

**The Corporation of the City of Kawartha Lakes**  
**Committee of Adjustment Report – 1675453 Ontario Limited**  
Report Number COA2019-032

---

**Public Meeting**

**Meeting Date:** May 16, 2019  
**Time:** 1:00 pm  
**Location:** Council Chambers, City Hall, 26 Francis Street, Lindsay

---

**Ward 7 – Former Town of Lindsay**

**Subject:** An application to create an approximately 774.21 square metre easement for a right-of-way for storm water management purposes over Plan 606 Lot 11, in favour of Plan 606 Lot 10. The property is located at 16 Commerce Place, Town of Lindsay (File D03-2019-016).

---

**Author:** Ian Walker, Planning Officer –  
Large Developments

**Signature:**

---

**Recommendations:**

**Resolved that** Report COA2019-032 - 1675453 Ontario Ltd., be received;

**THAT** consent application D03-2019-016, being an application to create an easement for a right-of-way of approximately 774.21 square metres over Lot 11 Plan 606 to provide access for storm water management purposes in favour of Lot 10 Plan 606, be **Approved**.

**Conditions of provisional consent:**

1. This approval applies to the transaction applied for.
2. Submit to the Secretary-Treasurer one copy of the registered reference plan of the easement to be created.
3. Submit to the Secretary-Treasurer payment of all past due taxes and charges added to the tax roll, if any, at such time as the deeds are stamped.
4. Payment to the City of Kawartha Lakes of the stamping fee prevailing at the time the deeds are stamped, for the review and clearance of these conditions. The current fee is \$225.00. Payment shall be made by certified cheque, money order, or from a lawyers trust account.
5. Submit to the Secretary-Treasurer a copy of the Registry Office receipted documents with respect to Application D03-2019-016.

6. Submit to the Secretary-Treasurer a deed in triplicate for endorsement with the certificate of consent which deed shall contain a registerable description of the parcel of land described in the decision.
7. The applicant's solicitor shall provide a written undertaking to the Secretary-Treasurer confirming, pursuant to Subsection 53(43) of the Planning Act, that the deed in respect of this transaction shall be registered in the proper land registry office within six months from the date that the Secretary-Treasurer's certificate is stamped on the deed, failing which the consent shall lapse.
8. The applicant's solicitor shall also undertake to provide a copy of the registered deed to the Secretary-Treasurer as conclusive evidence of the fulfillment of the above-noted undertaking.
9. The applicant shall pay all costs associated with the preparation and registration of the required documents.
10. All of these conditions shall be fulfilled within a period of one year after the giving of the Notice of Decision, failing which, pursuant to Subsection 53(41) of the Planning Act, this consent shall be deemed to be refused.

## Background:

This application is being made in conjunction with the approval of site plan application D19-2018-007 for construction of a new 621 square metre office building on the property municipally known as 12 Commerce Place. The application proposes to create an easement over 16 Commerce Place, for the purposes of a private storm water management facility and to convey drainage from 12 Commerce Place. This application would provide an approximately 774.21 square metre right-of-way (approximately 14.8 metres by 74.0 metres) for 12 Commerce Place to drain across 16 Commerce Place to the existing municipal ditch along the former C.N.R. railway. A new lot is not being created.

On August 6, 1987, Plan 606 was registered at the Land Registry Office. The current standards for lot grading and drainage, and stormwater works were not contemplated at that time. To meet today's standards for stormwater conveyance, the new construction on 12 Commerce Place requires an outlet through 16 Commerce Place to ensure it does not negatively impact on the abutting properties to the east (Plan 608).

This application was received by the City on March 15, 2019, and deemed complete March 20, 2019.

Owner:	1675453 Ontario Limited
Applicant:	Art Kloosterman
Related Application:	D19-2018-007
Legal Description:	Lot 11, Plan 606
Official Plan:	'Prestige Employment' in the Town of Lindsay Official Plan
Zone:	'Prestige Employment Special Two (PE-S2) Zone' in the Town of Lindsay Zoning By-law 2000-75, as amended
Site Size:	Severed: 774.21 square metres (easement) Retained: 5,643.74 square metres (entire property)
Site Servicing:	Severed: Municipal water and sanitary sewer and ditches Retained: Municipal water and sanitary sewer and ditches
Existing Uses:	1 storey retail commercial building
Adjacent Uses:	North: Vacant land for future office building East: Vacant industrial land; Commerce Road South: Former C.N.R. railway lands; Residential subdivision West: Vacant industrial land

**Rationale:**

The property is located at the southeast end of Commerce Place, fronting on the cul-de-sac. See Appendix 'A'. The property contains a one-storey commercial building. See Appendix 'B'. The proposed new one-storey commercial (office) building on the property to the north requires an easement to convey drainage. See Appendix 'C'. As such, a consent to create an easement is required.

