

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

## **Council Report**

**Report Number PLAN2020-016**

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**Meeting Date:** May 26, 2020

### **Council Meeting**

**Title/Description:** Applications to amend the City of Kawartha Lakes Official Plan and Township of Fenelon Zoning By-law 12-95 to permit a residential condominium development consisting of 26 townhouse dwellings and two apartment buildings containing 60 dwelling units on West Street North, geographic Township of Fenelon, now City of Kawartha Lakes (Muskoka D & M Corp.)

**Ward Number:** 3 - Fenelon

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

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### **Recommendations:**

**That** Report PLAN2020-016, respecting being Part of Lot 23, Concession 9, Parts 1 to 3, Plan 57R-8353, Parts 1 and 2, Plan 57R-2352, Lots 53-54, Part Third Street (Closed), Plan 190, geographic Township of Fenelon, identified as 19, 39 and 67 West Street North, "Muskoka D & M Corp. – Applications D01-2018-006 and D06-2018-028", be received;

**That** a By-law to implement Official Pan Amendment application D01-2018-006, substantially in the form attached as Appendix 'C' to Report PLAN2020-016 be approved and adopted by Council;

**THAT** a By-law to implement Zoning By-law Amendment application D06-2018-028, substantially in the form attached as Appendix 'D' to Report PLAN2020-016 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.

**Department Head:**

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**Legal/Other:**

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**Chief Administrative Officer:**

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## **Background:**

The initial statutory public meeting was held to consider the previous proposal, which did not include the property along the waterfront, and was to permit a residential condominium development consisting of 24 townhouse dwellings in three 5-unit townhouse blocks with separate entrances along West Street North, three 3-unit townhouse blocks and one 40-unit apartment building consisting of 4 residential floors with parking below for a total of 64 dwelling units together with a private stormwater management pond, amenity area and an internal road providing access to parking facilities. This public meeting was held by the Planning Advisory Committee on March 6, 2019, which adopted the following recommendation:

### **PAC2019-018**

**Moved By** Councillor Veale

**Seconded By** J. Willock

**That** Report PLAN2019-015, respecting being Part of Lot 23, Concession 9, Parts 1 & 2, Plan 57R-8353, Geographic Township of Fenelon, identified as 19 and 39 West Street North, Muskoka D & M Corp. – Applications D01-2018-006 and D06-2018-028, be received; and

**That** the applications respecting the proposed Official Plan Amendment and Zoning By-law Amendment be referred back to staff until such time as all comments have been received from all circulated agencies and City Departments, and for further review and processing.

**Carried**

At the Council Meeting of March 26, 2019, Council adopted the following resolution:

### **CR2019-232**

**Moved By** Councillor O'Reilly

**Seconded By** Councillor Veale

**That** the Minutes of the March 6, 2019 Planning Advisory Committee Meeting be received and the recommendations, listed in section 13.1 of the Agenda, be adopted.

**Carried**

Notwithstanding the above direction, another public meeting was held to consider revised applications for Official Plan Amendment and Zoning By-law Amendment that were submitted as the owner acquired additional property along the waterfront and revised the number and configuration of the proposed dwelling

units. This subsequent Public Meeting was held by the Planning Advisory Committee on October 9, 2019, which adopted the following recommendation:

**PAC2019-069**

**Moved By** Mayor Letham

**Seconded By** J. Willock

**That** Report PLAN2019-057, respecting being Part of Lot 23, Concession 9, Parts 1 to 3, Plan 57R-8353, Parts 1 and 2, Plan 57R-2352, Lots 53-54, Part Third Street (Closed), Plan 190, geographic Township of Fenelon, identified as 19, 39 and 67 West Street North, “Muskoka D & M Corp. – Applications D01-2018-006 and D06-2018-028”, be received; and

**That** the applications respecting the proposed Official Plan Amendment and Zoning By-law Amendment be referred back to staff until such time as all comments have been received from all circulated agencies and City Departments, and for further review and processing.

**Carried**

At the Council Meeting of October 22, 2019, Council adopted the following resolution:

**CR2019-579**

**Moved By** Councillor O'Reilly

**Seconded By** Councillor Veale

**That** the Minutes of the October 9, 2019 Planning Advisory Committee Meeting be received and the recommendations, included in Section 9.3 of the Agenda, be adopted.

**Carried**

The revised proposal, which includes the waterfront property, consists of 26 townhouse dwellings, all with internal driveway access in four 3-unit townhouse blocks, one 4-unit townhouse block, two 5-unit waterfront townhouse blocks and two 30-unit apartment buildings consisting of 4 residential floors with a ground level of parking for a total of 86 dwelling units, without a private stormwater management pond. The proposal will be developed on full municipal water and sewer services.

