



**THE CORPORATION OF THE MUNICIPALITY OF TEMAGAMI**  
**SPECIAL COUNCIL MEETING**  
**AGENDA**

**Thursday, May 26, 2022, 6:30 P.M.**

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An audio recording of the Open Session of this meeting is being made and will be available through the Municipal Website as a public service to further enhance access to municipal government services and to continue to promote open and transparent government. As a visitor, your presence may be recorded and your name and address may be revealed during certain parts of the Council meeting.

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**Pages**

**1. PURPOSE OF THIS SPECIAL MEETING**

A Public Meeting of Council to be held on May 26, 2022 at 6:30 p.m. by electronic participation is for Council to receive comments pertaining to a Zoning By-Law amendment for 4570 Highway 11 North.

**2. CALL TO ORDER AND ROLL CALL**

**3. DECLARATION OF CONFLICT OR PECUNIARY INTEREST AND GENERAL NATURE THEREOF**

**4. DELEGATIONS/ PRESENTATIONS**

**4.1. 4570 Highway 11 North - ZBA 22-01**

1

Draft Motion:

BE IT RESOLVED THAT Council receives the Information Planning Report dated May 26, 2022, respecting Zoning By-law Amendment No. 22-01; and,

AND FURTHER THAT Council directs staff to prepare a subsequent Recommendation Planning Report, for presentation to Council at a subsequent Council Meeting, that considers the feedback and comments received at the May 26, 2022 Statutory Public Meeting.

**5. ADJOURNMENT**

Draft Motion:

BE IT RESOLVED THAT this meeting adjourn at X:XX p.m.

<b>MUNICIPALITY OF TEMAGAMI</b>			
<b>Report Prepared For:</b>	Suzie Fournier, Municipal Clerk	<b>Application Number:</b>	ZBA 22-01
<b>Report Prepared By:</b>	Jamie Robinson, BES, MCIP, RPP and Patrick Townes, BA, BEd	<b>Applicants:</b>	Jeffrey De Decker and Melissa Sones
<b>Location:</b>	4570 Highway 11 North	<b>Owners:</b>	Same as Applicants
<b>Report Date:</b>	May 26, 2022	<b>Application Type:</b>	Zoning By-law Amendment

#### **A. RECOMMENDATION**

THAT Council receives the Information Planning Report dated May 26, 2022, respecting Zoning By-law Amendment No. 22-01; and,

THAT Council directs staff to prepare a subsequent Recommendation Planning Report, for presentation to Council at a subsequent Council Meeting, that considers the feedback and comments received at the May 26, 2022 Statutory Public Meeting.

#### **B. PROPOSAL/BACKGROUND**

A Zoning By-law Amendment application has been submitted by the owners of the subject property, located at 4570 Highway 11 North. The owners of the subject property are Jeffrey De Decker and Melissa Sones.

The general purpose and effect of the proposed amendment is to permit a dwelling unit within the portion of the subject property that is located within the Tourist Commercial (TC) Zone. The subject property is currently split-zoned: Tourist Commercial (TC) and Rural Residential (R3). The TC Zone is located on the shoreline half of the subject property and the R3 Zone is located on the highway half of the subject property.

A rezoning is required to permit the proposed dwelling unit within the portion of the subject property that is zoned TC. A dwelling unit is permitted as of right within the R3 Zone, however the Zoning By-law does not permit a dwelling unit as a principal use within the TC Zone (Sections 7.6.1 and 7.11.1 of the Zoning By-law). Additional site specific amendments are required to permit the attached deck to be located 11 metres from the shoreline and to recognize the existing storage container on the subject property.

The following information applies to the subject property:

- Located within the Marten River Neighbourhood in the Official Plan.
- Designated Tourist Commercial in the Official Plan.
- Split-zoned Tourist Commercial (TC) on the shoreline half of the subject property and Rural Residential (R3) on the Highway half of the subject property.

- Located on the west side of Highway 11 and has lot frontage on Angus Lake to the west.
- Surrounding land uses include a mix of tourist commercial (directly to the south) and seasonal dwelling units on other adjacent properties.
- Has a lot area of 1.75 hectares or 17,500 square metres.
- Has a lot frontage of 91 metres on Angus Lake.
- Contains an existing storage container, existing shed and deck, and existing floating dock.
- There are no environmental features identified on the subject property or within 120 metres.

