

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

## **Planning Advisory Committee Report**

**Report Number PLAN 2020-046**

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**Meeting Date:**       **October 7, 2020**

### **Public Meeting**

**Title:**               **Zoning By-law Amendment – 1067 Tracey’s Hill Road,  
Emily (Downey)**

**Description:** An application to amend the Township of Emily Zoning By-law 1996-30 to change the zoning on a portion of the land from Agricultural (A1) Zone to Agricultural Exception 36 (A1-36) Zone to recognize a reduced minimum lot area and permit specific agricultural uses. The application will also change the zoning surrounding the woodlands on the property from Agricultural (A1) Zone to an Environmental Protection Exception 4 (EP-4) Zone to acknowledge the existing natural heritage features and permit passive, recreational activities. The rezoning would facilitate a future Consent application for a lot addition with an abutting property (1179 Tracey’s Hill Road).

**Ward Number:**       **6 - Emily**

**Author and Title:**   **Kent Stainton, Planner II**

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### **Recommendation(s):**

**That** Report PLAN2020-046, respecting Part Lot 10, Concession 9, geographic Township of Emily, and identified as 1067 Tracey’s Hill Road – Application D06-2020-022, be received;

**That** a Zoning By-law Amendment respecting application D06-2020-022, substantially in the form attached as Appendix “D” to Report PLAN2020-046, 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 this application.

**Department Head:**

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**Legal/Other:**

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**Chief Administrative Officer:**

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## Background:

The subject property consists primarily of agricultural lands with a detached dwelling, pond and wetlands. To facilitate a future consent application, the owner is seeking to sever a 22.22 hectare (54.9 acres) parcel of agricultural lands and retain approximately 16.83 hectares (41.6 acres) comprised of agricultural land and woodlands. The proposed severed lands will be consolidated with an abutting farm parcel to the east identified as Part of lot 11, Concession 9, 1179 Tracey's Hill Road owned by the Gingrich family. Should the zoning by-law amendment and subsequent consent application be approved, the benefitting lands at 1179 Tracey's Hill Road will be 62.28 hectares (153.9 acres) in size.

The proposed retained agricultural lands containing the detached dwelling are to be rezoned to acknowledge a reduced minimum lot area, while continuing to allow agricultural and agricultural-related uses. The wetlands to the east of these lands will be rezoned to an environmental protection zone, protecting the natural heritage features by allowing limited uses including passive, recreation activities. The proposed severed lands to be added to the abutting property will remain under the agricultural zone category.

Owner:	Peter Downey
Applicant:	Emma Drake, D.M Wills Consulting Services
Legal Description:	Part Lot 10, Concession 9, geographic Township of Emily
Official Plan:	Prime Agricultural and Environmental Protection with Evaluated Wetlands and Significant Woodlands within the City of Kawartha Lakes Official Plan
Zone:	Agricultural (A1) Zone in the Township of Emily Zoning By-law 1996-30, as amended
Site Size:	39.1 Hectares
Site Servicing:	Private individual well and septic system
Existing Uses:	Agricultural, Residential
Adjacent Uses:	North: Agricultural South: Tracey's Hill Road, Rural Residential, Wetlands Woodlot East: Agricultural, Wetlands, Rural Residential West: Agricultural, Wetlands, Rural Residential

## Rationale:

Prime agricultural land is to be protected and preserved from non-agricultural development or any other incompatible land use that may hinder existing or

future agricultural operations. To allow for the long-term ownership of agricultural lands, a zoning by-law amendment is required that will facilitate a lot addition, whereby a portion of the subject lands will be consolidated with an abutting agricultural operation. The retained agricultural lands containing the detached dwelling and portions of cultivatable land will be rezoned to permit a refined list of small-scale agricultural activities. The woodlot consisting of swamp lands will be rezoned to protect the environmental feature in perpetuity. The farm operation that owns the property to the east will continue to farm the lands once the Consent application is processed.

### **Provincial Policies:**

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

Section 4.2.6 of the Growth Plan provides for the protection of prime agricultural areas identified within official plans. The retention of existing lots of record for agricultural uses is encouraged and the use of these lots for non-agricultural uses is discouraged.

