



Township of Lake of Bays Municipal Offices
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COUNCIL MEETING FOR *PLANNING MATTERS ONLY*
of
The Corporation of the Township of Lake of Bays
March 25th, 2008
MINUTES

There was a regularly scheduled meeting of Council held for *Planning Matters Only* immediately following the Committee of Adjustment meeting held at 9:00 a.m., on March 25th, 2008 in the Council Chambers of the Township of Lake of Bays Municipal Offices, Dwight, Ontario.

Attendance:

Mayor:	Janet Peake	
Councillors:	Margaret Casey	(District – Ridout/McLean)
	Nancy Tapley	(Franklin)
	Ruth Ross	(Ridout)
	- left meeting at 1:05 p.m.	
	Philip Cote	(McLean)
	Virginia (Ginny) Burgess	(Sinclair/Finlayson)
	Ben Boivin	(District – Franklin/Sinclair/Finlayson)
Planner:	Stefan Szczerbak	
Deputy Clerk:	Kelly Stronks	

1. MEETING CALLED TO ORDER

The meeting was called to order at 10:06 a.m., on March 25th, 2008, by Mayor Peake.

2. APPROVAL OF AGENDA

Mrs. Stronks advised that a supplementary information package for items already on the agenda had been provided to each Council member.

Item 4(a) – Delegation by Ms. Samantha Hastings of the District of Muskoka, was cancelled due to Ms. Hastings having a conflicting engagement.

Resolution 2(a)/03/25/08

Councillor Casey and Councillor Ross

Be it resolved that the Agenda for the Council Meeting for Planning Matters Only, dated March 25th, 2008, be adopted as amended.

Carried

3. DISCLOSURE OF PECUNIARY INTEREST

Councillor Burgess declared a pecuniary interest in Item 6(a)(ii)(a)(Jany), as the applicant is a family member.

4. DEPUTATIONS / DELEGATIONS

- (b) 9:50 a.m. **Mr. Bob List**
Re. The Marnoc Conservancy, a proposed new Tourist Commercial Development on Property Owned by 2153308 Ontario Inc. (Mr. Mark Rider)
Applications: OPA No. 9 &
By-law Amendments Z 02/08 LOB & Z 03/08 LOB
Lots 13 – 18, Con. 12 & 13, Lots 12 – 17, Con. 14, Sinclair Ward, vicinity of Upper & Lower Raft Lakes
Roll Nos. 020-010-05800, 06100, 06300, 08400, 08800 & 11000
(Refer to staff report under Item 6(a)(iii)(b))

Mr. Steve Rider, a partner in the proposed development, and Mr. Bob List, planning consultant, were in attendance to present the delegation. They provided a handout (*attached*) of their presentation to each Council and staff member.

They advised that they had made considerable changes to their proposal since they had appeared as a delegation at the meeting of September 25th, 2007. Fractional ownership is proposed in this application. Mr. Rider advised that the developers are himself and his cousin Mark Rider, and that together they form the company Legacy Development Corporation. Their mission is to create a price accessible development for ecologically aware users who are looking to gain or regain the true Muskoka experience. The proposal involves 315 fractional cottages, a 60 unit boutique hotel and associated amenities on 800 acres, leaving 1000 acres undeveloped. Common amenities will include a clubhouse, tennis courts, indoor pools, restaurant, general store, spa, indoor exercise facilities, water sports, maintained walking trails, groomed ski trails, sports fields, equestrian stables, stocked fishing pond and outdoor ice skating. Features and benefits of the proposal include: a) a remote location from Lake of Bays and Huntsville but with existing road access; b) a very large site surrounded by Crown wilderness resulting in a unique forest environment; c) maximum use of waste and power minimization technologies and procedures; d) increased tax base; e) significant boost to local economies; and f) controlled use of lakes.

Upon the conclusion of Mr. Rider's presentation, Mr. Szczerbak reviewed the staff report contained under item 6(a)(iii)(b) of the agenda. The report recommended that Council refuse to proceed with the proposal to amend the Official Plan and deny the by-law amendment applications.

Mr. List responded to the report, and requested that any further discussion be deferred in order to allow the owners additional time to confer with staff and address the concerns raised in the staff report, the concerns from Lake of Bays Association (LOBAs), as well as the Muskoka Watershed Council (MWC). He noted other matters in the report that were essential to understand when reviewing the proposal in relation to the Township and District Official Plans, and that the staff report did not contain a BOX – no reference to designation or zoning-by-laws function to implement OP. He also referred to the existing property rights and that this had not been addressed by staff.

