

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

Report Number PLAN2019-047

Date: September 11, 2019

Place: Council Chambers

Public Meeting

Ward Community Identifier: 8 - Manvers

Subject: An application to amend the Township of Manvers Zoning By-law 87-06 to change the zone category on sections of the retained agricultural area of the property from a Rural General (A1) Zone to Open Space (O1), and the balance of the retained agricultural area from Rural General (A1) Zone to Rural General Exception (A1-**) Zone; as well as to rezone the residential portion to be severed from Rural General (A1) Zone to Rural Residential Type One (RR1) Zone. The rezoning fulfills a condition required to sever the dwelling from the agricultural land described as Part Lot 18, Concession 12, geographic Township of Manvers, now City of Kawartha Lakes, identified as 1067 Fleetwood Road (Trevor and Lorraine Nesbitt) – Planning File D06-2019-020)

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Recommendations:

That Report PLAN2019-047, respecting Part of Lot 18, Concession 12, geographic Township of Manvers, and identified as 1067 Fleetwood Road; Application No. D06-2019-020, be received;

That a Zoning By-law Amendment respecting application D06-2019-020, substantially in the form attached as Appendix D to Report PLAN2019-047, 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:

On May 7, 2019, a Notice of Provisional Consent was granted by the Director of Development Services, as delegated by Council, for application D03-2018-022 to sever an approximately 0.42 hectare (1.05 acre) of rural residential lot containing a dwelling, metal shed and grain bin, and retain approximately 59.88 hectares (149.70 acres) of agricultural lands containing a metal shed and grain bin. The retained land is to be consolidated with a non-abutting agricultural land. The dwelling on the land to be severed is considered surplus to the farming operation as a result of a farm consolidation.

As a condition of provisional consent, the land to be retained is to be rezoned to:

1. prohibit residential use on the agricultural lands;
2. protect areas on the land containing natural heritage features by prohibiting development, buildings or structures;
3. to have the retained lands be considered one lot for lot area requirements where there are two zones; and
4. the zone boundary shall be considered a lot line for the purposes of interpreting and applying all other requirements of the Zoning By-law.

For the severed land, the conditions of provisional consent require the land to be rezoned in order to:

1. restrict the use on the lot to residential and residential accessory uses.

Owner:	Trevor and Lorraine Nesbitt
Applicant:	Robert Clark, Clark Consulting Services
Legal Description:	Part of Lot 18, Concession 12, geographic Township of Manvers
Designation:	Prime Agricultural and Environmental Protection in the City of Kawartha Lakes Official Plan
Zone:	Rural General (A1) Zone and Open Space (O1) Zone within the Township of Manvers Zoning By-law 87-06
Lot Area:	Total – 60.3 hectares (approximate) – Coe Fisher Cameron Severed – 0.42 hectare, Retained – 59.88 hectares
Site Servicing:	Severed – Private individual well and septic system Retained – Unserviced
Existing Uses:	Residential (to be severed) / Agricultural (to be retained)
Adjacent Uses:	North, East and South: Agricultural, Rural Residential and Environmental Protection West: Agricultural and Rural Residential

Rationale:

The property is located on the southside of Pigeon River with the surrounding lands being primarily agricultural lands with some rural residential lots that appear to have been created from the larger farm parcels they abut. The prime agricultural lands are to be protected and preserved from new residential development or any other incompatible land use(s) that may hinder existing or future agricultural operations. As well, a separate road entrance exists for the farming operation. To fulfill a condition of provisional consent that requires the prohibition of residential uses on the proposed retained agricultural land, the owner has submitted the required application to amend the Zoning By-law that will, if granted, fulfil this condition. The farm operation that owns the property will farm it in conjunction with another non-abutting agricultural parcel in the same ownership name and identified as 439 Golf Course Road.

In order to ensure Minimum Distance Separation (MDS) respecting livestock activities is complied with, a condition of consent approval was placed for the retained lands, for the removal of the grain bin, and for the existing metal shed to be disconnected from water sources and repurposed for agricultural storage use only.

