

THE CORPORATION OF THE CITY OF KAWARTHA LAKES
REPORT

PLAN2012-022

Meeting Date: May 9, 2012
Meeting Time: 1:00 p.m.
Meeting Place: Council Chambers
Planning Committee

Ward/Community Identifier 13

Subject: **Draft Plan of Subdivision 16T-08503 (D05-28-013) and Rezoning (D06-28-039) Applications to Permit a 21 Lot Shoreline Residential Subdivision by William O'Neill**
 Part Lots 21 & 22, Concession 13, Geographic Township of Emily

Author/Title: Richard Holy, Coordinator – Current Planning **Signature:**

RECOMMENDATIONS:

1. **RESOLVED THAT** Report PLAN2012-022 "WILLIAM O'NEILL – D05-28-013 & D06-28-039" be received;
2. **THAT** the proposed zoning by-law amendment substantially in the form attached as Appendix "C" to Report PLAN2012-022 be approved and adopted by Council;
3. **THAT** proposed draft plan of subdivision 16T-08503 be approved by Council, with conditions as outlined in Appendix "D" to Report PLAN2012-022; and
4. **THAT** the Mayor and Clerk be authorized to execute any documents and agreements required by the approval of these applications.

DEPARTMENT HEAD:

TREASURER/OTHER:

CHIEF ADMINISTRATIVE OFFICER

BACKGROUND:

Staff had presented a report to Planning Committee on October 6, 2010 recommending approval of the draft plan of subdivision and implementing zoning by-law. On October 12, 2010, Council passed the following Resolution:

Moved by Councillor Warren, seconded by Councillor Villemaire,
RESOLVED THAT Report DEV2010-078, “William O’Neill – D05-28-013 and D06-28-039”, be received for information and referred back to staff for a peer review of the Environmental Assessment Report and the butternut tree removal addendum prepared by Niblett Associates, review phosphorous loading impacts on Pigeon Lake as raised in the hydrogeological peer review, clarification of monitoring thresholds of the monitoring well, and preparation of a report from the developer with respect to the impact this proposed development will have on the water in Lakeview Estates.

CARRIED CR2010-1214

Staff has been working to resolve these issues with the applicant and this report is an update to Report DEV2010-078 (see Appendix ‘H’) presented to Planning Committee on October 6, 2010.

RATIONALE:

The proposal is generally located at the southeast corner of Pigeon Lake Road and King’s Wharf Road on lands owned by William O’Neill (see Appendix “A”). The applicant proposes a draft plan of subdivision with 21 shoreline residential lots (see Appendix “B”). The development also contains a vacant block adjacent to the western subdivision access, a block for private waterfront access by the owners within the development, and a block containing a stormwater management pond with an outfall to Pigeon Lake serving the subdivision. The existing agricultural buildings will be removed in advance to accommodate development. The existing residential dwelling will be retained on proposed Lot 10.

The developer is proposing a horseshoe shaped public street with an access from the south side of King’s Wharf Road through the subdivision and connecting to the existing southern terminus of Lakeview Crescent.

Two parallel drainage courses run through the site from the west to east, which drain both the subject land and the land to the west of Pigeon Lake Road to Pigeon Lake. The plan has been revised to include two blocks of land that contain the existing creek that traverses through the centre of the proposed subdivision. Environmental buffers have been incorporated around both drainage courses.

PROVINCIAL POLICIES:

The application conforms to the Growth Plan and is consistent with the 2005 Provincial Policy Statement by providing for rural development in designated areas. The environmental impact assessment also addresses the environmental considerations contained in both documents.

OFFICIAL PLAN:

The subject land is designated “Shoreline”, “Agricultural”, and “Environmental Protection” on Schedule “A” to the County of Victoria Official Plan (VCOP). While a portion of the development is contained on lands designated “Agricultural”, Section 3 of the VCOP states that the “Shoreline” designation is not intended to be interpreted as a linear designation in all instances.

The policies permit some flexibility to permit clustering of development away from the shoreline to retain additional open space areas and further the environmental protection goals of the Plan. Due to the presence of the two drainage courses traversing the property, the remaining agricultural parcels would not be considered viable for agriculture due to their small land areas. Therefore, Staff would consider it appropriate to consider these lands to be used for "Shoreline" purposes.

