

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

## **Planning Advisory Committee Report**

**Report Number PLAN2020-050**

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**Meeting Date:** October 7, 2020

**Public Meeting**

**Title:** An application to amend the Township of Emily Zoning By-law 1996-30

**Description:** To change the Community Facility Exception One (CF-1) Zone to an appropriate Rural Residential Type Three (RR3-\*) Exception Zone to permit a residential use on the subject property identified as Block C, Plan 507, Westview Drive (Rowles)

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

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**Recommendation(s):**

**That** Report PLAN2020-050, respecting Block C, Plan 507, geographic Township of Emily, City of Kawartha Lakes, Application No. D06-2020-016, be received; and

**THAT** Zoning By-law Amendment Application D06-2020-016, Block C, Plan 507 geographic Township of Emily, City of Kawartha Lakes, be referred back to staff for further review and processing until such time that all comments have been received from all circulated Agencies and any other concerns or issues have been addressed.

**Department Head:**

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**Legal/Other:**

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**Chief Administrative Officer:**

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## **Background:**

Owner:	Sabrina Rowles
Applicant/Agent:	Richard J. Taylor, Barrister and Solicitor
Legal Description:	Block C, Plan 507, geographic Township of Emily
Official Plan:	Waterfront and Environmental Protection in the City of Kawartha Lakes Official Plan
Zone:	Community Facility Exception One (CF-1) Zone in the Township of Emily Zoning By-law 1996-30, as amended
Site Size:	0.482 ha. (1.190 acres - MPAC)
Site Servicing:	Private Well and Private Septic System proposed
Existing Uses:	Vacant land
Adjacent Uses:	North: Rural and Waterfront Residential/Pigeon Lake South: Environmental Protection/Potash Creek/Agricultural East: Pioneer Road (portion unimproved)/Rural/Agricultural West: Westview Drive/Waterfront Residential/Pigeon Lake

The subject property was part of the Glen's green spaces as part of the original plan of subdivision that was registered in the early 1970s and was not originally assessed by MPAC. More recently in 2015, this property has been the subject of a sale by the City of Kawartha Lakes relating to the non-payment of property taxes in accordance with municipal procedures. It has been sold twice, since it was originally under the ownership of the Glen Cottage Owners Association.

## **Rationale:**

The subject property is located within an existing rural residential subdivision within a Waterfront designated community, which is situated adjacent to Pigeon Lake. The subject land is presently vacant. The current owner who purchased the property in 2016 proposes to rezone the property to change the previous community facility use to permit a single detached dwelling, which would also include permitted residential accessory uses.

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. Zoning By-law Amendment Application received February 18, 2020 and deemed complete June 8, 2020.
2. Planning Justification Report prepared by EcoVue Consulting Services Inc., dated December 4, 2019 and supplementary confirmation dated September 23, 2020 that the conclusions of the Planning Justification Report related to the relevant sections of the PPS are still valid as the

proposed Zoning By-law amendment is consistent with the policy changes resulting from the 2020 Provincial Policy Statement (PPS).

3. Proposed Concept Site Plan prepared by EcoVue Consulting Services Inc., dated June 1, 2020.
4. Topographic Survey prepared by Elliott and Parr, Ontario Land Surveyors, dated April 26, 2016.
5. Desktop Hydrogeological and Servicing Assessment prepared by Oakridge Environmental Ltd., dated October 2019. The report concludes there is an adequate supply of groundwater to service the single residential development and that there is sufficient area to support a private (conventional) Class 4 sewage system, with the expectation that a partially or fully raised tile bed will be required to accommodate site conditions. This will need to be assessed at the time of applying for a permit to construct the system.
6. Natural Heritage Evaluation (NHE) prepared by Oakridge Environmental Ltd., dated October 2019 in relation to potential natural heritage impacts associated with the proposed development.
7. Stage 1 & 2 Archaeological Assessment (with the involvement of Curve Lake First Nation) prepared by York North Archaeological Services Inc., dated June 25, 2019.
8. Stage 1 & 2 Archaeological Assessment Supplementary Document - First Nation (Curve Lake) Engagement prepared by York North Archaeological Services Inc., dated June 21, 2019.

In order to fully evaluate this application, Staff is further reviewing the applicable policy objectives that are relevant to this application. At this time, staff cannot fully determine the appropriateness of the proposal as responses from all City Departments and commenting agencies have not been received.

## **Provincial Policies:**

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

The Growth Plan provides policies for managing growth and development while supporting economic prosperity, protecting the environment and helping communities achieve a high quality of life. Section 2.2.1 d) directs development to settlement areas except where policies permit otherwise, and Section 2.2.1 e) generally direct development away from hazardous lands. Within rural areas, subject to the policies of Section 4, Section 2.2.9.3 permits development outside of settlement areas on rural lands provided the uses are compatible with the rural landscape and surrounding local land uses; will be sustained by rural service levels; and, will not adversely affect the protection of agricultural uses and other resource based uses such as mineral aggregate operations.

