

The Corporation of the City of Kawartha Lakes

Planning Report

Report Number PLAN2017-017

Date: April 5, 2017
Time: 1:00 p.m.
Place: Council Chambers
(Public Meeting)

Ward Community Identifier: 14 - Emily

Subject: An application to amend the Township of Emily Comprehensive Zoning By-law 1996-30 to replace the Environmental Protection (EP) Zone across the shoreline of the subject properties with the Rural Residential Type One Exception Four (RR1-4) Zone existing on the balance of 37 Wispi Shore Road and the Rural Residential Type One Exception Five (RR1-5) Zone existing on the balance of 45, 57 & 65 Wispi Shore Road. on the property legally described as Part Lot 19, Concession 10, 57R-5049, Parts 1 to 4, geographic Township of Emily, City of Kawartha Lakes (CAMERON, OSMOND, GRATZ, DEVERS & ASHMEADE).

Author/Title: Mark LaHay, Planner II

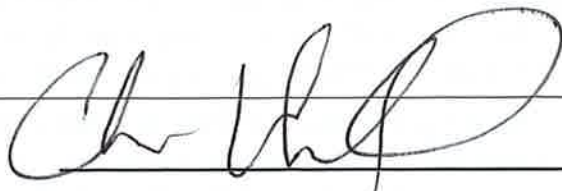
Signature: 

Recommendations:

RESOLVED THAT Report PLAN2017-017, respecting Part Lot 19, Concession 10, 57R-5049, Parts 1 to 4, geographic Township of Emily, City of Kawartha Lakes, Application No. D06-17-008, be received;

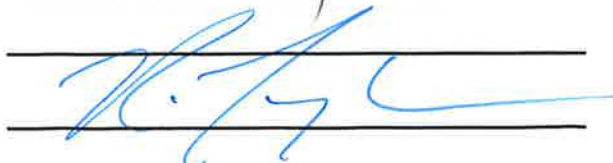
THAT Zoning By-law Amendment Application D06-17-008, Part Lot 19, Concession 10, 57R-5049, Parts 1 to 4, geographic Township of Emily, City of Kawartha Lakes, be referred back to staff for further review and processing until such time that all comments have been received from all circulated Agencies and issues related to compliance with Official Plan waterfront policies have been addressed.

Department Head:



Corporate Services Director / Other:

Chief Administrative Officer:



Background:

The subject properties are shoreline residential lots on the westerly side of Pigeon Lake, and each lot contains a dwelling. Residential accessory structures (sheds) exist on 45, 57 and 61 Wispi Shore Road and a gazebo also exists on 57 Wispi Shore Road within the area to be rezoned. The owners are proposing to remove the approximately 30 metre wide Environmental Protection (EP) Zone strip located across the shoreline portion of their properties and replace it with the Rural Residential Exception (RR-*) Zoning existing on the balance of their properties in order to permit waterfront accessory structures such as boathouses and docks. A copy of the proposed area to be rezoned is attached to this report as Appendix "C". The properties slope gently from the road towards the shoreline and consist of groups of mature trees and manicured lawns down to the shoreline.

Owners:	John and Patricia Cameron (37 Wispi Shore Rd.), Bernard and Elaine Osmond (45 Wispi Shore Rd.), Michael and Annika Gratz (57 Wispi Shore Rd.), and James Devers & Sharon Ashmeade (61 Wispi Shore Rd.)
Applicant:	Kent Randall, c/o EcoView Consulting Services Inc.
Legal Description:	Part Lot 19, Concession 10, 57R-5049, Parts 1 to 4
Official Plan:	"Waterfront" in the City of Kawartha Lakes Official Plan
Zoning:	Environmental Protection (EP) across shoreline (all) Rural Residential Type One Exception Four (RR1-4) Zone (37 Wispi Shore Road); Rural Residential Type One Exception Five (RR1-5) Zone (45, 57 & 65 Wispi Shore Road), in the Township of Emily Comprehensive Zoning By-law 1996-30.
Lot Sizes:	10,198 sq. m. (2.52 ac. - MPAC)
Site Servicing:	Private Individual Wells and Septic Disposal Systems
Adjacent Uses:	North, South: Shoreline Residential East: Pigeon Lake West: Wispi Shore Road/Rural-Agricultural

Rationale:

The subject property is located within a shoreline residential neighbourhood on the westerly shore of Pigeon Lake; see Appendices "A" and "B". The applicant has submitted the following in support of the application:

1. Planning Justification Report, dated October 7, 2016, prepared by EcoView Consulting Services Inc. The report discusses and assesses the proposal in context of the Growth Plan, 2014 Provincial Policy Statement, and City Official Plan.