As applied for, the purpose of the revised proposed Official Plan Amendment and Zoning By-law Amendment is to re-designate the lands from the “Urban Settlement – Fenelon Falls Fringe” area designation in the City of Kawartha Lakes Official Plan to an “Urban Settlement – Fenelon Falls Fringe” area designation with a “Special Policy” to permit residential development in the form of townhouses, including waterfront townhouses with a 15 metre water setback

and apartment dwelling units with an overall density of approximately 44 dwelling units per gross hectare and to rezone the lands from the “Future Residential Development (FRD)” Zone, “Rural Residential Type Three (RR3) Zone” and “Rural Residential Type Three Exception Fifteen (RR3-15) Zone” to a “Hamlet Residential Exception (HR-\*)” Zone or other appropriate residential zone category with site specific residential zone provisions. It is anticipated that the owners will seek Council’s approval for a Condominium Description Exemption once Site Plan Approval has been granted.

Owners:	Muskoka D&M Corp. (c/o Doug Gray)
Applicant:	EcoVue Consulting Services Inc. – Beverly Saunders
Legal Description:	Part of Lot 23, Concession 9, Parts 1 to 3, Plan 57R-8353, Parts 1 and 2, Plan 57R-2352, Lots 53-54, Part Third Street (Closed), Plan 190, geographic Township of Fenelon
Designation:	“Urban Settlement” – Fenelon Falls Fringe Area, on Schedule A-5 of the City of Kawartha Lakes Official Plan
Zone:	“Future Residential Development (FRD) Zone”, “Rural Residential Type Three (RR3) Zone” and “Rural Residential Type Three Exception Fifteen (RR3-15) Zone” on Schedule ‘G’ of the Township of Fenelon Zoning By-law No. 12-95
Lot Area:	1.988 ha (4.913 ac.)
Site Servicing:	Proposed municipal water and sanitary sewer, drainage swales and storm sewers
Existing Uses:	Vacant Land and waterfront dwelling with boathouse
Previous Uses:	Wood furniture and toy manufacturing and automobile service facility activities, waterfront residential
Adjacent Uses:	North: Cameron Lake East: West Street North/Residential South: Residential West: Bass Street/Commercial/Residential

## **Rationale:**

The subject property, municipally known as 19 (and formerly 39) and 67 West Street North, is located on the west side of West Street North on the east side of Bass Street and north of CKL Road 8 (Helen Street) and includes waterfront property on Cameron Lake (see Appendix ‘A’). The proposed development borders the Village of Fenelon Falls but is located within the geographic Township of Fenelon. The owners propose a residential condominium development consisting of 26 townhouse dwelling units and 60 apartment dwelling units (see Appendix ‘B’). The proposed development will be serviced by municipal water and sanitary sewer and storm sewers. The internal components of the development are proposed to be accessed from West Street North through

a common elements condominium road. Bass Street access is reserved for emergency access only. An amendment to the Official Plan and Zoning By-law is necessary to permit the proposed configuration of apartment buildings and townhouse dwelling residential use with a reduced water setback at a density of 44 dwelling units per gross hectare.

The applicant has submitted the following reports and plans along with updates in support of the revised applications for review:

1. Planning Justification Report prepared by EcoVue Consulting Services Inc., dated October 23, 2018 and updated August 8, 2019. The reports discuss and assess the proposal in the context of the 2014 Provincial Policy Statement (PPS), Growth Plan, the City of Kawartha Lakes Official Plan, and the Township of Fenelon Zoning By-law. A Planning Justification Report Addendum Update Letter was provided by EcoVue Consulting Services Inc., dated May 11, 2020 to demonstrate that the subject applications are consistent with the 2020 PPS, which came into effect on May 1, 2020.
2. A Planning Justification Report Addendum Update Letter was provided by EcoVue Consulting Services Inc., dated December 19, 2019 to provide a comparative analysis of the proposed development and the surrounding neighbourhood in terms of massing, density and neighbourhood character. The update compared the shoreline townhomes, in-land townhomes and apartment buildings to surrounding and/or comparative local developments and determined that visual impacts associated with the percentage of built-up area, building coverage, height and distance between structures and the shoreline or road are consistent with or better than neighbouring properties or comparative sites, considering augmented shoreline restoration, architectural design, landscape buffers and fencing and green space. The update also concluded that the proposal is compatible with the existing area and appropriate and desirable as a transition to increased housing types and densities is encouraged to conform with Provincial Policies in the Growth Plan.
3. Concept (Draft) Plan prepared by EcoVue Consulting Services Inc., dated September 26, 2018 and updated August 7, 2019.
4. Conceptual Site Plan Layout prepared by Lett Architects Inc., dated July 6, 2018 and updated August 2019 as prepared by ISM Architects Inc.
5. Preliminary Building Elevations prepared by Lett Architects Inc., dated July 6, 2018 and updated August 2019 as prepared by ISM Architects Inc.
6. Shadow Study prepared by Lett Architects Inc., dated July 6, 2018 and amended July 2019 as prepared by ISM Architects Inc. demonstrates the buildings will not have significant impact on adjacent properties.

