

May 17, 2024

To: City of Kawartha Lakes Council

I am concerned that the Consolidated Rural Zoning By-Law proposal prepared by WSP which is to be considered on May 21, 2024 ignores the Official Plan, Part 16, titled "Rural" Designation, applicable to areas with primarily Class 4, 5, 6 and 7 agricultural land. Official Plans are prepared with input from the community and reflect the community's vision and goals for the future. The City of Kawartha Lakes Official Plan clearly envisages different land use restrictions on "Prime" and "Rural" agricultural lands and clearly defines each designation in Sections 15 and 16. Ignoring the Official Plan is an affront to the community as well as being in conflict with provincial requirements. I have previously raised this concern in writing and in person on April 10<sup>th</sup> just past with the Rural Zoning By-law Team. I request that Council apply the "Rural" designation to lands that are primarily Agricultural Class 4, 5, 6 and 7 in the Consolidated Rural Zoning By-law so that it is consistent with the Official Plan prior to passing the Zoning by-law.

By way of further clarification of my concern, following please find my original concern submitted to the Rural By-Law Project Team in standard print, followed by WSP comments in italics. I have interjected my rebuttals to the WSP response in bold standard font throughout their response.

Comment and responses, Brian Bartley [REDACTED] Comment: My comments concern the application of this by-law to farm properties. My first concern is that this by-law is in conflict with the CKL Official Plan -2012. Specifically the Official Plan calls for a more restrictive set of uses for Prime Agricultural Land (Section 15) defined as having Class 1, 2 or 3 soils and a more broad set of permitted uses for Rural Designation land comprising Class 4, 5, 6 and 7 soils.

Specifically the Official Plan permits Rural Designation lands to be used for:

- Limited low density single detached dwellings
- Active and passive recreational uses and facilities
- Agricultural-related commercial and industrial uses
- Dog kennels
- Farm implement dealers
- Golf courses
- Ski resorts
- Farm markets
- Public and private infrastructure
- Public parks
- Utilities - Ecotourism
- Agri-tourism
- Livestock and auction barns
- Nurseries
- Greenhouses
- Abattoirs
- Forestry management
- Sawmills
- Hunt camps
- In addition to any permitted uses on Prime Agricultural Land.

The Rural designation outlined in the Official Plan would also permit the severance of a lot for a retiring farmer.

The Final Draft Consolidated Rural Zoning By-Law ignores the Official Plan designations of Prime Agricultural and Rural and lumps all agricultural soil class lands 1 through 7 into one AG classification and for the most part applies the more restrictive use requirements of the Official Plan Prime Agricultural designation to it all. Further the Consolidated Rural Zoning By-Law generally imposes a much more restrictive set of uses on agricultural land in the northern geographic townships than is presently the case under the existing zoning by-laws in these townships which are largely consistent with the Official Plan -2012 Rural designation. There is a significant difference in the way farm operations work on Class 1, 2 and 3 soils versus the more marginal soil classes, which is not reflected by the present draft of the zoning by-law.

*Response: The definition of the Prime Agricultural Area, as per the City of Kawartha Lakes Official Plan, is as follows: "means areas where prime agricultural lands predominate. This includes: areas of prime agricultural lands and associated Canada Land Inventory Class 4-7 soils; and additional areas where there is a local concentration of farms which exhibit characteristics of ongoing agriculture. Prime agricultural areas may be identified by the Ontario Ministry of Agriculture, Food and Rural Affairs using evaluation procedures established by the Province as amended from time to time, or may also be identified through an alternative agricultural land evaluation system approved by the Province." Effectively, through this definition, the Official Plan couples the Prime Ag (Class 1-3 lands) with Rural (Class 4-7 lands).*

**The Official Plan explicitly calls for two Agricultural Zone designations "Prime Agricultural" and "Rural". The attempt to blur the differences between the two by reference to the definition of "Prime Agricultural Area" in section 30 appears to me to be obfuscation. I would reference here the Official Plan section 1.2. GEOGRAPHIC SETTING with sections underlined that describe the land north and south of the Trent Canal system.**

**1.2.1. The City is composed of some significant physiographic areas. The southern portion of Manvers Township contains part of the Oak Ridges Moraine. The central portion of the City, primarily in the Townships of Mariposa, Ops, Emily, Manvers, Eldon, Fenelon and Verulam is predominantly agricultural land on a till plain. Throughout this area are found esker and kame deposits that are being mined for aggregates or have aggregate potential. There are also organic deposits such as peat.**

**1.2.3. The Townships north of the Trent Canal lake system generally have shallow soils over bedrock and are primarily used for ranching or forestry. A significant limestone feature known as the Carden Plain is centred on Carden Township and has significant aggregate potential, as well as exhibiting alvar habitat. The Precambrian shield covers the northern part of the city in Dalton, Digby and Longford Townships.**

**Based on the Official Plan geographic description prime agricultural lands do not predominate north of the Trent Canal System. I would suggest that the land north of the Trent Canal System clearly meets the Official Plan criteria for "Rural" designation.**

**Reviewing the Goals in Sections 15 and 16 of the Official Plan it is inferred that there may be pockets of Class 4-7 agricultural land in an area of primarily Class 1-3 agricultural land that would be designated as "Prime Agricultural", but conversely it is also inferred that there may be pockets of Class 1-3 agricultural land in an area that is primarily Class 4-7 agricultural land that would be**

designated as "Rural". By way of demonstrating this I have included parts 15.1 b) and 16.1 b) of the Official Plan immediately below. Please note the word primarily in both goal statements.

