



Planning Advisory Committee Report

Report Number:	PLAN2023-047
Meeting Date:	September 13, 2023
Title:	Township of Fenelon Zoning By-law Amendment for Vacant and Agricultural Land East of Ranchers Road, Part Lots 9, 10, 11 Concession 8, Geographic Township of Fenelon
Description:	To amend the Township of Fenelon Comprehensive Zoning By-law 12-95 to permit a resource based recreational development
Type of Report:	Public Meeting
Author and Title:	Jonathan Derworiz, Senior Planner, MCIP, RPP; WSP Canada Inc., on behalf of Kawartha Lakes Planning Division

Recommendations:

That Report PLAN2023-047, **Township of Fenelon Zoning By-law Amendment for Vacant and Agricultural Land East of Ranchers Road, Part Lots 9, 10, 11 Concession 8, Geographic Township of Fenelon**, be received for information; and

That this report be referred back to staff for processing until the review of public comments and the technical studies has been completed.

Department Head: _____

Legal/Other: _____

Chief Administrative Officer: _____

Background:

The subject lands known as Part Lots 9, 10, 11 Concession 8, geographic Township of Fenelon, are predominantly vacant, and include agricultural lands. There is a farmhouse and associated structures at the northwestern portion of the lands. These structures will be demolished to facilitate the proposed development. The subject lands consist of five parcels totalling approximately 156 hectares (387 acres) in size.

Under the City of Kawartha Lakes Official Plan (Official Plan), the majority of the subject lands are designated as Rural. Small areas adjacent to Sturgeon Lake near the southeast corner are designated as Waterfront, with certain watercourses throughout the subject lands designated as Environmental Protection. Staff note that on Schedule B-5 of the Official Plan, the subject lands contain various natural heritage features including Significant Woodlands, Unevaluated Wetlands, and Locally Significant Wetlands spread throughout the property.

The subject lands are zoned as Agricultural (A1) Zone, Agricultural Exception One (A1-1) Zone, with small areas along the eastern portion of the subject lands zoned Rural Residential Three (RR3) Zone, and portions along the south zoned as Tourist Commercial (C3) Zone.

Owner:	Flato Developments Inc.,
Applicant:	Malone Given Parsons Ltd., c/o Angela Fang
Legal Description:	Part Lots 9, 10, 11 Concession 8, geographic Township of Fenelon, now City of Kawartha Lakes
Official Plan:	Rural, Waterfront, and Environmental Protection in the 2012 City of Kawartha Lakes Official Plan
Zoning:	Agricultural (A1) Zone, Agricultural Exception One (A1-1) Zone, Rural Residential Three (RR3) Zone, and Tourist Commercial (C3) Zone Township of Fenelon Comprehensive Zoning By-law 12-95
Area:	Approximately 156 hectares
Site Servicing:	Private well and septic servicing and public stormwater management servicing as required
Existing Uses:	Vacant, Agricultural
Adjacent Uses:	North – Agricultural Lands

East – Single detached dwellings/cottages fronting on Long Beach Road, Sturgeon Lake

South – Single detached dwellings/cottages fronting on Long Beach Road, Agricultural Lands

West – Agricultural Lands

Rationale:

Proposal:

The applicant is proposing to rezone the subject lands to permit development of a resource-based recreational development including a golf course and associated uses, a marina, 423 recreational dwellings units in the form of 84 rental dwelling units, and 339 ownership dwelling units. The development is to be built out over phases which will be determined at a later date with future applications. The following materials were submitted in support of these applications:

- 1) Planning Rationale Report (March 2023), prepared by Malone Given Parsons Ltd. This report provides a review of the proposed development and its alignment with the Provincial Policy Statement, 2020, A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019, the City of Kawartha Lakes Official Plan, 2012 and the Township of Fenelon Zoning By-law12-95. Also provided are summaries of the additional materials submitted. This Report is currently under review by staff.
- 2) Hydrogeology Assessment (March 2023), prepared by Azimuth Environmental Consulting, Inc. The purpose of this study was the evaluation of the existing soil and ground water regime underlying the site and the potential for the proposed development to impact existing conditions. In addition, conceptual private servicing options are discussed with respect to the development's feasibility. This study is currently under review.
- 3) Geotechnical Report (August 2021), prepared by Soil Engineers Ltd. The purpose of the geotechnical investigation is to determine and review the subsurface conditions and soil engineering characteristics. This study is currently under review.