2. Conceptual Zoning Sketch dated October 3, 2016, prepared by EcoView Consulting Services Inc.

All supporting documentation was circulated to the applicable Agencies and City Divisions for review and comment. At this time, some comments remain outstanding.

Staff has reviewed the Planning Justification Report in support of the proposed amendment and generally accepts the planning rationale given. However, we cannot fully evaluate the proposal until a more detailed review of existing additional accessory structures and impacts of potential new development is conducted together with any other further required responses from other City Departments and/or commenting Agencies to address this more detailed review have been received. Staff recommends that the applications be referred back to staff until such time as commenting Agencies and/or City Departments have submitted comments, and any other concerns or issues have been addressed.

Applicable Provincial Policies:

Growth Plan for the Greater Golden Horseshoe (Growth Plan):

The subject property is located within a rural area as defined in the Growth Plan, 2006. Section 2.2.2 (1)(i) of the Growth Plan directs development to settlement areas except development related to the management or use of resources, resource based recreational activities and rural land uses that cannot be located within settlement areas. The application conforms to the Growth Plan in that the proposed rezoning will permit shoreline structures that are accessory to the existing resource based recreational dwellings for a recreational resource-based activity, related to the Pigeon Lake.

Therefore, the application appears to conform to the policies of the Growth Plan.

Provincial Policy Statement (PPS):

The Provincial Policy Statement provides for appropriate development while protecting resources of provincial interest, public health and safety, and the quality of the natural environment. The application is consistent with the PPS, as prescribed in the following sections:

Section 1.1.4, Rural Areas in Municipalities, recognizes the importance of rural lands, natural heritage features and areas and other resource areas and building upon rural character and leveraging rural amenities and assets.

Section 1.1.5 of the PPS provides policy with respect to rural lands and permitted uses, which include resource-based recreational uses (including recreational dwellings). Accessory shoreline structures, such as boat houses and/or docks, would further promote the exiting resource based recreational use. Sections 1.1.5.2, 1.1.5.3, 1.1.5.4 permits the development of resource-based recreational

uses which are compatible with the rural landscape. The existing dwellings are resourced based recreational uses that functionally relate to Pigeon Lake.

Section 2.1 of the PPS provides policy with respect to the Wise Use and Management of Resources to protect Natural Heritage features, which does not permit development in significant natural heritage features nor within the habitat of endangered species and threatened species. After conducting a site visit with the initial preconsultation application in February 2016, the Kawartha Region Conservation Authority concluded that an Environmental Impact Study was not required, suggesting that the proposed application should not result in negative impacts to the natural environment.

Section 3.1 of the PPS provides policies for protecting public health and safety by directing development away from hazardous lands and sites that may be subject to flooding and/or erosion or human-made hazards. It appears that the existing residential development on the properties including accessory structures are located outside the flood elevation contour of Pigeon Lake. Kawartha Conservation permitting policies direct development outside of flood hazards, with the exception of boat houses and shoreline works. There does not appear to be any natural or human-made hazards associated with these applications.

The application appears to conform to and is consistent with the PPS in that it would permit the construction of boathouses and docks which are related to the use of a recreational resource in an area of established shoreline residential development.

Official Plan Conformity:

The properties are all designated "Waterfront" with the exception of a drainage channel along the south side of 61 Wispi Shore Road, which is designated "Environmental Protection" in the City of Kawartha Lakes Official Plan. The proposed rezoning does not affect the Environmental Protection designation. The Waterfront land use designation provides for accessory uses to low density seasonal and permanent residential uses adjacent to lakes. The Official Plan also permits the construction of boat houses and docks within the 30 metre water setback.

However, at this time, no plans have been provided for any proposed boat houses, so it is not known to what extent of the existing shoreline will be affected if permissions are given for new development or whether any further vegetation will be provided to augment the shoreline area to balance or compensate for any potential impact of new development.

