

**The Corporation of the City of Kawartha Lakes**  
**Council Report**

**Report Number PLAN2020-017**

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**Meeting Date:** June 23, 2020

**Title:** Zoning By-law Amendment for Convenience Store and Drive-Through Restaurant

**Description:** An application to amend the Township of Bexley Zoning By-law to add a drive-through restaurant and convenience store as permitted uses, and to amend the development standards to allow the redevelopment of the property identified as 2926 Kawartha Lakes Road 48, Bexley (2489613 Ontario Inc.)

**Ward Number:** Ward 1 – Coboconk (Bexley)

**Author and Title:** Ian Walker, Planning Officer – Large Developments

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**Recommendations:**

**That** Report PLAN2020-017, **Part of Lot 18, Gull River Range, Geographic Township of Bexley, 2489613 Ontario Inc. – Application D06-2018-025**, be received;

**That** the zoning by-law amendment, substantially in the form attached as Appendix 'D' to Report PLAN2020-017, be approved and adopted; and

**That** the Mayor and Clerk be authorized to execute any documents required by the approval of this application.

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

**Financial/Legal/HR/Other:** \_\_\_\_\_

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

## **Background:**

The statutory public meeting was held by the Planning Advisory Committee on January 16, 2019 and following resolution was passed:

### **PAC2019-002**

**Moved By** Mayor Letham

**Seconded By** M. Barkwell

**That** Report PLAN2019-002, **Part of Lot 18, Gull River Range, Geographic Township of Bexley, 2489613 Ontario Inc. – Application D06-2018-025**, be received; and

**That** Report PLAN2019-002 respecting Application D06-2018-025 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.

**Carried**

This report addresses that direction.

The applicant has submitted a Zoning By-law Amendment application on behalf of the owner, to amend the Highway Commercial (C2) Zone by providing a site-specific exception zone. The intent of the exception zone is to add a drive-through restaurant and convenience store as additional permitted uses on the property, and to amend certain development standards such as permission for up to 4 permitted uses; the allowance of a loading space in a yard fronting a street; and reductions of the required parking, interior side yard setback, aisle width, and aisle width for the drive-through. The proposed rezoning will facilitate the redevelopment of the lot.

Owner:	2489613 Ontario Inc. c/o Jenny Wu
Applicant:	EcoVue Consulting Services Inc. c/o Beverly Saunders
Legal Description:	Part of Lot 18, Gull River Range, Geographic Township of Bexley
Designation:	‘Hamlet Settlement Area’ and ‘Environmental Protection’ on Schedule ‘A-7’ of the City of Kawartha Lakes Official Plan
Zone:	‘Highway Commercial (C2) Zone’ on Schedule ‘B’ of the Township of Bexley Zoning By-law Number 93-09
Lot Area:	6,837 square metres [1.74 acres – MPAC]
Site Servicing:	Municipal sanitary sewer, private individual well and ditches
Existing Uses:	Vacant Commercial Motor Vehicle Fuel Bar

Adjacent Uses:      North:    Kawartha Lakes Road 48; Antiques Store  
                                 East:    Highway 35; Motor Vehicle Fuel Bar with  
   Convenience Store and Drive-through Restaurant;  
   Beer Store  
                                 South:    Municipal Parkland  
                                 West:    Royal Canadian Legion Branch 519

## **Rationale:**

The property is located at the southwest intersection of Kawartha Lakes Road 48 and Highway 35. The subject property is located in a highway commercial use area, with an antiques store on the north side of Kawartha Lakes Road 48; a motor vehicle fuel bar with convenience store and drive-through restaurant, and a Beer Store on the east side of Highway 35; municipal parkland to the south; and a Royal Canadian Legion to the west. See Appendix 'A'. The property contains a two-storey vacant commercial building and gas pumps.

The proposed redevelopment of the property will see the removal of the existing structures and gas pumps; and the construction of a new motor vehicle fuel bar and two-storey building containing an associated convenience store, restaurant, drive-through restaurant, and potentially, an accessory dwelling unit in the second storey. See Appendix 'B' and 'C'. The lot is located within the Coboconk 'Hamlet Settlement Area' designation of the City of Kawartha Lakes Official Plan (Official Plan). The current 'Highway Commercial (C2) Zone' permits a maximum of two uses, including but not limited to motor vehicle fuel bars, restaurants, and a dwelling unit as part of a building containing another permitted use. The 'C2' zone does not permit more than two uses, and does not permit a drive-through restaurant use or convenience store use. As such, a rezoning is required.