The waterfront portion of the property is delineated as "Sensitive Area" on Schedule "B" to the VCOP, which refers to the Provincially Significant Wetland (PSW) located in Pigeon Lake. The policies of the Plan require that an Environmental Evaluation is completed to ensure that the proposed development has no negative impacts on the natural environment and to provide mitigation measures where necessary. An evaluation has been completed by the applicant, which includes recommendations to mitigate impacts.

The application conforms to the relevant policies of the VCOP.

ZONING BY-LAW:

The subject land is zoned "Agricultural (A1) Zone" and "Environmental Protection (EP) Zone" in the Township of Emily Zoning By-law 1996-30. As the proposed subdivision development is not permitted within this zone, the applicant submitted a rezoning application for consideration and seeks the appropriate zones to permit the proposed development.

CONSULTATIONS:

Public Open House, November 3, 2011

At the City's request, the applicant held an open house at the Lakeview Arts Barn to provide a forum for an exchange of information between area residents and the applicant's consulting group. The following issues arose from the meeting:

Impact of Development on Groundwater Table

Area residents remain very concerned that the proposed development will have an impact on surrounding wells, many of which are older and more shallow wells.

Subdivision Road Connection to Lakeview Crescent

A number of residents living on Lakeview Crescent and Hapley Circle have expressed concern with the proposed connection of the subdivision with Lakeview Crescent and the additional traffic that this will generate. Since the dead-end road makes the area very quiet, these residents have requested that Lakeview Crescent not be extended into the proposed development. A cul-de-sac should be required along the road frontage of Block 23. This would also discourage new residents from using the lagoon for docking purposes.

Drainage Impact on Existing Development

Residents on Hapley Circle that back onto the O'Neill lands currently have drainage from the farm fields cross their properties and are concerned that this will increase with development.

Secondary Access Point

Lakeview Estates has always been served by one access through a municipal road but had a second informal access through private property until this was terminated by new ownership.

Many residents feel that a second access would provide a greater degree of safety in the event of a closure or blockage of King's Wharf Road and the intersection with Pigeon Lake Road due to an accident or inclement weather. They have requested that a direct access be permitted to Pigeon Lake Road from the proposed subdivision.

DEVELOPMENT SERVICES – PLANNING DIVISION COMMENTS:

The Planning Division has reviewed the supplementary peer review information requested by Council in its Resolution dated October 12, 2010 and offers the following additional comments to address this Resolution and subsequent resident concerns expressed.

Environmental Impact Study Review Process

At Council's request, the applicant's environmental impact assessment prepared by Niblett Environmental Associates Inc. (NEA) was peer reviewed by Oak Ridge Environmental Limited (ORE) to review the study's recommendations as well as the butternut tree removal (See Appendix 'E'). ORE requested additional information on the following matters:

- The flood elevation should be incorporated into the EIS and onto the draft plan.
- The amount of usable shoreline should be re-evaluated.
- The draft plan of subdivision should be updated to include the wetland area identified in the EIS, the flood elevation, and the updated butternut protection buffers.
- Further clarification was sought on the need to remove some of the healthy butternut trees, the tree replacement ratio, and conditions under which trees can be removed.
- Clarification on the view corridors through the PSW was requested.

NEA provided a response to the ORE comments and made the following changes to the draft plan.

- The flood elevation did not fall within the development limits.
- The usable shoreline was clarified to include Block 23, the private waterfront access area.
- The draft plan of subdivision was revised to include an updated environmental protection limit resulting from changes to the wetland and butternut protection limits.
- The applicant will provide a full submission to the Ministry of Natural Resources detailing butternut removal and replanting plans. This has been included as a condition of draft plan approval.
- NEA indicated that Lots 1 to 5 do not front directly onto the water. Since a common open space block is provided, there is not need for view corridors to be protected through the wetland. Staff do however not support the construction of trails on any wetland areas outside of Block 23.

ORE reviewed the NEA response and concurred with the recommendations and changes to the draft plan.

Phosphorus Loading Study

At Council's request, the applicant's environmental consultant, Niblett Environmental Associates Inc. (NEA), completed a phosphorus loading study, which was peer reviewed by Oak Ridge Environmental Limited (ORE) (See Appendix 'F'). The report modeled two scenarios: Scenario

1 assumed that 100% of the phosphorus generated from the development would enter the lake while Scenario 2 assumed that 80% of the phosphorus generated from the development would enter the lake. Under Scenario 1, 42 kg of phosphorus would enter the lake while under Scenario 2, only 10.5 kg of phosphorus would enter the lake. The existing average phosphorus concentration exiting the lake is 16.4 ug/l. Under either scenario, the amount of phosphorus loading in the water would range between 16.4039 ug/l and 16.4195 ug/l, which would meet the Ministry of Environment's Provincial Water Quality Objectives of maintaining the levels at less than 20 ug/l for this warm water lake. The report recommended maintaining the necessary buffers and good stewardship practices to reduce nutrient loading.

