Control. This would require the Applicant to apply for Site Plan Approval prior to constructing any buildings related to the proposed land uses. Through Site Plan Approval, Administration could confirm matters such, but not limited to:

- the location, design, scale and massing of all buildings, structures, facilities, signage, and site works.
- appropriate mitigation measures identified to address impacts of the development.
- appropriate and functional on-site services and facilities are provided, including, ingress and egress, parking, waste management, and snow storage facilities/areas.
- the protection of existing natural features, including individual trees.

If the property is designated as a Site Plan Control area, Site Plan Approval would not be required for the placement of a temporary tent unless specific mitigation measures were recommended through a Noise Impact Assessment that required site works. If a permanent building were proposed in the future, Site Plan Approval would be required prior to issuance of a building permit.

FINANCIAL IMPLICATION

Development costs associated with the proposed use of the property would be the applicant's responsibility. There are no other direct financial implications anticipated with the proposal.

CONCLUSION

Council referred the requested site-specific Zoning By-law Amendment at 2301 Government Road back to Administration for the purpose of confirming plans for the recreation facility structure and the specific uses of an event venue, and any other planning act tools such as the application of site plan control or temporary use, being options that may be applied to regulate the intended use. The Applicant has clarified the scope of their request and Administration has provided information on the Noise By-law and several Planning Act tools available to Council.

REFERENCE MATERIAL ATTACHED

N/A

REPORT PREPARED BY

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REPORT SIGNED AND VERIFIED BY

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Date (11/16/2023)