

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 28 & 29/09 LOB (Pelude & Rutherford)

Applicants: Ivar Pelude & Marilyn Rutherford

Part Lots 1 & 2, Con. 7, Finlayson Ward, on Dotty Lake

Roll No. 020-012-00200

Limberlost Road – vacant – no address assigned

RECOMMENDATION:

That Application **Z 28/09 LOB (Pelude & Rutherford)** for an amendment to the Comprehensive Zoning By-law No. 04-181 and Application **Z 29/09 LOB (Pelude & Rutherford)** for an amendment to the Development Permit By-law No. 04-180, both fulfilling a condition of Consent Application **B 29/07 LOB**, for the purpose of creating two new residential lots, be **APPROVED** and that By-laws 09-114 and 09-115 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 28 & 29/07 LOB**, and **B 02/08 LOB**, for the purpose of creating two new residential building lots, as well as the granting of a right-of-way to a northerly abutting property. One of the conditions of the provisional consent approval for **B 29/07 LOB** was that the severed and retained lands 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. Therefore, this application will fulfill a condition of the provisional consent approval.

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 28/09 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 29/09 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.

Applications Z 28 & 29/09 LOB were received on August 14, 2009 and deemed to be complete on September 2, 2009.

BACKGROUND:

Previous Files:	<ul style="list-style-type: none"> • Consent Applications B 47/02 & B 48/02 LOB • Rezoning Application Z 30/02 LOB (By-law 03-12) • Consent [51(26)] Agreement C 07/03 LOB • Consent Applications B 28 & 29/07 LOB, and B 02/08 LOB • Consent [51(26)] Agreement C 05/09 LOB
Natural Constraints:	<ul style="list-style-type: none"> • "Type 2" fish habitat • Dotty (Long) Lake has been identified as a Sensitive Lake Trout Lake being managed for lake trout and unable to sustain further lot creation.
Lake Phosphorous Sensitivity	<ul style="list-style-type: none"> • Low sensitivity to phosphorous
LOB Official Plan:	<ul style="list-style-type: none"> • Waterfront & Rural
District Official Plan:	<ul style="list-style-type: none"> • Waterfront & 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, small amount of "Environmental Protection (EP)" Zone in northwest corner of lot
OSRA Status:	<ul style="list-style-type: none"> • Open

Site Characteristics:

The subject lands are vacant and the topography is gently rolling throughout. The lands are well vegetated with a mix of deciduous and coniferous forest.

Surrounding Uses:

The surrounding lands contain low density residential uses. A commercial children's camp (Camp Olympia) is located a short distance to the east.

ANALYSIS:

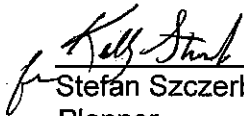
Members of Council may be familiar with this property and will recall that staff were supportive of the proposal to create one new residential building lot by way of Consent Application B 29/07 LOB (a copy of our staff report has not been included to avoid unnecessary printing).

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 29/07 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.

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 09-114 and 09-115 be given three readings.

Respectfully submitted by:



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

**CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS
BY-LAW 09-114**

BEING A BY-LAW TO AMEND BY-LAW 04-180 KNOWN AS THE
DEVELOPMENT PERMIT BY-LAW (Pelude & Rutherford)

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 "**Waterfront Residential (WR)**" Development Permit Area boundary located on **Part Lots 1 and 2, Concession 7, Finlayson 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.
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

