

The Corporation of the City of Kawartha Lakes

Planning Committee Report

Report Number PLAN2016-025

Date: April 6, 2016
Time: 1:00 p.m.
Place: Council Chambers
Public Meeting

Ward Community Identifier: Ward 15 - Emily

Subject: An application to amend the Township of Emily Zoning By-law 1996-30 to rezone a portion of the land from Agricultural (A1) Zone to Highway Commercial (C2) Zone on an agricultural lot identified as 4208 Highway 7, geographic Township of Emily (KRELL - Planning Application D06-16-014).

Author/Title: Ian Walker, Planner II

Signature: 

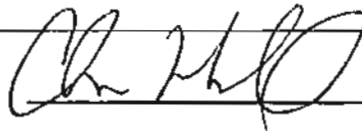
Recommendations:

RESOLVED THAT Report PLAN2016-025, respecting Part of Lot 11, Concession 3, geographic Township of Emily, identified as 4208 Highway 7, Application D06-16-014, be received; and

THAT Zoning By-law Amendment Application D06-16-014, respecting 4208 Highway 7, be refused as the application:

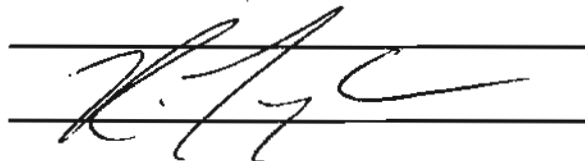
1. does not conform to the Mineral Aggregate Resources policies as set out in Section 4.2.3 of the 2006 Growth Plan;
2. is not consistent with the Rural Lands and Mineral Aggregate Resources policies as set out in Sections 1.1.5 and 2.5 respectively, of the 2014 Provincial Policy Statement; and
3. does not conform to Section 24 of the City of Kawartha Lakes Official Plan, being the Sand and Gravel Resource Designation policies.

Department Head:



Corporate Services Director / Other:

Chief Administrative Officer:



Background:

The applicant has submitted an application to rezone a portion of the lot in order to allow commercial uses, including a refreshment trailer as a restaurant use, and a retail sales establishment use. The entire property is zoned Agricultural (A1) Zone, which permits agricultural and agriculture-related uses, such as a farm produce outlet. The A1 Zone does not permit commercial uses, such as a restaurant or a retail sales establishment. As such, the owners have applied to amend the Zoning By-law to permit the commercial uses on a portion of the lot.

Owner:	Thomas and Shirley Krell
Legal Description:	Part of Lot 11, Concession 3, geographic Township of Emily
Designation:	Sand and Gravel Resource Area, City of Kawartha Lakes Official Plan
Zone:	Agricultural (A1) Zone on Schedule 'A', Township of Emily Zoning By-law No. 1996-30
Lot Area:	17.4 ha. [44.0 ac. – MPAC]; 0.36 ha. subject to rezoning
Site Servicing:	Residential – Private individual on-site sewage disposal and well Agricultural – Unserviced
Existing Uses:	Agricultural, Rural Residential
Adjacent Uses:	North: Highway 7, Agricultural, Rural Residential East: Industrial, Rural Residential South: Agricultural West: Rural Residential

Rationale:

The lot is located on the south side of Highway 7, to the east of the former Village of Omemee, west of Emily Park Road, in the geographic Township of Emily. The applicant proposes to rezone a 79.8 m. by 46.2 m. (0.36 ha./0.88 ac.) portion of the lot, located adjacent to the Highway. Refer to Appendix 'C'. The proposed zone amendment would permit new commercial development to be established, in accordance with the Highway Commercial (C2) Zone provisions in the Township of Emily Zoning By-law. The applicant has submitted a letter, indicating their desire for the proposed zoning, and the works proposed for Phase 1. The brief does not provide any justification for the proposed zoning amendment. The application and supporting documents have been circulated to landowners within 0.5 km of the subject lot, various City Departments and commenting plan-review Agencies which may have an interest in the application.

