

# The Corporation of the City of Kawartha Lakes

## Planning Advisory Committee Report

Report Number PLAN2019-012

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**Date:** March 6, 2019  
**Time:** 1:00 p.m.  
**Place:** Council Chambers

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**Ward Community Identifier:** Ward 3 – Fenelon Falls

**Subject:** An application to amend the Village of Fenelon Falls Zoning By-law 89-25 to rezone the property to permit the modernization and redevelopment of an existing gas station use to add features such as an overhead gas island canopy. The property is described as Part of Lot 171, Plan 25, former Village of Fenelon Falls, City of Kawartha Lakes, identified as 4 Lindsay Street (2607892 Ontario Inc.) – Planning File D06-2018-031

**Author and Title:** David Harding, Planner II

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### Recommendations:

**That** Report PLAN2019-012, respecting Part of Lot 171, Plan 25, former Village of Fenelon Falls, City of Kawartha Lakes, identified as 4 Lindsay Street – Planning File D06-2018-031, be received;

**That** a Zoning By-law Amendment respecting application D06-2018-031, substantially in the form attached as Appendix D to Report PLAN2019-012, 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:

On February 6, 2019, Planning Advisory Committee granted a 1 month deferral in order for outstanding comments to be received and further analysis conducted. The analysis is now complete.

The applicant has submitted a rezoning application to permit the construction of a canopy. The applicant has submitted the following documentation 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 September 14, 2018. This document discusses the appropriateness of the application in the context of the Growth Plan (2017), Provincial Policy Statement (2014), applicable Official Plan and Zoning By-law.
2. Phase II Environmental Site Assessment prepared by TankTek Environmental Services Ltd dated November 15, 2017.
3. Functional Servicing Report and Preliminary Stormwater Strategy prepared by D.M. Wills Associates Limited dated August 20, 2018.
4. Section 59 Notice for a zoning by-law amendment prepared by the Risk Management Official/Risk Management Inspector dated September 11, 2018.
5. Fuel Spill Response Procedure.
6. Stage 1 Archaeological Assessment prepared by Earthworks Archaeological Services Inc. dated October 12, 2018.

Owner: Amgad Francis, 2607892 Ontario Inc.

Applicant: Kevin Duguay, Kevin M Duguay Community Planning and Consulting Inc.

Legal Description: Part of Lot 171, Plan 25, former Village of Fenelon Falls, now City of Kawartha Lakes

Official Plan: "District Commercial" in the Village of Fenelon Falls Official Plan

Zone: "District Commercial (C2) Zone", in the Village of Fenelon Falls Zoning By-law 89-25, as amended

Site Size: 1,169 square metres

Site Servicing: Municipal water and sewer

Existing Uses: Gas Station, Coin Laundry, Convenience Store

Adjacent Uses: North: Fenelon River/Parks Canada

East: Commercial  
South: Commercial, Residential  
West: Commercial

## **Rationale:**

The applicant has submitted a rezoning application to permit a gas station canopy and reconfigure and modernize facility. New fuel pumps will also be installed as part of the redevelopment.

## **Provincial Policies:**

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

The Growth Plan (GP) provides that growth should be directed towards settlement areas, and utilizes existing or planned infrastructure. The subject property is located within Fenelon Falls, a community which has been identified as a settlement area.

The GP contains settlement area policies to facilitate their development as complete communities. Complete communities are intended to provide a wide assortment of uses to support the daily needs of residents of all ages.

The amendment proposes to upgrade a long-standing gas station use.

This application conforms to the policies of the GP.

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

The subject property is within a settlement area. The PPS directs growth, development, and intensification to settlement areas for the efficient use of land, municipal services and infrastructure and to promote vitality.

The redevelopment of the gas station use is upon land which is already used as a gas station.

Policies under section 3.1 of the PPS provide for the protection of public health and safety. The Kawartha Region Conservation Authority (KRCA) has identified that the property is within an area known to contain karst topography. This is documented within the Karst Study for Southern Ontario, published by the Ontario Geological Survey. Further geotechnical investigation should be carried out during the site plan approval stage to determine if the new fuel tanks, which are proposed in a different location than the existing ones, are proposed within karstic soils. If there are karstic soils present, there would be structural challenges to development and a potential pathway for groundwater contamination by environmentally hazardous substances such as gasoline. Depending upon the results of a further geotechnical assessment, additional measures such as tanks design and a spill management plan may need to be incorporated to address the risk to public health and safety.

