



NOTICE

A Special Meeting

Will be held by the
Council of the Corporation of the Town of Kearney
Senior's Room
8 Main St, Kearney ON

**Tuesday November 21st, 2023
9:00am**

1. Call the Meeting to Order

2. Approval of Agenda

3. Disclosure of Interest

(At this time, Members of Council shall declare pecuniary interest, if any, with items on the agenda)

4. Items for Discussion

- 4.1 Application **RZ-03-23 (DE CICCO)** to amend the Town Zoning By-law(s) to be a "Complete" Application under Subsection 34 of the Planning Act, R.S.O. 1990, c. P.13.

5. Closed Session

Under Section 239 of the Municipal Act, Council moved into closed session under the following subsections:

- (3.1) Council Training

6. Adjournment



PLANNING DEPARTMENT
APPLICATION FORM

- Official Plan Amendment
- Zoning By-law Amendment
- Minor Variance
- Consent/Severance

A Pre-Consultation Meeting with Town Staff is required prior to the submission of a Planning Department Application.
Pre-consultation does not imply or suggest any decision on behalf of Town Staff or the Corporation of the Town of Kearney.
 Applicants are required to post NOTICE of the Public Meeting that is the subject of the Application.
 Members of Council, Town Staff and Town Consultants may conduct a site inspection(s) of the subject land(s).
 By submitting an Application, you acknowledge and authorize access for the purpose of conducting the required site inspection.
Only complete Applications will be processed.

REGISTERED OWNER INFORMATION:

Name of Owner(s): Darryl De Ciccio
 Address: 716 Highland Blade Road
Newmarket, ON L3X 1P3
 Telephone: 416 606-8875
 Email: ddeciccio1@gmail.com

AGENT INFORMATION (if applicable):

Name of Agent: _____
 Company/Firm: _____
 Address: _____

 Telephone: _____ Email: _____

CORRESPONDENCE: Please specify to whom all correspondence should be sent: Owner Agent Both

LOCATION OF PROPERTY:

Lot: 18 Conc.: 3 Township: Proudfoot Reference Plan: 42R-3434 Part/Block/Lot: 1 and 3
 Property Roll No.: 4918 - 0(3)0 - 00(1) - (2) (5) (1) (0) (1) - 0000
 Civic Address: 29B Chickadee Lane
 Water Access only: Sand Lake
 (Name of Waterbody)

DESCRIPTION OF SUBJECT LANDS:

Lot area (ha): 0.277 Lot Road Frontage (m): 42.06 Water Frontage (m): 42.18
 Lot Depth (m): 94.82 Easements/Right-of-ways: Yes No If yes, describe purpose: _____
 Existing Use of Property: Seasonal Cottage

PAST PLANNING ACT APPLICATIONS:

Are you aware of any previous Planning Act applications on the subject property? Yes No If Yes, please explain:
 Type of application(s): _____

 Date(s): _____

OFFICIAL PLAN / ZONING STATUS:

Official Plan designation: Hazard Zone
 Zoning designation: Residential Waterfront

What is the proposed future use of the subject lands: Replace cottage to a 4 season dwelling.

BUILDINGS, STRUCTURES AND USES

Please complete the following for each Building or Structure:

	Building One		Building Two		Building Three	
	Existing	Proposed	Existing	Proposed	Existing	Proposed
Type of Building	One Story Cottage	One Story Cottage	Shed		Outhouse	
Setback from Front Lot Line	29.28m					
Setback from Rear Lot Line	48.86m					
Setback from Side Lot Line	10.59m		6.05m		4.5m	
Setback from Side Lot Line	18.02m					
Height (m)	4.26m		2.13m		2.6m	
Dimensions	14.85m x 9m		2.6m x 2m		1.1m x 1m	
Floor Area	91.39m ²					
Date of Construction	1974		2020		1976	
Existing Use	seasonal cottage		storage		outhouse	

REASONS FOR REQUEST

Please describe the reasons for, and the extent of, the request:

Land was rezoned as Hazard Zone and there was no detailed survey to update zoning maps. Property owner would like to rebuild a cottage but can't because its currently in a hazard zone.

