

The Corporation of the City of Kawartha Lakes

Planning Committee Report

Report Number PLAN2017-026

Date: May 3, 2017
Time: 1:00 p.m.
Place: Council Chambers
Public Meeting

Ward Community Identifier: Ward 8 – Mariposa

Subject: An application for Official Plan Amendment and Zoning By-law
Amendment to Facilitate the Creation of a Rural Residential Lot, 71
CKL Road 46, Mariposa (GRILLS)

Author/Title: Mark LaHay, Planner II

Signature:

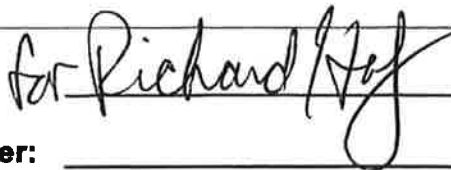


Recommendations:

RESOLVED THAT Report PLAN2017-026, respecting Part Lot 5, Concession 9
N ½ being Part of Part 1, Plan 57R-733 and Part 2, Plan 57R-1197, Geographic
Township of Mariposa, "GRILLS – Applications D01-17-006 and D06-17-009", be
received; and,

THAT Applications D01-17-006 and D06-17-009 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.

Department Head:



Corporate Services Director / Other:

Chief Administrative Officer:

Background:

The subject land is located on the west side of CKL Road 46, between Skyline Road and Highway #7, in the geographic Township of Mariposa. See Appendices 'A' and 'B'. The subject land is also located within "Prime Agricultural" designated land. The proposed non-farm residential use is required to conform with the policies of the City of Kawartha Lakes Official Plan and the 2006 Growth Plan for the Greater Golden Horseshoe and be consistent with the 2014 Provincial Policy Statement (PPS).

The applicant has submitted an application to amend the "Prime Agricultural" designation with a "Special Policy" on a portion of the subject land and to amend the Zoning By-law to change the zone category from "Agricultural (A1) Zone" to a "Rural Residential Type One (RR1) Zone". The intent of these amendments is to facilitate a severance to create a rural residential lot to permit a single detached dwelling.

Owner:	Lynette Grills
Applicant:	Yvette Johnson
Legal Description:	Part Lot 5, Concession 9 N ½ being Part of Part 1, Plan 57R-733 and Part 2, Plan 57R-1197, Geographic Township of Mariposa
Designation:	"Prime Agricultural" in the City of Kawartha Lakes Official Plan (2012)
Zone:	"Agricultural (A1) Zone" on Schedule 'A' of the Township of Mariposa Zoning By-law No. 94-07
Lot Area:	0.854 ha. [2.11 ac. – MPAC] – subject land (total holding) 0.445 ha. [1.1 ac. – MPAC] – portion of subject land to be re-designated with a Special Policy and be rezoned
Site Servicing:	Developed portion - private individual well and septic system Vacant portion subject to applications – to be serviced with private well and septic systems
Existing Uses:	Rural residential dwelling on 71 CKL Road 46; Vacant on portion of subject land to be re-designated and rezoned
Adjacent Uses:	North: Rural residential/Agricultural East: CKL Road 46/Rural Residential/Woodland South: Rural residential, Agricultural West: Agricultural

Rationale:

The portion of the property where the dwelling is proposed is a vacant portion of a rural residential lot within "Prime Agricultural" designated land. A prior severance application (D03-12-043) granted provisional consent in 2013 to

intentionally merge a portion of 91 CKL Road 46 (Part 2, Plan 57R-1197) with 71 CKL Road 46, that same portion being the subject of the current applications. This prior application conformed to the City's Official Plan and was consistent with the PPS in that it was considered a boundary adjustment for a lot addition that did not create an additional building lot in a prime agricultural area. A one-time transaction (stipulated consent) was registered in 2014 to effect the merger of the subject lands with the benefitting land, being 71 CKL Road 46. Since that time in late 2016, a transfer of the subject parcel occurred to a separate owner, but was declared invalid without new Planning Act consent.

The applicant has submitted the following reports and plans in support of the applications, which have been circulated to various City Departments and commenting Agencies for review.

1. Planning Justification Report and Agricultural Assessment prepared by Clark Consulting Services, dated February, 2017. The report discusses and assesses the proposal in context of the 2014 Provincial Policy Statement, the City of Kawartha Lakes Official Plan, and the Township of Mariposa Zoning By-law 94-07.
2. Consent Sketch from drawing prepared by Coe Fisher Cameron Land Surveyors for Clark Consulting Services, dated February, 2017. The Plan outlines the proposed residential development on the proposed rural residential lot.
3. Minimum Distance Separation (MDS) Calculation prepared by Clark Consulting Services, dated February, 2017.