The KRCA has also identified the site plan approvals process as the correct mechanism to improve stormwater management design, as runoff is currently

conveyed by overland sheet flow over the north retaining wall and into the Fenelon River. This current drainage pattern provides for little quality control and has the potential to exacerbate erosion at/near the shoreline.

The application is consistent with the PPS provided a site plan agreement is used to address Section 3 of the PPS.

## **Village of Fenelon Falls Official Plan (FFOP)**

Land Use Designation: District Commercial

As the Fenelon Falls Secondary Plan is under appeal, the policies of the Village of Fenelon Falls Official Plan (FFOP) remain applicable. The designation anticipates a variety of commercial uses to compliment the needs of the Central Business District to the north. Such supportive commercial uses are intended to be vehicle-oriented, serving the travelling public. The gas station use is consistent with the type of anticipated use within the District Commercial designation. Policy 2.3.2 and in 3.7.1 encourage uses that promote and strengthen the central business district as the focal point of the community and commerce and that the use complements the role of the central business district. Policy 3.7.3(g) provides direction that Council shall endeavor to improve the general attractiveness of the District Commercial area. Site Plan Agreements are such suitable mechanisms to achieve this policy.

A gas station use is not the highest and best use of the land given the reduced lot area available for vehicles to navigate, the proximity of the existing driveway entrances to the intersection of two arterial roads (Helen Street and Lindsay Street) and the bridge to the central business district, and the sidewalks over the driveways being well-used by pedestrians. For these reasons, the proposal is not fully in conformity with Policy 3.7.3(d) which speaks to minimizing dangers to pedestrian and vehicular traffic. However, the gas station use is established and the addition of the gas island canopy is not anticipated to substantially alter how vehicles navigate the site since the location and number of the gas pumps is not proposed to change. Therefore, the gas station use continues to be an appropriate use for the site.

The FFOP identifies the Fenelon River, which is to the immediate north of the site, as an Environmentally Sensitive Area. Policy 5.2 of the FFOP permits development adjacent to an environmentally sensitive area provided such development is compatible and suitable measures are taken to mitigate any resulting adverse impacts. KRCA and Engineering and Corporate Assets Department have made requests to take the proposal through the site plan approval process in order to adequately address potential adverse impacts.

The application conforms with the applicable policies of the FFOP.

## **Fenelon Falls Secondary Plan (Secondary Plan)**

Land Use Designation: Commercial

Policy Area: Cameron Lake Waterfront Policy Area

While the Fenelon Falls Secondary Plan (Secondary Plan) is appealed to the Local Planning Appeal Tribunal and is not in effect, conformity with this document was reviewed to determine whether the proposal is consistent with Council's direction for the area. The Secondary Plan continues to have many similarities to the FFOP, but also expands upon certain concepts.

Within the Secondary Plan, the property is designated Commercial, and is also identified as being within the Cameron Lake Waterfront Policy Area (CLWPA) policy areas.

The CLWPA policies recognize the direct link present between the waterfront lands and the Main Street (Central Business District). Redevelopment within the CLWPA is to support this linkage as well as the form and function of existing neighborhoods.

Due to the property's proximity to the Fenelon River, it is also within an Environmental Constraint Area. As per policy 31.4.2.6, development and site alteration within environmental constraint areas are, to the extent possible, to enhance the ecological features and functions of the river, and minimize erosion, sedimentation and nutrient loading. These items will be reviewed by the KRCA and Engineering and Corporate Assets Department through the site plan approval process.

The Commercial designation anticipates uses which primarily serve vehicular traffic, and the uses are anticipated to compliment the primary economic function of the Central Business District. Automobile service stations are permitted uses. The minimum setback of buildings at intersections is also encouraged to assist in framing the streets.

As per policy 31.4.3.5.7, new and expanding commercial uses are to be subject to site plan control, and Policy 3.7.3(g) provides direction that Council will encourage improvement to the general attractiveness of the Commercial area.

