

The Corporation of the City of Kawartha Lakes
Committee of Adjustment Report – Carroll
Report Number COA2019-015

Public Meeting

Meeting Date: March 21, 2019
Time: 1:00 pm
Location: Council Chambers, City Hall, 26 Francis Street, Lindsay

Ward 6 – Geographic Township of Emily

Subject: Applications to sever four residential lots, with areas ranging from 0.35 hectares to 0.47 hectares, and retain approximately 15.3 hectares of vacant rural land. The property is located at 305 St. Luke's Road, geographic Township of Emily (Files D03-16-015, D03-16-016, D03-16-017, D03-16-018).

Author: Janet Wong, Planner II

Signature:

Recommendations:

Resolved That Report COA2019-015, Robert and Shari Carroll, be received;

That consent application D03-16-015, being an application to sever 0.47 hectares with an existing dwelling, with the conditions of provisional consent substantially in the form attached as Appendix "H1" to Report COA2019-015, be **Granted**;

That consent application D03-16-016, being an application to sever 0.35 hectares of vacant land, with the conditions substantially in the form attached as Appendix "H2" to Report COA2019-015, be **Granted**;

That consent application D03-16-017, being an application to sever 0.40 hectares of vacant land, with the conditions substantially in the form attached as Appendix "H3" to Report COA2019-015, be **Granted**;

That consent application D03-16-018, being an application to sever 0.40 hectares of vacant land, with the conditions substantially in the form attached as Appendix "H4" to Report COA2019-015, be **Granted**; and

That the Mayor and Clerk be authorized to execute any documents and agreements required by the approval of these applications.

Background:

The owners have applied to sever four residential lots on the north side of St. Luke's Road in the hamlet of Downeyville. The original applications intended to sever a total of 1.8 hectares and retain lands with frontage on St. Luke's Road and Sturgeon Road. After receiving comments from the agencies and the City, applications D03-16-015 (Lot 1) and D03-16-016 (Lot 2) were reconfigured to address entrance and natural heritage features. Applications D03-16-017 (Lot 3) and D03-16-018 (Lot 4) remained the same. Thus there is a total area being severed of 1.6 ha and retained lands of 15.3 ha. (approximate). See Appendices C to D inclusive.

Emily Creek crosses the retained lands flowing northerly through an unevaluated wetland and woodland. The creek is about 120 metres away from the closest proposed lot line. The balance of the property is meadow and culturally maintained. A ridge, about 10 metres high, crosses the severed lands. An existing residence would be located on Lot 1.

These applications were deemed complete June 2, 2016.

Owners: Robert and Shari Carroll
Applicant: EcoVue Consulting Services Inc. (Ken Hurford)
Legal Description: Lot 6, Concession 10, geographic Township of Emily, now City of Kawartha Lakes
Official Plan: "Hamlet" - retained and severed lands
"Environmental Protection" and "Prime Agricultural" - retained lands
City of Kawartha Lakes Official Plan
Zone: "Agricultural (A1) Zone" - severed and retained lands
"Environmental Protection (EP) Zone" - retained lands
Township of Emily Zoning By-law 1996-30
Site Size: Existing – 16.9 hectares

Application	Severed (hectares)	Retained (hectares)
D03-16-015 (Lot 1)	0.47	16.43
D03-16-016 (Lot 2)	0.35	16.08
D03-16-017 (Lot 3)	0.40	15.68
D03-16-018 (Lot 4)	0.40	15.28
Total	1.6	15.3

Site Servicing: Private individual wells and septic systems
Existing Uses: Large lot rural residential
Adjacent Uses: North: Agricultural

East: Hamlet: Residential, Commercial and St. Luke Catholic
Elementary School
South: Agricultural, Hamlet: Residential and Church
West: Agricultural

Rationale:

The applicant submitted the following reports and plans in support of the applications, which were circulated to various City Departments and commenting Agencies for review:

1. Planning Justification Report (EcoVue Consulting Services, dated May 12, 2016). The report discusses and assesses the proposal in the context of the 2014 Provincial Policy Statement, Growth Plan for the Greater Golden Horseshoe (2017), City of Kawartha Lakes Official Plan, and the Township of Emily Zoning By-law 1996-30.
2. Environmental Impact Study - 305 St. Luke's Road, City of Kawartha Lakes (Cambium, dated August 5, 2015) (EIS). The report identifies and assesses the natural heritage features in the context of the proposed severances and 2014 Provincial Policy Statement Natural Heritage and Natural Hazard policies. The EIS was prepared to cover lands within 30 metres of the proposed lots.
3. Hydrogeological Assessment – Lot 6, Concession 10, Township of Emily (Cambium Inc. dated February 18, 2016). The report evaluates ground water quantity and quality to determine the availability of a potable well water supply to service three (3) proposed vacant residential lots for development as Lot 1 has an existing dwelling.
4. Emily Creek Floodplain Analysis (C.C. Tatham & Associates, dated September 25, 2015). The analysis establishes the flood elevation across the site.
5. Consent Sketches (EcoVue Consulting Services, dated May 11, 2016).

Minimum Distance Separation calculations to establish the distance between proposed lots and existing barns and manure storage facilities are not required as the proposed lots are within a settlement area. Subsequent to receiving comments from City Departments and Agencies, additional information was provided to address entrances, drainage, grading, and natural heritage features and the lots were reconfigured as illustrated on the consolidated revised sketch (dated August 16, 2017) in Appendix D and which are being tabled before the Committee.

The Planning Justification Report along with subsequent supporting information advises that the severed lands would be consistent with both provincial and municipal planning policies and documents as supported by the EIS, hydrogeological assessment and delineation of the flood plain.

The EIS concluded that a small portion of the woodlands on the retained lands, Lot 2 and Lot 3 could be considered significant due to connection with wetland habitat. A 30 metre setback for buildings and septic systems from the wetland and candidate

woodland area was identified as adequate to mitigate any potential impacts. The EIS also identified 'cultural woodland' which was not classified as significant.

The hydrogeological assessment concluded that there is sufficient water quantity for individual wells without interfering with existing wells. For water quality, four water quality parameters were discussed based on criteria from Provincial Drinking Water Quality Standards (ODWQS):

	Parameter	Category	Concentration
1	Nitrate/Nitrite	Health related	Elevated
2	Hardness	Aesthetic	Exceeded
3	Sodium	Aesthetic	Elevated
4	Chloride	Aesthetic	Elevated

The recommendation was that dwellings should be equipped with treatment systems and particularly reverse osmosis to treat nitrate/nitrites. The report also indicated that "additional water quality monitoring for nitrates should be considered in the absence of treatment, and continue until a favourable trend (reducing concentrations) is established."

The flood plain analysis defined the flood plain as 254.56 metres above sea level in the vicinity of the proposed lots. The proposed lots are about 30 metres from the flood plain.

Staff has reviewed the Planning Justification Report and accompanying documents filed in support of the proposed severance.

Policy Conformity

Provincial Policy Statement, 2014 (PPS)

Under the PPS, the subject property is considered to be Rural Settlement Area within the Rural Area of the City. Rural Settlement Areas shall be the focus of growth and development. Where there is no municipal or communal servicing, individual on-site water and sewage services may be used for infilling and minor rounding-out of existing development. Implicit with the provision of water and sewage services is that they be provided in a manner that protects human health and the natural environment.

The PPS also requires the proposed development to have no negative impact on significant natural features and their ecological functions. The EIS identified unevaluated wetland and candidate significant woodland proximate to the severed lands.

The PPS also requires the proposed development to be located outside the flood plain and erosion hazard. The proposed lots are outside the floodplain and there was no

erosion hazard associated with Emily Creek identified. There is also sufficient area on the retained lands for development outside of flood risk areas.

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

The Growth Plan provides a framework to plan for growth and development in urban areas, rural towns and villages that are able to support surrounding rural and agricultural areas. The Growth Plan directs development to settlement areas and in particular new multiple lots in the Rural Area. The severed lands are outside the Agricultural System and Natural Heritage System for the Growth Plan as these Systems are outside of settlement areas. The proposal conforms with the policies of the Growth Plan.

City of Kawartha Lakes Official Plan (Official Plan)

In keeping with Provincial policies and plans, the strategic direction in the Official Plan is to direct development to settlement areas, including rural settlement areas.

The subject property is designated “Hamlet” in the Official Plan; “Environmental Protection (EP)” designation follows Emily Creek; and, “Prime Agricultural” designation is over the north-west corner of the retained lands. Four (4) consents fronting on St. Luke’s Road are permitted provided that there is adequate potable water supply as well as having access and not inhibiting logical growth on the retained lands. The minimum lot size should be 0.4 hectares.

