

The Corporation of the City of Kawartha Lakes

Planning Advisory Committee Report

Report Number PLAN2020-007

Meeting Date: March 11, 2020

Public Meeting

Title: Official Plan and Zoning By-law Amendments to facilitate a residential severance of an existing dwelling

Description: Applications to amend the City of Kawartha Lakes Official Plan and Township of Verulam Zoning By-law 6-87 on land described as Part Lot 5, Concession 4, geographic Township of Verulam, City of Kawartha Lakes and identified as 2152 City Road 36 (Parkbridge Lifestyle Communities Inc.)

Ward Number: Ward 6

Author and Title: Anna Kalnina, Planner II

Recommendations:

That Report PLAN2020-007, respecting Part Lot 5, Concession 4, geographic Township of Verulam, Parkbridge Lifestyle Communities Inc. – Applications D01-2020-001 and D06-2020-003, be received; and

That Report PLAN2020-007 respecting Applications D01-2020-001 and D06-2020-003 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:

The applicant has submitted applications for an official plan amendment and a zoning by-law amendment. The proposal is to amend the 'Rural' designation to include a Special Provision, and to amend the 'General Rural (A1) Zone' and 'Open Space (OS) Zone' with Exception Zones. The purpose of the amendments is to facilitate a severance of an existing dwelling from the existing recreational commercial operation. The proposed residential lot would be approximately 1.8 hectares and the retained lands would be approximately 46.7 hectares. See Appendices 'A' and 'B'. The existing recreational commercial operation is not intended to be affected by the severance.

Owner:	Parkbridge Lifestyle Communities Inc.
Applicant:	EcoVue Consulting Services Inc.
Legal Description:	Part Lot 5, Concession 4, Geographic Township of Verulam
Designation:	Rural and Environmental Protection on Schedule 'A' of the City of Kawartha Lakes Official Plan
Zone:	'General Rural (A1) Zone', 'Recreational Commercial (C3) Zone', 'Recreational Commercial Exception Two (C3-2) Zone', 'Recreational Commercial Exception Three (C3-3) Zone', 'Open Space (OS) Zone' and 'Open Space Exception Five (OS-5) Zone' on Schedule 'A' of the Township of Verulam Zoning By-law 6-87
Lot Area:	48.63 hectares [120.17 acres]
Site Servicing:	Proposed severed residential lot – private well and septic system, and ditches Proposed retained lot – Communal water and wastewater systems with ditches
Existing Uses:	Single detached dwelling, 226 site campground resort (Nestle In Resort) and 62 site park model trailer community (Heron's Landing Resort)
Adjacent Uses:	North: Rural land East: Emily Creek South: Mobile home park (Glenway Village) and rural land West: Rural land

Rationale:

The existing single detached dwelling on the property is located east of Dunsford Creek and has an existing access to City Road 36. The two-storey dwelling is serviced by a private septic and well and has a detached garage. The dwelling was used by the previous recreational park operators to live on-site. The

business model has changed since and the dwelling is no longer necessary for park operation purposes.

An Official Plan Amendment is required to re-designate the lands from Rural to Rural Special Policy Area in order to facilitate a residential lot severance that is not a lot for a retiring farmer or a surplus dwelling as a result of farm lot consolidation. The Environmental Protection designation is proposed to remain unaffected.

The Zoning By-law Amendment is required to permit a 1.8 hectare residential lot area that is otherwise not permitted. The applicant is also proposing to establish a 30 metre vegetation protection buffer from Dunsford Creek by way of zoning that area to an Open Space Exception (OS-**) Zone. The proposed effect of the Exception zone is to recognize the existing buildings and structures, and allow for their expansions subject to conditions.

