

# The Corporation of the City of Kawartha Lakes

## Planning Committee Report

Report Number PLAN2017-010

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**Date:** February 8, 2017

**Time:** 1:00 p.m.

**Place:** Council Chambers

**Public Meeting**

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**Ward Community Identifier:** Ward 16 – Manvers

**Subject:** An application to amend the Oak Ridges Moraine Zoning By-law to permit a single detached dwelling, Gray Road, Manvers (BINNIE)

**Author/Title:** Ian Walker, Planner II

**Signature:** 

### Recommendations:

**RESOLVED THAT** Report PLAN2017-010, respecting Part of Lots 7 & 8, Concession 6, Geographic Township of Manvers, "BINNIE – Application D06-17-003", be received; and

**THAT** Zoning By-law Amendment Application D06-17-003, respecting Vacant Land on Gray Road, be refused; and

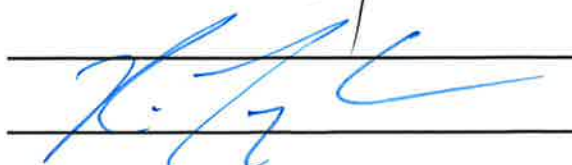
**THAT** all interested parties be notified of the decision.

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**Department Head:**

**Corporate Services Director / Other:**

**Chief Administrative Officer:**

## Background:

The subject lot is partially located within the Oak Ridges Moraine Conservation Plan (ORMCP) area, on the south side of the unopened Gray Road allowance, to the east of Century Farm Road, in the geographic Township of Manvers. See Appendices 'A' and 'B'. The ORMCP affects the majority of the property. See Appendix 'C'. The use, erection and location of structures on properties within the ORMCP area are required to conform with the policies of the ORMCP.

Section 7. of the ORMCP permits a single dwelling if:

- (a) the use, erection and location would have been permitted by the applicable zoning by-law on November 15, 2001; **and**
- (b) the applicant demonstrates, to the extent possible, that the use, erection and location will not adversely affect the ecological integrity of the Plan Area.

The portion of the lot within the ORMCP area is subject to the City of Kawartha Lakes Oak Ridges Moraine Policy Area (VCOP No. 104), and the Oak Ridges Moraine Zoning By-law 2005-133 (ORM ZBL). The applicant has submitted an application to amend the "Oak Ridges Moraine Core Area (ORMCA) Zone" on this lot, to seek an exemption from the By-law provision prohibiting the construction of a building on a lot which does not front upon and gain direct access to an improved public street, maintained year round. The intent of this amendment is to permit a single detached dwelling on the lot.

Owner:	Laura and Daniel Binnie	
Applicant:	Clark Consulting Services – Bob Clark	
Legal Description:	Part of Lots 7 & 8, Concession 6, Geographic Township of Manvers	
Designation:	"Natural Core Area" in the City of Kawartha Lakes Oak Ridges Moraine Policy Area (VCOP No. 104)	
Zone:	"Oak Ridges Moraine Core Area (ORMCA) Zone" and "Oak Ridges Moraine Environmental Protection (ORMEP) Zone" on Schedule 'A' of the Oak Ridges Moraine Zoning By-law No. 2005-133	
Lot Area:	31.1 ha. [75.0 ac. – MPAC]	
Site Servicing:	Unserviced	
Existing Uses:	Managed Forest	
Adjacent Uses:	North:	Gray Road unopened road allowance, Conservation Authority area, Rural residential
	East:	Agricultural
	South:	Agricultural, Rural residential
	West:	Agricultural, Century Farm Road

## **Rationale:**

The majority of the lot is subject to the ORM ZBL, with the remainder of the lot subject to the Township of Manvers Zoning By-law 87-06, as amended. The portion of the property where the dwelling is proposed is within the ORMCA Zone. As noted above, Section 7. (a) of the ORMCP allows a previously authorized dwelling if the use, erection and location would have been permitted on November 15, 2001. Refer to Appendix 'D'. On November 15, 2001, the portions of the property that are currently zoned "Oak Ridges Moraine Environmental Protection (ORMEP) Zone" and "Oak Ridges Moraine Core Area (ORMCA) Zone" were respectively zoned "Open Space (O1) Zone" and "Rural General (A1) Zone".