Consent policies indicate the minimum lot area should be 0.4 hectares. The average lot size is 0.4 hectares, with Lot 1 being slightly larger and Lot 2 being slightly smaller. Lot 1 is irregular in shape (Appendix “D”). The 52.92 metre lot line should be extended to meet the side lot line eliminating the jog in the proposed property line. It is estimated that the reduced lot area would still place the average lot area at 0.4 hectares.

The EP designation may be refined through a flood plain study. The Study has refined the flood plain limit and demonstrated that the proposed lots are outside the flood plain, as well, access routes to permit future development on the retained lands will not be compromised. While the EP designation does not reflect the entire flood plain, an Official Plan amendment is not required as the Study refines the boundary.

The Natural Heritage System (NHS) includes unevaluated wetlands and significant woodlands. An EIS confirms the boundaries of natural heritage features (using Ecological Land Classification – ELC) and assesses the potential impacts from the development on the features and functions. The EIS identified meadow marsh and White Cedar coniferous forest as significant vegetation communities that City staff considers to be part of the NHS.

Contiguous with these features is ‘cultural woodland-moist’ on the retained lands and small portions of the severed lands (Lots 3 and 4). The PPS does not limit the identification of woodlands to ELC ‘forest types’. Staff considers the ‘cultural woodland-moist’ to also be significant being contiguous with and meeting at least the same criterion for significance as the White Cedar coniferous forest.

The proposed lot lines for Lot 2 and Lot 3 minimizes the extent of significant woodland on these lots. The Study recommended buffer of 30 metres from the White Cedar coniferous forest should be applied to the 'cultural woodland-moist' on Lots 2, 3, and 4. A 30 metre buffer from the wetland is supported for Lot 1 which is developed. Staff is recommending that the woodland, wetland, and 30 metre buffer be zoned as "Environmental Protection (EP) Zone", with no additional setback from the EP Zone boundary, for development to meet the intent of Provincial and City policy of no negative impact on these natural features. The approximate extent of the affected area is illustrated in Appendix "E".

Lots may also be permitted when it has been established that there is sufficient potable water. The applicant has demonstrated that there will be sufficient quantity of water to supply three new dwellings and not affect other wells.

With respect to water quality, nitrate/nitrite is a health-related parameter with a maximum acceptable concentration of 10mg/L. The applicant's original water quality testing was on samples taken in December 2015. Upon concerns with elevated nitrate/nitrite levels based on one sample time expressed by the City, water samples through several seasons were tested. It has been confirmed that there would not be fluctuations in nitrate/nitrite levels above maximum acceptable concentrations. Staff concur with the consultant's recommendation for water treatment as this parameter is elevated. A consent agreement, registered on title, is recommended to ensure future landowners are aware that reverse osmosis treatment is recommended or water quality monitored where treatment is not installed.

Following Provincial Drinking Water Quality Standards (ODWQS), chloride, sodium and hardness levels are elevated or exceeded, however are at concentrations that can be treated for domestic purposes. Future landowners should be made aware of high concentrations for these water quality parameters and treatment may be desirable. This would also be included in the consent agreement as a warning on title.

Zoning By-law Conformity

The severed lands are zoned "Agricultural (A1) Zone" in the Township of Emily Zoning By-law 1996-30. The proposed use is permitted. While the proposed lots do not meet the minimum lot area and lot frontage requirements, The A1 Zone (Section 7.2.1.7) allows for use and development in accordance with "Rural Residential Type One (RR1) Zone" requirements. However being in a Hamlet, a "Hamlet Residential (HR) Zone" would be more appropriate as it allows for a wider range of suitable residential uses and the balance of Downeyville residential properties are zoned HR Zone. It is recommended that the lands be rezoned to an HR Zone.

The lot to be retained is zoned as "Agricultural (A1) Zone" and "Environmental Protection (EP) Zone". The proposed lot would not meet the minimum lot area requirement nor minimum lot frontage as a "through lot". As well, Section 3.13.1 requires that no lot shall be created within multiple zones unless the lot complies with the minimum lot area and lot frontage of the applicable zones. An amendment to the

Zoning By-law would be required in order for the retained lands to comply with the Zoning By-law.

