



## Planning Advisory Committee Report

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<b>Report Number:</b>	<b>PLAN2024-024</b>
<b>Meeting Date:</b>	April 10, 2024
<b>Title:</b>	<b>Amend the Township of Somerville Zoning By-law 78-45 at 1101 County Road 49</b>
<b>Description:</b>	Rezoning to facilitate the severance of vacant rural land from the retained land
<b>Type of Report:</b>	Public Meeting
<b>Author and Title:</b>	Matt Alexander, Practice Lead, RPP, MCIP; WSP Canada Inc., on behalf of Kawartha Lakes Planning Division

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### Recommendations:

**That** Report PLAN2024-024, **Amend the Township of Somerville Zoning By-law 78-45 at 1101 County Road 49**, be received; and

**That** Report PLAN2024-024, **Amend the Township of Somerville Zoning By-law 78-45 at 1101 County Road 49**, be referred back to staff to address agency comments and for further review of technical studies.

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

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

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

## **Background:**

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 subject site is 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.

Owner:	Allan and Wanda Bevanda
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)
Zones:	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

## **Rationale:**

The conditions of provisional consent (D03-2017-026) require 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 a neighbouring aggregate operation. The proponent has submitted an application to

amend the Township of Somerville Zoning By-law that will, if granted, fulfill this condition.

The Zoning By-law Amendment will integrate an identified wetland area into the Environmental Protection Zone with a vegetation protection buffer, and implement a 300-metre setback requirement from the severed lot to the neighbouring aggregate operation in order to fulfill conditions of Provisional Consent Approval (File: D03-2017-026).

### **Provincial Policies:**

#### **A Place to Grow - Growth Plan for the Greater Golden Horseshoe, 2019 (Growth Plan)**

The subject site is designated as Rural and Environmental Protection in the City of Kawartha Lakes Official Plan and as such the applicable Rural Area policies, and the Natural Heritage and Hydrologic Feature Policies of the Growth Plan apply.

Section 2.2.9 of the Growth Plan speaks to policies for Rural Areas. A 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;”

The severance will facilitate development of a one future single detached dwelling on the severed lot, and to retain approximately 40 hectares of rural land containing an existing single detached dwelling and shed (‘north half’). This is compatible with the surrounding rural landscape.

The severed lot can accommodate private services on the property. Servicing has been confirmed by the City’s Building and Septic Division during the review of the consent application. The existing single detached dwelling on the retained lot is currently serviced by well and septic.

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. This study is currently undergoing technical review. Staff acknowledge that the proposed zoning by-law amendment, as recommended by the Land Use Compatibility and Noise Study, has implemented 300 metre buffer from the neighbouring aggregate operation. Future development on the severed lot will be required to 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.

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. 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."

Following review of the consent application, Kawartha Conservation acknowledged the presence of natural heritage features, including woodlands and a wetland on the subject site. Kawartha Conservation recommended a 120-metre setback from the limit of a wetland, but may recommend other setbacks based on the result of a satisfactory Environmental Impact Study (EIS).

An EIS was submitted with the zoning by-law amendment application and is currently under review. The EIS recommends a 30-metre vegetation protection zone and additional mitigation measures and best practices during construction of the single detached dwelling on the severed lot. Provided that these mitigation measures are implemented, the EIS anticipates no impacts to the wetland feature or its functions. The EIS also recommends that tree removal should be limited to the area required to accommodate the building envelope, well and septic, and site access.

Growth Plan conformity will be determined once reviews of the technical studies have been completed.

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

The PPS provides policy direction as it relates to land use matters on rural lands. Section 1.1.5.2 states that on rural lands in municipalities, permitted uses include residential development including lot creation, that is locally appropriate. Section 1.1.5.4 provides that development that is compatible with the rural landscape and can be sustained by rural service levels should be promoted.

The severance facilitating the development of a single detached dwelling and retaining of rural land is locally appropriate. The existing single detached dwelling on the retained lot will be maintained. Additionally, the future single detached dwelling will be serviced by a private well and septic system.

Section 1.2.6.1 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.

The Land Use Compatibility and Noise Studies submitted with the application recommends a 300-metre set back from the adjacent aggregate operation be implemented. As such, the proposed rezoning implements this 300-metre setback. Technical review of the Land Use Compatibility and Noise Studies are still ongoing.