The peer review completed by ORE reviewed the base assumptions and parameters used in the study. While ORE couldn't replicate some of the values, they generally concurred with the approach. They concurred that Scenario 1 was unlikely but that the soil wouldn't retain up to 80% of the phosphorus as stated in Scenario 2. ORE used an updated version of the model, which incorporated different usage parameters and factored in phosphorus from overland runoff. Their results indicated that 36.3 kg of phosphorus would be generated by the development, which results in a water loading value of 16.42 ug/l. While this loading value is slightly higher than the value derived by NEA, ORE stated that the proposal would not pose a significant risk to Pigeon Lake. The conclusions of ORE remain below the MOE Provincial Water Quality Objectives.

Well Interference Pump Testing

The applicant's hydrogeological consultant, Geo-Logic Inc., conducted well interference testing to address groundwater concerns raised by area residents (See Appendix 'G'). Two existing wells located on Lots 1 and 10 were pumped continuously for 6 hours and well interference was monitored on three surrounding wells on Pigeon Lake Road, Crosby Drive, and Hapley Circle. The well on Lot 1 (TW-1) was drilled in 2008 to a depth of 21.3 m and yielded a continuous water flow rate of 22.7 l/min. The water level dropped by 0.05 m during the test and recovered to 100% in 32.5 minutes. The well on Lot 10 (W-1) was drilled in 1961 to a depth of 21.6 m and yielded a continuous water flow rate of 22.7 l/min. The water level dropped by 1.7 m during the test and recovered to 91% in 60 minutes. These wells demonstrated their ability to provide sufficient water for the development.

No evidence of interference on the three test wells was noticed during the pump test performed on TW-1. While there was no evidence of interference on two test wells during the pump test performed on TW-1, the consultants noticed that the well on Pigeon Lake Road did experience a lower water level by 0.02 m, which was attributed to the pumping of W-1.

A review of surrounding well records indicates that the majority of wells within 500 metres of the development are drilled into a sand and gravel aquifer while wells near and west of Pigeon Lake Road are drilled into a limestone layer and are not expected to be impacted by wells drilled into the sand and gravel aquifer. The hydrogeologist concluded that the aquifer can sustain the domestic water needs of the proposal without impacting surrounding wells within the area. The consultant recommends that wells on the lots backing onto Pigeon Lake Road be drilled within the eastern portions of the lots to access the sand and gravel aquifer.

This report was reviewed by the City's peer review consultant to ensure that the approach and conclusions were acceptable. Genivar indicated their concurrence with the study approach and its recommendations. Genivar did reiterate their recommendation that a data logger should be installed on the well on Lot 14 to observe annual variations in the aquifer's groundwater levels as well as delineating groundwater interference resulting from the proposed development. The data logger should be installed as soon as possible to begin the process of baseline

groundwater monitoring. This recommendation was previously included in the conditions of draft plan approval.

At the November open house, some residents asked whether the City would replace any wells that ran dry as a result of the proposed development. This type of matter is typically addressed through a well interference policy that would require the developer to replace any wells that ran dry if it was proven that the development was responsible for the problem. Although the City currently does not have such a policy in place, staff has included a condition of draft plan approval that requires the owner to repair or provide a new well to any adjacent resident where there is proof that the well has been negatively affected due to development on this property.