With regards to the proposed access to the property via Williamsport Road, Mr. List stated that it has been determined by legal counsel that access to the property is open to the public, and that his clients have provided specifications for proper and necessary improvements to the access to that of a suburban standard. Also he mentioned that the access would be assume it if was deemed necessary. He noted that he has never encountered a road like this, as it is a Crown road allowance for its entire length. He advised that as part of the current logging operations, they have assisted with the upgrade of this Crown Road allowance to a suburban standard, and that the Ministry of Natural Resources has stated that people using the road can improve or maintain the road as deemed necessary.

In support of tourist commercial development, the District Official Plan policies were initially adopted in 1978, and all policies since then have embellished tourist commercial

development. Nowhere does it state in either plan the scale of development, and that there is no limitation to the amount of development, rather the plans include appropriate tests that have to be addressed. He stated his desire to speak to staff and address how the proposal has addressed these tests. He also noted that the applications were submitted to request a fundamental alteration between the Rural and Waterfront designations. Mr. Szczerbak has indicated that an alteration to the boundary may require a change to the regulation permitting the Township to use the Development Permit System. However, it was agreed that the intended use is permitted in the Waterfront designation and must proceed through an amendment to the Township Official Plan. The fact that the property is designated as Waterfront Residential, and not Open Space, confirms certain development rights to the landowner, and that if the Township had wanted to limit development here, they had the opportunity to do so during its update of the by-laws. With respect to servicing of the property, the District of Muskoka (DMM) indicates that infrastructure in support of resort development can be supported outside of urban and built-up areas and serviced by communal systems. To suggest that the DMM Official Plan did not envision resort developments outside of urban areas is incorrect, and that there were policies in place to consider redevelopments, and to use infrastructure where available.

Regarding long term economic prosperity, Mr. List noted that the Provincial Policy Statement (PPS) does not deal with appropriate locations, just appropriate infrastructure, and that he believed this development is consistent with all aspects of the PPS. With respect to the financial impact on the municipality, he advised that there won't be any of substance imposed on the municipality, and that it would be difficult to establish a wilderness themed resort in an urban setting. He concluded by noting a technical inaccuracy in the report as it related to the specified distance to the property.

Mr. Szczerbak summarized the letters of the Muskoka Watershed Council and LOBA (*attached*). Regarding certain aspects of Mr. List's comments, he advised that there was not a great deal of specific detail in the staff report as it related to the resort, but rather the report is structured to address the proposed use. When considering any official plan amendment, it is important to first review the proposed use in relation to the Township's and District's vision, goals & objectives of their Official Plans. Essentially, staff's opinion would not likely change due to the size and extent of the proposal and the proposed location of the resort among other matters as it relates to the specific tests in both Plans when reviewing Plan amendment applications. Also noting that most new resorts located throughout Muskoka are situated in close proximity to, if not within, existing communities and utilize existing municipal services.

Councillor Casey noted that these were challenging applications for the Township, and that the first point is the public's concerns with the environment and whether the development is in an appropriate location. She has observed that developers often take what is the most important aspect of a piece of land and appear to try to protect it, but don't end up doing this. She also made reference to the Muskoka Watershed Council's letter which stated that this was one of only two areas left in the Muskoka watershed that was a large natural area of 10,000 ha or larger and the importance of protecting this area.

Councillor Tapley stated her agreement with Councillor Casey, and that just because one can do something doesn't mean that one should. She noted that this proposal to drop approximately 2,000 people on 800 acres at the end of a long winding road does not appear to be environmentally sustainable, as everything would have to go in and exit the resort via a road which has not been determined to be appropriate at this point. She also expressed concern that there was too much of a footprint, and that the Township only had a permanent population of 3,000 people. She wondered how persons living in the Williamsport area felt about the proposal, given the amount of new traffic that would result from the development. She also wondered about the conservation reserve that is established north of the subject lands, and that a wilderness experience doesn't usually involve a sport facility and spa. She noted that it did not make sense the way this development is designed, as it results in most of the cottages not having a view of the lake, and that residents would essentially have to rely on a motorized vehicle to traverse

throughout the resort. She stated that this appears to be a “Red Leaves” development in the wilderness, and also made reference to the unsuccessful Minaki Lodge in Northern Ontario. She advised that she was not in favour of the proposal.

Councillor Burgess stated that they had been given a lot of information and that the Rider Group has gone to a lot of effort to provide that information. She has read the Official Plans and the Marnoc report and noted inconsistencies in them. She expressed concern with the size of the development, and doesn't believe that Council has enough information to make a decision, and that more time is needed to study it. She stated her support of the MWC, but wondered how Council was currently equipped to determine how much of an impact the development will have; Council's job is to study all the information and consider it.

