

The Corporation of the City of Kawartha Lakes
Planning Advisory Committee Report

Report Number PLAN2019-004

Date: January 16, 2019
Time: 1:00 p.m.
Place: Council Chambers
Public Meeting

Ward Community Identifier: Ward 7 - Ops

Subject: An application to amend the Township of Ops Zoning By-law 93-30 to permit an addition to the existing cemetery to be located on the south portion of the subject land and to recognize the existing use associated with the place of worship on the north portion of the subject land at 117 Hillhead Road (Mount Horeb United Church)

Author and Title: Mark LaHay, Planner II

Recommendations:

That Report PLAN2019-004, respecting Part East Half of Lot 2, Concession 7, being Parts 1 to 3, Plan 57R-5147, geographic Township of Ops, and identified as 117 Hillhead Road – Application D06-2018-029, be received; and

That the proposed Zoning By-law Amendment respecting Application D06-2018-029, be referred back to staff to address any issues raised through the public consultation process and for further review and processing until such time that all comments have been received from all circulated agencies and City Departments and that any comments and concerns have been addressed.

Department Head: _____

Legal/Other: _____

Chief Administrative Officer: _____

Background:

Owner:	Trustees of Mount Horeb United Church
Applicant:	Gerald Hickson of the Mount Horeb United Church Cemetery Board
Legal Description:	Part East Half of Lot 2, Concession 7, being Parts 1 to 3, Plan 57R-5147, geographic Township of Ops
Official Plan:	“Rural” in the City of Kawartha Lakes Official Plan
Zone:	“Agricultural (A) Zone” and “Open Space Two Exception (OS-2) Zone” in the Township of Ops Zoning By-law 93-30, as amended
Site Size:	0.429 hectares (1.060 acres - MPAC)
Site Servicing:	Privy
Existing Uses:	Place of Worship, accessory portable building and storage building, cemetery
Adjacent Uses:	North: Agricultural South: Agricultural East: Hillhead Road, Agricultural West: Agricultural

Rationale:

The subject property is located within a predominately agricultural area, and contains a church, related accessory buildings and a cemetery. A portable accessory building used for meetings is located close to Hillhead Road and an accessory storage building is located behind.

The only permitted uses on the middle part of the property are for a place of worship and cemetery. Notwithstanding the permitted uses, the owner wishes to have the accessory place of worship buildings used for meetings and storage recognized as a permitted use and also permit the south approximately 0.2 ha (0.5 ac.) part of the property to be used to accommodate the proposed expansion of the cemetery.

The applicant has submitted the following documents and plans in support of the application, which have been circulated to various City Departments and commenting Agencies for review:

1. Zoning By-law Amendment Application received August 31, 2018.
2. Sketch Plan for Zoning By-law Amendment prepared by Coe Fisher Cameron, Ontario Land Surveyors, dated August 15, 2018.
3. Minimum Distance Separation (MDS) Report prepared by Clark Consulting Services, dated August 21, 2018.

In addition, the following documents and plans were submitted with the application:

4. Letter from Gerald Hickson, Vice-President of the Mount Horeb Cemetery Board dated April 2, 2018 requesting to waive preconsultation. The request was granted by the Director of Development Services on November 15, 2018.
5. Letter from Gerald Hickson to Council dated December 29, 2017 requesting Council's approval for a cemetery addition along the south side of the existing Mount Horeb Cemetery. The letter request was accompanied by a copy of the existing Cemetery Plan, updated on September 9, 2005 by Coe Fisher Cameron, Ontario Land Surveyors, a copy of the proposed Cemetery Plan dated April 21, 1992, a copy of Reference Plan 57R-5147 deposited in 1988 and a copy of Instrument Number R257855 relating to the acquisition of the southerly Part 1 lands through Consent application (File B-232/87), which was perfected on October 18, 1988 for a lot addition to merge with the balance of the subject lands and a copy of Instrument Number R257856 relating to declaration of possession (quit claim) of the northerly Part 3 lands on Plan 57R-5147.

In order to fully evaluate this application, Staff is further reviewing the applicable City and Provincial policy objectives that are relevant to this application. At this time, staff cannot fully determine the appropriateness of the proposal as responses from all City Departments and commenting agencies have not been received.

Provincial Policies:

Growth Plan for the Greater Golden Horseshoe, 2017:

The Growth Plan directs development to settlement areas except where the policies of the Plan permit otherwise.

Prior to the updates to Provincial mapping to the Agricultural System noted below, under the Rural designation under the City of Kawartha Lakes Official Plan (CKLOP), the subject property would have been considered to be on Rural lands in a Rural Area within the Growth Plan. In this instance, Policy 2.2.9.3 provides for development outside of settlement areas provided the uses are compatible with the rural landscape, can be sustained by rural service levels, and will not adversely affect the protection of agricultural uses.

More recently, the subject land has been identified as a Prime Agricultural Area under Provincial mapping related to the Agricultural System for the Greater Golden Horseshoe (GGH). In order to have regard for the broader policies of this Provincial Plan, Section 4.2.6.3 provides direction to achieve long term compatibility relating to the interface of agricultural uses and non-agricultural users to minimize and mitigate adverse impacts. Section 4.2.6 encourages the

retention of existing lots of record for agricultural uses. No change is being made to acquire additional agricultural land in this regard, as the northern and southern portions have been part of the subject property under the church ownership having been registered in the Land Registry Office in 1989.

