



## Planning Advisory Committee Report

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<b>Report Number:</b>	<b>PLAN2022-058</b>
<b>Meeting Date:</b>	September 14, 2022
<b>Title:</b>	<b>Amend the Township of Fenelon Zoning By-law 12-95 at 10 Goodman Road – Hunt Homes Inc.</b>
<b>Description:</b>	To rezone the eastern portion of the property from the Tourist Commercial (C3) Zone and Hamlet Residential (HR) Zone to a Hamlet Residential (HR-*) Exception Zone to permit the redevelopment of an existing dwelling and establish applicable development standards to recognize reduced water setbacks and to rezone the western half of the property from the Tourist Commercial (C3) Zone to a Hamlet Residential (HR) Zone to permit a future residential use
<b>Type of Report:</b>	Regular Meeting
<b>Author and Title:</b>	Mark LaHay, Planner II, MCIP, RPP

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### Recommendations:

**That** Report PLAN2022-008, **Part of Lot A and Lot B, Plan 115, geographic Township of Fenelon, City of Kawartha Lakes, identified as 10 Goodman Road, Hunt Homes Inc. – D06-2021-032**, be received;

**That** a Zoning By-law, respecting application D06-2021-032, substantially in the form attached as Appendix 'D' to Report PLAN2022-058 be approved for adoption by Council; 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:**

The statutory public meeting was held by the Planning Advisory Committee on February 9, 2022, which adopted the following recommendation:

### **PAC2022-008**

**Moved By** Mayor Letham

**Seconded By** J. Willock

**That** Report PLAN2022-008, **Part of Lot A and Lot B, Plan 115, geographic Township of Fenelon, City of Kawartha Lakes, identified as 10 Goodman Road, Hunt Homes Inc. – D06-2021-032**, 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.

**Carried**

At the Council Meeting of February 22, 2022, Council adopted the following resolution:

### **CR2022-030**

**Moved By** Councillor O'Reilly

**Seconded By** Councillor Dunn

**That** the Minutes of the February 9, 2022 Planning Advisory Committee Meeting be received and the recommendations, included in Section 10.3 of the Agenda, be adopted.

**Carried**

This report addresses that direction.

Proposal: To rezone the eastern portion of the property from the Tourist Commercial (C3) Zone and Hamlet Residential (HR) Zone to a Hamlet Residential (HR-\*) Exception Zone to permit the redevelopment of an existing dwelling and establish applicable development standards to recognize reduced water setbacks and to rezone the western half of the property from the Tourist Commercial (C3) Zone to a Hamlet Residential (HR) Zone to permit a residential use. The effect of the amendment will facilitate the redevelopment of the subject land to permit an existing seasonal dwelling to be replaced with a new dwelling with specific standards for reduced water setbacks on the eastern

half of the property along with permitting a residential use on the western half of the property. This will be facilitated through a future application to create a new waterfront residential lot.

Owner:	Hunt Homes Inc. (c/o Stephen Hunt)
Applicant:	D.M. Wills Associates Limited c/o Diana Keay
Legal Description:	Part of Lot A and Lot B, Plan 115, geographic Township of Fenelon
Official Plan:	Hamlet Settlement Area within the City of Kawartha Lakes Official Plan
Zoning:	Tourist Commercial (C3) Zone and Hamlet Residential (HR) Zone in the Township of Fenelon Zoning By-law 12-95, as amended
Site Size:	0.575 hectares (1.42 acres – MPAC)
Site Servicing	Private individual well and septic system
Existing Uses:	Residential
Adjacent Uses:	North: Balsam Lake/Residential/Tourist Commercial East: Residential/Highway 35/Trent Canal South: Goodman Road/Agricultural/Commercial West: Residential/Institutional/Tourist Commercial

## **Rationale:**

The owner has applied to permit an existing seasonal dwelling to be replaced with a new dwelling with specific standards for reduced water setback standards on the eastern half of the property along with permitting a future residential use on the western half of the property to be facilitated through a subsequent application process to create one new waterfront residential lot. The subject property is located within a Hamlet Settlement Area of Rosedale and contains an existing seasonal dwelling and boathouse constructed in the 1930s and three cabins that were previously used as seasonal cottages within the Tourist Commercial (C3) Zone that were constructed in the late 1960s according to the submitted application (see Appendix 'C').