In the ORMCA Zone, the ORM ZBL permits a single detached dwelling if:

- i) the use, erection and location would have been permitted by the Township of Manvers Zoning By-law 87-06, as amended, on November 15, 2001; and
- ii) the applicant demonstrates, to the extent possible, that the use, erection and location will not adversely affect the ecological integrity of the Oak Ridges Moraine Plan Area.

The ORM ZBL contains a general provision which requires that no person shall erect any building or structure in any Zone, unless the lot upon which such building or structure is to be erected fronts upon and gains direct access onto an improved public street, maintained year round. This property fronts upon an unopened road allowance, municipally known as Gray Road. As such, the applicant has applied to amend the ORM ZBL to permit a residential use on a portion of the lot.

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

1. Planning Justification Report prepared by Clark Consulting Services, dated September 13, 2016. The report discusses and assesses the proposal in context of the 2014 Provincial Policy Statement, Growth Plan, Oak Ridges Moraine Conservation Plan, the City of Kawartha Lakes Oak Ridges Moraine Policy Area (VCOP No. 104), and the Oak Ridges Moraine Zoning By-law 2005-133.
2. Zoning Sketch prepared by Clark Consulting Services, stamp dated September 20, 2016. The Plan outlines the existing development on the lot.
3. Minimum Distance Separation (MDS) Calculation prepared by Clark Consulting Services, dated August 3, 2016.
4. Revised MDS Calculation including livestock facility at Part of Lot 8, Concession 8, Geographic Township of Manvers, prepared by Clark Consulting Services, dated January 19, 2017.

Staff have reviewed the Planning Justification Report (PJR) and accompanying documents filed in support of the proposed zoning by-law amendment.

## **Provincial Policies:**

### **Oak Ridges Moraine Conservation Plan, 2002:**

The property is partially located within the Oak Ridges Moraine and therefore, subject to the policies contained in the following documents:

- The Oak Rides Moraine Conservation Plan (ORMCP);
- City of Kawartha Lakes Oak Ridges Moraine Policy Area – Amendment Number 104 to the Victoria County Official Plan (VCOP No. 104); and
- The Oak Ridges Moraine Zoning By-law 2005-133 (ORM ZBL).

It should be noted that the ORMCP provides a series of policies that in certain instances, could conflict with the VCOP No. 104 and/or ORM ZBL policies and provisions. In these circumstances, the ORMCP provides within the introduction section that where a conflict occurs, the ORMCP is the prevailing document.

November 15, 2001 is considered a “snapshot” in time: as of that date, new uses on any property subject to the ORMCP must conform to the Plan. In order for a single dwelling to be considered a permitted use on a property, the use, erection and location had to be permitted on November 15, 2001, by By-law 87-06. This lot was subject to the A1 Zone provisions in 2001. The A1 Zone lists “single detached dwelling” as a permitted use; however, the A1 special requirements provide that the only uses permitted on lands zoned A1 which do not have frontage and direct access onto an improved public street, assumed and maintained year round, shall be agricultural uses with no dwelling unit associated. See Appendix ‘E’. On this basis, a single family dwelling was not a permitted use on the lot on November 15, 2001. In addition, a Natural Heritage Evaluation (NHE), required by the ORMCP has not been submitted in support of this application. Therefore, this application does not conform to the ORMCP.

### **Growth Plan for the Greater Golden Horseshoe, 2006:**

The Growth Plan (GP) should be read in conjunction with relevant provincial plans, including the ORMCP and Provincial Policy Statement (PPS). The policies of the GP prevail, except where there is a conflict in policies relating to the natural environment or human health. The GP provides that growth should be directed towards settlement areas, except where necessary for development related to the management or use of resources, resource-based recreational activities, and rural land uses which cannot locate in settlement areas. For lands within the Greenbelt Area (in this instance, the ORMCP area), the applicable policies in the ORMCP apply. Therefore, conformity with the ORMCP is required for this application to conform with the GP.

