

# **The Corporation of the City of Kawartha Lakes**

## **Planning Advisory Committee Report**

**Report Number PLAN2018-011**

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**Date:** February 14, 2018  
**Time:** 1:00 p.m.  
**Place:** Council Chambers  
**Regular Meeting**

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**Ward Community Identifier: 11**

**Subject:** Zoning By-law Amendment (D06-15-014) Application to the Town of Lindsay and Township of Ops Zoning By-law to change the zoning from the Residential Two Special Sixteen (R2-S16) Zone to Residential Two Special Thirty-Five (R2-S35) Zone and to amend the Residential Exception Three (R-3) Zone. The R2-S35 and amended R-3 zones will permit an open uncovered deck structure with a maximum height of 3.0 metres to extend not more than 4.25 metres into a rear yard setback for land municipally known as 85, 87, 89, 91, 93, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105 & 106 Cook Street, Lindsay/Township of Ops (Greg De Freitas on behalf of multiple landowners – Cook Street)

**Author and Title: Mark LaHay, Planner II**

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### **Recommendation(s):**

**RESOLVED THAT** Report PLAN2018-011, “GREG DE FREITAS on behalf of multiple landowners - Cook Street, Application D06-15-014”, be received;

**THAT** a By-law to implement Zoning By-Law Amendment application D06-15-014 respecting a proposed amendment to the Town of Lindsay and Township of Ops Zoning By-laws for multiple lots on Cook Street, Former Town of Lindsay, and geographic Township of Ops, City of Kawartha Lakes, substantially in the form attached as Appendix “D” and “E” to Report PLAN2018-011, be approved and adopted by Council; and

**THAT** the Mayor and Clerk be authorized to execute any documents and agreements required by the approval of this application.

**Department Head:** \_\_\_\_\_

**Legal/Other:** \_\_\_\_\_

**Chief Administrative Officer:** \_\_\_\_\_

## **Background:**

The statutory public meeting was held by the Planning Committee on September 9, 2015, which adopted the following recommendation:

**Moved By** Councillor Breadner  
**Seconded By** Mayor Letham

**Recommend That** Report PLAN2015-075, **Greg De Freitas on behalf of Multiple Landowners - Cook Street - D06-15-014**, be received; and

**That** the application respecting the proposed Amendment to the Town of Lindsay and Township of Ops Zoning By-law, be referred back to staff for further review and processing, until such time that all comments have been received from circulated Agencies and City Departments and to continue to work with the applicant to satisfactorily address any concerns raised by circulated Agencies and City Departments, and in particular the Lot Grading and Drainage issues identified by the Engineering Division.

**CARRIED**

At the Council Meeting of September 22, 2015, Council adopted the following resolution:

**Moved By** Councillor O'Reilly  
**Seconded By** Councillor Dunn

**Resolved that** the Minutes of the September 9, 2015 Planning Committee Meeting be received and the recommendations adopted.

**CARRIED**

This report addresses that direction. At the December 6, 2017 Planning Advisory Committee Meeting, the Supervisor of Development Engineering brought forward Engineering Report ENG2017-027 recommending the Assumption of the Trails of Kawarthas Subdivision – Phases 3 and 4, in which it was noted that the outstanding planning matter relating to site specific zoning and the construction of decks on the subject lots has been resolved as the lot grading has been certified and there are no further engineering issues relating to the zoning requirements.

Greg De Freitas (Batavia Homes – Phase 3, Trails of the Kawarthas Subdivision) on behalf of multiple landowners on Cook Street had submitted a rezoning application to create a site specific zone on Lots 1-14, Plan 57M-793 and Lots 25-27, Plan 57M-779:

- to permit an open uncovered deck structure with a maximum height of 3.0 metres to extend not more than 4.25 metres into a rear yard setback. This will have the effect of reducing the required rear yard

setback from 7.5 m. to 3.25 m., which will only apply to accommodate larger elevated uncovered decks.

The subject properties are within a registered Plan of Subdivision. The lots are currently developed with single detached bungalow and 2-storey homes with walk-out basements and in order to accommodate larger elevated uncovered decks, the owner is seeking the proposed changes.

Owners: Multiple landowners for land municipally known as 85, 87, 89, 91, 93, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105 & 106 Cook Street (see Appendix “B”).

Applicant/Agent: Greg De Freitas (Batavia Homes – Phase 3)

Legal Description: Lots 1-14, Plan 57M-793 and Lots 25-27, Plan 57M-779, being Part of South ½ of Lot 18, Conc. 4, Former Town of Lindsay, City of Kawartha Lakes and/or being Part of North ½ of Lot 17, Conc. 4, Geographic Township of Ops, City of Kawartha Lakes.