In this regard, Section 3.11, Water Setback and Accessory Uses, speaks to establishing a vegetation protection zone and natural buffer area, Section 20.2, Waterfront Designation Objectives, speaks to protection water surface quality through shoreline naturalization efforts, Section 20.3.7 Waterfront Designation Policies, state that natural form and function shall dominate and naturalized or naturally vegetative shorelines shall be retained or restored where possible and Section 20.3.10 with respect to density suggests there should be provisions to

address lot coverage to ensure proportionality including relating lot coverage to the buildable area adjacent to the shoreline. Furthermore, Section 20.5 pertaining to Density and Massing speaks to maintaining an appropriate balance between natural and built form, limiting shoreline activity areas, retaining as much shoreline vegetation as possible and retaining tree cover and vegetation to uphold the environmental integrity of the waterfront.

Further information and discussion is required with the applicant to evaluate conformity with the intent of the applicable policies of the Official Plan. These property's shorelines are presently disturbed with retaining walls, manicured lawns, docks, gazebo etc. In order to bring the shorelines into compliance with the Official Plan, staff are recommending that the applicant provide compensation in the form of re-naturalization of the shoreline as a trade off for the proposed docks and boathouses that would be permitted with the applications. This could include a maximum area of the shoreline to be disturbed for boathouses, docks and other amenities with a requirement that the remaining shoreline be re-naturalized.

Zoning By-Law Compliance:

The properties are zoned Rural Residential Type One Exception Four (RR1-4) Zone (37 Wispi Shore Road) and Rural Residential Type One Exception Five (RR1-5) Zone (45, 57 & 65 Wispi Shore Road), and the strip across the easterly portion of the properties abutting the shoreline is zoned Environmental Protection (EP) Zone. The EP Zone does not permit residential accessory buildings or structures, or any structure, other than structures for flood and erosion control and docks. The applicant has submitted an application for a zoning by-law amendment to remove the EP Zone category to permit residential accessory buildings and/or structures such as boat houses. The intent of the EP Zone was to protect the waterfront area from development and ensure that it is left in its natural state. The proposed Rural Residential (RR) Zone requires a 30 m setback from the water but would permit development in the form of docks and boatouses. In order to achieve the original intent of the EP Zone, staff are recommending that the proposed zoning include an exception to restrict how much of the waterfront is disturbed and how much is left in its natural state.

A minor variance application (D20-15-047) for 57 Wispi Shore Road was granted in October 2015 to permit relief from the height of a detached garage, which is presently under construction. This application also identified a non-complying shed within the water setback, which as a condition of the variance, was required to be removed and comply with applicable zone setback provisions. A recent site visit has confirmed; however, that there are other accessory structures, such as storage sheds and a gazebo that exist within the 30 metre water setback, including accessory structures on adjacent properties. These structures have not been captured in the application and if appropriate, would need to be recognized or removed to come into compliance with the zoning by-law. As such, further information is required from the applicant and the Kawartha Region Conservation

Authority to assist with evaluating the appropriateness of the location of these structures, which may result in refinement to the proposed zoning by-law

amendment. The existing general provisions in the zoning by-law permit a maximum of three accessory buildings or structures, which shall not exceed a total lot coverage of 225 sq. m. (2,422 sq. ft.)

Other Alternatives Considered:

No other alternatives have been considered at this time.

Financial Considerations:

There are no financial considerations for the City, unless Council's decision respecting the approval or refusal of the application is appealed to the Ontario Municipal Board. In the event of an appeal, should Council direct staff to defend its decision, there would be costs.

Relationship of Recommendations To The 2016-2019 Strategic Plan:

The City's Strategic Plan outlines Council's vision for the municipality. The vision consists of three main Strategic Goals: that of a vibrant and growing economy, an exceptional quality of life, and a healthy environment.

The application aligns with the Exceptional Quality of Life priority in that the proposal would provide for additional water-based recreational opportunities.

Servicing Comments:

The subject properties are serviced with Private Individual Wells and Septic Disposal Systems. The Building Division, Part 8 Sewage Systems Program has no objection to the application. Applications for any new development are required through the sewage system program prior to construction.

Consultations:

Notice of this application was circulated to the prescribed persons within a 500 metre radius, agencies, and City Departments which may have an interest in the proposed application. As of the writing of this report, staff has received the following comments:

The Building Division advised on March 13, 2017 that they have no concerns.