Provincial policies require the identification and protection of mineral aggregate resources for long-term use. This includes preventing development and activities which would hinder the establishment of new aggregate operations for known deposits of mineral aggregate resources.

This property is located in an area that has a high potential for sand and gravel extraction. The Official Plan (OP) designation of Sand and Gravel Resource identifies and protects the aggregate resource from incompatible land uses and conserves the resource for future extraction. The OP policies permit uses which protect sand and gravel resources by directing permanent development away from these areas.

Staff have reviewed the sketch and letter provided by the applicant. While the applicant has indicated they want to establish a commercial use on the property, there is no planning justification as to how the use is consistent with provincial policy and accessory to the permitted agricultural uses. Council's decision to permit additional uses on this property should be based on consistency with the provincial planning documents and conformity with the City's OP.

Provincial Policies:

Growth Plan for the Greater Golden Horseshoe, 2006:

The Growth Plan (GP) provides that growth should be directed towards settlement areas, except where necessary for development related to the management or use of resources, resource-based recreational activities, and rural land uses which cannot locate in settlement areas. Municipalities are encouraged to plan for economic opportunities within rural settlement areas which serve the needs of rural residents and area businesses. The GP also requires the identification of significant mineral aggregate resources, and the development of a long-term strategy for ensuring the wise use, conservation, availability, and management of these resources. New commercial uses which restrict or prevent access to and extraction of the resources would not conform with the GP.

Therefore, this application does not conform with the Growth Plan.

Provincial Policy Statement, 2014 (PPS):

The Provincial Policy Statement (PPS) provides that on rural lands, permitted uses are: the management or use of resources; resource-based recreational activities; limited residential development; home occupations and home industries; cemeteries; and other rural land uses. Section 1.1.4.1 provides that healthy, integrated and viable rural areas should be supported by using rural infrastructure efficiently, and promoting the sustainable management or use of resources. Section 1.1.4.2 directs growth and development to rural settlement areas. Section 1.1.5.2 provides that in rural areas, permitted uses and activities shall relate to the management or use of resources, resource-based recreational uses, limited residential development, and other rural land uses. Sections

1.1.5.4 and 1.1.5.5 require development be appropriate to the infrastructure planned or available, to avoid the need for unjustified or uneconomical expansion of the infrastructure. Sections 1.1.5.7 and 1.1.5.8 provide that agricultural uses and agriculture-related uses should be promoted and protected in accordance with provincial standards.

Section 2.5.1 provides that mineral aggregate resources shall be protected for long-term use, and where provincial information is available, they shall be identified. Existing mineral aggregate resource operations are protected from development and activities which would hinder the ability to expand or continue their use, or which would be incompatible for reasons of public health, safety, or environmental impact. In known deposits and on adjacent lands, development and activities which would prevent the establishment of new operations can only be permitted if the extraction of the resource would not be feasible, or if the proposed commercial development serves a greater long-term public interest, and issues of public health, safety and environmental impact can be addressed.

Therefore, this application is not consistent with the PPS.

Official Plan Conformity:

The lot is designated Sand and Gravel Resource Area in the City's Official Plan (OP). An objective of the OP is to protect sand and gravel resources from land uses which are incompatible with possible future extraction. Section 24.3.1 lists permitted uses as agriculture, forestry and open space passive recreational uses. The proposed commercial uses are not permitted in this designation. Section 24.3.3 allows development and activities which would preclude or hinder the establishment of new aggregate operations if the aggregate resource use would not be feasible, or the proposed land use serves a greater long term public interest, and issues of public health and safety, and environmental impacts are addressed. In accordance with Section 24.3.8, a study by a qualified professional must be completed to the satisfaction of Council, to demonstrate the extraction of sand and gravel has no commercial potential. This study has not been submitted.

Therefore, this application does not conform to the policies of the Official Plan.

