

The Corporation of the City of Kawartha Lakes

Planning Report

Report Number PLAN2020-034

Meeting Date: September 2, 2020

Title: Proposed Rezoning to permit a temporary use for a small commercial off-grid cabin rental facility at 188 Talbot River Road, Eldon

Description: An application to amend the Township of Eldon Zoning By-law to permit the temporary use of a small commercial off-grid cabin rental facility on a portion of the land described as Part of Lot 32, Concessions 9 and 10 and Part of Lots 49 to 54, North Portage Road, geographic Township of Eldon, now City of Kawartha Lakes and identified as 188 Talbot River Road (Kirkfield Lake Resort Ltd.)

Ward Number: 2

Author and Title: Sherry L. Rea, Development Planning Supervisor, MCIP, RPP

Recommendations:

That Report PLAN2020-034, **Part of Lot 32, Concessions 9 and 10 and Part of Lots 49 to 54, North Portage Road, geographic Township of Eldon, identified as 188 Talbot River Road, Kirkfield Lake Resort Ltd. - Application No. D06-2020-021**, be received;

That the Zoning By-law amendment, substantially in the form attached as Appendix C to Report Plan 2020-034, be approved and adopted; and

That the Mayor and Clerk be authorized to execute any documents required by the approval of these applications.

Department Head: _____

Legal/Other: _____

Chief Administrative Officer: _____

Background:

The application proposes the temporary use of a portion of the property for a commercial off-grid rental cabin facility of a maximum of 5 small cabins, each being 15 sq.m. (160 sq.ft.), 6 tent sites, 1 common washroom facility being 17.8 sq.m. (192 sq.ft.), an internal private roadway which utilizes an existing internal road on the property, private docks for the cabins and a communal dock and pavilion for common waterfront access for water-based recreational activities. The temporary use would be for a period of two (2) years allowing the applicant to complete additional studies to permit additional rental cabins on the lands. The applicant operates similar rental cabins in remote areas of Ontario; however, this proposal represents the first phase of further expansion of the business to include a large undeveloped site with additional cabins based on the sustainability of the land. See Appendix A and B attached.

Owner:	Kirkfield Lake Resort Ltd. c/o John Craig and Al Kearsey
Applicant:	Kevin Duguay Community Planning c/o John Lochenerner of Cabinscape
Legal Description:	Part of Lots 32, Concessions 9 and 10 and Part of Lots 49 to 54, North Portage Road, geographic Township of Eldon
Designation:	Rural and Environmental Protection (Schedule 'A-6') with Areas of Natural and Scientific Interest, Significant Woodlands, Provincially Significant Wetlands, and Unevaluated Wetlands (Schedule 'B-6') in the City of Kawartha Lakes Official Plan
Zone:	Agricultural (A1) and Environmental Protection (EP) in the Township of Eldon Zoning By-law No. 94-14
Lot Area:	94.9 ha. with a 20.8 ha. self-contained, spring-fed lake known as Kirkfield Lake
Site Servicing:	Water from Kirkfield Lake with Class 2 Sewage Systems for grey water and composting toilets
Existing Uses:	Vacant Land
Adjacent Uses:	North, South and East: Large rural lots including pasture land, scrub and rural residential uses. West: The Trent Lands and the Trent Canal leading south from the Kirkfield Liftlocks

Rationale:

The subject land is located in the geographic Township of Eldon, accessed from Talbot River Road and is approximately 94.9 ha. which, includes a 20.8 ha.

spring fed lake on the west side of the property known as Kirkfield Lake. The spring fed lake is a former unlicensed limestone quarry, which operated in the 1950's and ultimately flooded which encouraged rehabilitation of the surrounding wetlands. The owner of the property has entered into a lease arrangement with a company known as Cabinscape c/o John Loerchner. Cabinscape is a Canadian-owned company offering custom designed, low impact and ecologically sound small cabins for intimate wilderness escapes. The company seeks remote sites in Ontario for small scale, off grid cabin rentals. The subject property represents an ideal site being of significant size, remote in nature with a self-contained lake, which has naturalized over time from the 1950s flooding of the quarry. The cabins and common washroom are temporary in nature and will utilize water from Kirkfield Lake with Class 2 sewage disposal systems for greywater and composting toilets. The applicant understands the necessary permits that will be required prior to the operation of the site.