The rezoning to enable the lot addition maintains the agricultural system through providing opportunity to maintain agricultural and agricultural-related uses on the arable sections of the proposed retained lands. No incompatibilities with the agricultural system are created through this application.

Under the Section 4.2.4 of the Growth Plan, natural heritage evaluations or hydrologic evaluations are typically required in order to demonstrate no negative impacts on features such as wetlands and woodlands or their ecological functions. No development, as defined by the Province, will occur within natural heritage or hydrologic features. Moreover, the change in use proposed through the application will provide a benefit to the features as determined by Kawartha Conservation, the governing body having authority over the wetland features, through the imposition of a protective zoning surrounding the features. The subsequent lot addition is recognized as 'technical' in nature and does not pose detrimental impacts to the features.

Therefore, this application conforms to the Growth Plan.

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

Section 2.3.3.2 of the Provincial Policy Statement states that all types, sizes and intensities of agricultural uses and normal farm practices shall be promoted and protected in accordance with provincial standards. The application to rezone the proposed retained lands will protect the agricultural use of the property and surrounding agricultural practices from incompatible residential use. There is no anticipated loss of arable land or potentially productive land as a result of the proposed rezoning.

Section 2.3.4.2 pertaining to prime agricultural lands provides for lot adjustments for technical reasons. The agricultural use of the land will not change and no new lot is being created. The consolidation of farmlands with the abutting parcel

facilitates the transfer of the larger agricultural fields to the adjacent active farming operation. The result is a net benefit for the agricultural system. Farming operations are able to take greater care over the long-term through ownership of land as opposed to short-term rental.

Sections 2.1.5 & 2.1.8 of the Provincial Policy Statement maintain that development and site alteration shall be restricted within and adjacent to significant woodlands. Moreover, the intent of the Provincial Policy Statement is to limit development within natural heritage features. Natural features shall be protected for the long term with ecological function being maintained, restored or improved. The wetlands subject to the rezoning application have been identified as 'locally significant' by the Ontario Ministry of Natural Resources and Forestry. Kawartha Conservation has provided commentary to the effect that the tree line associated with the locally significant wetlands and significant woodlands satisfactorily delineates the extent of the natural heritage features present on the proposed retained lands. Digital mapping was provided, which reflects the boundary of the features and corresponding zone boundary. Since there is no fragmentation of the features and the future lot addition is technical in nature, no Natural Heritage Evaluation or Environmental Impact Study was required to support the application.

Therefore, this application is consistent with the PPS.

### **Official Plan Conformity:**

The subject land is designated Prime Agricultural and Environmental Protection with Evaluated Wetlands and Significant Woodlands in the City of Kawartha Lakes Official Plan (Official Plan).

The City, through its Official Plan, recognizes the generally desirable practice of the consolidation of farms wherever possible. Section 15.3.7 provides for minor lot line adjustments provided a separate building lot is not created. Both of the proposed benefitting and retained lands already contain single detached dwellings and no new lot is being created through the application.

The lands to be severed will remain in production as part of the abutting lands currently under cultivation. The Agricultural Exception Zone on the proposed retained parcel still enables small-scale agricultural activities to occur.

The Environmental Protection Designation prevents development and site alteration in hazard lands and within significant natural heritage features. Section 17.3.1 f) of the Official Plan allows for recreation or park purposes, exclusive of buildings and structures, within the Environmental Protection Designation. The Environmental Protection Exception 4 Zone reflects these uses within the proposed zone category.

Therefore, this application conforms to the applicable policies of the Official Plan.

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

The subject land is zoned Agricultural (A1) Zone in the Township of Emily Zoning By-Law 1996-30. The A1 zone category permits a single detached dwelling and agricultural uses amongst other permitted uses. The proposed A1-36 Zone will permit a subset of the uses currently permitted in the A1 Zone including:

- Agricultural Use;
- Agricultural produce storage facility or seasonal fruit, flower or farm produce outlet for goods grown or produced on the farm;
- Home Occupation;
- Bed and Breakfast Establishment; and
- Single Detached Dwelling.

