

# **The Corporation of the City of Kawartha Lakes**

## **Planning Advisory Committee Report**

**Report Number PLAN2019-003**

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

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**Ward Community Identifier:** 6

**Title:** An application to amend the Village of Omemee Zoning By-law 1993-15

**Description:** To change the zone category from General Commercial (C1) Zone to a General Commercial Exception (C1-\*) Zone to also permit two (2) existing residential dwelling units in an existing building without a permitted non-residential use on land described as Part Lots 2 & 3, Plan 109, Former Village of Omemee, City of Kawartha Lakes, identified as 5 King Street East (Foley)

**Author and Title:** Mark LaHay, Planner II

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### **Recommendation(s):**

**That** Report PLAN2019-003, respecting Part Lots 2 & 3, Plan 109, Former Village of Omemee, and identified as 5 King Street East, Foley – Application D06-2018-012, be received; and

**That** the proposed Zoning By-law Amendment respecting Application D06-2018-012, be denied.

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

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

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

## **Background:**

The statutory public meeting was held by the Planning Advisory Committee on May 9, 2018, which adopted the following recommendation:

### **PAC2018-024**

**Moved By** Mayor Letham

**Seconded By** Councillor Veale

**Recommend that** Report PLAN2018-041, respecting Part Lots 2 & 3, Plan 109, Former Village of Omemee, and identified as 5 King Street East, Foley – Application D06-2018-012, be received; and

**That** the proposed Zoning By-law Amendment respecting Application D06-2018-012, be referred back 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.

**Carried**

At the Council Meeting of May 22, 2018, Council adopted the following resolution:

### **CR2018-343**

**Moved By** Councillor O'Reilly

**Seconded By** Councillor Veale

**That** the Minutes of the May 9, 2018 Planning Advisory Committee Meeting be received and the recommendations be adopted, save and except PAC2018-026.

**Carried**

This report addresses that direction.

The applicant has submitted a rezoning application to also permit two (2) residential dwelling units in an existing building that does not presently contain another permitted General Commercial (C1) Zone use.

Owner:	Shannon Foley
Applicant:	Kevin Duguay, KMD Community Planning & Consulting Inc.
Legal Description:	Part Lots 2 & 3, Plan 109, being Parts 2 and 3, 57R-1449, former Village of Omemee
Official Plan:	General Commercial, Victoria County Official Plan

Zone:	General Commercial (C1) Zone on Schedule 'A' of the Village of Omemee Zoning By-law No. 1993-15
Lot Area:	930.8 sq. m. [10,019 sq. ft. – MPAC]
Site Servicing:	Municipal sanitary sewer, storm sewer and private well water supply
Existing Uses:	Residential (2 dwelling units in existing building)
Adjacent Uses:	North: Church Street East, Residential East: Commercial, George Street North South: King Street East, Commercial West: Commercial, Sturgeon Street North

### **Rationale:**

The property is located on the north side of King Street East (Highway 7), between Sturgeon Road, and George Street North, and backs onto Church Street East providing access for parking purposes, in the former Village of Omemee. The subject land is located in an area of mixed land uses, including commercial, retail, residential and public service. Previously, there were mixed residential and commercial uses in the building. The commercial use, formerly a restaurant /coffee gift house, no longer exists and was replaced with a dwelling unit for a total of two dwelling units within the building. This building, which is set back from the street, was originally constructed and used as a two-storey residential dwelling and was subsequently converted over time. The General Commercial designation predominately allows retail and service commercial facilities on the ground floor with both commercial and residential uses on the upper floors. The C1 Zone permits a range of commercial oriented uses, together with a maximum of two (2) dwelling units in a building containing a permitted non-residential use. An amendment to the Zoning By-law is necessary to also permit two (2) dwelling units without a permitted non-residential use.

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

1. Planning Justification Report prepared by Kevin M. Duguay, Community Planning and Consulting Inc., dated November 16, 2017. This document discusses the appropriateness of the application in the context of the Growth Plan (2017), Provincial Policy Statement (2014), applicable Official Plan(s) and Zoning By-law.
2. Supplementary Analysis Memorandum prepared by Kevin M. Duguay, Community Planning and Consulting Inc., dated February 28, 2018 with focus on policies of the pending Omemee Secondary Plan.
3. Excerpt of Property Survey, Concept Plan with Parking Location and Site Area Photographs.

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

reviewed the applicable City policy objectives that are relevant in order to fully evaluate the appropriateness of this application.

## **Provincial Policies:**

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

The Growth Plan (GP) provides that growth should be directed towards settlement areas, and utilizes existing or planned infrastructure. The proposed development is located within the Omemee settlement area. The GP envisions increasing intensification of the existing built-up area and supporting the achievement of complete communities by facilitating a diverse mix of land uses, including residential and employment uses, and convenient access to local stores, services, and public service facilities and providing a diverse range and mix of housing options, including affordable housing. This application facilitates the efficient use of existing infrastructure within a designated settlement area and contributes to the achievement of complete communities and compact built form.

Therefore, this application appears to conform to the policies of the Growth Plan.