Official Plan: “Residential” in the Town of Lindsay Official Plan in the Southwest Community Development Plan Area.

Zoning: “Residential Two Special Sixteen (R2-S16) Zone in the Town of Lindsay Zoning By-law 2000-75 and/or, “Residential Exception Three (R-3) Zone” in the Township of Ops Zoning By-law 93-30.

Lot Sizes: Range: 365.17 m<sup>2</sup> to 575.09 m<sup>2</sup>; Average: 413.11m<sup>2</sup> (MPAC)

Site Servicing: Full municipal services

Existing Uses: Residential, single detached homes

Adjacent Uses: North: Vacant Future Residential Lands, Open Space  
East: Low Density Residential  
South: Rural/Agricultural with Significant Woodlands and Unevaluated Wetlands  
West: Rural/Agricultural

## **Rationale:**

The subject properties are located on the westerly portion of Cook Street within the south west area of Lindsay (see Appendix “A”). The area is predominately residential. More residential development is anticipated in the future to the north. Each property has existing frontage on a municipally maintained road and on full municipal services.

A special exception zone is proposed in order to recognize and/or accommodate the development of larger open elevated decks on the lots, which are currently not permitted within the minimum 7.5m rear yard setback if the deck is over 1.8m

in height. The maximum height of elevated decks will be limited to 3m such that elevated decks would only be permitted with direct access from the ground floor and not the second floor of the 2-storey dwelling units.

### **Applicable Provincial Policies:**

The application and existing subdivision conforms to and is consistent with the 2017 Growth Plan for the Greater Golden Horseshoe (GPGGH) and the 2014 Provincial Policy Statement (PPS) relating to:

- promoting cost-effective and efficient development standards to minimize land consumption and servicing costs;
- contributes to creating complete communities;
- accommodating an appropriate range and mix of housing types to meet long term needs;
- using existing infrastructure; and
- contributes to intensification by establishing compact form.

### **Official Plan Conformity:**

The property is designated “Residential” in the Lindsay Official Plan (LOP). This designation permits all density and housing types. The subject lands are also within Area 3 - Southwest Community Development Plan Area, which permits low density residential development. Residential uses and accessory residential uses are anticipated uses in this designation. The application conforms to the Lindsay Official Plan.

### **Zoning By-law Compliance:**

The properties are zoned Residential Two Special Sixteen (R2-S16) Zone in the Lindsay Zoning By-law and/or Residential Exception Three (R-3) Zone in the Township of Ops Zoning By-law. The proposed reduced rear yard setback to accommodate an open uncovered deck structure with a maximum height of 3.0 metres does not comply with the existing zone provisions and therefore, an amendment was submitted for consideration.

### **Other Alternatives Considered:**

No other alternatives have been taken into consideration.

### **Financial/Operation Impacts:**

There are no financial impacts unless Council’s decision to adopt or its refusal to adopt the requested amendment is appealed to the Ontario Municipal Board. In the event of an appeal, there would be costs, some of which may be recovered from the applicant.

## **Relationship of Recommendation(s) to the 2016-2019 Strategic Plan:**

The City's Strategic Plan outlines Council's vision for the municipality. The vision consists of three main Strategic Goals, namely:

- Goal 1 – A Vibrant and Growing Economy
- Goal 2 – An Exceptional Quality of Life
- Goal 3 – A Healthy Environment

This application aligns with the healthy environment and exceptional quality of life strategic goals by creating more options for utilization of the available amenity space within the existing land area for each property owner.

## **Review of Accessibility Implications of Any Development or Policy:**

There are no accessibility implications for the City.

## **Servicing Comments:**

The lots are connected to full municipal services within the Lindsay municipal service area.

## **Consultations:**

Notice of this application was previously circulated to the prescribed persons within a 120 metre radius, agencies, and City Departments which may have an interest in the proposed application. A statutory public meeting was held on September 9, 2015. At the public meeting, the agent for the owners provided additional information and clarification regarding the application. No member of the public raised any concerns relating to the application. The following comments have been received:

### Agency Review Comments:

The Engineering Division previously advised that they were not in support of the proposed setback reduction. There were outstanding drainage issues pertaining to the lots along the south side of Cook Street. Engineering had been dealing with the developer to find a resolution to the drainage concerns. The grading at that time did not conform to the overall lot grading plan referenced in the registered subdivision agreement. In order to be in support of the proposed reduced setback, Engineering required the grading of those lots to be in conformance with the approved plan and certified by the Consulting Engineer. This issue has now been addressed - see Planning Division comments below.

