



Planning Advisory Committee Report

Report Number: PLAN2022-022

Meeting Date: April 6, 2022

Title: Amend the Township of Emily Zoning By-law 1996-30 at 29 Sunnywood Road - Martin

Description: To rezone the property from Agricultural (A1) Zone to an Agricultural (A1-*) Exception Zone to permit a private school as an additional use to support the local Mennonite area community on a portion of the subject land (File: D06-2022-005).

Type of Report: Public Meeting

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

Recommendations:

That Report PLAN2022-022, **Part of Lot 14, Concession 13, geographic Township of Emily, City of Kawartha Lakes, identified as 29 Sunnywood Road, Martin – D06-2022-005**, be received; and

That the application respecting the proposed Zoning By-law Amendment be referred back to staff until such time as all comments have been received and addressed from all circulated agencies, City Departments, and the public, and for further review and processing.

Department Head: _____

Legal/Other: _____

Chief Administrative Officer: _____

Background:

Proposal:	To rezone a portion of the property from Agricultural (A1) Zone to an Agricultural (A1-*) Exception Zone to permit a non-agricultural use, being a private school as a secondary use to the existing main agricultural use. The effect of the amendment will facilitate the creation of a private school with access from Centreline Road to support the local Mennonite area community on an approximate 0.8 ha (2 ac.) portion of the subject land.
Owner:	Amon and Anna Martin
Applicant:	TD Consulting Inc. c/o Tom deBoer
Legal Description:	Part of Lot 14, Concession 13, geographic Township of Emily
Official Plan:	Prime Agricultural and Environmental Protection with a Significant Woodlands Natural Heritage Feature within the City of Kawartha Lakes Official Plan
Zoning:	Agricultural (A1) Zone in the Township of Emily Zoning By-law 1996-30, as amended
Lot Area:	40.06 hectares (99 acres – MPAC)
Site Area:	0.817 hectares (approx. 2 acres)
Site Servicing	Private individual well and septic system proposed
Existing Uses:	Agricultural
Adjacent Uses:	North: Agricultural/Rural Residential East: Agricultural/Rural Residential South: Sunnywood Road/Agricultural/Rural Residential West: Centreline Road/Rural Residential/Agricultural/Wetland

Rationale:

The owner has applied to permit a non-farm use to serve the Old Order Mennonite community, being a private school on the subject land, which is located in a rural agricultural area northeast of the Hamlet of Downeyville and southeast of the Hamlet of Dunsford, on the northeast corner of Centreline Road and Sunnywood Road. The subject property is considered an agricultural lot, which contains a barn where calves

are housed from time to time for a dairy operation immediately to the south of the subject land and a single detached dwelling and shed, located in the south central portion of the property, occupying approximately 2.5 hectares, with driveway access from Sunnywood Road. Corn is cultivated on the majority of the property, utilizing approximately 30.5 hectares (75 ac.), while the northeast portion of property is mostly woodland and natural area and occupies an area of approximately 7 hectares. The school house is proposed near the northwest corner of the subject land near some rural residential lots with access from Centreline Road (see Appendix C).

A Zoning By-law Amendment application has been submitted to change the zone category to facilitate the proposed use on a portion of the property, comprising an area of approximately 0.82 ha, in order to permit a private school, with a floor area of approximately 135 square metres, along with a storage shed, and an associated area for parking, driveway and outdoor playing field amenities. The private school is proposed as a secondary use to the farm operation.

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. Planning Justification Report dated September 2020 prepared by EcoVue Consulting Services Inc., outlines the nature of the proposed zoning by-law amendment in the context of the Provincial Policy Statement, 2020 (PPS), A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 (Growth Plan), the City of Kawartha Lakes Official Plan, 2012 (Official Plan) and the Township of Emily Zoning By-law 1996-30 along with draft zoning by-law amendment text.
2. Agricultural Impact Brief with Minimum Distance Separation Calculations dated July 20, 2021 prepared by Clark Consulting Services to review potential impacts on surrounding farm operations and identify extent of productive agricultural land that will potentially be removed. The assessment concluded that no negative impacts are anticipated as a result of traffic, noise or nuisance and compatibility issues and that the application will not impact neighbouring livestock facilities and does not represent a significant loss of farm production, accounting for a nominal loss of 1% of the corn production in the review area. The proposed development will also comply with MDS requirements.
3. Overall Site Plan dated October 2021 prepared by TD Consulting Inc. illustrates the extent of the proposed location of the proposed school and associated area in the context of the entire property.

