

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

Report Number PLAN2019-045

Date: August 7, 2019

Time: 1:00 p.m.

Place: Victoria Room

Regular 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 a Rural Residential Type Three Exception Thirteen (RR3-13) Zone to permit a residential use on a portion of the subject land and to rezone the balance of the subject land to an 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 PLAN2019-045, respecting Block C, Plan 466, geographic Township of Emily, City of Kawartha Lakes, Application No. D06-2019-005, be received; and

That a Zoning By-law, respecting application D06-2019-005, substantially in the form attached as Appendix 'D' to Report PLAN2019-045 be approved for adoption by Council; and

That Council adopt the Zoning By-law, respecting application D06-2019-005, following receipt of the required cash-in-lieu of parkland contribution; 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:

The statutory public meeting was held by the Planning Advisory Committee on April 10, 2019, which adopted the following recommendation:

PAC2019-027

Moved By Councillor Veale

Seconded By T. Smith

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.

Carried

At the Council Meeting of April 23, 2019, Council adopted the following resolution:

CR2019-279

Moved By Councillor O'Reilly

Seconded By Councillor Veale

That the Minutes of the April 10, 2019 Planning Advisory Committee Meeting be received and the recommendations, included in section 13.1 of the Agenda, be adopted.

Carried

This report addresses that direction.

The applicant has submitted a rezoning application to change the Community Facility Exception One (CF-1) Zone to an appropriate Rural Residential Type Three (RR3-*) Exception Zone to permit a residential use on the northwestern portion of the property and rezone the balance of subject property to an Environmental Protection (EP) Zone to protect the wetland area from development.

Owner: 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.
7. Revised Conceptual Development Plan and Proposed Zoning prepared by Thorstone Consulting Services, revised April 29, 2019.
8. Revised Site Plan Sewage System Concept Plan prepared by D.N.J. Designs received April 30, 2019.
9. Stage 1 and 2 Archaeological Assessment prepared by Northeastern Archaeological Associates Limited, dated May 13, 2019.
10. Reasonable Use Policy (nitrate attenuation) Assessment prepared by Azimuth Environmental Consulting Inc., dated May 2019.

Supporting documentation was circulated to the applicable Agencies and City Divisions for review and comment. Staff has reviewed the Planning Brief in support of the proposed amendment and generally accepts the planning rationale given. Staff has evaluated the proposal taking into account the applicable policy objectives together with any other further responses from other City Departments and/or commenting Agencies.

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 metre 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.

In consideration of the above and having reviewed comments received from the Otonabee Region Conservation Authority, Staff are satisfied that 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.

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. The retained Archaeological Consultant has completed the necessary field work in conjunction with a Curve Lake First Nation Liaison to file the Stage 1 and Stage 2 Archaeological Assessment with the Ministry of Tourism, Culture and Sport. The Stage 1 and Stage 2 Archaeological Assessment did not result in the discovery of any material of cultural significance and therefore it was recommended that no further assessment is required.

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.

In consideration of the above and having reviewed comments received from the Otonabee Region Conservation Authority, Staff are satisfied that 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 CKLOP 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 CKLOP, which will protect the natural heritage features by excluding site alteration and development activities within the PSW and 30 metre Vegetation Protection Zone.

As identified during preconsultation and as outlined in Section 34.13 of the CKLOP, cash-in-lieu of parkland dedication equivalent to 5 percent for residential development or redevelopment shall be taken. It is acknowledged that the property owner thorough his agent is undertaking to obtain the necessary appraisal of the property to fulfill this requirement and Staff recommend that

Council not adopt the proposed Zoning By-law Amendment until after the appropriate cash-in-lieu of parkland amount has been accepted and received.

Staff has reviewed comments from the Otonabee Region Conservation Authority and the recommendations outlined in the Terrastory Natural Heritage Letter of Opinion and are satisfied that this application demonstrates conformity with the CKLOP.

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 inclusive of a 30 metre setback to not permit development within the wetland area to be protected.

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 and healthy environment strategic goals as it increases the supply of affordable housing to attract new residents in the City of Kawartha Lakes and provides protection to the environmental sensitive features on the subject land.

Servicing Comments:

The lot is proposed to be serviced by a municipal water supply and a private septic system. Additional information contained in a Reasonable Use Policy Assessment was reviewed by the Building Division, Part 8 Sewage System Program to properly evaluate the proposed septic system design for the potential development with a single detached dwelling. This assessment demonstrates the proposed development will allow for nitrate attenuation prior to the property line and that there will be no negative effects to groundwater sources.

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. A statutory public meeting was held on April 10, 2019. At the public meeting, the agent for the owner provided additional information and clarification regarding the application. The owner of 17 Cardinal Road was present to speak and the property owner was also present to speak regarding the application. As of the writing of this report, staff has received the following comments:

Public Comments:

On April 1, 2019 and April 5, 2019, written public comments were received by the residents of 13 and 15 Cardinal Road, respectively. The owner of 13 Cardinal Road advised that the owner of 15 Cardinal Road has been maintaining the grounds for the last 17 years and they both would like to continue to be able to use the driveway to access their backyards and questioned whether they had adverse possession rights. In addition, the owner of 15 Cardinal Road, who indicated the property has not been used for recreational purposes for over 10 years, had concerns with the proposed residential use on the wildlife that inhabit the property, including different types of turtles that lay eggs each spring in the sand within the proposed building area as well as potential negative effects on adjacent property values, restricted view and privacy concerns. The owner of 17 Cardinal Road asked for further information regarding the proposal including a copy of the Environmental Report and ORCA comments when they are available. At the Public Meeting, he also noted his concerns with the receipt of the official notice, and at this time, he wasn't in a position to elaborate his views but noted that he was satisfied that things were moving in the right direction with the application.

