

The Corporation of the City of Kawartha Lakes

Planning Advisory Committee Report

Report Number PLAN2019-044

Date: August 7, 2019

Time: 1:00 p.m.

Place: Victoria Room

Regular Meeting

Ward Community Identifier: 1 - Bexley

Title: An application to amend the Township of Bexley Zoning By-law 93-09

Description: To change the zone category on the subject lands (being the severed and benefitting portions) from a Rural General (RG) Zone to Rural General Exception (RG-**) Zone to facilitate a lot consolidation that would culminate into an oversized rural residential lot described as Part of Lots 37 and 38, North-West Bay Range, Concession 7, now City of Kawartha Lakes, identified as 22 Bayview Lane and Part of 1266 North Bay Drive (James Mathews and Kirsten Weind) – Planning File D06-2019-008.

Author and Title: Quadri Adebayo, Planner II

Recommendations:

That Report PLAN2019-044, respecting 22 Bayview Lane and Part of 1266 North Bay Drive, geographic Township of Bexley; Application No. D06-2019-008, be received;

That Zoning By-law Amendment respecting application D06-2019-008, substantially in the form attached as Appendix D to Report PLAN2019-044, be approved and adopted by Council; 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 Committee referred the application back to staff for further review and processing at its May 1, 2019 meeting until such time that Kawartha Conservation (KRCA) review comment is received, and a planning evaluation of the related consent applications including review of comments from circulated agencies is completed, or any potential issues and concerns which may arise therefrom is addressed. The following are the updates since the last meeting in May.

KRCA has provided their review comments and had no concerns; and a Planning evaluation of the related consent applications has been concluded. No agency concerns were raised. On July 11, 2019, a notice of provisional consent was granted by the Director of Development Services, as delegated by Council.

The two (2) concurrent consent files related to this zoning by-law application are thus:

File number D03-2019-018 which seeks to sever approximately 1.7 hectares of land and retain approximately 43 hectares of rural residential lands (1266 North Bay Drive- severed lot) containing a single detached dwelling, a garage and a shed. The severed land is to be consolidated with an adjacent rural residential lot to the east (22 Bayview Lane – benefitting lot); and

File number D03-2019-017 which seeks to reactivate an easement of approximately 0.07 hectares over an existing private road (Bayview Lane) located on 1266 North Bay Drive, in favour of the overall consolidated land in file D03-2019-018.

For clarity, only the proposed lots to be consolidated (the severed and benefitting) are being considered under this rezoning application in fulfillment of the condition of provisional consent for file number D03-2019-018.

Owners:	James Mathews and Kirsten Weind
Applicant:	Beverly Saunders, EcoVue Consulting Services Inc.
Legal Description:	Part of Lots 37 and 38, North-West Bay Range, Concession 7, Part 1 on RP57R-7820 (22 Bayview Lane) and Part 1 on RP57R-6605 (1266 North Bay Drive), geographic Township of Bexley
Official Plan:	Benefitting lot (22 Bayview Lane) – Waterfront and within 120 metres of Natural Heritage Feature (Woodland, Wetland and Fish Habitat) in the City of Kawartha Lakes Official Plan

	Severed lot (Part of 1266 Bayview Lane) - Rural and within 120 metres of Natural Heritage Features (Woodland, and Wetland) in the City of Kawartha Lakes Official Plan
Zone:	Benefitting lot (22 Bayview Lane) – Rural General (RG) Zone within the Township of Bexley Zoning By-law 93-09, as amended
	Severed lot (Part of 1266 North Bay Drive) - Rural General (RG) Zone within the Township of Bexley Zoning By-law 93-09, as amended
Site Size:	Total – 2.7 hectares (approximate) – EcoVue Consulting Inc. Severed – 1.7 hectare, Benefitting – 1 hectare
Site Servicing:	Severed – Unserviced Benefitting – Private individual well and septic system
Existing Uses:	Vacant (to be severed), Residential (benefitting)
Adjacent Uses:	North: Agricultural, Rural Residential and Wetland (PSW) South & East: Residential, Balsam Lake West: Agricultural, Environmental Protection

Rationale:

For the purpose of this report, part of 1266 North Bay Drive being the severed land will be referred to as Property A, while 22 Bayview Lane being the benefitting land will be referred to as Property B.

The subject lands are located within an existing rural residential neighbourhood within a Waterfront designated community, which is situated adjacent to Balsam Lake. Although the subject lands are considered adjacent to natural heritage features (i.e. Balsam lake fish habitat, woodland, and wetlands), the subject lands do not contain any of these features. Property A contains a driveway that connects to the unassumed private road (Bayview Lane) which allows access to Property B. The legal rights via the driveway onto Bayview Lane for the owners of Property B expired in 2017. As such, the owners of 1266 North Bay Drive have agreed to sell Property A so that it can merge with Property B thereby eliminating the need for any future easement or agreement over the existing driveway. The proposed lot consolidation would result in Property B being increased in size from 1 hectare to 2.7 hectares which would be over the maximum allowed lot area for a rural residential lot.

The effect of the zone change on the lot to be consolidated would:

1. permit an increase in the maximum lot area requirement for a rural residential lot from 2 hectares to 2.7 hectares; and
2. restrict the use on the lot to residential and related accessory uses.

