

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

Report Number PLAN2019-055

Date: October 9, 2019
Place: Council Chambers
Public Meeting

Ward Number: 8 - Emily

Subject: An application to amend the Township of Emily Zoning By-law 1996-30 to change the zoning on a portion of the land from Agricultural (A1) Zone to an Agricultural Exception Zone to prohibit residential use and to change the zoning surrounding the dwelling from Agricultural (A1) Zone to a Rural Residential Exception Zone to recognize the existing residential use and establish applicable development standards on land described as Part Lot 21, Concession 2, geographic Township of Emily, City of Kawartha Lakes, identified as 1109 Meadowview Road (2324784 Ontario Ltd)

Author and Title: David Harding, Planner II

Recommendations:

That Report PLAN2019-055, respecting Part Lot 21, Concession 2, geographic Township of Emily, and identified as 1109 Meadowview Road – Application D06-2019-022, be received;

That a Zoning By-law Amendment respecting application D06-2019-055, substantially in the form attached as Appendix “D” to Report PLAN2019-055, 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 subject property is an agricultural lot that contains a farmhouse and various buildings. The owner sought to sever approximately 1 hectare (2.47 acre) containing the dwelling and three accessory buildings from the balance of the agricultural land, which would contain three buildings (bank barn, coop, and a small shed) on approximately 37 hectares (91.43 acres) of land.

On May 17, 2018, the Committee of Adjustment modified and approved the application, which reduced the area of the severed lot and attached a number of conditions. The decision was appealed to the Local Planning Appeal Tribunal (LPAT). At the November 16, 2018 hearing, Minutes of Settlement were presented to the Tribunal. On February 4, 2019, LPAT issued its written decision allowing part of the appeal as laid out in the Minutes of Settlement. The decision permitted the creation of a 0.51 rural residential lot containing the farmhouse and three accessory buildings. Two agricultural buildings on the proposed retained agricultural lot are to remain.

As a condition of the provisional consent decision, the agricultural land to be retained is to be rezoned to prohibit residential use and the keeping of livestock in the existing buildings. To further clarify how the lot containing the dwelling is to be used and to set out specific development standards, the land is to be rezoned to a rural residential zone category.

A Planning Justification Report prepared by Jamie Robinson, MHBC Planning Ltd. dated April 10, 2019 was submitted in support of the application.

Owner:	Dagmar Teubner, 2324784 Ontario Ltd
Applicant:	Jamie Robinson, MHBC Planning Limited
Legal Description:	Part Lot 21, Concession 2, geographic Township of Emily
Official Plan:	Prime Agricultural and Environmental Protection within the City of Kawartha Lakes Official Plan
Zone:	Agricultural (A1) Zone and Environmental Protection (EP) Zone in the Township of Emily Zoning By-law 1996-30, as amended
Site Size:	Severed – 0.51 hectares Retained – 37.49 hectares
Site Servicing:	Severed – Private individual well and septic system Retained – None
Existing Uses:	Agricultural, Forest
Adjacent Uses:	North: Agricultural, Forest, Trans Canada Trail South: Agricultural, Rural Residential East, West: Agricultural, Forest

Rationale:

Prime agricultural land is to be protected and preserved from non-agricultural development or any other incompatible land use that may hinder existing or future agricultural operations. To fulfill a proposed condition of provisional consent that requires the prohibition of residential uses on the proposed retained agricultural land and the keeping of livestock in the existing buildings, and to rezone the proposed severed lot to a rural residential use the applicant has submitted an application to amend the Zoning By-law that will, if granted, fulfill this condition. The farm operation that owns the property will farm it in conjunction with other non-abutting agricultural parcels. The single detached dwelling on the subject land is deemed surplus to the needs of the farm operation.

Provincial Policies:

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

Section 2.2.9 provides for development upon rural lands provided it is related to activity that is not appropriate for a settlement area, is compatible with the rural landscape and can be sustained by rural service levels.

Section 4.2.6 provides for the protection of prime agricultural areas identified within official plans. The subject lands under cultivation are identified as Prime Agricultural within the City of Kawartha Lakes Official Plan.

The rezoning as a condition of consent to sever the dwelling from the agricultural land is consistent with the intent of these policies to protect agricultural lands and ensure no conflict with the established rural landscape.

Therefore, this application conforms to the Growth Plan.

Provincial Policy Statement, 2014 (PPS):

Sections 2.3.1 and 2.3.3.2 provide that prime agricultural areas shall be protected for long term use, and all types, sizes and intensities of agricultural uses and normal farm practices shall be promoted and protected in accordance with provincial standards. Section 2.3.3.3 provides for the application of minimum distance separation formulae (MDS) to the creation of lots.

Section 2.3.4.1(c) provides for the severance of a dwelling deemed surplus to the needs of a farm operation as a result of the consolidation of farm land provided that the lot is limited in size to that needed to accommodate appropriate water and wastewater services, and that the retained agricultural lands be rezoned to prohibit future residential development.