At the Public Meeting, the subject property owner advised that while common ownership of the property had occurred in the past, the property has been in private ownership since 2013. He stated in its existing state, a significant number of trespassers have damaged the property, and that this application intends to clean up the site, provide greater control over appropriate land access to the lot, and provide protection to the environmental features of the property.

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 and recommended 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 will help facilitate the zoning by-law amendment. Engineering has previously advised the existing municipal water system has capacity for this property as it exists today. There is a requirement to ensure the decommissioning of the existing water service to the abandoned pool and establish a new connection to the proposed house. This process is facilitated through the Municipal Service Connection process, which is typically implemented through the building permit stage. In addition, any requirements for an entrance will have to follow the City's by-law and any requirements for grading and drainage will be confirmed through the Building Division review.

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.

On April 4, 2019, Curve Lake First Nation requested to have an Archaeological Assessment completed for the property and to have a Curve Lake First Nation Cultural Heritage Liaison on site for the Archaeological Assessment.

On April 15, 2019, Otonabee Region Conservation Authority (ORCA) advised that existing mapping indicates the proposed area for development is not within the floodplain and therefore conforms with Section 3.1 of the PPS related to Natural Hazards. As Provincial mapping indicates the subject property is within the Natural Heritage System with Significant Woodland and Provincially Significant Wetland, a Natural Heritage Evaluation (NHE) was completed by Terrastory Environmental Consulting in support of the development to demonstrate there are no negative impacts to key natural heritage features as required by Sections 2.1 and 2.2 of the PPS and Sections 4.2.3 and 4.2.4 of the Growth Plan.

Upon review of the above, ORCA required that all components of the development, including the sewage system be superimposed on the site plan to demonstrate a 30 metre setback to the boundaries of the identified key natural heritage features is maintained. In addition, ORCA recommended that the 30 metre Vegetation Protection Zone (VPZ) be included in the rezoning of the balance of the property to Environmental Protection (EP) along with ensuring the development adheres to the recommendations outlined in the Terrastory Natural Heritage Letter of Opinion. Furthermore, it was recommended that the applicant should contact provincial staff with respect to regulatory policy associated with the existing turtles prior to filling in the pool. As the entire property is regulated, a permit is required from ORCA prior to any site alteration or development. ORCA also confirmed the subject land is not within an area subject to policies of the Trent Source Protection Plan (SPP).

On May 10, 2019, ORCA advised that they reviewed a revised Conceptual Development Plan and Zoning for the subject land, prepared by Thorstone Consulting Services, dated April 29, 2019 and confirmed that their previous comments to include all necessary development within the available building envelope, have been addressed. ORCA indicated that the revised plan verifies the proposed single detached dwelling and associated septic system will maintain the necessary 30 metre setback from the wetland feature.

On May 23, 2019, the Part 8 Sewage Systems Supervisor advised that a Reasonable Use Policy Assessment was received completed by Azimuth Environmental Consulting Inc., dated May 2019. The report completes an evaluation of the above-noted property for the potential development with a single detached dwelling. The evaluation indicates that residential development up to a total daily sewage flow of 3000 Litres/day will allow for nitrate attenuation prior to the property line. The report also indicates that there will be no negative effects to groundwater sources. As such, the Building Division - Sewage System Program has no objection to the proposed zoning amendment.

On May 27, 2019, the Ministry of Tourism, Culture and Sport advised that the Stage 1 and 2 Archaeological Assessment prepared by Northeastern Archaeological Associates Ltd., dated May 14, 2019 had been entered into the Ontario Public Register of Archaeological Reports.

Development Services – Planning Division Comments:

The application for Zoning By-law Amendment appears to demonstrate consistency with the Provincial Policy Statement and conformity to the Growth Plan and CKLOP. Comments have been received from all applicable circulated agencies and City Departments. The proposed Zoning By-law amendment will appropriately facilitate a residential use on a portion of the property and the balance of the property will be zoned to not permit development in the environmentally protected (EP zone) area which includes a 30 metre setback from the wetland feature to satisfy ORCA.

Conclusion:

In consideration of the comments received and the previously identified issues that have been addressed, and provided there are no further issues or concerns raised, Staff respectfully recommend that the proposed Zoning By-law Amendment application be referred to Council for APPROVAL.

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'
PLAN2019-045.pdf



Appendix 'B'
PLAN2019-045.pdf



Appendix 'C'
PLAN2019-045.pdf



Appendix 'D'
PLAN2019-045.pdf

Appendix 'A' – Location Map

Appendix 'B' – Aerial Photograph

Appendix 'C' – Concept Rezoning Sketch illustrating proposed building envelope
and 30 metre setback from wetland area within EP zone

Appendix 'D' – Draft Zoning By-law Amendment

Department Head E-Mail: cmarshall@kawarthalakes.ca

Department Head: Chris Marshall

Department File: D06-2019-005