**15.1 b) Protect land that is primarily class 1-3 agricultural production from fragmentation, development and non-farm related uses**

**16.1 b) Protect agricultural land that is primarily class 4-7 for agricultural production from fragmentation, development and land uses unrelated to agriculture.**

The definition of Prime Agricultural Area in Part 30 of the Official Plan in no way suggests that areas that are primarily Class 4-7 agricultural land should be designated as Prime Agricultural land. Further I would note that that section 15 of the Official Plan does not make reference to the term "Prime Agricultural Area". Rather, it references "Prime Agricultural Land" which is also defined in the Section 30 of the Official Plan as follows:

**Prime Agricultural Land: means land that includes specialty croplands and/or Canada Land Inventory Classes 1, 2 and 3 agricultural soils, in this order of priority for protection.**

*This Prime Agricultural Area has been implemented through the Rural Zoning By-law's Agricultural Zones. At a high-level, a more conservative approach to the Agricultural Zones has been taken with the understanding that the municipality wishes to exercise some discretion when it comes to what types of On-farm Diversified/Agriculture-related uses are permitted as of right. There may be some instances where a proposed use requires technical evaluation and analysis to confirm that it is suitable for a subject location. Such analysis is generally undertaken through an amendment to either (or both) the City's Official Plan and Zoning By-law. To maintain consistency with Provincial policy, it is our recommendation to maintain one Agricultural Zone.*

**The official plan is not a buffet where one can take a double helping of one section and pass over another. It is a provincial requirement that all by-laws including Zoning by-laws not be in conflict with the Official Plan. The municipality may exercise some discretion, but it must conform to the Official Plan.**

*Overall, there is a significant lack of consistency in terms of the permitted uses in the rural area zoning by-laws and there are conflicts between the zoning by-laws and the Official Plan. Further, the Official Plan is not up-to-date with Provincial policy. These issues are expected given the age of the rural area zoning by-laws, and the great degree to which Provincial Policy has evolved in the rural areas with respect to permitted uses over the past few decades.*

**To my understanding the general lack of consistency in terms of permitted uses in the existing rural area zoning by-laws is most pronounced between municipalities located south the Trent Canal System, which are more closely align with the Prime Agricultural designation in the Official Plan, and those north which are more in line with the Rural designation. This reflects the geographic and consequent economic land use differences between the two areas. The Official Plan was passed in 2012. It is required to be reviewed every 5 years. It should not be significantly out of date. The fact there are conflicts between existing rural Zoning by-laws and the Official Plan is irrelevant to the concern that the proposed Consolidated Rural Zoning By-law is clearly in conflict with the existing Official Plan.**

*Comment: It is difficult to pre-zone for all agriculture-related uses as defined by the Provincial Policy Statement. The Official Plan contains limited criteria, and the existing policies are difficult to 'zone' as-of-right (e.g., the need to consolidate agriculture-related commercial/industrial uses in the rural area cannot be easily regulated by zoning which is highly site-specific). Further, as it is the City's intent to update the policy to consider these uses, any pre-zoning would be premature at this time in the absence of policy guidance and there is an opportunity to update the zoning in parallel with any policy updates. Depending on the direction the City takes with respect to the policy updates, it may be desirable to establish a separate zone category for agriculture-related uses (rural1industrial/commercial) which can be applied through future site-specific rezoning applications similar to the Agricultural Support Zone in the Ops Zoning By-law. This zone can also be used to recognize existing uses. To complement this approach, consideration may be given to permitting certain agriculture-related uses in the hamlets to create opportunities for these uses, subject to criteria and compatibility with the principally residential character of many hamlets. The Official Plan permits a range of uses in the Hamlets including processing and assembly uses, service and repair uses, storage and warehousing as well as commercial uses servicing surrounding rural areas, so it is interpreted that a range of agriculture-related uses in the Hamlets can be contemplated.*

**The fact that the Official Plan contains limited criteria should make it relatively easy to develop a Zoning By-law that meets the criteria. I interpret what is being said here is that it is wished that the existing Official Plan had more restrictive criteria to justify the proposed consolidated Rural Zoning By-law ignoring the Official Plan "Rural" designation. The Consolidated Rural Zoning By-law is required to conform to the existing Official Plan not to some contemplated future undefined Official Plan.**

Sincerely,  
Brian Bartley