

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

## **Planning Advisory Committee Report**

**Report Number PLAN2020-010**

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**Meeting Date:** March 11, 2020

### **Public Meeting**

**Title:** An application to amend the City of Kawartha Lakes Official Plan and Township of Emily Zoning By-law 1996-30

**Description:** To add a Special Policy Area to the Rural designation to facilitate a severance of a portion of the subject land containing an existing second detached dwelling and change the Agricultural (A1) Zone to an Agricultural Exception (A-\*\*) Zone to establish appropriate uses and zone provisions for the proposed severed and retained land, on Part Lots 11 and 12, Concession 7, geographic Township of Emily, 88 Centreline Road (Caton)

**Ward Number:** 6 - Emily

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

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### **Recommendations:**

**That** Report PLAN2020-010, respecting Part Lots 11 and 12, Concession 7, geographic Township of Emily, Applications D01-2019-006 and D06-2019-037, be received; and

**That** the proposed Zoning By-law Amendment respecting Applications D01-2019-006 and D06-2019-037, 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:	The proposal would redesignate approximately 1.2 ha. (3 ac.) of the northern portion of the subject land from "Rural" to "Rural" with a "Special Policy Area" to permit the existing second detached dwelling (addressed as 94 Centreline Road) to be severed, and to rezone this portion of the subject land from Agricultural (A1) to an Agricultural (A1-*) Exception Zone with appropriate zone provisions for a rural residential use and to rezone the balance of the approximately 6.7 ha. (16.6 ac.) of the subject land proposed to be retained from Agricultural (A1) to an Agricultural (A1-*) Exception Zone with appropriate uses and zone provisions to recognize the existing accessory buildings and detached dwelling addressed as 88 Centreline Road.
Owners:	Jeremy Caton
Applicant:	Tom deBoer, TD Consulting Inc.
Legal Description:	Part Lots 11 to 12, Concession 7, except Part 2, Plan 922-H, geographic Township of Emily
Official Plan:	"Rural", "Waterfront" and "Environmental Protection" with Provincially Significant Wetlands and Significant Woodlands Natural Heritage Features in the City of Kawartha Lakes Official Plan
Zoning	"Agricultural (A1) Zone" and "Limited Service Residential Exception Four (LSR-4) Zone" in the Township of Emily Zoning By-law No. 1996-30
Site Size:	19.46 acres (7.88 ha.) - MPAC
Site Servicing:	Each dwelling on the subject land is serviced by a separate private individual well and a private individual sewage disposal system
Existing Uses:	Residential/Rural
Adjacent Uses:	North: Rural Residential/Agricultural East: Waterfront Residential/Pigeon River South: Waterfront Residential/Pigeon River/Env. Protection West: Centreline Road/Rural/Agricultural

## Rationale:

The owner has applied to amend the official plan and zoning by-law to facilitate the severance of a portion of the subject land containing an existing second detached dwelling and establish appropriate zone provisions for the proposed severed and retained land. The subject lands are in a rural area and located

north of Peace Road on the east side of Centreline Road and west of the Pigeon River. The existing detached dwellings were built circa 1955 and 1960 according to MPAC records along with an attached and detached garage built circa 1960. The proposed land to be severed is located on approximately 1.2 ha. (3 ac.) of the northern portion of the subject land and contains a second dwelling.

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. Official Plan and Zoning By-law Amendment Applications received October 11, 2019.
2. Planning Justification Report prepared by EcoVue Consulting Services Inc., dated September 30, 2019 and revised January 14, 2020, which evaluates the proposed amendments within the context of relevant Provincial Policies, the City of Kawartha Lakes Official Plan and Township of Emily Zoning By-law 1996-30.
3. Agricultural Impact Assessment, Agricultural Brief and Minimum Distance Separation Report, prepared by Clark Consulting Services, dated June 25, 2019, evaluates the proposed official plan and zoning amendments for potential impacts on surrounding farming operations and concludes that the applications do not result in a loss of agricultural production or productive lands and does not affect agricultural product yield and establishes that Minimum Distance Separation (MDS) requirements for Type 1 land uses have been met.
4. Conceptual Lot Layout Site Plan prepared by TD Consulting Inc., dated October 2019, illustrates the proposed boundaries of the severed and retained lands and existing dwelling unit locations and individual septic systems and existing driveway access from Centreline Road to each dwelling.
5. Sketch for Proposed Severance, prepared by IBW Ontario Land Surveyors, dated April 30, 2019 illustrates proposed lot boundaries and existing buildings, driveway areas, septic systems and wells.