The Engineering Division advised on March 14, 2017 that they have no objection.

The Building Division – Sewage System Program advised on March 15, 2017 that they have no objection to the proposed zoning amendment.

The Community Services Department advised on March 17, 2017 that they have no concerns or comments

The Kawartha Region Conservation Authority (KRCA) advised on March 22, 2017 that they would foresee no issue with the approval of this application based on their consideration for natural hazards, natural heritage and water quality and quantity protection policies. The applicants should be aware that the entirety of

the subject properties fall within areas regulated by the KRCA and specifically includes:

- All properties as within 120 metres of Pigeon Lake #15 Provincially Significant Wetland
- Portions of the properties adjacent to Pigeon Lake with an elevation lower than 246.9 mASL which are considered to be within the regulatory floodplain
- A mapped watercourse that is present on the southern boundary of #61 Wispi Shore Road

As such, a permit is required from their office for any development activities including new structures (e.g. boathouses, sheds, docks) regardless of size and any site alteration including shoreline works (e.g. armour stone).

Development Services – Planning Division Comments:

Planning Staff has reviewed the applicant's planning justification report and generally concurs with its analysis and recommendations. The proposed zoning by-law amendment application appears to be consistent with the 2014 Provincial Policy Statement and appears to conform to the Growth Plan for the Greater Golden Horseshoe. Further information is required to evaluate conformity to the City of Kawartha Lakes Official Plan (2012) and to ensure the application is in keeping with the general intent and purpose of the Emily Zoning By-law.

Conclusion:

In consideration of the comments and issues contained in this report, Staff respectfully recommends that the proposed Official Plan Amendment and Zoning By-law Amendment applications be referred back to staff for further review and processing until such time as all comments have been received from all circulated Agencies and issues related to compliance with Official Plan waterfront policies have been addressed.

Attachments:



Appendix 'A'
PLAN2017-017.pdf



Appendix 'B'
PLAN2017-017.pdf



Appendix 'C'
PLAN2017-017.pdf

Appendix 'A' – Location Map

Appendix 'B' – Aerial Photo

Appendix 'C' – Applicant's Rezoning Sketch

Phone: 705-324-9411 or 1-888-822-2225 ext. 1324

E-Mail: mlahay@city.kawarthalakes.on.ca

Department Head: Chris Marshall

Department File: D06-17-008

GEOGRAPHIC TOWNSHIP OF EMILY

CON. 11

APPENDIX " A "
to
REPORT PLAN 2017-017
FILE NO. 006-17-006

Pigeon Lake Rd. (K.L. Rd. 17)

Lot 19

Marsh

Marsh

Pigeon Lake Rd.

Lot 18

CON. 10

Wispi Shore Rd

37

45

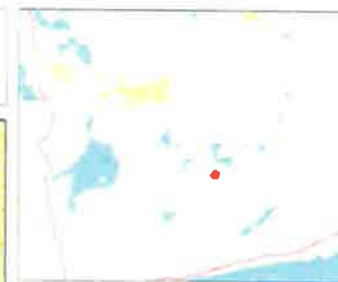
57

61

SUBJECT LAND

PIGEON LAKE

37, 45, 57 & 61 Wispi Shore Road (Emily)



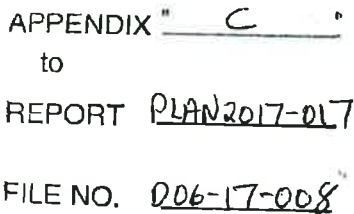
Legend

- ☐ Upper Municipalities
- ☐ Lower Tier Municipalities
- Property ROLL#
- ☐ Lots and Concessions
- ANSI
- Wetlands
 - Locally Significant Wetlands
 - Provincially Significant Wetlands
- Water Body
 - Waterbodies
 - Unevaluated Wetlands
- Woodland
- Open_Space
- CKL_PSW
- CKL_River_Buff15m
- KRCA Regulated Areas

APPENDIX "B"
to
REPORT PLAN 2017-017
FILE NO. D06-17-008

Notes





ECOVUE
consulting services inc.
www.ecovueconsulting.com

Wispi Shore Road - ZBA

Part of Lot 19, Concession 10 - Geographic Township of Emily
City of Kawartha Lakes - 37, 45, 57, 61 Wispi Shore Road