



## Planning Advisory Committee Report

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<b>Report Number:</b>	<b>PLAN2022-071</b>
<b>Meeting Date:</b>	November 30, 2022
<b>Title:</b>	<b>Amend the City of Kawartha Lakes Official Plan at 96 Kawartha Lakes Road 30, Verulam – Fisher</b>
<b>Description:</b>	An application to amend the City of Kawartha Lakes Official Plan to facilitate the creation of two new residential lots from the property identified as 96 Kawartha Lakes Road 30, Verulam (Fisher)
<b>Type of Report:</b>	Public Meeting
<b>Author and Title:</b>	Ian Walker, Planning Officer – Large Developments

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### Recommendations:

**That** Report PLAN2022-071, **Amend the City of Kawartha Lakes Official Plan at 96 Kawartha Lakes Road 30, Verulam, Fisher – Application D01-2022-006**, be received;

**That** PLAN2022-071 respecting Application D01-2022-006 be referred back to staff to allow the applicant an opportunity to amend the application.

**Department Head:** \_\_\_\_\_

**Legal/Other:** \_\_\_\_\_

**Chief Administrative Officer:** \_\_\_\_\_

## **Background:**

The applicant has submitted an application for a zoning by-law amendment. The proposal is to amend the development policies in the 'Rural' designation to facilitate the creation of two new rural residential lots from the property.

Owner:	Dwaine and Lindsey Fisher
Applicant:	Clark Consulting Services c/o Bob Clark
Legal Description:	Part of Lot 16, Concession 1, geographic Township of Verulam
Designation:	'Rural' and 'Environmental Protection' on Schedule 'A-5' of the City of Kawartha Lakes Official Plan
Zone:	'General Rural (A1) Zone' on Schedule 'A' of the Township of Verulam Zoning By-law Number 6-87
Lot Area:	39.57 hectares [97.8 acres]
Site Servicing:	Proposed private services: individual private wells, on-site sewage systems, and ditches and swales
Existing Uses:	Agricultural
Adjacent Uses:	North: County Road 30; Agricultural East: Hickory Beach Road; Agricultural; Rural Residential South: Rural Residential; Agricultural West: Agricultural

## **Rationale:**

The property is located at the southwest intersection of County Road 30 and Hickory Beach Road, to the south of Fenelon Falls in the geographic Township of Verulam. See Appendix 'A'. The subject property is located in a predominantly agricultural area, with a small cluster of rural residential lots at the southeast corner of the property. See Appendix 'B'.

The property is currently developed with an agricultural building, and a new single detached dwelling currently under construction in the location of one of the proposed severed lots. The property is approximately 39.57 hectares, and the applicant is applying on behalf of the owner to amend the Rural land use policies to facilitate the severance of 2 residential lots for a total of 0.81 hectares being affected by this application. See Appendix 'C'.

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

1. Planning Justification Report (PJR) prepared by Clark Consulting Services, dated November 1, 2021, updated May 2022. The report discusses and assesses the proposal in context of the Provincial Policy Statement, 2020 (PPS); A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 and including Amendment 1, 2020 (Growth Plan); the City of Kawartha Lakes Official Plan; and the Township of Verulam Zoning By-law 6-87. A draft by-law has been included in the PJR.
2. Sketch for Severance prepared by Coe Fisher Cameron Land Surveyors, dated October 12, 2021.

The above noted report and sketch were circulated to the applicable City Departments and commenting agencies for review and comment. Subsequent to circulation of the above noted information, the City received a digital submission on October 3, 2022 including the following:

3. Scoped Natural Heritage Evaluation (sNHE) Proposed Two (2) Lot Severance prepared by Oakridge Environmental Ltd., dated September 2022.

City staff have corresponded with Kawartha Conservation in regards to this report, as noted in the comments below.

