

The Corporation of the City of Kawartha Lakes
Planning Advisory Committee Report

Report Number PLAN2019-040

Date: July 3, 2019
Time: 1:00 p.m.
Place: Council Chambers
Public Meeting

Ward Community Identifier: Ward 3 - Fenelon

Title: An application to amend the Township of Fenelon Zoning By-law 12-95

Description: To change the Agricultural (A1) Zone to the Agricultural Exception (A1-**) Zone to permit a second single detached dwelling, on Part Lot 12, Concession 7, geographic Township of Fenelon, 356 Country Lane (Moore)

Author and Title: Mark LaHay, Planner II

Recommendations:

That Report PLAN2019-040, respecting Part Lot 12, Concession 7, geographic Township of Fenelon, Application D06-2019-014, be received; and

That the proposed Zoning By-law Amendment respecting Application D06-2019-014, be referred back to staff 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.

Department Head: _____

Legal/Other: _____

Chief Administrative Officer: _____

Background:

Proposal:	To rezone the subject land from the Agricultural (A1) Zone to the Agricultural Exception (A1-**) Zone. The effect of the zoning amendment would be to permit a second detached dwelling on the property which is accessory to a main permitted agricultural use.
Owners:	Kenneth and Ute Moore
Applicant:	Tom deBoer, TD Consulting Inc.
Legal Description:	Part Lot 12, Concession 7, geographic Township of Fenelon
Official Plan:	“Prime Agricultural”, and “Environmental Protection” with an Unevaluated Wetland Natural Heritage Feature in the City of Kawartha Lakes Official Plan
Zoning	“Agricultural (A1) Zone” in the Township of Fenelon Comprehensive Zoning By-law No. 1996-30
Site Size:	49.3 acres (19.95 ha.) - MPAC
Site Servicing:	The lot is serviced by a private individual well and a private individual sewage disposal system, which will be shared with the proposed second dwelling.
Existing Uses:	Residential/Agricultural
Adjacent Uses:	North: Rural Residential/Agricultural East: Highway 35/Agricultural South: Rural Residential/Agricultural West: Country Lane/Agricultural

Rationale:

The owner has applied to permit a second detached dwelling on the subject land. The subject lands are in a prime agricultural area and located north of the Hamlet of Cameron, west of Highway 35 on the east side of Country Lane. The existing single detached dwelling was built in 2010 according to MPAC records. The second detached dwelling is proposed to be located to the southeast of the existing single detached dwelling and will occupy an area of approximately 150 sq. m. (1615 sq. ft.). The proposed second detached dwelling is proposed to be a modular home structure.

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 March 11, 2019.
2. Planning Brief, prepared by TD Consulting Inc., dated March 5, 2019

3. Site Plan for the Zoning By-law Amendment prepared by the TD Consulting Inc., dated January 2019.
4. Site Servicing Plan for the Zoning By-law Amendment prepared by the TD Consulting Inc., dated March 2019.
5. Agricultural Impact Assessment, Agricultural Brief and Minimum Distance Separation (MDS) Report prepared by Clark Consulting Services, dated February 4, 2019.
6. Well Flow Test prepared by GHD Limited, dated February 25, 2019 confirming sufficient water quantity to support an additional dwelling.

In order to fully evaluate this application, Staff is further reviewing the applicable City and Provincial 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, including comments from the Kawartha Region Conservation Authority and the Agricultural Economic Development Officer.

The effect of this application is to permit a second dwelling on the property which is accessory to a main permitted agricultural use. The applicant has indicated that the proposed second dwelling will be located to the south of the existing dwelling with a new driveway connection from the existing driveway providing access from Country Lane and will share the existing well and septic system that services the main dwelling. The location of the secondary dwelling was chosen to protect and maintain the agricultural land along the Highway 35 frontage, the rear of the existing dwelling contains a geothermal system, the area between the existing dwelling and Country Lane contains the septic system and irrigation system and the area around the pond is low and floods from time to time.

According to the application, the tenants of the proposed second dwelling are related to the owners of the property and will be a caregiver to the aging parents. The second dwelling will be tied to the existing dwelling through services as accessory to the main agricultural use.

Applicable Provincial Policies:

The Planning Act, R.S.O. 1990, c.P.13, provides a framework for municipalities to require policies within their Official Plans which support second units to be implemented through municipal Zoning By-laws. Second units are self-contained residential units with a private kitchen, bathroom facilities and sleeping areas typically contained either within an existing main dwelling or within part of a building or structure (i.e. garage) ancillary to the main dwelling. Currently, such policies to permit second units are not incorporated into the City's Official Plan.