- 4) Environmental Impact Study (March 2023), prepared by Beacon Environmental Limited. The purpose of this study was to describe the existing natural heritage conditions and features, as well as their functions present on site, and how the proposed development may impact these features. This study is currently under review.
- 5) Agricultural Impact Assessment (March 2023), prepared by BDH Soil Services Inc. This report provides an analysis of existing agricultural character of the area and identify potential agricultural impacts as a result of the proposed development. This study is currently under review.
- 6) Functional Servicing Report (March 2023), prepared by Counterpoint Engineering Inc. The study outlines the functional servicing design for the proposed development concept to demonstrate that the development can be supported with a servicing solution. This study is currently under review.
- 7) Traffic Impact Study (March 2023), prepared by D.M. Wills Associates Limited. The purpose of this study is to review, assess and determine any traffic impacts from the proposed development. This study is currently under review.
- 8) Cultural Heritage Evaluation (May 2023), prepared by ERA Architects Inc. the purpose of the study was to determine if the subject site has any cultural heritage value. This study is currently under review.
- 9) Species at Risk Assessment (April 2022), prepared by GHD Ltd. The purpose of this assessment was to determine the potential presence of habitat for species at risk and compliance with the Endangered Species Act. This study is currently under review.
- 10) Stage 1 Archaeological Assessment Reports (March 2023), prepared by AMICK Consultants Limited. This study describes the geography, land use history, previous archaeological field work and current conditions of the study area. It recommends that a Stage 2 Archaeological Assessment be completed. This study is currently under review.
- 11) Kawartha Bay Concept Plan
- 12) Cottage 1 Permit Drawing Package (April 2022) prepared by Richard Wengle Architect Inc.

13) Cottage 3 Permit Drawing Package (April 2022) prepared by Richard Wengle Architect Inc.

Topographic Plan of Survey (October 2021), Schaeffer Dzaldov Bennett Ltd.

14) Property Survey, Part 1, Part of Lakeview Park Registered Plan No. 152, (November 2021) Schaeffer Dzaldov Bennett Ltd.

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.

The subject lands are outside of an Urban Settlement Area, and not designated as Prime Agricultural under the City's Official Plan. Therefore, relevant policies under sections 1.1.4 Rural Areas in Municipalities and 1.1.5 Rural Lands in Municipalities apply.

Section 1.1.4.1 of the PPS provides direction on supporting rural areas. Specifically, "Healthy, integrated and viable rural areas should be supported by:

- e) 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;
- f) Providing opportunities for sustainable and diversified tourism, including leveraging historical, cultural and natural assets; and
- g) Conserving biodiversity and considering the ecological benefits provided by nature

Section 1.1.5.2 provides guidance on the permitted uses on rural lands in municipalities, which includes resource-based recreational uses (including recreational dwellings) and the management or use of resources. As per Section 1.1.5.3 recreational, tourism and other economic opportunities should be promoted. With regards to economic impacts, Section 1.7 of the PPS speaks to economic prosperity. Specifically, 1.7.1(f) speaks to opportunities for sustainable tourism development as a tool to promote economic prosperity. The proposed development supports these policies of the PPS by providing a resource-based recreational development that will not only support tourism, but also

contribute to economic prosperity. The proposed development will provide employment opportunities for the area.

In accordance with Section 1.6.6.3, the proposed development will be serviced by private sewage and water facilities as there is currently no existing or planned municipal infrastructure allocation as the site is located in a rural area. Section 1.6.6.3 states that "Where municipal sewage services and municipal water services are not available, planned or feasible, private communal sewage services and private communal water services are the preferred form of servicing for multi-unit/lot development to support protection of the environment and minimize potential risks to human health and safety." The Functional Servicing Report submitted with the application indicates that the proposed development can be serviced adequately through private water and sewage systems.

In light of the fact that there are defined Natural Heritage Features identified on the subject lands, the Natural Heritage Policies of the PPS apply. Under Section 2.1.1 Natural Heritage Features shall be protected for the long term. Subsequent to this, Section 2.1.4 and 2.1.5 highlight where development is prohibited with respect to natural heritage features including significant wetlands, woodlands, significant wildlife habitat, unless it has been demonstrated that there will be no negative impacts on the natural heritage features or their functions. Section 2.1.8 states that "Development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas identified in policies 2.1.4, 2.1.5, and 2.1.6 unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions."

