

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

Report Number PLAN2019-054

Meeting Date: October 9, 2019

Public Meeting

Title: An application to amend the Township of Ops Zoning By-law 93-30

Description: To change the Agricultural (A) Zone to the Agricultural Exception (A-**) Zone to permit an accessory dwelling unit, on Part Lots 18 to 20, Concession 11, geographic Township of Ops, 1082 Lilac Road (Martin)

Ward Number: Ward 6

Author and Title: Mark LaHay, Planner II

Recommendations:

That Report PLAN2019-054, respecting Part Lots 18 to 20, Concession 11, geographic Township of Ops, Application D06-2019-021, be received; and

That the proposed Zoning By-law Amendment respecting Application D06-2019-021, 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 (A) Zone to the Agricultural Exception (A-**) Zone. The effect of the zoning amendment would be to permit a second dwelling unit attached to the main single detached dwelling as an accessory dwelling unit on the property which is accessory to a main permitted agricultural use.
Owners:	Landis and Alice Martin
Applicant:	Bob Clark, Clark Consulting Services
Legal Description:	Part Lots 18 to 20, Concession 11, geographic Township of Ops
Official Plan:	“Prime Agricultural”, and “Environmental Protection” with a Significant Woodland Natural Heritage Feature in the City of Kawartha Lakes Official Plan
Zoning	“Agricultural (A) Zone” in the Township of Ops Comprehensive Zoning By-law No. 93-30
Site Size:	200.03 acres (80.95 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 accessory dwelling unit.
Existing Uses:	Residential/Agricultural
Adjacent Uses:	North: Pigeon Lake Road/Agricultural East: Heights Road/Agricultural South: Agricultural West: Lilac Road/Agricultural

Rationale:

The owner has applied to permit an accessory dwelling unit attached to the main single detached dwelling on the subject land. The subject lands are in a prime agricultural area east of the Town of Lindsay and located on the south side of Pigeon Lake Road, west side of Heights Road and on the east side of Lilac Road. The existing single detached dwelling was built circa 1874 according to MPAC records. There are also a number of agricultural related outbuildings, the majority of which were constructed around 2005-2006. The accessory dwelling unit is proposed to be attached to the east side of the existing single detached dwelling where the attached garage is located and will occupy an area of approximately 100 sq. m. (1076 sq. ft.).

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 June 26, 2019.
2. Planning Letter and Minimum Distance Separation Report, prepared by Clark Consulting Services, dated June 25, 2019, evaluates the proposed zoning amendment in relation to consistency and conformity with Provincial policy and the City's Official Plan and Township of Ops Zoning By-law 93-30 and establishes that Minimum Distance Separation (MDS) requirements for Type 1 land uses have been met.
3. Conceptual Lot Servicing Plan prepared by the Clark Consulting Services, included with Planning Letter and Minimum Distance Separation Report, illustrates the proposed accessory dwelling unit addition and location of septic system and drilled well.
4. Detailed Conceptual Lot Layout, prepared by Clark Consulting Services, included with Planning Letter and Minimum Distance Separation Report, illustrates impervious surface areas, new and existing buildings, driveway areas, septic system and drilled well.
5. Preliminary Building Elevations, prepared by Marvin Horst Designs, undated, illustrates the proposed elevations from each direction and also includes a proposed floor plan.

Staff has reviewed the Planning Letter and MDS Report and generally accepts the rationale provided along with the conclusions given. Staff recommends that the application be referred back to Staff until such time as commenting Agencies and City Departments have submitted comments and any concerns have been addressed.

The effect of this application is to permit a second dwelling unit on the property which is accessory to a main permitted agricultural use. The applicant has indicated that the proposed second dwelling unit will be attached to the east side of the existing dwelling and will share the existing driveway access from Lilac Road and will share the existing well and septic system that services the main dwelling.

According to the application, the proposed accessory dwelling unit is for use by the existing farm owner to be present on the property to assist with the farm operation. The accessory dwelling unit 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.