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

1. Planning Justification Report (PJR) prepared by EcoVue Consulting Services Inc., dated November 2018;
2. Stage 1 background information and Stage 2 test pit survey Archaeological Assessment prepared by Earthworks Archaeological Services Inc., dated October 13, 2018 which demonstrates that although the subject lands contains evidence of archaeological potential (pre-contact Aboriginal archeological material), the area is considered to be free of archaeological material; and
3. Agricultural Impact Brief prepared by Clark Consulting services, dated August 27, 2018 which demonstrates that the severed land does not have viable agricultural potential, and that since there are no active or vacant livestock facilities nearby, no Minimum Distance Separation (MDS) review was completed.

Staff has reviewed these documents filed in support of the proposed consent and zoning by-law application.

Provincial Policies:

Growth Plan for the Greater Golden Horseshoe, 2019 (GP):

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 120 metres of Natural Heritage Features according to Provincial mapping (woodland, wetland and Balsam Lake fish habitat), which illustrates the property is traversed by Balsam Lake flood line limits. Relevant 2019 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 PJR submitted with the application outlines that the actual flood line limits would be determined in collaboration with KRCA.

KRCA has advised that the flood line will not be negatively impacted, which 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.

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 KRCA. The Conservation Authority permitting policies direct development outside of flood hazards.

As there are no developments proposed on the subject land, KRCA has advised that the proposed boundary adjustment would not negatively impact the Balsam Lake flood line limit that traverses the lands.

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 stated there are no registered archaeological sites within 1 km of the site, and no archaeological assessments were identified within 50 metres of the study area.

The submitted PJR outlines a number of recommended mitigation measures to address the natural heritage provisions of the PPS. KRCA review comments have also confirmed that the proposal demonstrates consistency with the PPS.

Official Plan Conformity:

The subject land is designated 'Waterfront' and 'Rural', and within 120 metres of Natural Heritage Feature (Woodland, Wetland and Fish Habitat) in the City of Kawartha Lakes Official Plan (CLKOP). A Provincially Significant Wetland (PSW) Natural Heritage Feature is mapped further east of the subject land. The

waterfront designation which applies to Property B provides for low density seasonal and permanent residential uses and accessory uses adjacent to lakes.

The natural heritage policies in Section 3.5 of the CKLOP apply to this proposal. This includes prohibiting development and site alteration within 120 metres 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 that development and/or site alteration within or adjacent to significant wildlife habitat may only be permitted subject to an Environmental Impact Study (EIS) demonstrating no negative impacts to the natural features or their ecological functions.

KRCA review comments has substantiated the applicant's PJR which outlines an EIS would not be required as no further development is proposed which would impact natural heritage provisions. This in staff opinion demonstrates conformity with the CKLOP.

Zoning By-law Compliance:

The subject land is zoned Rural General (RG) Zone in the Township of Bexley Zoning By-law 93-09, as amended. Where a property in the RG Zone is has a lot area of 2 hectares or less, the permitted uses and zone provision is limited to what is permitted in the Rural Residential Type 1 (RR1) Zone which does not allow agricultural uses at all. As the proposed lot consolidation would increase the lot size beyond this maximum lot area of 2 hectare for a rural residential lot, a Zoning By-Law amendment is required. The effect of the zoning amendment is to permit the lot to be consolidated so that the inherent use is maintained for a single residential dwelling and associated accessory uses with appropriate development standards.

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 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

The application aligns with the vibrant and growing economy goal as it provides opportunity to expand and maintain the residential economic base. It also will maintain the health and integrity of the wetland and floodplain.

Servicing Comments:

The subject land is proposed to be serviced by a private individual well and septic systems.

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 July 19, 2019, we have received the following comments:

Public Comments: No comments were received at the writing of this report.

Agency Comments: On March 4, 2019, the Building Division advised that they have no concerns with the application.

On March 10, 2019, the Enbridge Gas Inc. advised that they have no objections to the application.

On March 10, 2019, the Engineering and Corporate Assets Department advised that they have no objection to the proposed application.

On March 11, 2019, the Part 8 Sewage Systems – Building Division advised that they have no objection to the proposed zoning amendment.

On March 15, 2019, the Curve Lake First Nation initially advised an objection to the proposed application but later revised their concerns on March 18, 2019 noting that they have consulted with the applicant and they are satisfied that there will be no soil disturbance or site alteration given that no additional development is proposed.

On June 11, 2019, KRCA advised an EIS would not be necessary as there will be no new construction occurring on the benefitting lands. And that in conformity with the PPS and GP, it is not anticipated that there will be any negative impacts to the ecological function and natural heritage features of the adjacent lands.

Development Services – Planning Division Comments:

The application demonstrates consistency with the Provincial Policy Statement and conformity to the Growth Plan and CKLOP. The proposed Zoning By-law Amendment contained in Appendix D will ensure that the severed lot will be dissociated from the larger agricultural parcel and that the lot to be consolidated will be preserved primarily for residential use.

Conclusion:

In consideration of the comments and analysis contained in this report, staff respectfully recommends that the 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 Quadri Adebayo, Planner II, (705) 324-9411 ext. 1367.

Appendix A – Location Map

Appendix B – Aerial Photograph

Appendix C – Zoning By-law Amendment Sketch



Appendices A-C to
PLAN2019-044.pdf

Appendix D – Draft Zoning By-law Amendment



Appendices D to
PLAN2019-044.pdf

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Department Head: Chris Marshall

Department File: D06-2019-008