An Environmental Impact Study (EIS) was completed in support of the application to demonstrate ways to avoid and/or mitigate impacts to the identified natural heritage features on site. The EIS, based on the confirmed boundaries of the identified natural heritage features, indicates that the rezoning will not have a negative impact on natural heritage features or their functions through avoidance, and various mitigation measures described within the study.

Following a complete review of all technical studies, conformity with the PPS will be evaluated.

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).

The Growth Plan prescribes policies related to planning for growth in rural areas. Section 2.2.9.1 provides that municipalities are encouraged to plan for a variety of cultural and economic opportunities in rural areas. Section 2.2.9.3 permits resource-based recreational uses on rural lands outside of settlement areas. Further, as described in Section 2.2.9.4, 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 surrounding landscape, and may include commercial uses to serve needs of visitors and resource-based recreational dwellings for seasonal accommodation where appropriate.

The proposed development provides economic opportunities for the community by providing additional jobs and promoting tourism. The application proposed recreational dwellings for seasonal accommodation due to the seasonal nature of the recreation facility proposed within the development.

Following review of technical studies, staff will evaluate complete Growth Plan conformity.

City of Kawartha Lakes Official Plan:

Under the City of Kawartha Lakes Official Plan (Official Plan), the majority of the subject lands are designated as Rural. Small areas adjacent to Sturgeon Lake near the southeast corner are designated as Waterfront, with certain watercourses throughout the subject lands designated as Environmental Protection. Said criteria and staff comments are as follows:

- 1) In accordance with Section 3.3.1, 3.3.2 and 3.3.4, Staff is assessing that the applicable reports to determine that there is sufficient water capacity in the area, and the proposed on site water and sewage treatment facilities will support the proposed development.
 - A Functional Servicing Report, Geotechnical Report and Hydrogeology Assessment were submitted in support of this application.

- 2) In accordance with Section 3.5.38, Staff is assessing the applicable reports to determine whether the proposed development will result in no negative ecological impacts to the on-site natural heritage features and Sturgeon Lake.
 - An Environmental Impact Study was submitted in support of the proposed development, and circulated to Kawartha Conservation. At the time of report writing, comments are still outstanding.
- 3) In accordance with Section 28.6.3, 28.6.4, 28.6.7 and 36.2, Staff are assessing the the Transportation Impact Study in support of the proposed development;
 - A Traffic Impact Study was submitted in support of this application and has been sent to RJ Burnside of a peer review. At the time of report writing, comments are still outstanding.
- 4) In alignment with Section 10.3(a), 10.3(b) and 10.3(c), an archaeological review of the site has been completed and the reports are being assessed.
 - A Stage 1 Archaeological Assessment was completed and submitted in support of this application and concluded that a Stage 2 Archaeological Assessment is required. Staff request a Stage 2 Assessment be completed to identify any features of archaeological interest. The Archaeological Assessment was circulated to relevant First Nations communities. Chippewas of Rama First Nation has expressed concern over the reliability of works completed by the Archaeological Assessment consultant on the file. At the time of report writing, comments from additional First Nations communities are still outstanding.

Regarding the Rural Official Plan Designation, 16.2(g) provides that one of the objectives of the designation is to provide for the wise use and management of resources and resource based recreational activities. Section 16.3. active and passive recreation uses and facilities are permitted, as well as low density single detached dwellings. The Rural designation prescribes provisions with respect to golf courses permitted in the Rural designation. Specifically, per Section 16.3.4 golf courses will be permitted subject to the following:

- a) Have frontage onto an Arterial Road or Provincial Highway;
- b) Obtain an entrance permit for the proposed use;
- c) Have no adverse effects upon surrounding uses;
- d) Be compatible with and will not hinder agricultural operations; and
- e) Appropriate studies, acceptable to the City demonstrating that it will not adversely impact natural significant features and has a minimal impact on

watercourses, groundwater resources, agriculture or other environmentally sensitive features.