The subject property is shown on Figure 1, and an excerpt of the Zoning By-law mapping is shown on Figure 2.

Figure 1: Subject Property

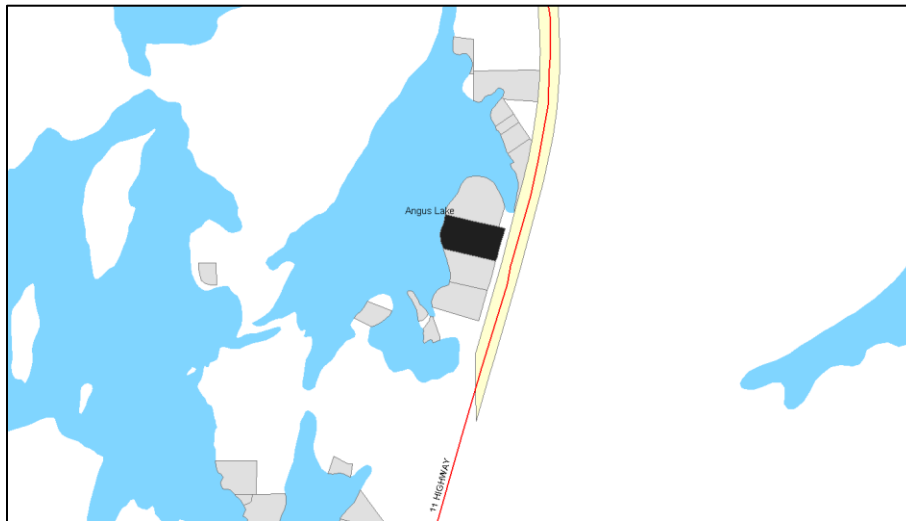
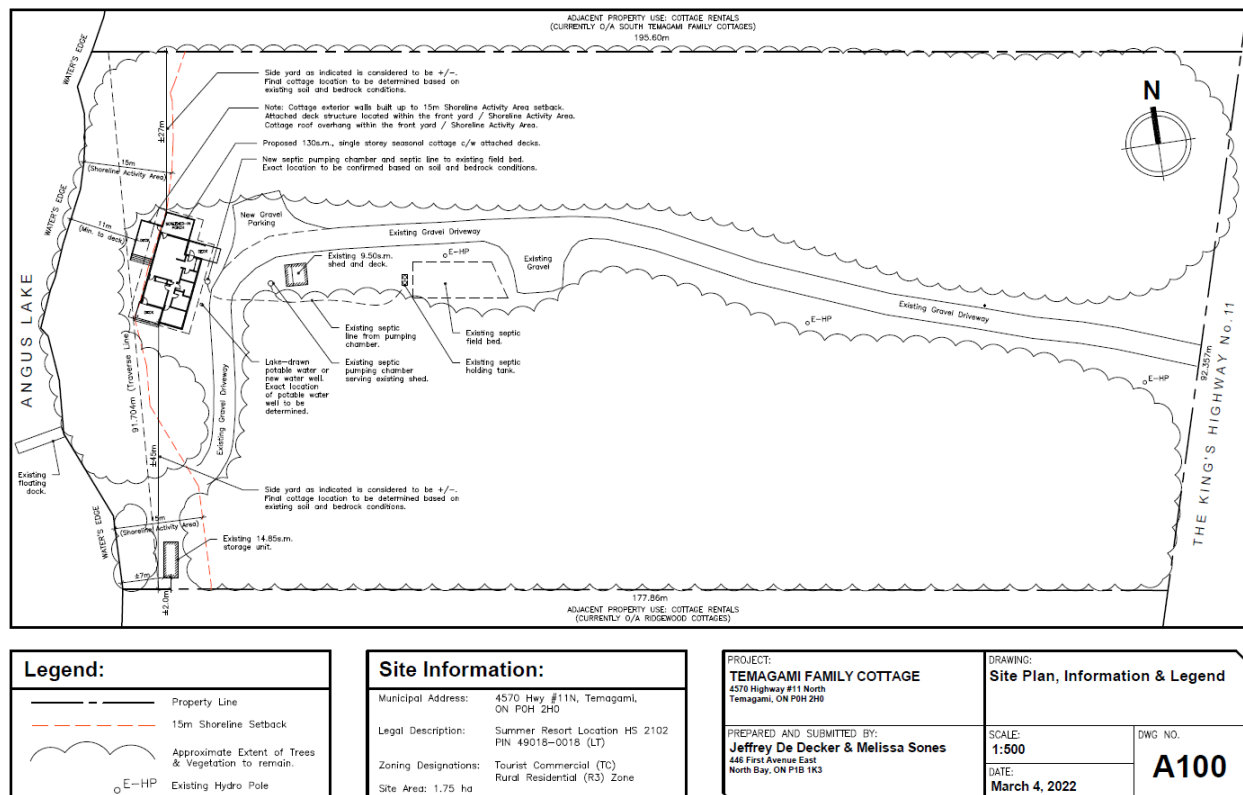