ACCESS

Are the subject lands accessible by:

- Provincial Highway
- Municipal Road (seasonal maintenance)
- Municipal Road (year-round maintenance)
- Right of Way
- Unopened Road Allowance
- Water Access
- Other (describe) _____

SERVICING

	<u>Municipal</u>	<u>Private</u>	<u>Other</u>
Water Supply	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sewage Disposal	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Frontage on Road	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Storm drainage provided by: Sewer Ditch Swale Other: (describe) _____

OTHER APPLICATIONS

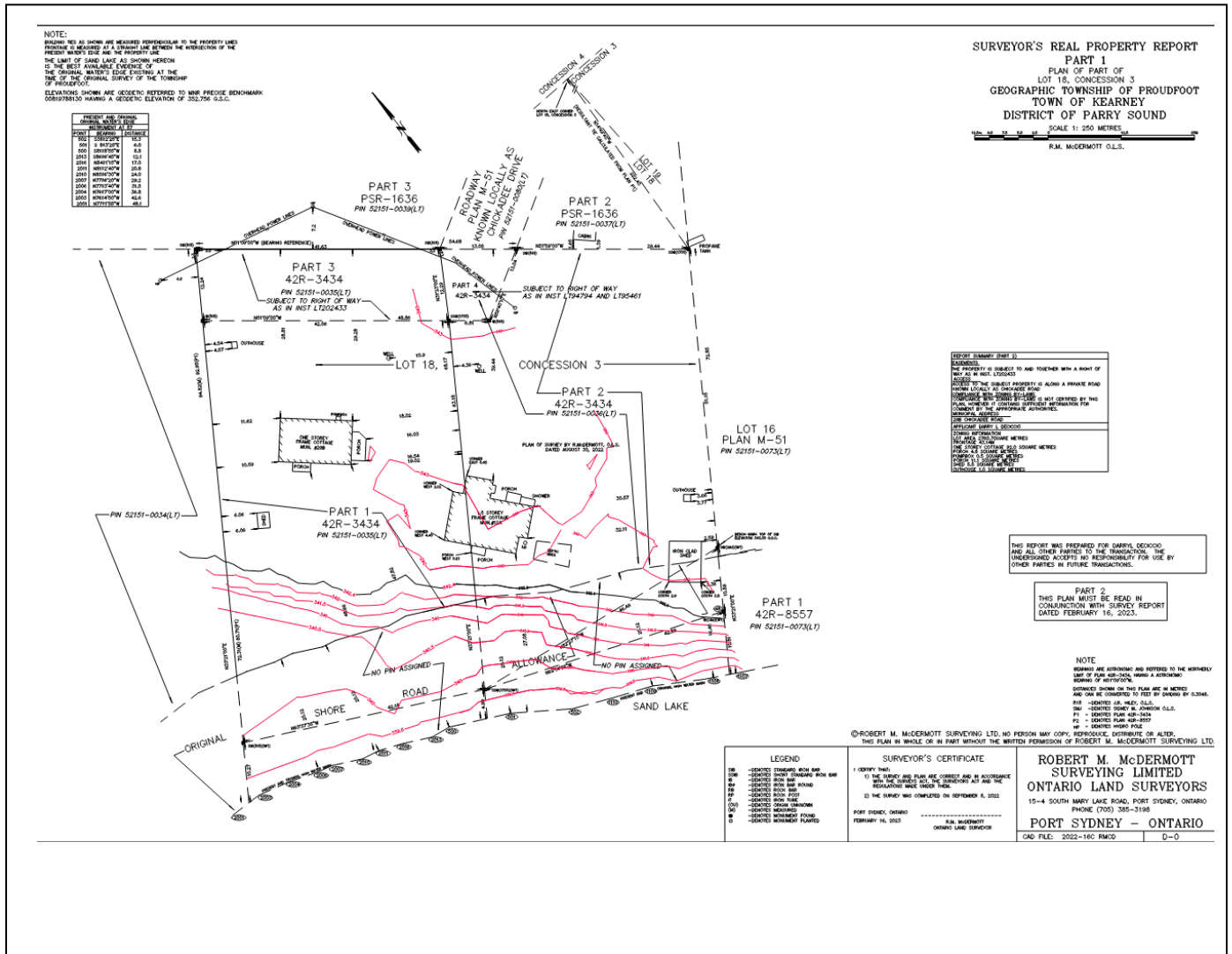
Are the subject lands also the subject of another Planning Act application? Yes No

If yes, please provide a brief explanation, including the status of the other application: _____

DRAWING

Sketch required showing the following:

- Lot boundaries and dimensions of the subject land;
- The location, size and type of all existing and proposed buildings and structures on the subject land, indicating the distance of the building or structures from the front yard lot line, rear yard lot line and side yard lot lines;
- Major features on the subject land and on the surrounding land. Examples include: buildings, railways, roads, watercourses, drainage ditches, river or stream banks, wetlands, wooded areas, wells and septic tanks;
- The current uses on land that is adjacent to the subject land;
- The location, width and name of any road allowance, a public travelled road, a private road or a right-of-way;
- If access to the subject land is by water only, the location of the parking and docking facilities to be used; and
- The location and nature of any easement affecting the subject land.



PERMISSION TO ENTER

I hereby authorize the Elected Members of Town Council and Town Staff, to enter upon the subject lands and premises for the limited purpose of evaluating the merits of this Application. This is their authority for doing so.

April 14th, 2023

Date



Signature of Registered Owner(s) or Agent

FREEDOM OF INFORMATION

I hereby provide authority for any information contained in this Application, to be released in accordance with the Freedom of Information and Protection of Privacy Act.

