

THE CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS



REPORT

TO: Mayor & Members of Council
FROM: Stefan Szczerbak, Planner
DATE: September 22, 2009
RE: By-law Amendment Applications:

Z 24 & 25/09 LOB (Hallman Lumber)
Applicants: W.G. Hallman Lumber Ltd.
Part Lots 3,4 & 5, Con. 13, Ridout Ward
Roll No. 030-013-08900
1080 Narrows Road

RECOMMENDATION:

That Application **Z 24/09 LOB (Hallman Lumber)** for an amendment to the Comprehensive Zoning By-law No. 04-181 and Application **Z 25/09 LOB (Hallman Lumber)** for an amendment to the Development Permit By-law No. 04-180, both fulfilling a condition of Consent Applications **B 36, B 37 & B 38/07 LOB**, for the purpose of creating three new residential backlots, be **APPROVED** and that By-laws 09-110 and 09-111 be given three readings.

ORIGIN:

The property is located within the "**Rural (RU)**" Zone of Comprehensive Zoning By-law 04-181 as well as the "**Waterfront Residential (WR)**" Development Permit Area of By-law 04-180, and is vacant.

The applicants received provisional approval to sever the subject lands under consent applications **B 36, B 37 & B 38/07 LOB**, for the purpose of creating three new waterfront residential backlots and one large retained backlot. One of the conditions of the provisional approval was that the portions of the property that were contained under the jurisdiction of Comprehensive Zoning By-law 04-181 be re-designated such that the entire lands be located under the jurisdiction of Development Permit By-law 04-180. Accordingly, an amendment to both by-laws is required in order that the applicable mapping schedules reflect the required change. In addition, the amendment will recognize the location of the stream that has been identified on the property that is currently not reflected in the by-law schedules, recognize the reduced road frontage of severed Lots "A" and "C" (**B 36 & 38/07 LOB**), and also implement an increased rear yard setback to ensure that building envelopes are located off of the ridge and steep slopes that are present on all of the severed lots. Therefore, this application will fulfill conditions of the provisional consent approvals.

The purpose and effect of these by-law amendments will be to amend both Comprehensive Zoning By-law 04-181 and Development Permit By-law 04-180 as follows:

APPLICATION Z 24/09 LOB (amendment to By-law 04-181):

This application proposes to amend the boundaries of Schedule "A" of Comprehensive Zoning By-law 04-181 by removing the portion of land identified on the attached By-law schedule. Accordingly, the purpose and effect of this by-law amendment is to remove this portion of the lands from the By-law

currently zoned "**Rural (RU)**" in By-law 04-181 and add it to the "**Waterfront Residential (WR)**" Development Permit Area of By-law 04-180 such that the entire property is under the same designation.

APPLICATION Z 25/09 LOB (amendment to By-law 04-180):

This application proposes to amend the boundaries of Schedule "A" of Development Permit By-law 04-180 by incorporating the portion of land identified on the By-law schedule. Accordingly, the purpose and effect of this by-law amendment is to add the lands and re-designate this portion of the lands from the "**Rural (RU)**" Zone of By-law 04-181 to the "**Waterfront Residential (WR)**" Development Permit Area of By-law 04-180 such that the entire lot is under the same designation. In addition, the amendment will seek relief from By-law 04-180 as follows:

1. Re-designate Severed Lot "A" to the Waterfront Residential (WR) with an Exception "WR-E212" Development Permit Area to seek relief from Section 5.1.1(c) (Minimum Road Frontage for a new backlot), reduce from the required 135 metres (442.9 ft) to 134.1 metres (440 ft), and also to implement an increased rear yard setback;
2. Re-designate Severed Lot "B" to the Waterfront Residential (WR) with an Exception "WR-E213" Development Permit Area to seek relief from Section 5.1.1(c) (Minimum Road Frontage for a new backlot), reduce from the required 135 metres (442.9 ft) to 134.1 metres (440 ft), and also to implement an increased rear yard setback; and
3. Re-designate Severed Lot "C" to the Waterfront Residential (WR) with an Exception "WR-E214" Development Permit Area to seek relief from Section 5.1.1(c) (Minimum Road Frontage for a new backlot), reduce from the required 135 metres (442.9 ft) to 125.5 metres (412 ft), and also to implement an increased rear yard setback).