The Planning Justification Report advises that the subject lands to be severed were originally separated from the active adjacent farm to the west in 1975 and have been vacant ever since. In addition, although the soils are classified as Class 1 soils according the Canada Land Inventory for Agricultural Capability, there are variations in topography and soil type suggesting that the lands that have been selected for the new residential use are poorer lands from the actively farmed lands and the subject lands do not reflect the majority of the adjacent Class 1 lands. Furthermore, the 1 acre subject land proposed to be severed from an existing 2 acre residential lot complies with the Minimum Distance Separation (MDS) 1 calculation in accordance with the new 2017 MDS Formulae.

Staff have reviewed the Planning Justification Report and accompanying documents filed in support of the proposed zoning by-law amendment.

Provincial Policies:

Growth Plan for the Greater Golden Horseshoe, 2006:

The Growth Plan (GP) should be read in conjunction with relevant provincial plans, including the Provincial Policy Statement (PPS). The policies of the GP

prevail, except where there is a conflict in policies relating to the natural environment or human health. Section 2.2.2 1(i) of the GP provides that development (i.e. lot creation) should be directed towards settlement areas, except where necessary for development related to the management or use of resources, resource-based recreational activities, and rural land uses which cannot locate in settlement areas. The subject land of these applications to facilitate a proposed severance is not located within a designated Settlement Area, and therefore, the applications do not appear to conform to the GP.

Provincial Policy Statement, 2014 (PPS):

The 2014 Provincial Policy Statement (PPS) provides a policy framework for land use decisions within the Province of Ontario. The PPS also provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural environment. The municipal planning authority is responsible to uphold the policies of the PPS to ensure decisions are consistent with key provincial interests in accordance with Section 3(5) of the Planning Act.

Section 1.1.5 of the PPS states that on rural lands, permitted uses are: the management or use of resources; resource-based recreational activities; limited residential development; home occupations and home industries; cemeteries; and other rural land uses.

Section 2.3.1 of the PPS directs that prime agricultural areas shall be protected for long-term use for agriculture. Section 2.3.4 discourages lot creation in prime agricultural areas. The creation of new lots is for agricultural uses or agricultural-related uses if certain conditions are met. Section 2.3.4.1 c) of the PPS further states that for prime agricultural areas, the creation of new rural residential lots are limited to the severance of dwellings rendered surplus through farm consolidation, provided certain conditions are met. Section 2.3.4.2 permits lot adjustments in prime agricultural areas for legal or technical reasons (see below for further discussion).

Section 2.3.4.3 of the PPS does not permit the creation of new residential lots in prime agricultural areas, except in accordance with policy 2.3.4.1(c) which states lot creation in prime agricultural areas is discouraged and may only be permitted for:

“a residence surplus to a farming operation as a result of farm consolidation, provided that:

1. the new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services; and
2. the planning authority ensures that new residential dwellings are prohibited on any remnant parcel of farmland created by the severance. The approach used to ensure that no new residential

dwellings are permitted on the remnant parcel may be recommended by the Province, or based on municipal approaches which achieve the same objective.”

Section 2.3.6 permits limited non-agricultural uses in prime agricultural areas, which do not include residential uses.

Therefore, it does not appear that these applications have demonstrated consistency with the PPS.

Official Plan Conformity:

The property is designated “Prime Agricultural” in the City of Kawartha Lakes Official Plan. The Official Plan contains policies that reflect the intent of protecting and preserving agricultural resources and the long-term viability of agriculture. Appropriate policies and criteria have been developed that are consistent with provincial policies. In this regard, Sections 15.3.4 and 15.3.5 limit the creation of new rural residential lots to the severance of dwellings rendered surplus through farm consolidation.

Section 15.3.6 does not permit a lot for a retiring farmer or for infilling. Section 15.3.7 permits a severance for a minor lot line adjustment provided it does not create a separate building lot that would otherwise require an amendment to the Plan.

An application has been submitted for consideration that intends to seek an amendment to the Prime Agricultural Land Use Designation with a Special Policy Area to permit a rural residential lot that does not otherwise conform to the policies of the Official Plan. The planning justification report submitted with the application suggested that the proposed consent is required for “legal and technical reasons”. However, a review of the definition in the PPS reveals that this term “means severances for purposes such as easements, corrections of deeds, quit claims, and minor boundary adjustments, which do not result in the creation of a new lot”.