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 Amendment and Zoning By-law Amendment Applications received January 10, 2020.
2. Planning Justification Report, prepared by EcoVue Consulting Services dated August 23, 2019. This document discusses the appropriateness of the applications in the context of the Provincial Policy Statement (2014), Growth Plan (2019), the City of Kawartha Lakes Official Plan (2012) and the Township of Verulam Zoning By-law 6-87.
3. Addendum Letter to the Planning Justification Report (August 23, 2019), prepared by EcoVue Consulting Services dated February 10, 2020. The letter supplements the review of the Provincial Policies in the Planning Justification Report and provides a rationale for the requested lot size.
4. Agricultural Impact Assessment, prepared by Clark Consulting Services dated September 4, 2018. This report evaluates impacts of the uses on the local area, as well as review of the Minimum Distance Separation Formulae.
5. Sewage Works Assessment for Due Diligence, prepared by C.C. Tatham & Associates Ltd. dated November 21, 2016. The report provides findings of a two-day sewage assessment conducted in September, 2016.
6. Drinking Water Systems Assessment for Due Diligence, prepared by CC. Tatham & Associates Ltd. dated November 21, 2016. The report provides a review of the drinking water systems, physical condition of equipment and facilities, and compliance with applicable guidelines, procedures and regulations.
7. Topographic Survey, prepared by EcoVue dated December 14, 2018.

8. Revised Topographic Survey, prepared by EcoVue dated February 7, 2020.
9. Consent Sketch, prepared by EcoVue dated February 15, 2018.
10. Revised Consent Sketch, prepared by EcoVue dated February 10, 2020.

Staff has reviewed the Planning Justification Report and the Addendum Letter that was prepared and filed in support of the applications and has reviewed other supporting documentation provided in the context of evaluating the relevant Provincial and City of Kawartha Lakes Policies and Plans.

Provincial Policy Statement, 2014 (PPS)

The PPS provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural environment.

Policy 1.1.4.1 encourages that the existing housing stock on rural lands be conserved and redeveloped. The PPS policy 1.1.5.5 further provides that development on rural lands must be appropriate to the infrastructure which is planned or available. The proposed severance would have the effect of preserving the existing dwelling and utilizing the existing and available infrastructure associated with the dwelling.

Creation of lots must comply with the Minimum Distance Separation (MDS) Formulae as per policy 1.1.5.9. The applicant has submitted an Agricultural Impact Assessment (AIA) that includes a review of the MDS. The AIA document finds that the proposed severance is exempt from the MDS Formulae under the Guideline 8 – MDS Setbacks for Lot Creation, as the proposed severed and retained lot is for an existing non-agricultural use.

The property has significant woodlands along Dunsford Creek and a provincially significant wetland (PSW). Policy 2.1.1 requires that natural features, including significant woodlands, be protected for the long term. Policy 2.1.5 provides that development and site alteration is not permitted in significant woodlands and PSW's unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions. The definition of development includes lot creation. Through the pre-consultation, the Kawartha Conservation staff exempted the proposal from an Environmental Impact Study, as the intent of the proposed severance is to sever an existing dwelling, rather than facilitate new development. Furthermore, the proposed severance is outside of the 120 metres from the PSW that is located on the subject property.

In Section 3.0 Protecting Public Health and Safety, policy 3.1.1 provides that development shall generally be directed to areas outside of hazardous lands adjacent to streams which are impacted by flooding hazards and/or erosion hazards. Furthermore, policy 3.1.2 provides that development and site alteration are not permitted in a floodway. The applications propose to facilitate the creation of a lot that is directly adjacent to Dunsford Creek. The lot lines of the proposed

lot would be within the flooding and/or erosion hazard. The application shows the flood limit (250.5m elevation) on a revised Consent Sketch (Appendix 'C'). Staff have considered policy 3.1.2 and are satisfied that the proposed application is consistent with this PPS policy. The proposal does not create new or increase the existing hazards associated with property damage or loss of life in an event of a flood. The existing dwelling, and the existing access to the property and the dwelling are outside of the flood hazard, which means that in an event of a flood, the dwelling and persons would be accessible by emergency vehicles. Lastly, the application is not proposing any site alteration that would exacerbate flooding conditions or cause environmental impacts.

Further to the above discussion, this application is consistent with the PPS.

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

The GP directs development to settlement areas, except where necessary for development related to the management or use of resources, resource-based recreational activities, and rural land uses that cannot be located in settlement areas.

Policy 4.2.3.1 provides that development is not permitted within key natural heritage features and key hydrologic features, which includes significant woodlands, fish habitat, streams and wetlands. However, policy 4.2.3.1 excepts expansions to existing buildings and structures, provided that the expansion brings the use more into conformity with the GP. Similar to the discussion on the PPS, the proposed severance is not anticipated to create any negative land use, environmental or ecological impacts.