Zoning By-Law Compliance:

The lot is zoned Agricultural (A1) Zone in the Township of Emily Zoning By-law 1996-30. The A1 Zone permits agricultural and agriculture-related uses, in addition to accessory uses, including a single detached dwelling. The proposed commercial uses include: a veterinary clinic; hotels, motels, or motor hotels; a motor vehicle sales establishment, service station and/or fuel bar; a recreational establishment; a restaurant; and large scale retail sales establishments. Approximately 3,600 sq. m. of the lot is proposed to be rezoned to Highway

Commercial (C2) to permit the proposed highway commercial uses. The remainder of the agricultural property would remain in the A1 Zone.

Other Alternatives Considered:

No other alternatives have been considered.

Financial Considerations:

There are no financial considerations 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 Recommendations To The 2016-2019 Strategic Plan:

The Council Adopted Strategic Plan identifies these Strategic Goals:

- A Vibrant and Growing Economy
- An Exceptional Quality of Life
- A Healthy Environment

While this application may temporarily align with the vibrant and growing economy strategic goal, as it provides for an economic development opportunity; it is likely that the proposed commercial uses will be incompatible with the activities associated with the future extraction of the existing aggregate material.

Review of Accessibility Implications of Any Development or Policy:

There are no accessibility implications for the City.

Servicing Comments:

The agricultural land, including the 0.36 ha. to be rezoned is unserviced. The existing single detached dwelling is serviced by a private sanitary sewage disposal system and individual well. If this application is successful, the commercial use will require a new private sanitary sewage disposal system and/or reserve sewage system capacity for hauled sewage, in accordance with Section 1.6.6.6 of the PPS.

Consultations:

Notice of this application was circulated to landowners within a 500 metre radius of the property, plan-review agencies, and City Departments which may have an interest in the application. To date we have received the following comments:

Agency Review Comments:

March 14, 2016 – The Building Division has no concerns.

March 15, 2016 – The Building Division Sewage System Program advised that on-site disposal can be established for the uses outlined in the request, however, the extent of development will be limited based on the size of on-site sewage disposal system which can fit in the portion of the property zoned to permit the use.

March 17, 2016 – The Engineering and Assets Department has no objection.

March 20, 2016 – John Shannon, neighbour, objects to the application on the basis of traffic safety concerns. See Appendix 'D'.

March 23, 2016 – The Community Services Department has no concerns.

December 17, 2015 – Through the Preconsultation process, the Ministry of Transportation (MTO) provided comments indicating this site is within the MTO control area, and subject to MTO approvals and permits. Phase 1, for a commercial use of a mobile chip truck, requires a minimum setback of 14 m. from the MTO right-of-way, and the upgrading of the existing residential entrance to a paved commercial entrance with 80 metre paved taper. Geotechnical field work and a pavement design report are required, prepared by an MTO RAQs approved consultant. Phase 2, to include additional commercial uses, requires a site plan, traffic impact study and stormwater management report. Costs of all studies and improvements are the responsibility of the landowner/developer.

Development Services – Planning Division Comments:

All information submitted has been circulated to the appropriate Agencies and City Departments for review and comment. No Planning Justification Report has been submitted, indicating how the proposed uses conform with the relevant provincial policies. Staff cannot support the application as it does not conform to the Mineral Aggregate Resources policies as set out in Section 4.2.3 of the 2006 Growth Plan, is not consistent with the Rural Lands and Mineral Aggregate Resources policies as set out in Sections 1.1.5 and 2.5 respectively, of the 2014 Provincial Policy Statement, and does not conform to Section 24 of the City of Kawartha Lakes Official Plan, being the Sand and Gravel Resource Designation policies.

Conclusion:

In light of the policies contained in the Growth Plan, the Provincial Policy Statement, and the City's Official Plan, staff respectfully requests that the application be refused.