As noted above, Section 2.3.4.3 of the PPS states that the creation of new residential lots, in prime agricultural areas, shall not be permitted, except for a residence surplus to a farming operation as a result of farm consolidation.

Therefore, the proposed Official Plan Amendment for a Special Policy Area would not appear to be consistent with the PPS.

Zoning By-Law Compliance:

The lot is zoned “Agricultural (A1) Zone” in the Township of Mariposa Zoning By-law 94-07. For the creation of new lots, the zone requires a minimum lot area of 38 ha. (93.9 ac.) and a minimum lot frontage of 230 m. (754.6 ft.). As the proposed lot would not meet the minimum agricultural zone lot size requirements, the applicant has submitted a Zoning By-law Amendment application for

consideration to change the zoning for this property to a “Rural Residential Type One (RR1) Zone” to facilitate the creation of a rural residential lot.

Other Alternatives Considered:

No other alternatives have been considered.

Financial Considerations:

There are no financial considerations unless Council’s decision to adopt or its refusal to adopt the requested amendments are appealed to the Ontario Municipal Board. In the event of an appeal, there would be costs, some of which may be recovered from the applicant.

Relationship of Recommendations To The 2016-2019 Strategic Plan:

The Council Adopted Strategic Plan identifies these Strategic Goals:

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

This application aligns with the vibrant and growing economy strategic goal as it provides to attract new residents. However, this application appears to conflict with the healthy environment strategic goal as it does not protect prime agricultural land.

Review of Accessibility Implications of Any Development or Policy:

There are no accessibility implications for the City.

Servicing Comments:

The portion of the subject land proposed to be severed is not presently serviced. The proposed single detached dwelling would be serviced by a private sanitary sewage disposal system and individual well. If this application is successful, the residential use will require reserve sewage system capacity for hauled sewage, in accordance with Section 1.6.6.6 of the PPS.

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. To date, we have received the following comments:

Public Comments:

At the time of writing this report, no public comments were received.

Agency Review Comments:

On April 10, 2017, the Building Division advised that they have no concerns with the applications.

On April 19, 2017, Development Engineering confirmed they have no objection to the proposed Official Plan Amendment and Zoning By-Law Amendment.

Development Engineering also noted that this property is within the catchment area for a municipal drain. Any consent within the municipal drain catchment area is required to “submit to the Secretary-Treasurer written confirmation from the City’s Director of Engineering and Corporate Assets, that a report in accordance with Section 65 of the Drainage Act, respecting the lot to be severed, has been completed to the Director’s satisfaction, and that the drainage assessment has been re-apportioned, at the owner’s expense.” Furthermore it should be noted that the proposed entrance shall be confirmed through the Public Works - Roads Entrance Procedure.

On April 20, 2017, the Building Division – Part 8 Sewage Systems Supervisor advised that the property has been reviewed to ensure that on-site sewage systems can be provided for the single detached dwellings for each individual property. The retained portion has an existing sewage disposal system that will be maintained wholly within the boundaries of the proposed new lot lines. As well, the property was assessed to ensure a replacement sewage system can be accommodated under the current standards for when the existing system fails.

The portion to be severed has been assessed to ensure an adequate sewage system to meet the requirements of the Ontario Building Code can be accommodated within the proposed property boundaries. Upon the completion of their review, the Building Division – Sewage System Program confirms they have no objection to the proposed planning applications.

On April 20, 2017 comments from the Agricultural Development Officer advising we must not lose sight of the fact that this land has not been previously built upon, and is essentially of the same quality as the adjacent farmland with respect to the ability to grow agricultural or horticultural crops.

All relevant planning documents support the protection of Prime Agricultural Land such as this. With the uptake of small scale agriculture and specialty cropping activities, smaller agricultural properties are in higher demand.

Applications such as this continue to erode the available prime agricultural land, and are clearly not supported within the 2014 Provincial Policy Statement. Lot

creation is no longer permitted in this situation. There is agricultural potential for the vacant portion of the property, and as such the proposed applications to remove these lands from agricultural use are not supported.

No comments have been received from the Ministry of Municipal Affairs and Housing (MMAH). Further clarification with respect to Prime Agricultural policies of the PPS in relation to the severance of rural residential lots may be needed to fully evaluate this proposal.