April 14th, 2023

Date



Signature of Registered Owner(s) or Agent

PAYMENT OF FEE AND DEPOSIT (As per the Current Fees and Charges By-law)

- Application Fee
- Residential DEPOSIT Fee
- Commercial/Industrial/Institutional DEPOSIT Fee

COST ACKNOWLEDGEMENT

The DEPOSIT shall be used for all expenses incurred with regard to this Application. I hereby agree to pay for and bear the *entire cost and expense* for Consultants (i.e. planning, legal) and their services required by the Town of Kearney during the processing of this Application, in addition to the Application Fee. An additional deposit shall be required if the deposit is insufficient to complete the Application.

April 14th, 2023

Date



Signature of Registered Owner(s) or Agent

Note: All Invoices for payment shall be sent to the Registered Owner of this Application, unless otherwise requested.
If the Applicant/Owner is a Corporation, the Applicant/Owner shall provide certification that he/she has the authority to Bind the Corporation.

AFFIDAVIT

I, Darryl De Ciccio, registered owner of the subject lands, declare that all of
(print name)
the above information is true and accurate.

April 14th, 2023

Date



Signature of Registered Owner(s) or Agent

For Office Use Only

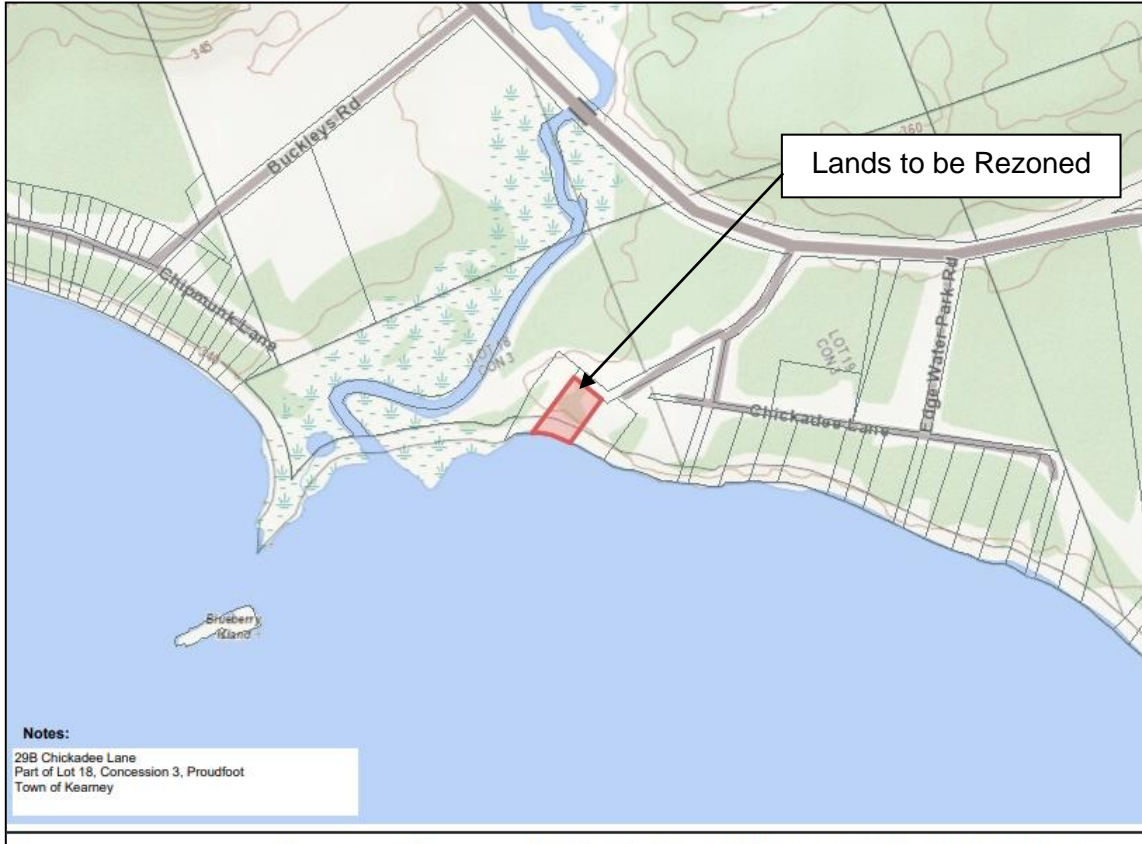
Pre-consultation Fee Paid

Certified by _____, that this application has undergone a pre-consultation with the Staff of the Town of Kearney to determine the information required to prepare a complete application.