The subject land is within the Natural Heritage System according to Provincial mapping, although this mapping does not apply until adopted into the applicable Official Plan. However, the policies would apply to natural heritage systems outside of settlement areas that are identified in the Official Plan. No significant wetland, wildlife habitat or woodland natural heritage features have been mapped on or within 120 metres of the subject property within the Official Plan but a key hydrologic feature, including permanent streams and an inland lake with potential fish habitat is within 120 metres and is subject to the relevant policies.

Relevant 2019 Growth Plan policies from Sections 4.2.2, 4.2.3 and 4.2.4 apply, which include provisions to protect key natural heritage and hydrologic features, maintain connectivity between such features, limit the amount of total developable area disturbance and identify a vegetation protection zone surrounding these features. The Natural Heritage Evaluation submitted with the application outlines a number of recommended mitigation measures to protect the natural features and address the natural heritage provisions of the Growth Plan and other policy documents. These include: excluding development activities within the 30 m. vegetation protection zone from Potash Creek/ unevaluated wetland; limiting the total area of disturbance and the development area; ensuring that all necessary vegetation removal is completed outside primary bird nesting periods; and erosion and sediment control. Staff has not yet received comments from the Kawartha Region Conservation Authority which will assist to confirm this application demonstrates conformity with the policies of the Growth Plan.

### **Provincial Policy Statement, 2020 (PPS):**

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

Section 1.1.4, Rural Areas in Municipalities, recognizes the importance of rural lands, natural heritage features and areas and other resource areas and building upon rural character and leveraging rural amenities and assets.

Section 1.1.5 of the PPS provides policy with respect to rural lands and permitted uses, which include resource-based recreational uses (including recreational dwellings) and limited residential development which is compatible with the rural landscape and can be sustained by rural service levels.

Section 1.6.6 of the PPS provides policy for how and where sewage and water systems may be developed. In this regard, individual on-site sewer and water services may be used provided that site conditions are suitable for the long-term provision of such services with no negative impact. A Desktop Hydrogeological Study was submitted to determine if a private well and private septic system could be accommodated on the subject property. It is recommended that site conditions be verified by excavating test pits at the time of applying for a permit to construct the sewage system. Comments are required from the Building

Division – Part 8 Sewage Systems Program, which will assist with the review of this application.

Section 2.1 of the PPS provides policy with respect to the Wise Use and Management of Resources to protect Natural Heritage features, which does not permit development in certain significant natural heritage features nor within the habitat of endangered species and threatened species. The Kawartha Region Conservation Authority (KRCA) confirmed a Terms of Reference and scope for an Environmental Study, which is required to demonstrate that the proposed application would not result in negative impacts to the natural environment. Based on this, the submitted Natural Heritage Evaluation was circulated to KRCA; however, at this time Staff has not received review comments on the circulation of the application.

Section 2.6 pertaining to cultural heritage and archaeology does not permit development or site alteration on lands containing archaeological resources or areas of archaeological potential unless significant resources have been conserved. Although the Stage 1 & 2 Archaeological Assessment has been completed and filed with the Ministry of Tourism, Culture and Sport (MTCS) advising that in the absence of archaeological resources with cultural heritage value and interest that no further assessment is warranted or required, we have not yet received confirmation from the MTCS that the report has been entered into the provincial register, which will be required prior to proceeding with any development.

Section 3.1 of the PPS provides policies for protecting public health and safety by directing development away from hazardous lands and sites that may be subject to flooding and/or erosion or human-made hazards. The entire property is within the regulated area of KRCA. The Conservation Authority permitting policies direct development outside of flood hazards.

The submitted Natural Heritage Evaluation outlines a number of recommended mitigation measures to address the natural heritage provisions of the PPS; however, Staff has not yet received comments from the Kawartha Region Conservation Authority, which will assist to confirm this application demonstrates consistency with the PPS.

### **Official Plan Conformity:**

The subject property is designated “Waterfront” with the exception of a small sliver along the southeast side of the property, which is designated “Environmental Protection” in the City of Kawartha Lakes Official Plan (CLKOP) and it is adjacent to and follows a watercourse. The Waterfront land use designation provides for low density seasonal and permanent residential uses and accessory uses adjacent to lakes.

The natural heritage policies of the CKLOP in Section 3.5 apply. This includes the preparation of an Environmental Impact Study (EIS), also known as a Natural

Heritage Evaluation (NHE), for development and site alteration within 120 metres of certain natural heritage features including a wetland and/or fish habitat, development and site alteration within 120 metres adjacent to significant habitat of Threatened and Endangered species, which will be subject to the discretion of the Ministry of Natural Resources and Forestry, and development and/or site alteration within or adjacent to significant wildlife habitat may only be permitted subject to an EIS demonstrating no negative impacts to the natural features or their ecological functions.