## **Provincial Policies:**

### **A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019 and including Amendment 1, 2020 (Growth Plan):**

Section 2.2.9 3. of the Growth Plan provides that development outside of settlement areas may be permitted on rural lands for: a) the management or use of resources; b) resource-based recreational activities; and c) other rural land uses that are not appropriate in settlement areas, provided they:

- i. are compatible with the rural landscape and surrounding local land uses;
- ii. will be sustained by rural service levels; and
- iii. will not adversely affect the protection of agricultural uses and other resource-based uses such as mineral aggregate operations.

Section 2.2.9 4. of the Growth Plan provides that where permitted on rural lands, resource-based recreational uses should be limited to tourism-related and recreational uses that are compatible with the scale, character, and capacity of the resource and the surrounding rural landscape.

Staff do not agree that this application has demonstrated that it will not adversely affect the protection of agricultural uses. The creation of new residential lots not in close proximity to the existing lots will create a new Minimum Distance Separation setback to any future agricultural operation on the neighbouring properties and the retained property.

On this basis, the application does not conform to the Growth Plan.

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

The Provincial Policy Statement, 2020 (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. The PPS provides that in rural areas, permitted uses and activities shall relate to the management or use of resources; resource-based recreational uses; limited residential development; and other rural land uses.

Policy 1.1.5.2 c) allows for residential development, including lot creation, that is locally appropriate. Council has not yet considered policy amendments to the City's Official Plan to address criteria for locally appropriate development. The applicant has provided a PJR which concludes that the development is locally appropriate, however staff do not agree with this interpretation.

Development and site alteration shall be directed in accordance with the policies of Section 2 and 3 of the PPS. This includes natural heritage and hydrologic features (Section 2), and natural and man-made hazards (Section 3). A scoped NHE has been submitted but not reviewed.

On this basis, the application is not consistent with the policies of the PPS.

### **Official Plan Conformity:**

The City of Kawartha Lakes Official Plan (Official Plan) was adopted by Council in September 2010 and approved by the Minister of Municipal Affairs and Housing (MMAH) in 2012. Portions of the Official Plan remain under appeal to the Ontario Land Tribunal (the 'Tribunal'), including the Growth Management Policies in Section 4. The subject property is designated 'Rural' and 'Environmental Protection' on Schedule 'A-5' of the City of Kawartha Lakes Official Plan (Official Plan). Currently, residential lot creation is only permitted in the Rural designation under two circumstances: an existing dwelling that becomes surplus as a result of the consolidation of two or more farms, or for a

residential lot for a bona-fide retiring farmer. The proposed official plan amendment does not appear to provide any benefit to the agricultural community.

On this basis, the proposal does not appear to conform with the policies of the Official Plan.

### **Zoning By-Law Compliance:**

The lot is zoned 'General Rural (A1) Zone' in the Township of Verulam Zoning By-law 6-87 (the 'Zoning By-law'). The applicant has submitted a PJR, which indicates that the proposal will comply with the existing 'A1' zone provisions for both the retained agricultural property and the severed residential lots. Staff agree with this analysis.

The applicant has submitted the appropriate technical reports and background studies to demonstrate compliance with the Zoning By-law. On this basis, full compliance with the provisions of the Zoning By-law have been demonstrated.

### **Other Alternatives Considered:**

Through the Preconsultation application, the owner originally proposed the creation of four (4) new residential lots. Planning staff along with the Director of Development Services advised there was no support to create four new lots in this location. The owner or applicant revised the proposal to reduce the number of residential lots to 2, but did not relocate the lots to be in close proximity to the existing local rural residential development to the southeast of the existing lot. Staff are recommending the owner be provided an opportunity to amend the requested application. However, should the Committee wish to have Council make a decision on this matter (to refuse or support), two alternative recommendations are provided for consideration. Alternate Recommendation 1 is for refusal of the application, as staff cannot support the proposal as submitted. Alternate Recommendation 2 is for approval of the application, should the Committee be in support of the application.