A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 (2019 Growth Plan):

The 2019 Growth Plan directs development to settlement areas except where the policies of the Plan permit otherwise.

This application would need to be evaluated taking into consideration whether the proposed use is compatible with the rural landscape, can be sustained by rural service levels, and will not adversely affect the protection of agricultural uses and/or achieving long term compatibility relating to the interface of agricultural uses and non-agricultural users to minimize and mitigate adverse impacts.

Staff is reviewing this application. Provided the above can be demonstrated, the application would conform to the policies of the 2019 Growth Plan.

Provincial Policy Statement, 2014 (PPS):

The 2014 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.

Section 2.3 applies as the proposed second dwelling residential use on the subject property, which is currently zoned for agricultural purposes, is within a prime agricultural area. In prime agricultural areas, permitted uses are limited to agricultural, agriculture-related and on-farm diversified uses. Other uses must be directed to settlement areas or rural lands. An agricultural use is the primary use in prime agricultural areas and by definition includes the growing of crops, raising of livestock and raising of other animals for fur, food or fibre amongst other things and includes associated on-farm buildings and structures used by the farm operator that are integral to the farm operation and include livestock barns, manure storages, feed storages, silos, farm implement buildings and drivesheds, a primary residential dwelling and accommodation for full-time farm labour when the size and nature of the operation requires additional employment.

The subject land does not appear to have associated on-farm buildings. The submitted Agricultural Impact Assessment indicates that there are well defined grassy fields on the subject land that are used to produce hay for an outside farmer. The Ministry of Agriculture, Food and Rural Affairs (OMAFRA) has provided Guidelines on Permitted Uses in Prime Agricultural Areas (Publication 851) which discourage new separate permanent dwellings for farm help and suggest alternatives such as a second dwelling unit within an existing building on the farm, a temporary structure, such as a trailer or other portable dwelling unit or utilizing an existing dwelling on a parcel of land that is part of the extended farm operation, or located in a nearby settlement area or on a rural lot.

Section 2.3.6 provides policies for non-agricultural uses in prime agricultural areas, which only permit limited non-residential uses, provided the land does not comprise a specialty crop area, the use complies with MDS requirements, there is an identified need and alternative locations have been evaluated.

The applicant has submitted MDS calculations and an Agricultural Impact Assessment/Brief, which concludes that MDS setbacks are met for Type 1 land uses in relation to the existing barns within the review area, which complies with the requirements of the PPS and that impacts on the loss of agricultural land and production will be minimal. Additional justification is required as the policy review of the proposed use has been evaluated primarily under the context of rural lands, whereas, the subject land is considered a prime agricultural area.

Section 2.1 of the PPS provides policy with respect to the Wise Use and Management of Resources to protect Natural Heritage features. 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. Significant Woodland has been mapped within 120 metres of the southeastern portion of the subject land; however the proposed development appears to be more than 120 metres from this Natural Heritage Feature and the Unevaluated Wetlands Natural Heritage Feature in the northwestern portion of the subject land. In addition, an area within 15 metres of the top of bank of the watercourse traversing the subject property and a portion of the northwestern area of the subject land is within a regulated area. It would appear that the proposed location of the second dwelling is outside the Kawartha Conservation (KRCA) regulated area; however, a portion of the proposed driveway extension and site alterations required for the upgrading and expansion of the septic system appear to be within a regulated area, which would require a permit. Comments from KRCA are required to confirm there will not any negative impacts on the natural features or their ecological functions or any concern for any natural hazards associated with this application.

Based on the above, it has not been determined that the application is consistent with the PPS.

Official Plan Conformity:

The subject land is designated “Prime Agricultural” and “Environmental Protection” in the City of Kawartha Lakes Official Plan. The Environmental Protection designation follows a watercourse traversing across a portion of the property. The proposed second dwelling is proposed to be located outside the environmental designated area. Agricultural land impacts are intended to be minimized as the proposed second dwelling will be located in an area not currently used for agricultural use and will also share well water and septic services with the existing dwelling. Through pre-consultation, it was determined that an accessory dwelling unit must be tied to the principal (existing) dwelling unit through services as separate principal second dwelling units are not permitted and would require an amendment to the Official Plan.

The Prime Agricultural policies promote and protect prime agricultural lands from fragmentation and non-farm activities to ensure that non-agricultural uses and development is encouraged to locate within designated settlement areas. Permitted uses within this designation include agricultural uses, agriculture-related uses, single detached dwellings accessory to the other permitted uses, garden suites, and secondary uses including kennels and agri-business uses meeting certain criteria.

