

The Corporation of the City of Kawartha Lakes

Planning Advisory Committee Report

Report Number PLAN2019-049

Date: September 11, 2019

Place: Council Chambers

Public Meeting

Ward Community Identifier: Ward 3 - Fenelon

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

Description: To change the Agricultural (A1) Zone to the Agricultural Exception Twenty-Four (A1-24) Zone to permit a Garden Suite for up to 20 years, on Part Lot 12, Concession 7, geographic Township of Fenelon, 356 Country Lane (Moore)

Author and Title: Mark LaHay, Planner II

Recommendations:

That Report PLAN2019-049, respecting Part Lot 12, Concession 7, geographic Township of Fenelon, Application D06-2019-014, be received;

That a Zoning By-law, respecting application D06-2019-014, substantially in the form attached as Appendix 'D' to Report PLAN2019-049 be approved and adopted by Council;

That staff be directed to prepare a Garden Suite agreement pursuant to Section 39.1 of the Planning Act, respecting this application; 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 July 3, 2019, which adopted the following recommendation:

PAC2019-043

Moved By Mayor Letham

Seconded By M. Barkwell

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

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; and

That upon further review and processing by staff, this application be referred back to the Planning Advisory Committee.

Carried

At the Council Meeting of July 16, 2019, Council adopted the following resolution:

CR2019-436

Moved By Councillor O'Reilly

Seconded By Councillor Veale

That the Minutes of the July 3, 2019 Planning Advisory Committee Meeting be received and the recommendations, included in Section 13.3 of the Agenda, be adopted.

Carried

This report addresses that direction.

Revised 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 garden suite, which is a temporary, detached dwelling unit that is designed and

constructed to be portable and is ancillary to the existing detached dwelling, as a second dwelling unit on the property. This revised application does not propose a permanent second dwelling.

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 garden suite.
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 originally applied to permit a second detached dwelling on the subject land and has now revised the application to permit a garden suite, which is a temporary use. 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 garden suite is proposed to be located to the south of the existing single detached dwelling and west of the irrigation pond and will occupy an area of approximately 150 sq. m. (1615 sq. ft.). The proposed garden suite dwelling is proposed to be a modular home structure.

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

1. Zoning By-law Amendment Application received March 11, 2019 for a proposed second dwelling.
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 demonstrating the proposed second dwelling complies with the Provincial MDS Formulae and restricts land lost to productive agricultural use.
6. Well Flow Test prepared by GHD Limited, dated February 25, 2019 confirming sufficient water quantity to support an additional dwelling.
7. Revised Zoning By-law Amendment Application received July 18, 2019 to permit a Garden Suite with accompanying letter from TD Consulting Inc., dated July 18, 2019.
8. Revised Site Plan for the Zoning By-law Amendment prepared by the TD Consulting Inc., dated July 2019 illustrating the Garden Suite in a location closer to the existing detached dwelling.
9. Revised Site Servicing Plan for the Zoning By-law Amendment prepared by the TD Consulting Inc., dated July 2019.

Staff has reviewed the supporting documentation and applicable City and Provincial policy objectives that are relevant to evaluating this revised application.

The effect of this revised application is to permit a garden suite on the property which is a temporary, detached dwelling unit that is designed and constructed to be portable and is ancillary to the existing detached dwelling, as a second dwelling unit on the property. The applicant has indicated that the proposed garden suite will be located to the south of but closer to the existing dwelling than the previous application with a new shorter 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 garden suite was chosen to protect and maintain the agricultural land along the Highway 35 frontage, the rear of the existing dwelling contains a geothermal system, and the area between the existing dwelling and Country Lane contains the septic system and irrigation system.

According to the application, the tenants of the proposed garden suite are related to the owners of the property and will be a caregiver to the aging parents.

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 dwelling units to be implemented through municipal Zoning By-laws. Section 39.1 of the Planning Act provides specific requirements for Garden Suites as a temporary use.

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 revised application has been 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.

Based on the information submitted, the revised application appears to conform to 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.

The temporary residential use proposed on the subject property, which is currently zoned for agricultural and open space purposes, is not anticipated to impact the subject or adjacent agricultural uses.

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. The revised application for a Garden Suite meets MDS setbacks and does not result in land lost to productive agricultural use.

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 garden suite 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. It is not anticipated that there would be any negative impacts on the natural features or their ecological functions or any concern for any natural hazards associated with this revised application as the comments received from the KRCA advised they no objection to the proposed zoning by-law amendment.

Based on the above, it appears that the revised 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 garden suite is proposed to be located outside the environmental designated area. Agricultural land impacts are intended to be minimized as the proposed garden suite 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.

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.

The revised application would generally conform to the policies of the City of Kawartha Lakes Official Plan.

Zoning By-Law Compliance:

In order to permit the proposed use, a revised rezoning application has been submitted for consideration to add a Garden Suite, being a temporary use to the Agricultural (A1) Zone for the subject land. If the revised application is approved, the use would be permitted for the timeframe specified by the implementing Zoning By-law.

The draft By-law establishes that the Garden Suite shall not exceed a gross floor area of 150 square metres and shall be permitted for a period of 20 years.