Staff Initials: _____

Lands Affected by the By-law

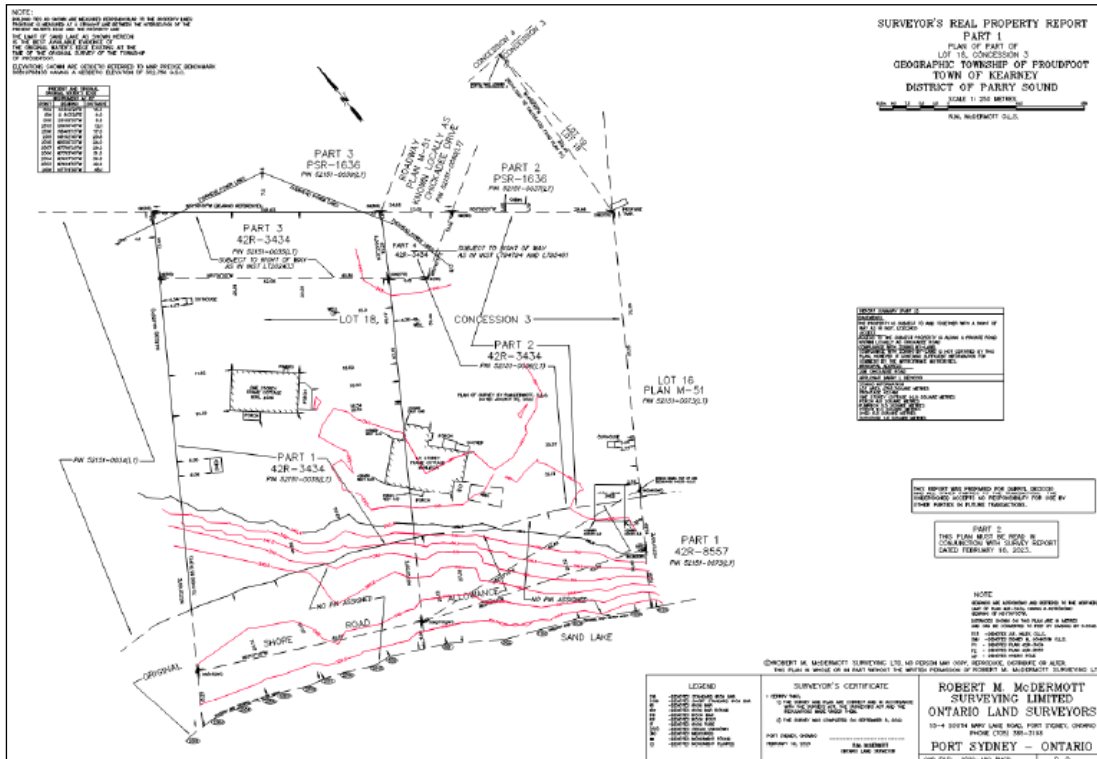
The lands affected by this By-law are shown in the key map below.



**29B Chickadee Lane; Part of Lot 18, Concession 3, Proudfoot
Town of Kearney**

may not be reproduced without permission. THIS IS NOT A PLAN OF SURVEY.

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RR

RR

RR

CHIPWINK LANE

518 HIGHWAY

518 HIGHWAY

LEDGEWATER PARK

LEDGEWATER PARK

PERRY'S ROAD

RWF

CT

RWF

50 m



311 George St. N. Suite 200
Peterborough, ON K9J 3H3

T 705.876.8340 | F 705.742.8343

www.ecovueconsulting.com

Planning Report

To: Mayor and Council, Town of Kearney

From: Kent Randall & Jessica Rae Reid (EcoVue Consulting),
Township Planning Consultants

Subject: Zoning By-law Amendment RZ-03-23 (De Cicco)

Property Location: 29B Chickadee Lane; Part of Lot 18, Concession 3, Town of Kearney (Proudfoot)

EcoVue File No.: 23-2095-20

Date: November 20, 2023

1.0 Recommendation

It is recommended that Council receive the report dated November 20, 2023 from EcoVue Consulting Services regarding application RZ-03-23 (De Cicco).

It is recommended that Council approve the proposed amendment to Zoning By-law No. 2022-20, which will rezone the subject lands from the Hazard Lands (HZ) Zone to the Residential Waterfront (RWF) Zone. The subject property has a municipal address of 29B Chickadee Lane.

2.0 Subject Lands

The lands subject to this application are located in Part of Lot 18, Concession 3, in the Geographic Township of Proudfoot, now in the Town of Kearney (ARN#4918-030-001-25101). The subject property details are as follows:

	Subject Lands
Frontage	43.14 metres on Sand Lake 42.06 metres on ROW
Depth	68.17 metres
Area	2765.70 square metres (0.277 hectares)
Current Use	One (1) Single Detached Recreational Dwelling, setback 48.66 metres from Sand Lake



Proposed Use	Recreational/Residential
Road Access	Chickadee Lane

3.0 Purpose of Application

The property owner has proposed to rebuild the existing residential dwelling on the subject lands. However, due to the lands being within the Hazard Lands (HZ) Zone, the current provisions of the Zone do not list residential or recreational dwellings as a permitted use. As such, this Zoning By-law amendment application is required to rezone a portion of the subject lands from the Hazard Lands (HZ) Zone to Residential Waterfront (RWF) Zone, in order to permit the reconstruction of the existing legal non-conforming dwelling.