Provided the impacts between agricultural and non-agricultural uses can be minimized to protect agricultural lands for long term use, the application would conform to the Growth Plan.

Provincial Policy Statement, 2014 (PPS):

The 2014 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.

Under the existing Rural designation, Rural Lands policies 1.1.5.4 and 1.1.5.7 state that where non-agricultural and non-resource-related uses are contemplated, said uses are to be compatible with the rural landscape and are to be directed to areas that will minimize constraints on agricultural and resource uses. The subject property, zoned for institutional purposes, is not used for agriculture, and the additional uses are not anticipated to impact the adjacent agricultural uses.

Development and site alteration shall be directed in accordance with the policies of Section 2 and 3 of the PPS. The proposed development does not appear to be within or adjacent to any natural heritage features or species at risk as identified in Section 2 of the PPS, and does not appear to be located within any natural hazards, as identified in Section 3 of the PPS.

As an identified Prime Agricultural Area under new Provincial mapping related to the Agricultural System for the GGH, in order to have regard for the broader policies of this Provincial Plan, Section 2.3.6 applies for non-agricultural uses in prime agricultural areas. Policy 2.3.6.1 b) only permits limited non-residential uses, provided all of the following are demonstrated:

1. The land does not comprise a specialty crop area;
2. The proposed use complies with the minimum distance separation formulae;
3. There is an identified need within the planning horizon provided for in policy 1.1.2 for additional land to be re-designated to accommodate the proposed use; and
4. Alternative locations have been evaluated, and
 - i. There are no reasonable alternative locations which avoid prime agricultural areas; and
 - ii. There are no reasonable alternative locations in prime agricultural areas with lower priority agricultural lands.

In addition, under Policy 2.3.6.2, impacts from any new or expanding non-agricultural uses on surrounding agricultural operations and lands are to be mitigated to the extent feasible.

The applicant has submitted a MDS report, which concludes it is appropriate to reduce the MDS setback requirement through the proposed zoning by-law amendment to accommodate the proposed expansion to the cemetery without creating any additional impact or creating any additional restriction on the current agricultural practices at the adjacent barn. Staff are reviewing the MDS report and applicable criteria for considering reductions in MDS setback requirements.

Provided it can be demonstrated that the above policies related to non-agricultural uses in prime agricultural areas, the application would be consistent with the PPS.

Official Plan Conformity:

Within the City of Kawartha Lakes Official Plan, the subject property is designated Rural.

The Rural designation encourages the development of uses that do not conflict with the agricultural community.

Although the place of worship and cemetery use is not specifically permitted within this designation, as the existing use predates the current Official Plan, Section 34.1 provides polices regarding existing uses, buildings or structures that were lawfully used on the date the Plan was adopted. In this regard, Council may decide that it is appropriate to recognize non-conforming uses and to permit the extension or enlargement to avoid unnecessary hardship. These uses can be recognized in an implementing by-law.

In this regard, the application could conform to the Official Plan provided matters such as possible relocation and improvements to make the use more compatible with surrounding uses are evaluated.

Zoning By-law Compliance:

The property is zoned “Agricultural (A) Zone” and “Open Space Two Exception (OS-2) Zone” in the Township of Ops Zoning By-law 93-30, as amended. The OS-2 Zone permits the place of worship and cemetery on the middle portion of the property. The application seeks to recognize existing accessory buildings related to the place of worship on the north portion of the subject land with an Open Space Exception (OS-**) Zone and also permit the south portion of the subject lands to be used for the proposed cemetery expansion. Staff are evaluating if a separate Open Space Exception Zone should be applied to the south portion limiting it to only cemetery use to further mitigate any potential adverse impacts on adjacent agricultural lands, which would be assist with conformity with the Growth Plan and Official Plan and consistency with the PPS.

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 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:

This section is completed outlining how the initiative, recommendation(s), and/or action within the Report contribute to the Council Adopted Strategic Plan. It can identify one of the Goals, namely:

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

The proposal aligns with Goal 2 as it would provide the local congregation and their families with more opportunities for the longer term use of the property.

Servicing Comments:

There are no servicing implications.

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. As of January 4, 2019, we have received the following comments:

Public Comments:

No comments were received.

Agency Comments:

On December 18, 2018, the Building Division and the Arts, Culture and Heritage Economic Development Officer advised that they have no concerns with the application.

On January 4, 2019, the Engineering and Corporate Assets Department advised that they have no objection to the proposed application.

Development Services – Planning Division Comments:

At this time, comments have not been received from all circulated agencies and City Departments. Staff recommends that the application be referred back to staff until such time as comments have been received from all circulated agencies and City Departments, and that any comments and concerns have been addressed.

Conclusion:

In consideration of the comments and analysis contained in this report, staff respectfully recommend that the proposed Zoning By-law Amendment application be referred back to staff for further review and processing until such time as comments have been received from all circulated agencies and City Departments, and that any comments and concerns have been addressed.

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'
PLAN2019-004.pdf



Appendix 'B'
PLAN2019-004.pdf



Appendix 'C'
PLAN2019-004.pdf

Appendix 'A' – Location Map
Appendix 'B' – Aerial Photograph
Appendix 'C' – Zoning By-law Amendment Sketch

Department Head E-Mail: cmarshall@kawarthlakes.ca

Department Head: Chris Marshall

Department File: D06-2018-029