



Planning Advisory Committee Report

Report Number:	PLAN2022-038
Meeting Date:	June 8, 2022
Title:	City of Kawartha Lakes Official Plan Amendment and Township of Emily Zoning By-law Amendment for 689 Cottingham Road, geographic township of Emily
Description:	To amend the City of Kawartha Lakes Official Plan and Township of Emily Zoning By-law to permit a trailer sales and storage use on the subject property
Type of Report:	Regular Meeting
Author and Title:	Jonathan Derworiz, Planner II

Recommendations:

That Report PLAN2022-038, **City of Kawartha Lakes Official Plan Amendment and Township of Emily Zoning By-law Amendment for 689 Cottingham Road, geographic township of Emily**, be received for information;

That an Official Plan Amendment respecting application D01-2020-009, substantially in the form attached as Appendix D to Report PLAN2022-038, be approved and adopted by Council; and

That a Zoning By-law Amendment respecting application D06-2020-028, substantially in the form attached as Appendix E to Report PLAN2022-038, be approved and adopted by Council.

Department Head: _____

Legal/Other: _____

Chief Administrative Officer: _____

Background:

The statutory public meeting was held by the Planning Advisory Committee on January 13, 2021. The following resolution was passed:

PAC2021-003

Moved By: Councillor Seymour-Fagan

Seconded By: Mayor Letham

That Report PLAN2021-002, **respecting Part of Lot 19, Concession 3, geographic Township of Emily, Edward Grass – Applications D01-2020-009 and D06-2020-028**, be received; and

That Report PLAN2021-002 respecting Applications D01-2020-009 and D06-2020-028 be referred back to staff to address 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.

Carried

This report addresses the above resolution.

The applications for the proposed amendments attracted considerable interest from the community with residents expressing concerns, both written and oral, leading up to and at the Public Meeting. Following further requests for proposal details, ongoing discussions with the consultant, and internal review, staff accept the submitted applications and feel that the proposals align with applicable planning policies.

The land identified as 689 Cottingham Road in the former Township of Emily (Emily) is owned by Edward Grass and designated Rural and Prime Agricultural under the City of Kawartha Lakes Official Plan (Official Plan) (Appendix A). The Official Plan also applies Natural Heritage Feature designations including deer wintering area, wetlands, woodlands, and provincially significant waterway. This property is zoned Environmental Protection and Agricultural under the Township of Emily Zoning By-law No. 1996-30.

Proposed by the owner is to amend the Official Plan and Zoning By-law to permit use of the site as a recreational trailer sales and storage facility.

Owner: William Edward Grass

Applicant: EcoVue Consulting Services Inc. (c/o Kent Randall)

Legal Description: Part Lot 19, Concession 3, geographic Township of Emily

Official Plan: Prime Agricultural and Rural – City of Kawartha Lakes Official Plan

Zone: Agricultural (A1) Zone and Environmental Protection (EP) Zone on Schedule 'A' of the Township of Emily Zoning By-law No. 1996-30

Lot Area: 39.66 hectares

Site Servicing: Private septic and water

Existing Uses: Single detached dwelling, accessory building and agricultural uses

Adjacent Uses: North: Highway 7; Agricultural
East: Agricultural
South: Cottingham Road; Agricultural
West: Agricultural

Rationale:

Proposal:

The proposal consists of establishing a trailer sales and storage use on the subject property that would display trailers both outdoors and within an existing detached accessory building (Appendix B). A sales office, display models and small amount of retail trailer accessories would be located within the accessory building while storage of trailers would be outdoors as shown on Appendix B. Trailer types offered for sale would include open and enclosed trailers as well as recreational trailers. Ancillary retail would consist of wheels, lights, and other accessories. Small-scale installations or repairs will also be conducted within the existing accessory building. In total, approximately 0.20 hectares of the 39.66-hectare site would be utilized for the proposal with the balance of the site continuing to be used for agriculture and residential. This includes both outdoor storage and the uses conducted within the detached accessory building. It should be clarified that the owner does not intend to use the site for the outdoor storage of people's trailers. Outdoor storage merely relates to the storage of business inventory.

In order to permit use of the site as outlined above, an Official Plan amendment is required as the portion of the site containing the proposed use is designated Rural which does not permit the sales and storage of recreational trailers.

In conjunction with the Official Plan amendment application, a rezoning application has been submitted to implement the proposed amendment. The subject portion of the site is currently zoned Agricultural (A1) Zone, which does not permit the use as described. By way of a rezoning of A1 Zone to A1-X Zone, the applicant has applied to permit these uses.

