



Planning Advisory Committee Report

Report Number: PLAN2024-044
Meeting Date: July 10, 2024
Title: Amendment to Township of Somerville Zoning By-law 78-45 - 1101 County Road 49
Description: Rezoning to facilitate the severance of vacant rural land from the retained rural land
Type of Report: Regular Meeting
Author and Title: Matt Alexander, Practice Lead, WSP Canada Inc., on behalf of Kawartha Lakes Planning Division

Recommendations:

That Report **PLAN2024-044, Amendment to Township of Somerville Zoning By-law 78-45 - 1101 County Road 49**, be received for information;

That a Zoning By-law Amendment respecting application D06-2024-008, substantially in the form attached as Appendix D to Report **PLAN2024-044**, be approved and adopted by Council; and

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

Department Head: _____

Legal/Other: _____

Chief Administrative Officer: _____

Proposal:

The subject lands are identified as 1101 County Road 49, and described as Part Lot 1, Concession 1 and 2, Geographic Township of Somerville, now City of Kawartha Lakes. The subject lands are designated as Rural and Environmental Protection in the City of Kawartha Lakes Official Plan 2012. There are various natural heritage features on the subject site. There is also an aggregate operation directly east of the subject site across County Road 49.

The Director of Development Services, as delegated by Council, granted provisional consent approval to application D03-2017-026 on September 21, 2022 to allow the severance of approximately 40 hectares of vacant rural land, from 40 hectares of retained rural land. The retained rural land contains an existing single detached dwelling and a shed that will remain on the retained lot. The intent is that the severed lot will be redeveloped in the future with a single detached dwelling. The conditions of provisional consent (D03-2017-026) required that the proponent apply to rezone the lands to address the applicable provincially significant natural heritage and hazard features on site and implement the appropriate setbacks from the neighbouring aggregate operation.

Owner:	Allan and Wanda Bevand
Applicant:	EcoVue Consulting Services Inc. c/o Kent Randall
Legal Description:	Part Lot 1, Concession 1 and 2, Geographic Township of Somerville, now City of Kawartha Lakes
Official Plan:	Rural and Environmental Protection (Schedule A5), Significant Woodlands (Schedule B5), City of Kawartha Lakes Official Plan (2012)
Zone:	Rural General (RG) Zone in the Township of Somerville Zoning By-law 78-45, as amended
Site Size:	Total – Approximately 80 hectares (197.68 acres) Severed – 40 hectares (98.84 acres) Retained – 40 hectares (98.84 acres)
Site Servicing:	Severed – No servicing Retained – Private individual well and septic system
Existing Uses:	Single Detached Dwelling

Adjacent Uses: North – Rural, Residential
 East – Aggregate Operation
 South – Rural, Residential
 West – Natural Heritage, Agricultural

Background:

The application was deemed complete on March 1, 2024, and was circulated to internal City Departments and external agencies for comment on March 18, 2024. A Statutory Public Meeting was held on April 10, 2024. The Planning Advisory Committee passed a motion to refer the application back to staff due to outstanding technical reviews from commenting agencies. Outstanding technical reviews pertained to the Land Use Compatibility Study and Noise Study, triggered by the neighbouring aggregate operation, as well as the Environmental Impact Study triggered by the presence of on-site Natural Heritage Features.

Since the Planning Committee motion, these outstanding technical reviews have been completed. Staff feel that the outstanding issues have been resolved, and the zoning by-law amendment should be approved.

Comment Summary:

The following section provides a summary of the comments received since the Planning Advisory Committee motion, and how the comments have been addressed, demonstrating conformity with planning policy.