It is anticipated that the rental cabins will operate year round but are limited in the proposed zoning by-law to 5 small scale cabins being approximately 15 sq.m. and 1 common washroom being approximately 17.8 sq.m. The tent area will operate on a more seasonal basis.

In support of the application for rezoning, the applicant has submitted the following:

1. Planning Justification Report prepared by Kevin M. Duguay Community Planning and Consulting Inc. and dated March 11, 2020 together with a Supplementary Planning Opinion to address the 2020 PPS which came into effect May 1, 2020. These planning documents justify the temporary development proposal under Section 39 of the Planning Act and the current provincial and municipal planning framework.
2. Functional Servicing Review (FSR) for Temporary Rezoning prepared by Engage Engineering and dated February 27, 2020. The brief summarizes the impact that the development will have on the stormwater and describes the proposed means for water supply and wastewater management on the site to support the proposed development. The brief concludes that given the low impact and sustainable nature of the proposed development, the proposed increase in building area and roadway area will result in no appreciable increase in peak flows and no additional stormwater quantity or quality controls, are proposed for the site at this time. The cabins and comfort station will have individual greywater Class 2 septic systems as well as composting toilets. Water will be supplied to each cabin and the comfort station with direct lines from Kirkfield Lake and will be treated within each building separately to provide potable water.
3. Reasonable Use Policy (Nitrate) Assessment prepared by Azimuth Environmental Consulting, Inc. and dated March 2020. The Assessment evaluates the risks of the proposed development in consideration of the

Ministry of the Environment, Conservation and Parks (MECP) Procedures and Technical Guidelines for Individual Onsite Sewage Systems. The purpose of a nitrate assessment is to evaluate the risk of adverse effects from sewage. Sewage works for Cabinscape consists of composting toilets for domestic waste and grey water systems for water from plumbing fixtures. The assessment concludes that the environmental conditions on the site will allow the proposed development on the site and be in compliance with the MECP's regulations and without impact to the ground water regime and adjacent water supplies. This is due in large part to the physical characteristics of the site and due to the use of composting toilets for human waste and grey water systems for plumbing.

4. Natural Heritage Evaluation (NHE) prepared by Azimuth Environmental Consulting, Inc and dated March 2020. The evaluation reviews the potential environmental impacts of the proposed development on the natural environmental features and functions of the property and on the adjacent lands in accordance with applicable planning policy. The report represents a Phase 1 NHE, which utilizes data from previous work completed during the 2007 and 2008 field seasons that formed the basis of the original 2009 EIS report. Staff agreed with this approach for the temporary use zoning application and understand that additional work is to be undertaken should the proposed development increase beyond the 5 small scale cabins. Lake Simcoe Region Conservation Authority (LSRCA) was circulated the current NHE for review.
5. Traffic Brief prepared by Asurza Engineers and dated February 7, 2020. The traffic comment provides an overview of traffic generation and determines if the proposed development will generate impacts to the current traffic operation on the adjacent road and intersection. The review concludes that due to the limited scale of the proposed development, the additional trips will impose virtually no impact on adjacent roads. Any minor traffic impact as a result of the new trips will be negligible to the current traffic operations.
6. Stage 1 Archaeological Background Study prepared by AMICK Consultants Limited and dated November 29, 2019. The study area has been identified as a property that exhibits potential to yield archaeological deposits of Cultural Heritage Value or Interest (CHVI). The summary of the study concludes that the background research indicates that the study area has the potential for archaeological resources of Native origins based on proximity to previously registered archaeological sites of Pre-Contact origins and proximity to a source of potable water. Background research also suggests potential for archaeological resources of Post-Contact origins based on proximity to a historic roadway and proximity to a historic railway track. The report also concludes that a Stage 2 Property Assessment is warranted.

Requirements for Temporary Use By-law:

Section 39 of the Planning Act permits Council, by a By-law passed under Section 34, of the Planning Act to authorize the temporary use of land, buildings or structures for any proposed use that is otherwise prohibited by the Zoning By-law. The Planning Act further states that the use may be authorized for a period of up to three (3) years. The applicant is requesting that Council pass a Temporary Use By-law to permit the commercial off-grid rental cabin facility of a maximum of 5 small cabins, 6 tent sites and 1 common washroom facility for a period of two (2) years. Staff is recommending three (3) years in order that all studies and applications can be completed within the time frame of the temporary use by-law. The applicant is in the process of undertaking additional studies to increase the number of rental cabins on the site in accordance with the carrying capacity of the land. It is anticipated that the number of cabins will remain low in number in keeping with the environmental and sustainability concepts of the company and the marketing of intimate wilderness escapes.