Figure 2: Excerpt of Zoning By-law Mapping



The proposed single storey dwelling has a floor area of 130 square metres or 1,400 square feet. The proposed dwelling is to be located 15 metres from the shoreline of Angus Lake, and includes an attached deck that is to be located 11 metres from the shoreline. The dwelling is located adjacent to the existing driveway on the subject property. The proposed site plan has been included as Figure 3 and is also attached to this Report.

Figure 3: Proposed Site Plan Drawing



The general purpose and effect of the proposed amendment is to permit a dwelling within the portion of the subject property that is located within the Tourist Commercial (TC) Zone on the subject property. The following amendments to the Zoning By-law are required:

- To rezone the subject property to a site specific Tourist Commercial (TC) Zone to permit a dwelling as a principal use on the shoreline half of the subject property.
- To retain both the permitted shoreline residential use and the permitted tourist commercial uses on the subject property.
- Section 6.50 - To permit a deck to encroach into the required front yard (15 metres from the shoreline) and to be located 11 metres from the shoreline. The By-law permits a deck to encroach into the rear yard only.
- Section 7.6.2 (Land Based Boathouse) b) - To permit a shipping container as a land based boathouse that is located 2 metres from the side lot line where 5 metres is required.

### **C. COMMENTS RECEIVED**

Temagami First Nation provided written comments on May 18, 2022. Temagami First Nation comments have been attached to this Report. The TFN has requested that a decision not be made until the results of a Phase 2 Archeological Assessment have been confirmed.

### **D. POLICY AND REGULATORY CONSIDERATIONS**

The following is a review of the relevant policy and regulatory considerations that pertain to the proposed Zoning By-law Amendment.

#### **Provincial Policy Statement**

The Provincial Policy Statement (PPS) was approved by the Ministry of Municipal Affairs and Housing on May 1, 2020, and is applicable to the subject property. In the context of the PPS, the subject property is considered as Rural Lands. Section 1.1.5.2 b) of the PPS permits resource-based recreational uses, including recreational dwellings on Rural Lands.

Section 1.6.4.4 of the PPS contains policies that permit individual on-site sewage services and individual on-site water services where municipal services are not available, provided that the site conditions are suitable for the long-term provision of such services. The subject property contains an existing septic system. The subject property is adequately sized to accommodate the required private water and septic services.

Section 2.1 of the PPS includes policies to protect natural heritage features, including wetlands, significant woodland, significant wildlife habitat, significant areas of natural and scientific interest, fish habitat and habitat of endangered and threatened species. The Official Plan does not identify any significant natural heritage features or areas on the subject property or within adjacent lands.

Section 2.6 of the PPS includes policies regarding cultural heritage and archaeology. Section 2.6.2 states:

*“Development and site alteration shall not be permitted on lands containing archaeological resources or areas of archaeological potential unless significant archaeological resources have been conserved.”*

Shorelines are considered areas of high potential for archaeological resources. The situation is unique in this case, due to the as-of-right development permissions for tourist commercial and residential uses. The main purpose of the Zoning By-law Amendment application is to transfer the development permissions for a dwelling from the rear half of the property to the front half. Notwithstanding the as-of-right development rights on the subject property, Temagami First Nation is recommending that a scoped archaeological assessment be completed for the proposed development. These comments have been attached to this Report

Section 3.1 of the PPS includes policies regarding natural hazards and the protection of new development. There are no known hazards on the subject property.