Councillor Boivin stated that his concern is the environment, and that Mr. Rider's presentation made it appear that the development would be environmentally responsible. He wondered what evidence had been provided and questioned the proposals success, as this has not been provided he has not seen this evidence. He stated that his responsibility is to the people who elected him, and he would not want to saddle them with an unsuccessful development. He referred to Echo Valley and that that development has been ongoing for 15 to 18 years and it is still sitting there. He stated his desire to be confident in his decision and err on the side of caution especially when it comes to the environment.

Councillor Ross stated her concern with the density of the development and the additional traffic that would result on Williamsport Road. She noted that perhaps the developer consider a similar a similar approach of the Haliburton Forest & Wildlife Preserve. This reserve took 15 years to develop but is now an integral part of Haliburton County and is successful without the spa and other typical resort amenities.

Councillor Cote did not feel he could comment as he felt there were more questions to be answered before he could do this. He asked about requiring a performance bond in the event the development isn't completed or successful.

Mayor Peake stated her concern with the magnitude of the development in this location. She noted that the nearby Limberlost Forest and Wildlife Reserve is more of a conservation area located within the Township. When comparing this proposal to Muskoka's newest resort, the Red Leaves development in located within the community of Minett (Township of Muskoka Lakes) and is located on approximately 600 ac of land. Most importantly Red Leaves is situated within a developed area with existing municipal services. She stated she would like to see information from the Province as it relates to the Crown Road and also receive confirmation in writing from the Province as it relates to their views of this proposal utilizing the Crown Road. She noted that the benefits of the economic development portion of the proposal would go directly to Huntsville and essentially not go to the Township of Lake of Bays. However this has not been confirmed.

Mr. Szczerbak stated that the intent of the Official Plan is that remote areas permit low density development and recreation uses. In this case, the intensity of development will be high, and is concerned that if more resources and time are placed into additional studies, Council may lose sight of the main issue, which essentially is to determine if this area is appropriate for this development among other matters. He maintained staff's position regardless of additional studies and also reminded Council the difficulty to provide enforcement and ensure the use will be maintained in the long-term and that this resort will continue to operate under fractional ownership, and not where 100% of an specific unit is owned by one individual. This appears to be a concern with the fractional model, however, it was noted that the District of Muskoka will address this issue in their OP review.

Mayor Peake read a portion of the Township's Vision Statement and stated she did not want to lead developers down the garden path by requiring more studies. Council needed to determine whether it supports the Vision Statement and the Goals and

Objectives of the Official Plans without getting into specific details, and determine whether or not this development fits into the area proposed.

In response to a comment from Councillor Cote, Mr. Szczerbak reminded Council about the process to facilitate these applications under the Planning Act and that Council has the opportunity to refuse to go to a public meeting, should Council agree that the proposal is not appropriate as it relates to the OP.

Councillor Casey advised that she had been a member of the Visioning committee and that when that process was initiated, it was understood that Lake of Bays was the “small cousin” within Muskoka and that it would maintain large undeveloped remote areas. Given this, she has formed her opinion that this development is not appropriate for this area, and that as access will not be gained from the Township and have to go through another municipality to get there, she voiced her opposition to the proposal, as it made no sense financially, corporately or environmentally.

Councillor Tapley also stated her concern with the development’s scale, location, and impacts on the watershed and municipality. She wondered if there was an opportunity for some tourist commercial development, and that she was not opposed to further discussion, but did not support the proposal as presented. She stated that perhaps something smaller and more conservation oriented would be more appropriate, and also stated her opposition.

Councillor Burgess stated that from a fairness aspect she would like to see the matter deferred so that more understanding of the different aspects of the development could be obtained. She is not convinced of the word “appropriate” as it ties into environmental studies. She agreed that it was a large area, but noted that there was a lot of Crown land around it. She supported a deferral.

Councillor Boivin saw no advantage to a deferral and agreed to deny these applications.

Councillor Tapley stated that representation from Williamsport residents and the Town of Kearney should also be required.

Mayor Peake asked if anyone was in the gallery to speak to the matter. The following person came forward:

Wendy Gibson, Lake of Bays Association:

She stated her appreciation that this matter was big, important and difficult. She noted that Mr. Rider and Mr. List had made an economic case in the same breath as an environmental defense. This proposal has a fractional ownership component which is problematic, as there are several hundred units which are proposed and the applicant continues to call them “cottages”. In addition some of the “cottages” were up to 3,000 sq ft in size. At the end of the day this proposal appears as a subdivision located in the woods. If approved, the agreements on the long term ownership would be out of the control of Council and the Township, and therefore the decision that Council makes now is a huge one to consider in the long term. She asked that Council consider the remote tourism aspect in the Lake of Bays which would not be as attractive if subdivisions were permitted and in these remote areas. She advised that if approved, this white elephant will continue to come back to the Council table through the years.