The application would conform with the Secondary Plan.

### **Zoning By-law Compliance:**

The subject property is zoned "District Commercial (C2) Zone" in the Village of Fenelon Falls Zoning By-law 89-25.

The subject property is located at a busy corner in Fenelon Falls. As a corner lot, it is subject to the additional requirements, which are further complicated by its irregular shape.

The application seeks to amend the zone provisions by introducing a site-specific zone category to permit the redevelopment and modernization of the gas station use on the subject property. The primary purpose of the amendment is to facilitate the construction of a gas island canopy, proposed to run diagonal close to the intersection of Lindsay Street and Helen Street. The canopy and possibly the pump island(s) are proposed within the setbacks of the C2 Zone, and other General Provisions, such as sight triangle and spatial separation requirements from the main building prevent the canopy from being constructed in its current

location without an amendment to the zoning by-law. Staff has also taken this opportunity to adjust some of the zone requirements pertaining to gas station use in order to better reflect existing site circumstances.

### **Other Alternatives Considered:**

The owner originally applied for a pre-screening to see whether a minor variance was possible. That process determined that a zoning by-law amendment was the correct application process as nature and extent of relief required from the applicable zone provisions made staff support unlikely.

### **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:**

The Council Adopted Strategic Plan identifies these Strategic Goals:

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

This application aligns with the vibrant and growing economy strategic goal as it proposes to increase the functionality of an existing business.

### **Servicing Comments:**

The property is within the Fenelon Falls municipal service area and is connected to the sanitary sewer and water services.

### **Consultations:**

Comments have been received from the Building Division, Engineering and Corporate Assets Department, KRCA, and the Parks Canada - Trent Severn Waterway. Building Division and Parks Canada - Trent Severn Waterway has no objection to the proposal.

The Engineering and Corporate Assets Department states that a formal review of servicing, stormwater management and spill control plan will be conducted through the site plan approval process. The requirement for site plan approval has also been identified by the planning consultant and the engineering consultant.

The KRCA has noted that a permit from their office will be required for the proposed works. Further to comments outlined in the PPS section of the report, the KRCA has identified that additional information will be requested at the site plan approval stage to assess any karst topography risks and risks that the

placement of new fuel tanks may pose. Such information may include an elevation survey, a revised geotechnical assessment which performs tests deeper than the 0.9 metres currently conducted, and what additional measures will be considered to address risk to public health and safety with respect to the installation and operation of new fuel tanks. Further review of the proposed storm water management mitigation measures will also occur to determine opportunities for enhancement.

No comments were received from the public.

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

The appropriate documents in support of the application have been submitted and circulated to the appropriate Agencies and City Departments for review and comment.

Given the prominent location of the subject property, which is located to the immediate side of the bridge that acts as a gateway to the Fenelon Falls Central Business District, and the increased proximity of the proposed gas island canopy to the Helen Street and Lindsay Street intersection, and to the applicable policies within the FFOP and Secondary Plan, particular attention must be paid to architectural design and façade details because the property is so visible to vehicles and pedestrians.

From a planning perspective, the site plan approval process is the appropriate mechanism to address architectural and façade components. The necessity of site plan approval is reaffirmed by the technical comments provided by KRCA and Engineering and Corporate Assets Department in addition to the owner's planning and engineering consultants.

While the planning consultant has now submitted a deputation request to ask for a site plan exemption, staff believes, due to the comments and analysis contained within the staff report, that imposing a site plan agreement on the property is appropriate and represents good planning.

### **Conclusion:**

In consideration of the comments and analysis contained in this report, staff respectfully recommends that the proposed Zoning By-law Amendment application be referred to Council for APPROVAL.

### **Attachments:**

Appendix 'A' – Location Map



Appendix A to  
PLAN2019-012.pdf

## Appendix 'B' – Aerial Photograph



Appendix B to  
PLAN2019-012.pdf

## Appendix 'C' – Sketch and Elevation



Appendix C to  
PLAN2019-012.pdf

## Appendix 'D' – Draft Zoning By-law Amendment



Appendix D to  
PLAN2019-012.pdf

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**Department Head:** Chris Marshall

**Department File:** D06-2018-031