

# The Corporation of the City of Kawartha Lakes

## Planning Advisory Committee Report

Report Number PLAN2018-073

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**Date:** September 12, 2018

**Time:** 1:00 p.m.

**Place:** Council Chambers

**Public Meeting**

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**Ward Community Identifier: Ward 8 – Mariposa**

**Title:** Zoning By-law Amendment for Observation Tower

**Description:** An application to amend the Township of Mariposa Zoning By-law to add an observation tower as a permitted use and amend the development standards for the observation tower on the property identified as 132 Oakdene Crescent, Mariposa (Alden and Sommerville)

**Author and Title: Ian Walker, Planning Officer – Large Developments**

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### Recommendations:

That Report PLAN2018-073, respecting **Part of Lot 17, Concession C, Geographic Township of Mariposa, Alden and Sommerville – Application D06-2018-022**, be received; and

That PLAN2018-073 respecting Application D06-2018-022 be denied

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

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

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

## **Background:**

The owners have submitted a Zoning By-law Amendment application to amend the Rural Residential Type Three (RR3) Zone to include an exception zone. The intent of the exception zone is to add an additional use to the property and amend the development standards to recognize an existing 10.5 metre high osprey observation tower which was constructed in the absence of any building permits.

Owner:	Suzanne Alden and Scott Sommerville
Legal Description:	Part of Lot 17, Concession C, Geographic Township of Mariposa
Designation:	Waterfront on Schedule A-2 of the City of Kawartha Lakes Official Plan
Zone:	Rural Residential Type Three (RR3) Zone on Schedule A of the Township of Mariposa Zoning By-law Number 94-07
Lot Area:	2,808 square metres [31,363 square feet – MPAC]
Site Servicing:	Private individual on-site sewage disposal and well
Existing Uses:	Shoreline Residential
Adjacent Uses:	North: Shoreline Residential East: Unopened Road Allowance; Agricultural South: Shoreline Residential West: Oakdene Crescent; Shoreline Residential

## **Rationale:**

The property is located on the east side of Oakdene Crescent, and west of an unopened road allowance. See Appendix A. The property contains a two-storey single detached dwelling with associated septic system and well, and the osprey observation tower. See Appendix B. The observation tower is not a permitted use in the current zone category, and is not in compliance with the general provisions set out in the Zoning By-law. As such, a rezoning is required.

5 letters of support were submitted with the application, along with a Site Visit Report prepared by M.B. Finney Limited, dated September 28, 2017.

## **Provincial Policies:**

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

The Growth Plan provides that development outside of settlement areas may be permitted on rural lands for the management or use of resources; resource-based recreational activities; and other rural land uses that are not appropriate in

settlement areas. Section 2.2.9 3.c) of the Growth Plan provides that other rural land uses must:

- i. Be compatible with the rural landscape and surrounding local land uses;
- ii. Be sustained by rural service levels; and
- iii. Not adversely affect the protection of agricultural uses and other resource-based uses such as mineral aggregate operations.

Staff are of the opinion that the viewing tower does not conform with the Growth Plan as it is not compatible with the rural landscape and surrounding local land uses. There are a number of neighbours that have complained about the viewing tower as they feel that it is unsightly and they feel it will impact their privacy.

#### **Provincial Policy Statement, 2014 (PPS):**

The Provincial Policy Statement (PPS) provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural environment. The PPS requires planning authorities to manage and direct land use to achieve efficient and resilient development and land use patterns. The PPS 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. Section 1.1.5.4 of the PPS provides that development which is compatible with the rural landscape, and can be sustained by rural service levels should be promoted.

Staff are of the opinion that the viewing tower is not compatible with the rural landscape.

#### **Official Plan Conformity:**

The lot is designated Waterfront on Schedule A-2 of the City's Official Plan (OP). Portions of adjacent properties to the north have been identified as Provincially Significant Wetlands and Significant Woodlands on Schedule B-2 of the OP. Permitted uses in the Waterfront designation include single detached dwellings and residential accessory uses. Section 20.5.1 of the OP states all buildings and structures shall maintain a low profile and blend with natural surroundings.