Development Services – Planning Division Comments:

Since the 2005 PPS, severances within a prime agricultural area for retirement lots or infilling has not been supported from a policy perspective. Although the Official Plan recognizes that there are clusters of residential lots and scattered residential lots throughout this designation that may be recognized as permitted uses within the zoning by-law provided they existed prior to the adoption of the Official Plan, these applications to facilitate a new residential lot outside of a settlement area after the Plan was adopted would not appear to be consistent with the PPS and with the Growth Plan.

Further clarification is required from the MMAH with respect to the severance of rural residential lots in prime agricultural areas in order to fully evaluate this proposal to effectively and demonstrate how the proposed use conforms with the 2006 Growth Plan, is consistent with the 2014 Provincial Policy Statement and conforms to the City of Kawartha Lakes Official Plan.

The appropriate background studies in support of the applications have been submitted and circulated to the appropriate agencies and City departments for review and comment. At this time, comments have not been received from all circulated agencies and City departments. Staff recommend that the applications be referred back to staff until such time as comments have been received from all circulated departments and agencies, including the MMAH, and that any comments and concerns have been addressed.

Conclusion:

In consideration of the comments and issues contained in this report, Staff respectfully recommend that the proposed Official Plan Amendment and Zoning By-law Amendment applications 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:

Appendix 'A' – Location Map



Appendix 'A'
PLAN2017-026.pdf

Appendix 'B' – Aerial Photo



Appendix 'B'
PLAN2017-026.pdf

Appendix 'C' – Conceptual Sketch



Appendix 'C'
PLAN2017-026.pdf

Appendix 'D' – Consent Sketch



Appendix 'D'
PLAN2017-026.pdf

Appendix 'E' – 2014 PPS excerpt for Lot Creation in Prime Agricultural Areas



Appendix 'E'
PLAN2017-026.pdf

Appendix 'F' – Draft Official Plan Amendment



Appendix 'F'
PLAN2017-026.pdf

Phone:	705-324-9411 ext. 1324 or 1-888-822-2225 ext. 1324
E-Mail:	mlahay@city.kawarthalakes.on.ca
Department Head:	Chris Marshall, Director of Development Services
Department File:	D01-17-006 and D06-17-009

Geographic Township of Mariposa

Skyline Rd.

Lot 5

SUBJECT
LAND

Concession 9

Highway #7

K.L. Road #46

APPENDIX "A"

to

REPORT PLAN2017-026

FILE NO. D01-17-006
006-17-009

Lot 6



Concession 8



Legend

- Road Centreline
- Upper Municipalities
- Lower Tier Municipalities
- Property ROLL#
- Property PIN#
- Lots and Concessions
- Wetlands
 - Locally Significant Wetlands
 - Provincially Significant Wetlands
- Water Body
- Waterbodies
- Unevaluated Wetlands
- Woodland
- CKL_PSW
- CKL_River_Buff15m
- Prime_Agricultural
- KRCA Regulated Areas

APPENDIX " 8 "