Transfer of Environmentally Sensitive Lands

The proposed development abuts a large environmentally sensitive area known as the Victoria Park Marsh PSW. While the applicant's holdings appear to extend beyond the boundary of the draft plan of subdivision into Pigeon Lake, the extent of ownership has not been determined since these lands do not form part of the proposed draft plan of subdivision. Staff have investigated the potential of having the applicant's portion of the Victoria Park Marsh PSW transferred into public ownership. Given the absence of a land acquisition strategy either by the City or KRCA, there is no public authority that is willing to accept ownership of these lands at this time. While the Kawartha Heritage Conservancy (KHC) has expressed interest in obtaining the lands, KHC is not a public body as defined under the Planning Act. Staff is not recommending that the owner be required to transfer these lands into public or conservancy ownership through the approval of this subdivision for the following reasons:

- The City has no formal land acquisition strategy which deals with the acquisition priorities, maintenance, and programming for these types of areas.
- The portion of the property containing the PSW is located outside of the limits of the draft plan of subdivision and the City can therefore not formally request its dedication as a condition of draft plan approval.
- KHC is not a public body defined by the Planning Act and therefore, the land cannot be transferred through the draft plan of subdivision process.
- KHC is a private non-profit charity with its own acquisition priorities. Should its future priorities change to not include the acquisition of these lands, imposing the transfer as a condition may result in a situation where the applicant might not be able to fulfill this condition.

Should KHC remain interested in obtaining this property, Staff would continue to encourage the applicant to work with KHC to eventually transfer these lands into their ownership. As part of the zoning by-law amendment, some of the areas presently zoned "A1" along the waterfront as well as the watercourses traversing the site are being rezoned to "EP" to protect them from use.

Secondary Access Point

Residents continue to request a second access into Lakeview Estates for safety purposes. Pigeon Lake Road is a former County Road or rural arterial road with a posted speed limit of 80 km/h which handles large volumes of traffic through the City of Kawartha Lakes. Because of this function, the County of Victoria Official Plan policies discourage direct access where access is available from a secondary roadway.

Similarly, the Transportation Association of Canada's (TAC) Geometric Design Guide emphasizes the main function of an arterial road is traffic movement and land access is secondary. Direct access to arterial roads for new development should be limited and encouraged through local road. The minimum separation from a public road intersection or a private access suggested by TAC is 400m. The stopping sight distance recommended for an assumed design speed of 90km/h is 130-170m. While Staff has reviewed the safety concerns raised by residents, Staff concluded that adding another entrance onto Pigeon Lake Road near the south end of the development may cause a visibility issue given the declining grade in the road in the vicinity of the existing residence on the property and close proximity to the King's Wharf and Pigeon Lake Road intersection. While Staff does not recommend a second access onto Pigeon Lake Road, Staff will review the section of King's Wharf Road between Pigeon Lake Road and the first access into the proposed development to improve the road width and visibility. For the same reason, proposed lots within the development will be required to obtain access from the internal subdivision roadway rather than from either Pigeon Lake or King's Wharf Road. Some minor improvements such as tree trimming along the south side of King's Wharf Road will be required as a condition of draft plan approval.

The applicant has also agreed to construct a right-hand turning lane from Pigeon Lake Road onto King's Wharf Road to improve traffic safety. This is a condition of draft plan approval.

Subdivision Road Connection to Lakeview Crescent

Some residents on Lakeview Crescent and Hapley Circle have requested that Lakeview Crescent not be extended into the proposed subdivision. Since Lakeview Crescent was configured as a dead-end and not a cul-de-sac, the intent was for this roadway to be extended further southwards to accommodate future development. Extending Lakeview Crescent south will also provide an alternate access option for residents should King's Wharf Road experience some form of blockage.

Use of Private Boat Mooring and Launching Facilities

Residents of Lakeview Estates are concerned that their private boat launching and mooring facilities will be used by the new residents. The conditions of draft plan approval will require that a warning clause be placed in each offer of purchase and sale indicating that these facilities are for the exclusive use of Lakeview Estates residents.

As well, the recreational common element block will permit the construction of docking for owners of lots within the development. While the applicant has not yet finalized plans for the construction of docking on Block 23, the number and type of docking permitted will be subject to the recommendations contained in the environmental impact assessment prepared by Niblett Environmental Associates Inc. as well as approvals granted by Trent-Severn Waterway. Considerations for dock placement shall include the following measures:

- timing of construction to avoid sensitive life stages for fish found in this area;
- limiting dock types to floating, pipe, or suspension docks to provide for additional habitat area;
- docks should not cover more than 20% of the shoreline or extend more than 6 metres into the water;
- no habitat features such as aquatic vegetation, stumps, logs, boulders, etc. should be removed; and,
- any treatment of lumber or other materials should not occur over the water.