Development Services – Planning Division Comments:

A Place to Grow: Growth Plan for the Greater Golden Horseshoe, 2019:

Section 2.2.9 of the Growth Plan speaks to policies for Rural Areas. New lot creation is considered development under the Growth Plan. Section 2.2.9.3 provides that “development outside of settlement areas may be permitted on rural lands for:

- 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;”

There is an existing aggregate operation immediately east of the subject site across County Road 49. The applicant submitted a Land Use Compatibility Study and Noise Impact Study to identify any concerns regarding a proposed sensitive land use in the vicinity of an aggregate operation. The technical review of the study was completed following the previous public meeting.

The proposed zoning by-law amendment, as recommended by the Land Use Compatibility and Noise Study, includes a 300-metre buffer from the neighbouring aggregate operation. Future development on the severed lot will maintain the buffer. The existing single detached dwelling and shed on the retained lot are within the 300-metre aggregate buffer, but this is an existing condition, and there is no additional development proposed on the retained parcel as part of the application.

The Peer Review of the noise study indicated that the noise study was completed in accordance with the MOE guidelines. Technical review of the Land Use Compatibility and Noise Study have been completed, fulfilling the conditions of consent. Based on the technical review, the buffer is appropriate and ensures the required separation from the future dwelling on the severed lot and the neighbouring aggregate operation. The Peer Review of the noise study was finalized on May 31, 2024. No concerns were identified.

Section 4.2.3 of the Growth Plan provides guidance regarding Natural Heritage features and nearby development. Section 4.2.3.1 provides that "outside of settlement areas, development or site alteration is not permitted in key natural heritage features that are part of the Natural Heritage System for the Growth Plan or in key hydrologic features." Further, Section 4.2.4.1 provides that "outside of settlement areas, a proposal for new development or site alteration within 120 metres of a key natural heritage feature within the Natural Heritage System for the Growth Plan or a key hydrologic feature, will require a natural heritage evaluation or hydrologic evaluation that identifies a vegetation protection zone."

A portion of the site is designated as Environmental Protection under the Official Plan. Further, the subject site is part of the Natural Heritage system for the Growth Plan and is identified as containing significant woodlands per Schedule B5 of the Official Plan.

An Environmental Impact Study was submitted in response to comments provided by Kawartha Conservation during the previously completed Consent application. Following a review of the EIS, the Conservation Authority has expressed no concerns with the zoning by-law amendment.

In light of these completed technical reviews, the application conforms to the Growth Plan.

Provincial Policy Statement, 2020:

Section 1.2.6.1 of the Provincial Policy Statement, 2020 (PPS) states that major facilities and sensitive land uses shall be planned and developed to avoid, or if avoidance is not possible, minimize and mitigate any potential adverse effects and to ensure the long-term operational and economic viability of major facilities in accordance with provincial guidelines, standards and procedures. Major facilities include resource extraction activities such as aggregate operations.

The Land Use Compatibility and Noise Studies submitted with the application recommends a 300-metre setback from the adjacent aggregate operation, which will be implemented through the zoning by-law amendment. Technical review of the noise study was completed and the noise study was prepared in accordance with the MOE guidelines. Technical review of the Land Use Compatibility and Noise Study have been completed, satisfying the conditions of consent.

Section 2.1.1 of the PPS provides that natural features and areas shall be protected for the long term. Section 2.1.7 states that development and site alteration shall not be permitted in habitat of endangered species and threatened species, except in accordance with provincial and federal requirements. As a condition of consent, the applicant submitted an Environmental Impact Study (EIS) which was reviewed by Kawartha Conservation. Recommendations, mitigation measures and best practices propose a 30-metre vegetation protection zone (VPZ) and recommend limiting tree clearing required on site. The zoning by-law amendment proposes to rezone areas containing significant natural heritage features, including the VPZ to the 'Environmental Protection (EP) Zone' to protect the features and their functions. Following review of the EIS, the Conservation Authority raised no objections to the zoning by-law amendment.

Therefore, this application is consistent with the PPS.

City of Kawartha Lakes Official Plan, 2012:

The subject land is designated as Rural and Environmental Protection in the Official Plan.