The EP Zone covers most of the woodland and wetland area on the property. Development should not be located within the significant forest and rezoned as identified previously.

Other Alternatives Considered:

No other alternatives have been considered.

Servicing Comments:

Lots 2 to 4 inclusive and the retained lands will be serviced by new private well and septic system. Lot 1 has a private well and septic system.

Consultations:

Notice of this application was circulated in accordance with the requirements of the Planning Act. Comments have been received from:

Agency and City Comments:

Building Division – Building Inspection (August 18, 2016): No concerns

Building Division – Sewage Inspection (July 26, 2016, September 7, 2017, February 8, 2019): Future owners be advised that backwash from treatment systems for drinking water should not be directed to septic systems. See comments.

Community Services Department (August 31, 2016): Cash-in-lieu of parkland required for each lot.

Development Engineering Division (September 13, 2017, January 19, 2019): recommends entering into a Consent Agreement with the City for the four lots and registering a drainage easement over Lot 4. See comments.

Environmental Services Division – (September 15, 2017, November 16, 2018): Recommends that a warning clause be included in a consent agreement to ensure that drinking water is tested annually and treated if necessary for bacteria and pathogens.

Kawartha Region Conservation Authority (November 24, 2016, August 30, 2017): No concerns. See comments.

Peterborough Victoria Northumberland and Clarington Catholic District School Board (PVNC School Board) (February 21, 2019): drainage from St. Luke Catholic Elementary School does not enter the drainage pipe. Requested a drainage easement in favour of the School Board over D03-16-018. See comments.

Public Comments:

Mr. Lucas (August 31, 2016): Please advise of decision. See comments.

Jean and Kathy Johnson (August 21, 2016): Concerns with traffic safety, impact on their water supply. See comments.

Planning Analysis:

Staff spoke with Ms. Johnson regarding her concerns. The consultant has demonstrated to Engineering staff that the proposed entrances will not present a safety hazard and that water quantity will not be adversely affected.

Drainage from the City road allowance has been piped across St. Luke Catholic Elementary School and the pipe terminates at Lot 4. Water flows overland from the outlet. Staff for the PVNC School Board has confirmed that drainage from the school property does not utilize the pipe and have not identified any future requirement for drainage across the Carroll property utilizing the drainage pipe. An easement would confer responsibility on the PVNC School Board to maintain the pipe and the drainage route within the easement for water that is not from their property. As such, Planning Staff are of the opinion that an easement in favour of the School Board is not warranted.

Based on the foregoing, staff recommends that these applications be approved with conditions as:

1. the applications are consistent with the applicable policies of the Provincial Policy Statement 2014; and,
2. the applications conform with the Growth Plan for the Greater Golden Horseshoe, 2017 and City of Kawartha Lakes Official Plan policies.

Conditions to address the above and to ensure the lots will be developed based on the revised concept include:

1. zoning by-law amendment for:
 - a. the severed lands to HR-* Zone and EP Zone to restrict development within natural heritage features and the 30 metre buffer with no further setback requirement from the EP Zone,
 - b. permit an undersized retained lot with two zones,
 - c. a part of the retained lands to EP Zone to reflect the boundary of the significant natural heritage features and flood plain;
2. a consent agreement be registered on title that includes:
 - a. a lot grading and drainage plan, which will identify entrances, building envelope, and septic system locations
 - b. erosion and sediment control plan; and
 - c. water quality warnings and recommendations
3. entrance permit
4. cash in lieu of parkland; and
5. specific to Lot 4, a drainage easement, in favour of the City, over the drainage route and existing drainage structure to allow for operation and maintenance associated with the conveyance of drainage from the St. Luke's road allowance.

Attachments



Appendices A-H.pdf

Appendix A – Location Map
Appendix B – Orthoimage
Appendix C – Applicant's Sketch Original
Appendix D – Applicant's Sketch Revised
Appendix E – Illustration of Proposed Extent of Environmental Protection Zone
Appendix F – City and Agency Comments
Appendix G – Public Comments
Appendix H – Proposed Conditions of Provisional Consent

Phone: 705-324-9411 extension 1330

E-Mail: jwong@kawarthalakes.ca

Department Head: Chris Marshall

Department File: D03-16-015, D03-16-016, D03-16-017, D03-16-0