

The Corporation of the City of Kawartha Lakes

Planning Advisory Committee Report

Report Number PLAN2018-015

Date: February 14, 2018

Time: 1:00 p.m.

Place: Council Chambers

Regular Meeting

Ward Community Identifier: 14 - Emily

Subject: An application to amend the Township of Emily Zoning By-law 1996-30 to replace the Environmental Protection (EP) Zone across the shoreline of the subject properties with the Rural Residential Type One Exception Four (RR1-4) Zone existing on the balance of 37 Wispi Shore Road and the Rural Residential Type One Exception Five (RR1-5) Zone existing on the balance of 45, 57 & 61 Wispi Shore Road on property legally described as Part Lot 19, Concession 10, 57R-5049, Parts 1 to 4, geographic Township of Emily, City of Kawartha Lakes (CAMERON, OSMOND, GRATZ, DEVERS & ASHMEADE)

Author and Title: Mark LaHay, Planner II

Recommendation(s):

RESOLVED THAT Report PLAN2018-015, respecting Part Lot 19, Concession 10, 57R-5049, Parts 1 to 4, geographic Township of Emily, City of Kawartha Lakes, Application D06-17-008, be received;

THAT a By-law to implement Zoning By-Law Amendment Application D06-17-008 respecting a proposed amendment to the Township of Emily Zoning By-law for property described as Part Lot 19, Concession 10, 57R-5049, Parts 1 to 4, geographic Township of Emily, City of Kawartha Lakes, substantially in the form attached as Appendix "D" to Report PLAN2018-015, 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 April 5, 2017, which adopted the following recommendation:

Moved By Councillor Stauble

Seconded By Councillor Veale

RECOMMEND THAT Report PLAN2017-017, respecting Part Lot 19, Concession 10, 57R-5049, Parts 1 to 4, geographic Township of Emily, City of Kawartha Lakes, Application No. D06-17-008, be received;

THAT Zoning By-law Amendment Application D06-17-008, Part Lot 19, Concession 10, 57R-5049, Parts 1 to 4, geographic Township of Emily, City of Kawartha Lakes, be referred back to staff for further review and processing until such time that all comments have been received from all circulated Agencies and issues related to compliance with Official Plan waterfront policies have been addressed.

CARRIED

At the Council Meeting of April 18, 2017, Council adopted the following resolution:

Moved By Councillor O'Reilly

Seconded By Councillor Macklem

RESOLVED THAT the Minutes of the April 5, 2017 Planning Committee Meeting be received and the recommendations be adopted.

CARRIED

This report addresses that direction.

The subject properties are shoreline residential lots on the westerly side of Pigeon Lake, and each lot contains a dwelling. Residential accessory structures (sheds) exist on 45, 57 and 61 Wispi Shore Road within the area to be rezoned. The owners are proposing to remove the approximately 30 metre wide Environmental Protection (EP) Zone strip located across the shoreline portion of their properties and replace it with the Rural Residential One Exception Zoning existing on the balance of their properties in order to permit waterfront accessory structures such as boat houses and docks. An illustration of the proposed area to be rezoned is attached to this report as Appendix "C". The properties slope gently from the road towards the shoreline and consist of groups of mature trees and manicured lawns down to the shoreline.

Owners: John and Patricia Cameron (37 Wispi Shore Rd.), Bernard and Elaine Osmond (45 Wispi Shore Rd.), Michael and Annika Gratz (57 Wispi Shore Rd.), and James Devers & Sharon Ashmeade (61 Wispi Shore Rd.)

Applicant: Kent Randall, c/o EcoVue Consulting Services Inc.