Applications **Z 24 & 25/09 LOB** were received on July 17, 2009 and deemed to be complete on September 2, 2009.

BACKGROUND:

Previous Files:	<ul style="list-style-type: none"> • B 36, B 37 & B 38/07 LOB
Natural Constraints:	<ul style="list-style-type: none"> • Slopes ranging from 20% to over 40% on all proposed severed lots • Deer wintering habitat on entire property • Locally significant wetland on westerly portion of retained lot
LOB Official Plan:	<ul style="list-style-type: none"> • Rural
District Official Plan:	<ul style="list-style-type: none"> • Rural
LOB By-law 04-180:	<ul style="list-style-type: none"> • "Waterfront Residential (WR)" Development Permit Area
LOB By-law 04-181	<ul style="list-style-type: none"> • "Rural (RU)" Zone • "Environmental Protection (EP)" Zone

Site Characteristics:

The subject lands are vacant and have varying topography, containing a steep rock ridge that traverses the property in an east/west direction. The proposed severed lots front onto Narrows Road, a year round Township maintained road. The front portion of the severed lots are relatively level with the road, from which they rise steeply up the ridge to more moderate slopes located approximately 500 ft back from the road. The proposed lots are well vegetated with primarily mature deciduous forest with small pockets of coniferous trees and bedrock. The lands appear to have been logged within the last several years. Several existing logging roads exist throughout these lands. A warm water stream flows down the slope on both severed lots "B" and "C".

The westerly portion of the retained lands front onto Narrows Road, and contain a large level area adjacent to the road before rising steeply up the same rock ridge that is present on the proposed severed lots. This level area contains a wetland, as well as a large cleared area that appears to have been used as a landing to store harvested logs prior to transportation. Several logs and stumps are present at the edges of this area.

Surrounding Uses:

The surrounding lands contain low density residential uses.

ANALYSIS:


Members of Council may be familiar with this property and will recall that staff were supportive of the proposal to create one new residential building lot by way of Consent Applications **B 36, B 37 & B 38/07 LOB** (Copies of our staff report has not been included to avoid unnecessary printing).

These amendment applications have been submitted to fulfil a condition of the approval for this related consent file.

Within the recommended conditions for the provisional decision pertaining to Consent Application **B 36/07 LOB**, Condition No. 2 requires that this lot be removed from the "**Rural (Ru)**" Zone of Comprehensive Zoning By-law No. 04-181 and added to the Development Permit By-law No. 04-180 and re-designated to the "**Waterfront Residential (WR)**" Development Permit Area. In addition, the "**WR-E213**" designation will recognize a slightly reduced road frontage, the location of a warm water stream and an increase rear yard setback to ensure future development would not occur on the steep slopes. Similarly, Condition No. 2 in the Provisional Decisions associated with Applications **B 37/07 LOB** and **B 38/07 LOB** require the same provisions to be included in the applicable By-law.

Accordingly, as these applications have been submitted to fulfill a condition of provisional approval for the related consent file and as these applications generally meet the intent of the Township Official Plan, staff have no concerns with the approval of these applications and it is recommended that By-laws 09-110 and 09-111 be given three readings.

Respectfully submitted by:



Stefan Szczerbak, M.Sc., RPP, MCIP
Planner

**CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS
BY-LAW 09-110**

BEING A BY-LAW TO AMEND BY-LAW 04-181 KNOWN AS THE
COMPREHENSIVE ZONING BY-LAW (Hallman Lumber)

WHEREAS it is deemed expedient to amend By-law 04-181.