The applicant has submitted an addendum to the Planning Justification Report with respect to the updated 2019 Growth Plan and 2020 Provincial Policy Statement. Planning staff accept the rationale and justification provided in the Planning Justification Report and addendum.

The various reports and plans have been circulated to the applicable City departments and commenting agencies for review and comment, with no major concerns or issues raised. Remaining traffic issues identified by the Ministry of Transportation Ontario (MTO) will be addressed through the Site Plan Control application, and MTO has confirmed they are accepting of this approach.

## **Provincial Policies:**

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

These lands are identified as being within the 'Hamlet Settlement Area' boundary of Coboconk. Section 2.2.1 of the Growth Plan, 'Managing Growth' provides that growth should be directed towards settlement areas, and utilize existing or

planned infrastructure. The Growth Plan directs development to settlement areas, with limited growth in areas that are not serviced by existing or planned municipal water and wastewater systems.

The application for zoning by-law amendment was received and reviewed under the 2017 Growth Plan, and staff concluded in Report PLAN2019-002 that the application conformed with the 2017 Growth Plan.

The 2019 Growth Plan was released and came into effect on May 16, 2019. In accordance with the Planning Act, subsection 3(5), a decision of the Council of a municipality shall conform with the provincial plans that are in effect on that date, or shall not conflict with them. Therefore, the zoning by-law application is now subject to the policies in the 2019 Growth Plan.

The 2019 Growth Plan was reviewed for changes as they relate to this application and staff confirms that there are no applicable changes in the 2019 Growth Plan that affect the application. Staff are satisfied that the application conforms with the 2019 Growth Plan.

### **Provincial Policy Statement, 2020 (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.

The application for zoning by-law amendment was received and reviewed under the 2014 PPS, and staff concluded in Report PLAN2019-002 that the application was consistent with the 2014 PPS.

The 2020 PPS was released on February 28, 2020 and came into effect on May 1, 2020. In accordance with the Planning Act, subsection 3(5), a decision of the Council of a municipality shall be consistent with the policy statement that is in effect on the date of the decision. Therefore, the zoning by-law application is now subject to the policies in the 2020 PPS.

The 2020 PPS was reviewed for changes as they relate to this application and staff confirms that there are no applicable changes in the 2020 PPS that affect the application. Staff are satisfied that the application is consistent with the 2020 PPS.

### **Official Plan Conformity:**

The lot is designated 'Hamlet Settlement Area' and 'Environmental Protection' on Schedule 'A-7' of the City's Official Plan. The 'Environmental Protection' designation follows a watercourse which traverses the north and east lot lines. Permitted uses in the 'Hamlet Settlement Area' designation include commercial,

personal service uses that serve the hamlet, surrounding rural areas and tourism in the area.

Development on individual services requires a hydrogeological study, to confirm there is an adequate supply of water. Commercial uses are planned as infilling in the existing commercial areas, to prevent infiltration into residential areas. A hydrogeological study was submitted in support of the application, and the development is proposed in an existing commercial area. In addition, development of the property will be subject to Site Plan Control, in accordance with the Official Plan policies, and the Site Plan By-law, as amended.

On this basis, the application conforms to the Official Plan.

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

The lot is zoned 'Highway Commercial (C2) Zone' in the Township of Bexley Zoning By-law. The 'C2' zone permits a maximum of two uses, including a motor vehicle fuel bar, a restaurant, and one dwelling unit as part of a building containing another permitted use. More than two uses, and including a convenience store use and a drive-through restaurant use are not permitted in the 'C2' zone. This application will implement a site-specific 'C2-8(H)' zone which permits the drive-through restaurant and convenience store uses on the property, in addition to recognizing site-specific development standards for the property, as follows:

<b>Development Standard</b>	<b>Requirements: 'C2' zone</b>	<b>Requested: 'C2-8(H)' zone</b>
Minimum interior side yard setback	12.0 metres	9.75 metres
Minimum aisle width	7.0 metres	5.4 metres
Minimum aisle width for drive-through	Not defined in by-law	3.0 metres
Minimum Parking Spaces For All Uses	74 spaces are required for all permitted uses (Planning Justification Report analysis)	Minimum of 39 parking spaces for all uses
Density/Maximum Uses Per Lot	1.0 Floor Area Ratio (F.A.R.)	Maximum 4 commercial uses
Loading Space Location	Not in any yard which adjoins or faces a street	In a yard which faces a street