7. Urban Design Guideline prepared by ISM Architects, received January 16, 2019.
8. Geotechnical Investigation Report dated June 2018 and Supplemental Test Pit Investigation and Karst Conditions Review dated July 2019 prepared by prepared by Peto MacCallum Ltd., Consulting Engineers. The supplemental report concludes there is low potential for complications due to Karst conditions for the site.
9. Phase One and Phase Two Environmental Site Assessment Report prepared by Grace & Associates Inc., dated October 22, 2013 and January 21, 2014, respectively. Phase One Environmental Site Assessment Report for the acquired waterfront property prepared by Trinity Consultants dated April 2019. This Phase One Report identified no environmental concerns on the waterfront property.
10. Stage 1 and 2 Archaeological Assessment prepared by Earthworks Archaeological Services Inc., dated October 22, 2018. Stage 1 and 2 Archaeological Assessment for the acquired waterfront property prepared by Earthworks Archaeological Services Inc., dated July 16, 2019. These reports identify and evaluate the proposal with respect to archaeological resources and did not yield any evidence of archaeological material.
11. Topographic Survey Plan prepared by EcoVue Consulting Services Inc., dated January 18, 2018 and updated April 2019.
12. Plan of Survey prepared by Coe, Fisher, Cameron, Ontario Land Surveyors dated August 29, 2000 deposited as Plan 57R-8353 on October 6, 2000 and Legal Survey for the acquired waterfront property prepared by Smith & Smith, dated May 1978.
13. Traffic Impact Study (TIS) for MDM Developments prepared by JD Northcote Engineering Inc., dated May 14, 2018 and updated August 2019. An updated TIS and letter response was prepared by JD Northcote Engineering Inc., dated December 13, 2019 to address City Engineering comments. The reports conclude that the proposed development will not cause any operation issues and will not add significant delay or congestion to the local road network and addresses public comments by indicating there is significant excess capacity in the existing road network and acceptable cross-section to accommodate anticipated future traffic volumes.
14. Functional Servicing Report prepared by Pearson Engineering Ltd., dated July 2018 and updated August 2019. The report examines municipal water and sanitary servicing options for the property as well as stormwater management and includes requested stormwater and phosphorus management and lot grading and drainage plans. The report concludes sanitary and watermain connections are required to be made to existing services on West Street North and storm services will be conveyed to Cameron Lake with a treatment train approach to

be implemented consisting of grass swales and rooftop infiltration which has been sized to provide water balance for the site. A further response letter dated December 11, 2019 and revised Functional Servicing Report prepared by Pearson Engineering Ltd., dated December 2019 were provided to address City Engineering comments and Kawartha Conservation comments.

15. Engineering Drawings including Notes and Details Plan, Site Grading Plan, Site Servicing Plan, Pre-Development Storm Catchment Plan, Post-Development Storm Catchment Plan and Erosion Protection Plan, prepared by Pearson Engineering Ltd., dated July 2018 and updated August 2019. Further revised Engineering Drawings prepared by Pearson Engineering Ltd., were received on December 20, 2019 in conjunction with the revised Functional Servicing Report (above).
16. Environmental Impact Study and Fish Habitat Enhancement Plan prepared by RiverStone Environmental Solutions Inc., dated August 2019. This report recommends that potential impacts to fish habitat associated with Cameron Lake can be addressed through avoidance and mitigation measures and that the development is proposed outside of potential habitat for Species at Risk. A further response letter was prepared by RiverStone Environmental Solutions Inc., dated December 16, 2019 to address Kawartha Conservation comments regarding the applicant's requested 15 metre shoreline buffer. A buffer planting plan was provided for enhancing the riparian area to satisfy the KRCA. This shoreline restoration together with the implementation of adequate stormwater controls is sufficient to mitigate negative impacts to water quality and protect natural heritage features.
17. Restricted Land Use Notice issued by the Risk Management Official (RMO) of the Kawartha Region Conservation Authority (KRCA) dated February 2019 and July 2019 as required under Section 59 of the Clean Water Act (2006) as a portion of the property is within an intake protection zone for Fenelon Falls. This is necessary to engage in an activity in a vulnerable area for a municipal drinking water supply; however, there is no prohibition or risk management plan requirement. A new application for Notice will need to be submitted prior to applying for any subsequent municipal approvals under the Planning Act or Building Code Act.
18. Planning Response prepared by EcoVue Consulting Services Inc., dated March 19, 2020 to address outstanding comments from Departments and Agencies. These include responses to comments provided by the City's Planning Department, including for further consultation with and review of Ministry of Natural Resources and Forestry (MNRF) and Department of Fisheries and Oceans (DFO) requirements, response to comments provided by the Ministry of Environment, Conservation and Parks (MECP) regarding the 30 metre water setback and comments provided by Kawartha Conservation.

All of the above previous and revised reports and plans submitted have been circulated to the applicable agencies and City Departments for review and comment. Staff has reviewed the amended Planning Justification Report that was prepared and filed in support of the applications and has reviewed the other supporting documentation provided in the context of evaluating the relevant Provincial and City of Kawartha Lakes Policies and Plans. Further discussions have been conducted with the applicant along with correspondence received to clarify aspects of the proposal with respect to conformity to any applicable policies and/or zoning provisions.