NOW THEREFORE the Council of the Corporation of the Township of Lake of Bays
enacts as follows:

1. Schedule "A" – Ridout Ward, to By-law 04-181 is hereby amended by revising the
"Rural (Ru)" Zone located on Part of Lots 3, 4 and 5, Concession 13, Ridout
Ward, now in the Township of Lake of Bays, as shown hatched on the attached
Schedule "B".
2. Schedules "A" and "B" hereby form part of this By-law.
4. All other provisions of By-law 04-181, as amended, shall apply.

READ a FIRST and SECOND time this 22nd day of September, 2009

Mayor

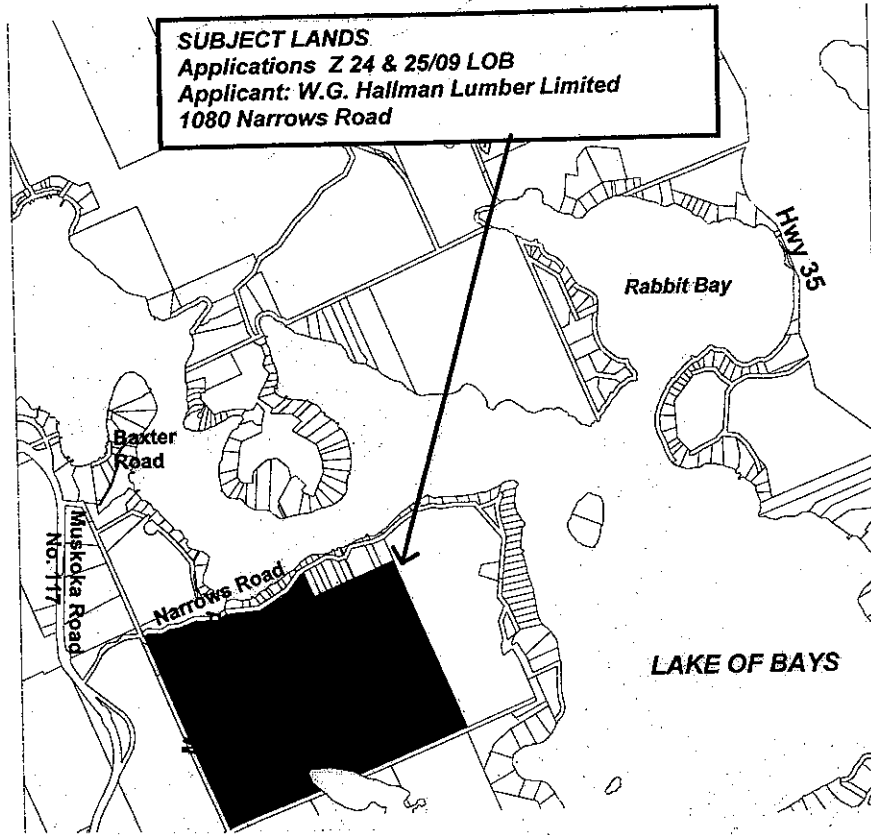
Deputy Clerk

READ a THIRD time and finally passed this 22nd day of September, 2009

Mayor

Deputy Clerk

SCHEDULE "A"
By-law Amendment No. 09-110



**CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS
BY-LAW 09-111**

BEING A BY-LAW TO AMEND BY-LAW 04-180 KNOWN AS THE DEVELOPMENT PERMIT BY-LAW (Hallman Lumber Ltd.)

WHEREAS it is deemed expedient to amend By-law 04-180.