According to the provisions of the Town of Kearney Zoning By-law No. 2022-20, the Hazard Lands (HZ) Zone permits uses including: *agricultural uses (excluding buildings), cannabis production and processing (excluding buildings), conservation use (excluding buildings), outdoor recreation, recreational trail, and resource management activities*. As the permitted uses imply, the HZ Zone is not meant to contain structures (permanent or seasonal) and does not permit residential uses in any capacity.

Therefore, an amendment to the Town of Kearney Zoning By-law is required to rezone the subject lands in order to permit the proposed reconstruction of the existing dwelling.

3.1 Pre-consultation with the Town of Kearney

The applicant Pre-consulted with Town of Kearney Staff and the Town's Planning Consultant (EcoVue Consulting Services Inc.) via Zoom on April 3, 2023, to discuss the potential for an amendment.

Currently, the Town of Kearney does not have any information related to the topography of the subject lands. As such, the Planning Consultant had requested that, in support of the proposed Zoning By-law Amendment Application, a survey of the property would need to be undertaken showing the present elevations on the property that will properly delineate the High Water Mark and the Flood Elevation (i.e. Flood Fringe Elevation) of Sand Lake.



The applicant has prepared and submitted a Surveyor's Real Property Report (SRPR), prepared by Robert M. McDermott Surveying Limited. The SRPR shows the requested information. A copy of the submitted SRPR has been included with this Report.

4.0 Analysis

4.1 Provincial Policy Statement (2020)

The subject lands are not located within a settlement area and are therefore subject to Section 1.1.4 (Rural Areas) and 1.1.5 (Rural Lands) of the PPS. Specifically, Section 1.1.5.2 outlines permitted uses on *rural lands*, which includes “*b) resource-based recreational uses (including recreational dwellings); c) residential development, [...] that is locally appropriate' [...]*”. As such, the proposal to rezone the subject lands to allow for the proposed reconstruction of the existing recreational/residential structure is permitted within the Rural Areas and Rural Lands. Furthermore, the subject lands are consistent in size and existing use as other properties on Chickadee Lane Road and the surrounding Sand Lake area, and therefore considered locally appropriate.

As stated, the submitted ZBA proposes to rezone a portion of the subject lands from the Hazard Land (HZ) Zone. Specifically, the ZBA requests to remove the portions of the land which are considered to be above the flood fringe limit of Sand Lake. As such, the policies of Section 2.1 (Natural Heritage) and 3.1 (Natural Hazards) of the PPS.

Policies contain in Section 2.1 of the PPS prohibit development and site alteration within or on lands adjacent-to natural heritage features including: wetlands (coastal, provincially, and locally significant), significant wildlife habitat, fish habitat, significant areas of natural and scientific interest (ANSIs), and significant woodlands and valleylands (in Ecoregions 6E and 7E – Kearney is located in 5E). Development or site alteration is only permitted if it has been determined that there will be no negative impact on the present features.

There are no observed natural heritage features located on the subject lands. Furthermore, the proposed development will be greater than 30 metres from the shoreline of Sand Lake, thereby ensuring a sufficient vegetation protection zone (if it was required).

Moving on to Section 3.1, as previously mentioned, the subject lands are located on Sand Lake, and according to Schedule C of the Town of Kearney Official Plan, are located within a Flood Plain Overlay



Based on Aerial Interpretation. Section 3.1.1 of the PPS states that “[d]evelopment shall generally be directed [...] to areas outside of: [...] b) hazardous lands adjacent to river, stream and small inland lake systems which are impacted by flooding hazards and/or erosion hazards; [...]”. Section 3.1.2 reiterates this: “[d]evelopment and site alteration shall not be permitted within: [...] c) areas that would be rendered inaccessible to people and vehicles during times of flooding hazards, erosion hazards and/or dynamic beach hazards, unless it has been demonstrated that the site has safe access appropriate for the nature of the development and the natural hazard; and d) a floodway regardless of whether the area of inundation contains high points of land not subject to flooding.”

As denoted by the current zone that the subject lands are in (Hazard Lands), the property has been identified as having a high potential to contain hazardous features, i.e. features that pose threats to human safety. This could include unstable soils associated with wetlands and floodplains, steep slopes, etc. In the case of this specific property, the lands have been identified as potentially being within the floodplain associated with Sand Lake.