Other Alternatives Considered:

No other alternatives have been considered, other than a previous proposal submitted through preconsultation, where a 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 that 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 previously submitted proposal, considered at the Planning Advisory Committee during the Public Meeting on July 3, 2019, was a hybrid of the two, being a permanent second dwelling sharing services with the main dwelling, which was also not generally supported by Staff as existing policies do not support that use.

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 revised 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 garden suite. The Building Division Part 8 Sewage Systems Staff have indicated that the property can be serviced with a single-sewage disposal system to accommodate the existing dwelling and the garden suite.

Consultations:

Notice of the original application and revised application was circulated to persons within a 500 metre radius, agencies, and City Departments which may have an interest in the application. A Public Meeting for the original application was held on July 3, 2019. To date, we have received the following comments:

Public Comments (Previous proposal for a Second Dwelling):

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. At the initial Public Meeting the owner of 338 Country Lane spoke against the application stating that the proposed dwelling would be too close to his own. He expressed concern that the new driveway would be close to his property line removing his privacy, that the septic line is proposed to cross under a driveway, and the existing uses of the field on the east side of the property.

Public Comments (Revised proposal for a Garden Suite):

No public comments have been received at the time of writing this report.

Agency Review Comments (Previous proposal for a Second Dwelling):

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.

On June 25, 2019, the Kawartha Region Conservation Authority (KRCA) advised that portions of the subject property are within Kawartha Conservation's regulated area (due to the presence of wetlands and a watercourse) and are subject to Ontario Regulation 182/06. KRCA acknowledged the proposed zoning is A1 with an exception for the purpose to permit a garden suite/accessory dwelling unit as they are not permitted under the A1 Zone. KRCA advised they have no concerns with the proposed Zoning By-law Amendment.

On June 28, 2019, the Agriculture Development Officer advised that the Economic Development Division is not supportive of the application. Protection of Prime Agricultural Lands for agricultural purposes is the prime concern surrounding this application and therefore need to be preserved for farming purposes. The policies do not intend there to be multiple permanent dwellings, resulting in land lost for agricultural use which is counter to the agricultural land protection policies of the municipality and the province. There was also concern that a second, permanent residence on the property would be located in an adjoining farm field rather than co-locating it in the lands already removed from production, nearby the first house. Furthermore, it was indicated that even though the application suggests that the purpose is to care for aging parents, the two dwellings would be separated by nearly 150 metres, requiring more driveway area. There appears to be no connection between the request for an additional permanent residence and the agricultural operation on the property.

Agency Review Comments (Revised proposal for a Garden Suite):

On August 16, 2019, the Building Division advised they have no concerns. The proposal is subject to obtaining a Building Permit and Development Charges apply.

On August 19, 2019, Development Engineering advised that from an engineering perspective, they have no objection to the proposed Zoning By-law Amendment and have no engineering requirements.

On August 22, 2019, the Agricultural Development Officer advised that the applicant has moved the garden suite location to west of the pond, and will therefore preserve the adjacent hay field. This is certainly preferred to former proposals. A temporary garden suite on shared services with the primary residence is supported.

On August 23, 2019, the Building Division Part 8 Sewage Systems Program advised that a review of the sewage system requirements has been conducted and the property can be serviced with a single-sewage disposal system to accommodate the existing dwelling and the garden suite. As such, the Building Division – Sewage System Program has no objection to the proposed zoning by-law amendment.

On August 26, 2019, Enbridge Gas Inc. advised they have no objection to the application.

On August 26, 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.

On August 27, 2019, KRCA advised they have no further comment or concern with the application.

Development Services – Planning Division Comments:

The comments that have been received from circulated agencies and City Departments indicate there is no concern with the revised application. Staff is also satisfied that the revised application meets applicable policy objectives. The background supporting studies for the original proposal also apply to and support the revised proposal for a Garden Suite. In this regard, the revised proposal continues to comply with MDS Formulae, and is proposed to be located in an area that is not being used for productive agricultural use. The location of the proposed Garden Suite, being closer to the existing dwelling and not within an adjacent hay field is better suited for the development of the property, resulting in a shorter driveway connection thereby reducing the influence on the neighbour's property. In this regard, Staff supports the revised application for a zoning amendment to permit a Garden Suite on the subject land as a permanent second dwelling is no longer proposed.

Conclusion:

The revised application appears to conform to the policies of the 2019 Growth Plan and to be consistent with the Provincial Policy Statement and generally conforms to the policies of the City of Kawartha Lakes Official Plan. The revised application has been reviewed in consideration of comments from the circulated agencies, relevant provincial policies, the City of Kawartha Lakes Official Plan, and the Township of Fenelon Zoning By-law. In consideration of the comments contained in this report, and provided that no additional information is raised at the Public Meeting that would alter the recommendations contained in this report,

Staff respectfully recommends that the proposed revised rezoning 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'
PLAN2019-049.pdf



Appendix 'B'
PLAN2019-049.pdf



Appendix 'C'
PLAN2019-049.pdf



Appendix 'D'
PLAN2019-049.pdf

Appendix 'A' – Location Map
Appendix 'B' – Aerial Photograph
Appendix 'C' – Proposed Site Plan
Appendix 'D' – Draft Zoning By-law

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Department Head: Chris Marshall

Department File: D06-2019-014