Attachments:

Appendix 'A' – Location Map



PLAN2016-025
Appendix A.pdf

Appendix 'B' – Sketch for Zoning Amendment – received February 9, 2016



PLAN2016-025
Appendix B.pdf

Appendix 'C' – Aerial Photo



PLAN2016-025
Appendix C.pdf

Appendix 'D' – Public and Agency Comments



PLAN2016-025
Appendix D.pdf

Phone: 705-324-9411 ext. 1368 or 1-888-822-2225 ext. 1368
E-Mail: iwalker@city.kawarthalakes.on.ca
Department Head: Chris Marshall, Director
Department File: D06-16-014



APPENDIX " A "
to
REPORT PLAN 2016-025
FILE NO. D06-16-014

Concession 4

Acrevale Rd

Emily Park Rd

Cornwall St

Hwy 7

'SUBJECT LAND'

Lot 9

Lot 10

Lot 11

Lot 12

Concession 3

'Geographic Township of Emily'

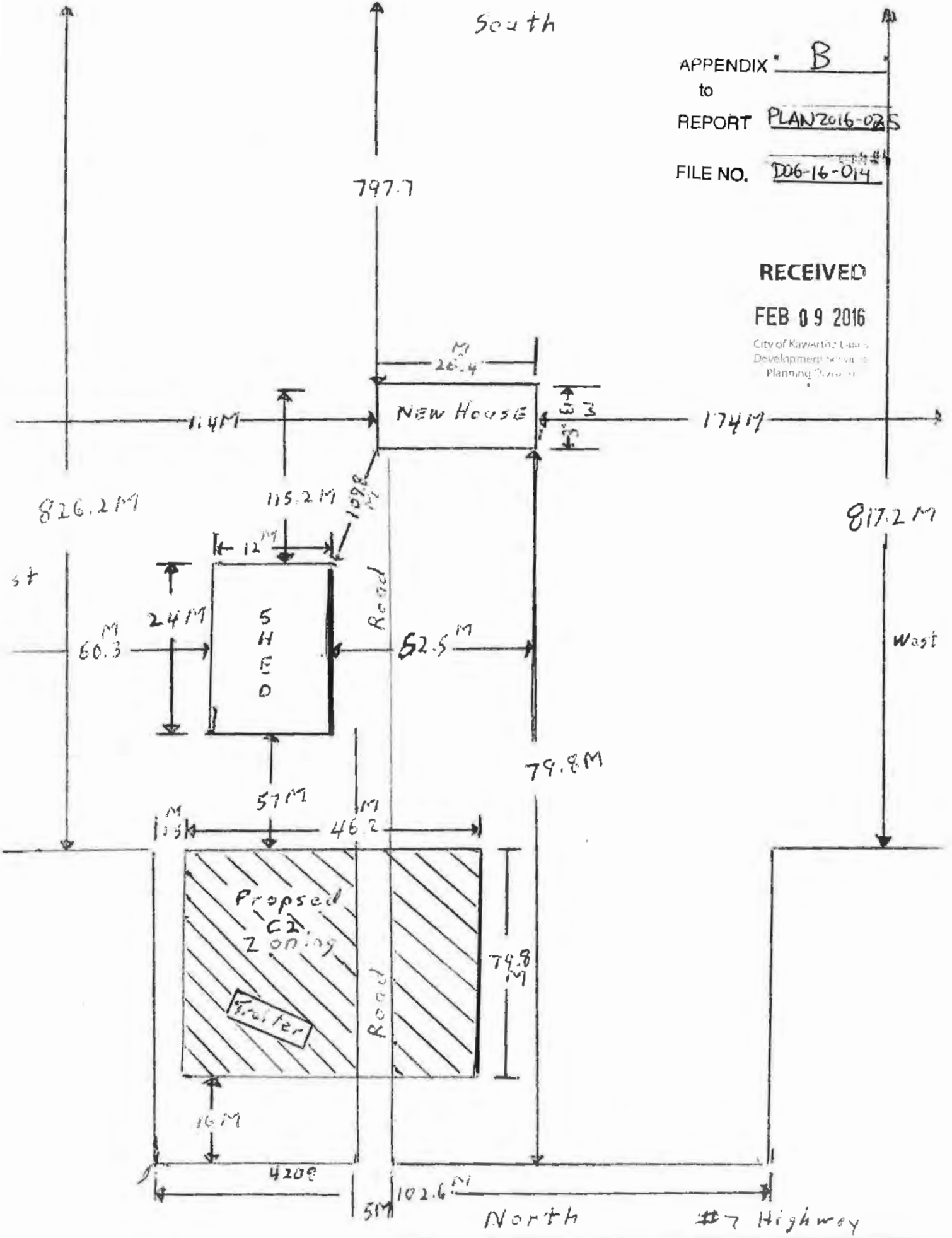
South

APPENDIX B
to
REPORT PLAN 2016-025
FILE NO. D06-16-014

RECEIVED

FEB 09 2016

City of Kawartha Lakes
Development Services
Planning Division





- Legend**
- Road Centreline
 - Contours
 - Property ROLL#
 - Lots and Concessions
 - KRCA Regulated Areas
 - LSRCA Regulated Areas
 - ORCA Regulated Areas
 - Surface Water Intake Protecto
 - Wellhead Protection Area V5U
 - Wellhead Protection Area V5C

APPENDIX
to
REPORT
FILE NO.

Notes	2013 Air Photo	PLAN 2016-025	D06-16-0147	C
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Ian Walker

From: Derryk Wolven
Sent: Monday, March 14, 2016 3:37 PM
To: Ian Walker
Subject: D06-16-013, D06-16-014

Categories: ZBL

APPENDIX D
to
REPORT PLAN 2016 025

FILE NO. D06-16 014

Please be advised the Building Division has no concerns with the following applications.

Kind regards,

D Wolven

Plans Examiner
Building Division
City of Kawartha Lakes

705-324-9411 ext.1273
dwolven@city.kawarthalakes.on.ca

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Ian Walker

From: Anne Elmhirst
Sent: Tuesday, March 15, 2016 4:45 PM
To: Ian Walker
Subject: D06-16-014 - 4208 Highway 7

Categories: ZBL

Hello Ian,

**RE: Application for a Zoning By-law Amendment
4208 Highway 7
Part Lot 11, Conc. 3
Former Emily Township, City of Kawartha Lakes
D06-16-014