Mr. List stated that after their previous delegation, he went back to his client, who reconsidered and came up with this different development proposal. Based on the comments today he would like to go back to his client to do the same, as there may be an opportunity to review the proposal with respect to scale. He advised that Council could restrict the deferral to this direction only in order to allow discussion with his client. He also advised that he would like to amend the current applications, not submit new ones given the expense involved.

Mr. Rider stated that the original proposal did not have the same scale or a hotel, and that they are willing to work with Council to come up with a compromise. If given the opportunity and the expertise of their consultants, he was confident they could come up with a satisfactory proposal.

Mr. Szczerbak recommended that Council refuse to accept these applications and if the applicants was serious about a compromise than the applicants would be encouraged to pre-consult and then re-apply with a new application. Staff could then review the proposal and consider some relief in the application process.

Mayor Peake read the following resolution:

Resolution 6(a)(iii)(b)/03/25/08

Councillor Ross and Councillor Tapley

That the Council of the Corporation of the Township of Lake of Bays refuse the request of 2153308 Ontario Inc. (Mr. Mark Rider) to amend the Official Plan of the Township of Lake of Bays (OPA No. 9);

AND FURTHER THAT the Council of the Corporation of the Township of Lake of Bays DENY the site specific amendment to the Development Permit By-law (04-180), application No. Z 03/08 LOB;

AND FURTHER THAT the Council of the Corporation of the Township of Lake of Bays hereby DENY the site specific amendment to the Comprehensive Zoning By-law (04-181), application No. Z 02/08 LOB (The Marnoc Conservancy)(Lots 15-18, Con. 12; Lots 15-18, Con.13; & Lots 16-17, Con.14)(Sinclair).

Recorded Vote:	Nays	Yeas
Ben Boivin	_____	_____/_____ ✓
Philip Cote	_____	_____/_____ ✓
Margaret Casey	_____	_____/_____ ✓
Ruth Ross	_____/_____	_____
Nancy Tapley	_____	_____/_____ ✓
Virginia (Ginny) Burgess	_____/_____	_____
Mayor Janet Peake	_____	_____/_____ ✓

Carried

5. MINUTES

(a) To Be Adopted

- (i) Council Meeting for Planning Matters Only Minutes – February 19th, 2008

Resolution 5(a)(i)/03/25/08

Councillor Boivin and Councillor Burgess

Be it resolved that the Council of the Corporation of the Township of Lake of Bays adopt the minutes for the Council Meeting for Planning Matters Only for the meeting dated February 19th, 2008, as circulated.

Carried

(b) To Be Received

- (i) Committee of Adjustment Meeting Minutes – February 19th, 2008

Resolution 5(b)(i)/03/25/08

Councillor Burgess and Councillor Boivin

Be it resolved that the Council of the Corporation of the Township of Lake of Bays receive the Committee of Adjustment minutes for the meeting dated February 19th, 2008.

Carried

6. REPORTS AND BY- LAWS

(a) Planning

(i) By-laws

(a) By-law: **08-30**
Files: **Z 33/07 & Z 04/08 LOB (Diasio)**
Type: Amendment to By-law 04-181
Ward: McLean
Applicant: Michael Diasio
Agent: John P. Gallagher
Civic Address: 4-1 & 6 North Rd, and 1 & 2 Elizabeth St.
Lot/Con: L 15, C 7, in Baysville

- Michael Diasio, applicant, and his agent John Gallagher were present to represent the application
- Mr. Szczerbak reviewed the staff report and referred to letters that had been received from Gladys Wright, Jan Wheeler and Janice Glover, as well as noted comments from the District of Muskoka (DMM). He recommended that the applications be deferred and noted that cash-in-lieu of parkland will be required which can be used towards municipal parks in the vicinity
- Councillor Boivin asked about the hours of operation of the restaurant. Mr. Szczerbak stated that the municipality has no control over hours, but that the Liquor Control Board often can set limits. For the proposed patio area, the Township's noise by-law may be applicable to regulate noise.
- Councillor Tapley noted that 11 units were proposed above a restaurant and was concerned of a lack of compatibility given possible late hours of the restaurant
- Councillor Casey stated a concern with parking and asked how the required number of parking spaces were determined, noting that 80 spaces between the two parcels of land had been shown. Mr. Szczerbak explained the calculations. She then noted that an entrance was proposed onto the old highway allowance, and that this area is used as parking for members of the public using the boat launch and swimming docks. Mr. Szczerbak stated that the public parking would not be affected by this development
- Councillor Tapley asked if there was a privacy fence proposed between the northerly boundary and the abutting residences owned by Mrs. Wright and Ms. Wheeldon. Mr. Szczerbak advised that this could be addressed in the site plan agreement that would be required prior to the development of the property
- Councillor Ross noted the presence of a heritage house on Lot 7 owned by Gladys Wright. She also advised that the height of the structure is a concern to her as it is close to the street and will be more imposing
- Mr. Gallagher reviewed the official plan policies in his report and advised that the lot coverage was only 20.9% although 35% to 50% is permitted in the by-law. He stated that they also tried to keep parking to the rear of the building so that it is somewhat screened by the building, and that with respect to buffering it was their intent to provide a 2 metre