The protective zoning on sections of the retained lands was requested by Kawartha Conservation (KRCA) to protect the ecological and hydrologic functions of the watercourse and wetland tributaries that traverse the subject land in perpetuity.

Regarding the lot to be severed, the parcel comprises of a single storey brick house, a metal shed, grain bin, a septic bed, a well, and a separate driveway access. A condition of the consent approval was also placed for the removal of the metal shed and grain bin from the lot to be severed. The residential lot is deemed surplus to the needs of the farm operation.

The applicant submitted a Planning Justification Report prepared by Clark Consulting Services, dated October 2018 in support of the application. This document discusses the appropriateness of the proposed consent in keeping with the provincial policy for the protection of agricultural lands.

Staff has reviewed the Report and accompanying documentation filed in support of the proposed consent and zoning by-law amendment.

Provincial Policies:

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

Section 2.2.9 indicates development outside of settlement areas may be permitted where compatibility with the rural landscape is assured, and where agricultural uses and other resource-based uses will not be adversely affected. Section 4.2.6 provides for the retained lands and subsequent rezoning to facilitate a consolidation of farm land is consistent with these policies.

The residential dwelling is an established land use that appears to be compatible with the surrounding land uses. The location of the existing servicing (well and septic) and the proposed lot configuration ensures that the adjacent farmland will be unfettered and maintained for agricultural uses.

Therefore, this application conforms to the policies of the GP.

Provincial Policy Statement, 2014 (PPS):

Section 1.1.5 of the PPS provides that uses related to the management and use of resources should predominate and agricultural uses should be promoted and protected in accordance with provincial standards. Section 2.1.4 states that development and site alteration shall not be permitted in Provincially Significant wetlands and Section 3.1 directs development to areas outside the flood plain or wetland.

The application to rezone the retained agricultural lands to preclude a residential dwelling will protect the agricultural use of the property and surrounding agricultural practices from incompatible residential use. The supplementary open space lands to be recognized in conjunction with the existing open space designation on the southeast corner of the retained land, through this rezoning will provide for the long term protection of this natural area for its economic, environmental and social benefits. It will also limit buildings and structures which by their nature are prohibited in environmentally sensitive areas.

The proposed rezoning for the severed residential lot meets the lot creation policy in prime agricultural areas [Section 2.3.4.1(c)] as the parcel size complies with the maximum 1 hectare allowed and has also been demonstrated to be able to accommodate for sewage and water services. Minimum Distance Separation Formulae (MDS1) is not applied as the potential odour conflict already exists between the dwelling and any nearby barn or livestock facility within 500 metres of the subject lands.

Therefore, this application is consistent with the PPS.

Official Plan Conformity:

The subject land which is designated Prime Agricultural and Environmental Protection in the City of Kawartha Lakes Official Plan (Official Plan). Section 15.1 of the Official Plan provides that agricultural lands shall be protected from fragmentation, development and land uses unrelated to agriculture. One of the objectives of the Official Plan is to support farming operations as an important component of the economy, a source of employment and a way of life for many rural residents.

This application will preserve and protect the agricultural land for future agricultural use.

The City, through its Official Plan, recognizes as generally desirable the consolidation of farms wherever possible. The City also recognizes that the acquisition of abutting agricultural lots in order to consolidate an existing farm

operation may not be possible, and has established criteria in accordance with provincial policy to recognize this circumstance and protect the long term agricultural use of the land. A dwelling surplus to the farm operation may be severed to effect consolidation of non-abutting farm parcels provided specific criteria are met. The severed lands meet the lot area criteria, have not been identified as being required for farm help, and complies with Minimum Distance Separation Guidelines. As well, the Official Plan requires the retained agricultural lands to be rezoned to prohibit any residential use.

This application seeks to implement these Official Plan policies, thus conforms to the policies of the Official Plan.