### **Alternate Recommendation 1:**

**That** Report PLAN2022-071, **Amend the City of Kawartha Lakes Official Plan at 96 Kawartha Lakes Road 30, Verulam, Fisher – Application D01-2022-006**, be received;

**That** the official plan amendment be referred to Council for refusal; and

**That** all interested parties be notified of the decision.

## **Alternate Recommendation 2:**

**That** Report PLAN2022-071, **Amend the City of Kawartha Lakes Official Plan at 96 Kawartha Lakes Road 30, Verulam, Fisher – Application D01-2022-006**, be received;

**That** the Planning Advisory Committee direct staff to prepare a by-law to implement the requested official plan amendment, to be referred to Council for approval and adoption; and

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

## **Alignment to Strategic Priorities:**

The Council Adopted Strategic Plan identifies these Strategic Priorities:

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

This application may align with the 'Exceptional Quality of Life' by allowing new development of housing stock; however, it may negatively align with the 'Vibrant and Growing Economy' priority by removing agricultural land and creating future conflict for agricultural operations in the community.

## **Financial/Operation Impacts:**

There are no financial considerations unless Council's decision to adopt or their refusal to adopt the requested amendment is appealed to the Ontario Land Tribunal (the 'Tribunal'). In the event of an appeal, there may be costs, some of which may be recovered from the applicant.

## **Servicing Comments:**

Private individual water and sewage services are proposed for the development.

## **Consultations:**

Notice of this application was circulated to agencies and City Departments, which may have an interest in the applications; to persons within a 500 metre radius of the property; and a sign was posted on the property. As of November 21, 2022, we have received the following comments:

### **Public Comments:**

To date, no public comments have been received.

### **Agency Review Comments:**

- September 17, 2022 Alderville First Nation noted that Curve Lake First Nation is one of the treaty holders in this treaty area.
- September 20, 2022 The Engineering and Corporate Assets Department advised for this application and the future consent application, from an engineering perspective the Transportation Master Plan (TMP) provides for collector and arterial roads to have a minimum of 26.0 metre width. County Road 30 is identified as an arterial road and therefore a 3-metre road widening along CKL Road 30 frontage is required as per the City's TMP. In addition, a 12 x 9 metre sight triangle is required to be conveyed to the City at N/E corner of the property for the intersection of CKL Road 30 and Hickory Beach Road, as per the City of Kawartha Lakes Road Infrastructure Guidelines. A Reference Plan is required.
- October 3, 2022 The Building and Septic Division has no comments, save and except those provided separately by the Part 8 Sewage System Program.
- October 3, 2022 The Building and Septic Division's Part 8 Sewage System Program advised the lots proposed for severance have been reviewed for development with servicing through private on-site sewage disposal systems. The area designated for the lots will accommodate single detached dwellings with private servicing. As such, the Building and Septic Division has no issue with the proposal as it relates to private on-site sewage disposal.
- November 8, 2022 On September 26, 2022, Kawartha Conservation confirmed they will review the application at the consent stage, as indicated in the Final Preconsultation Report comments. Comments updated

November 8, 2022. Kawartha Conservation noted it makes sense to review the scoped NHE at the very first stage (OPA) of the severance, but were under the impression they were only going to be reviewing the consent application, not the OPA.

## **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 scoped NHE has not been reviewed by Kawartha Conservation. The application as proposed does not conform to the Growth Plan, and is not consistent with the Provincial Policy Statement, 2020.

## **Conclusion:**

In consideration of the comments and issues contained in this report, Staff respectfully recommend the proposed Official Plan Amendment application be referred back to staff, to allow the owner/applicant an opportunity to amend the proposal.

## **Attachments:**

The following attached documents may include scanned images of appendices, maps, and photographs. If you require an alternative format, please email or call Ian Walker, Planning Officer – Large Developments, [iwalker@kawarthalakes.ca](mailto:iwalker@kawarthalakes.ca) or (705) 324-9411 extension 1368.

### Appendix A – Location Map



PLAN2022-071  
Appendix A.pdf

### Appendix B – 2018 Air Photo of neighbourhood



PLAN2022-071  
Appendix B.pdf

Appendix C – Proposed Sketch for Severance, dated October 12, 2021



PLAN2022-071  
Appendix C.pdf

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

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

**Department File:** D01-2022-006