

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

## **Planning Advisory Committee Report**

**Report Number PLAN2020-001**

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**Meeting Date:** January 15, 2020

### **Public Meeting**

**Title:** An application to amend the Township of Emily Zoning By-law 1996-30 on land described as Part Lot 6, Concession 10, geographic Township of Emily, identified as 305 St. Luke's Road – Bob Carroll

**Description:** To change the zone category: 1. on the retained lands from the "Agricultural (A1) Zone" to "Environmental Protection (EP) Zone" to preclude development within significant woodlands and to an "Agricultural Exception \*\* (A1-\*\*) Zone" to recognize a reduced lot area over the balance of the retained A1 Zone lands; and, 2. on the severed lands from the A1 Zone to an EP Zone to restrict development from the significant woodlands and buffer, as well as to a "Hamlet Residential Zone-Exception \*\* (HR-\*\*) Zone" to not require yard or setbacks from the EP Zone boundary on land described as Part Lot 6, Concession 10, geographic Township of Emily, City of Kawartha Lakes, identified as 305 St, Luke's Road (Bob Carroll).

**Ward Number:** Ward 6

**Author and Title:** Janet Wong

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### **Recommendations:**

**That** Report PLAN 2020-001, An application to amend the Township of Emily Zoning By-law 1996-30 on land described as Part Lot 6, Concession 10,

**Department Head:** \_\_\_\_\_

**Legal/Other:** \_\_\_\_\_

**Chief Administrative Officer:** \_\_\_\_\_

geographic Township of Emily, identified as 305 St, Luke's Road – Bob Carroll, be received;

**That** in accordance with Section 34(17) of the Planning Act, Council having considered the change to the proposed Zoning By-law Amendment to include reducing the minimum lot frontage for the retained lands, deems no further public notice to be necessary;

**That** application D06-2019-028, respecting a proposed Amendment to the Township of Emily Zoning By-law to rezone lands in order to fulfill conditions of consent substantially in the form attached as Appendix 'D' to Report PLAN 2020-001 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 these applications.

## Background:

On March 21, 2019, provisional consent was granted by the Committee of Adjustment, as delegated by Council, for applications D03-16-015, D03-16-016, D03-16-017, and D03-16-018 to sever four hamlet residential lots and retain approximately 16 ha. of agricultural lands and woodland. One proposed residential lot (Lot 1) has an existing dwelling, while the remaining proposed lots are vacant.

As conditions of provisional consent the lands are to be rezoned:

- a. on the severed lands to a Hamlet Residential Exception \* (HR-\*) Zone and Environmental Protection (EP) Zone to restrict development within natural heritage features and the 30 metre buffer with no further setback requirement from the EP Zone boundary; and
- b. on the retained lands to recognize the resultant undersized retained lot with two zones and on part of the retained lands to rezone to an EP Zone to reflect the boundary of the significant natural heritage.

Owner: Robert (Bob) Carroll  
 Applicant: EcoVue Consulting Services Inc. (Ken Hurford)  
 Legal Description: Part Lot 6, Concession 10, geographic Township of Emily  
 Official Plan: Hamlet – retained and severed lands  
 Environmental Protection and Prime Agricultural – retained lands  
 City of Kawartha Lakes Official Plan  
 Zone: Agricultural (A1) Zone – severed and retained lands  
 Environmental Protection (EP) Zone – retained lands  
 Schedule 'B' of the Township of Emily Zoning By-law 1996-30  
 Lot Area: Existing 16 ha. [approximate - Applicant]

Proposed Lots	Area (hectares)	Frontage (metres)
D03-16-015 (Lot 1)	0.49	78.8
D03-16-016 (Lot 2)	0.32	30.4
D03-16-017 (Lot 3)	0.40	30.4
D03-16-018 (Lot 4)	0.40	30.4
Retained	14.7	62.3

Site Servicing: Private individual well and septic system currently serving existing dwelling  
 Existing Uses: Large lot rural residential

Adjacent Uses:      North: Agricultural  
                             East: Hamlet Residential, Commercial and St. Luke  
                             Catholic Elementary School  
                             South: Agricultural, Hamlet Residential and Church  
                             West: Agricultural

## **Rationale:**

The property is located on the north side of St. Luke's Road (Appendix "A"). Emily Creek crosses through the western side of the property and forms the western boundary of that part of the property in the hamlet settlement area of Downeyville. The balance of the property is outside of the settlement area. The proposed lots are within the Downeyville hamlet settlement area boundary. The applicant has submitted the required application to amend the Zoning By-law to fulfil conditions of provisional consent approval.