In support of these applications, the applicant has submitted the following documentation and studies which have been referred to City departments and outside Agencies for review:

1. Official Plan Amendment and Zoning By-law Amendment Applications received September 17, 2020.
2. Planning Justification Report prepared by EcoVue Consulting Services Inc., September 2020, revised January 2022. This report describes the subject lands, current and proposed uses, and frames the proposed amendments in the context of the Provincial Policy Statement (2020), Growth Plan for the Greater Golden Horseshoe (2019), City of Kawartha Lakes Official Plan (2012), and, By-law 1996-30, Township of Emily Zoning By-law. In summary, this Report aims to support the proposed amendments.
3. Sewage System Assessment prepared by EcoVue Consulting Services Inc. September 2020. This assessment reviewed the septic permit for the site issued in 2016 in consideration of the proposal and concluded that no upsizing of the septic tank or filter bed is necessary.
4. Traffic Study Report prepared by Tranplan Associates. August 2020. This report provides an analysis of the anticipated traffic impacts of the proposed use on Cottingham Road and the existing site entranceway. Following peer-review of the report, it was concluded that a widening of the entrance to the site is required to accommodate truck and trailer turning radii. This will be addressed during the site plan process.
5. Concept Plan with Lot Grading Plan prepared by EcoVue Consulting Services Inc. September 2020, last revised September 2021.
6. Agricultural Brief and Minimum Distance Separation Review prepared by Clark Consulting Service. March 12, 2021, last revised October 14, 2021. This report provides an analysis of the potential impacts to surrounding agricultural operations from the proposed use and a minimum distance separation evaluation. Findings conclude that minimal impacts to existing agricultural operations will occur and that the requirements of the MDS are complied with.

Provincial Policy Conformity:

Provincial Policy Statement, 2020:

The Provincial Policy Statement, 2020 (PPS) sets the policy foundation for regulating development and land use planning in Ontario. A harmony among economic development, resources, public health and safety, and the quality of the natural and built environment is facilitated through the policies contained in this document.

A key component of the policy review for these applications is the consideration of the proposal as an on-farm diversified use. As per the PPS, on-farm diversified uses are defined as, "Uses that are secondary to the principal agricultural use of the property, and are limited in area. On-farm diversified uses include, but are not limited to, home occupations, home industries, agri-tourism uses, and uses that produce value-added agricultural products. Ground-mounted solar facilities are permitted in prime agricultural areas, including specialty crop areas, only as on-farm diversified uses." Following extensive policy review, evaluation of materials submitted since the Public Meeting, and review of Ontario Ministry of Agricultural, Food, and Rural Affairs' (OMAFRA) Publication 851: Guidelines for Permitted Uses in Ontario's Prime Agricultural Areas, staff feel that the uses described align with this definition. Therefore, the proposed amendments demonstrated conformity with the PPS in the following ways.

As the subject site is outside of a Settlement Area, Rural Lands policies under section 1.1.5 are applied. Permitted under this designation, as per 1.1.5.2.d), are agricultural uses, agriculture-related uses, on-farm diversified uses and normal farm practices, in accordance with provincial standards. As stated above, staff are in support of considering this use as an on-farm diversified use. The materials submitted in support of the application further demonstrate conformity with Section 1.1.5 as it has been indicated that the proposed development can be sustained under rural services levels and do not warrant expansion of existing infrastructure. Section 1.1.5.7 states that, "opportunities to support a diversified rural economy should be promoted by protecting agricultural and other resource-related uses and directing non-related development to areas where it will minimize constraints on these uses." Staff feel that the proposed use does diversify the rural economy in a manner that is not intrusive to established agricultural uses. The footprint of the proposed outdoor component is minimal and does not intrude on neighbouring farming operations. With regards to traffic and transportation-related concerns, the supported studies have been peer-reviewed and accepted.

Section 1.6.6 Sewage, Water and Stormwater contains policies that address the need for adequate private servicing where municipal services are not available. As demonstrated in the supporting materials, the existing private servicing is sufficient. Therefore, the applications conform to this section.

This application was circulated to the Otonabee Region Conservation Authority (ORCA) as this agency has Regulated Area within the site boundaries. The review by ORCA concluded that since this property is not within any known flood plain or erosion hazard, it is consistent with Section 3.1 of the PPS. Staff acknowledge that a Provincially Significant Wetland is located on site however, it is approximately 173 metres from the area proposed for the uses. As such, further natural hydrologic evaluation is not required and the applications are consistent with sections 2.1.4, 2.1.5, 2.1.7, and 2.1.8 of the PPS.

Staff note that Section 2.3 Agriculture of the PPS contains policies pertaining to protecting agricultural lands for agricultural uses as well as on-farm diversified uses. However, this section dedicates provisions to Prime Agricultural lands. While this site does contain some Prime Agricultural designation, the area proposed to be used does not fall under this designation. As such, Section 2.3 does not apply.

