

# **The Corporation of the City of Kawartha Lakes**

## **Planning Advisory Committee Report**

**Report Number PLAN2019-074**

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**Meeting Date:** December 4, 2019

### **Public Meeting**

**Title:** An application to amend the Township of Fenelon Zoning By-law 12-95

**Description:** To change the Agricultural (A1) Zone to the Agricultural Exception (A-\*\*) Zone to permit a second dwelling unit within the existing dwelling, on Part Lot 31, Concession 11, geographic Township of Fenelon, 467 Northline Road (Hughes)

**Ward Number:** 3

**Author and Title:** Mark LaHay, Planner II

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### **Recommendation(s):**

**That** Report PLAN2019-074, respecting Part Lot 31, Concession 11, geographic Township of Fenelon, Application D06-2019-034, be received;

**That** a Zoning By-law, respecting application D06-2019-034, substantially in the form attached as Appendix D to Report PLAN2019-074 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:**

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**Legal/Other:**

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**Chief Administrative Officer:**

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## Background:

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 an existing established second dwelling unit within the existing dwelling as an accessory dwelling unit on the property.
Owner/Applicant:	Brandon Hughes
Legal Description:	Part Lot 31, Concession 11, being Part 2, Plan 57R-2347, geographic Township of Fenelon
Official Plan:	Rural, within 120 m. of a Significant Woodland 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. 12-95
Site Size:	1.0 acre (0.40 ha.) - MPAC
Site Servicing:	The lot is serviced by a private individual well and a private individual sewage disposal system, which is shared with the accessory dwelling unit.
Existing Uses:	Rural Residential
Adjacent Uses:	North: Rural Residential/Agricultural East: Northline Road/Agricultural/Woodland South: Fell's Bay Road/Woodland/Agricultural West: Woodland/Rural Residential/Waterfront Residential

## Rationale:

The owner has applied to permit a second dwelling unit within the existing dwelling on the subject land. The subject lands are located in a rural area north of the Village of Fenelon Falls and located on the northwest corner of Northline Road and Fell's Bay Road. The original single detached dwelling was built circa 1968 and updated as a semi-detached type dwelling in 1985 according to MPAC records. According to the application, this use may have existed since the late 1970s. The owner advised that one dwelling unit occupies an area of approximately 78 sq. m. (840 sq. ft.), while the second dwelling unit to be recognized as an accessory dwelling unit within the existing dwelling, occupies an area of approximately 49 sq. m. (528 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 September 5, 2019.
2. Agricultural Impact Brief and Minimum Distance Separation Report, prepared by Clark Consulting Services, dated August 22, 2019, which

evaluates the proposed zoning amendment in relation to the City's Official Plan and potential impacts to surrounding agricultural operations and establishes that recognition of the current use does not negatively impact local agricultural operations and the Minimum Distance Separation (MDS) requirements for Type 1 land uses have been met as these setbacks are not required to be applied where there is no increase in the sensitivity of the subject lands.

3. Lot Layout Sketch, prepared by Applicant, undated, illustrates existing buildings and structures, including the existing house with two dwelling units, driveway area, septic system and well and relative setbacks.
4. Sketch of Building Elevations, prepared by Applicant, undated, illustrates the dwelling elevations from each direction.

Staff has reviewed the Agricultural Impact Brief and MDS Report and generally accepts the rationale provided along with the conclusions given.

The effect of this application is to permit a second dwelling unit on the property. The applicant has indicated that the second dwelling unit is within the existing dwelling and shares the existing driveway access from Northline Road and shares the existing well and septic system that services the main dwelling.

According to the application, the owner has indicated in order to apply for a mortgage renewal, the second dwelling unit needs to be recognized as being permitted through the rezoning process.

### **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 within of the Natural Heritage System mapping prepared by the Province, which does not apply until it has been implemented in

the City's Official Plan. The proposed development is within 120 metres of a key natural heritage feature, being significant woodlands within the Natural Heritage System and not within 120 metres of a key hydrologic feature.