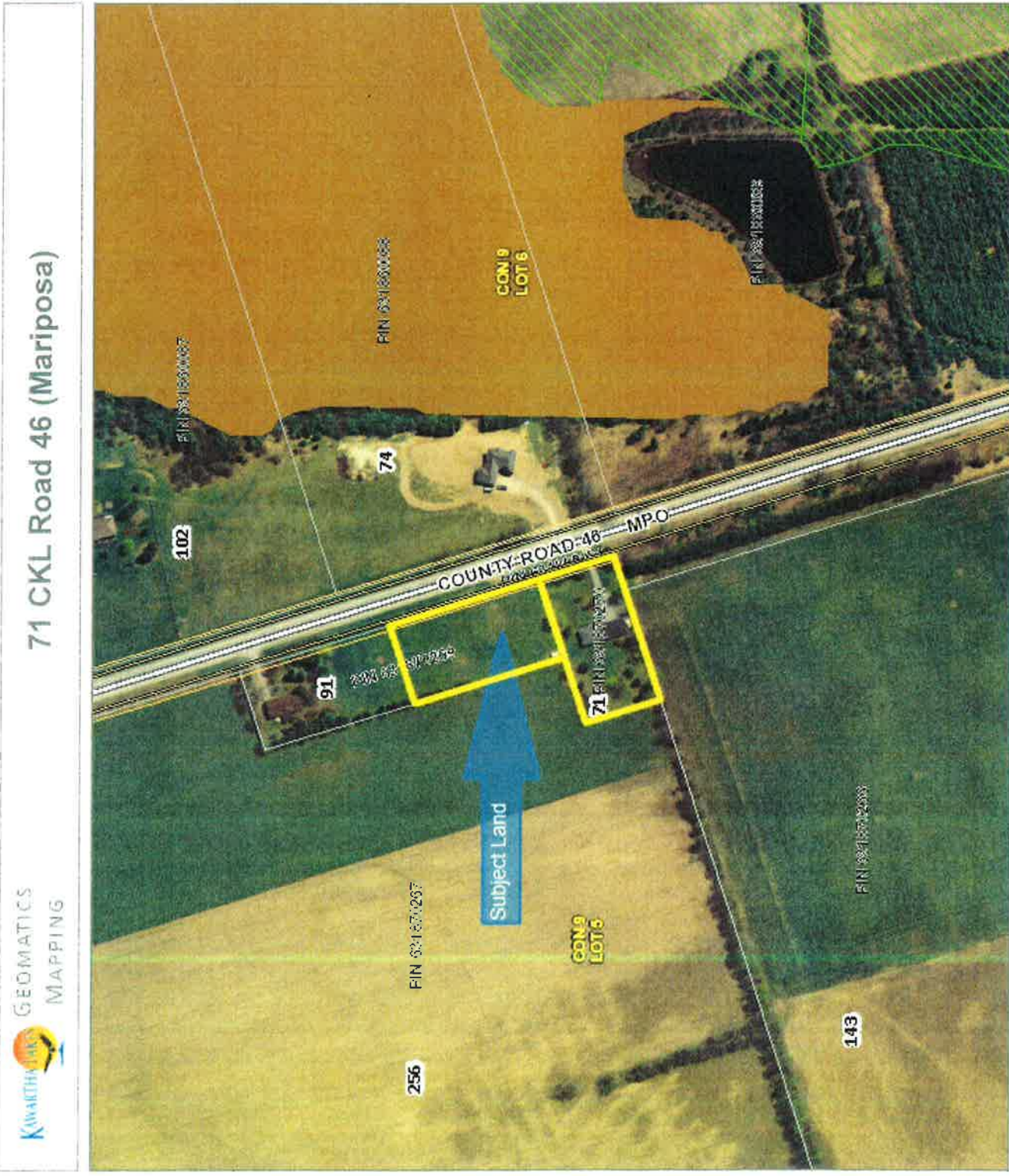
to

REPORT PLAN 2017-026

FILE NO. 001-17-006

006-17-009

Notes
Notes



APPENDIX " C "
to