### **Provincial Policies:**

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

The Growth Plan (GP) provides that growth should be directed towards settlement areas and utilizes existing or planned infrastructure and anticipates the intensification of brownfield sites. The proposed development will provide infill residential development on full municipal services and be located within the Fenelon Falls settlement area. The GP envisions increasing intensification of the existing built-up area and providing a diverse range and mix of housing options. This application facilitates the efficient use of existing infrastructure within a designated settlement area and contributes to the achievement of complete communities and compact built form.

As the subject land is considered within a settlement area, the Natural Heritage System policies of the Growth Plan do not apply.

Therefore, these applications would conform to the policies of the Growth Plan.

#### **Provincial Policy Statement, 2020 (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. Settlement areas are the focus of growth, including redevelopment which utilizes existing or planned infrastructure.

Section 1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns, outlines how healthy, liveable and safe communities are sustained by:

- a) promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term;
- b) accommodating an appropriate range and mix of residential (including second units, affordable housing and housing for older persons), employment (including industrial and commercial), institutional (including places of worship, cemeteries and long-term care homes), recreation, parks and open space, and other uses to meet long-term needs; and
- e) promoting cost-effective development patterns and standards to minimize land consumption and servicing costs.



Section 1.1.3 Settlement Areas, states that it is in the interest of all communities to use land and resources wisely, to promote efficient development patterns, protect resources, promote green spaces and ensure effective use of infrastructure and public service facilities.

Section 1.1.3.1 states that settlement areas shall be the focus of growth and development and their vitality and regeneration shall be promoted.

Section 1.1.3.2 states that land use patterns within settlement areas shall be based on:

- a) densities and a mix of land uses which:
  - 1. efficiently use land and resources;
  - 2. are appropriate for, and efficiently use, the infrastructure and public service facilities which are planned or available, and avoid the need for their unjustified and/or uneconomical expansion;
  - 3. support active transportation; and
- b) a range of uses and opportunities for intensification and redevelopment in accordance with the criteria in policy 1.1.3.3, which permits Planning authorities to identify appropriate locations and promote opportunities where this can be accommodated taking into account existing building stock or areas, including brownfield sites, and the availability of suitable existing or planned infrastructure and public service facilities required to accommodate projected needs. A portion of the proposed development for intensification and redevelopment occupies a brownfield site and will utilize existing municipal infrastructure.

Section 1.4 Housing, requires planning authorities to provide for an appropriate range and mix of housing types and densities to meet the social, health and well-being requirements of current and future residents, including special needs requirements. The proposed residential development in the form of townhouses and apartments provides options for intensification to meet the housing objectives of the PPS.

Section 1.6 Infrastructure and Public Service Facilities, promotes intensification and redevelopment within settlement areas utilizing existing municipal sewage services and municipal water services and planning for stormwater management that will minimize increases in contaminant loads and changes in water balance and erosion, not increase risks to human health and safety and property damage, maximize the extent and function of vegetative and pervious surfaces and promote stormwater management best practices, including stormwater attenuation and re-use, and low impact development. The proposed development includes stormwater control measures including a low impact development measures to satisfy the requirements of the PPS.

Development and site alteration shall also be directed in accordance with the policies of Section 2 and 3 of the PPS. The PPS prohibits development and site alteration on lands adjacent to natural heritage features, unless it has been demonstrated there will be no negative impacts on the natural features or their

ecological functions. The revised applications and supporting documentation, including the Environmental Impact Study (EIS) and Shoreline Restoration Plan and Supplemental Test Pit Investigation and Karst Conditions Review were circulated to the Kawartha Region Conservation Authority (KRCA) for their review to ensure conformity with respect to:

- a) natural heritage feature policies as identified in Section 2 of the PPS being within or adjacent to the proposed development being within 120 metres of a waterbody (Cameron Lake); and
- b) whether any natural hazards, as identified in Section 3 of the PPS are located within the proposed development.

Also in relation to Section 3, a Phase One and Phase Two Environmental Site Assessment (ESA) was previously circulated for review and comment in relation to human-made hazards. Although these assessments suggested no further investigation is recommended as all tested parameters related to soil and groundwater sampling were in accordance with MOE standards, the Ministry of Environment, Conservation and Parks (MECP) previously advised further work is required to address significant deficiencies in the initial Record of Site Condition (RSC) submission from 2014. In addition, the Phase 1 and Phase 2 Studies need to be updated and more scoped work may need to be undertaken in order to bring these studies into conformity with the current regulations in order to properly file a Record of Site Condition for the subject property. With the revised applications, a Phase 1 ESA for the newly acquired waterfront lands and the Environmental Impact Study (EIS) were circulated to MECP for comment as it is now within their mandate to review Species at Risk (SAR).

Archaeological Assessments were completed in relation to Section 2.6 of the PPS and Staff submitted copies of these to Curve Lake First Nation for input.

In consideration of the above, these applications are consistent with the PPS.

