

The Corporation of the City of Kawartha Lakes

Planning Advisory Committee Report

Report Number PLAN2018-023

Date: March 7, 2018
Time: 1:00 p.m.
Place: Council Chambers
Regular Meeting

Ward Community Identifier: Ward 16 - Manvers

Subject: An application to amend the City of Kawartha Lakes Oak Ridges Moraine Zoning By-law 2005-133 to change the zone category on the majority of the property from Oak Ridges Moraine Country Side Area (ORMCS) Zone to an Oak Ridges Moraine Country Side Area Special (ORMCS-*) Zone to prohibit residential use on the proposed retained agricultural land described as Part of Lots 8 and 9, Concession 3, geographic Township of Manvers, City of Kawartha Lakes, identified as 510 Telecom Road (Darmar Farms Inc.) – Planning File D06-17-002

Author and Title: David Harding, Planner II

Recommendation:

RESOLVED THAT Report PLAN2018-023, respecting Part of Lots 8 and 9, Concession 3, geographic Township of Manvers, and identified as 510 Telecom Road, “Darmar Farms Inc. – Application D06-17-002”, be received;

THAT a Zoning By-law Amendment respecting application D06-17-002, substantially in the form attached as Appendix “D” to Report PLAN2018-023, 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 applicant submitted two concurrent applications: a zoning by-law amendment, file number D06-17-002 and a consent, file number D03-17-003.

The consent application proposed to sever an approximately 0.72 hectare (1.78 acre) residential lot containing a single detached dwelling and retain approximately 102.28 hectares (252.74 acres) of agricultural and forested land. The dwelling on the land to be severed is considered surplus to the farm operation as a result of a farm consolidation. The retained land will be consolidated with non-abutting agricultural land belonging to the same farm operation.

The applicant anticipated that should the consent application be granted, a condition of provisional consent would be to rezone the retained agricultural and forested lands to prohibit residential use in order to be consistent with and conform to provincial and municipal policy.

On February 8, 2017, the Planning Advisory Committee deferred the zoning by-law amendment application until such time as comments had been received from the Ministry of Environment and Climate Change (MOECC) verifying that the proposal did not contravene the Renewable Energy Approval (REA) it had issued on the subject lands for the installation and operation of a Class 4 wind facility known as Settlers Landing. The subject property is one of two host properties for the Settlers Landing facility, see Appendix "A". The deferral also permitted time for consent file number D03-17-003, to be processed and a decision rendered by the Committee of Adjustment.

On November 2, 2017, the Committee of Adjustment granted provisional consent to sever the dwelling from the balance of the agricultural and forested lands. Condition 2 of the provisional consent decision required the proposed retained lands to be rezoned to prohibit residential use.

Owner:	Dale McFeeters, Darmar Farms Inc.
Applicant:	Bob Clark, Clark Consulting Services
Legal Description:	Part of Lots 8 and 9, Concession 3, geographic Township of Manvers
Official Plan:	"Countryside Area", City of Kawartha Lakes Oak Ridges Moraine Policy Area
Zone:	"Oak Ridges Moraine Country Side Area (ORMCS) Zone", City of Kawartha Lakes Oak Ridges Moraine Zoning By-law 2005-133, as amended
Site Size:	Severed – 0.72 hectares Retained – 102.28 hectares
Site Servicing:	Severed – Private individual well and septic system Retained – None

Existing Uses: Agricultural, Forest
Adjacent Uses: North: Agricultural, Forest, Rural Residential
East: Agricultural
South: Forest, Rural Residential
West: Agricultural, Forest

Rationale:

The MOECC has provided clarification that Ontario Regulation 359/09 of the Renewable Energy Approvals (REA) regulation only requires proponents of wind facilities to comply with the 550 metre setback for noise receptors in existence up to the day an REA application is submitted, or a specific time during the REA approvals process, such as the day before the notice of the draft site plan of the project location is published. As the 550 metre setback applies to the wind facility proponent, not property owners, should property owners proceed with development of a noise receptor within the setback, they do so with full knowledge that the development could be subject to noise from the wind facility. The MOECC further clarified that this reasoning extends to the land owner of the host property, as the consent does not change the way that the wind facility was/is constructed, operated, or maintained.