high wooden fence and buffer with landscaping. Respecting parking spaces, it was his opinion that the parking requirements of the by-law are excessively sized at 10 by 20 ft and that some other municipalities have less stringent requirements. Provided ample opportunities along the building. He noted that respecting the fourplex proposed on the smaller parcel and the request to reduce the rear yard setback, that the rear yard is facing the old road allowance and therefore would have no impact on the streetscape

- Mayor Peake asked what the distance was the proposed building to the side lot line. Mr. Gallagher stated 7 metres and Mr. Szczerbak confirmed that this met the by-law requirement
- Councillor Casey referred to the front of the building facing North Road and if residents on the ground floor could conceivably have a barbecue. Mr. Gallagher confirmed this but that these units will not have outdoor sitting areas although some will have balconies. She stated her concerns with the height of the building and that the overall height looks like more massing. Mr. Gallagher advised that they have tried to make the roof more interesting and therefore the height is measured differently given the “cut-outs” for the gable and an exception is needed. Mr. Szczerbak clarified how the height is measured. Councillor Casey wondered if more units could fit into the upper storey because of the roof style. Mr. Szczerbak stated that the by-law would state that only 11 units are permitted. Councillor Casey also wondered what surfacing would be in the parking area, as well as where snow would be plowed to in the winter, and if lines be painted to designate spots.

Councillor Ross expressed her regrets and left the meeting at this point (1:05 p.m.) due to a prior engagement.

Mayor Peake asked if anyone was in the gallery who wished to speak to the application. The following persons came forward:

Mr. Cal Martin, 13 East Road, Baysville:

- Mr. Martin stated that his property abuts on two sides to the proposed project and that Mr. Diasio’s property is currently a garbage dump and that it would be nice to see it turned into something beautiful. He advised that North Road is identified on one plan incorrectly.
- Regarding hookup to municipal sewage and water services, he noted that one restaurant could use a lot of Equivalent Residential Units (ERU) and the costs may be prohibitive. Mr. Szczerbak replied that the DMM has a formula to determine ERU’s and that restaurants and small units are calculated differently than a single family dwelling.
- He was also concerned with the hours of the restaurant, and that if it was 10:00 p.m. this would be fine, but if later bar hours were proposed this would be a problem. He also noted concerns with water drainage and if there would be provisions for storm sewers; he also referred to the sewer pump located close to the property, and that there was an odour associated with it such that on some days one can’t breathe within 100 ft of it.
- He object to reducing the required buffer to zero, and that 6 ft was not a sufficient height for a privacy fence and would not accept a fence height less than 10 ft.
- He expressed concern that the project would not be completed, and wondered if a performance bond could be required to ensure completion.

Mr. Ted Brewer, 6 East Road, Baysville:

- He advised that the driveway for the proposed fourplex is almost across from his house and would like to see it moved so that lighting from it would not light his property. He also asked that a buffer be maintained

around the parking lot, and that a performance bond be required to ensure that the proposed development was completed

Ms. Jan Wheeldon, 8 North Road, Baysville:

- She stated that even though dark sky friendly lighting was proposed, given the height of the building she was concerned that it would shine in on her yard
- Regarding the density of a buffer zone, she would like to see at least 10 ft tall cedars that are planted close together so they create a wall of green. She also wondered about the large round window and asked that it be decorative and not stained glass.
- She is concerned that the value of her home will decrease, as she will be between two potentially commercial properties, whereas this used to be a quiet private area. She has allergies and was concerned that people may smoke on the outside patio resulting in her not being able to use her front porch.
- She asked about potential boat traffic at the public docks because of the restaurant. She stated that a lot of people currently use the docks for swimming and more boat traffic may impact this.
- She concluded by stating that she thinks the proposal has great merit, but that there are concerns have to be addressed. She wants to see something better on this property, but not at the expense of current residents

Ms. Patti Secord, 1005 Fairy Falls Drive, Baysville:

- She stated that housing was really needed in Baysville, but had concerns with the municipal park fronting on the river that was across the street. She uses this park and would like to know the timeline for construction so that it doesn't go on for a long period of time and affect people's enjoyment of the park.