Roll No: 165100100809300**

The City of Kawartha Lakes Building Division – Sewage System Program has received and reviewed the above-noted rezoning application. The effect of the zoning change will permit the uses listed in the Highway Commercial Zone, including a restaurant use for a chip truck and retail sales establishment uses.

The property has been assessed to ensure that a sewage disposal system can be accommodated within the boundaries of the proposed commercial portion. We are of the opinion that on-site sewage disposal can be established for the uses outlined in the zoning request. However, the extent of development will be limited to the ability of the portion zoned commercial to sustain on-site sewage disposal systems to service the uses.

Permits will be required for any proposed on-site sewage disposal systems.

Should you have any questions or concerns, please do not hesitate to contact me.

Kind regards,

Anne Elmhirst C.P.H.I.(C), B.A.Sc., B.Sc.
Supervisor – Part 8 Sewage Systems
Development Services - Building Division
180 Kent St. W.,
Lindsay, ON
K9V 2Y6
(t) 705-324-9411 ext. 1882
(f) 705-324-5514

Ian Walker

From: Christina Sisson
Sent: Thursday, March 17, 2016 3:57 PM
To: Ian Walker
Cc: Sherry Rea; Doug Carroll; Roberta Perdue; Andrew Clements
Subject: D06-16-014 - Rezoning Application - 4208 Highway 7

Categories: ZBL

Good afternoon,
Further to our review of the notice for the above noted rezoning application and further to our comments and attendance at the pre-consultation meeting, Development Engineering confirms we have no objection to the proposed rezoning and have no further comment on the proposal.
Thank you,

CHRISTINA

***Christina Sisson, P.Eng.
Lean Six Sigma Black Belt
Supervisor, Development Engineering***

csisson@city.kawarthalakes.on.ca
City of Kawartha Lakes
Engineering & Assets Department
P.O. Box 9000
12 Peel Street
Lindsay, Ontario K9V 5R8
(705) 324-9411 Ext. 1152

Ian Walker

From: John Shannon <regel@ican.net>
Sent: Sunday, March 20, 2016 8:31 PM
To: Ian Walker
Subject: File # D06-16-014