With respect to servicing, Section 28.4 states that all new development with six or more residential dwellings or lots, shall be on full municipal systems. Servicing for the development is based on proposed private communal water and septic system with an onsite water treatment facility. Section 28.4.3 provides that a seasonal development may have a communal system if it is held under single ownership, and the units or vacation dwellings have a limitation on the length that a person may reside within the development.

A small portion of the subject lands are designated as Waterfront in the Official Plan. Section 20.3.3 provides that, "Lot sizes and development design will respond directly to the natural shoreline character and shall not significantly alter shoreline character nor disturb significant shoreline ecosystem." There are no new lots being proposed within the Waterfront designation as there are currently existing cottages and the marina in this location.

There are areas of the site designated as Environmental Protection. These areas sometimes overlap with the proposed golf course. Section 17.3.4 indicates that the Environmental Protection designation may not entirely reflect the accurate boundaries of an area prone to flooding or other physical hazard, and an adjustment to the boundary will require an evaluation. Where it is found through the evaluation that the boundary is in error and the land is not subject to flooding or other physical hazard, then an alternate use permitted in the abutting land use designation may be considered and the land appropriately zoned. This provision applies where the designation boundary is found to be in error and the proposed use is minor and it is determined by the City that an amendment to the Plan is not required.

According to the supporting EIS submitted, true extent and boundaries of all natural features and watercourses in the EIS have been delineated and the EIS demonstrates that development is occurring outside the watercourses on the subject lands. Therefore, no amendments to the EP designation or boundaries are required to permit the proposed development. Staff note again that comments from Kawartha Conservation are outstanding at the time of report writing.

Once review of supporting materials is complete, staff will determine conformity with the City's Official Plan.

Township of Fenelon Comprehensive Zoning By-law 12-95:

The property is currently zoned Agricultural (A1) Zone, and Agricultural Exception One (A1-1) Zone, Rural Residential Three (RR3) Zone, and Tourist Commercial (C3) Zone. The parent and Agricultural Exception Zones permit primarily rural and agriculture related uses. The Rural Residential Zone permits residential and vacation dwellings, parks, and home occupations. The Tourist Commercial Zone permits a range of recreational and commercial uses including a golf course and marina. The applicant is proposing to rezone the subject lands to site specific Environmental Protection and Tourist Commercial Zones to permit the proposed development.

Staff will continue to review the proposal's impacts to determine whether the proposed uses and redevelopment are appropriate within the proposed Tourist Commercial Exception Zones and the Environmental Protection Zones based on the background technical studies provided before a final zoning by-law can be brought forward for approval.

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 the development of new recreational facility and tourist accommodations.

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 delivered to property owners within 500 m of the subject site. In alignment with Public Notice procedure, signage detailing the amendment was placed on site.

Public Comments:

Comments from 14 residents have been received to date regarding this application. Many concerns and comments were related to traffic impacts, line of sight, road improvement concerns, on-site water/wastewater treatment facilities, impacts to Sturgeon Lake, design of the private servicing facilities and stormwater management ponds, odour and nuisance from the on-site treatment facilities, commercial services to be incorporated, and overall impact of the proposal.

Agency Review Comments:**Supervisor, Part 8 Sewage Systems, Building Department (August 2023) –**

The sanitary sewage flows of this proposal will exceed the limits of the Ontario Building Code. As such, requests for comments for this zoning amendment should be obtained from the Ministry of Environment, Conservation and Parks.

MECP (August 2023) – The owners will be expected to follow any applicable ministry requirements once zoning is in place and they decide to proceed with their undertaking. It is expected that they will require an Environmental Compliance Approval for sewage. It is possible that other requirements will apply, such as a regulated drinking water system or Permit to Take Water requirements for the golf course.

Engineering Department (August 2023) – From an engineering perspective, we have no objection to the proposed Zoning By-law Amendment to permit the proposed golf course and associated uses, proposed rental recreational dwellings, proposed ownership recreational dwellings, the marina, and preserve existing environmental features on site to facilitate a resource based recreational development. All supporting documentation submitted was reviewed by Development Engineering to a preliminary standard, detailed Engineering review and comments will be provided at the time of Site Plan Approval. Please adhere to The City of Kawartha Lakes Infrastructure Guidelines for proposed municipal infrastructure which can be found on the City's website.