The applicant submitted the following reports and plans in support of the application, which were circulated to various City Departments and commenting Agencies for review:

1. Planning Justification Report (EcoVue Consulting Services, dated July 23, 2019). The report discusses and assesses the proposal in the context of the 2014 Provincial Policy Statement, Growth Plan for the Greater Golden Horseshoe (2019), City of Kawartha Lakes Official Plan, and the Township of Emily Zoning By-law 1996-30.
2. Lot Layout and Proposed EP Zone Boundary Sketch (EcoVue Consulting Services, dated November 13, 2019) (Appendix C).
3. Preliminary reference plan (Coe Fisher Cameron Land Surveyors, dated October 25, 2019).

Staff has reviewed the Planning Justification Report and accompanying documentation filed in support of the proposed zoning by-law amendment. Staff has evaluated the appropriateness of the proposal as responses from other City Departments and commenting Agencies have been received.

## **Provincial Policy Conformity**

### **1. Growth Plan for the Greater Golden Horseshoe (2019):**

This application must conform to the applicable policies of the Growth Plan (GP). Section 2.2.1.2d) directs development to settlement areas. The proposed lots are within the hamlet of Downeyville. Therefore, this application appears to conform to the policies of the Growth Plan.

## **2. Provincial Policy Statement (2014):**

The Provincial Policy Statement (PPS) provides policy direction on matters of Provincial interest. Section 1.1.4.2 of the PPS provides that rural settlement areas shall be the focus of development in rural areas. Section 1.6.6.4 allows for individual on-site water and sewage services provided that site conditions are suitable for the provision of the services with no negative impacts. Furthermore, this is only permitted for infilling and minor rounding out of existing development. Section 2.1.5b) states that development and site alteration shall not be permitted in significant woodlands unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions. Section 3.1 directs development to areas outside the flood plain.

As previously indicated, the proposed lots are within a rural settlement area. The proposed lots are considered to be infill development. Through the review of the consent applications, it has been demonstrated that individual private septic systems and wells can be provided without adversely affecting adjacent development. The applicant also provided an Environmental Impact Study (EIS) (Cambium Inc., August 5, 2015) in support of the consent applications. The EIS defined the extent of significant woodland, which encompasses a wetland area. The provision of a 30 metre buffer to the natural feature would limit any negative impact from the new residential use on the features and ecological functions. A flood plain analysis of Emily Creek demonstrated that the proposed residential lots would be outside the flood plain of the creek.

The application to rezone the natural feature and 30 m. buffer area would ensure the intent of the PPS to provide for the long term protection of this natural area for its economic, environmental and social benefits is met.

Therefore, the application appears to be consistent with the PPS.

## **City of Kawartha Lakes Official Plan Conformity:**

The property is mainly designated Hamlet with Environmental Protection (EP), following Emily Creek, in the City of Kawartha Lakes Official Plan (CKLOP). West of Emily Creek the property is designated Prime Agricultural. The EP designation is intended to apply to provincially significant wetlands, watercourses and floodplains. These features are not within the proposed residential lots.

### **Hamlet Designation**

The proposed residential lots are within the Hamlet designation which is intended to accommodate small-scale residential and non-residential development. The consent policies allow for up to six consents, including the retained lands, provided that the location will not inhibit logical growth. Generally, the minimum lot size should be 0.4 ha. Given the topography and available frontage on the retained lands, the proposed consents would not inhibit or preclude future development of the retained lands. While one lot is less than 0.4 ha, the average proposed lot size is at least 0.4 ha. Lot 2 is slightly less in area to minimize the

extent of woodland on the proposed lot and to account for the tile bed servicing Lot 1. Rezoning the proposed lots to a Hamlet Residential Zone would implement the Official Plan designation.

### **Natural Heritage System**

The CKLOP incorporates a description of features that are to be considered part of the Natural Heritage System. Two features are unevaluated wetlands and significant woodlands. The policy direction is to encourage development to be located such that it will have minimum impact on woodlands. The EIS was prepared to demonstrate that there will be no negative impact on the woodland features and functions. As the woodland is connected to the wetland and Emily Creek, it is considered to be a significant natural heritage feature. Rezoning the woodland and buffer to an Environmental Protection zone would achieve the policy direction of the CKLOP to protect and enhance natural heritage features and areas.

The application appears to be consistent with the policies of the City of Kawartha Lakes 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. The proposed severed lots and retained lands would not comply with the A1 Zone provisions. The applicant has submitted a Zoning By-law amendment application for consideration.

#### **Retained Lands**

Only a portion of the woodland is zoned as EP Zone. The balance of the woodland should be rezoned to the EP Zone to limit uses and the construction of buildings or structures to protect this natural feature.