### **Official Plan Conformity:**

The “Urban Settlement Area – Fenelon Falls Fringe” designation in the City of Kawartha Lakes Official Plan (CKLOP) applies as the “Residential” designation in the Fenelon Falls Secondary Plan (SP) is under appeal to the Local Planning Appeal Tribunal, formerly known as the Ontario Municipal Board. The Urban Settlement designation predominately permits single detached dwellings as a residential use; however medium density residential uses in the form of row or cluster dwellings are also permitted with a maximum density of 24 dwelling units per gross hectare. The proposed density on the subject land, being 44 dwelling units per gross hectare, exceeds the medium density policy provisions, and therefore an Official Plan Amendment is being sought to create a Special Policy Area to permit the proposed higher density development in the built form of townhouses and apartment buildings which is in keeping with the general policies of the proposed SP for residential use of land within the settlement area of Fenelon Falls. In addition, Staff has reviewed the application submission with respect to reducing the water setback from 30 metres to 15 metres in relation to the Water Setback policies of Section 3.11 that pertain to maintaining a natural

vegetated area and establishing a vegetation protection zone, and minimizing impacts of expansion and reconstruction and soil erosion. In this regard, Staff would support a minimum water setback of 20 metres for habitable buildings allowing a minimum 15 metre water setback for uncovered decks, balconies, recreational structures (e.g., outdoor furniture), and walkways to be implemented through the amending zoning by-law. This increased setback for habitable buildings will provide further protection for the protection of water quality as more permeable surface will be available under decks to allow for water infiltration. Staff have also reviewed the Housing Affordability policies in the CKLOP and note that affordable housing as defined is not contemplated by this proposal. It should also be noted that the 25 percent target would be implemented at the discretion of Council in the interim prior to a housing strategy being in place. However, the range of housing proposed in the form of townhouses and apartments does meet the housing policies in the PPS.

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

The subject land is zoned “Future Residential Development (FRD) Zone”, “Rural Residential Type Three (RR3) Zone” and “Rural Residential Type Three Exception Fifteen (RR3-15) Zone” in the Township of Fenelon Zoning By-law 12-95. The applicant has submitted a revised Zoning By-law Amendment application for consideration which proposes to rezone the subject lands to an appropriate multiple residential zone category to permit the proposed development consisting of a mix of townhouse and apartment residential dwelling units with site specific provisions including but not limited to minimum lot frontage and area, front and rear yard setback, building height, minimum dwelling unit area and density pertaining to the number of dwelling units per lot on the subject lands. A 20 metre minimum water setback will be implemented for habitable buildings in order to increase the separation to the shoreline where water infiltration may occur. In addition, a 15 m shoreline buffer area will be enhanced with a planting plan and will be zoned as Environmental Protection which will also permit recreational uses and associated structures, including the existing boat house, one (1) shoreline access trail, and an associated water access. Based on comments received regarding the previously submitted Phase One and Phase Two ESAs, it is recommended that a Holding (H) Provision be applied which requires further updates to the ESAs and any required site remediation in order to file a Record of Site Condition, prior to any development. The Holding symbol would also be applied to the entire subject lands to ensure that a secured site plan agreement is executed and to apply for a deeming by-law, if required, to ensure the lands are merged into one land parcel.

### **Other Alternatives Considered:**

No other alternatives other than the previous proposal have been considered. Furthermore, as a result of the required conveyance of land to the City to accommodate an engineering requirement for an off-set turn around on West Street North, a revised Draft Concept Plan has been provided (see Appendix ‘B’), which depending on the final design details may result in one fewer waterfront

townhouse unit. An additional apartment unit could be added to maintain the overall 86 dwelling unit count and this does not significantly alter the scope or intent of the proposed development.

### **Financial/Operation Impacts:**

There are no financial/operational considerations unless Council's decision to adopt or its refusal to adopt the requested amendments 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 these Strategic Priorities:

- Priority 1 – A Vibrant and Growing Economy
- Priority 2 – An Exceptional Quality of Life
- Priority 3 – A Healthy Environment
- Priority 4 – Good Government

These applications align with the Vibrant and Growing Economy priority by increasing the supply of new housing options to attract new residents in the City of Kawartha Lakes. They align with the Healthy Environment priority by ensuring protection of municipal drinking water sources, and promoting sustainable development through the utilization of Low Impact Development (LID) techniques where possible and an environmental protected re-vegetated shoreline buffer area with enhanced plantings to protect and enhance water quality.

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

There are no accessibility implications for the City. The accessibility standards established in the Building Code will be shown on the subsequent construction drawings through the site plan approval process, which must be approved by the City prior to the issuance of a building permit.

### **Servicing Comments:**

The revised Functional Servicing Report, which has been reviewed by Engineering indicates that the subject lands can be serviced utilizing existing water and sanitary services on West Street North.

### **Consultations:**

Notice of this application was circulated to persons within a 120 metre radius, agencies, and City Departments which may have an interest in the revised application. A Public Meeting for the original applications was held on March 6,

2019 and a subsequent Public Meeting for the revised applications was held October 9, 2019. To date, we have received the following comments:

**Public Comments (Original Proposal):**

At the time of writing the March 6, 2019 PAC report, two public comments were received. The residents at 4 Oriole Road are opposed to the applications as they do not believe that Cameron Lake can support high density development with a four storey apartment building with inadequate sewer infrastructure and it does not fit in their community of single detached dwellings and cottages. They are in favour of lower density single detached dwellings. Another resident who called in and lives a block away from Bass Street along CKL Road 8 was inquiring where the existing municipal water and sewer service connections are for the proposed development and if the City would consider extending services further west.