Per Section 17.3.2 of the Official Plan the purpose of the Environmental Protection Designation is to prevent development or site alteration on lands which are hazardous

due to flooding, erosion, slopes, or other physical conditions which could cause loss of life, injury, property damage or degradation of the environment. The Environmental Protection designation is intended to protect and maintain natural features and characteristics. The zoning by-law amendment will implement an appropriate zone which will protect the natural heritage features identified on site, and the associated VPZ. The Conservation Authority has completed their technical review of the EIS submitted in support of the application and have expressed no concerns with the zoning by-law amendment.

Section 3.8 of the Official Plan speaks to buffering of incompatible uses. Specifically, Section 3.8.1 states that "in order to foster compatibility between sensitive uses and to prevent adverse effects, distance separation, building design, screening, and or topographical buffering techniques shall be required". Minimum distance separations from sensitive land uses are determined based on whether an industrial use is considered, light, medium or heavy per Section 3.8.2. Heavy industrial uses require a minimum separation distance of 300 metres from sensitive land uses per Section 3.8.3. Per Section 3.8.8 for any proposal to establish a sensitive land use designation or zoning or to further subdivide land within the potential influence area of an existing light, medium or heavy use, the separation distances specified by this policy shall apply unless a detailed evaluation which identifies the potential for impacts has been completed to the satisfaction of the City. Technical review of the Land Use Compatibility and Noise Study have been completed, and staff believe these conditions of consent have been satisfied. The zoning by-law amendment will implement the 300-metre buffer recommended by the study, which aligns with the Official Plan buffer requirements.

Therefore, this application conforms to the Official Plan.

Township of Somerville Zoning By-law 78-45

The subject site is zoned Rural General (RG) Zone in the Township of Somerville Zoning By-law 78-45, as amended. To fulfill a condition of provisional consent approval (D03-2017-026), the lands must be rezoned from the 'Rural General (RG) zone' to the 'Rural General Exception Nine (RG-9) Zone', and from the 'Rural General (RG) Zone' to the 'Environmental Protection (EP) Zone'. The rezoning will address the applicable provincially significant natural heritage and hazard features on site and implement the appropriate setbacks from the neighbouring aggregate operation.

The zoning by-law amendment is appropriate. After consideration of the technical reviews completed, staff recommend the zoning by-law amendment be approved.

Agency Review Comments:

At the time of the public meeting in April 2024, comments were still outstanding from Kawartha Conservation on their review of the Environmental Impact Study, and the Noise Study Peer Review consultant. Following the public meeting, technical reviews on both of these submission materials were completed. The Conservation Authority has advised no objection to the proposal. Further, reviews of the noise study, and land use compatibility study indicate no issues, and the noise study was completed per the MOE guidelines. Staff feel that the completion of these technical reviews satisfy the requirements of Provisional Consent (File: D03-2017-026), and support approval of the zoning by-law amendment.

Conclusion and Recommendation:

The development represents good land use planning by utilizing vacant lands. The land use compatibility concerns and concerns regarding the natural heritage features have been appropriately addressed in accordance with applicable policies. The proposal supports policies of the PPS, and the Growth Plan, Kawartha Lakes Official Plan, and Township of Somerville Zoning By-law.

Staff respectfully recommends that the Zoning By-law Amendment respecting application D06-2024-008, substantially in the form attached as Appendix 'D' to Report **PLAN2024-044**, be approved and adopted by Council.

The following attached documents may include scanned images of appendices, maps, and photographs. If you require an alternative format, please email Matt Alexander at Matt.Alexander@wsp.com.

Attachments:

Appendix 'A' – Location Plan



Appendix A

Appendix 'B' – Aerial Photo



Appendix B

Appendix 'C' - Concept Plan



Appendix C

Appendix 'D' – Draft Zoning By-law Amendment



Appendix D

Department Head email: ibarrie@kawarthalakes.ca

Department Head: Leah Barrie, Director of Development Services

Department File: D06-2024-008