

The Corporation of the City of Kawartha Lakes

Planning Advisory Committee Report

Report Number PLAN2019-023

Date: April 10, 2019
Time: 1:00 p.m.
Place: Council Chambers
Public Meeting

Ward Community Identifier: 8 - Emily

Title: An application to amend the Township of Emily Zoning By-law 1996-30.

Description: To change the Community Facility Exception One (CF-1) Zone to an appropriate Rural Residential Type Three (RR3) Zone to permit a residential use on a portion of the subject land and to rezone the balance of the subject land to an appropriate Environmental Protection (EP) Zone on the subject property identified as 19 Cardinal Road (Dalrymple).

Author and Title: Mark LaHay, Planner II

Recommendation(s):

That Report PLAN2019-023, respecting Block C, Plan 466, geographic Township of Emily, City of Kawartha Lakes, Application No. D06-2019-005, be received; and

THAT Zoning By-law Amendment Application D06-2019-005, Block C, Plan 466 geographic Township of Emily, City of Kawartha Lakes, be referred back to staff for further review and processing until such time that all comments have been received from all circulated Agencies and any other concerns or issues have been addressed.

Department Head: _____

Legal/Other: _____

Chief Administrative Officer: _____

Background:

Owners:	David Robert Dalrymple
Applicant:	Dan Stone, Thorstone Consulting Services Inc.
Legal Description:	Block C, Plan 466, geographic Township of Emily
Official Plan:	Waterfront and Environmental Protection in the City of Kawartha Lakes Official Plan with Provincially Significant Wetlands (PSW) Natural Heritage Feature in the City of Kawartha Lakes Official Plan
Zone:	Community Facility Exception One (CF-1) Zone in the Township of Emily Zoning By-law 1996-30, as amended
Site Size:	1.30 ha. (3.220 acres - MPAC)
Site Servicing:	Municipal Water and Private Septic System proposed
Existing Uses:	Vacant land with in-ground swimming pool to be demolished
Adjacent Uses:	North: Cardinal Road/ Agricultural and Rural Residential South: Environmental Protection/Wetland(PSW)/Pigeon Lake East: Boundary Road/Rural/Aggregate Pit West: Rural Residential/Marilyn Crescent

Rationale:

The subject property is located within an existing rural residential subdivision within a Waterfront designated community, which is situated adjacent to Pigeon Lake. The subject land contains an abandoned outdoor in-ground swimming pool near the westerly lot line, which is proposed to be decommissioned and filled in with the balance of the subject property being vacant. The current owner who purchased the property in 2016 proposes to rezone the northwestern portion of the property to change the previous community facility use to permit a single detached dwelling along with permitted residential accessory uses and rezone the balance of the property to not permit development within the environmentally protected area, which is composed of wetland and woodland.

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 January 7, 2019.
2. Planning Letter Brief prepared by Thorstone Consulting Services, dated October 26, 2018.
3. Supplementary Letter prepared by Thorstone Consulting Services, dated January 7, 2019 with additional information with respect to proposed sewage system design, MDS calculations, revised

development plan concept and Archeological Assessment work to be completed.

4. Revised Conceptual Development Plan and Proposed Zoning prepared by Thorstone Consulting Services, revised December 12, 2018.
5. Letter of Opinion/Report prepared by Terrastory Environmental Consulting Inc., dated October 15, 2018 in relation to potential natural heritage impacts associated with the proposed development.
6. Site Plan Sewage System Concept Plan prepared by D.N.J. Designs received January 7, 2019.

In order to fully evaluate this application, Staff is further reviewing the applicable 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 provides policies for managing growth and development while supporting economic prosperity, protecting the environment and helping communities achieve a high quality of life. Section 2.2.1 d) directs development to settlement areas except where policies permit otherwise, and Section 2.2.1 e) generally direct development away from hazardous lands. Within rural areas, subject to the policies of Section 4, Section 2.2.9.3 permits development outside of settlement areas on rural lands provided the uses are compatible with the rural landscape and surrounding local land uses; will be sustained by rural service levels; and, will not adversely affect the protection of agricultural uses and other resource based uses such as mineral aggregate operations.