Prior to the Public Meeting on March 6, 2019, comments were received from the two residents on King Street who advised the proposal would change the character of the neighbourhood, lower property values and make area less desirable, increase water consumption and waste, change zoning by-laws, increase traffic congestion, noise as well as lighting and lead to loss of privacy.

At the Public Meeting, W. Flett, adjacent property owner at 4 Bass Street, expressed concern regarding the potential proximity of the entrance to the development to her property line and how the values of the new units will affect other property values in the area. Ms. Flett expressed an interest in sewer connectivity for her residential property with services being extended to the new development.

D. Branidis, resident at 24 West Street, advised that her home is on the street directly across from the proposed development. She expressed concern regarding the effect the additional 64 units will have on the character of the neighbourhood, traffic congestion, property taxes, safety of children and impact on the small waterway nearby. Ms. Branidis noted that the area is a quiet family-oriented area and in her opinion only single houses should be permitted. She stated that the proposed development will infringe on her peace and privacy.

V. Moulder, a resident of Bobcaygeon who was with Ms. Flett, requested that a social impact study be done prior to approval of the land zoning change with an opportunity for public input. She expressed concern regarding traffic, transportation and the overall impact of the proposed development on the existing residents in the area.

**Public Comments (Revised Proposal):**

As of the time of writing the October 9, 2019 PAC report, a resident at 4 Oriole Road inquired as to the process to provide written comments and concerns regarding the revised applications to be considered by the Planning Advisory Committee. A resident at 24 King Street requested clarification if Building 'B' was

a five or six storey apartment and whether it would overlook his property. An email from a resident at 7 West Street North, who was also defending the interests of neighbouring residents at 5, 8 and 9 West Street North was concerned regarding the scale of the proposed development, requirements for upgrading water and sewer servicing, timelines of construction, requirements for sidewalks, increased traffic and that there was only one access off of West Street North.

Subsequent to the writing of the report, additional comments with various concerns relating to building height, increased number of dwelling units including proximity of townhomes adjacent to the waterfront, traffic, site access, construction noise, existing site hazards, environmental impact on lake, lake access, and water/sewer capacity were received from members of the public from 66 West Street North, 35 King Street, 7 West Street North, 12 Oriole Road, 4 Oriole Road and 8 Bass Street.

At the Public Meeting, D. Strasbourg of 68 West Street North, who also owns 56 West Street North, spoke against the proposal stating that over 250 people could live in this development, and that this would be too many for the dead end of West Street North. He identified other possible locations that this development could be built, and questioned whether this application was already a foregone conclusion based off of the amount of money spent by this corporation.

D. Gospodaric of 12 Oriole Road noted that she was more supportive with the original proposal, stating that the increase of density will change Fenelon Falls. She stated that traffic is already backed up in Fenelon Falls, and questioned what the developer might give back to the community, whether it be developing parks, or upgrading roads and services. In conclusion she recommended scaling back the development.

B. Ward of 16 West Street North spoke in support of the development, and noted the various uses of the land over the past 63 years. He stated even though his property is directly across from the proposed entrance to the development, that moving forward with the proposal is a positive thing.

J. Laffin of 8 Bass Street presented noise concerns about the potential for blasting into the bedrock to create the foundations for the buildings.

**Agency Review Comments (To be addressed with Revised Proposal):**

On February 6, 2019, the Ministry of the Environment, Conservation and Parks (MECP) advised that a Record of Site Condition (RSC) was submitted in 2014 but never filed as a number of outstanding issues remain to be resolved. Furthermore, the Phase I and Phase II Environmental Site Assessment Studies submitted in support of the subject applications are out of date and in addition to addressing deficiencies in the said studies, more scoped work may need to be undertaken in order to bring the Phase I and Phase II studies into conformity with the Regulations.

### **Agency Review Comments (Revised Proposal):**

On September 19, 2019, the Building Division advised they have no concerns with these applications and will reserve further comment to site plan circulation.

On September 25, 2019, Enbridge Gas Inc. advised they do not object to the proposed applications and reserve the right to amend their development conditions.

On September 30, 2019, the Community Services Department advised that they have no comments or concerns.

On October 8, 2019, the Ministry of Environment, Conservation and Parks (MECP) advised they recommend a 30 metre setback to Cameron Lake to provide a higher level of water quality protection.

On October 9, 2019, Curve Lake First Nation inquired if an Archaeological Assessment was conducted. Staff provided copies of the Assessments.

On October 10, 2019, Alderville First Nation advised they have no interest in the applications as they are not part of the Treaty 20 area.

On October 16, 2019, Parks Canada – Trent Severn Waterway advised of no issues with the application. Should the owner wish to undertake any shoreline or in-water works at this location, an approved permit would be required prior to commencement of any work.