Drainage Impact on Existing Development

Some of the existing residents on the west side of Hapley Circle are experiencing stormwater runoff from the farm fields onto their properties. This occurs during heavy rains or spring thaws. In order to alleviate this concern, Staff will require the applicant to prepare a master grading and drainage plan as a condition of draft plan approval to ensure that drainage from the proposed development does not impact existing adjacent properties.

Tree Removal

Concern was raised that trees would be removed in the environmentally protected areas. The City does not have a tree cutting by-law to restrict the removal of trees without approval. While no measures can absolutely prevent tree removal, the following measures are intended to discourage tree removal.

- Lots abutting treed areas will be fenced to restrict access and delineate the property boundary. This will discourage properties from expanding into sensitive areas.
- Lots containing environmental areas as part of the lot area will also be fenced to restrict access to this portion of the site. This will prevent owners from using this part of the property for buildings and storage.
- Additional environmentally sensitive areas being zoned “EP” to protect the vegetation in these areas. A tree preservation plan must be prepared by the owner to ensure that all larger trees be preserved where possible. Removal of butternut trees will be subject to approval by the Ministry of Natural Resources.
- A warning clause will be placed in the subdivision agreement and offers of purchase and sale warning purchasers that removal of trees located within “EP” is not permitted.

Protecting View Corridors

The possibility of protecting view corridors for the owners of Lots 1 to 5 was raised as a possible measure to prevent tree cutting in the abutting PSW area. Views are not something that is typically guaranteed by planning approvals. In protecting view corridors through this area, tree cutting would be required to guarantee views on a continual basis. The revised EIS comments from NEA do not support view corridors through the wetland since all residents have access to Block 23. Staff do not support this concept because it would be counter-productive in protecting trees in the wetland.

Existing Dwelling Unit and Barn

Lot 10 will contain the existing single detached dwelling currently located on the property. The owner will be required to remove all agricultural buildings from the proposed development. The direct access to Pigeon Lake that currently exists will also be removed.

Conditions of Draft Plan Approval

The conditions of draft plan approval have been revised to incorporate the recommendations both for specific development issues and to reference the additional studies and report updates with the peer review results. These issues will all be transferred into the subdivision agreement.

Proposed Zoning By-law Amendment

The relevant zoning categories and regulations have been changed to implement the environmental recommendations.

The Holding (H) provision is attached to all new Lots being created, with the exception of Lot 10 as this lot contains the existing single detached dwelling unit. In order to remove the Holding (H) provision, the owner will be required to provide hydrogeological pump test information to ensure that the proposed well does not impact adjacent wells in the area. This will be based on pump testing the new well against the benchmark well to be installed on Lot 14. Council has the authority to remove the Holding (H) symbol. This requirement is contained in the conditions of draft plan approval.

OTHER ALTERNATIVES CONSIDERED:

No other alternatives were considered at this time.

FINANCIAL CONSIDERATIONS:

There are no financial considerations for the City, unless the applications were to be appealed to the Ontario Municipal Board.

RELATIONSHIP OF RECOMMENDATION TO 2002-2012 VISION:

The application furthers the Economic and Environmental objectives of the Community Vision. Approval of this project will provide additional shoreline housing options while protecting the environment both for wildlife and recreational purposes.

SERVICING COMMENTS:

All servicing matters will be reviewed by the City of Kawartha Lakes, the HKPRD Health Unit, and the Kawartha Region Conservation Authority through their clearance of the requisite conditions of draft plan approval.

REVIEW OF ACCESSIBILITY IMPLICATIONS OF ANY DEVELOPMENT/POLICY:

The proposal has no implications on accessibility issues.

CONCLUSIONS:

The application has been reviewed in consideration of comments and changes generated by the peer reviews, relevant provincial policy, the County of Victoria Official Plan, and Township of Emily Zoning By-law. In consideration of the comments contained in this report, Staff respectfully recommends that the proposed draft plan of subdivision and rezoning applications be forwarded to Council for approval.

ATTACHMENTS:

Appendix 'A' – Location Map
Appendix 'B' – Proposed Draft Plan of Subdivision
Appendix 'C' – Proposed Zoning By-law Amendment
Appendix 'D' – Proposed Conditions of Draft Plan of Subdivision Approval
Appendix 'E' – Environmental Impact Study Peer Review and Response
Appendix 'F' – Phosphorus Loading Report and Peer Review
Appendix 'G' – Pumping Tests Summary Report and Peer Review
Appendix 'H' – Report DEV2010-078



PLAN2012
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PLAN2012
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