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 2021 prepared by D.M. Wills Associates Limited, 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, consolidated 2020), the City of Kawartha Lakes Official Plan, 2012 (Official Plan) and the Township of Fenelon Zoning By-law 12-95 and includes a draft zoning by-law amendment and schedule.
2. Stage 1 & 2 Archaeological Assessment dated August 1, 2019 prepared by Earthworks Archaeological Services Inc., which concluded the study area does not contain archaeological potential due to subsurface disturbance, and as a result, no further archaeological assessments are recommended.
3. Scoped Environmental Impact Assessment dated February 2020 followed by an addendum dated December 2020 prepared by D.M. Wills Associates Limited to evaluate in part the impacts of a proposed waterfront lot consent application. An Environmental Impact Study Addendum Memo dated September 17, 2021 prepared by D.M. Wills Associates Limited reflects the current waterfront redevelopment proposal to replace the existing dwelling and create a new septic system away from the waterfront to replace a holding tank that currently resides adjacent to the boathouse. The addendum memo provides recommended environmental protection and mitigation measures including the provision of an erosion sediment control plan and fence, utilization of low impact development features such as grass swales and rain gardens and directing downspouts to vegetated areas to manage infiltration to groundwater, keeping construction activity outside breeding bird season and installation of exclusionary fencing prior to and for the duration of the turtle nesting season.
4. Karst Investigation Report dated September 2021 prepared by D.M. Wills Associates Limited to evaluate any development constraints, and identify possible mitigation measures, as required. The Report summarized that significant karst features and associated hazards were not identified during the course of the investigation. It was concluded that karst topography is not expected to pose any constraints on the subject property with respect to the proposed development.
5. Hydrogeological and Site Servicing Assessment dated May 2020, prepared by D.M. Wills Associates Limited.
6. Shallow Groundwater Investigation Report date May 2020, prepared by D.M. Wills Associates Limited.
7. Site Plan dated March 2021 prepared by David Small Designs illustrating the proposed location of the replacement dwelling and garage and new septic system.
8. Lot Grading Plan dated June 23, 2021 prepared by D.M. Wills Associates Limited.
9. Architectural Elevations, Floor and Roof Plans and Details dated March 2021 prepared by David Small Designs.

10. Topographic Survey Plan prepared by Coe Fisher Cameron, Ontario Land Surveyor dated October 1, 2019.

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

### **Applicable Provincial Policies:**

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

The 2019 Growth Plan (GP) directs development to settlement areas except where the policies of the Plan permit otherwise.

The proposed development is located within the Rosedale hamlet settlement area. The GP envisions increasing intensification of the existing built-up area and providing a diverse range and mix of housing options. This application facilitates the efficient use of existing infrastructure within a designated settlement area and contributes to the achievement of complete communities and compact built form.

The proposed development is within 120 metres of a key natural heritage feature within the Natural Heritage System, being fish habitat and within 120 metres of a key hydrologic feature, being Balsam Lake. As the subject land is located outside of the Natural Heritage System mapping prepared by the Province, the policies regarding natural heritage and lands adjacent to key hydrologic features do not apply as the property is located within a settlement area boundary.

As such, the application appears to conform to the policies of the 2019 Growth Plan.

#### **Provincial Policy Statement, 2020 (PPS):**

The 2020 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.

Rural settlement areas are the focus of growth, including redevelopment, which utilizes existing available or planned infrastructure. Consideration is given to rural characteristics, the scale of development and the provision of appropriate service levels.

Section 1.6.6.4 permits individual on-site water and sewage systems provided that site conditions are suitable for the long-term provision of such services with no negative impacts.

Development and site alteration shall be directed in accordance with the policies of Section 2 and 3 of the PPS.

Section 2.1 of the PPS provides policy with respect to the Wise Use and Management of Resources to protect Natural Heritage features. Section 3.1 of the PPS provides policies for protecting public health and safety by directing development away from hazardous lands and sites that may be subject to flooding and/or erosion. With respect to Natural Heritage features, the property is within 120 metres of fish habitat. The proposed use is adjacent to a waterbody, being Balsam Lake. Potential Species at Risk (SAR) and SAR Habitat exist on site including Butternut tree species. Results of the Butternut Health Assessment identify these trees as Category 1 – Non-retainable trees and as such are eligible to be impacted or removed provided the Ministry of Natural Resources and Forestry agrees with the assessment. Portions of the subject property, including where the proposed use is to be located is within an area regulated by Kawartha Conservation.

The applicant has submitted a scoped EIS and EIS addendum as well as a EIS addendum memo that were prepared to review potential impacts of the new proposed development on existing natural heritage features and associated wildlife, including SAR, and were evaluated based on a review of publicly available resources, Kawartha Region Conservation Authority (KRCA) consultation and the results of on-site field investigations. We have circulated the KRCA with respect to the scoped Environmental Impact Study and addendums and the Karst Investigation and received comments to confirm that there will not be any negative impacts on the natural features or their ecological functions nor would there be any concern for SAR and for any natural hazards associated with this application. With respect to human-made hazards under Section 3.2 of the PPS, there is continuing consultation with the applicant, KRCA and MECP to address any further required groundwater monitoring, evaluation, mitigation or remediation measures are implemented to reduce any potential risk to human and environmental health. The Holding symbol will be used to ensure that these matters are addressed.