Zoning By-Law Compliance:

The proposed severed lot is zoned Rural General (A1) Zone, while the retained land is zoned Rural General (A1) Zone and Open Space (O1) Zone in the Township of Manvers Zoning By-law 87-06. The A1 Zone permits residential use. The Zoning By-law amendment would prohibit the residential use on the land to be retained, thus implementing Official Plan agricultural land protection policies.

The O1 Zone permits golf courses, parks, and agricultural uses. The O1 Zone does not permit buildings or structures except for erosion or flood control purposes. The proposed amendment would ensure that agricultural use will remain compatible with the long term protection of the O1 Zone.

The General Provisions Section 20.16 has requirements where there are multiple zones on a lot. When a lot is created by consent, the retained lot must comply with the minimum lot area and lot frontage of the applicable zones. The O1 Zone does not have lot area or lot frontage requirements. The retained lot exceeds the minimum lot area and frontage requirements of the A1 Zone. The proposed amendment would specify that the zone boundary between the A1 Zone and O1 Zone shall be considered to be a lot line for the purposes of applying all other requirements of the Zoning By-law. This will ensure that there are adequate setbacks from the wetland buffer for development.

The lot to be severed is deemed to also exceed the minimum lot frontage and area requirement for the RR1 Zone in the By-law. As such, no land use compatibility issues are anticipated. In fulfillment of the RR1 zoning provisions, the proposed amendment from A1 Zone to RR1 Zone would recognize the severed lot as a primarily residential use lot.

Other Alternatives Considered:

No other alternatives have been considered.

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 City's Strategic Plan outlines Council's vision for the municipality. The vision consists of three main Strategic Goals: that of a vibrant and growing economy, an exceptional quality of life, and a healthy environment. The application aligns with the vibrant and growing economy goal as it provides opportunity to expand the economic base by maintaining and expanding agricultural employment. It also will maintain the health and integrity of the wetland and floodplain.

Review of Accessibility Implications of Any Development or Policy:

Should a building permit be required, the accessibility standards established in the Building Code will be addressed prior to the issuance of a building permit.

Servicing Comments:

The agricultural land is unserviced. The existing single detached dwelling on the land to be severed is serviced by a private sanitary sewage disposal system and a well.

Consultations:

Notice of this application was circulated to all land owners of record within a 500 metre radius, plan review agencies, and City Departments which may have an interest in the application. As of August 20, 2019, we have received the following comments:

Public Comments:

No comments were received.

Agency Comments:

On August 13, 2019, the Building Division advised that they have no concerns with the application.

On August 13, 2019, the Part 8 Sewage Systems Supervisor – Building Division advised that they have no objection to the proposed zoning amendment.

On August 19, 2019, the Engineering and Corporate Assets Department advised they have no objections or comments to the proposed application.

On August 19, 2019, Enbridge Gas Inc. advised they do not object to the proposed application, however, that they reserve the right to amend our development conditions.

Development Services – Planning Division Comments:

The application conforms to the Growth Plan and is consistent with the Provincial Policy Statement. The application also conforms to the policies of the Official Plan. The proposed Zoning By-law amendment contained in Appendix D will ensure that the severed lot is dissociated from the farming operation and that the retained land will be preserved for agricultural use whilst implementing both Provincial and City policies.

Conclusion:

The application conforms to the provincial policies concerning prime agricultural areas. The application also conforms to the Prime Agricultural designation policies in the City's Official Plan. Staff support the application based on the information contained in this report and the comments received as of August 20, 2019. Staff respectfully recommends that the application be referred to Council for Approval.

Attachments:

Appendix A – Location Map

Appendix B – Aerial Photograph

Appendix C1 and C2 – Applicant Sketch – received May 21, 2019



Appendices A-C to
PLAN2019-047.pdf

Appendix D – Draft Zoning By-law Amendment



Appendices D to
PLAN2019-047.pdf

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Department Head: Chris Marshall

Department File: D06-2019-020