Legal Description: Part Lot 19, Concession 10, 57R-5049, Parts 1 to 4

Official Plan: "Waterfront" in the City of Kawartha Lakes Official Plan. A small drainage channel along the south edge of 61 Wispi Shore Road is designated with "Environmental Protection"

Zoning: Environmental Protection (EP) across shoreline (all) Rural Residential Type One Exception Four (RR1-4) Zone (37 Wispi Shore Road); Rural Residential Type One Exception Five (RR1-5) Zone (45, 57 & 61 Wispi Shore Road), in the Township of Emily Comprehensive Zoning By-law 1996-30

Lot Sizes: 10,198 sq. m. (2.52 ac. - MPAC)

Site Servicing: Private Individual Wells and Septic Disposal Systems

Adjacent Uses: North, South: Shoreline Residential
East: Pigeon Lake
West: Wispi Shore Road/Rural-Agricultural

Rationale:

The subject property is located within a shoreline residential neighbourhood on the westerly shore of Pigeon Lake; see Appendices "A" and "B". The applicant has submitted the following in support of the application:

1. Planning Justification Report, dated October 7, 2016, prepared by EcoVue Consulting Services Inc. The report discusses and assesses the proposal in context of the Growth Plan, 2014 Provincial Policy Statement, and City Official Plan.
2. Conceptual Zoning Sketch dated October 3, 2016, prepared by EcoVue Consulting Services Inc.
3. Concept Sketch with Shoreline Development dated April 6, 2017, prepared by EcoVue Consulting Services Inc.
4. Concept Sketch illustrating existing shoreline water setbacks dated July 17, 2017, prepared by EcoVue Consulting Services Inc.

Supporting documentation was circulated to the applicable Agencies and City Divisions for review and comment. Staff has reviewed the Planning Justification Report in support of the proposed amendment and generally accepts the planning rationale given. Staff has evaluated the proposal including a more detailed review of existing accessory structures and impacts of potential new

development together with any other further responses from other City Departments and/or commenting Agencies.

Applicable Provincial Policies:

Growth Plan for the Greater Golden Horseshoe, 2017:

The subject property is located within a rural land area as defined in the Growth Plan, 2017. The Growth Plan directs development to settlement areas except development related to the management or use of resources, resource based recreational activities and rural land uses that are not appropriate within settlement areas. The application conforms to the Growth Plan in that the proposed rezoning will permit limited shoreline structures that are accessory to the existing resource based recreational dwellings for a recreational resource-based activity related to the Pigeon Lake and will also provide for a natural vegetated area along the shoreline to restore ecological features and functions. Therefore, the application appears to conform to the policies of the Growth Plan.

Provincial Policy Statement, 2014 (PPS):

The Provincial Policy Statement provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural environment. The application is consistent with the PPS, as prescribed in the following sections:

Section 1.1.4, Rural Areas in Municipalities, recognizes the importance of rural lands, natural heritage features and areas and other resource areas and building upon rural character and leveraging rural amenities and assets.

Section 1.1.5 of the PPS provides policy with respect to rural lands and permitted uses, which include resource-based recreational uses (including recreational dwellings). Accessory shoreline structures, such as boat houses and/or docks, would further promote the existing resource based recreational use. Sections 1.1.5.2, 1.1.5.3, 1.1.5.4 permits the development of resource-based recreational uses which are compatible with the rural landscape. The existing dwellings are resource based recreational uses that functionally relate to Pigeon Lake.

Section 2.1 of the PPS provides policy with respect to the Wise Use and Management of Resources to protect Natural Heritage features, which does not permit development in significant natural heritage features or within the habitat of endangered species and threatened species. After conducting a site visit with the initial preconsultation application in February 2016, the Kawartha Region Conservation Authority concluded that an Environmental Impact Study was not required, suggesting that the proposed application should not result in negative impacts to the natural environment.

Section 3.1 of the PPS provides policies for protecting public health and safety by directing development away from hazardous lands and sites that may be subject to flooding and/or erosion or human-made hazards. It appears that the existing

residential development on the properties including accessory structures are located outside the flood elevation contour of Pigeon Lake. Kawartha Conservation permitting policies direct development outside of flood hazards, with the exception of boat houses and shoreline works. There does not appear to be any natural or human-made hazards associated with these applications.

The application appears to be consistent with the PPS in that it would permit limited construction of boat houses and docks which are related to the use of a recreational resource in an area of established shoreline residential development and would not appear to result in negative impacts to the natural environment.

Official Plan Conformity:

The properties are all designated “Waterfront” with the exception of a drainage channel along the south side of 61 Wispi Shore Road, which is designated “Environmental Protection” in the City of Kawartha Lakes Official Plan. The proposed rezoning does not affect the Environmental Protection designation. The Waterfront land use designation provides for accessory uses to low density seasonal and permanent residential uses adjacent to lakes. The Official Plan also permits the construction of boat houses and docks within the 30 metre water setback.