The General Provisions Section 3.13.2 specifies that no lot shall be created, including the retained lands, unless it complies with the lot area and lot frontage requirements of the A1 Zone. Although the A1 Zone minimum lot area is 25 ha, the retained lands will have an area of 14.7 ha. During the review of this application, it has been determined that the front lot line will be St. Luke's Road side of the retained lands. While the required minimum lot frontage is 120 m., there will only be 62.33 m. of lot frontage on St. Luke's Road. The proposed zoning by-law amendment will include reductions to the minimum lot area and lot frontage requirements.

#### **Severed Lands**

The proposed residential lots would more appropriately be zoned in the following manner.

1. The EP Zone over that portion of the lot that is within the woodland and 30 m. buffer precludes the construction of buildings and structures which would

negatively impact the natural features and ecological functions of the woodland. This will be a clearly mapped boundary for prospective owners of the lots.

2. Residential lots within Downeyville are zoned as Hamlet Residential (HR) Zone. The severed lots, being intended for hamlet residential use, should be rezoned to HR Zone to limit the permitted uses to residential and thereby the proposed lots would comply with the minimum lot area and frontage requirements of the HR Zone.

The General Provisions Section 3.18.1.1(a) requires the greater of the applicable yard for the zone or a minimum setback of 15 m. from the EP Zone boundary. The intent is to provide a 30 m. buffer to the natural feature from development. In this case, if the EP Zone is implemented as recommended, an additional setback is not warranted. In addition, Section 3.13.1 specifies that the zone boundary be treated as a lot line. The EP Zone boundary would form a rear lot line; thus the minimum 7.5 m. rear yard setback of the HR Zone would apply. There should be a special exception to the HR Zone to require a minimum 0 m. setback from the EP Zone Boundary as well as a minimum 0 m. rear yard setback.

The application appears to comply with all other relevant provisions of the Zoning By-law.

### **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 Council Adopted Strategic Plan identifies these Strategic Priorities:

- Goal 1 – A Vibrant and Growing Economy
- Goal 2 – An Exceptional Quality of Life
- Goal 3 – A Healthy Environment

This application aligns with the priority a for healthy environment through protection of natural areas and prime agricultural lands by directing development to settlement areas.

## **Review of Accessibility Implications of Any Development or Policy:**

There are no accessibility implications for the City.

## **Servicing Comments:**

The proposed new lots will be serviced by private well and septic systems. It has been demonstrated that these services can be provided without adverse impact on adjacent development or on abutting natural heritage features. A consent agreement will be registered on title, such that future owners will be advised of the lot layout requirements to ensure that the location of septic systems and wells will not interfere with adjacent development.

## **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:

### **Agency Review Comments:**

Building Division (December 12, 2019): advised that they have no concerns with the above noted application.

Building Division – Part 8 Sewage Systems (December 17, 2019): advised that they have no concerns.

Community Services Department (December 17, 2019): advised that they have no concerns with the above noted application.

### **Public Comments:**

No comments were received from the public.

## **Development Services – Planning Division Comments:**

The appropriate documents in support of the application have been submitted and circulated to the appropriate agencies and City Departments for review and comment. The application conforms with the Growth Plan and is consistent with Provincial Policy Statement. The application conforms with the City of Kawartha Lakes Official Plan. The proposed Zoning By-law amendment contained in Appendix “D” will ensure the retained land is preserved for agricultural use, protect the natural features and allow for suitable development of the severed lands; thereby implementing Provincial and City policies.

Building Division, Part 8 Sewage Systems has advised that there is sufficient area on the proposed new vacant lots for sewage systems outside of the EP Zone. As well, the current system on Lot 1 was constructed with a permit and is currently functioning. In the event the sewage system should fail, there is



adequate space to relocate the system outside the EP Zone in the future. The existing tile bed serving Lot 1 is considered a structure under the Building Code. As an existing structure within the proposed Environmental Protection Zone, it would be considered to be a legal non-conforming use and could continue to exist.

The Notice of Public meeting did not include a requested reduction in the minimum lot frontage. Staff respectfully recommends that in accordance with Section 34(17) of the Planning Act, Council consider the change to the proposed by-law with respect including a reduction in the A1 Zone minimum lot frontage. If Council chooses to change the proposed zoning by-law to facilitate this minor amendment, a public meeting is not required for this procedure.

## **Conclusion:**

Staff supports the application for Zoning By-law Amendment to change the zones on the severed and retained lands based on the information contained in this report and the comments received. 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 application be referred to Council for APPROVAL.

## **Attachments:**



Appendix A.pdf



Appendix B.pdf



Appendix C.pdf



Appendix D.pdf

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

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**Department Head:** Chris Marshall, Director of Development Services

**Department File:** D06-2019-028