4. Proposed Conceptual Site Plan dated October 2021 prepared by TD Consulting Inc. illustrates the size and location of the proposed school house and associated storage building, garbage disposal area, servicing, parking, access and playing field.
5. Preliminary Building Elevations and Floor Plans dated June 2021 prepared by TD Consulting Inc., illustrates the proposed building elevations for the school house from each side and the main floor plan layout.
6. Grading Plan dated October 2021 prepared by BaseTech Consulting Inc. illustrating the proposed site layout with existing and proposed elevations and proposed drainage flow.
7. Erosion Sediment Control Plan dated October 2021 prepared by BaseTech Consulting Inc. illustrating the proposed site layout and location of silt fence and rock flow check dam.
8. Topographic base plan dated March 30, 2021 prepared by IBW Surveyors.
9. Entrance Permit Review Confirmation Letter dated January 5, 2021 from the Public Works East Maintenance Area Supervisor indicating that the proposed entrance location is acceptable.
10. Species at Risk Memo dated May 13, 2021 prepared by GHD to provide an analysis of potential Species at Risk (SAR) on the subject property. The document advised that the proposed development is within plowed agricultural land being an existing corn field. Based on field investigations, there were no SAR or habitat of threatened or endangered species on the property. No negative effect to SAR or their habitat are expected with the proposed rezoning and construction of the school building on the site.

Staff has reviewed the Planning Justification Report and other supporting documentation and is evaluating the application in the context of applicable zone provisions and policies and generally accepts the planning rationale given. 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.

Applicable Provincial Policies:

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

Section 4.2.3 does not permit development or site alteration within a key natural heritage feature, which includes habitat of endangered species and threatened species, by definition. A Species at Risk (SAR) assessment was provided, which concluded that there were no SAR or habitat of threatened or endangered species on the property.

Section 4.2.6 provides policy for the protection of prime agricultural areas identified within official plans. As the Provincial mapping does not apply until implemented in the Official Plan, the prime agricultural areas that are identified in the City's Official Plan are considered the agricultural land base for the purposes of the Growth Plan, which lands are protected for long term use for agriculture.

This application is being further evaluated to demonstrate conformity with the Growth Plan taking into consideration whether the proposed use is compatible with the rural landscape, can be sustained by rural service levels, and will not adversely affect the protection of agricultural uses and/or achieving long term compatibility relating to the interface of agricultural uses and non-agricultural users to minimize and mitigate adverse impacts. In this regard, the applicant submitted an Agricultural Impact Assessment, which evaluated agricultural land within 750 metres of the subject land to be rezoned as well as any potential impacts on surrounding agricultural operations. The evaluation has suggested that the proposal meets all required MDS setback provisions.

Although many aspects of the proposed application appears to meet the above criteria, further evaluation is required to demonstrate conformity with the Growth Plan.

Provincial Policy Statement, 2020 (PPS):

Section 1.1.4.1 of the PPS specifies that healthy, integrated and viable rural areas, which include prime agricultural areas, be supported by building upon rural character, and leveraging rural amenities and assets as well as promoting diversification of the economic base and employment opportunities through goods and services, including value-added products and the sustainable management or use of resources.

Section 2.1 of the PPS provides for natural heritage protection of natural features and areas for the long term and Section 2.1.7 does not permit development or site alteration in habitat of endangered and threatened species except in accordance with provincial and federal requirements. The provided Species at Risk (SAR) assessment concluded that the subject land did not contain SAR or associated habitat.

Section 2.3.1 of the PPS protects agriculture for long-term use. Section 2.3.3.1 specifies that permitted uses in prime agricultural areas include agricultural uses, agriculture-related uses and on-farm diversified uses. Section 2.3.3.3 specifies that new land uses in prime agricultural areas shall comply with the minimum distance separation formulae.

Policy 2.3.6.1 of the PPS specifies that permitted non-agricultural uses in prime agricultural areas are limited to limited non-residential uses, provided all of the following are demonstrated:

1. The land does not comprise a specialty crop area;
2. The proposed use complies with the minimum distance separation formulae;
3. There is an identified need within the planning horizon provided for in PPS Policy 1.1.2 for additional land to be designated to accommodate the proposed use; and
4. Alternative locations have been evaluated, and
 - i. There are no reasonable alternative locations which avoid prime agricultural areas; and
 - ii. There are no reasonable alternative locations in prime agricultural areas with lower priority agricultural lands.

Under Policy 2.3.6.2 of the PPS, impacts from any new or expanding non-agricultural use on surrounding agricultural operations and lands are to be mitigated to the extent feasible.