The subject land is within the Natural Heritage System according to Provincial mapping, which illustrates the property is traversed by provincially significant wetland, significant woodland and fish habitat. Relevant 2017 Growth Plan policies from Sections 4.2.2, 4.2.3 and 4.2.4 apply, which include provisions to protect key natural heritage and hydrologic features, maintain connectivity between such features, limit the amount of total developable area disturbance and identify a vegetation protection zone surrounding these features. The Environmental Letter of Opinion submitted with the application outlines a number of recommended mitigation measures to protect the natural features and address the natural heritage provisions of the Growth Plan and other policy documents. These include: excluding development activities within the 30 m. vegetation protection zone to protect the Provincially Significant Wetland (PSW); limiting the total area of disturbance and impervious surfaces within the development area; ensuring that all necessary vegetation removal is completed outside primary bird

nesting periods; ensuring the pool is filled outside of the primary turtle activity season; utilizing low impact development (LID) design elements to minimize changes to post development water balance of the site and adjacent PSW; erosion and sediment and spills control; provision for native plantings, etc. Staff has not yet received comments from the Otonabee Region Conservation Authority which will assist to confirm this application demonstrates conformity with the policies of the Growth Plan.

Provincial Policy Statement, 2014 (PPS):

The Provincial Policy Statement provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural environment.

Section 1.1.4, Rural Areas in Municipalities, recognizes the importance of rural lands, natural heritage features and areas and other resource areas and building upon rural character and leveraging rural amenities and assets.

Section 1.1.5 of the PPS provides policy with respect to rural lands and permitted uses, which include resource-based recreational uses (including recreational dwellings) and limited residential development which is compatible with the rural landscape and can be sustained by rural service levels.

Section 2.1 of the PPS provides policy with respect to the Wise Use and Management of Resources to protect Natural Heritage features, which does not permit development in significant natural heritage features nor within the habitat of endangered species and threatened species. The Otonabee Region Conservation Authority (ORCA) created a Terms of Reference for an Environmental Study which is required to demonstrate that the proposed application would not result in negative impacts to the natural environment. Based on this, the submitted Environmental Letter of Opinion was circulated to ORCA; however, at this time Staff has not received review comments on the circulation of the application.

Section 2.6 pertaining to cultural heritage and archaeology does not permit development or site alteration on lands containing archaeological resources or areas of archaeological potential unless significant resources have been conserved. Although the retained Archaeological Consultant has stated there are no registered archaeological sites in the database within 2 km of the site, further field work is required to complete a Stage 2 Archaeological Assessment.

Section 3.1 of the PPS provides policies for protecting public health and safety by directing development away from hazardous lands and sites that may be subject to flooding and/or erosion or human-made hazards. Almost the entire property is within the regulated area of ORCA. The Conservation Authority permitting policies direct development outside of flood hazards.

The submitted Environmental Letter of Opinion outlines a number of recommended mitigation measures to address the natural heritage provisions of the PPS; however, Staff has not yet received comments from the Otonabee

Region Conservation Authority which will assist to confirm this application demonstrates consistency with the PPS.

Official Plan Conformity:

The property is designated “Waterfront” with the exception of the southeast side of the property, which is designated “Environmental Protection” in the City of Kawartha Lakes Official Plan (CLKOP). A Provincially Significant Wetland (Ennismore No. 9) Natural Heritage Feature is mapped on the Environmental Protection designated portion and on adjacent lands to the south of the subject property. The Waterfront land use designation provides for low density seasonal and permanent residential uses and accessory uses adjacent to lakes.