At this time, no specific plans have been provided for any proposed boat houses; however, the proposed implementing zoning amendment will limit the extent of the existing shoreline frontage that will be affected as the permissions intended to be given for new development will also establish that a natural vegetation buffer be provided to augment the shoreline area to balance or compensate for any potential impact of new development.

Supporting policies include Section 3.11, Water Setback and Accessory Uses, which speaks to establishing a vegetation protection zone and natural buffer area, Section 20.2, Waterfront Designation Objectives, speaks to protection water surface quality through shoreline naturalization efforts, Section 20.3.7 Waterfront Designation Policies, state that natural form and function shall dominate and naturalized or naturally vegetative shorelines shall be retained or restored where possible and Section 20.3.10 with respect to density suggests there should be provisions to address lot coverage to ensure proportionality including relating lot coverage to the buildable area adjacent to the shoreline. Furthermore, Section 20.5 pertaining to Density and Massing speaks to maintaining an appropriate balance between natural and built form, limiting shoreline activity areas, retaining as much shoreline vegetation as possible and retaining tree cover and vegetation to uphold the environmental integrity of the waterfront.

The shoreline areas of the subject properties are presently disturbed with armour stone, manicured lawns, docks, accessory structures, etc. In order to bring the shorelines into compliance with the Official Plan, Staff is recommending that compensation be provided in the form of re-naturalization of the shoreline as a

trade off for the proposed docks and boat houses that would be permitted with the applications. This would include a maximum area of 25 per cent of the shoreline frontage to be disturbed for boat houses, docks and other amenities with a requirement that the remaining shoreline area be re-naturalized to be in conformity with the Official Plan. This policy is intended to be implemented through the proposed zoning by-law amendment.

Zoning By-Law Compliance:

The properties are zoned Rural Residential Type One Exception Four (RR1-4) Zone (37 Wispi Shore Road) and Rural Residential Type One Exception Five (RR1-5) Zone (45, 57 & 61 Wispi Shore Road), and the strip across the easterly portion of the properties abutting the shoreline is zoned Environmental Protection (EP) Zone. The EP Zone does not permit residential accessory buildings or structures, or any structure, other than structures for flood and erosion control and docks. The applicant has submitted an application for a zoning by-law amendment to remove the EP Zone category to permit residential accessory buildings and/or structures such as boat houses. The intent of the EP Zone was to protect the waterfront area from development and ensure that it is left in its natural state. The proposed Rural Residential Type One Exception (RR1-*) Zone requires a 30 m setback from the water but would permit limited development in the form of docks and boat houses. In order to achieve the original intent of the EP Zone, the proposed zoning includes provisions to restrict how much of the waterfront is disturbed and how much is required to be in the form of a natural vegetation buffer.

A previous site visit has confirmed that there are accessory structures, such as storage sheds that exist within the 30 metre water setback. As these structures have not been captured in the application, they will need to be recognized within the proposed zoning by-law. The existing general provisions in the zoning by-law permit a maximum of three accessory buildings or structures, which shall not exceed total lot coverage of 225 sq. m. (2,422 sq. ft.).

Other Alternatives Considered:

No other alternatives have been considered at this time.

Financial/Operation Impacts:

There are no financial considerations for the City, unless Council's decision respecting the approval or refusal of the application is appealed to the Ontario Municipal Board. In the event of an appeal, should Council direct staff to defend its decision, there would be costs.

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: that of a vibrant and growing economy, an exceptional quality of life, and a healthy environment.

The application aligns with the Exceptional Quality of Life and Healthy Environment priorities in that the proposal would provide for additional water-based recreational opportunities, while improving shoreline protection by limiting development and promoting a natural vegetation buffer.

Servicing Comments:

The subject properties are serviced with Private Individual Wells and Septic Disposal Systems. The Building Division, Part 8 Sewage Systems Program has no objection to the application. Applications for any new development are required through the sewage system program prior to construction.