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.

In accordance with provincial and federal requirements, no negative impacts to threatened or endangered species are anticipated in relation to the proposed development.

Section 2.1.5 states that development and site alteration shall not be permitted within certain natural features including significant wetlands, woodlands, wildlife habitat, and areas of natural and scientific interest unless it has been demonstrated that there will be no negative impacts on the features or their ecological functions. Due to the presence of confirmed natural heritage features on site including a provincially significant wetland, and significant woodlands, and Environmental Impact Study (EIS) was completed in support of the zoning by-law amendment. Recommendations, mitigation measures and best practices propose a 30-metre vegetation protection zone and recommend limiting tree clearing required on site. The zoning by-law amendment

proposes to rezone areas containing significant natural heritage features to the 'Environmental Protection (EP) Zone' to protect the features and their functions.

Consistency with the Provincial Policy Statement will be determined following review of technical studies.

**City of Kawartha Lakes Official Plan (Official Plan):**

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

The Rural designation is intended to promote growth and development of the City's agricultural industry, protect agricultural land and preserve and promote the rural character of the City. Per Policy 16.2, some of the objectives of the rural designation include protecting agricultural lands from non-agricultural uses, supporting farming operations, and to recognize farming as a vital factor in protecting the environment.

Single detached dwellings are a permitted use in the Rural designation.

The proposal meets the criteria prescribed above. The single detached dwelling is a permitted use in the Rural designation. No agricultural farming operations will be removed as a result of the proposal.

Per Section 17.3.2 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 Environmental Protection designation is located on both the severed lot and the retained lot. The area of development proposed for the new single detached dwelling is outside of the area designated Environmental Protection.

Section 3.8 of the Official Plan speaks to buffering of 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". 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.

A Land Use Compatibility and Noise Study recommend a 300-metre separation between the adjacent aggregate operation and the proposed single detached dwelling to be constructed on the severed lot.

Conformity with the Official Plan will be evaluated following review of the Land Use Compatibility and Noise Study.

### **Zoning By-law Review:**

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 XX (RG-XX) 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 a neighbouring aggregate operation.

Staff are generally of the opinion that the zoning by-law amendment is appropriate, but require completion of the technical reviews of the EIS and Land Use Compatibility/Noise Study to ensure there are no ecological or land use compatibility concerns with a proposed dwelling on the severed lot.

### **Other Alternatives Considered:**

No other alternatives have been considered at this time.

### **Alignment to Strategic Priorities:**

For reference, the four strategic priorities within the 2020-2023 Kawartha Lakes Strategic Plan are:

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

This application would align with a healthy environment by protecting natural heritage features, and an exceptional quality of life by creating vacant land that is able to support a single detached dwelling, adding to the rural housing base.

## **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.

## **Consultations:**

Notice of this application was circulated to persons within a 120 m metre radius, agencies, and City Departments which may have an interest in the application. No comments from the public were received at the time of report writing.

## **Agency Comments:**

Development Engineering reviewed the proposal indicating no concerns.

Enbridge reviewed the proposal indicating no concerns.

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

The application generally conforms to the Growth Plan and is consistent with the Provincial Policy Statement. The application also generally conforms to the policies of the City of Kawartha Lakes Official Plan.

The rezoning to address the applicable provincially significant natural heritage and hazard features on site and implement the appropriate setbacks from a neighbouring aggregate operation is a requirement to fulfill conditions of provisional consent approval. The zoning by-law amendment is generally appropriate and satisfies this condition. A new dwelling is proposed on the severed lot.

While Staff generally support the zoning by-law amendment, Staff respectfully recommend that the application be referred back until technical reviews have been completed, specifically as it relates to land use compatibility concerning the neighbouring aggregate operation.

## **Conclusion:**

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](mailto:Matt.Alexander@wsp.com).



## **Attachments:**

Appendix A – Location Map



Appendix A

Appendix B – Aerial



Appendix B

Appendix C – Sketch



Appendix C

**Department Head Email:** [lbarrie@kawarthalakes.ca](mailto:lbarrie@kawarthalakes.ca)

**Department Head:** Leah Barrie, Director of Development Services

**Department File:** D06-2024-008