The application to rezone the proposed retained lands will protect the agricultural use of the property and surrounding agricultural practices from incompatible residential use. The lot to be retained is of sufficient area to sustain an assortment of agricultural uses and the PPS encourages the protection of all types and sizes of agricultural use, and the proposed severed lot is of modest but

sufficient size to accommodate the necessary water and wastewater services. Additionally, the application seeks to prohibit the keeping of livestock on the proposed retained lot to ensure the severed lot will comply with MDS.

Therefore, this application is consistent with the PPS.

Official Plan Conformity:

The majority of the subject land is designated Prime Agricultural in the City of Kawartha Lakes Official Plan (Official Plan). A smaller portion of the property is designated Environmental Protection, which appears to correspond with two watercourses. No development is proposed near the Environmental Protection designation.

Section 15.1 of the Official Plan provides that agricultural land which is primarily Class 1-3 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 proposes no change to the existing land uses, and the agricultural land will be preserved and protected for future agricultural use.

The City, through its Official Plan, recognizes the generally desirable practice of the consolidation of farms wherever possible. The City also recognizes that it is not always possible to acquire abutting agricultural lots when consolidating an existing farm operation, and has established criteria in accordance with provincial policy to recognize this circumstance and protect the long term agricultural use of the land. One of the criteria is that the agricultural land be rezoned to prohibit any residential use.

Therefore, this application conforms to the applicable policies of the Official Plan.

Zoning By-law Compliance:

The subject land is zoned Agricultural (A1) Zone and Environmental Protection (EP) Zone in the Township of Emily Zoning By-Law 1996-30. No changes are proposed to the EP Zone. The lot to be retained exceeds the minimum lot frontage (120 metres) and area (25 hectare) requirements of the A1 Zone by proposing about 504.18 metres and 37.49 hectares respectively. An Agricultural Exception Twenty (A1-20) Zone is proposed to replace the A1 Zone on the proposed retained land. The A1-20 Zone will protect the agricultural use of the land by prohibiting residential uses and from keeping livestock in the existing buildings in accordance with provincial and municipal policy.

As the barn is proposed to be kept on the proposed retained lot, specific development criteria are required on the residential lot to be created to ensure the applicable Ontario Building Code setbacks are maintained. A setback of 30 metres from the bank barn building face is required. A Rural Residential Type One Exception Twenty-Two (RR1-22) Zone is proposed to establish the required spatial separation criteria for new buildings. The severed lot exceeds the

minimum lot frontage (38 metres) and area (2,800 square metre) requirements of the Rural Residential Type One (RR1) Zone by proposing about 82.20 metres and 5,165 square metres respectively. The dwelling on the proposed severed lot will comply with the applicable setback provisions of the RR1 Zone.

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 Appeals 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 a vibrant and growing economy as it provides opportunity to expand the economic base by maintaining and expanding agricultural employment.

Servicing Comments:

The agricultural land is un-serviced. The single detached dwelling on the land to be severed is serviced by a private sewage disposal system and two wells.

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. The Building Division, Enbridge Gas Inc., Engineering and Corporate Assets Department and Alderville First Nation raised no concerns as a result of the circulation. No comments were received from the public.

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 applicable policies of the Official Plan. The proposed Zoning By-law Amendment contained in Appendix D will ensure the agricultural land is preserved for agricultural use by introducing the A1-20 Zone. All other A1 Zone provisions will be maintained as a result of this amendment. Zoning By-law Amendment also ensures that the rural residential lot is zoned RR1-22 to avoid any future confusion as to how the parcel

is to be used and to recognize the rear yard setback requirement that is to remain in effect until such a time that the barn on the proposed retained lot is demolished or removed. The setbacks of the three accessory buildings on the proposed severed lot will become legal non-complying. The height of the largest accessory building on the proposed severed lot, which is an implement shed used as a garage, will become legal non-complying, as its height is currently 6 metres and the by-law requires 5. Should the time come when the implement shed is to be demolished and replaced, a new garage would be constructed in conformity with the zoning by-law.

Conclusion:

The application conforms to and is consistent with the provincial policies concerning prime agricultural areas. The application also conforms to the Prime Agricultural designation policies in the City's Official Plan. Staff supports the application based on the information contained in this report and the comments received as of September 26, 2019. Staff respectfully recommends that the application be referred to Council for Approval.

Attachments:

Appendix 'A' – Location Map



Appendix A to
PLAN2019-055.pdf

Appendix 'B' – Sketch for Consent Application



Appendix B to
PLAN2019-055.pdf

Appendix 'C' – Aerial Photograph



Appendix C to
PLAN2019-055.pdf

Appendix 'D' – Draft Zoning By-law Amendment



Appendix D to
PLAN2019-055.pdf

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Department Head: Chris Marshall

Department File: D06-2019-022