On October 24, 2019, the Engineering & Corporate Assets Department advised that lands will be required from the developer to be conveyed to the City, sufficient in size to accommodate an off-site turn around at the north end of West Street North, as per the City's road infrastructure guidelines. In addition, comments were provided regarding the Traffic Impact Study (TIS) requiring additional information and assessment pertaining to the existing West Street North with respect to pavement width and condition and traffic counts and neighbour concerns. As the stormwater infrastructure shown in the municipal right-of-way only serves private property, it was recommended that it be wholly installed on private property. Various comments were also provided to be addressed at the Site Plan stage and included requirements pertaining to separate servicing connections to separate buildings, servicing for the proposed clubhouse, a cost estimate, requirements for separate water service for fire flow, requirements for spatial separation between different service types and sanitary servicing inspection location. Other requirements pertained to stormwater management and lot grading including location of private stormwater infrastructure, identification of overland flows and confirmation of a drainage ditch along Bass Street, and additional information in relation to the use and function of the proposed permeable pavers and location(s) of enhanced grass swale quality control features.

On November 25, 2019, the Kawartha Region Conservation Authority (KRCA) advised that site alteration and/or development within their regulated area will require a permit subject to Ontario Regulation 182/06. With respect to the Environmental Impact Statement, KRCA was not supportive of a setback reduction from 30 metres to 15 metres of the high water mark of Cameron Lake and advised that one way of addressing this would see the riparian areas adjacent to the lake were significantly enhanced, for example by planting numerous mature trees and shrubs. This should be demonstrated in a planting/landscaping plan. In addition, KRCA was looking for more details pertaining to proposed Low Impact Development (LID), previous uses and existing vegetation within the 15 metre buffer pertaining to their review of the Functional Servicing Report.

**Subsequent Agency Review Comments (To Applicant's Response to Previous Agency Review Comments):**

On January 27, 2020, the Engineering & Corporate Assets Department advised they will require lands from the Owner to be conveyed to the City, to accommodate an anticipated off-set turning basin at the north end of West Street North. The turning basin must be designed within the existing City right of way and additional lands to be conveyed by the Owner. In addition, there was a discrepancy with the Traffic Impact Study indicating the Owner will not be completing sidewalk within the West Street right of way and the Engineering design indicates a 2.0 m sidewalk along the frontage of the property, whereas a 1.5 metre wide sidewalk is the standard for a 20 metre right of way, and is required to be installed by the Owner, along the Owner's frontage on West Street North. Previous comments provided on October 24, 2019 regarding the site plan submission remain current and will be addressed through the Site Plan process.

On February 4, 2020, the Ministry of the Environment, Conservation and Parks recommends a minimum 30 metre setback from the highwater mark of permanent surface water bodies be maintained, protected and in cases where impacts have already occurred, be rehabilitated. This development is of a density and scale that a 30 m setback at a minimum should be required to afford the appropriate protection to Cameron Lake. This is in addition to the stormwater and shoreline restoration work as proposed within 15 m of the highwater mark. As presented this ministry are not supportive of this Official Plan Amendment and the Township of Fenelon Zoning By-Law No 12-95 with respect to the reduction in setback provisions and requested to be keep apprised of any decision. They also recommended further consultation with the Ministry of Natural Resources and Forestry (MNR), who recommended further consultation with the Department of Fisheries and Oceans (DFO).

On February 20, 2020, KRCA further advised that the response letter and restoration plan prepared by RiverStone Environmental Solutions Inc. satisfies the natural heritage policies of the PPS, subject to the the walking path being removed/relocated outside of the 15 metre buffer and the vertical "access to shore" pathways be consolidated into one single access path, and reconfigured



in such as manner as to occupy the least length/area in the buffer. Furthermore, remediation of the active violation identified in the November 25, 2019 response would include a shoreline revegetation plan including a list of species to be planted, the proposed pathways in the restoration plan be consolidated into one, an erosion/sediment control plan, a restoration monitoring plan and a site plan outlining all of the above changes to be made. KRCA advised they would have no objection to the approval of the applications provided the above comments regarding restoration of the shoreline are implemented and the 15 metre buffer be placed in protective zoning/designation to protect the feature in perpetuity.

On April 2, 2020, the MECP Species at Risk (SAR) Branch advised that even though there is potential habitat for certain species of bats to be present on and adjacent to the site, the activities appear to only impact a small area of the Treed Fencerow, leaving potential natural suitable habitat available for bats to use once the development is completed. The installation of artificial roosting structures will also provide more roosting habitat opportunities. It is their opinion that the development proposal, as described in the EIS, is not likely to contravene Section 10 (habitat protection) of the Endangered Species Act (ESA). The active season for bats is considered to be from April 1<sup>st</sup> to September 30<sup>th</sup> therefore to avoid harming, harassing or killing bats, clearing should occur from October 1<sup>st</sup> to March 31<sup>st</sup> as opposed to October 1<sup>st</sup> to May 1<sup>st</sup> as indicated in the EIS.