Policy 4.2.4.1 provides that a proposal for a new development within 120 metres of a significant woodland, fish habitat and a key hydrologic feature requires a natural heritage evaluation or hydrologic evaluation that identifies a vegetative protection zone that is no less than 30 metres from the feature. The applicant supplied a hydrologic evaluation in the addendum letter to the Planning Justification Report recognizing that the proposed severance provides an opportunity to protect natural features. Further to the hydrologic evaluation, the applicant proposes to re-zone the area 30 metres from Dunsford Creek as Open Space Exception (OS-**) Zone. The Exception would have the effect of prohibiting new development or site alteration in areas prone to flooding, while recognizing existing buildings and structures.

Policy 4.2.6.3 recognizes that outside of settlement areas there may be an interface between agricultural uses and non-agricultural uses. Where avoidance is not possible, the GP requires that compatibility is achieved by minimizing and mitigating adverse effects. An AIA concluded that there are no apparent impacts of the existing uses on surrounding agricultural lands.

Therefore, this application is consistent with the GP.

City of Kawartha Lakes Official Plan, 2012 (OP)

The OP designates the subject lands Rural and Environmental Protection, and identifies an overlay of Significant Woodlands, PSW and a Petroleum Well. The applicant has requested to amend the Rural designation to Rural with a Special Provision. The Special Provision would facilitate the creation of a residential lot that is over 1 hectare, that is not a lot for a retiring farmer or a lot with a surplus dwelling.

The Rural designation contemplates and permits limited, low density single detached dwellings. Rural residential severances, however, are limited to the creation of a residential lot for a retiring farmer or a surplus dwelling as a result of farm lot consolidation. The residential severances are contemplated by the policies only in the context of agricultural uses. Given that the subject lands are used for non-agricultural uses, Staff look to the goals and objectives of the Rural designation.

The goals and objectives of the Rural designation (sections 16.1 and 16.2) support the protection of agricultural land from non-farm activities and support the preservation of rural character. The proposed applications are not proposing new non-agricultural uses, or any additional buildings or structures that may have the effect of changing the rural character; therefore, the proposed severance is considered to be in keeping with the intent of the Rural designation.

For development in Rural designation, the MDS Formulae must be used to ensure appropriate buffering as per policy 16.3.2. The applicant has considered the MDS requirements in the submitted AIA and found that the proposed severance is exempt from the Formulae.

Policy 17.3.3 states that a lot may be created where it is partially designated Environmental Protection provided that there is sufficient lot area outside of the Environmental Protection designation in the abutting land use designation, as is the case on the subject property. In general, the OP requires that residential lots in the Rural designation do not exceed 1 hectare in area and are not less than 4,000 square metres. The proposed lot would have lands designated Rural and outside of the Environmental Protection designation in excess of 1 hectare.

The proposed lot size includes north-west area between Dunsford Creek and the existing dwelling. The applicant rationalizes that this area should be included with the residential lot, as it would be inaccessible for the purposes of Nestle In due to the watercourse. Furthermore, the lot is proposed to include the treed area to the east of the existing dwelling for the purposes of creating and maintaining a visual and physical buffer between the recreational activities and the residential use. Lastly, the existing dwelling is set back about 75 metres from the City Road 36, which further influences the proposed lot size. Although the lot size exceeds the intended size of a non-farm, residential lot in the Rural designation, Staff is satisfied that the proposed lot size is reasonable for the specific conditions present on the subject property and would create sufficient separation to mitigate the interface between the different uses.

Policy 17.3.4 provides that in some instances, an evaluation must be undertaken to confirm the boundary of the Environmental Protection designation and to demonstrate that the land is not subject to flooding or other physical hazard. The revised Consent Sketch shows that the property is subject to flooding, but the existing dwelling and the driveway are outside the floodline, Section 17.6 provides that existing non-conforming buildings or structures located in a floodplain may be enlarged, expanded or altered subject to conditions, including that new or existing hazards are not created or aggravated, and that the development is not a threat to human health and safety.

