



Council Report

Report Number: PLAN2022-046
Meeting Date: July 19, 2022
Title: PLAN2022-046
Description: Application to amend the Township of Eldon Zoning By-law to remove the Holding One (H1) symbol and Application for a Condominium Description Exemption to permit a 41 unit Vacant Land Plan of Condominium on vacant land on Centennial Park Road, Geographic Township of Eldon
Type of Meeting: Public Meeting
Author and Title: Sherry L. Rea, Development Planning Supervisor, RPP, MCIP

Recommendations:

That Report PLAN2022-046, **Amend the Eldon Zoning By-law 94-14 and an Application for Condominium Description Exemption on vacant land on Centennial Park Road – Canal Lake Waterfront Properties Corp.**, be received;

That an Application for Condominium Description Exemption filed by Patrick Harrington, of Aird & Berlis LLP, on behalf of Canal Lake Waterfront Properties Corp. for a 41 unit plan of vacant land condominium being Part Lots 22 and 23, North Portage Road and Part of Lots 31 and 32, Concession 4, geographic Township of Eldon, now City of Kawartha Lakes and being vacant land on Centennial Park Road, be approved and adopted by Council;

That the Zoning By-law, respecting application D06-2022-018, to remove the Holding One (H1) symbol be forwarded to Council for approval at such time as the Amending Site Plan Agreement has been registered and any outstanding conditions have been cleared; and

That the Mayor and Clerk be authorized to execute any documents and agreements required by the approval of this application.

Department Head: _____

Legal/Other: _____

Chief Administrative Officer: _____

Background:

Patrick Harrington of Aird & Berlis LLP on behalf of Canal Lake Waterfront Properties Corp. has filed an Application for a Condominium Description Exemption under c.19, s.9(3) and (6) of the Condominium Act, Ontario for a proposed seasonal residential Plan of Vacant Land Condominium on Centennial Park Road, geographic Township of Eldon. The application is also to remove the Holding One (H1) provision from the Environmental Protection Exception Two Holding One [EP-2(H1)], Tourist Commercial Exception One Holding One [C3-1(H1)] Tourist Commercial Exception Two Holding One [C3-2(H1)] and Tourist Commercial Exception Three Holding One [C3-3(H1)] Zones which regulate the development of the subject land. See Appendix A and B attached.

Owner:	Canal Lake Waterfront Properties Corp.
Applicant:	Patrick Harrington, Aird & Berlis LLP
Legal Description:	Part of Lots 22 and 23, North Portage Road and Part of Lots 31 and 32, Concession 4, geographic Township of Eldon
Official Plan:	Waterfront and Environmental Protection within the City of Kawartha Lakes Official Plan (2012)
Zones:	Environmental Protection (EP), Environmental Protection Exception Two Holding One [EP-2(H1)], Tourist Commercial Exception One Holding One [C3-1(H1)] Tourist Commercial Exception Two Holding One [C3-2(H1)] and Tourist Commercial Exception Three Holding One [C3-3(H1)] and Agricultural Holding Two (A1)(H2) Zones in the Township of Eldon Zoning By-law 94-14, as amended
Site Size:	29.97 ha. (74 ac.) with 2.81 ha. (7 ac.) for proposed development
Site Servicing:	Private Communal Sewage Disposal Systems and Wells
Existing Use:	Vacant Land
Adjacent Uses:	North, South and East – Canal Lake West – Centennial Park Road

Rationale:

The subject land is located on Centennial Park Road, on a peninsula extending into Canal Lake, in the geographic Township of Eldon. The site is comprised of 29.97 ha of which approximately 2.81 ha. is being considered for a seasonal residential condominium development containing 41 units (lots). The balance of the site contains 2 communal septic beds which are to be common elements of the condominium. The site also includes environmentally sensitive lands to be protected and a portion of those lands which are permitted to contain pathways to access the dock area on the north side of the development. The development will be accessed via a private condominium road and serviced by private communal sewage disposal systems and private communal wells.

On August 29, 2011, Council granted draft plan approval for a Plan of Vacant Land Condominium with conditions. On September 16, 2014, the Director of Development Services changed a number of draft plan conditions and extended draft plan approval to September 19, 2017. On September 15, 2017, the Director of Development Services again changed a number of draft plan conditions based on a change in the servicing scenario for the proposal from a lake draw to private communal systems and extended draft plan approval to September 15, 2019. On September 13, 2019, the Director of Development Services extended draft plan approval to September 15, 2021. Early in 2022, the developer was notified that the draft plan approval had lapsed as the conditions of draft plan approval were not fulfilled and the Director was unable to sign the final plan. In January 2021, the applicant appealed the site plan application to the Ontario Land Tribunal and the developer and staff worked towards a settlement on the required site plan agreement and outstanding draft plan conditions.