Further Council Deliberations:

- Councillor Casey asked about the site plan agreement process and how it would be ensured that the concerns expressed today would be addressed. Mr. Szczerbak advised that staff would bring the application to Council for their review. She then asked about the parking space allocation for the retail component and asked how it would be ensured that customers were not using street space and were using the designated area. Mr. Szczerbak stated that each resident will be assigned a space, and the Township's public parking lot and by-law was in place to address this matter
- Mayor Peake referred to the timeline for construction and a performance bond that had been mentioned and asked that this be included in the site plan agreement. Mr. Szczerbak stated that he would consult with the Township solicitor regarding the inclusion of these items
- Mayor Peake read the following resolution:

Resolution 6(a)(i)(a) & (b)/03/25/08

Councillor Tapley and Councillor Ross

WHEREAS the applicant has submitted By-law Amendment applications Z 33/07 LOB and Z 04/08 LOB (Diasio) for a rezoning to permit the redevelopment of the lands with a new mixed use building and a second multiple residential building.

NOW BE IT RESOLVED THAT the Council of the Corporation of the Township of Lake of Bays hereby DEFER making a decision on this file to the May 27th, 2008 meeting of Council in order to provide the applicant with an opportunity to submit the following:

- 1) **a stormwater and construction mitigation report in support of the proposed development; and**
- 2) **verify the adequacy of existing water and sewage services for the proposed use, and that a water and sewage permit would be available for the proposed development from the District of Muskoka.**

Carried

(b) By-law: **08-31**
File: **Z 38/07 LOB (McMullen)**
Type: Amendment to By-law 04-181
Ward: Franklin
Applicant: Robert McMullen
Agent: Paul Tovee
Civic Address: 1068 Lake of Bays Lane
Lot/Con: L 11, C 9, on Lake of Bays

- Mr. Paul Tovee, agent, was present to represent the application
- Mr. Szczerbak reviewed the staff report and recommended approval of the application. He noted that although the recommendation in the staff report was that only two readings be given with the third occurring after a site plan agreement was registered, he advised that staff were satisfied in this regard and three readings were now being recommended
- There were no comments or questions from Council
- Mayor Peake read the following:

By-law 08-31 being a by-law to amend By-law 04-181 known as the Comprehensive Zoning By-law (McMullen)(1068 Lake of Bays Lane)(Franklin).

By-law 08-31 was read a first, second and third time and finally passed.

(c) By-law: **08-32**
File: **Z 05/08 LOB (Morrow)**
Type: Amendment to By-law 04-180
Ward: McLean
Applicant: Wendy Morrow
Civic Address: 1256 Burlmarie Road
Lot/Con: L 13, C 9 & 10, on the South Branch of the Muskoka River

- Ms. Wendy Morrow, agent, was present to represent the application
- Mr. Szczerbak reviewed the staff report and recommended approval of the application. He noted that although the recommendation in the staff report was that only two readings be given with the third occurring after the conveyance of Bastedo Road, he advised that staff were now satisfied in this regard through discussions with Ms. Morrow and that three readings were now recommended
- Councillor Boivin asked about the status of the Original Shore Road Allowance (OSRA) and was advised that it was flooded in this area
- Councillor Tapley noted the presence of three other remnant parcels of land that would be created if Bastedo Road is transferred to the Township and asked if they had building rights. Mr. Szczerbak advised they do not as the remnant parcels would be subject to the existing lot provisions found within the by-law. He noted that Ms. Morrow may choose to zone these parcels with her main holding and treat these parts a one lot for planning purposes. She may also choose to convey

them to the appropriate abutting landowners for inclusion with their properties.

- Mr. Szczerbak noted that correspondence had been received from concerned landowners as follows: Mr. Andrew Kania, Mr. Sydney Gangbar, Johann & Patricia Mletzlo, Ms. Liz Carr, and Ms. Nancy Brazel and had been included in Council's agenda
- Mayor Peake noted that some of the letters had noted that this meeting was occurring in the winter, and therefore was being done in a clandestine manner, and asked Mr. Szczerbak to address this. He proceeded to do so and advised Council and the public of the required protocol under the Planning Act.

Mayor Peake asked if anyone was in the gallery who wished to speak to the application. The following person came forward:

Mr. Andrew Kania, Brampton, Ontario:

- He stated his strong opposition to the application as its approval would affect the quality of the living space he currently enjoys, and that it did not fit with the Township's Vision statement. He noted that he spent \$550,000 on his cottage property, and was aware of the narrow strip of land beside the property but was not concerned as he did not think that a lot this small could be built upon. This proposal would sandwich-in a cottage on this property and he was very concerned about this.
- He noted that all the properties along here have an easement to use Bastedo Road anyway, and wondered why a formal transfer to the Township was needed. He expressed concern with his property values decreasing, and the precedents that approval of this application may set.
- He advised that he has no objection to buying the property and adding it to his own, and that there are a number of other people that are opposed to this application, and also noted the public notice for the application had been circulated in the winter and had problems with this.
- He referred to differences between the public notice and the report and requested a recirculation due to this. He asked Council to consider if this development was appropriate, and that it should not impact people in the area.