Staff has reviewed the Planning Justification Report and Agricultural Impact Assessment/Brief and MDS Report and other supporting documentation provided in the context of evaluating relevant policies 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, including Kawartha Conservation and City Departments have submitted comments and any concerns have been addressed.

The effect of the official plan and zoning change is to facilitate the severance of a portion of the subject land containing an existing second detached dwelling and establish appropriate zone provisions for the proposed severed and retained land. The applicant has indicated that the proposed second dwelling to be severed (municipally addressed as 94 Centreline Road and incorrectly labelled

as #84 on the submitted lot layout and severance sketch plans) has existing independent services for well and septic as well as an existing separate driveway access. Following approval of the proposed Official Plan and Zoning By-law amendments, the applicant intends to submit the associated Consent application.

### **Applicable Provincial Policies:**

#### **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 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 key natural heritage features, being woodlands, wetlands and fish habitat within the Natural Heritage System and within 120 metres of a key hydrologic feature. Portions of the subject land are also regulated by the Kawartha Region Conservation Authority.

Based on the information submitted and the comments provided by 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 that would require a Natural Heritage Evaluation, and therefore the applications would appear to conform to the policies of the 2019 Growth Plan.

#### **Provincial Policy Statement, 2014 (PPS):**

The 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. In reviewing these applications in the context of permitting limited residential development on rural lands, Staff have reviewed the scale of the development,

capacity of available infrastructure, context of the surrounding area and whether it would be in keeping with the rural character.

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. Portions of both the proposed severed and retained land contain unevaluated wetland and are also regulated by the Kawartha Region Conservation Authority (KRCA). Significant Woodland has been mapped on and within 120 metres of the subject land and the proposed severed land is within 120 metres from this Natural Heritage Feature. KRCA previously advised based on comments obtained through pre-consultation that a site visit is required by their staff to ascertain the extent of the unevaluated wetland and in addition, requested that the wetland and woodland features be placed in protective zoning to protect the ecological and hydrologic functions of these features. Due to the nature of the development and the fact the proposed severed and retained lands already contain single detached dwellings and that no additional development is proposed through the applications, KRCA advised that a Natural Heritage Evaluation is not required. Given this direction, 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.

Further confirmation is needed from KRCA to determine consistency with the PPS.

### **Official Plan Conformity:**

The subject land is designated Rural, Waterfront and Environmental Protection in the City of Kawartha Lakes Official Plan with Provincially Significant Wetland (limited to small southwest portion of retained lands) and Significant Woodland Natural Heritage Features located on and within 120 m. of the subject land. Agricultural land impacts are minimized as the proposed severed land containing the second dwelling is not being 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 and wetland natural heritage features.

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. In addition, the rural character and the maintenance of the natural countryside is to be preserved and promoted through the provision of the wise use and management of resources. 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. The proposed severance of

the subject property containing the second dwelling requires an Official Plan amendment, as the Rural designation only permits residential lot creation for a dwelling deemed surplus to a farming operation due to farm consolidation, or a retirement lot for a bonafide retiring farmer. In this case, a Special Policy Area would be applied to the Rural designation to facilitate the proposed severance of approximately 1.2 ha of land.

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 impact on Agricultural uses nor any loss of agricultural production capability and MDS setbacks for Type 1 land uses in relation to the existing barns within the review area are met in accordance with Provincial Formulae. The proposal would therefore meet the policies of the Official Plan, subject to confirmation by KRCA.