The submitted Natural Heritage Evaluation outlines a number of recommended mitigation measures to address the natural heritage policies within the CKLOP; however, Staff has not yet received comments from the Kawartha Region Conservation Authority, which will assist to confirm this application demonstrates conformity with the CKLOP.

### **Zoning By-law Compliance:**

The property is zoned “Community Facility Exception One (CF-1) Zone” in the Township of Emily Zoning By-law 1996-30, as amended. The CF-1 Zone only permits a public or private park with no buildings or structures other than picnic shelters, gazebos and docks, which are not fully enclosed, playground equipment, a storage shed with a maximum floor area of 10 square metres and two change rooms, with no plumbing or washroom facilities, having a maximum total floor area of 25 square metres. As residential uses are not permitted, a rezoning is required.

The effect of the zoning amendment is to permit a portion of the land to be used for a single residential dwelling and associated accessory uses with appropriate development standards. This includes recognition of the reduced frontage, being approximately 8 metres, along Westview Drive and any required yard setbacks to be determined through more detailed design. A 30 metre vegetative protection area setback is required to be maintained from the edge of Potash Creek to meet the requirements of the Growth Plan for sensitive hydrological features, and to meet the environmental setback requirements for all buildings, structures and septic systems specified in the City’s Official Plan. A minimum 30 metre water setback requirement in the Township of Emily Zoning By-law applies to the location of buildings and structures.

### **Other Alternatives Considered:**

No alternatives have been considered at this time.

### **Alignment to Strategic Priorities**

The 2020-2023 Kawartha Lakes Strategic Plan identifies these Strategic Priorities:

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

This application appears to align with the healthy environment strategic goal as proposed application promotes sustainable development through setbacks and design that protect and preserve natural areas.

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

There are no financial 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.

### **Servicing Comments:**

The lot is proposed to be serviced by a private individual well and a private septic system. Additional information is required by the Building Division, Part 8 Sewage System Program to properly evaluate the proposed septic system design.

### **Consultations:**

Notice of this application was circulated to persons within a 500 metre radius, agencies, and City Departments which may have an interest in the application. As of September 25, 2020, we have received the following comments:

### **Public Comments:**

On September 17, 2020, J. Anderson and J. Jamieson, the new owners of 100 Westview Drive requested information regarding the application. These owners posed follow up questions on September 21, 2020 regarding driveway location, septic system setback requirements, addressing, boundary trees and outbuilding location. Planning Staff have responded to most of the questions and are following up with respect to the septic system setbacks.

On September 21, 2020, S. Mason expressed his disappointment with having received notice of the application and provided correspondence relating to a previous meeting held with City Officials in February 2016 regarding the sale of this piece of parkland that was owned the Glen Home Owners Association and that it was unlikely to be rezoned. The City's Chief Administrative Officer has further clarified that the Council at the time (and particularly the area Councillor) was not supportive of a zoning change. Nevertheless, the minutes capture the caution he provided that the City cannot reject a zoning amendment application,

and that any application would be reviewed on its planning merits by a future council/administration.

On September 21, 2020, E. Bloom, a resident on Westview Drive outside the 500 metre circulation range requested information and instructions for sending a written submission and to participate remotely on-line. Planning Staff provided her with a copy of the Notice of Public meeting with the instructions attached.

On September 22, 2020, B. Putman of 117 Westview Drive asked for more specific information relating to the location of the subject land in relation to his property and whether it was near the natural forest adjacent to his property.

### **Agency Comments:**

On September 11, 2020, the Building Division advised it has no concerns with the zoning by-law amendment application.

On September 15, 2020, the Engineering and Corporate Assets Department advised that further to their review of the application, they advised they have no objection or comments to the proposed Zoning By-law Amendment to permit a single detached dwelling on the north central portion of subject land.

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

The application for Zoning By-law Amendment is subject to further confirmation from relevant commenting Agencies to demonstrate consistency with the Provincial Policy Statement and conformity to the Growth Plan and CKLOP. At this time, comments have not been received from all circulated agencies and City Departments. Staff recommends that the application be referred back to staff until such time as comments have been received from all circulated agencies and City Departments, and that any comments and concerns have been addressed.

### **Conclusion:**

In consideration of the comments and analysis contained in this report, staff respectfully recommend that the proposed Zoning By-law Amendment application be referred back to staff for further review and processing until such time as comments have been received from all circulated agencies and City Departments, and that any comments and concerns have been addressed.

### **Attachments:**

The following attached documents may include scanned images of appendices, maps, and photographs. If you require an alternative format, please call Mark LaHay, Planner II, (705) 324-9411 ext. 1324.





Appendix 'A'  
PLAN2020-050.pdf



Appendix 'B'  
PLAN2020-050.pdf



Appendix 'C'  
PLAN2020-050.pdf

Appendix 'A' – Location Map  
Appendix 'B' – Aerial Photograph  
Appendix 'C' – Zoning By-law Amendment Concept Site Plan

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**Department Head:** Chris Marshall

**Department File:** D06-2020-016