Patrick Harrington of Aird & Berlis, on behalf of Canal Lake Waterfront Properties Corp. has filed an Application for a Condominium Description Exemption under c.19, s.9 (3) and (6) of the Condominium Act, Ontario to exempt the description of the Canal Lake Waterfront Properties Corp. land from Sections 51 and 51.1 of the Planning Act, Ontario and allow for the registration of the Vacant Land Condominium Plan. The applicable Acts allow for exemptions provided that certain planning criteria are met such as conformity with the Official Plan and applicable Zoning By-law, the development has previously undergone a public consultation process under the Planning Act and the development has had the benefit of a comprehensive municipal review through a planning application such as Site Plan Approval.

The property is zoned Environmental Protection (EP), Environmental Protection Exception Two Holding One [EP-2(H1)], Tourist Commercial Exception One Holding One [C3-1(H1)] Tourist Commercial Exception Two Holding One [C3-2(H1)] and Tourist Commercial Exception Three Holding One [C3-3(H1)] and Agricultural Holding Two (A1)(H2) Zones on November 27, 2012 by By-law 2012-294 to permit seasonal vacation dwelling units within a plan of vacant land plan of condominium, apply site specific development standards, recognize environmentally protected lands and preserve an area of cultural heritage. The Holding One (H1) symbol was placed to ensure that the owner entered into a site plan agreement with the City prior to any development occurring on the property. A Site Plan Agreement between the City and Canal Lake Waterfront Properties Corp. was registered August 31, 2021 and receipted as KL182197. The City is in receipt of the appropriate securities to ensure completion of the site works and the Site Plan Agreement contains a Servicing Agreement that outlines and secures for the private communal systems.

Provincial Policies:

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

The Growth Plan provides that rural growth should be directed to rural settlement areas. The proposed development will be serviced by private roads and communal sewage disposal systems and private wells owned and operated by the Condominium Corporation. Conformity with the Growth Plan was demonstrated through the site specific zoning by-law and the original draft plan approval for the plan of vacant land condominium.

Provincial Policy Statement, 2020 (PPS)

The Provincial Policy Statement (PPS) provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural environment. The PPS requires planning authorities to manage and direct land use to achieve efficient and resilient development and land use patterns. Consistency with the PPS was demonstrated through the site specific zoning by-law and original draft plan approval for plan of vacant land condominium.

City of Kawartha Lakes Official Plan (Official Plan):

The land is designated Waterfront and Environmental Protection on Schedule A of the City of Kawartha Lakes Official Plan. The proposed development conforms to the applicable policies of the designations.

Zoning By-law Review:

The property being considered by these applications is zoned Environmental Protection (EP), Environmental Protection Exception Two Holding One [EP-2(H1)], Tourist Commercial Exception One Holding One [C3-1(H1)] Tourist Commercial Exception Two Holding One [C3-2(H1)] and Tourist Commercial Exception Three Holding One [C3-3(H1)] and Agricultural Holding Two (A1)(H2) Zones. The Agricultural Holding Two (A1)(H2) applies to the tip of the peninsula and is not subject to the current request to remove the Holding provision. The Holding One (H1) provision was applied to ensure that the owner entered into a Site Plan Agreement with the City prior to any development occurring. The Site Plan Agreement has been registered on title to the property. The Holding Two (H2) provision was to ensure that the owner undertake a Stage III Archeological Assessment and enter into a Site Plan Agreement for any additional development on the property.

Other Alternatives Considered:

The applicant could proceed through the draft plan of condominium approval process. Given that the project has been reviewed by the public, City Departments and various agencies a further process would not provide any further benefit and would not be recommended. No other alternatives have been considered at this time.

Alignment to Strategic Priorities:

For reference the four strategic priorities within the 2020-2023 Kawartha Lakes Strategic Plan are:

1. Healthy Environment
2. An Exceptional Quality of Life
3. A Vibrant and Growing Economy
4. Good Government

This application would align with the healthy environment and exceptional quality of life strategic priorities as it provides alternative seasonal accommodation with access to the recreational resource being Canal Lake while preserving and protecting the surrounding environmentally protected lands.

Financial/Operation Impacts:

There are no financial implications regarding Council's considerations respecting the approval or refusal of the Canal Lake Waterfront Properties Corp. request. The decision to approve or refuse the application for description exemption cannot be appealed.

There are financial implications regarding Council's decision to adopt or refusal to adopt the amendment to remove the Holding One (H1) provision as it can be appealed by the owner; however, staff do not anticipate an appeal based on our conversations with the applicant's solicitor.

Servicing Comments:

The proposed development will be serviced by private communal sewage disposal systems and private communal wells which will be owned and operated by the Condominium Corporation. The City and the Owner entered into a separate servicing agreement for the communal systems that is contained as a schedule in the Site Plan Agreement. The Servicing Agreement ensures the design, construction, operation, maintenance, monitoring and financial security for the privately owned and operated communal water and wastewater systems.

Consultations:

Notice of Council's intention to remove the Holding One (H1) symbol was given in accordance with the Planning Act and at the time of writing this report, no comments were received.