Ontario Ministry of Agriculture, Food, and Rural Affairs: Guidelines on Permitted Uses in Ontario's Prime Agricultural Areas (2016)

To assist in the evaluation of the proposed uses and their conformity with applicable policies as an on-farm diversified use, staff consulted OMAFRA's Publication 851: Guidelines for Permitted Uses in Ontario's Prime Agricultural Areas which provides clarification on policies and criteria for evaluating on-farm diversified uses. Important to note is that while the document primarily pertains to Prime Agricultural lands, there is consideration for Rural lands: "Policy 1.1.5.8 of the PPS states that, 'agricultural uses, agriculture-related uses, on-farm diversified uses and normal farm practices should be promoted and protected on rural lands in accordance with provincial standards.' In this context, the provincial standards include the PPS policy that these guidelines support." Publication 851 further clarifies that, "permitted uses on rural lands are more permissive than in prime agricultural areas."

There are key criteria informed by the PPS that an on-farm diversified use must meet to be considered as such. The use must be:

1. Located on a farm;
 - The subject lands are currently being used for residential and agricultural purposes.
2. Secondary to the principal agricultural use of the property;
 - The secondary nature of a use is measured in spatial and temporal terms. Spatial consideration is elaborated in the third criteria while temporal consideration relates to uses that are temporary or intermittent. The applicant has described that the intent of the proposed use is to operate as a type of incubator for a trailer sales business and that a larger, more permanent location will be sought as the business grows. Staff are of the opinion that the use and tenure as described aligns with the temporal guidelines prescribed by Publication 851. That is:
 - Little-to-no agricultural land will be permanently displaced.
 - No grading or on-site drainage is required.
 - Land used for outdoor trailer storage is easily returned to agriculture.
 - Compatibility requirements with servicing, transportation and noise are maintained.
 - There are minimal impacts to the site itself and surrounding agricultural operations, as described in the rest of this report.
3. Limited in area;
 - In order to quantify the spatial implications, Publication 851 recommends that, "on-farm diversified uses may occupy no more than 2% of the property on which the uses are located, to a maximum of 1 ha." The subject property is approximately 39.7 hectares and the proposed use (outdoor storage, space within existing detached accessory building, and parking for use) would occupy approximately 2283.8 m² or less than 1% of the property.
4. Included, but not limited to, home occupations, home industries, agri-tourism uses and uses that produce value-added agricultural products; and
 - The PPS is intentionally flexible in the contemplation of what may or may not be suitable as an on-farm diversified use. For a use that may not explicitly relate to agriculture, such as the proposed trailer sales and storage establishment, provided that the use meets the criteria described above, it may be permitted on Prime Agricultural lands. Considering that the proposed use meets the above criteria and is

proposed on Rural lands, which are generally more permissive, staff feel that this criteria is satisfied.

5. Be compatible with, and not hinder, surrounding agricultural operations.
 - In consideration of the above and following review of the Agricultural Impact Brief, MDS calculations and further review of the application, staff do not feel that the proposal will hinder surrounding agricultural operations.

A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019:

In order to plan for growth and development in a manner that supports economic prosperity, protects the environment, and assists communities in achieving a high quality of life, the Ontario government prepared A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 (Growth Plan).

Generally, the Growth Plan is supportive of on-farm diversified uses provided that there are no implications for key natural heritage features, key hydrologic features, or key hydrologic areas. As described above, the proposed use does not affect any of these key features or areas. Furthermore, ORCA has indicated that following review of the submission, the applications conform to Section 4.2.4 Lands Adjacent to Key Hydrologic Features and Key Natural Heritage Features.

City of Kawartha Lakes Official Plan, 2012:

The City of Kawartha Lakes Official Plan, 2012 (Official Plan) provides the municipal framework for planning decisions within the City of Kawartha Lakes.

689 Cottingham Road is designated Prime Agricultural and Rural under the Official Plan. Trailer sales and storage uses are not explicitly permitted in either of these designations, therefore, an amendment to the Official Plan has been applied for.

As described in previous sections of this report, the proposed use is sited within the Rural portion of the property. As per the Official Plan, the primary use in this designation is to be agriculture in the form of ranching and forestry and, where farming uses exist, new uses that are compatible with and not hindering the agricultural use will be permitted (Section 16.3). As outlined in the Agricultural Impact Brief, which provides a review of existing farming operations in the vicinity, Traffic Study Report, and Planning Justification Report submitted in support of these applications, there will be minimal impacts to surrounding agricultural uses. Staff have accepted the analysis provided in these reports and do not believe that the proposed use will result in a

hindrance to neighbouring farms. Furthermore, as part of the Agricultural Impact Brief, a Minimum Distance Separation Formulae analysis was conducted that concluded the proposal complies with MDS criteria. This is in conformity with 16.3.2. of the Official Plan.