Staff are of the opinion that the viewing tower is not a residential accessory use and does not maintain a low profile and blend with the natural surroundings.

#### **Zoning By-Law Compliance:**

The lot is zoned Rural Residential Type Three (RR3) Zone in the Township of Mariposa Zoning By-law. The RR3 zone permits a single detached dwelling or vacation dwelling, and a home occupation. Accessory buildings, structures and uses are permitted through the General Provisions section of the By-law.

The observation tower is not a residential accessory use, therefore the use would need to be permitted as part of a site-specific exception zone. This application proposes to add an exception zone to recognize the observation tower as a permitted use; and to include development standards to recognize the height of the observation tower, which is currently 9.0 metres with a 1.52 metre railing, for a total height of 10.52 metres.

### **Other Alternatives Considered:**

No other alternatives have been considered.

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

There are no financial considerations unless Council's decision to adopt or their refusal to adopt the requested amendments is appealed to the Local Planning Appeal Tribunal. 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:

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

This application may align with the healthy environment strategic goal as it promotes the protection of natural features.

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

There are no accessibility implications for the City.

### **Servicing Comments:**

The existing dwelling is serviced by an on-site private sanitary sewage disposal system and individual well. No services are proposed for the observation tower structure.

### **Consultations:**

Notice of this application was circulated to persons within a 500 metre radius of the property, agencies, and City Departments which may have an interest in the application. As of August 31, 2018, we have received the following comments:

Public Comments:

5 emails and one letter objecting to the rezoning have been provided by 6 area residents. Concerns include: the invasion of privacy; that the tower provides a full view of neighbouring properties and the bay; that the tower is impacting on property values in the area; that the tower was constructed without any permits or approvals; that future uses of the tower cannot be controlled if the property is sold; and that other property owners in the area would seek similar approvals if this one is successful.

Agency Review Comments:

August 15, 2018	The Building Division has no concerns with the rezoning application.
August 15, 2018	The Economic Development Division has no comments to offer regarding the rezoning application.
August 17, 2018	The Engineering and Corporate Assets Department has no objection to the rezoning from an engineering review perspective.
August 23, 2018	Chippewas of Rama First Nation advised that it has received the notice of public meeting and has shared it with Council, and forwarded it on to the Williams Treaties First Nation Process Co-ordinator/Negotiator.
August 27, 2018	Enbridge Gas Distribution advised it does not object to the rezoning.
August 27, 2018	The Part 8 Sewage System Program advised it has no issue with the proposed rezoning.
August 31, 2018	The Kawartha Region Conservation Authority advised the property is regulated under Ontario Regulation 182/06, as it is within 120 metres of the Starr Bay Provincially Significant Wetland. As such, formal permission (a Section 28 Permit, Remediation Agreement) will be required for the observation tower. The signed and stamped engineering drawings prepared by M.B. Finney Ltd. for the bell-shaped foundations demonstrate the stability of the structure in relation to the grade of the property.

**Development Services – Planning Division Comments:**

The background information which has been submitted in support of the application has been circulated to the appropriate agencies and City Departments for review and comment. At this time, a number of objections have been received as a result of the public circulation.

## Conclusion:

In consideration of the comments and issues contained in this report, Staff respectfully recommend the proposed Zoning By-law Amendment application be denied as it does not conform with the Growth Plan, is not consistent with the PPS, and does not conform to the City of Kawartha Lakes Official Plan.

## Attachments:

The following attached documents may include scanned images of appendices, maps, and photographs. If you require an alternative format, please call Ian Walker, Planning Officer – Large Developments, (705) 324-9411 extension 1368.

Appendix 'A' – Location Map



PLAN2018-073  
Appendix A.pdf

Appendix 'B' – Site Plan, not dated



PLAN2018-073  
Appendix B.pdf

Appendix 'C' – Cross Section, not dated



PLAN2018-073  
Appendix C.pdf

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

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

**Department File:** D06-2018-022