Staff has reviewed the Planning Justification Report and Supplementary Planning Opinion prepared by Kevin Duguay Community Planning and Consulting Inc. in support of the request for a Temporary Use By-law. These reports provide a review of the proposed temporary use in the context of Section 39 of the Planning Act and the current provincial and municipal planning framework. Staff is accepting of the planning rationale contained in the planning submission.

Provincial Policies:

2020 Provincial Policy Statement (2020 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. The initial Planning Justification Report was completed, prior to the 2020 PPS coming into effect. The Planning Consultant has provided a Supplementary Planning Opinion to consider changes as they relate to the temporary use zoning by-law application and confirms that there are no applicable changes in the 2020 PPS that affect the application. Staff is satisfied that the temporary use zoning by-law application is consistent with the 2020 PPS.

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

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

While Section 39 of Planning Act does not specifically require a Temporary Use By-law to conform to the Growth Plan, Staff confirms that the proposed temporary use does conform to the Growth Plan, as it is a resource-based

recreational use that depends on a rural setting and offers a private lake for water based recreational activities. The proposed use is considered a passive recreational use where no permanent residential development is proposed. Servicing will rely on private water and waste-water facilities. Water is proposed from Kirkfield Lake with Class 2 sewage systems for greywater. Sewage facilities for both the 5 cabins and the common washroom include composting toilets. Structures are limited in size to 14.9 sq.m. (160 sq.ft.) for the cabins and 17.8 sq.m. (192 sq.ft.) for the common washroom building.

Staff is supportive that the temporary use rezoning application conforms to the 2019 Growth Plan and understands that additional work is being completed for additional phased development of the property. A more comprehensive review of the 2019 Growth Plan will be undertaken at that time.

Lake Simcoe Protection Plan:

The property is situated in the Lake Simcoe watershed and is subject to policies of the Lake Simcoe Protection Plan (LSPP, 2009). As per Section 6.21-DP: Key Natural Heritage Features are wetlands, significant woodlands, significant valleylands, and natural areas abutting Lake Simcoe. Section 6.22-DP indicates that key hydrologic features are wetlands, permanent and intermittent streams, and lakes, other than Lake Simcoe. Generally, development and site alteration is not permitted within the key natural heritage feature or key hydrologic feature and within a related Vegetation Protection Zone (VPZ). One of the exceptions to the policy that may be permitted, is low-intensity recreations uses that require very little terrain or vegetation modification and few, if any buildings or structures. The temporary use proposal requires little site modification and buildings are limited in size and can be removed, if required. A preliminary review under a Natural Heritage Evaluation (NHE) was prepared by Azimuth Environmental Consulting, Inc. The conclusions indicate that given the limited scale of the proposed development, the existing buffers are sufficient to protect the overall form and function of the natural areas. In addition, there is no expectation that the proposed development will result in any contraventions of the Endangered Species Act for Species at Risk (SAR) or SAR habitat.

For the purposes of stormwater considerations, the FSR prepared by Engage Engineering, confirms that the proposed building area of 92.2 sq.m. is not classified as major development and the LSPP does not apply. The FSR also acknowledges that the Lake Simcoe Phosphorus Offsetting Policy (LSPOP) is to be applied and once again, with the total impervious building area being 92.2 sq.m., the LSPOP does not apply.

The application conforms to the LSPP and the LSPOP.

Official Plan Conformity:

The land is designated Rural and Environmental Protection in the City of Kawartha Lakes Official Plan (OP). The Environmental Protection designation applies to the Provincially Significant Wetland (PSW) and follows a watercourse

on the property. The proposed development is within the Rural designation. Due to the size and scale of the proposed development under the Temporary Use Zoning Application an OP Amendment is not required at this time. Further phasing of development may require an amendment to the OP.

Section 39 of the Planning Act provides that a Temporary Use By-law must comply with the local Official Plan; however, the City of Kawartha Lakes Official Plan (OP) is silent on Temporary Use By-laws. Therefore, it should be demonstrated that the use conforms to the policies in the OP.