The subject property and the surrounding lands are primarily agricultural land, which is to be protected and preserved from new residential development or any other incompatible land use that may hinder existing or future agricultural operations.

The applicant submitted a Planning Justification Report prepared by Bob Clark of Clark Consulting Services, dated September 19, 2016 in support of the application. In support of the consent application, the applicant submitted a Minimum Distance Separation Calculation, Type A report dated November 15, 2016. These documents discuss and analyze the appropriateness of the proposed consent.

Staff has reviewed the Planning Justification Report and accompanying documentation filed in support of the proposed consent and zoning by-law amendment.

Staff also reviewed the Environmental Review Tribunal decision, case number 15-037 and the Amendment to Renewable Energy Approval, case number 8992-9TVSKD.

Provincial Policies:

Growth Plan for the Greater Golden Horseshoe, 2017 (Growth Plan):

Section 2.2.9 states that development outside of settlement areas may be permitted where necessary for the management of resources such as agricultural lands. Section 4.2.6 provides for the protection of prime agricultural areas

identified within official plans. The severance and subsequent rezoning to facilitate a consolidation of farm land is consistent with these policies.

Therefore, this application conforms to the policies of the Growth Plan.

Provincial Policy Statement, 2014 (PPS):

Sections 2.3.1 and 2.3.3.2 provide that prime agricultural areas shall be protected for long term use, and all types, sizes and intensities of agricultural uses and normal farm practices shall be promoted and protected in accordance with provincial standards.

The application to rezone a portion of the proposed retained lands will protect the agricultural use of the property and surrounding agricultural practices from incompatible residential use. The lot to be retained is of sufficient area to sustain an assortment of agricultural uses and the PPS encourages the protection of all types and sizes of agricultural use.

Therefore, this application is consistent with the PPS.

Oak Ridges Moraine Conservation Plan, 2017 (ORMCP):

Section 13 of the ORMCP provides that Countryside Areas are to be used primarily for agricultural and other rural purposes, and that prime agricultural areas are to be protected. Section 32 of the ORMCP provides that an existing dwelling deemed surplus to a farm operation as a result of a farm consolidation may be severed provided the new lot is not made any larger than necessary to support its sewage and well services and that the retained land is rezoned to prohibit residential development.

When development is proposed within an area of influence of a key natural heritage feature, such as a significant woodland or wetland, but is outside of the minimum vegetation protection zone for said feature, Section 22(3) requires a natural heritage evaluation be conducted to demonstrate no adverse impacts to the feature and identify opportunities to maintain, improve or restore the connectivity within and between key natural heritage features. In this case, the proposed lot is within the 120 metre area of influence of a significant woodland, but is outside of the minimum vegetation protection zone. Where natural heritage features are present, an agreement is required to maintain and/or improve and/or restore natural self-sustaining vegetation. Provisional consent conditions 4 and 5 have been approved to satisfy Sections 16(2), 22(3), and 32(4).

The application conforms to the policies of the ORMCP.

Official Plan Conformity:

Within the City of Kawartha Lakes Official Plan, the City of Kawartha Lakes Oak Ridges Moraine Policy Area (ORMPA) applies to the subject property. The subject property is designated “Countryside Area” and identified as a prime agricultural area within the ORMPA. Agricultural and other rural uses are

anticipated within this designation, and prime agricultural soils are to be protected in order to provide for the continuation of normal farm practices.

The City, through its Official Plan recognizes the generally desirable practice of the consolidation of farms wherever possible. The City also recognizes that it is not always possible to acquire abutting agricultural lots when consolidating an existing farm operation, and has established criteria in accordance with provincial policy to recognize this circumstance and protect the long term agricultural use of the land. One of the criteria is that the agricultural land be rezoned to prohibit any residential use.

As a consent to sever a dwelling surplus to a farm consolidation is proposed, the type of activity, partnered with the condition for a zoning by-law amendment to prevent further residential development, will ensure the continued protection of agricultural land from non-agricultural development.

A lot may be created within the Countryside Area designation provided that it complies with the applicable policies with the ORMCP.