NOW THEREFORE the Council of the Corporation of the Township of Lake of Bays enacts as follows:

1. Schedule "A" to By-law 04-180 is hereby amended by revising the limits of the Development Permit Area boundary located on **Part of Lots 3, 4 and 5, Concession 13, Ridout Ward**, now in the Township of Lake of Bays, and that the **"Waterfront Residential (WR)"** Development Permit Area be amended to the **"Waterfront Residential with an Exception (WR-E212)"**, **"Waterfront Residential with an Exception (WR-E213)"** and **"Waterfront Residential with an Exception (WR-E214)"** Development Permit Areas, as shown on the attached Schedule "B". In addition, the location of a warm water stream shall be identified on these lands.
2. Section 7 of By-law 04-180 be amended by the addition of the following:

"WR-E212:

On lands designated "WR-E212", as shown on Schedule "B" attached to By-law 09-111, no person shall use any lot or erect, alter or use any building or structure except in accordance with the Waterfront Residential (WR) Development Permit Area designation permitted uses and amended by the following:

- a) Substituted Development Permit Designation Provisions:

i) MINIMUM ROAD FRONTAGE FOR NEW LOTS

SITUATION	STANDARD	STAFF VARIATION	COUNCIL VARIATION
Backlot	134.1 metres	None	Any

ii) MINIMUM REAR YARD SETBACK

SITUATION	STANDARD	STAFF VARIATION	COUNCIL VARIATION
All	260 metres along the westerly portion of the lot 242 metres along the easterly portion of the lot	None	Any

WR-E213:

On lands designated "WR-E213", as shown on Schedule "B" attached to By-law 09-111, no person shall use any lot or erect, alter or use any building or structure except in accordance with the Waterfront Residential (WR) Development Permit Area designation permitted uses and amended by the following:

- b) Despite the contents of Schedule A within Development Permit By-law No. 04-180, the watercourse identified on Schedule "B" shall be included in Schedule A of By-law 04-180 and shall be deemed to be a warmwater stream.
- c) Substituted Development Permit Designation Provisions:

iii) MINIMUM ROAD FRONTAGE FOR NEW LOTS

SITUATION	STANDARD	STAFF VARIATION	COUNCIL VARIATION
Backlot	134.1 metres	None	Any

iv) MINIMUM REAR YARD SETBACK

SITUATION	STANDARD	STAFF VARIATION	COUNCIL VARIATION
All	242 metres along the westerly portion of the lot 281 metres along the easterly portion of the lot	None	Any

WR-E214:

On lands designated "WR-E214", as shown on Schedule "B" attached to By-law 09-111, no person shall use any lot or erect, alter or use any building or structure except in accordance with the Waterfront Residential (WR) Development Permit Area designation permitted uses and amended by the following:

- d) Despite the contents of Schedule A within Development Permit By-law No. 04-180, the watercourse identified on Schedule "B" shall be included in Schedule A of By-law 04-180 and shall be deemed to be a warmwater stream.
- e) Substituted Development Permit Designation Provisions:

v) MINIMUM ROAD FRONTAGE FOR NEW LOTS

SITUATION	STANDARD	STAFF VARIATION	COUNCIL VARIATION
Backlot	125.5 metres	None	Any

vi) MINIMUM REAR YARD SETBACK

SITUATION	STANDARD	STAFF VARIATION	COUNCIL VARIATION
All	242 metres along the westerly portion of the lot 307 metres along the easterly portion of the lot	None	Any

- 2. Schedules "A" and "B" hereby form part of this By-law.
- 3. All other provisions of By-law 04-180, as amended, shall apply.

READ a FIRST and SECOND time this 22nd day of September, 2009.