### **Provincial Policy Statement, 2014 (PPS):**

The Provincial Policy Statement (PPS) provides that on rural lands, permitted uses are: the management or use of resources; resource-based recreational activities; limited residential development; home occupations and home industries; cemeteries; and other rural land uses. The PPS also provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural environment.

Section 2.1.4 of the PPS prohibits development and site alteration in significant wetlands. Section 2.1.5 prohibits development and site alteration in significant woodlands, unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions. Section 2.1.8 prohibits development and site alteration on the adjacent lands to these features unless the ecological function of the adjacent lands have been evaluated, and it is demonstrated there will be no negative impact on the natural features or their functions. As noted above, in accordance with the ORMCP, a NHE is required to evaluate the natural heritage features and their ecological functions. The NHE is also required in accordance with the Natural Heritage policies of the PPS.

Section 3.1 of the PPS prohibits development and site alteration within a flood plain, unless it can be demonstrated that the effects and risk to public safety are minor, could be mitigated in accordance with provincial standards, and where 4 additional criteria in Section 3.1.7 can be demonstrated and achieved. Kawartha Conservation (KRCA) has identified there may be flooding hazards associated with the entrance to the lot, and within the Gray Road unopened road allowance.

Therefore, this application has not demonstrated consistency with the PPS.

### **Official Plan Conformity:**

The property is designated "Natural Core Area" in the City of Kawartha Lakes Oak Ridges Moraine Policy Area (VCOP No. 104). Section 3.3 of the VCOP No. 104 states "Nothing in the City of Kawartha Lakes Oak Ridges Moraine Policy Areas (ORMPA) or the ORMCP applies to prevent the use, erection or location of a single dwelling if,

- (a) the use, erection and location would have been permitted by Township of Manvers Zoning By-law 87-06 on November 15, 2001; and
- (b) the applicant demonstrates, to the extent possible, that the use, erection and location will not adversely affect the ecological integrity of the Plan Area."

As noted above, the use was not permitted on November 15, 2001, and the appropriate NHE has not been submitted, in accordance with the ORMCP.

Therefore, this application does not conform to the policies of the Official Plan.

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

The lot is zoned “Oak Ridges Moraine Core Area (ORMCA) Zone” and “Oak Ridges Moraine Environmental Protection (ORMEP) Zone” in the ORM ZBL. The applicant has submitted a Zoning By-law Amendment application for consideration, to exempt this property from the general provision requiring the lot to front upon and gain direct access onto an improved public street, maintained year round, for the purposes of constructing a building. The general prohibition applies to the construction of any buildings or structures on the property.

### **Other Alternatives Considered:**

No other alternatives have been considered.

### **Financial Considerations:**

There are no financial considerations unless Council’s decision to adopt or its refusal to adopt the requested amendments are appealed to the Ontario Municipal Board. In the event of an appeal, there would be costs, some of which may be recovered from the applicant.

### **Relationship of Recommendations To The 2016-2019 Strategic Plan:**

The Council Adopted Strategic Plan identifies these Strategic Goals:

- A Vibrant and Growing Economy
- An Exceptional Quality of Life
- A Healthy Environment

This application aligns with the vibrant and growing economy strategic goal as it provides to attract new residents. This application may conflict with the healthy environment strategic goal as the impact on the natural features has not been assessed.

### **Review of Accessibility Implications of Any Development or Policy:**

There are no accessibility implications for the City.

### **Servicing Comments:**

The agricultural land is unserviced. The proposed single detached dwelling would be serviced by a private sanitary sewage disposal system and individual well. If this application is successful, the residential use will require reserve sewage system capacity for hauled sewage, in accordance with Section 1.6.6.6 of the PPS.

## **Consultations:**

Notice of this application was circulated to persons within a 500 metre radius, agencies, and City Departments which may have an interest in the application. To date, we have received the following comments:

### Agency Review & Public Comments:

January 11, 2017 – The Building Division advised it has no concerns.

January 18, 2017 – Chippewas of Rama First Nation advised that it has received the notice of public meeting and has shared it with Council, and forwarded it on to the Williams Treaties First Nation Process Co-ordinator/Negotiator.