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

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. Settlement areas are the focus of growth, including redevelopment which utilizes existing or planned infrastructure. In addition, infilling and minor rounding out of existing development on partial services is permitted within settlement areas where site conditions are suitable in the long term with no negative impacts. 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. Therefore, the application appears to be consistent with the PPS.

### **Official Plan Conformity:**

The General Commercial designation in the Victoria County Official Plan (VCOP) applies to this property as the policies in the proposed Urban Settlement Area designation in the City of Kawartha Lakes Official Plan (CKLOP) and the Central Business District designation in the Omemee Secondary Plan (SP), are both subject to appeal to the Ontario Municipal Board, now known as the Local Planning Appeal Tribunal. The predominate use of land in the General Commercial designation is retail and service commercial operations, business and professional offices, hotels, motels, automotive commercial uses and facilities, funeral homes, theatres, clubs, places of amusement and recreation and civic-institutional uses. It also permits the use of upper stories for both commercial and residential uses, provided adequate

servicing is available. Both the Urban Settlement area policies for General Commercial Uses of the CKLOP and the Central Business District policies in the SP are intended to also permit dwellings. The SP permits residential uses in free standing residential buildings or on the upper floors of buildings and/or behind the front portions of buildings, where appropriate; however the preferred form of development is for retail and office uses to be at grade. This is the future policy direction for the settlement area of Omemee.

The low density residential use would appear to be compatible with existing uses and would have adequate servicing that would not be anticipated to increase sewage flow beyond what is currently permitted, in keeping with the policies in the CKLOP related to rezoning. However, although the application appears to be in keeping with the general policies of the intended CKLOP and proposed SP for residential use of land within the settlement area of Omemee, these policies are currently under appeal and not yet in effect and therefore the application does not conform to the policies of the General Commercial designation within the in-effect Official Plan, being the VCOP.

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

The subject land is zoned General Commercial (C1) Zone in the Village of Omemee Zoning By-law 1993-15 (ZBL). The applicant has submitted a Zoning By-law Amendment application for consideration. The application proposes to add a site-specific exception to the C1 Zone, to permit in addition to the permitted C1 Zone uses, two (2) existing dwelling units within the building on the subject lot without a permitted non-residential use. A maximum of two (2) dwelling units is currently permitted under the above conditions; however, the C1 Exception Zone is required to recognize a residential only use.

The General Commercial (C1) Zone permits a variety of non-residential uses such as business and professional offices, retail stores and service shops and personal service shops and restaurants. The ZBL does not require a minimum floor area for these non-residential uses, nor does it stipulate where (i.e. ground floor or upper floor) the maximum of 2 dwelling units are permitted. It only stipulates that a maximum of 2 dwelling units is permitted provided you have a non-residential use. A conversion of part of the building for a permitted non-residential (i.e. commercial) use would make the subject land compliant with the zoning by-law.

The application requires the requested rezoning to the ZBL to permit the proposed use. However, the proposed rezoning does not fully conform to the in-effect Official Plan.

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

There are no financial considerations unless Council's decision to adopt or its refusal to adopt the requested amendment 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 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 appears to align with the exceptional quality of life strategic goals as it increases the supply of affordable housing to attract new residents, and improves walkability in the City of Kawartha Lakes. However, it has not been sufficiently demonstrated that the application supports a vibrant and growing economy.

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

There are no accessibility implications for the City.

## **Servicing Comments:**

The lot is serviced by a private well and is connected to municipal sanitary and storm sewer services within the Omemee municipal service area.

## **Consultations:**

Notice of this application was previously circulated to persons within a 120 metre radius, agencies, and City Departments which may have an interest in the application and the statutory Public Meeting was held on May 9, 2018. As of January 4, 2019, we have received the following comments:

### **Public Comments:**

On May 7, 2018, some 15 written public comments were received that were each provided to the Planning Department and subsequently forwarded to the Clerks Department for distribution to Planning Advisory Committee (PAC) members. Most of the comments were provided on a similar letter primarily objecting to the application on the basis of incompatibility with the vision for the community and the Downtown Revitalization Plan that was approved by Council with input from Planning. By shrinking the available downtown commercial space, the proposed amendment will further limit the ability to increase commercial growth, improve commercial prosperity and expansion within the downtown core. The Downtown Revitalization Program is designed to improve the streetscape and attractiveness of the village, increase commercial opportunities and expand tourism. The proposal is in direct conflict with the official plan, zoning, and the revitalization program; all of which are designed to improve, protect and grow Omemee's downtown commercial core. Another comment, not in opposition to the proposal, suggested the house should be zoned to recognize its historical significance and use it, primarily as a residence, and be locally owned and maintained.