REPORT PLAN2017-026
FILE NO. 001-17-006
006-17-009

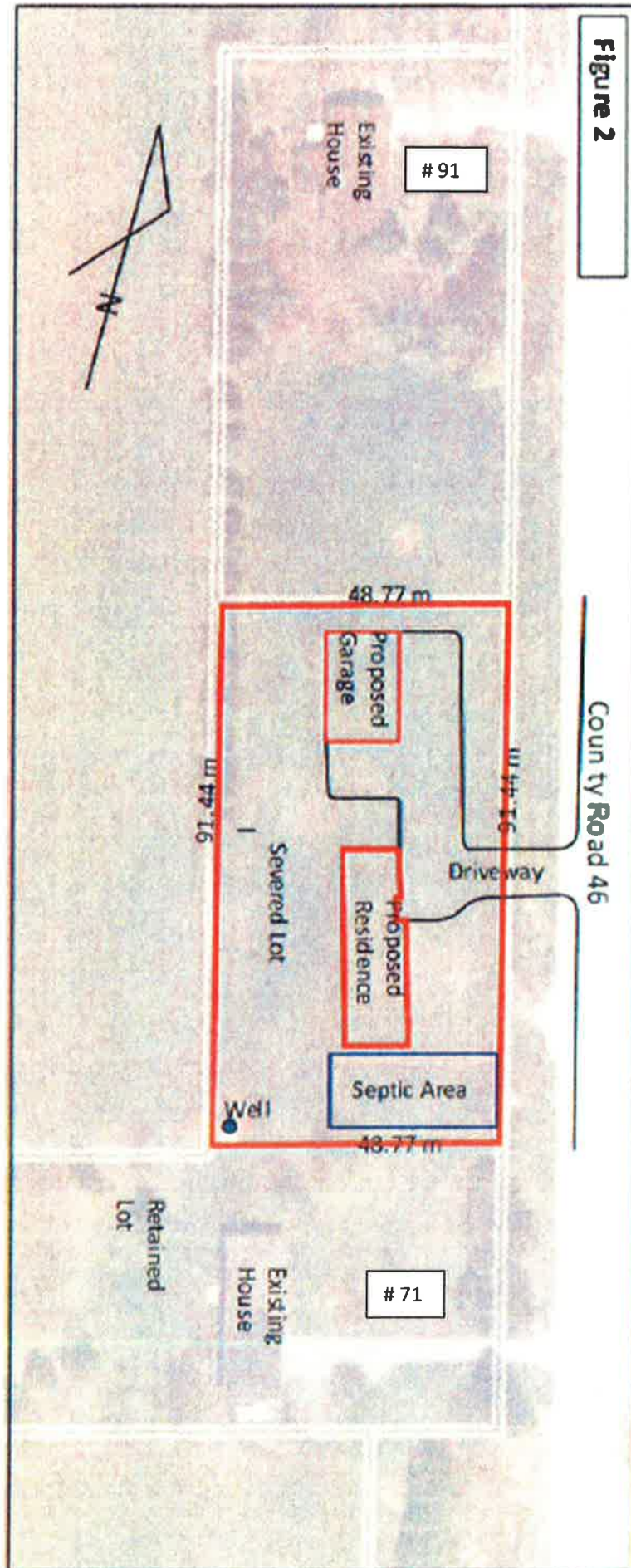
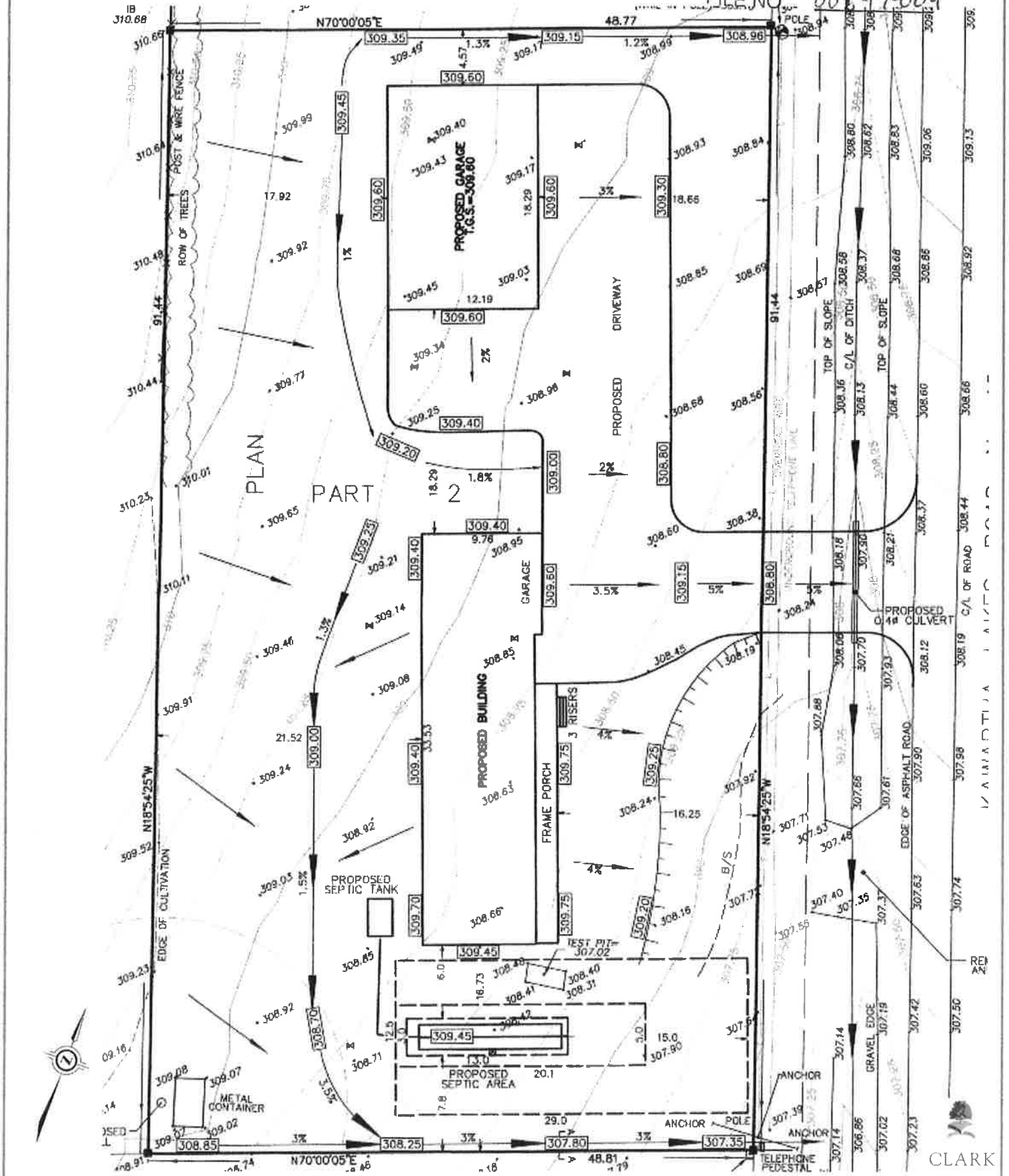