 Mayor

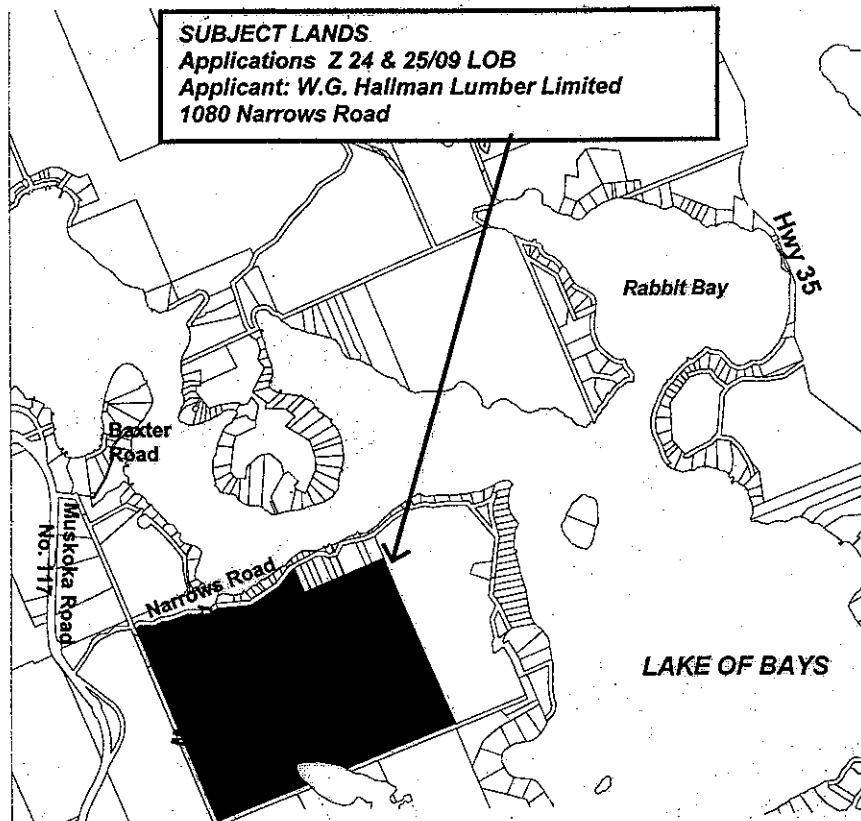
 Deputy Clerk

READ a THIRD time and finally passed 22nd day of September, 2009.