The intent behind the refined list of permitted uses is to maintain smaller scale agricultural opportunities. Any new agricultural structures would need to comply with MDS criteria. A Seasonal Farm Residential Use will not be permitted within the A1-36 Exception Zone.

Section 7.2.2.1 of the A1 Zone states that lands shall have a minimum lot area of 25 hectares. The proposed A1-36 Zone will be comprised of 4.2 hectares (10.5 acres) and contain the dwelling, pond and cleared area west of the woodlands. While the lot area of the A1-36 Zone is less than the requirements of the A1 Zone, the lands within the A1-36 zone meet or exceed all other development standards of the Zoning By-law.

An Environmental Protection Exception 4 (EP-4) Zone is proposed to replace the A1 Zone on the portion of the retained lands containing the wetlands. The EP-4 Zone will protect the locally significant wetlands by prohibiting large-scale development. While no development currently exists within the EP-4 Zone, trails and boardwalks are permitted provided the necessary permissions are obtained from Kawartha Conservation prior to construction.

The future lot addition does not affect ownership of the natural heritage features present on the subject lands. In fact, through introducing the Environmental Protection Zone, the wetlands and significant woodlands are placed within a protective boundary, where no such protection previously existed.

## **Other Alternatives Considered:**

No alternatives have been considered at this time.

## **Financial/Operation Impacts:**

There are no financial considerations unless Council's decision is appealed to the Local Planning Appeals 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 would align with a vibrant and growing economy as it provides opportunity to expand the economic base by maintaining and expanding agricultural employment.

### **Servicing Comments:**

The single detached dwelling on the subject lands is serviced by a private sewage disposal system and a well.

### **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. The Building Division raised no concerns as a result of the circulation. The Agricultural Officer of the Economic Development Division is supportive of the application as the ability to conduct agricultural activities is maintained on the proposed rezoned portion of the retained lands. No comments were received from the public.

Kawartha Conservation had no concerns with the application since the Environmental Protection Exception 4 Zone is being imposed in order to protect the environmental features in perpetuity. Digital mapping of the feature was provided to identify and delineate the extent of the features present.

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

The application conforms to the Growth Plan and is consistent with the Provincial Policy Statement. The application also conforms to the applicable policies of the Official Plan. The proposed Zoning By-law Amendment contained in Appendix E will ensure specific agricultural-related activities can occur by introducing the A1 Exception 36 Zone. The Zoning By-law Amendment also ensures the protection of the locally significant wetlands through the introduction of the Environmental Protection Exception 4 (EP-4) Zone. While the intent of the zoning is to prevent development from occurring in the wetlands, passive recreational activities through trails and boardwalks are permitted. Such activities are also permissible within wetlands through the policies of Kawartha Conservation.

The effect of the rezoning will allow for separate ownership of the A1 zoned lands in the north and acknowledge the undersized lands within the A1-36 Zone category. The retained agricultural land will enable small-scale agricultural activities to continue with the lands in the north be consolidated with the aforementioned abutting farm operation.

## **Conclusion:**

The application conforms to and is consistent with the provincial policies concerning the protection of Prime Agricultural lands and natural heritage preservation. The application also conforms to the Prime Agricultural designation policies in the City's Official Plan. Staff supports the application based on the information contained in this report and the comments received as of September 25, 2020. Staff respectfully recommends that the application be referred to Council for Approval.

## **Attachments:**

### **Appendix 'A' – Location Map**



Appendix A to  
PLAN2020-046.pdf

### **Appendix 'B' – Zone Sketch for Application**



Appendix B to  
PLAN2020-046.pdf

### **Appendix 'C' – Proposed Severance Sketch**



Appendix C to  
PLAN2020-046.pdf

### **Appendix 'D' – Aerial Photograph of Property**



Appendix D to  
PLAN2020-046.pdf

### **Appendix 'E' – Draft Zoning By-law Amendment**



Appendix E to  
PLAN2020-046.pdf

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

**Department Head:** Chris Marshall

**Department File:** D06-2020-022