On May 9, 2018, a longtime resident and business owner in Omemee provided a letter objecting to the proposed rezoning as one of the biggest stumbling blocks to enhancing the downtown core, if not the main stumbling block, is the lack of usable and accessible commercial space. Prior to the present building being converted, the lower level still maintained a business floor plan which included a commercial style kitchen, staff washroom, and customer washrooms with multiple stalls, front/back entrances and accessible ramp at the front of the building. The letter further advised that the Village of Omemee has been recognized as needing support through the Downtown Revitalization meetings that have been taking place over the last few years. To allow this change to take place would potentially further hinder the Village's growth from a business and economic standpoint, and possibly set precedence for the many other buildings on the Main Street using their spaces in violation of the zoning to request amendments that would further disintegrate the livelihood of the business economy in Omemee.

On May 16, 2018, the Owner of the subject property made a deputation request to the May 22, 2018 Regular Council Meeting requesting approval of the Zoning By-law Amendment as it was purchased on the basis of it being listed as a multi-family residence. The seller had renovated this property into two (2) functional residential units and had put an application in place to adjust the zoning to reflect this. The property is occupied by 2 reliable tenants that have made each unit their home. The proposed zoning change still allows commercial capability in the future.

On May 23, 2018, a letter was received signed by five additional residents and business owners of 19 and 20 George Street, 12 King Street, 18-20 King Street and 13 Victoria Avenue East. The letter was authored by a Downtown Dreams contestant who was unable to secure commercial space suitable to their needs. The contest was funded by the Ontario Ministry of Agriculture, Food & Rural Affairs and the City of Kawartha Lakes and sponsored by numerous businesses and offered small business owners the opportunity to win prizes to help open a small business. Many business owners have expressed their frustration in the appearance of Downtown Omemee due to the conversion of commercial spaces allowing residential renters.

#### Agency Review Comments:

On April 16, 2108, the Building Division advised that they have no concerns with the above noted application. Permits are required for the change of use.

On April 18, 2018, Engineering and Corporate Assets advised that Development Engineering has no objection to the proposed Zoning By-law Amendment to change the zone category from General Commercial Zone to a General Commercial Exception Zone to permit two existing residential units.

On April 20, 2018, Enbridge Gas Distribution advised they do not object to the proposed application.

On April 27, 2018, the Economic Development Division advised they are unsupportive of the proposed zoning changes. It is important to maintain the supply

of commercially zoned space to ensure the economic viability and vibrancy of Omemee. This expanded use would set a negative precedent.

On April 27, 2018, the Chippewas of Rama First Nation advised the application was shared with their Council and forwarded to the Williams Treaties First Nation Process Coordinator/Negotiator to determine if any action is required.

On May 2, 2018, the Community Services Department advised they had no comments or concerns with the application.

On September 24, 2018, a meeting was held with the Manager of Economic Development to further discuss the proposal. Another meeting relating to available residential and commercial space in downtown Omemee was held with the Manager of Economic Development and Staff, the Manager of Municipal Law Enforcement and the Manager of Kawartha Lakes Housing (KLH) – Housing Help Division on September 25, 2018. A number of competing interests were discussed. Economic Development was concerned with the potential for commercial spaces being used for residential use. The Downtown Dreams contest was rolled out for the purpose of looking for retail space available for a coffee shop. KLH was concerned with the low residential vacancy rate (<1%) for Omemee, while By-law Enforcement mentioned concerns relating to enforcement issues, which leaves landlords without income once residential spaces are vacated.

On December 14, 2018, a further meeting was held with the Director of Development Services, Manager of Planning and the Manager of Economic Development. Although the proposed rezoning would not preclude the establishment of a commercial use, conformity with the in-effect Official Plan remains an issue as is the previous issues raised regarding the conversion of potential retail space for residential purposes which is in conflict with the objectives of the Omemee Downtown Revitalization Plan, which has a focus on stimulating a community's economic, social and physical prosperity by encouraging the proper mix of public space and social uses combined with bustling commercial activity to create a vibrant and engaging environment for residents and visitors.

### **Development Services – Planning Division Comments:**

Documents in support of the application have been submitted and circulated to the appropriate agencies and City departments for review and comment. Given that the more flexible policies of the CKLOP and SP are under appeal, and the proposed rezoning does not fully conform to the in-effect OP, the application may be considered premature. In addition, the goals of the Downtown Revitalization Plan for Omemee, approved by Council in March 2017, are to get business owners and organization collaborating, attract new, expanding and relocating businesses to downtown Omemee, improve the physical environment of the downtown and grow an animated, ecofriendly pedestrian town linking natural assets and businesses. Action Plans were also created to implement these goals, which include, as a high priority, identifying commercial properties not in commercial use. Given the issues



and concerns raised and identified in this report, Staff recommends the application be denied.

## **Conclusion:**

In consideration of the comments and issues contained in this report, Staff respectfully recommends the proposed Zoning By-law Amendment application be denied as the application does not conform to the in-effect Official Plan nor the objectives of the Council approved Omemee Downtown Revitalization Plan.

## **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'  
PLAN2019-003.pdf



Appendix 'B'  
PLAN2019-003.pdf



Appendix 'C'  
PLAN2019-003.pdf

Appendix 'A' – Location Map  
Appendix 'B' – Aerial Photo  
Appendix 'C' – Concept Site Plan with Parking

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

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

**Department File:** D06-2018-012