In order to determine what portion of the subject property (if any) was located within the floodplain, the property owner undertook a Surveyor’s Real Property Report (SRPR) which delineated the High Water Mark and the flood fringe elevation of Sand Lake. Upon review of the submitted SRPR, the existing dwelling is located *at least* 10.0 metres from the boundary of the flood fringe elevation.

Section 3.1.6 goes on to state that, “[w]here the two zone concept for flood plains is applied, development and site alteration may be permitted in the flood fringe, subject to appropriate floodproofing [...]”. It should be noted that the two zone concept applies to Sand Lake, meaning development could potentially take place within the flood fringe with specific conditions. However, the existing dwelling is located entirely outside of the identified flood fringe limit. As such, it is our opinion that the proposed rezoning is consistent with the policies contained in Section 3.1 of the PPS.

Therefore, it is our opinion that the proposed rezoning is consistent with the policies of the PPS.

4.2 Town of Kearney Official Plan

The subject property is currently designated Shoreline according to Schedule A to the Town of Kearney Official Plan (TKOP). Additionally, Schedule C of the TKOP locates the subject lands within a Flood Plain Overlay Based on Aerial Interpretation.



Policies related to the Shoreline designation are outlined in Section 3.0 of the TKOP. The ZBA is required in order to rebuild the existing residential/recreational dwelling, which is a permitted use within the Shoreline designation, in accordance with Sections 3.3(2) and 3.3.2 of the TKOP.

Speaking to the potential floodplain on the subject lands, Section 7.2 states that: *“[t]he elevation of the regulatory flood plain has been determined from information provided by the Ministry of Natural Resources (MNR), where available. These are shown on Schedule ‘C’ by way of reference to a specific policy. Other areas have been identified through aerial imagery interpretation and are identified on Schedule ‘C’ as “Flood plain overlay based on aerial image interpretation”. Where engineered flood plain mapping has not been completed, proponents may be required to complete such mapping to the satisfaction of the appropriate agency prior to development. Such mapping will be completed at the proponent’s expense.”*

Section 7.2.1(1) goes on to say that *“[w]here the boundaries of the flood plain are defined by an elevation, the location of these boundaries will be determined on-site by the survey of flood elevations by an Ontario Land Surveyor [OLS]”*. The necessary SRPR has been submitted and was prepared by an OLS, delineating the flood plain elevation. The existing dwelling, which is to be replaced, is located entirely outside of the identified flood plain elevation.

Section 7.2.3.3 contains policies specific to Sand Lake and the two-zone approach. Within subsection (2) it states that *“[o]n lands fronting onto Sand Lake, all new buildings and generally all additions to existing buildings shall be flood proofed to an elevation of at least 342.4 metres above Canadian Geodetic Datum (C.G.D.); the floodway”*. Subsection states again that *“[t]here is currently no comprehensive mapping of the identified flood elevation. Proponent of development will be required to identify the location of the flood elevations on a site-by-site basis by the survey of flood elevations by an Ontario Land Surveyor”*. The OLS has determined that the existing dwelling is located entirely outside of the identified flood fringe elevation.

As such, it is our opinion that the proposed rezoning to a portion of the subject lands, which have been identified as outside of the Sand Lake floodplain, conforms to the policies of the Town of Kearney Official Plan.



4.3 Town of Kearney Zoning By-law No. 2022-20

According to Schedule 'A' of the Town of Kearney Zoning By-law the subject property is currently within the Hazard Lands (HZ) Zone.

The HZ Zone permits uses including: *agricultural uses (excluding buildings), cannabis production and processing (excluding buildings), conservation use (excluding buildings), outdoor recreation, recreational trail, and resource management activities*, but does not permit residential or recreational uses in any form. As such, the proposed rezoning is required in order to permit the proposed reconstruction of the existing residential/recreational dwelling.

The property owner has proposed to rezone a portion of the subject lands will be rezoned from the HZ Zone to the Residential Waterfront (RWF) Zone in order to permit the proposed dwelling reconstruction.

Section 4.2.3 of the TKZBL outlines the lot provisions for the RWF Zone. The RWF Zone requires a minimum lot area of 0.4 hectares and lot frontage of 60 metres. The subject lands are approximately 2765.70 square metres (0.277 hectares) in size with 43.14 metres of shoreline frontage on Sand Lake and 42.06 metres of frontage on Chickadee Lane.

As such, the subject property does not meet the minimum lot area or frontage requirements of the RWF Zone and therefore the new zoning on the subject lands should recognize the reduced area and frontage of the existing lot.

Subject to the ZBA, the subject lands will comply with the provisions contained within the TKZBL. Therefore, it is our opinion that the proposed amendment is appropriate for the site.

5.0 Budget Implications

The Zoning By-law Amendment application was submitted with the application fee of \$650.00 + HST and the deposit fee of 1,200.00.

6.0 Next Steps


Once a decision has been made by Council, the decision will be in an appeal period for 20 days.