### **Municipality of Temagami Official Plan**

The subject property is located within the Marten River Neighbourhood and is designated as Tourist Commercial in the Official Plan. Permitted uses in the Marten River Neighbourhood focus on recreational, residential and tourist commercial uses.

Section 6.4.6.3 of the Official Plan includes policies regarding the conversion of tourist commercial uses to residential uses. The subject property is vacant however is split zoned Tourist Commercial (TC) and Remote Residential (R3) in the implementing Zoning By-law. The Zoning By-law Amendment seeks to transfer the development permissions for a dwelling to the shoreline half of the property which is zoned TC. Section 6.4.6.3 of the Official Plan includes the following:

*“The conversion of a Tourist Commercial use, existing on the date this policy comes into force, to a residential use consisting of no more than four single detached dwelling lots shall be subject to an amendment to the Zoning By-law and shall be subject to site plan approval. As such, the residential lots will retain a tourist commercial land use designation.”*

*“In considering the conversion of a tourist commercial use to a single detached residential use, the Municipality shall have regard to:*

- *The adequacy of the proposed water supply and sewage disposal system for each proposed use and/or lot;*
- *The size and shape of the proposed lots; and*
- *Demonstrated ability that the dock locations are suitable by study and/or approval by the appropriate authority.”*

Section 2.14 and Section 9.24 of the Official Plan regarding cultural heritage features has been reviewed. Temagami First Nation provided comments on May 19, 2022. Temagami First Nation is recommending that a scoped archaeological assessment be completed for the proposed development. These comments have been attached to this Report

Section 2.17 of the Official Plan includes policies regarding waterfront development. It is a goal of the Municipality to maintain shorelines and the area between the shoreline and any buildings in their natural state and as a vegetative buffer, to protect the visual and environmental integrity of the lakes. The principle of development in the vegetative buffer shall be minimal disturbance on the ground, shrub and canopy layers.

Natural vegetation within the setback shall be disturbed as little as possible, consistent with passage, safety and provision of views and ventilation. Rehabilitation of vegetation shall take place when it has been disturbed due to construction.

Policies regarding natural heritage features and areas are included in Section 9.7.4 of the Official Plan. The Official Plan does not identify any natural heritage features or areas on the subject property or within adjacent lands.

### **Municipality of Temagami Zoning By-law**

The current development proposal on the subject property includes a dwelling to be located within the Tourist Commercial (TC) Zone on the subject property. The proposed deck attached to the permanent dwelling encroaches into the minimum required setback from the shoreline (15 metres) and into the Shoreline Activity Area. The deck is to be setback 11 metres from the shoreline. The proposal also includes recognizing an existing storage container to be used as a land based boathouse.

The permitted uses of the TC Zone include the following under Section 7.11.1 of the Zoning By-law: a tourist lodge, a tourist commercial establishment, a public campground, a private campground, a gas bar, a restaurant or tavern, a trailer park, a motel or hotel, a dwelling unit for the owner/operator/caretaker accessory to the main commercial use in accordance with Sections 6.15 and 7.5.2, and accessory buildings and uses in accordance with Section 7.11.3.

The permitted uses of the R3 Zone include the following under Section 7.6.1 of the Zoning By-law; a permanent dwelling unit or seasonal dwelling unit, a modular home, sleep cabins in accordance with Section 6.41, a water based boathouse in accordance with Section 6.06 or a land based boathouse in accordance with Section 6.06 and 6.40, a detached garage in accordance with Section 7.6.2, other accessory buildings in accordance with section 6.04 (By-law 07-745), a home occupation, in accordance with Section 6.23, a bed and breakfast establishment subject to Section 7.6.3.

When a property has more than one zone, Section 3.08 of the Zoning By-law applies:

*“Where a lot is divided into more than one zone, each such portion of said lot shall be considered separately for the purposes of determining zone provisions such as lot area, lot frontage, required front yard, side and rear yards and each such portion shall conform to the provisions of the appropriate zone, but no lot shall have more than one dwelling unit on the lot, except as specifically provided in this By-law.”*

When applying Section 3.08 of the Zoning By-law to the subject property, the permitted uses and zone provisions of the TC Zone applies to the shoreline (front) portion of the subject property and the R3 Zone applies to the road (rear) portion of the subject property.