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

The appropriate background studies in support of the applications have been submitted and circulated to the appropriate Agencies and City Departments for review and comment. The revised applications for Official Plan Amendment and Zoning By-law Amendment conform to the Growth Plan and are consistent with the Provincial Policy Statement. Staff has also further reviewed the applicable policies of the Official Plan and in this regard, Staff support a minimum water setback of 20 metres for habitable buildings allowing a minimum 15 metre water setback for uncovered decks, balconies, recreational structures (e.g., outdoor furniture), to be implemented through the amending zoning by-law. This increased setback for habitable buildings will provide further protection for the protection of water quality and together with the re-vegetated shoreline through the implementation of a planting plan to be addressed at the site plan approval stage, will also provide enhanced protection for natural heritage features.

We have been advised by the Species at Risk (SAR) of the MECP that that the development proposal, as described in the EIS, is not likely to contravene Section 10 (habitat protection) of the Endangered Species Act (ESA) and specific tree clearing times were provided. This can be addressed through the Site Plan Agreement or the special permission may be sought from MECP outside of these times.

The Holding (H) provision on the zoning by-law amendment is being recommended to require the filing of a Record of Site Condition as the majority of the subject property is a brownfield site and the residential development proposal

is a more sensitive use and the execution of a site plan agreement to be registered on title as well as a requirement to obtain a deeming by-law if required to ensure the waterfront parcel can be consolidated with the balance of the land.

A number of design elements can be addressed at the site plan approval stage, including but not limited to parking areas and driveways, amenity spaces, pathways and sidewalks, landscaping, buffer areas and fencing, garbage collection and lighting and shoreline buffer area enhancement and planting plan.

The KRCA is now satisfied with the 15 metre shoreline buffer, which will be designated and zoned environmental protection together with an enhanced planting plan to be implemented through the site plan approval process.

Consultation was made with the Ministry of Natural Resources and Forestry (MNRF) who recommended consultation with the Department of Fisheries and Oceans (DFO). The DFO advised that if the project is not within fish habitat, is listed under the exempted waterbody types or falls within the standards and codes of practice, which has been confirmed through the applicant's environmental consultant, the proposal will not require a review and therefore will not be an issue.

The MECP comments regarding the 30 metre water setback has been evaluated as well as comments provided by the proponent's consultant in this regard. Staff note that the MECP did not appear to conduct a site visit to assess the local conditions. Staff are of the opinion that the comments provided by MECP are considered best management practices where the guidelines provided for development are best suited for at capacity lakes without available municipal servicing. The MECP did not provide reference to legislation specifying a water setback requirement in provincial policies and Staff are of the opinion that a reduced water setback can be accommodated with the implementation of a shoreline planting restoration plan and other stormwater management measure to protect the environmental integrity, water quality and natural heritage features.

The majority of the public concerns relate to building height, increased number of dwelling units including proximity of townhomes adjacent to the waterfront, environmental impact on lake, traffic, site access, construction noise, existing site hazards and water/sewer capacity.

In response, the applicant has submitted a shadow study that demonstrates the buildings will not have significant impact on adjacent properties as well as an addendum update to the Planning Justification Report that provides a comparative analysis in the context of massing, density and neighbourhood character. The update compared the shoreline townhomes, in-land townhomes and apartment buildings to surrounding and/or comparative local developments and determined that visual impacts associated with the percentage of built-up area, building coverage, height and distance between structures and the shoreline or road are consistent with or better than neighbouring properties or

comparative sites, considering augmented shoreline restoration, architectural design, landscape buffers and fencing and green space.

In response to size and density concerns in relation to the proximity of the proposed development to the water, the applicant has submitted a stormwater management plan and Environmental Impact Study with a shoreline planting restoration plan to mitigate any negative environmental impacts to water quality or natural heritage features, including to Species at Risk, which can be addressed through adequate stormwater control measures, including low-impact development, a vegetated shoreline buffer and respecting specific timelines for tree cutting.

In response to traffic, a Traffic Impact Study including revised updates concluded that the proposed development will not cause any operation issues and will not add significant delay or congestion to the local road network and indicates there is significant excess capacity in the existing road network and acceptable cross-section to accommodate anticipated future traffic volumes.

With respect to site access, there will only be one main access through West Street North, while the Bass Street entrance is designed for emergency access only.

With respect to noise impacts from blasting, we have been advised that there will be no sub-grade development during the construction phase and therefore no blasting will be required.

In response to existing site hazards and environmental impact, the applicant has submitted a Phase I and II Environmental Site Assessment and any additional required scoped work will need to be completed in accordance with the regulations to file a Record of Site Condition.

Finally, the applicant has submitted a Functional Servicing Report which indicates there is municipal water and sewer available along West Street North with sufficient capacity to serve the proposed development.

## **Conclusion:**

Staff supports the applications for Official Plan Amendment and Zoning By-law Amendment based on the information contained in this report and the comments received. Staff respectfully recommends that the applications 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'  
PLAN2020-016.pdf



Appendix 'B'  
PLAN2020-016.pdf



Appendix 'C'  
PLAN2020-016.pdf



Appendix 'D'  
PLAN2020-016.pdf

Appendix 'A' – Location Map  
Appendix 'B' – Proposed Revised Concept Draft Plan  
Appendix 'C' – Draft Official Plan Amendment  
Appendix 'D' – Draft Zoning By-law Amendment

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

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

**Department File:** D01-2018-006 and D06-2018-028