January 18, 2017 – Rose Niemirowski, 154 Century Farm Road, advised that the MDS calculations submitted as part of the application did not include the livestock facility on her farm.

January 23, 2017 – Hiawatha First Nation requested additional information relating to this application.

January 24, 2017 – The Building Division Part 8 Sewage Systems Program advised there is adequate space on the property to allow an on-site sewage disposal system, and they have no objection to this application.

January 26, 2017 – Wendy Stonehouse requested to be notified of the decision.

January 27, 2017 – The Ministry of Municipal Affairs & Ministry of Housing (MMA/MHO) advised that staff should be satisfied that they are correctly interpreting the ORMCP, and that recommendations on Planning Act applications conform to provincial plans, and are consistent with the PPS.

January 27, 2017 – Kawartha Conservation (KRCA) advised that the proposal does not conform with the ORMCP, as a single dwelling was not permitted on this property on November 15, 2001. Additionally, KRCA advises that additional information is required to assess the natural heritage features and natural hazards (flooding) associated with this property, in accordance with the ORMCP and PPS.

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

All information submitted has been circulated to the appropriate agencies and City Departments for review and comment. The Planning Justification Report has not indicated how the proposed use conforms with Section 7. of the ORMCP, as it does not address the previous prohibition on a single dwelling in the A1 Zone. Staff cannot support the application as it does not conform to Section 7. of the Oak Ridges Moraine Conservation Plan; is not consistent with the Natural Heritage policies of the 2014 Provincial Policy Statement; and does not conform to Section 3.3 of the City of Kawartha Lakes Oak Ridges Moraine Policy Area (VCOP No. 104).

## Conclusion:

In light of the policies contained in the Oak Ridges Moraine Conservation Plan, Growth Plan, the Provincial Policy Statement, and the City's Official Plan, staff respectfully requests that the application be refused.

## Attachments:

### Appendix 'A' – Location Map



PLAN2017-010  
Appendix A.pdf

### Appendix 'B' – Sketch for Zoning Amendment – dated September 20, 2016



PLAN2017-010  
Appendix B.pdf

### Appendix 'C' – Aerial Photo



PLAN2017-010  
Appendix C.pdf

### Appendix 'D' – Excerpt of Section 7., ORMCP, dated April 22, 2002



PLAN2017-010  
Appendix D.pdf

### Appendix 'E' – Rural General (A1) Zone, By-law 87-06, as amended



PLAN2017-010  
Appendix E.pdf

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<b>Phone:</b>	705-324-9411 ext. 1368 or 1-888-822-2225 ext. 1368
<b>E-Mail:</b>	<a href="mailto:iwalker@city.kawarthalakes.on.ca">iwalker@city.kawarthalakes.on.ca</a>
<b>Department Head:</b>	Chris Marshall, Director, Development Services
<b>Department File:</b>	D06-17-003



