

<b>MUNICIPALITY OF TEMAGAMI</b>	
<b>Report Prepared For:</b>	Tammy Lepage
<b>Report Prepared By:</b>	Jamie Robinson, MCIP, RPP
<b>Subject:</b>	Information Report Regarding Review of R1 & R2 Zone Provisions and Home Occupation
<b>Report Date:</b>	April 11, 2018

## **A. BACKGROUND**

At the Regular Council Meeting held on March 22, 2018, Council passed the following resolution regarding "Steve Simpson UDT Diving regarding R1 R2 Zoning List Interpretation":

*BE IT RESOLVED THAT Council receive correspondence from Stephen Simpson UDT Diving regarding R1 R2 Zoning List Interpretation, AND FURTHER THAT Council direct staff to send the relevant documentation to our planner for a planning report.*

In accordance with the direction of Council, this Report has been prepared to provide an overview of the Remote Residential (R1) Zone (Lake Temagami) and Remote Residential (R2) Zone provisions as they pertain to home occupations.

We have had an opportunity to review the letter that was submitted to Mr. Simpson from the Municipality, dated October 12, 2017; and the letter that was submitted to the Mayor and Council from Mr. Simpson, dated March 5, 2018.

Other documents that were reviewed included letters in support and opposed to the use of a Technical Diving School at the subject property, located at 7416 Highway 11 North.

Following a review of the relevant documentation, it is understood that Mr. Simpson currently operates a Technical Diving School on the subject property, and the Municipality previously provided Mr. Simpson with a letter that stated this was not a permitted use within the R2 Zone in the Zoning By-law.

The subject property is located within the Matabitchuan Neighbourhood and is designated as Integrated Management Area in the Official Plan; and is located within the R2 Zone in the Zoning By-law. The subject property has lot frontage on Net Lake and is accessed by a private road, Guppy Road. The subject property and adjacent properties are shoreline residential lots.

## **B. ZONING BY-LAW REVIEW**

The permitted uses for the R2 Zone are included in Section 7.5.1 of the Zoning By-law. An excerpt of Section 7.5.1 of the Zoning By-law follows:

### **SECTION 7.5 - REMOTE RESIDENTIAL (R2) ZONE**

#### **7.5.1 PERMITTED USES**

No person shall within any Remote Residential (R2) Zone use any lot, or erect, alter or use any building or structure for any purpose except one or more of the following uses:

- permanent dwelling unit or a seasonal dwelling unit
- a modular home
- sleep cabins, subject to the provisions of 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 7.5.2
- other accessory buildings, in accordance with section 6.04 (By-law 07-745)
- a home occupation use, in accordance with Section 6.23

The permitted uses for the R1 Zone are included in Section 7.4.1 of the Zoning By-law, and the permitted uses are the same as for the R2 Zone, with the exception that a bed and breakfast establishment is an additional permitted use within the R1 Zone.

A home occupation is permitted within the R1 Zone and the R2 Zone, in accordance with Section 6.23 of the Zoning By-law. The definition of a home occupation further identifies that the use must be secondary to the main residential use and cannot change the residential character of the dwelling. The definition of a home occupation and an excerpt of Section 6.23 of the Zoning By-law is included below:

**HOME OCCUPATION** shall mean any gainful occupation which is conducted within the dwelling unit by the resident(s) of the dwelling, and such home occupation is clearly secondary to the main residential use, does not change the residential character of the dwelling and as further defined in this Zoning By-law.

#### **6.23 HOME OCCUPATION**

A Home Occupation may be carried out in certain zones, where permitted, subject to the following:

- (a) no person, other than a resident of the dwelling unit and one non-resident employee may be employed in the home occupation, except in the R1, R2 and R3 Zones where two non-resident employees may be employed in the home occupation;
- (b) there is no display, other than an un-illuminated sign not greater than one (1.0) square metre in size, to indicate to persons outside that any part of the dwelling unit or lot is

being used for a purpose other than a dwelling unit, except in the, R1 and R2 Zones where no such sign is permitted;

- (c) such home occupation is clearly secondary to the main residential use and does not change the residential character of the dwelling unit nor creates or becomes a public nuisance, particularly in regard to noise, noxious odours or emission of smoke, traffic or parking;
- (d) such home occupation does not interfere with television or radio reception;
- (e) there is no outside storage of goods or materials and there is no use of any part of an accessory building;
- (f) not more than twenty five per cent (25%) of the gross floor area of the dwelling unit or forty six (46.0) square metres, whichever is the lesser, is used for the purposes of a home occupation;
- (g) such home occupation uses may include a service or repair shop, a personal service shop, tradesperson, the office of a doctor, dentist, lawyer, or a real estate agent, insurance agent, planner, architect, or engineer, professional offices but a clinic, a hospital, a nursing home, a tea room and an animal hospital shall not be deemed to be home occupations;
- (h) when retail sales are carried out as part of a home occupation located on a lot accessible by a municipally maintained road, one on-site parking space shall be provided in addition to any required for the dwelling unit and employees;
- (i) (By-law 13-1121) except in the R1 and R2 Zones, one parking space shall be provided for each employee not residing in the residence.

The definition and provisions included in the Zoning By-law regarding home occupations establish that a home occupation shall be contained within a dwelling and clearly be secondary to the residential use. Section 6.23 c) of the Zoning By-law states that a home occupation shall not change the residential character of the dwelling and not create a public nuisance, in particular to traffic and parking for example.

Following review of the Zoning By-law, it is clear that the Technical Diving School on the property cannot be considered as a home occupation. The use is not entirely located within the dwelling, and depending on the number of people engaged in diving lessons, there is the potential to increase traffic and parking on the subject property.

The Planning Documents support commercial uses and economic development within Temagami; however, it is not economic development at all costs. Commercial uses must be appropriately located where they are compatible with surrounding land uses and either located in a Commercial Zone or, as a home occupation as use, be compatible and at a scale that is appropriate.

There are other opportunities for the proposed use to locate in the Municipality; in one of the existing commercially zoned properties as either the principal use, or as an accessory use to a use such as a lodge.

**C. SUMMARY**

We have had an opportunity to review the relevant documentation related to the existing use on the subject property, and agree with the content of the letter that was submitted to Mr. Simpson on October 12, 2017, from the Municipality. The Technical Diving School is not a permitted use within the R2 Zone.

Further, it is unlikely that a Zoning By-law Amendment to support the Technical Diving School on the subject property could be supported. The nature and scale of the use do not appear to be compatible with shoreline recreational residential properties.

Staff would be encouraged to work with the proponent to identify potential opportunities within the Municipality where the proposed use would be suitable.

Respectfully Submitted,

**MHBC Planning**

A handwritten signature in black ink, appearing to read 'J. Robinson', written in a cursive style.

Jamie Robinson, BES, MCIP, RPP

Partner