Categories: ZBL

Mr. Walker

I have **"Major"** concerns about this requested amendment. Especially about:

- 1) **Traffic Safety:** how could you possibly consider a narrow commercial entrance-way right in the middle of two converging 80 km / hr fast lanes; also, within 150 meters of a significant intersection? This requires a complete redesign of the existing structure of HWY 7 at this point. Anything short of a complete new turning lane on the north side and even the south side **is mandatory for public safety**. Prior to the turning lane change immediately east of this location in front of the previous gas station, **a man was decapitated in a similar road way configuration**. *I have witnessed many other accidents and near misses. Not a day goes by without horns blowing at other cars. Even the Post Office has designated this stretch of roadway "Too dangerous" to deliver mail to our existing roadside mail boxes.*

East bound traffic from Omeme is doing 80 to 90 KLM / Hr at Acrevale side Road. At that point there is a sign stating " 300" meters for the right lane to converge into the left lane. Also, east bound traffic must go over a "Knoll" at the intersection. Add to this the weaving in and out of high speed traffic to get around the new commercial driveway traffic moving at near zero velocity, , and this narrows the driving lanes **to a single dangerous point of high collision probability!** How many accidents are going to occur, especially in any kind of misty weather. This amendment requests that traffic from both sides slow down and even stop , at the 150 meter mark where the road is already at its narrowest point to complete with high volume traffic entering and exiting a 5m/15' entranceway? Stop it now!

- 2) My ability to enter my own driveway is currently a major aggravation and even dangerous when driving east trying to make a left hand turn. **The added congestion and stopped cars trying to enter and pull out of a narrow 5M/ 15' driveway is a recipe for disaster!** My Front living room is only 40 ' from the middle of this new intersection! I do not want cars crashing into my front room. I do not want to be faced with more time lost getting in and out of my driveway.
- 3) **I am calling for the immediate halt to this amendment, until there is a major traffic impact study done.**
- 4) I am contacting the MOT and alerting them to this extremely dangerous development. I will request that **the roadway involved be redesigned and the cost to do so be paid for by the requesting party.**
- 5) I am prepared to **seek legal advice about the loss of real estate value** to my property should this proceed. I own the property immediately across the HWY 7.
- 6) How many people **must be endangered for the sake of a...."Fish & Chip Truck!!!"** Who does this benefit? **Not the traveller and not the City of Kawartha Lakes.**
- 7) **I will hold the City of Kawartha Lakes liable for any and all liabilities pertaining to this amendment and will willingly testify for anyone injured, due any negligence on your behalf prior to and in the passing of this amendment.**
- 8) **Do not pass this amendment without major studies into all areas of concern.**

I will in the intrim, try to contact Mr. Walker and other authorities regarding this matter. If for some reason beyond my control, that I am unable to attend, I request that this letter be read.

Please confirm that you have received this email, thank you.

John Shannon

John Shannon

Tel: 705-799-2517

Email: regel@ican.net

I intend to be present at the April 6th, 2016 meeting At 1:00 pm.

Tomorrow morning, I will start with the following M.O.T. offices, until I locate the appropriate governing body:

Central Region , Downsview 416-235-5412

Eastern Region , Kingston, 613-544-2220

Northeastern Region, North Bay, 705-472-7900



Catch the Kawartha spirit

*The Corporation of The
City of Kawartha Lakes*

**Community Services Department
Administration Office
(705) 324-9411 ext. 1300**

RECEIVED

MEMORANDUM


MAR 23 2016

City of Kawartha Lakes
Development Services
Planning Division

DATE: March 18, 2016
TO: Ian Walker, Planner II
FROM: Craig Shanks, Director of Community Services
RE: Application for Zoning By-law Amendment File No. D06-16-014

This memorandum serves to confirm receipt of the application for Zoning By-law Amendment submitted by Thomas and Shirley Krell.

The Community Services Department wishes to advise that we have no concerns or comments with respect to this application.



Craig Shanks
Director of Community Services