Permitted uses in the Rural designation include active and passive recreational uses and facilities, golf courses, ski resorts, ecotourism and agri-tourism. The proposed development represents an active and/or passive recreational use with a scale of development that is limited and the self-contained lake offers passive recreational opportunities. The proposed development will be for the most part, outside of the Environmental Protected lands although some trail use may be permitted in accordance with Section 17.3 of the OP.

Section 34.7 established the entire City of Kawartha Lakes as a Site Plan Control Area applying to all uses except for agricultural, aggregate extraction, forestry, open space and single detached residential uses. Staff is not recommending site plan control at this time; however, will request site plan approval under the formal application for permanent rezoning to permit further development on the site.

As previously noted under LSPP conformity, a NHE has been prepared and concluded that given the limited scale of the proposed development, the existing buffers are sufficient to protect the overall form and function of the natural areas. In addition, there is no expectation that the proposed development will result in any contraventions of the Endangered Species Act for Species at Risk (SAR) or SAR habitat.

As a result of the above, the zoning by-law application conforms with the Official Plan.

Zoning By-Law Compliance:

The land is zoned Agricultural (A1) and Environmental Protection (EP) in the Township of Eldon Zoning By-law No. 94-14. The application proposes to rezone a portion of the property to the Agricultural Exception Thirty-one (A1-31) Zone to permit the temporary use on the property of a commercial off-grid rental cabin facility of a maximum of 5 small cabins, 6 tent sites and 1 common washroom facility. At this time, there is no request for a schedule amendment to amend the EP Zone.

Should Council determine that within the two (2) year timeframe of the Temporary Use By-law the use becomes unacceptable or is no longer required, Council may give Notice of Intention to Repeal the By-law and repeal the Temporary Use By-law. The owner would have the right to appeal that decision.

All other development standards of the A1 and EP Zones in the Township of Eldon are maintained and the application complies with the 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 their refusal to adopt the requested amendment is appealed to the Local Planning Appeal Tribunal (LPAT). 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

The zoning by-law application aligns with a Vibrant and Growing Economy priority along with an Exceptional Quality of Life and a Healthy Environment priorities. The proposal seeks to provide a new tourism venue for the City, which offers temporary all season accommodation and the ability to participate in passive recreational activities in a rural and waterfront setting. There is no proposal to utilize the environmentally protected areas of the property, including the Provincially Significant Wetland.

Review of Accessibility Implications of Any Development or Policy:

There are no immediate accessibility implications for the City. Accessible standards will be implemented through an application for site plan approval and permits issued under the Ontario Building Code (OBC).

Servicing Comments:

As noted above, a Functional Servicing Review for Temporary Rezoning and a Reasonable Use Policy (Nitrate) assessment has been completed. These submissions have been circulated to the Part 8 Sewage Systems Division and no comment was available at the time of drafting of the report.

Consultations:

Public Comments:

The application was circulated in accordance with the Planning Act and with Council's direction for rural applications. No comments have been received at the time of drafting of the report.

Agency Comments:

August 21, 2020 – Economic Development – Tourism is supportive of this application as it aligns with the Economic Development Strategy objectives to increase the volume of year-round accommodations of all kinds, in all markets; to develop operator experiences to boost tourism traffic; and to expand visitation into the shoulder-season and winter and connect these off peak activities to culture.

Development Services – Planning Division Comments:

The background information, which has been submitted in support of the application for the temporary use 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 application will permit a temporary use of a commercial off-grid rental cabin facility together with applicable amenities.

The applicant has requested the temporary use would be for a period of two (2) years allowing the applicant to complete the necessary studies to permit additional rental cabins and amenities on the site. Given that the application for permanent zoning will be more complex requiring more time to prepare and process, staff are recommending that Council approve the Temporary Use By-law for a full three (3) time frame to ensure that the use does not need to cease.

Conclusion:

In consideration of the comments and issues contained in this report, Staff respectfully recommend the proposed Temporary Use 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 contact Sherry L. Rea, Development Planning Supervisor, 705.324.9411 x 1331.

Appendix 'A' – Location Map



Appendix A -
Location Map.pdf

Appendix 'B' – Concept Plan



Appendix B -
Concept Plan.pdf

Appendix 'C' – Draft Zoning By-law



Appendix C -
PLAN2020-034.pdf



Schedule A -

D06-2020-021(Kirkfie

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Department Head: Chris Marshall

Department File: D06-2019-018