Development in or within 120 metres of a significant woodland and a PSW may be permitted if it is demonstrated that there will be no negative impacts on the natural features or on the ecological functions. It has been determined, however, that no studies are required as buildings and structures are existing. Furthermore, the proposed severance is more than 120 metres from the wetland and therefore, OP policies regarding PSWs do not apply.

Section 13 provides that development is prohibited within 75 metres of a petroleum well unless it has been decommissioned. An existing petroleum well is located in the north-east corner of the subject property. The severance, however, is proposed beyond 75 metres from the well.

The applicant has submitted the appropriate background studies and plans to demonstrate conformity with the OP.

Township of Verulam Zoning By-law 6-87 (ZBL)

There are currently six zones on the property: 'General Rural (A1) Zone', 'Recreational Commercial (C3) Zone', 'Recreational Commercial Exception Two (C3-2) Zone', 'Recreational Commercial Exception Three (C3-3) Zone', 'Open Space (OS) Zone' and 'Open Space Exception Five (OS-5) Zone'. The proposed severance is subject to the A1 and OS zones. The applicant is proposing to amend the A1 zone to add an exception to allow a 1.8 hectare residential lot, which is in excess of the maximum 1 hectare permitted lot area in the Zoning By-law, and to amend the OS zone to add an exception to delineate a 30-metre vegetation protection buffer. The applicant also proposes that the OS zone have an exception that recognizes the existing buildings within the proposed 30 metre vegetation protection buffer and permits expansions to the buildings and structures subject to conditions. Staff are generally supportive of recognizing a vegetation protection buffer and prohibiting development or site alteration in areas prone to flooding. Staff continue to evaluate the appropriateness of the request in the context of the existing zoning provisions for non-conforming uses.

The proposed severance would create a retained lot where recreational activities are intended to continue unaffected. Within the proposed retained lot, the area abutting the proposed residential lot would remain zoned A1. The resulting abutting remnant A1 area would be about 1.5 hectares. This area would have the effect of allowing an agricultural use and a single detached dwelling. The applicant has provided that the land is not farmed and there are no plans to

expand the commercial use into the remnant A1 area. Staff are considering the effect of the proposed consent as it relates to the proposed abutting A1 area and its continued use as part of a larger A1 operation on the property.

Consent Application Process

The applicant intends to submit a Consent application following approval of the proposed Official Plan and Zoning By-law Amendments.

Other Alternatives Considered:

No other alternatives have been considered.

Financial/Operation Impacts:

There are no financial/operational considerations unless Council's decision 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 2020-2023 Strategic Plan:

The Council Adopted Strategic Plan identifies four Strategic Priorities:

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

The applications align with a vibrant and growing economy, as they meet the goal of protecting and supporting agricultural land and rural business, while also supporting tourism by responding to the changing needs of the business model. The applications also support a healthy environment by promoting sustainable development.

Consultations:

Notice of these applications was circulated to persons within a five hundred (500) metre radius in accordance with the Planning Act and Council direction, agencies and City Departments which may have an interest in the application. To date, we have received the following comments:

Public

To date, Staff received two calls from individuals seeking clarification about the proposal and whether the proposal would have the effect of changing the use of the recreational park.

Agency Review Comments

February 13, 2020	Building has no concern. The consent application will be required to demonstrate adequate setbacks to satisfy Ontario Building Code requirements for spatial separation from existing agricultural buildings.
February 14, 2020	Engineering has no objection to the proposed Official Plan Amendment and the Zoning By-law Amendment.
February 25, 2020	Kawartha Conservation has no objection to the applications. Kawartha Conservation does not normally permit development within a floodplain/flooding hazard, however they recognize that the proposal will not result in any additional buildings, grading, structures, etc. within the hazard, and all structures within the hazard are existing.

Attachments:

The following attached documents may include scanned images of maps and drawings. If you require an alternative format, please call Anna Kalnina, Planner II, (705) 324-9411 extension 1393.

Appendix 'A' – Location Map



PLAN2020-007
Appendix A Location Map

Appendix 'B' – Consent Sketch



PLAN2020-007
Appendix B Consent Sketch

Appendix 'C' – A1 Revised Consent Sketch



PLAN2020-007
Appendix C Revised

Department Head E-Mail: cmarshall@kawarthalakes.ca

Department Head: Chris Marshall, Director, Development Services

Department File: D01-2020-001 and D06-2020-003