The natural heritage policies of the CLKOP in Section 3.5 apply. This includes prohibiting development and site alteration within a Provincially Significant Wetland (PSW), the preparation of an Environmental Impact Study (EIS) for development and site alteration within 120 m. of a wetland and fish habitat, that applications for development and/or site alteration within significant habitat of Threatened and Endangered species will be subject to the discretion of the Ministry of Natural Resources and Forestry, and development and/or site alteration within or adjacent to significant wildlife habitat may only be permitted subject to an EIS demonstrating no negative impacts to the natural features or their ecological functions.

The submitted Environmental Letter of Opinion outlines a number of recommended mitigation measures to address the natural heritage policies within the CLKOP; however, Staff has not yet received comments from the Otonabee Region Conservation Authority which will assist to confirm this application demonstrates conformity with the CLKOP.

Zoning By-law Compliance:

The property is zoned “Community Facility Exception One (CF-1) Zone” in the Township of Emily Zoning By-law 1996-30, as amended. The CF-1 Zone only permits a public or private park with no buildings or structures other than picnic shelters, gazebos and docks, which are not fully enclosed, playground equipment, a storage shed with a maximum floor area of 10 square metres and two change rooms, with no plumbing or washroom facilities, having a maximum total floor area of 25 square metres. As residential uses are not permitted, a rezoning is required. The effect of the zoning amendment is to permit a portion of the land to be used for a single residential dwelling and associated accessory uses with appropriate development standards and to rezone the balance of the subject land to an appropriate Environmental Protection (EP) Zone to not permit development on the wetland area. As the Archaeological Assessment has not been completed and filed with the Ministry of Tourism, Culture and Sport, any rezoning of the property should incorporate a Holding (H) symbol to require a

Stage 2 Archeological Assessment. At this time, the necessary field work for this assessment has not yet been completed.

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 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 in the City of Kawartha Lakes.

Servicing Comments:

The lot is proposed to be serviced by a municipal water supply and a private septic system. Additional information is required by the Building Division, Part 8 Sewage System Program to properly evaluate the proposed septic system design.

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 25, 2019, we have received the following comments:

Public Comments:

No comments were received.

Agency Comments:

On March 19, 2019, the Community Services Department advised that they have no concerns with the application.

On March 19, 2019, the Engineering and Corporate Assets Department advised that they have no objection to the proposed application; however, they require further documentation as discussed at the April 26th, 2018 Pre-Consultation Meeting to help facilitate the zoning by-law amendment. In this regard, Engineering requires a Municipal Service Connection Application and a Legal and Topographic Survey confirming the proposed location of the driveway and the existing and proposed location(s) of the municipal water service.

On March 20, 2019, the Building Division advised that they require a demolition permit for the in-ground pool.

On March 21, 2019, the Agriculture Development Officer advised that a partial Minimum Distance Separation (MSD II) report was completed with the submission indicating distances to two nearby barns but not a MDS I calculation. Planning Staff note that the Township of Emily Zoning By-law has a provision that exempts existing lots which are less than 4 ha. in area from the technical provisions of MDS I.

On March 27, 2019, Enbridge Gas advised they have no objection to the proposed application.

On March 29, 2019, the Economic Development Division advised they have no comments.

On March 29, 2019, the Part 8 Sewage Systems Supervisor advised that in order to complete the review of the proposed zoning by-law amendment, a lot survey will need to be completed that indicates the location of the sewage system within the allowable boundaries of the RR3 zoning. A Hydrogeological Brief will be required to discuss the impact of the construction of a sewage system to service this property as it relates to nitrate attenuation for the development and the existing subdivision.

Development Services – Planning Division Comments:

The application for Zoning By-law Amendment is subject to further confirmation from relevant commenting Agencies to demonstrate consistency with the Provincial Policy Statement and conformity to the Growth Plan and CKLOP. 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'
PLAN2019-023.pdf



Appendix 'B'
PLAN2019-023.pdf



Appendix 'C'
PLAN2019-023.pdf

Appendix 'A' – Location Map

Appendix 'B' – Aerial Photograph

Appendix 'C' – Zoning By-law Amendment Sketch

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Department Head: Chris Marshall

Department File: D06-2019-005