Further Council Deliberations:

- Mr. Szczerbak spoke to Mr. Kania's comment regarding the difference between the notice and the report, and stated that the intent of notice is sufficient and is consistent with the application. He agreed that some of the noted Sections in the notice were wrong, but continued to state that the notice is often produced well in advance of formulation of the staff report and that these provisions often change through negotiations with the applicant or minor adjustments to certain proposals. He expressed the problem with putting too much information in the notice or too little and also advised that the application and all supporting documentation was available for review by the public should certain questions arise. He recommended that it was not necessary to recirculate the notice as the intent of the proposal is clear. With regards to the potential for setting precedents, he noted that each application is based on its own merits and that he understands that several Ontario Municipal Board hearings have already addressed the notion of setting precedents.
- Councillor Tapley asked what development rights Ms. Morrow had on her property without the conveyance of Bastedo Road. Mr. Szczerbak stated that development could occur as of right subject to the applicable By-law provisions. For example, if Ms. Morrow wanted to replace her dwelling, she might be able to re-located the dwelling on the lands subject to this application provided it met all required setbacks, etc.
- Councillor Casey asked for clarification that if Bastedo Road was not transferred to the Township, would this sliver of waterfront land still be

connected to main lot. Mr. Szczerbak advised that it would, however this would need to be clarified with our solicitor as Bastedo Road may be considered a trespass road.

- Councillor Burgess noted that Bastedo Road was a private road maintained by the Township and that it was her understanding that there was a policy in place that the Township should acquire maintained roads where possible
- Ms. Morrow responded to Mr. Kania's presentation and quoted Sections 4.23 & 4.20 of the By-law 04-180 and noted that all the lots in the immediate vicinity including Mr. Kania's lot are very similar in size, and is therefore in keeping with neighbourhood in this area.
- Mayor Peake read the following:

By-law 08-32 being a by-law to amend By-law 04-180 known as the Development Permit By-law (Morrow)(1256 Burlmarie Road)(McLean).

By-law 08-32 was read a first, second and third time and finally passed.

- (d) By-law: **08-33**
File: **D 02/08 LOB (Baysville Development Inc.)**
Type: Section 41 Agreement
Ward: McLean
Applicant: Baysville Development Inc. – The Bearfoot Gourmet
Agent: Anne MacPhee
Civic Address: 2676-2 Muskoka Road 117
Lot/Con: L 17, C 7, Community of Baysville

- Ms. Anne MacPhee was present to represent the application
- No one present in the gallery to speak to the application
- Mr. Szczerbak reviewed the staff report as well as comments from the District of Muskoka that stated the existing entrance must be widened to the commercial standard of 9 metres and paved within one year and that a second entrance would not be permitted. He advised that staff had no concerns with the approval of the application provided that the site plan sketch was amended to reflect the comments from the DMM and also include fencing around the garbage/recycling area
- Councillor Boivin asked how all four parking spaces shown at the front of the building would be accessed if DMM only allows one entrance. Mr. Szczerbak advised that the site plan would have to be altered to reflect parking that could be accessed by one entrance
- Councillor Casey asked if there was an increase in the footprint. Mr. Szczerbak stated that there would not, and Ms. MacPhee confirmed that the decks are existing
- Ms. MacPhee noted that the advertising sign on the adjacent lot has been approved by DMM and the municipality. Mr. Szczerbak advised that should Lot 22 ever be sold, the sketch should be altered to reflect a sign location on the subject lands, as a sign would then have to be located on the subject lot
- Mayor Peake read the following:

By-law 08-33, being a by-law to authorize the Mayor and Clerk to sign documents with respect to a Section 41 Agreement between Baysville Development Inc. (The Bearfoot Gourmet) and the Corporation of the Township of Lake of Bays (Baysville Development Inc.)(2676-2 Muskoka Road 117)(McLean).

By-law 08-33 was read a first, second and third time and finally passed.

(ii) **Council Variations to Development Permit By-law 04-180**

- (a) File: **DP 04/08 LOB (Jany)**
Ward: Sinclair
Applicants: Mark & Christine Jany
Civic Address: Colonization Road – vacant – no address assigned
Lot/Con: L 7, C 8, on Bella Lake

Councillor Burgess declared a pecuniary interest and left the table.