The application conforms to the policies contained in the ORMPA. Therefore, this application conforms to the applicable policies of the Official Plan.

Zoning By-law Compliance:

The subject land is zoned “Oak Ridges Moraine Country Side Area (ORMCS) Zone”, in the City of Kawartha Lakes Oak Ridges Moraine Zoning By-law 2005-133, as amended.

The lot to be retained exceeds the minimum lot frontage (183 metres) and area (32 hectares) requirements of the ORMCS Zone by proposing about 511.21 metres and 102.28 hectares respectively. The purpose of the Zoning By-law Amendment (ZBA) is to protect the agricultural use of the land to be retained by prohibiting residential use in accordance with provincial and municipal policy. The ZBA proposes to rezone the portion of the lands to be retained from “ORMCS” Zone to “Oak Ridges Moraine Country Side Area Special One (ORMCS-S1) Zone” to prohibit residential use.

The residential lot to be created will remain within the ORMCS Zone. The ORMCS Zone category provides that residential lots created within said zone are subject to the requirements of the “Rural Residential Type One (RR1) Zone” category. The lot to be severed exceeds the minimum lot frontage (38 metres) and exceeds the area (2,000 square metre) requirements by proposing about 77.17 metres and 7200 square metres respectively. The dwelling on the proposed severed lot will comply with the applicable setback provisions of the RR1 Zone.

Other Alternatives Considered:

No alternatives have been considered at this time.

Financial/Operation Impacts:

There are no financial considerations unless Council's decision 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 Council Adopted Strategic Plan identifies these Strategic Goals:

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

This application would align with a vibrant and growing economy as it provides opportunity to expand the economic base by maintaining and expanding agricultural employment.

Servicing Comments:

The agricultural land is un-serviced. The existing single detached dwelling on the land to be severed is serviced by a private individual septic system and well.

Consultations:

Notice of this application was circulated to persons within a 500 metre radius, agencies, and City Departments which may have an interest in the application. The Building Division, Building Division - Part 8 Sewage Systems, Engineering and Corporate Assets Department, Kawartha Region Conservation Authority and Chippewas of Rama First Nation raised no concerns as a result of circulation.

A letter was received from Peter and Niki Schepers of 542 Drum Road enquiring as to the nature of the application.

A letter of objection was received from Vernon Gunness of 521 Telecom Road.

A letter of objection was received from Paul Richardson of 423 Highway 35. The letter was concerned about the potential development of future wind turbines, whether policy permitted the severance of the dwelling from a lot that has historically received other severances, and whether the REA approval prevented the severance.

Development Services – Planning Division Comments:

The application conforms to the 2017 Growth Plan, 2017 Oak Ridges Moraine Conservation Plan and is consistent with the 2014 Provincial Policy Statement. The application also conforms to the policies of the Official Plan. The proposed Zoning By-law Amendment contained in Appendix "D" will ensure the subject

land is preserved for agricultural use. All other ORMCS Zone provisions will be maintained.

In response to the letters of objection, staff analyzed whether a farm consolidation was taking place, whether policy permitted the severance of the dwelling, and whether the REA approval has any bearing on the application. After careful review and consideration, it has been determined that the proposal does comply with applicable policy and by-laws.

Conclusion:

The application conforms to the provincial policies concerning prime agricultural areas and the severance of a dwelling surplus to a farming operation as a result of a farm consolidation. The proposal is also consistent with the applicable policies of the ORMPA within the City's Official Plan. Staff support the application based on the information contained in this report and the comments received as of February 23, 2018. Staff respectfully recommends that the application be referred to Council for APPROVAL.

Attachments:

Appendix 'A' – Location Map



Appendix A to
PLAN2018-023.pdf

Appendix 'B' – Aerial Photograph



Appendix B to
PLAN2018-023.pdf

Appendix 'C' – Sketch for Consent Application – dated November 24, 2015



Appendix C to
PLAN2018-023.pdf

Appendix 'D' – Draft Zoning By-law Amendment



Appendix D to
PLAN2018-023.pdf

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Department Head: Chris Marshall

Department File: D06-17-002