7.0 Notice and Communications

Public Notices for the Zoning By-law Amendment applications are issued by the Town. Notice of Complete Application and Public Meeting has been circulated to neighbouring properties within 120 metres of the subject lands, as well as the applicable agencies.

Respectfully Submitted,
ECOVUE CONSULTING SERVICES INC.



J. Kent Randall B.E.S. MCIP RPP
Township Planning Consultant



SURVEYOR'S REAL PROPERTY REPORT

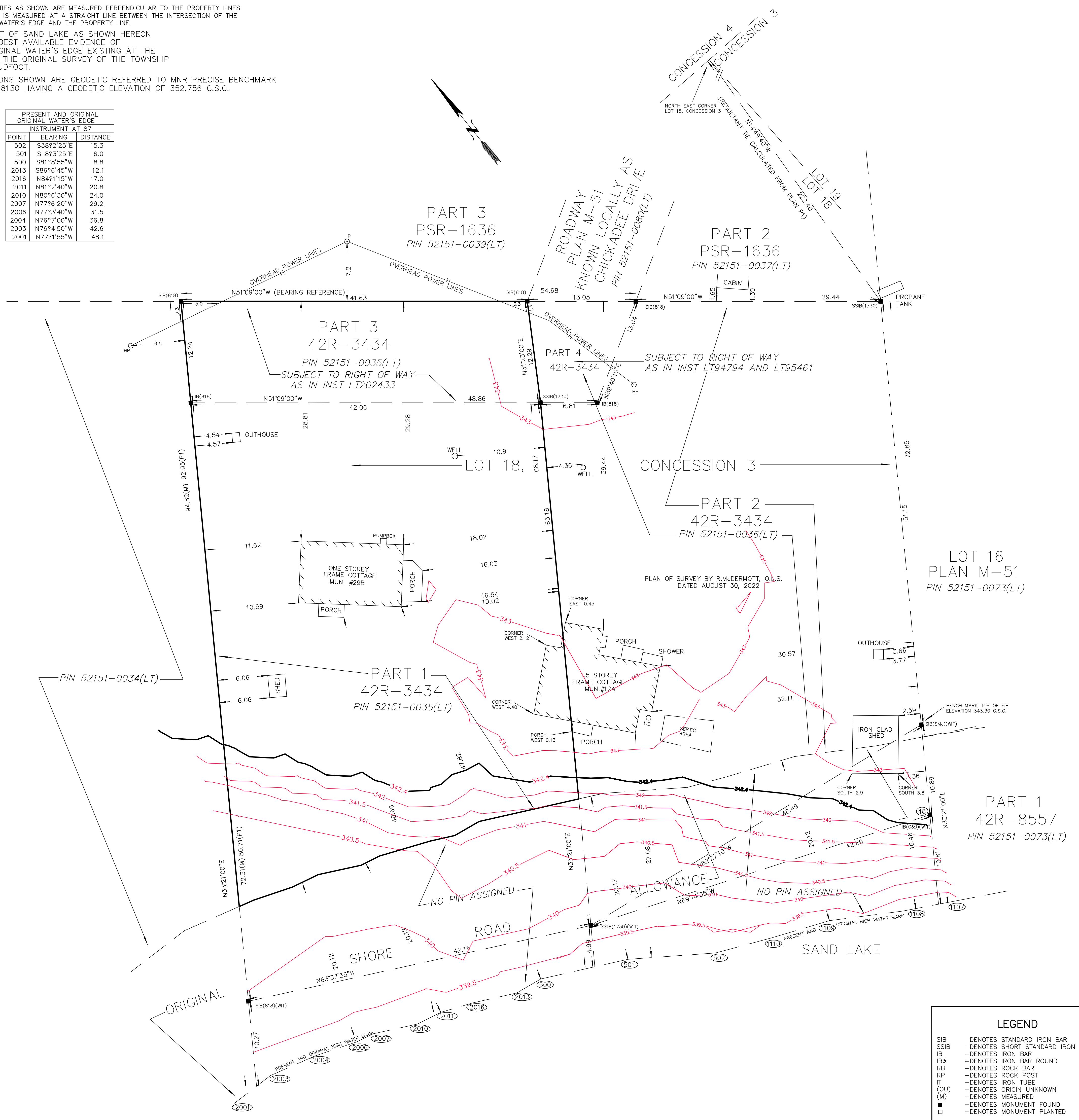
PART 1

PLAN OF PART OF
 LOT 18, CONCESSION 3
 GEOGRAPHIC TOWNSHIP OF PROUDFOOT
 TOWN OF KEARNEY
 DISTRICT OF PARRY SOUND

SCALE 1: 250 METRES
 R.M. McDERMOTT O.L.S.