In consideration of the above, the application appears to demonstrate consistency with the PPS.

### **Official Plan Conformity:**

The subject lands are designated Hamlet Settlement Area within the City of Kawartha Lakes Official Plan (Official Plan). The goals under Section 19.1 recognize existing hamlets and support their function of providing for limited residential, social and commercial needs of the rural area and to accommodate small-scale residential and

non-residential development within existing settlement areas. The objectives under Section 19.2 maintain the character and amenities of the existing hamlets within the City and ensure that development in hamlets is adequately serviced and does not impact soil, water and other natural resources. The policies under Section 19.3 permit a single detached dwelling adjacent and contiguous to existing development in keeping with the existing character to the area on a lot of adequate size to ensure an adequate supply of water.

The proposed redevelopment of the subject property that is being contemplated through this zoning by-law amendment is within the 30 metre water setback established by the Official Plan. Notwithstanding this requirement, under the criteria established in Section 3.11.2, an expansion to or reconstruction of existing buildings and structures or dwellings that are permitted uses, and existing lots of record where there is not sufficient area to accommodate this setback, may be considered within the 30 metre setback, if it is demonstrated that:

- There is no alternative to the expansion or reconstruction;
- The expansion or reconstruction and septic system is directed away from the high water mark as much as possible;
- A vegetation protection zone be established to the maximum extent possible;
- The septic system shall be elevated 0.9 m. above the water table;
- The impact of the expansion or reconstruction is minimized to the maximum extent possible; and
- In no case shall it be less than 15 metres to the high water mark.

Taking into consideration the location of the existing dwelling is less than 15 metres from the high water mark, it is not the intent of the policy to extinguish development rights. A number of aspects of the proposed redevelopment appear to comply with the above requirements including improving upon the existing water setback to the extent possible on a reduced depth lot and with an irregular shoreline with a proposed lateral expansion of the proposed replacement dwelling; replacing the holding tank adjacent to the boathouse with a new septic system proposed closer to the road and away from the waterfront in conformity with the Official Plan as well as the Ontario Building Code; and, locating the majority of the proposed development in areas where disturbance and impact to the land has already been established, while maintaining the use of the existing entrance.

With respect to the above, the application generally conforms with the Official Plan.

## **Zoning By-law Compliance:**

The subject land is currently zoned Tourist Commercial (C3) Zone and Hamlet Residential (HR) Zone in the Township of Fenelon Zoning By-Law 12-95, as amended. The C3 Zone permits a cottage establishment use; however, this tourist resort component is no longer active and the cabins have remained vacant and underutilized. The applicant has submitted a Zoning By-law Amendment application for consideration to amend the westerly portion of the property from C3 to HR to permit a future waterfront residential building lot, which will be facilitated with a subsequent application for Official Plan Amendment and Consent. The easterly portion of the property, which is currently zoned C3 and HR, contains the existing dwelling and is proposed to be amended with a HR exception zone while recognizing a reduced environmental protection water setback from 15 metres to approximately 9.3 metres at the east side of the proposed dwelling and to approximately 12 metres at the west side of the proposed new dwelling. It is recommended that a Holding (H) provision be applied to ensure that any further required groundwater monitoring, evaluation, mitigation or remediation measures are implemented to reduce any potential risk to human and environmental health to satisfy the KRCA and/or MECP, prior to development.

In addition, it is noted that the legal description of the subject property contains Part of Lot A and Lot B, Plan 115. If Lot B is considered a whole lot on the Registered Plan, an application for a deeming by-law may also be necessary to deem the lot not to be part of the Plan of Subdivision, thereby eliminating a potential zoning technical issue related to required setbacks to the common lot boundary as the proposed replacement dwelling straddles the lot line between Part of Lot A and Lot B.

## **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 appears to align with the healthy environment priority as it proposes to provide protection to the natural environment by incorporating low impact development



stormwater management techniques to increase infiltration to groundwater on the subject land, replacing the holding tank with a new septic system, and moving future development back from the shoreline.

### **Financial/Operation Impacts:**

There are no financial considerations unless Council's decision is appealed to the Ontario Land Tribunal. In the event of an appeal, there would be costs, some of which may be recovered from the applicant.

### **Servicing Comments:**

The single detached dwelling on the land is serviced by a private sewage disposal system holding tank and well. A new septic system area is proposed to support the proposed replacement dwelling. There is adequate space to service the private with a Class 4 Septic Tank and Leaching Bed system to service the proposed single detached dwelling and as such, the Building and Septic Division has no concerns.

### **Consultations:**

Notice of this application was circulated to persons within a 120 metre radius, agencies, and City Departments which may have an interest in the application. To date, we have received the following comments:

#### **Public Comments:**

On January 25, 2022, a resident at 33 Goodman Road inquired about getting more information about the proposed changes related to the rezoning application and how to participate in the online public meeting.