# GEOGRAPHIC TOWNSHIP OF MANVERS

Concession 7

APPENDIX " A "  
to  
REPORT PLAN 2017-010  
FILE NO. D06-17-003

Gray Road

Century Farm Road

**SUBJECT  
LAND**

Concession 6

Lot 6

Lot 7

Lot 8

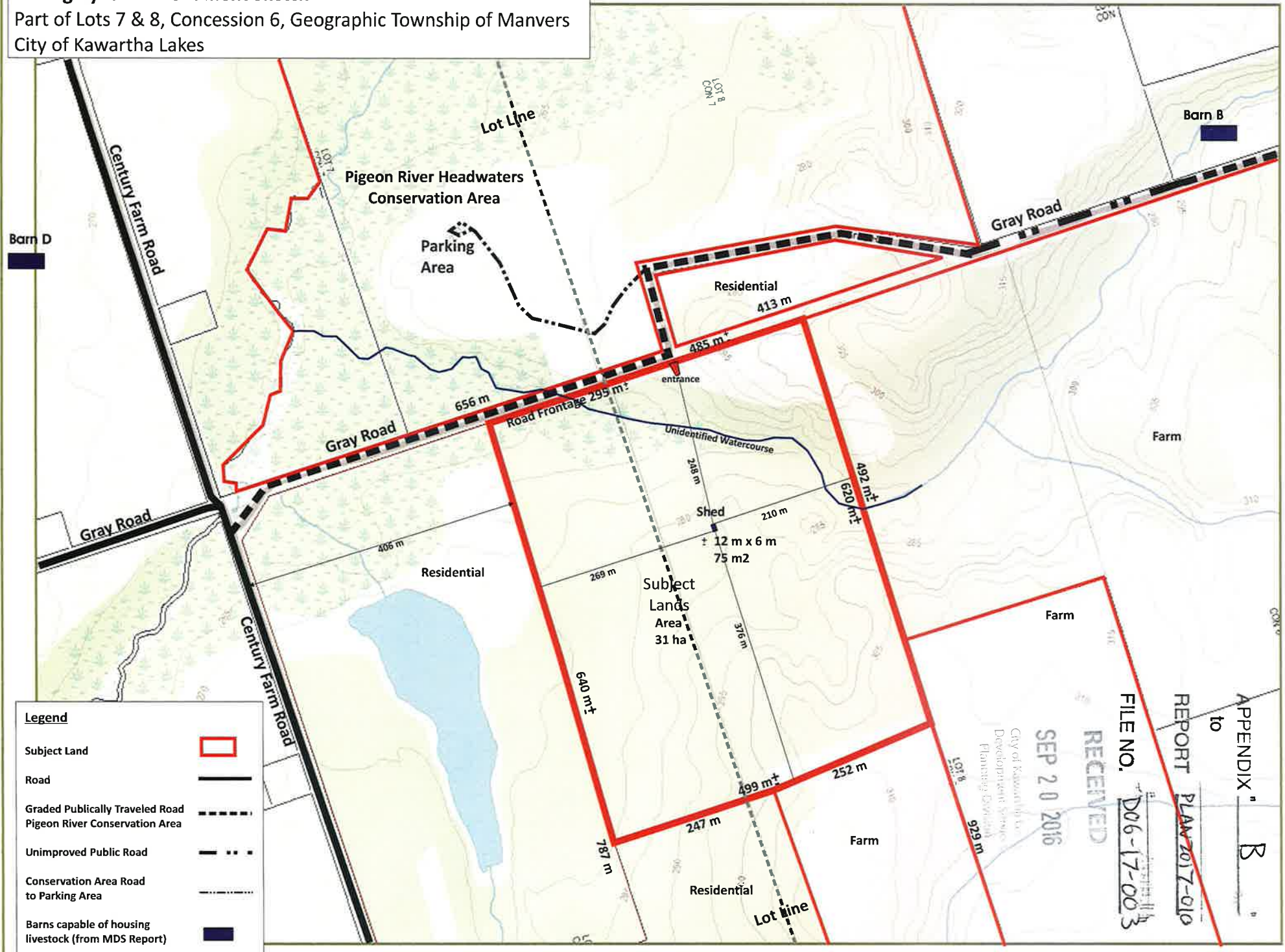
Lot 9

Ballyduff Road

Concession 5

# Zoning By-law Amendment Sketch

Part of Lots 7 & 8, Concession 6, Geographic Township of Manvers  
City of Kawartha Lakes





# Vacant Land on Gray Road



## Legend

- Road Centreline
- Property ROLL#
- ORM

APPENDIX  
to  
REPORT  
FILE NO.

## Notes

ORMCP - Gr

006-17-003

PLAN 2017-010

C

0.51

Kilometers



This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

THIS MAP IS NOT TO BE USED FOR COMMERCIAL OR LEGAL PURPOSES.

Previously authorized single dwelling

7. Nothing in this Plan applies to prevent the use, erection or location of a single dwelling if,

- (a) the use, erection and location would have been permitted by the applicable zoning by-law on November 15, 2001; and
- (b) the applicant demonstrates, to the extent possible, that the use, erection and location will not adversely affect the ecological integrity of the Plan Area.