Review of Accessibility Implications of Any Development or Policy:

There are no accessibility implications for the City.

Development Services – Planning Division Comments:

Section 9 (3) and (6) of the Condominium Act, Ontario allows for Condominium Description Exemptions from Sections 51 and 51.1 of the Planning Act, Ontario provided that the following Planning criteria are met:

Conformity with the Official Plan and the applicable Zoning By-law:

The subject land is designated Waterfront and Environmental Protection in City of Kawartha Lakes Official Plan and zoned Environmental Protection (EP), Environmental Protection Exception Two Holding One [EP-2(H1)], Tourist Commercial Exception One Holding One [C3-1(H1)] Tourist Commercial Exception Two Holding One [C3-2(H1)] and Tourist Commercial Exception Three Holding One [C3-3(H1)] and Agricultural Holding Two (A1)(H2) Zones in the Township of Eldon Zoning By-law 94-14, as amended. These are appropriate land use designations and zone categories for the development.

The development has previously undergone a public consultation process under the Planning Act:

The property was the subject land of a zoning by-law amendment in 2012 which was applied for and subject to the public consultation process under the Planning Act.

The development has had the benefit of a comprehensive municipal review through a planning application such as Site Plan Approval.

A Site Plan Agreement between the City and Canal Lake Waterfront Properties Corp. was registered August 31, 2021 and receipted as KL182197. The City is in receipt of the appropriate securities to ensure completion of the site works and a Servicing Agreement was included as a schedule in the Site Plan Agreement that ensures operation, maintenance and monitoring of the private systems.

The applicant has demonstrated that the above planning criteria have been met and that upon Council's approval of the application, the Certificate of Exemption may be signed by the Director and the Condominium Plan registered.

In reviewing the applicant's request, it is recognized that while the Site Plan Agreement process has been completed and the Agreement registered, there remains a number of conditions of the lapsed draft plan of condominium approval that have not been fulfilled. Staff is proposing to have the Holding One (H1) provision remain in place until such time that the remaining clearance letters have been received from Agencies and that an Amending Site Plan Agreement be in place to address any other outstanding

draft plan conditions from the lapsed approval that are required to address the details of development. These items would include the following:

1. Clearance letter from Hydro One Networks Inc. confirming that all requirements, financial and otherwise have been met to facilitate the extension of electrical servicing to the lands.
2. Clearance letter from Lake Simcoe and Region Conservation Authority regarding the submission and acceptance of a phosphorus budget and a water budget in accordance with the Lake Simcoe Protection Plan policies and any compensatory measures if required.
3. That a qualified professional confirm the requirement to decommission any abandoned wells and any existing septic systems on the property in compliance with the requirements of the Ministry of the Environment and Climate Change.
4. That the owner submit a Phase 1 Environmental Assessment prepared by a qualified professional and should the Phase 1 Environmental Assessment demonstrate the requirement for a Phase 2 Environmental Assessment, then a Record of Site Condition will be required, which will include written confirmation from a qualified professional that the recommendations of such Record of Site Condition have been implemented and completed to the satisfaction of the Ministry of Environment and Climate Change. Any existing Assessments need to be updated to 2022.
5. An Amending Site Plan Agreement to include "Special Warnings and Notices" clauses advising of the existence of the City's Noise By-law and warning that construction activities within the vacant land condominium may be subject to regulation and/or restrictions thereunder noise clause and the inclusion of any street signage recommendations from the Transplan traffic study regarding signage at the Canal Lake Arch Bridge and that sightlines and design standards are implemented with the intersection of Kawartha Lakes Road 33.

Conclusion:

The applicant has demonstrated that the proposed development of 41 seasonal residential units has been the subject of appropriate planning applications, public consultation and municipal review that provide support for the request for a Condominium Description Exemption. The application for removal of the Holding One (H1) symbol conforms to the Growth Plan and is consistent with the Provincial Policy

Statement. The application also conforms to the policies of the City of Kawartha Lakes Official Plan.

Staff support these applications based on the information contained in this report and as such, respectfully recommends that the application for Condominium Description Exemption be approved. In addition Staff respectfully recommends that the proposed Zoning By-law application to remove the Holding One (H1) symbol not be supported at this time but be forwarded to Council for approval once the Amending Site Plan Agreement and any outstanding conditions have been cleared.

Attachments:

The following attached documents may include scanned images of appendices, maps, and photographs. If you require an alternative format, please call Sherry L. Rea, Development Planning Supervisor 705.324.9411 x1331.

Appendix A – Location Map



PLAN2022-046
Appendix A Location I

Appendix B – Approved Site Plan



PLAN2022-046
Appendix B Approved

Appendix C – Victoria Vacant Land Condominium Plan Level 1



PLAN2022-046
Appendix C Victoria C

Department Head email: rholy@kawarthalakes.ca

Department Head: Richard Holy, Director of Development Services

Department Files: D04-2022-001 and D06-2022-018