 Mayor

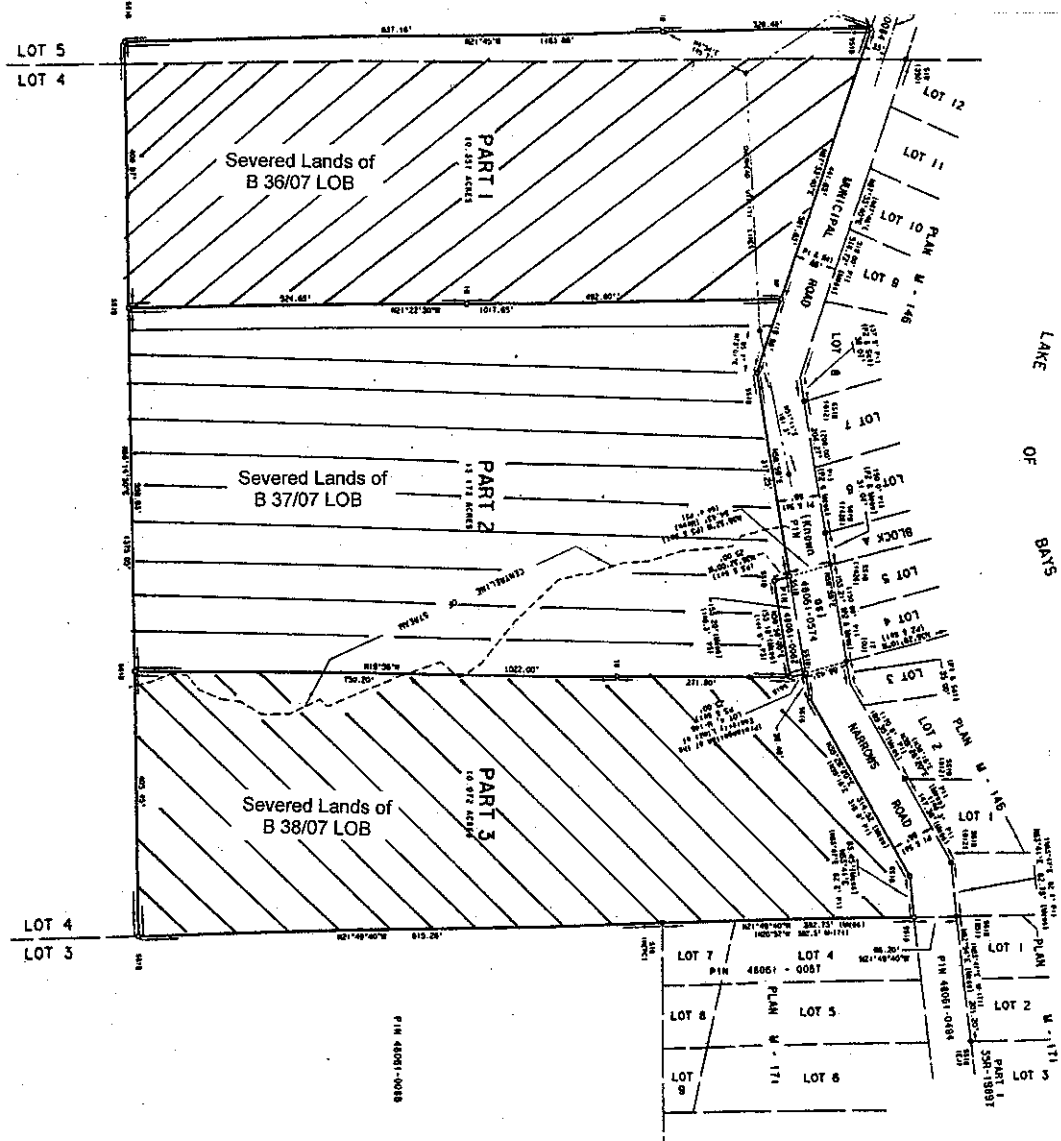
 Deputy Clerk

SCHEDULE "A"
By-law Amendment No. 09-111



SCHEDULE "B"

By-law Amendment No. 09-111



- | | |
|--|---|
| | SUBJECT LANDS to be re-designated from the Waterfront Residential "(WR)" Development Permit Area to the Waterfront Residential with an Exception "(WR-E212)" Development Permit Area |
| | SUBJECT LANDS to be re-designated from the Waterfront Residential "(WR)" Development Permit Area to the Waterfront Residential with an Exception "(WR-E213)" Development Permit Area |
| | SUBJECT LANDS to be re-designated from the Waterfront Residential "(WR)" Development Permit Area to the Waterfront Residential with an Exception "(WR-E214)" Development Permit Area |

Stefan Szczerbak

From: Ron McIntosh [REDACTED]
Sent: September 6, 2009 10:26 AM
To: Stefan Szczerbak
Subject: Amendment App. Z 24/09 and Z 25/09 LOB
September 5, 2009

The Planner
Township of Lake of Bays
RR # 1, 1012 Dwight Beach Rd.
Dwight, ON P0A 1H0

To whom it may concern:

We are opposed to these amendment applications by Hallman Lumber Limited. We would have been opposed to the original severances, if we had known about them.

If this is the same company that carried out such poor logging operations on this property they should not be rewarded further by being allowed to sell off three building lots. We were appalled at the destruction and wanton waste of the careless logging that took place on this steep terrain. The company should have been fined and made to clean up the mess. (If you doubt this, go have a look for yourselves.)

We are opposed to the amendments (and the provisionally approved severances) for the following reasons:

1. Why put buildings on the "wrong" side of the road and directly behind existing cottages? These are "back lots" and the sort of thing that should be avoided at all cost. Do you want Lake of Bays to end up looking like Wasaga Beach?
2. There is no water access, unless these people intend to trespass over private property. There is no nearby boat launch and there is no public beach. These cannot be considered waterfront properties; there is no waterfront.
3. More traffic on The Narrows Road. This road is in a perpetual state of disrepair. It is badly in need of additional gravel, ditching, grading and the proper location of culverts. It hardly needs additional vehicular traffic and increased danger to pedestrians and children who currently use the road.