Figure 2 - Consent Sketch

From drawing prepared by Coe Fisher Cameron Land Surveyors
Part Lt 5 Con 9 Former Township of Mariposa
City of Kawartha Lakes

APPENDIX " D "
to
REPORT PLAN 2017-026

FILE NO. 001-17-006
001-17-009



CLARK

2.3.4 Lot Creation and Lot Adjustments

2.3.4.1 Lot creation in *prime agricultural areas* is discouraged and may only be permitted for:

- a) *agricultural uses*, provided that the lots are of a size appropriate for the type of agricultural use(s) common in the area and are sufficiently large to maintain flexibility for future changes in the type or size of agricultural operations;
- b) *agriculture-related uses*, provided that any new lot will be limited to a minimum size needed to accommodate the use and appropriate *sewage and water services*;
- c) a *residence surplus to a farming operation* as a result of farm consolidation, provided that:
 - 1. the new lot will be limited to a minimum size needed to accommodate the use and appropriate *sewage and water services*; and
 - 2. the planning authority ensures that new residential dwellings are prohibited on any remnant parcel of farmland created by the severance. The approach used to ensure that no new residential dwellings are permitted on the remnant parcel may be recommended by the Province, or based on municipal approaches which achieve the same objective; and
- d) *infrastructure*, where the facility or corridor cannot be accommodated through the use of easements or rights-of-way.

2.3.4.2 Lot adjustments in *prime agricultural areas* may be permitted for *legal or technical reasons*.

2.3.4.3 The creation of new residential lots in *prime agricultural areas* shall not be permitted, except in accordance with policy 2.3.4.1(c).

2.3.5 Removal of Land from Prime Agricultural Areas

2.3.5.1 Planning authorities may only exclude land from *prime agricultural areas* for expansions of or identification of *settlement areas* in accordance with policy 1.1.3.8.

2.3.6 Non-Agricultural Uses in Prime Agricultural Areas

2.3.6.1 Planning authorities may only permit non-agricultural uses in *prime agricultural areas* for:

- a) extraction of *minerals, petroleum resources* and *mineral aggregate resources*, in accordance with policies 2.4 and 2.5; or

AMENDMENT NO. ____
TO THE
CITY OF KAWARTHA LAKES
OFFICIAL PLAN

PART A – THE PREAMBLE

APPENDIX " F "
to
REPORT PLAN 2017-026
FILE NO. 001-17-006
006-17-009

A. Purpose of the Amendment

This amendment adds a special policy to permit a residential lot located in a cluster of residential uses in a Prime Agricultural Area.

B. Location

The lands are located in Part of Lot 5 Concession 9 in the former Township of Mariposa and are more precisely identified as Part 2 of Plan 57R1197.

C. Basis

The land proposed to be severed were part of a residential lot created in 1975. The lands are located between two existing residential lots. When originally created the proposed lot was intended to be severed to create a separate residential lot. The lands have been removed from agricultural production since 1975. They are too small to be used for agriculture independently and would be awkward to incorporate into the adjacent farm lands. An Agricultural Impact Assessment was prepared. It concluded that the use of these lands for as the location of a new residence will not restrict the use of adjacent farm lands for agricultural purposes.

On this basis the inclusion of a Special Policy to permit the creation of the residential lot is deemed to confirm to the intent of the Provincial Policy Statement and the Objectives of the City of Kawartha Lakes Official Plan.

PART B – THE AMENDMENT

D. Introductory Statement

All of this part of the document entitled "Part B – The Amendment" consisting of the following text and schedule constitutes Amendment No. ____ to the City of Kawartha Lakes Official Plan.