Alderville First Nation (August 2023) – Alderville First Nation is requiring a File Fee for this project in the amount of \$300.00. This fee includes administration, an initial meeting, project updates as well as review of standard materials/project overviews. Depending on the number of documents to be reviewed by the Consultation Department, additional fees may apply. Please make this payment to Alderville First Nation and please indicate the project name or number on the cheque. If you do not have a copy of Alderville First Nation's Consultation Protocol, it is available at: alderville.ca/wp-content/uploads/2017/02/AFNProtocol2.pdf. Please note that the mapping in this document needs updating to reflect the Williams Treaties First Nations Settlement Agreement 2018.

In order to assist us in providing you with timely input, please provide us with a Notice of Request to Consult containing relevant information and material facts in sufficient form and detail to assist Alderville First Nation to understand the matter in order to prepare a meaningful response. Guidance for giving notice can be found on pages 11-12 of the Consultation Protocol. Based on the information you have provided us with respect to the notice of the D06-2023-017 - Zoning By-law Amendment Application - Long Beach Road + Ranchers Road (Fenelon) - City of Kawartha Lakes, Alderville First Nation may require a mutual agreement to establish a special consultation process for this project. After the information is reviewed it is expected that you or a representative will be in contact to discuss this matter in more detail and possibly set up a date and time to meet with Alderville First Nation in person.

Although we have not conducted exhaustive research nor do we have the resources to do so, there may be the presence of burial or archaeological sites in your proposed project area. Please note, that we have particular concern for the remains of our ancestors. Should excavation unearth bones, remains, or other such evidence of a native burial site or any other archaeological findings, we must be notified without delay. In the case of a burial site, Council reminds you of your obligations under the Cemeteries Act to notify the nearest First Nation Government or other community of Aboriginal people which is willing to act as a representative and whose members have a close cultural affinity to the interred person. As I am sure you are aware, the regulations further state that the representative is needed before the remains and associated artifacts can be removed. Should such a find occur, we request that you contact our First Nation immediately.

Alderville First Nation has available, trained Archaeological Liaisons who can actively participate in the archaeological assessment process as a member of a field crew, the

cost of which will be borne by the proponent. Alderville First Nation expects engagement at Stage 1 of an archaeological assessment, so that we may include Indigenous Knowledge of the land in the process. We insist that at least one of our Archaeological Liaisons be involved in any Stage 2-4 assessments, including test pitting, and/or pedestrian surveys to full excavation.

Haliburton, Kawartha, Pine Ridge, District Health unit (August 2023) – No concerns, as the plans indicate the development is to be serviced by private communal drinking water and wastewater facilities which will be regulated by the Ministry of Environment, Conservation and Parks. No concerns with proposed drainage strategy. Recommend consideration for minimizing paved/hard surfaces, which contribute to runoff. A restaurant is noted in the development. Food Premises O. Reg. 493/17 requires the owner/operator to notify public health prior to opening. Recommend consideration for minimizing paved/hard surfaces, which contribute to runoff and retain heat. Ensure that stormwater management plans address projected changes in frequency and severity of storm events. The Planning Opinion report states that recreational dwelling units will be seasonal in nature, with the rationale being that the recreational uses are seasonal (golf course, marina, lake) with limited value during the winter, and the lack of amenities and services (e.g. schools, shopping areas) will deter year-round use. We question what provisions (if any) will be in place to keep people in the ownership dwellings from using them year-round. Will the dwellings be built for four-season use? Lack of amenities and services may not be a deterrent to people who simply wish to get away from the city. Has consideration been given to impacts of increased year-round population on the surrounding areas?

Development Services – Planning Division Comments:

Staff will continue to review the background reports submitted with the application technical reviews are underway. Conformity with the PPS, Growth Plan and Official Plan will continue to be evaluated while comments from reviewing agencies are received.

Conclusion:

Staff respectfully recommends that the application to rezone the subject lands be referred back to staff until technical reviews have been completed and comments from the public 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 Jonathan Derworiz, Senior Planner, (519) 904-1761.

Appendix 'A' – Location Plan



Appendix A
(Location Map).pdf

Appendix 'B' – Aerial Photo



Appendix B
(Aerial).pdf

Appendix 'C' - Site Plan



Appendix C
(Sketch).pdf

Department Head email: rholy@kawarthalakes.ca

Department Head: Richard Holy, Director of Development Services

Department File: D06-2023-017