NOTE:
 BUILDING TIES AS SHOWN ARE MEASURED PERPENDICULAR TO THE PROPERTY LINES
 FRONTAGE IS MEASURED AT A STRAIGHT LINE BETWEEN THE INTERSECTION OF THE
 PRESENT WATER'S EDGE AND THE PROPERTY LINE
 THE LIMIT OF SAND LAKE AS SHOWN HEREON
 IS THE BEST AVAILABLE EVIDENCE OF
 THE ORIGINAL WATER'S EDGE EXISTING AT THE
 TIME OF THE ORIGINAL SURVEY OF THE TOWNSHIP
 OF PROUDFOOT.
 ELEVATIONS SHOWN ARE GEODETIC REFERRED TO MNR PRECISE BENCHMARK
 00819788130 HAVING A GEODETIC ELEVATION OF 352.756 G.S.C.

POINT	BEARING	DISTANCE
INSTRUMENT AT 87		
502	S38°2'25"E	15.3
501	S 89°3'25"E	6.0
500	S81°8'55"W	8.8
2013	S86°6'45"W	12.1
2016	N84°1'15"W	17.0
2011	N81°2'40"W	20.8
2010	N80°6'30"W	24.0
2007	N77°6'20"W	29.2
2006	N77°3'40"W	31.5
2004	N76°7'00"W	36.8
2003	N76°4'50"W	42.6
2001	N77°1'55"W	48.1



REPORT SUMMARY (PART 2)	
EASEMENTS	
THE PROPERTY IS SUBJECT TO AND TOGETHER WITH A RIGHT OF WAY AS IN INST. LT202433	
ACCESS	
ACCESS TO THE SUBJECT PROPERTY IS ALONG A PRIVATE ROAD KNOWN LOCALLY AS CHICKADEE ROAD	
COMPLIANCE WITH ZONING BY-LAWS	
COMPLIANCE WITH ZONING BY-LAWS IS NOT CERTIFIED BY THIS PLAN, HOWEVER IT CONTAINS SUFFICIENT INFORMATION FOR COMMENT BY THE APPROPRIATE AUTHORITIES.	
MUNICIPAL ADDRESS	
29B CHICKADEE ROAD	
APPLICANT DARRYL L DECICCIO	
ZONING INFORMATION	
LOT AREA 2765.70 SQUARE METRES	
FRONTAGE 43.14M	
ONE STOREY COTTAGE 92.0 SQUARE METRES	
PORCH 4.8 SQUARE METRES	
PUMPBOX 0.5 SQUARE METRES	
SHED 11.1 SQUARE METRES	
OUTHOUSE 1.0 SQUARE METRES	

THIS REPORT WAS PREPARED FOR DARRYL DECICCIO AND ALL OTHER PARTIES TO THE TRANSACTION. THE UNDERSIGNED ACCEPTS NO RESPONSIBILITY FOR USE BY OTHER PARTIES IN FUTURE TRANSACTIONS.

PART 2
 THIS PLAN MUST BE READ IN CONJUNCTION WITH SURVEY REPORT DATED FEBRUARY 16, 2023.

NOTE
 BEARINGS ARE ASTROMONIC AND REFERRED TO THE NORTHERLY LIMIT OF PLAN 42R-3434, HAVING A ASTROMONIC BEARING OF N51°09'00"W.
 DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.
 818 - DENOTES J.R. HILEY O.L.S.
 SMJ - DENOTES SIDNEY M. JOHNSON O.L.S.
 P1 - DENOTES PLAN 42R-3434
 P2 - DENOTES PLAN 42R-8557
 HP - DENOTES HYDRO POLE

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LEGEND	
SIB	-DENOTES STANDARD IRON BAR
SSIB	-DENOTES SHORT STANDARD IRON BAR
IB	-DENOTES IRON BAR
IBR	-DENOTES IRON BAR ROUND
RB	-DENOTES ROCK BAR
RP	-DENOTES ROCK POST
IT	-DENOTES IRON TUBE
(OU)	-DENOTES ORIGIN UNKNOWN
(M)	-DENOTES MEASURED
■	-DENOTES MONUMENT FOUND
□	-DENOTES MONUMENT PLANTED

SURVEYOR'S CERTIFICATE
 I CERTIFY THAT:
 1) THE SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEYS ACT, THE SURVEYORS ACT AND THE REGULATIONS MADE UNDER THEM.
 2) THE SURVEY WAS COMPLETED ON SEPTEMBER 8, 2022
 PORT SYDNEY, ONTARIO
 FEBRUARY 16, 2023
 R.M. McDERMOTT
 ONTARIO LAND SURVEYOR

ROBERT M. McDERMOTT SURVEYING LIMITED
ONTARIO LAND SURVEYORS
 15-4 SOUTH MARY LAKE ROAD, PORT SYDNEY, ONTARIO
 PHONE (705) 385-3198
PORT SYDNEY - ONTARIO
 CAD FILE: 2022-16C RMCD D-0