E. Details of the Amendment:

The City of Kawartha Lakes Official Plan is hereby amended as follows:

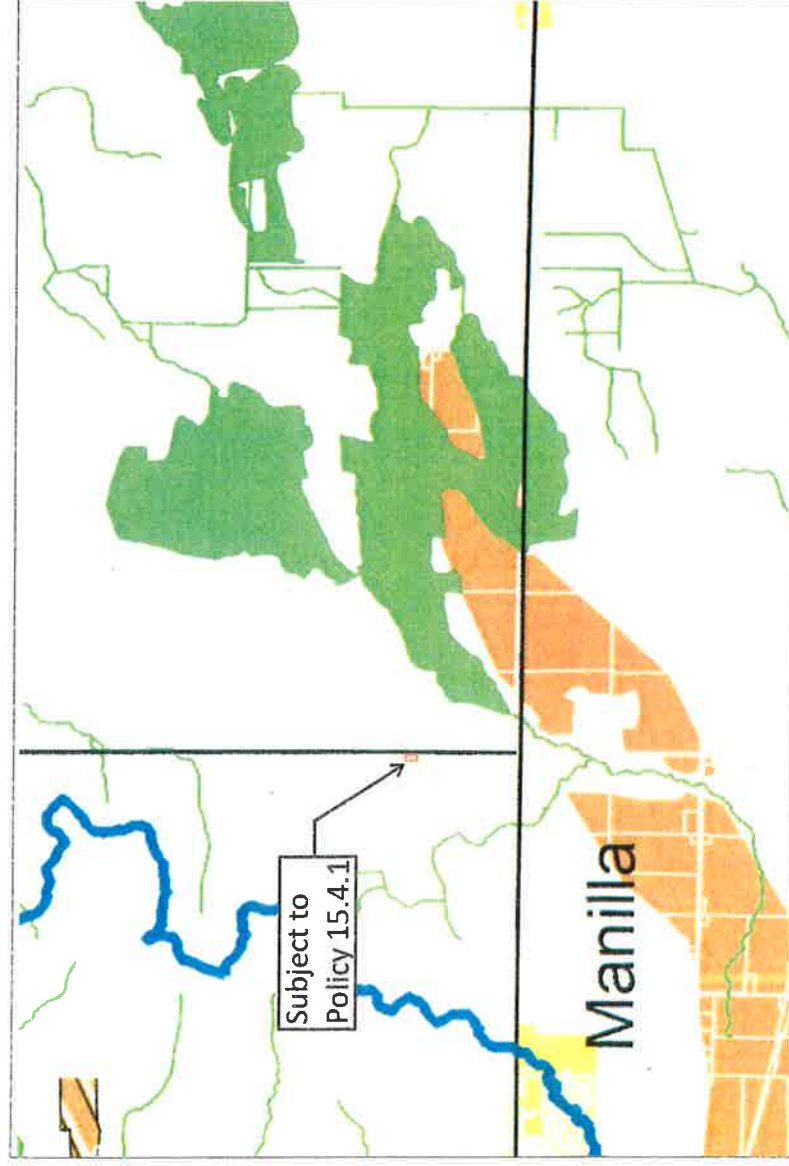
1. Section 15 Prime Agricultural Designation is amended by adding the following new subsection:

15.4 Special Policies

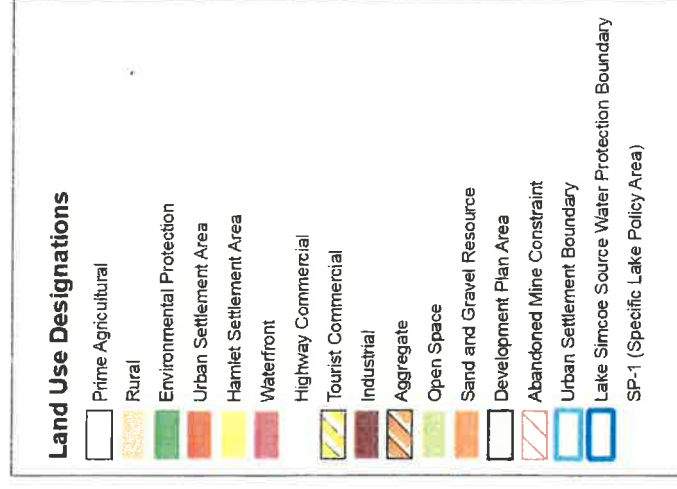
15.4.1 Part Lot 5 Concession 9 former Township of Mariposa

Notwithstanding the policies of Section 15 to the contrary for those lands described as Part 2 of Plan 57R1197 a consent shall be permitted to allow these lands to be used for residential purposes.

Schedule A
 Amendment No. ___
 Official Plan of the City of Kawartha Lakes
 N 1/2 Lot 5 Concession 9, Township of Mariposa
 County of Victoria



 Subject Lands



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