**Policy Conformity:****Growth Plan for the Greater Golden Horseshoe, 2017 (Growth Plan):**

These lands are identified as being within the 'Settlement Area' of Lindsay. Section 2.2.1 of the Growth Plan, 'Managing Growth' provides that growth should be directed towards settlement areas, and utilize existing or planned infrastructure.

Therefore, this application conforms to the policies of the Growth Plan.

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

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.

Development and site alteration shall be directed in accordance with the policies of Section 2 and 3 of the PPS. This includes natural heritage and hydrologic features (Section 2), and natural and man-made hazards (Section 3). Planning for sewage, water, and stormwater shall be in accordance with Section 1.6.6 of the PPS. This includes the efficient use and optimization of existing municipal sewage and water services in a sustainable manner, and the use of low impact development techniques for stormwater management.

Therefore, the proposal is consistent with the PPS.

**Town of Lindsay Official Plan (Lindsay Official Plan):**

The Lindsay Official Plan designates the lands as Prestige Employment. This designation permits a wide range of employment and office uses. The proposed development on 12 Commerce Place conforms with the permitted uses and the policies of the Lindsay Official Plan.

**Zoning By-law Conformity:**

Use and development of the subject property and benefitting lot is regulated by the 'Prestige Employment Special Two (PE-S2) Zone' in the Town of Lindsay Zoning By-law 2000-75. The proposed development on 12 Commerce Place complies with the required use and zone provisions of the PE-S2 zone.

**Other Alternatives Considered:**

No other alternatives have been considered.

### **Servicing Comments:**

The proposed right-of-way would not interfere with any current or future municipal services, including water and sewer.

### **Consultations:**

Notice of this application was circulated in accordance with the requirements of the Planning Act. A notice was circulated to all persons within a 60 metre radius of the property, and to agencies and City Departments which may have an interest in the application, and a notice posted in Kawartha Lakes This Week. The following comments have been received as of May 7, 2019:

### **Agency Comments:**

April 4, 2019	The Building Division has no concerns with the application.
April 9, 2019	The Engineering & Corporate Assets Department has no concerns with the application.
April 9, 2019	The Community Services Department has no concerns with the application.
April 9, 2019	Enbridge Gas Inc. does not object to the proposed application.
April 17, 2019	The Kawartha Region Conservation Authority (Kawartha Conservation) advised that the proposed stormwater management infiltration gallery will contain the 100-year storm event, and the emergency overflow weir outlets to a ditch that is not regulated under Ontario Regulation 182/06. No permits will be required from Kawartha Conservation, and they have no objection to the proposed easement, as it will facilitate a reduction of impacts to stormwater quantity and quality.

### **Public Comments:**

William and Deborah McDonnell of Lot 9 Plan 608 objected to this application on the basis that they do not know if the works will impact on their property, and had the following questions:

1. How deep will the ditch be and how close to their property?
2. Will equipment encroach on their property?
3. Who is liable if water floods over the ditch?
4. Will there be a retaining wall?
5. Who is developing the land?

Staff have provided a response to these questions, however, in the most recent correspondence received, they note that a drainage ditch has been installed, hence they remain concerned with the proposed easement.

### **Planning Division Comments:**

The concerns raised by the public are related to the easement have been considered. The grading works have been designed by a Professional Engineer, and reviewed by both the City and Kawartha Conservation Engineering staff. Based on the agency comments provided in the report, the proposed works would appear to provide an improvement to the overall stormwater management scheme in this older subdivision.

### **Attachments:**

The following attached documents may include scanned images of appendices, maps, and photographs. If you require an alternative format, please call Ian Walker, Planning Officer – Large Developments, (705) 324-9411 extension 1368.



COA2019-032  
Appendices A-E.pdf

Appendix 'A' – Location Map

Appendix 'B' – Aerial Photo

Appendix 'C' – Applicant's Original Consent Sketch

Appendix 'D' – Department and Agency Comments

Appendix 'E' – Correspondence Related to Objection

---

<b>Phone:</b>	705-324-9411 extension 1368
<b>E-Mail:</b>	iwalker@kawarthalakes.ca
<b>Department Head:</b>	Chris Marshall, Director of Development Services
<b>Department File:</b>	D03-2019-016