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

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

This 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.

The subject land is located outside of the Natural Heritage System mapping prepared by the Province and the proposed development is not within a key natural heritage feature nor within 120 metres of a key natural heritage feature within the Natural Heritage System or within 120 metres of a key hydrologic feature and therefore not subject to the applicable policy requirements related to the Natural Heritage System.

Based on the information submitted, the application conforms 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 unit 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.

In addition to the existing single detached farm dwelling, the subject land has a number of associated on-farm buildings. 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. Given the accessory dwelling unit will be attached to the main dwelling, there will be no negative impact on agricultural land and production.

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 on the westerly portion of the subject land; however the proposed development appears to be more than 120 metres from this Natural Heritage Feature. It would also appear that the proposed location of the second dwelling unit is outside the Kawartha Conservation (KRCA) regulated area. The KRCA previously advised based on comments obtained through pre-consultation that the proposed location of the second dwelling unit is outside their regulated area and would not require a permit and outside 120 metres of the dripline for Significant Woodland thereby not requiring an Environmental Impact Study. Therefore, it is not anticipated there will any negative impacts on the natural features or their ecological functions nor would it appear there would be any concern for any natural hazards associated with this application.

Based on the above, it would appear 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 with a Significant Woodland Natural Heritage Feature located on the westerly portion of the subject land. The Environmental Protection designation follows a watercourse traversing across a portion of the property. The proposed addition of a second dwelling unit will be located outside the environmental designated area. Agricultural land impacts are minimized as the proposed second dwelling unit will be attached to the existing farmhouse dwelling in an area not currently used for agricultural use and will also share well water and septic services with the existing dwelling. As such, no future severance of the new dwelling unit is possible.

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. Through preconsultation, it was determined that an accessory dwelling unit is considered an accessory use to the existing dwelling.

Therefore, an Official Plan amendment is not required. In addition, this second dwelling unit would be considered accessory to the agricultural use.

Furthermore, the Prime Agricultural policies require that all farm and non-farm development comply with the minimum distance separation formulae established by the Province in order to minimize odour conflicts between livestock facilities and development. The applicant has submitted an MDS Report and calculations with the Planning Letter, 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 these requirements.

In consideration of the above, it would appear that this 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 dwelling use to the Agricultural (A) Zone of the Township of Ops Zoning By-law 93-30 for the subject land. The existing provisions in Section 16.2 of the (A) Zone only permit one house on a lot used for farming purposes and do not permit a second dwelling unit. If the application is approved, a second dwelling unit would be permitted in accordance with the implementing Zoning By-law, as an accessory dwelling unit attached to and sharing water and septic services with the main dwelling unit.

Other Alternatives Considered:

No other alternatives have been considered at this time.

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 vibrant and growing economy and exceptional quality of life goals as it provides support for the farming operation and provides 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 attached accessory dwelling. The Building Division Part 8 Sewage Systems Program is currently reviewing the submitted Conceptual Lot Servicing Plan prepared by the Clark Consulting Services.

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:

At the time of writing this report, no public comments were received.

Agency Review Comments:

On September 17, 2019, the Building Division advised they have no concerns.

On September 18, 2019, Development Engineering advised from an engineering perspective and further to the pre-consultation file D38-2019-020 they confirm they have no objection to the proposed Zoning By-law Amendment.

Development Services – Planning Division Comments:

At this time, comments have not been received from all circulated agencies and City Departments. 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 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'
PLAN2019-054.pdf



Appendix 'B'
PLAN2019-054.pdf



Appendix 'C'
PLAN2019-054.pdf



Appendix 'D'
PLAN2019-054.pdf

Appendix 'A' – Location Map

Appendix 'B' – Aerial Photograph

Appendix 'C' – Zoning By-law Amendment Sketch

Appendix 'D' - Detailed Conceptual Lot Layout/Service Plan

Department Head E-Mail: cmarshall@kawarthalakes.ca

Department Head: Chris Marshall

Department File: D06-2019-021