We strongly object to the original severances and the proposed amendments and hope that both will be disallowed.

Yours truly,

Ron McIntosh
[REDACTED]
Con 14, Lot 5, Ridout Twp.
Lake of Bays
[REDACTED]
[REDACTED]

08/09/2009

Stefan Szczerbak

From: Doug Lawson [REDACTED]

Sent: September 8, 2009 4:10 PM

To: Stefan Szczerbak

Subject: Application Z24 & 25/09 LOB Hallman

Lake of Bays Planning Department

Dear Sirs:

I am an abutting property owner at 1159 Narrows Road, of the property subject to the above application and I have some questions for you:

Am I correct that this application is in response to last Octobers decision (B36-07) to allow the creation of three new Backlots and the Township's Condition that the property be brought under Development Permit By-law 04-180 within one year?

The October Decision dealt only with the three new lots A,B & C. This new application deals with ALL of the property being all of lots 3,4 & 5 Concession 13 Ridout and includes new lots A,B & C. Technically I am not sure lot 3 qualifies to be WR as it does not front on a public road. Certainly it seems that no lots can be created on lot 3 given the lack of a public road.

I would like some clarification on the property outside of Lots A,B, & C.

Are lots 3, and the remainder of 4 & lot 5 considered as one lot?

Can lot 3 support any back lots, What about the remainder of lot 4?

Can lot 3 or 5 be severed and sold separately?

How will these lots access the Lake of Bays?

Does the ability to create backlots or subdivisions change under WR versus RU?

Hallman appeared to have logged the land last winter, a permitted use under RU but not under WR. (perhaps WR would be a better designation to protect against further logging) Are logging permits required and if so who issued the logging permits and who supervised the operation? Was restorative work required in terms of cleaning up unused cuttings?

A great deal of work has been done already to clear lots A,B& C which seems to be against the terms of the Conditional Decision. The Township Road Allowance was modified. This clearing work was not approved as far as I can tell and it has resulted in a change to the water drainage patterns causing water runoff problems for the abutting residents. Is remedial action planned?

Thank You

Doug Lawson C.M.A.
Wealth Advisory Services Ltd.
[REDACTED]

09/09/2009

Stefan Szczerbak

From: Stefan Szczerbak
Sent: September 9, 2009 10:36 AM
To: Doug Lawson
Subject: RE: Application Z24 & 25/09 LOB Hallman
Mr. Lawson,

Thank you for the e-mail.

To answer your questions, yes this is directly related to the severance applications.

The severance application considered lots A,B, C and one large retained lot (207 acres).

There will be no change to the existing zoning of the large retained parcel.

Lot 3 does not have road frontage, so you are correct that the Official Plan policy would not support the creation of a new separate lot of record.

Yes, the remaining lands (Lots 3,4,5) are considered one lot.

No the existing policies would not cannot support backlot development on Lot 3.

No to Lot 4 (same as above).

They could...but lot 3 would have to be merged with another existing property. The policies would not permit Lot 3 to be severed as a stand-alone lot.

These lots can access Lake of Bays by means of a marina, public road allowance or any other public park in the municipality.

The creation of a backlot is more restrictive under the WR designation. There are no provisions for back lot development under a RU zone.

Logging is regulated by the District of Muskoka and they did receive a "Intent to Cut" by the District.

I am unsure about any requirement for restorative works for a logging operation.

I believe that several clearing works were associated with the logging operation. I do not have any indication as to any remedial action planned with this operation.

I hope this has addressed your questions and concerns. Please let me know if I can help you further.

Sincerely,

Stefan Szczerbak, MSc, MCIP, RPP
Manager of Planning Services
Township of Lake of Bays
1012 Dwight Beach Road
R.R. # 1
Dwight, ON
POA 1H0
(705) 635-2272
(877) 566-0005

From: Doug Lawson [mailto:doug.lawson@wealthadvisory.ca]

09/09/2009