Building or structure previously authorized or authorized under s. 17 (1) of Act

8. Nothing in this Plan applies to prevent the use, erection or location of a building or structure if,

- (a) the use, erection and location were authorized by the approval of an application that was commenced before November 17, 2001 and approved after that date; or
- (b) the use, erection and location were authorized by the approval of an application that was commenced after November 17, 2001 and decided in accordance with subsection 17 (1) of the Act.

Exception, site plan approval

9. An application for site plan approval under section 41 of the *Planning Act* is not required to comply with this Plan if it relates to land in respect of which any of the following was commenced before November 17, 2001 and approved after that date:

1. An application for an amendment to a zoning by-law.
2. An application for approval of a plan of subdivision under section 51 of the *Planning Act*.
3. An application for approval or exemption from approval for a plan of condominium under section 9 of the *Condominium Act, 1998*.

SECTION 10

to

RURAL GENERAL (A1) ZONE

REPORT PLAN 2017-016

10.1 A1 USES PERMITTED

FILE NO. DOC-17-003

1/2

No persons shall hereafter change the use of any building structure or land or erect and use any building or structure in a Rural General A1 Zone, except for the following uses:

- a. Agricultural use
- b. Riding school and/or boarding stable
- c. Cemetery
- d. Home occupation
- e. Hydro or communication facility
- f. Municipal or County works yard
- g. Single detached dwelling
- h. Converted dwelling (B/L 92-18)
- i. Second Single Detached Dwelling is subject to Section 20.28 of the General Provisions. B/L 2007-289
- j. Seasonal Farm Residential Use is subject to Section 20.29 of the General Provisions. B/L 2007-289

10.2 A1 ZONE REQUIREMENTS

In a Rural General A1 Zone, no person shall hereafter erect or use a building except in conformity with the following requirements:

- a. Minimum lot area 38 ha
- b. Minimum lot frontage 183 m
- c. Minimum front yard 30 m
- d. Minimum side yard 9 m
- e. Minimum rear yard 25 m
- f. Minimum dwelling unit floor area 100 sq.m
- g. Minimum flankage yard 15 m
- h. Maximum number of dwelling units 1
- i. Maximum height 11 m
- j. Accessory uses, parking, etc: In accordance with the provisions of Section 20 hereof.

10.3 A1 SPECIAL REQUIREMENTS

- a. Where a lot in the A1 Zone was held in separate ownership on the date of passing of this By-law or is created by consent to sever under the Planning Act (as either the retained or severed parcel), the minimum lot frontage shall be 38 metres and the minimum lot area shall be 2,045 square metres, provided that the lot is less than 10,000 square metres. All other requirements of the RR1 Zone

shall apply (B/L 88-12). A lot in excess of one hectare, that existed when this By-Law was passed, which is reduced in size as a result of a consent (either as the severed or retained lot), shall be deemed to conform to the By-law with respect to lot area and frontage.

- b. Notwithstanding the requirements of subsection 10.2, a cemetery, hydro or communications facility, and Municipal or County works yard shall be subject to the following:

- i. Minimum front, side and rear yards 10 m
- ii. Maximum height of structures or buildings 12 m

- c. Notwithstanding subsection 10.1, the only uses permitted on lands zoned A1 which do not have frontage and direct access onto an improved public street, assumed and maintained year round by the Township, County or Province shall be agricultural uses with no dwelling unit associated therewith.

- d. Notwithstanding subsection 10.2, articles f. and h., a single detached dwelling may be changed to a converted dwelling with a maximum of 2 dwelling units provided the dwelling existed prior to the passing of this By-Law and it meets the following requirements:

	Communal or Municipal Water Supply Provided	Individual Water Supply And Sewage Disposal
i. Minimum lot area	2000 sq.m plus 500 sq.m for each additional dwelling unit over 2	2800 sq.m plus 900 sq.m for each additional dwelling unit over 2
ii. Minimum lot frontage	35 m	45 m
iii. Minimum dwelling unit floor area for each dwelling unit (B/L 92-18)	85 sq.m	85 sq.m

10.4 A1 SPECIAL ZONES

- a. Notwithstanding article 10.2 a. and in addition to the other zone requirements of subsection 10.2, land zoned "A1-S1" shall be subject to the following zone requirements:

- i. Minimum lot area 18 ha