The Planning Justification Report identifies that a total of 73 vehicles can be accommodated on the site: 39 parking spaces, 8 spaces at the fuel pumps, and 26 spaces in the drive-through queue. The property fronts onto a Provincial Highway, and as such, a 14 metre setback is required along Highway 35 by the

Ministry of Transportation Ontario (MTO). As such, the development seeks to reduce the interior side yard setback due to the larger highway setback on the east side.

In addition to the exception zone site standards noted in the table above, a holding (H) provision has been applied to the zoning of the property. Through discussion with staff at the Ministry of the Environment, Conservation and Parks (MECP), it was determined that any residential development, including an accessory dwelling unit on the second storey, will require a Record of Site Condition (RSC) for the property to a 'Residential' land use standard, in accordance with Ontario Regulation 153/04, as amended. The proposed zoning by-law has been tailored to allow any of the commercial uses to proceed, subject to Site Plan Control, without removal of the holding (H) provision.

On this basis, the application will comply with the provisions of the Zoning By-law.

### **Other Alternatives Considered:**

No other alternatives have been considered.

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

There are no financial considerations unless Council's decision to adopt or their 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

This application aligns with the Vibrant and Growing Economy priority by attracting new business and expanding local employment opportunities and enhancing tourism; and aligns with the Healthy Environment priority by promoting sustainable development through the utilization of Low Impact Development (LID) techniques where possible to protect and enhance water quality.

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

There are no accessibility implications for the City. Accessible standards will be implemented through the Site Plan Agreement, and permits issued under the Ontario Building Code (OBC).

## **Servicing Implications:**

The existing property is serviced by an on-site private individual well, and municipal sanitary sewer and roadside ditches.

## **Consultations:**

Notice of this application was circulated to agencies and City Departments which may have an interest in the application; to persons within a 500 metre radius of the property; and a sign was posted on the property. A Public Meeting was held by the Planning Advisory Committee on January 16, 2019. Since the writing of Report PLAN2019-002, the Public Meeting, and as of May 14, 2020, we have received the following new or updated comments:

### **Public Comments:**

To date, no additional public comments have been received. One member of the public spoke in support of the application at the Public Meeting, and had questions about the number of proposed restaurants, including branding.

### **Agency Review Comments:**

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|----------------|---|
| March 17, 2020 | The Ministry of Transportation Ontario advised that although they require additional information relating to traffic, they are accepting of reviewing the additional information through the subsequent Site Plan Control application, required for the commercial development of the property. |
| March 18, 2020 | The Ministry of the Environment, Conservation and Parks confirmed that any property with a gas station which proposes to add a residential unit on the second floor would require a Record of Site Condition (RSC) to the most sensitive land use, being 'Residential' for the dwelling unit.   |

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

The background information which has been submitted in support of the application has been circulated to the appropriate agencies and City Departments for review and comment. The application conforms to the 2019 Growth Plan, and is consistent with the 2020 PPS. Conformity with the City's

Official Plan has also been demonstrated, and the rezoning will establish the site-specific development standards for the proposed motor vehicle fuel bar and associated redevelopment of this property. Any current outstanding traffic issues will be addressed through the subsequent Site Plan Control application.

## Conclusion:

In consideration of the comments and issues contained in this report, Staff respectfully recommend the proposed Zoning By-law Amendment application be **Approved**.

## Attachments:

The following attached documents may include scanned images of appendices, maps, and photographs. If you require an alternative format, please call Ian Walker, Planning Officer – Large Developments, (705) 324-9411 extension 1368.

### Appendix 'A' – Location Map



PLAN2020-017  
Appendix A.pdf

### Appendix 'B' – Site Plan, dated June 5, 2018



PLAN2020-017  
Appendix B.pdf

### Appendix 'C' – Elevations



PLAN2020-017  
Appendix C.pdf

### Appendix 'D' – Proposed Zoning By-law Amendment



PLAN2020-017  
Appendix D.pdf

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

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

**Department File:** D06-2018-025