Consultations:

Notice of this application was previously circulated to the prescribed persons within a 500 metre radius, agencies, and City Departments which may have an interest in the proposed application. A statutory public meeting was held on April 5, 2017. 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. As of the writing of this report, staff has received the following comments:

Agency Review Comments:

The Building Division advised on March 13, 2017 that they have no concerns.

The Engineering Division advised on March 14, 2017 that they have no objection.

The Building Division – Sewage System Program advised on March 15, 2017 that they have no objection to the proposed zoning amendment.

The Community Services Department advised on March 17, 2017 that they have no concerns or comments.

The Kawartha Region Conservation Authority (KRCA) advised on March 22, 2017 that they would foresee no issue with the approval of this application based on their consideration for natural hazards, natural heritage and water quality and quantity protection policies. The applicants should be aware that the entirety of the subject properties fall within areas regulated by the KRCA and specifically includes:

- All properties are within 120 metres of Pigeon Lake #15 Provincially Significant Wetland

- Portions of the properties adjacent to Pigeon Lake with an elevation lower than 246.9 mASL which are considered to be within the regulatory floodplain
- A mapped watercourse that is present on the southern boundary of #61 Wispi Shore Road

As such, a permit is required from their office for any development activities including new structures (e.g. boat houses, sheds, docks) regardless of size and any site alteration including shoreline works (e.g. armour stone).

Parks Canada – Trent Severn Waterway (TSW) initially advised on April 4, 2017 that they could not fully support the application at that time noting concerns with the introduction of structures that may impact on access to the narrow channel fronting these properties as well as impact on the adjacent Provincially Significant Wetland. In this regard, the introduction of an in-water boat house or dock that projects out into the water would not be permitted at these locations. An up-land boat house or a dock running parallel to the shoreline would be considered subject to the submission of an application for full review. The comments from TSW also noted that any changes to the shoreline would be reviewed with consideration to the sensitive environmental concerns of the wetlands and the possible habitat for wild rice growth.

Parks Canada – Trent Severn Waterway (TSW) has since advised on February 1, 2018 after reviewing additional rezoning correspondence and the proposed draft zoning by-law amendment, that they are satisfied with the requirements.

The Mississaugas of Scugog Island First Nation advised on April 7, 2017 of a concern when they and representatives of the Williams Treaties and Parks Canada visited another property along Wispi Shore Road where a resident wished to remove wild rice in front of their residence. They of the Williams Treaties were not in support of that and continue to monitor projects that may have the ability to erode shorelines and ultimately encroach into wild rice beds, a resource that the Treaty #20/Williams Treaties First Nations never relinquished and that they continue to manage, harvest and protect.

Public Comments:

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

Development Services – Planning Division Comments:

Planning Staff has reviewed the applicant's planning justification report and generally concurs with its analysis and recommendations. The proposed zoning by-law amendment application appears to be consistent with the Provincial Policy Statement and appears to conform to the 2017 Growth Plan for the Greater Golden Horseshoe. Conformity with the City of Kawartha Lakes Official Plan (2012) will be established with respect to waterfront policies relating to shoreline naturalization with the proposed implementing zoning by-law amendment.

Parks Canada – Trent Seven Waterway have reviewed additional zoning correspondence and a revised draft zoning by-law amendment as proposed, and appear to be satisfied with the requirements. With respect to comments from the Mississaugas of Scugog Island First Nation, the proposed zoning by-law amendment will restrict shoreline disturbance for development purposes while requiring the remaining shoreline be re-naturalized to be in conformity with the Official Plan, providing additional protection for wild rice habitat.

Conclusion:

In consideration of the comments received and the previously identified issues with Official Plan waterfront policies that have been 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'
PLAN2018-015.pdf



Appendix 'B'
PLAN2018-015.pdf



Appendix 'C'
PLAN2018-015.pdf



Appendix 'D'
PLAN2018-015.pdf

Appendix 'A' – Location Map

Appendix 'B' – Aerial Photo

Appendix 'C' – Concept Rezoning Sketch illustrating existing structures

Appendix 'D' – Draft Zoning By-law Amendment

Department Head E-Mail: cmarshall@kawarthlakes.ca

Department Head Chris Marshall, Director of Development Services

Department File: D06-17-008