- Ms. Christine Jany, applicant, was present to represent the application
- Mr. Szczerbak reviewed the staff report
- There were no comments or questions from Council
- Mayor Peake read the following:

Resolution 6(a)(ii)(a)/03/25/08

Councillor Casey and Councillor Cote

WHEREAS the applicants have submitted Development Permit Application DP 04/08 LOB (Jany) in order to seek relief from Section 5.1.1(j)(Maximum Building Height), increase from a maximum allowable height of 8.5 metres (27.9 ft) to a height of 9.45 metres (31 ft) in order to permit the construction of a proposed single family dwelling, located in Pt. Lot 7, Conc. 8, Sinclair Ward, on Bella Lake (Jany) (Colonization Road - vacant) (Sinclair) (020-008-05802);

AND WHEREAS the Council of the Corporation of the Township of Lake of Bays considers the notice of this application to be sufficient;

AND WHEREAS a shoreline activity area is not being identified, contrary to the one previously identified under Staff Development Permit DP 109-2007, in order to prevent the removal of any shoreline vegetation, save and except for the placing of the proposed change house, a dock and meandering pathway without further approval under By-law 04-180;

NOW BE IT RESOLVED THAT the Council of the Corporation of the Township of Lake of Bays is satisfied that the criteria as outlined in Schedule C of the Development Permit By-law has been fulfilled, and hereby **APPROVES** the proposal in accordance with the attached sketch subject to the following conditions:

1. That the works be carried out in accordance with plans submitted: February 8th, 2008 and marked: DP 04/08 LOB;
2. That the permission granted herein shall lapse (*two years from the date of issuance of the permit*), unless the work for which the permission has been given has been completed. If the work has not been completed by the aforementioned date, this permit is invalid and all on-going and future work must cease until an extension to this permit or a new development permit is obtained. What shall be deemed as “complete” is within the sole discretion of the Township of Lake of Bays;
3. That the Township of Lake of Bays be notified 48 hours prior to the commencement of any works and be notified of the completion of the project;
4. All lighting facilities shall be directed downwards and be required to minimize the impact on lake views, night skies and environmental features; and

5. That a shoreline buffer shall be established and maintained abutting any portion of a shoreline that does not form part of the shoreline activity area. A shoreline buffer shall be a minimum of 15 metres (49.2 ft) in depth measured inland from ordinary water's edge, unless otherwise specified in this by-law. All other provisions of the By-law must be complied with.

Carried.

Councillor Burgess returned to the table.

(iii) Other

- a) **Information: Site Plan Agreement Application D 28/02 LOB
(The Jewel of Algonquin Golf & Country Club)**

Applicant: Borden Boothby

Part Lots 5 - 8, Con. 7, Franklin Ward

Roll Nos. 010-011-04300, 04500, 04600 & 04800

Hwy 35 & Poverty Lane (vacant – no address assigned)

- Mr. Szczerbak recommended a deferral on this matter and that staff will have a more comprehensive report available at that time. Council concurred

- b) **Report: Application: OPA No. 9
By-law Amendment Appln's: Z 02/08 LOB & Z 03/08
LOB**

Applicant: The Marnoc Conservancy (2153308

Ontario Inc. [Mr. Mark Rider])

- See Item 4(b) – Delegations for discussion on this related matter

7. **CLOSED SESSION**

Resolution 7(a)/03/25/08

Councillor Casey and Councillor Ross

Be it resolved that in accordance with Section 239, (1), (2), (3) and (3.1) of the Municipal Act, c.25, S.O. 2001, as amended, the Council for the Corporation of the Township of Lake of Bays will convene in Closed Session for discussion regarding:

- personal matters about an identifiable individual, including municipal or local board employees;**
- litigation or potential litigation, including matters before administrative tribunals, affecting the municipality or local board;**

Carried.

Resolution 7(b)/03/25/08

Councillor Tapley and Councillor Ross

Be it resolved that the Council of the Corporation of the Township of Lake of Bays reconvene in Open Session and report on matters discussed in Closed Session.

Carried.

8. BUSINESS ARISING FROM CLOSED SESSION

No matters to discuss from Closed Session.

9. CONFIRMING BY-LAW

By-law 08-34, being a by-law to confirm the proceedings of the meeting of Council held on March 25th, 2008.

By-law 08-34 was read a first, second and third time and finally passed.

10. ADJOURNMENT

Resolution 10(a)/03/25/08

Councillor Casey and Councillor Ross

Be it resolved that the Council of the Corporation of the Township of Lake of Bays adjourn at 2:53 p.m. to meet again on April 8th, 2008, at 1:00 p.m. in the Council Chambers of the Municipal Office, Dwight, Ontario.

Carried

Mayor

Clerk