On February 3, 2022, D. Eastman and S. White of 22 Lamb's Lane inquired about the proposal and proposed water setbacks as well as information related to the proposed site plan, grading plan and access and future residential use together with requirements to participate in the public meeting.

On February 8, 2022, a request was made from another area resident for information regarding participating in the public meeting.

#### **Agency Review Comments:**

On January 17, 2022, the Part 8 Sewage Systems Supervisor advised that the property has been reviewed for the purposes of site servicing through a private on-site sewage

disposal system. There is adequate space to service the private with a Class 4 Septic Tank and Leaching Bed system to service the proposed single detached dwelling. As such, the Septic Division has no concerns with the proposed Zoning By-Law Amendment.

On January 19, 2022, Engineering and Corporate Assets advised that they have reviewed the information in support of the application and acknowledge the zone change will facilitate the redevelopment of the subject land to permit an existing seasonal dwelling to be replaced with a new dwelling with specific standards for reduced water setbacks on the eastern half of the property along with permitting a residential use on the western half of the property, to facilitate a future consent application for an additional residential lot. From an engineering perspective, they have no objection to the proposed Zoning By-law Amendment.

Engineering and Corporate Assets also note that lot grading plans provided under Building Permit Applications must adhere to the City's Lot Grading and Drainage Guidelines. Drainage shall be self-contained and not impact adjacent private properties. In addition, they note that entrances (existing, future) shall adhere to City of Kawartha Lakes By-Law 2017-151, Access to Municipal Right of Ways.

On January 24, 2022, the Ministry of Transportation (MTO) advised that currently they have no concerns or comments with the proposed zoning bylaw amendment. The subject property is within MTO permit control and MTO Building and Land Use Permits will be required prior to any construction commencing.

On January 28, 2022, the Building and Septic Division advised that it did not foresee any building related concerns.

On February 8, 2022, Enbridge Gas Inc. advised that it does not object to the proposed application however, they reserve the right to amend their development conditions.

On February 8, 2022, Kawartha Conservation advised that it can support the redevelopment of the existing dwelling and related amendments; however, they do not support any further development, including the rezoning of the western half of the property and the future severance. Kawartha Conservation indicated they do not have concerns with the scoped EIS and addendums; however, they noted the proposed replacement dwelling is within a flooding hazard and a permit will be required and specific policies need to be met and the flood limits on the submitted drawings do not currently match their mapping for the area. There was also concern with the Shallow Groundwater Investigation due to exceedances of certain contaminants, which may require further investigation, guidance and clarification from MECP. KRCA further

advised that the proponent should demonstrate that mitigation and remediation measures are sufficient to reduce the negative risk to human and environmental health.

Meetings were held on August 30, 2022 with the City, applicant, owner and KRCA and on September 1, 2022, with the City, applicant, owner, KRCA and MECP to discuss groundwater related issues. MECP is aware of the proposal and is generally supportive and does not object to the development of the subject waterfront lands. It is also our understanding that KRCA floodplain mapping irregularities have been addressed. Further consultation is ongoing with respect to a point of use treatment/filtration system to meet Ontario Drinking Water Standards for potable well water. Therefore, a Holding symbol will be applied until the drinking water matter has been resolved.

On August 23, 2022, Parks Canada – Trent Severn Waterway advised that they have no objection to the proposed application. They also identified a number of unpermitted in-water and shoreline structures that do not require removal at this time; however, upon replacement or repair, these will need to come into compliance with their In-Water and Shoreline Works and Related Activities Policies. An approved permit will be required for repair, replacement, new works and expansions to any works.

### **Development Services – Planning Division Comments:**

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.

The application for Zoning By-law Amendment demonstrates consistency with the Provincial Policy Statement and conformity to the Growth Plan and Official Plan. The proposed Zoning By-law amendment with appropriate zoning provisions and a Holding provision will appropriately facilitate the reconstruction of a waterfront dwelling on a portion of the subject property and facilitate the future severance of a waterfront lot.

### **Conclusion:**

In consideration of the comments and the evaluation contained within this report, and provided there are no further issues or concerns raised, Staff respectfully recommend that the proposed Zoning By-law Amendment application be referred to Council for Approval.

## 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'  
PLAN2022-058.pdf

### Appendix 'B' – Aerial Map



Appendix 'B'  
PLAN2022-058.pdf

### Appendix 'C' – Proposed Lot Grading Plan



Appendix 'C'  
PLAN2022-058.pdf

### Appendix 'D' – Proposed Zoning By-law Amendment



Appendix 'D'  
PLAN2022-058.pdf

**Department Head email:** [rholy@kawarthalakes.ca](mailto:rholy@kawarthalakes.ca)

**Department Head:** Richard Holy, Director of Development Services

**Department File:** D06-2021-032