Currently, policies to permit second units and second dwelling are not incorporated into the Prime Agricultural Designation in the City's Official Plan; however policies exist for permitting garden suites.

Staff is further reviewing the application to determine if the proposal would conform to the policies of the City of Kawartha Lakes Official Plan.

Zoning By-Law Compliance:

In order to permit the proposed use, a rezoning application has been submitted for consideration to add a second detached dwelling use to the Agricultural (A1) Zone for the subject land. The existing provisions in the A1 Zone permit a second dwelling subject to the land being used for an agricultural use and meeting minimum lot size requirements (i.e. minimum land area of 38 ha. with a minimum of 25 ha. in the A1 Zone) and dwelling separation requirements (i.e. not greater than 30 m. or less than 10 m. to the main dwelling). If the application is approved, a second single detached dwelling would be permitted in accordance with the implementing Zoning By-law, which should also recognize a reduced minimum lot size and increased dwelling separation requirements and stipulate that the water and septic services be shared with the existing main dwelling to be considered accessory or secondary to the main dwelling unit.

Other Alternatives Considered:

No other alternatives have been considered, other than a previous proposal submitted through preconsultation, where the proposed secondary dwelling was located a considerable distance behind the existing dwelling to the east towards Highway 35, on separate services, which was not supported by Staff. At the time, Staff recommended that the owner apply for a garden suite, which is a temporary dwelling and designed to be portable and ancillary to the main dwelling, which shares services with the main dwelling. The submitted proposal is a hybrid of the two, being a permanent second dwelling sharing services with the main dwelling.

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 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 would align with the exceptional quality of life goal as it supports housing options to supply affordable housing.

Review of Accessibility Implications of Any Development or Policy:

There are no accessibility implications for the City.

Servicing Comments:

The lot is currently serviced by a private individual well and a private sewage disposal system, which will be shared with the proposed second dwelling. The Building Division Part 8 Sewage Systems Staff have indicated that the sewage system will need to be upgraded or replaced to accommodate the proposed second detached dwelling. The owners are willing to complete the necessary requirements for sewage system upgrades.

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. To date, we have received the following comments:

Public Comments:

As of the time of writing this report, one public comment was received from the owner of 338 Country Lane, which property appears to have been severed from the subject land and is the irregular shaped property located immediately to the south of the existing dwelling and partially bounded by the existing watercourse. Concerns were raised regarding the proximity of the proposed second dwelling and privacy concerns.

Agency Review Comments:

On June 6, 2019, the Building Division advised they have no concerns.

On June 9, 2019, the Building Division Part 8 Sewage Systems Program advised the proposed zoning amendment has been reviewed to allow a second detached dwelling unit on the subject land which will be accessory to the existing single

detached dwelling already present. A review of the existing sewage disposal components with the new proposal was completed through the Sewage System Review application with the Building Division. The review indicates that the performance level of the system will be reduced when the new detached dwelling is connected to it in its current configuration. As such, the sewage system will need to be upgraded or replaced to accommodate the proposed second detached dwelling. The owners were made aware of this requirement upon completion of the review. The owners are willing to complete the necessary requirements for the sewage system upgrades. As such, the Building Division – Sewage System Program has no objection to the proposed zoning by-law amendment.

On June 10, 2019, Development Engineering advised from an engineering perspective and further to the pre-consultation file D38-2018-088 they confirm they have no objection to the proposed Zoning By-law Amendment.

On June 10, 2019, the Community Services Department advised that they have no concerns or comments with respect to this application.

On June 11, 2019, Enbridge Gas Inc. advised they have no objection to the application.

On June 18, 2019, the Ministry of Transportation (MTO) advised they have no concern with the proposed zoning by-law amendment and that no access will be permitted from Highway 35 as all access is to be maintained via Country Lane. MTO requested to be circulated on any approvals required from the KRCA and the City of Kawartha Lakes regarding the proposed expansion of the septic bed. In addition, MTO approvals and permits are required prior to the construction and/or demolition of any buildings and/or structures and prior to the issuance of a building permit for lands within the Ministry's permit control area.

Development Services – Planning Division Comments:

At this time, comments have not been received from all circulated agencies and City Departments and applicable policy objectives are also being reviewed by staff. 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'
PLAN2019-040.pdf



Appendix 'B'
PLAN2019-040.pdf



Appendix 'C'
PLAN2019-040.pdf

Appendix 'A' – Location Map
Appendix 'B' – Aerial Photograph
Appendix 'C' – Proposed Site Plan

Department Head E-Mail: cmarshall@kawarthalakes.ca

Department Head: Chris Marshall

Department File: D06-2019-014