### **Zoning By-Law Compliance:**

The majority of the subject land is zoned Agricultural (A1) Zone with a small portion adjacent to the waterfront zoned Limited Service Residential Exception Four (LSR-4) Zone in the Township of Emily Zoning By-law 1996-30. In order to permit the proposed use, a rezoning application has been submitted for consideration to facilitate the proposed severance by amending the Agricultural (A1) Zone to recognize reduced lot frontage and area of the proposed severed land. It is suggested that Section 7.2.1.7 of the A1 Zone be amended to direct development of the proposed severed land to the permitted uses and zone provisions of the Rural Residential Type One (RR1) Zone category. This zone category permits a single detached dwelling, but not an agricultural use. The proposed zoning on the retained land to be amended will continue to permit existing A1 uses, including a detached dwelling and agricultural uses; however, the A1 Zone is proposed to be amended to recognize reduced lot frontage and area and accessory building location. The proposed applications appear 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 amendments are 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 2020-2023 Strategic Plan:**

The Council Adopted Strategic Plan identifies these Strategic Priorities:

- A Vibrant and Growing Economy
- An Exceptional Quality of Life
- A Healthy Environment
- Good Government

This application would align with the exceptional quality of life and healthy environment goals as it provides housing options for residents while protecting agricultural and environmental resources.

## **Servicing Comments:**

The existing dwellings on the subject land are each serviced by an independent private individual well and a private sewage disposal system. The Building Division Part 8 Sewage Systems Program has reviewed the applications including the submitted Conceptual Lot Site Plan prepared by TD Consulting Inc.

## **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, public comments were received from 4 separate residents. A resident of 12 Evergreen Street, a resident of 16 Mitchell Drive on the other side of the Pigeon River, and another resident called to inquire as to the purpose of the applications. The owners of 24 Evergreen Street provided comments via email concerning the purpose of the applications, permitted uses and the use of the right-of-way providing access to their property as well as concerns regarding a barrier that is in place at the end of Evergreen Street leading to the waterfront portion of the subject land.

Staff responded that the applications do not affect the existing right-of-way on the subject land that benefits the waterfront property owners who rely on using Chestnut Street and Evergreen Street to access their properties. In addition, Staff advised that the proposed severed parcel would be rezoned to an A1 exception zone for just rural residential type uses (i.e. not agricultural uses) and the proposed retained parcel would be rezoned to an A1 exception zone that would continue to be used for existing uses and continue to permit the uses in the A1 Zone. Upon further evaluation and a site visit, Staff determined that the location of the gate is at the end of Evergreen Street where it terminates at the waterfront section of the subject land.

### **Agency Review Comments:**

On February 17, 2020, the Building Division advised they have no concerns.

On February 19, 2020, Community Services advised they have no comments or concerns.

On February 19, 2020, Development Engineering advised that further to their comments on the pre-consultation file D38-2019-017 for the subject property, they confirm they have no objection and no engineering requirements for the proposed Official Plan Amendment and Zoning By-law Amendment.

On February 25, 2020, Enbridge Gas Inc. advised they do not object to the proposed applications.

On February 27, 2020, the Part 8 Sewage System Program Supervisor advised the residential dwellings have been located on the property with a method of sewage disposal for an undetermined amount of time. A review of the historical records indicates that the sewage disposal systems servicing the existing dwellings were installed prior to 1974. Under the provisions of the Ontario Building Code, as the use continues, the properties will have a method to dispose of the sanitary waste. In order to support a consent application for a future severance of the above-noted property, the location of the existing sewage systems serving the dwellings will need to be identified through site visit. This will allow confirmation that each individual sewage system will be wholly contained within the property boundaries proposed and to determine that there is adequate space available to ensure the systems can be replaced to today's standards. Fees will be required for this review. As such, the Building Division – Sewage System Program can support the proposed amendments.

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

At this time, comments have not been received from all circulated agencies, including Kawartha Conservation and City Departments. The applications are being evaluated in the context of applicable policies and provisions. Should protective zoning be implemented for the woodland and unevaluated wetland areas, additional information is required to determine appropriate boundaries in this regard. Staff recommends that the applications 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 Official Plan and Zoning By-law Amendment applications 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'  
PLAN2020-010.pdf



Appendix 'B'  
PLAN2020-010.pdf



Appendix 'C'  
PLAN2020-010.pdf



Appendix 'D'  
PLAN2020-010.pdf

Appendix 'A' – Location Map

Appendix 'B' – Aerial Photograph

Appendix 'C' – Proposed Severance Sketch for OPA and ZBA

Appendix 'D' – Conceptual Lot Site Plan

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**Department Head E-Mail:** [cmarshall@kawarthalakes.ca](mailto:cmarshall@kawarthalakes.ca)

**Department Head:** Chris Marshall

**Department File:** D01-2019-006 and D06-2019-037