In addition to the above provisions, the proposed deck encroaches into the minimum setback from the shore (15 metres). Section 6.50 e) of the Zoning By-law includes provisions for yard and setback encroachments that are permitted. Subsection e) only permits decks to encroach into the rear yard of a property, and not a front yard.

The definition of the shoreline activity area structures includes decks however does not specifically reference attached decks to permanent dwellings and there are no provisions other than Section 6.50 that relate to the encroachment of structures attached to a permanent dwelling. The required setback for an attached deck to a permanent dwelling is 15 metres from the shoreline, and the proposed deck is to be located 11 metres from a shoreline.

Shipping containers are not permitted within the TC or R3 Zones. The property owner may use the storage containers as the base for a building (peaked roof, exterior siding, etc.) so that they can be considered a building rather than a storage container. The storage container is currently situated 2 metres from the southern side lot line where 5 metres is required.

## **E. RECOMMENDATIONS**

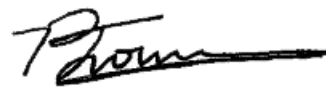
It is recommended that comments be received on the proposed Zoning By-law Amendment application at the Statutory Public Meeting, and further that Staff prepare a recommendation report to Council at a subsequent meeting with a recommendation on the application that considers the comments and feedback that is received.

Based on the comments from Temagami First Nation, it is recommended that the applicant undertake a scoped assessment in accordance with the comments received dated May 18, 2022, prior to Council making a decision on the Zoning By-law Amendment.

Respectfully Submitted,  
**MHBC Planning**

A handwritten signature in black ink, appearing to read 'J. Robinson'.

Jamie Robinson, BES, MCIP, RPP,  
Partner

A handwritten signature in black ink, appearing to read 'P. Townes'.

Patrick Townes, BA, BEd  
Associate





# TEMAGAMI FIRST NATION

BEAR ISLAND,  
LAKE TEMAGAMI, ONTARIO P0H 1C0  
TEL 1.888.737.9884 | 705-237-8943  
FAX 705.237.8959

May 18, 2022

Patrick Townes, Municipality of Temagami

Re: application ZBA-22-01, sent via email

Patrick Townes,

We write today in response to zoning by-law amendment 22-01, on Highway 11 North, also known as the DeDecker property.

We cannot underestimate the impact to archaeological resources that this zoning by-law amendment would have. Building a new cottage would inevitably destroy archaeological resources, given the nature and location of this property.

Our review shows that the first 50 metres closest to the shoreline on this property is within an area of high archaeological potential. The property is in direct proximity of a nastawgan (historical portages and canoe routes).

Given this information, we would recommend waiting until the results of a phase two archaeological assessment have been submitted before a decision is made.

In closing, please provide us with all planning reports and the final decision for this property.

Regards,

**Victoria Winsor | GIS Lands Technician**

[landstech@temagamifirstnation.ca](mailto:landstech@temagamifirstnation.ca)

1-705-237-8943 ext. 210

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**LANDS AND RESOURCES**

705.237.8943 ext.201

[lands@temagamifirstnation.ca](mailto:lands@temagamifirstnation.ca) | [www.temagamifirstnation.ca](http://www.temagamifirstnation.ca)

**THE CORPORATION OF THE MUNICIPALITY OF TEMAGAMI**

**BY-LAW NO. 2022-**

**A By-law to amend the zoning provisions which apply to the lands located at 4570  
Highway 11 North, Municipality of Temagami**

**WHEREAS** the Council of the Corporation of the Municipality of Temagami is empowered to pass By-laws to regulate the use of land pursuant to Section 34 of the Planning Act, R.S.O. 1990, c.P.13;

**AND WHEREAS** Council deems it appropriate to rezone the subject property;

**NOW THEREFORE** the Council of the Corporation of the Municipality of Temagami hereby enacts as follows:

1. That Schedule 'A2' and 'A6' of Zoning By-law 06-650, as amended, is hereby amended by changing the zone classification on the lands at 4570 Highway 11 North from the Tourist Commercial (TC) Zone to the Tourist Commercial Exception Two (TC-2) Zone on the lands identified on Schedule "A-1" attached hereto and forming part of this By-law.
2. That Section 7.11.4 – Exceptions of By-law 06-650, as amended, is hereby amended by adding the following:

7.11.4.2 – Tourist Commercial Exception Two (TC-2) Zone

- a) Notwithstanding any other provisions of the Zoning By-law, in addition to the uses permitted in the TC Zone, a permanent dwelling unit or seasonal dwelling unit shall be permitted as a principal use within the TC-2 Zone. The following shall also apply:
  - i) For a permanent dwelling unit or seasonal dwelling unit located within the TC-2 Zone, the provisions of Section 7.6 of the Zoning By-law shall apply.
  - ii) An attached deck to a permanent dwelling unit or seasonal dwelling unit shall be permitted to be located a minimum of 11 metres from the shore.
  - iii) A land based boathouse shall be permitted to be located a minimum of 2 metres from the southern interior lot line.

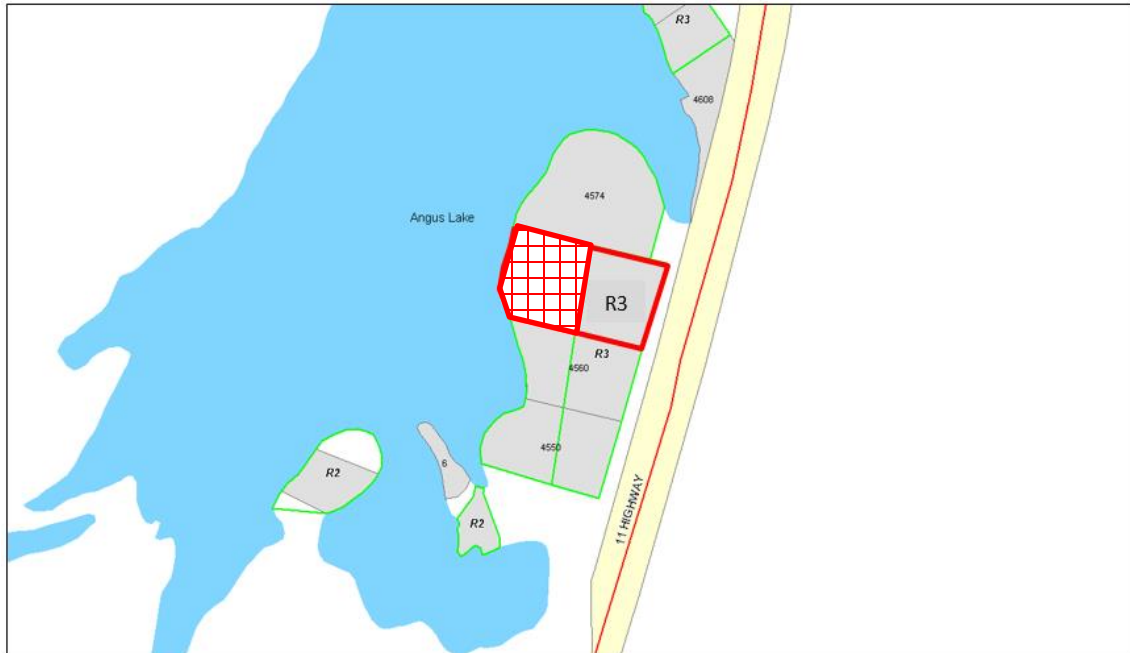
READ A FIRST AND SECOND TIME on the \_\_\_\_\_ day of \_\_\_\_\_ 2022.

READ A THIRD TIME and finally passed this \_\_\_\_\_ day of \_\_\_\_\_ 2022.

\_\_\_\_\_  
Dan O'Mara, Mayor

\_\_\_\_\_  
Suzie Fournier, Municipal Clerk

Schedule 'A-1' to By-law No. 2022-  
4570 Highway 11 North  
Municipality of Temagami



Lands to be rezoned from the Tourist Commercial (TC) Zone to the Tourist Commercial Exception Two (TC-2) Zone

This is Schedule 'A-1' to By-law No. 2022-  
Passed this \_\_\_\_\_ day of \_\_\_\_\_, 2022

\_\_\_\_\_  
Dan O'Mara, Mayor

\_\_\_\_\_  
Suzie Fournier, Municipal Clerk