The applicant has submitted an Agricultural Impact Assessment with MDS calculations, which evaluates the proposed development in the context of the above criteria and concludes that a nominal amount of agricultural land will be lost for the farming operations and the area of the proposed use is the most suitable to accommodate the proposed development. In addition, the proposed development meets all required MDS setbacks.

Although many aspects of the proposed application appear to meet the above criteria, further evaluation is required to demonstrate consistency with the PPS.

Official Plan Conformity:

The subject lands are designated Prime Agricultural with a small portion, which follows a watercourse, designated Environmental Protection within the City of Kawartha Lakes Official Plan (Official Plan). The northeast portion of the property also contains a key natural heritage feature, being significant woodlands. The proposed use is within the Prime Agricultural designation. Portions of the subject property are located within an area regulated by Kawartha Conservation. Kawartha Conservation previously advised through the preconsultation process that the location of the proposed development appears to be outside of their regulated area and outside of natural heritage features and hazards.

Sections 15.1 and 15.2 of the Official Plan provides that agricultural land that is primarily class 1-3 shall be protected from fragmentation, development and land uses

unrelated to agriculture. One of the objectives of the Official Plan is to strengthen the viability of the agricultural industry sector and to support farming operations as an important component of the economy, a source of employment and a way of life for many rural residents. Section 15.3 permits secondary uses within the Prime Agricultural designation.

Conformity with the Official Plan will be established through the further review of the application.

Zoning By-law Compliance:

The subject land is zoned Agricultural (A1) Zone in the Township of Emily Zoning By-Law 1996-30, as amended. The A1 Zone permits agricultural and related uses, home occupations and agricultural storage facilities but does not permit the proposed use. The applicant has submitted a Zoning By-law Amendment application for consideration to amend a portion of the A1 Zone to permit a private school. Staff are reviewing whether any other amendments to zoning provisions are required to facilitate the construction of the proposed private school and to limit the size of the facility.

The pre-consultation comments specified that site plan approval is required for this development though it would be limited to a plans only approval. It is anticipated that any site-specific zone provisions shall be developed to address these items, which would require a holding provision.

Other Alternatives Considered:

No alternatives have been considered at this time.

Alignment to Strategic Priorities:

The Council Adopted 2020-2023 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 aligns with the Exceptional Quality of Life priorities as it provides opportunities and support for the Mennonite farming community and agricultural lifestyle.

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.

Servicing Comments:

A drilled well and a septic system is proposed within the area to be rezoned to support the proposed private school and will be approved through the site plan approval stage.

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, an inquiry was received from J. Goudie of 925 Centreline Road, requesting further information and to clarify the extent of the rezoning application.

Agency Review Comments:

On March 14, 2022, the HKPR District Health Unit advised that the water system requires a risk assessment to be conducted to identify if Ontario Regulation 319/08 or Ontario Regulation 170/03 is applicable.

On March 15, 2022, the Building and Septic Division provided building comments advising that on site water for fire fighting may be required, and the proposed development will require a building data matrix and will be subject applicable development charges. The final septic design will be approved through the site plan approval stage. Otherwise, they have no concerns with respect to this application.

On March 18, 2022, Enbridge Gas Inc. advised that it does not object to the proposed application however, we reserve the right to amend our development conditions.

On March 24, 2022, the Engineering and Corporate Assets Department advised they had no objection to the proposed zoning by-law amendment. They request further details to clarify elevations illustrated on the Grading Plan during the site plan approval stage.

On March 24, 2022, the Community Services Department advised they have no concerns or comments with respect to the application.

Development Services – Planning Division Comments:

Planning Staff are reviewing the policies of the Growth Plan, PPS, the City's Official Plan and the direction provided by the OMAFRA Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas in order to further evaluate the applications. The PPS specifies criteria that permitted non-agricultural uses in prime agricultural areas are limited to limited non-residential uses, the land does not comprise a specialty crop area; the proposed use complies with the minimum distance separation formulae; there is an identified need; and there are no reasonable alternative locations which avoid prime agricultural and lower priority agricultural lands. In addition, the PPS specifies that impacts from any new or expanding non-agricultural use on surrounding agricultural operations and lands are to be mitigated to the extent feasible.

The background information, which has been submitted in support of the application, has been 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 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:

As a result of continuing evaluation, Staff respectfully 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.

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 – Location Map



Appendix 'A'
PLAN2022-022.pdf

Appendix B – Aerial Map



Appendix 'B'
PLAN2022-022.pdf

Appendix C – Proposed Zoning By-law Amendment Site Plan Sketch



Appendix 'C'
PLAN2022-022.pdf

Department Head email: rholy@kawarthalakes.ca

Department Head: Richard Holy, Director of Development Services

Department File: D06-2022-005