The City's Water and Wastewater and Roads Divisions and Community Services Department advised they have no concerns.

The Kawartha Region Conservation Authority (KRCA) has previously advised from a significant woodland protection perspective, it is reasonable that decks may be permitted to protrude into the rear yards of these existing lots. The significant woodlands were not identified as such (i.e., did not have protection status) when the lots were created. In this particular case, an appropriate buffer should have been identified and implemented at the lot creation stage. Based on their understanding of the area and the nature of the request for a rear yard setback (i.e., deck within a minimum of 3 metres of the rear lot line), KRCA advises that an EIS would not be necessary. As the rear lot line corresponds with the remaining woodland boundary, KRCA encourages that a 3 metre wide area between decks and rear lot lines be maintained and/or enhanced wherever possible as a natural vegetative buffer to aid in the overall protection of the adjacent woodland area.

Alderville First Nation advised that they have no concerns.

The Hiawatha First Nation advised that the application is deemed to have little, if any, impact on their First Nation's traditional territory and/or rights. They have requested to be kept apprised any updates, archaeological findings, and/or of any environmental impacts, should they occur.

Curve Lake First Nation advised that they are currently not aware of any issues that would cause concern with respect to their Traditional, Aboriginal and Treaty rights.

#### Public Comments:

There were no public comments received at the time of writing of this report.

#### **Development Services – Planning Division Comments:**

The applicant has submitted the rezoning application to recognize existing decks and/or provide flexibility to accommodate larger raised decks at the rear of the affected dwellings on the subject lots on Cook Street within the area recently developed by Batavia Homes (Phase 3). There is vacant residential zoned land to the rear of the subject lands on the north side of Cook Street separated by a walking trail and forested and rural agricultural land to the rear of the subject lands on the south side of Cook Street (see Appendix "C").

The topography of the subject lots slopes down to the rear of the properties, which result in walkout basements. With the exception of 96 and 98 Cook Street, which are 2-storey dwellings, all the other affected dwellings are bungalows. Most of the dwellings on the subject lots already have raised decks at the rear with access from the ground floor and the proposed amendments will likely have minimal impact on the residential function of any adjoining properties and it is in keeping with the character of the neighbourhood.

The proposed zoning amendment will only apply to decks equal to or greater than 0.6m in height. The decks will be limited to a height of 3m which would limit direct access to the ground floor of the dwellings and not permit second storey decks. The minimum rear yard setback of 3.25m would only apply to accommodate the larger elevated uncovered decks and would not permit a reduction in the building setback to accommodate enclosed space.

The impact of the decks will be minimized as the extent of the proposed rear yard setback reduction would typically only occur along a portion of the rear of the dwellings. The reduction in rear yard setback to accommodate the decks would be considered a normal and practical extension of the residential amenity space. The subject properties would otherwise be subject to all the other existing zoning requirements. The subject lots are large enough to support the proposed deck requirements and still provide room for normal maintenance and adequate amenity space.

In relation to the initial concern with the rezoning identified by the Engineering Department above, the Supervisor of Development Engineering has indicated through Engineering Report ENG2017-027, considered at the December 6, 2017 Planning Advisory Committee, that the grading for the subject lots has been certified by the developer and the Engineering and Corporate Assets Department has no further engineering issues related to the zoning requirements.


## **Conclusions:**

In consideration of the comments received and the previously identified Lot Grading and Drainage issues identified by the Engineering Division that have been now been satisfactorily addressed, and provided there are no further issues or concerns raised, Staff respectfully recommend that the proposed Zoning By-law Amendment application be referred to Council for APPROVAL.

## **Attachments:**

The following attached documents may include scanned images of appendices, maps, and photographs. If you require an alternative format, please call Mark LaHay, Planner II, (705) 324-9411 ext. 1324.

  
Appendix 'A'  
PLAN2018-011.pdf

  
Appendix 'B'  
PLAN2018-011.pdf

  
Appendix 'C'  
PLAN2018-011.pdf

  
Appendix 'D'  
PLAN2018-011.pdf

  
Appendix 'E'  
PLAN2018-011.pdf

Appendix 'A' – Location Map

Appendix 'B' – Address/Landowners List

Appendix 'C' – Aerial Photo

Appendix 'D' – Draft Zoning By-law Amendment (Town of Lindsay)

Appendix 'E' – Draft Zoning By-law Amendment (Township of Ops)

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**Department Head E-Mail:** [cmarshall@kawarthalakes.ca](mailto:cmarshall@kawarthalakes.ca)

**Department Head:** Chris Marshall, Director of Development Services

**Department File:** D06-15-014