Staff feel that the criteria used to vet on-farm diversified uses described in this Report can be utilized to determine the suitability of the proposed use in the Rural area. Fundamentally, the criteria provided in Publication 851 require a use to demonstrate compatibility with an established agricultural area and require limiting size and scale to do so. Considering the proposal meets these criteria, staff feels that the Official Plan policies related to the balance of protection of rural character, agricultural lands and economic development are compiled with.

This property contains Natural Heritage Features including a deer wintering area, wetlands, woodlands, and provincially significant waterway. As described in previous sections of this report, the siting of the proposed use is away from these features and is therefore consistent with policies and objectives pertaining to the conservation of such features prescribed by the Official Plan (Part B, Section 3.2).

Township of Emily Comprehensive Zoning By-law 1996-30

The subject site is currently zoned Agricultural (A1) Zone and Environmental Protection (EP) Zone as per the Zoning By-law with the portion of the site containing the proposed use zoned as the former. As described above, the A1 Zone does not permit the proposed uses. To permit the proposed uses, limit the area to which the proposed use can occur, and apply zone provisions, staff support the application of an exception zone to the specific area where the use will be sited.

Other Alternatives Considered:

No other alternatives have been considered.

Alignment to Strategic Priorities:

In line with the Strategic Priority of a Vibrant and Growing Economy, the proposed amendment would facilitate a small commercial use suitable for an agricultural area on Rural lands.

Practice of the Strategic Priority of Good Government is conducted through this application as Staff continue to evaluate applications diligently and promote continuous improvement in all steps of the land use planning process.

Financial/Operation Impacts:

There are no financial or operational impacts pertaining to the proposed amendments. Costs would be incurred in the event of an appeal to the Ontario Land Tribunal of the decision made by Council.

Consultations:

Notice of this application was circulated to persons with a 500 metre radius of the properties in December, 2020, and a Public Meeting was held at the January 13, 2021 Planning Advisory Committee meeting. 45 items of correspondence were received following the notification detailing opposition to the proposed amendments. Generally, concerns pertained to the following:

- Increase in traffic along Cottingham Road.
- A commercial land use being introduced into an established agricultural and rural area.
- Potential impacts to farming operations in the area.
- Potential impacts to property values of neighboring properties.
- Potential impacts to provincially significant water located nearby.

In response to the above, the consultant provided the memo included as Appendix C. Staff accept the responses provided.

Agency Review Comments:

Building Division (December 15, 2020): No concerns with the applications.

Alderville First Nation (December 16, 2020): No concerns with the applications.

Development Engineering Division (December 17, 2020): No concerns with the applications.

Ministry of Transportation (January 4, 2021): No concerns with the applications. A permit from this agency will be required as part of the municipal building permit application.

Otonabee Region Conservation Authority (January 8, 2021): the applications are consistent with applicable sections of the PPS and Growth Plan. Permits are not required from this agency.

Development Services – Planning Division Comments:

Following further reviews of the applications, applicable policy and guidelines, ongoing discussions with the consultant, and internal discussions, staff feel that the applications are in conformity with the PPS, Growth Plan, OMAFRA's Publication 851, and Official Plan. Key components of this determination are the conclusions made in the supporting materials and evaluation of the proposal as it aligns with on-farm diversified use policies.

The proposal will also be subject to site plan approval and the owner will need to enter into a site plan agreement to the City's satisfaction to include the following items:

1. The location of the activity on the property will be limited through zoning and further defined through the site plan.
2. The area used to the outdoor storage of trailers shall be defined and not be permitted to be graveled so it can be returned to agricultural operation should the use cease on the property.
3. The driveway will be realigned and widened in accordance with the recommendations of the traffic impact study as peer reviewed by the City.
4. The operation will use a portion of the existing agricultural buildings in order that they can still be used in part to support the agricultural uses on the property.
5. The area used for parking will also be shown on the site plan.

Conclusion:

Staff recommends that the Official Plan Amendment and Zoning By-law Amendment applications to facilitate the use of part of the subject site as a trailer sales and storage use be approved.

Attachments:

Appendix 'A' – Location Plan



Appendix A.pdf

Appendix 'B' – Site Plan



Appendix B.pdf

Appendix 'C' – Consultant responses to public comments



Appendix C.pdf

Appendix 'D' – Amending Official Plan By-law



Appendix D.pdf

Appendix 'E' – Amending Zoning By-law



Appendix E.pdf

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Department Head: Richard Holy, Director of Development Services

Department File: D01-2020-009 and D06-2020-028