Based on the information submitted and the comments provided by the KRCA referenced in the PPS section below, as there is no new development, it is anticipated that there will not be any negative impacts on the natural features or their ecological functions in relation to Natural Heritage Features, and therefore the application would appear to conform 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 1.1.4.1 encourages conservation and redevelopment of existing housing stock on Rural Lands. Section 1.1.5 of the PPS provides policy with respect to rural lands and permitted uses, which include limited residential development that is appropriate for the available infrastructure and promotes development that 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. 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 to the east and southwest of the subject land and the proposed use is within 120 metres from this Natural Heritage Feature. It would also appear that the location of the dwelling containing 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. In addition, although within 120 metres of Significant Woodland, since there is no new development and Fells Bay Road to the south fragments this feature, KRCA advised that an Environmental Impact Study is not required. Furthermore, KRCA did not require circulation on this application. 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 Rural in the City of Kawartha Lakes Official Plan with a Significant Woodland Natural Heritage Feature located within 120 m. to the east and southwest of the subject land. Agricultural land impacts are minimized as the second dwelling unit is within the existing dwelling on land that is not permitted to be used for agricultural purposes. In addition, for the reasons outlined in the PPS Section above, as there is no new development, it is not anticipated that there will be negative impact on the natural features and ecological functions of the identified significant woodland natural heritage feature.

The Rural policies promote and protect agricultural lands from fragmentation and non-farm activities to ensure that non-agricultural uses and development is encouraged to locate within designated settlement areas. Apart from the primary permitted agricultural use, where farming uses exist, new uses that are compatible with and not hindering the agricultural use will be permitted. Permitted uses within this designation include limited low density single detached dwellings including uses permitted in the Prime Agricultural designation, which includes single detached dwellings accessory to the other permitted uses, garden suites, and secondary uses including kennels meeting certain criteria. Through pre-consultation, 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.

The Rural policies also require that the minimum distance separation formulae will be used to ensure appropriate buffering to protect existing agricultural operations. The applicant has submitted an Agricultural Impact Brief and MDS Report and calculations, which concludes that there is no new impact on Agricultural uses and MDS setbacks do not need to be applied for Type 1 land uses in relation to the existing barns within the review area as there is no increase in the sensitivity of the use of the lands, which complies with these requirements. Furthermore, Planning Staff note that the Township of Fenelon Zoning By-law has a provision that exempts existing lots which are less than 4 ha. in area from the technical provisions of MDS I.

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 as an accessory dwelling unit to the Agricultural (A1) Zone of the Township of Fenelon Zoning By-law 12-95 for the subject land. Section 8.2.1.7 of the A1 Zone directs development to the permitted uses and zone provisions of the Rural Residential Type One (RR1) Zone category for existing lots that are less than 1 ha. (2.47 ac.) in area. This zone category permits a single detached dwelling and does 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 within the existing dwelling. In addition, an amendment would be made to reduce the minimum dwelling unit gross floor area required to recognize the existing floor area of the second dwelling unit. The proposed application appears to comply with all other provisions of the zoning by-law.

### **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 Recommendation(s) 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 exceptional quality of life goals as it 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 is shared with the accessory dwelling. The Building Division Part 8 Sewage Systems Program advised the replacement sewage system has adequate capacity to accommodate the established second dwelling unit and the existing dwelling together.

### **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 November 11, 2019, the Community Services Department advised they have no comments or concerns.

On November 14, 2019, Development Engineering advised from an engineering perspective and further to the pre-consultation file D38-2018-073 they confirm they have no objection to the proposed Zoning By-law Amendment.

On November 15, 2019, the Building Division advised that documentation needs to be provided that a permit was issued to create a second unit or a building permit application would be required to create a second dwelling unit.

On November 18, 2019, the Building Division Part 8 Sewage System Program advised a replacement sewage system was completed in 2018 to repair a failing system serving the property. This sewage system has adequate capacity to accommodate the established second dwelling unit and the existing dwelling together. As such, they have no objection to the proposed zoning amendment.

**Development Services – Planning Division Comments:**

The comments that have been received from circulated agencies and City Departments indicate there is no concern with the application. Staff is also satisfied that the application meets applicable policy objectives. The supporting Agricultural Impact Brief and MDS Report demonstrate that the proposal complies with applicable MDS guidelines and is not impacting local agricultural operations. In this regard, Staff supports the application for a zoning amendment to permit a second dwelling unit as an accessory dwelling unit on the subject land.

**Conclusion:**

The 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 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 zoning 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'  
PLAN2019-074.pdf



Appendix 'B'  
PLAN2019-074.pdf



Appendix 'C'  
PLAN2019-074.pdf



Appendix 'D'  
PLAN2019-074.pdf

Appendix 'A' – Location Map  
Appendix 'B' – Aerial Photograph  
Appendix 'C' – Zoning By-law Amendment Sketch  
Appendix 'D' – Draft Zoning By-law Amendment

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**Department Head:** Chris Marshall

**Department File:** D06-2019-034