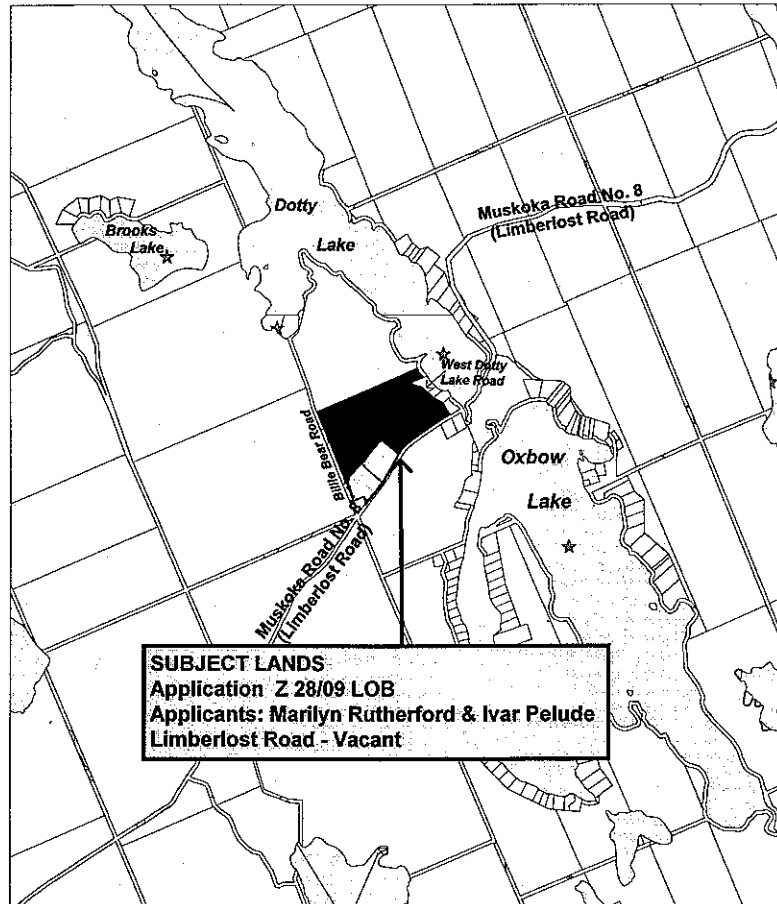
Deputy Clerk

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

Mayor

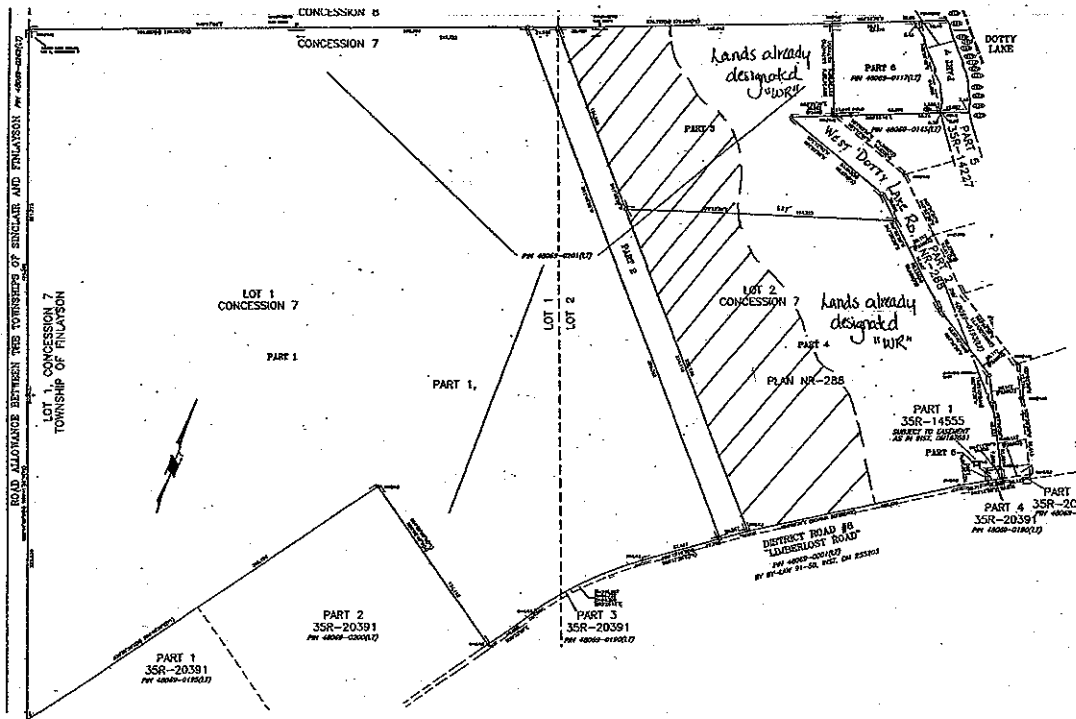
Deputy Clerk

SCHEDULE "A"
By-law Amendment No. 09-114



SCHEDULE "B"

By-law Amendment No. 09-114



	<p>PORTION OF SUBJECT LANDS to be removed from the Comprehensive Zoning By-law No. 04-181 (formerly included in the "Rural (Ru)" Zone</p>
--	--

**CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS
BY-LAW 09-115**

BEING A BY-LAW TO AMEND BY-LAW 04-180 KNOWN AS THE DEVELOPMENT PERMIT BY-LAW (Pelude & Rutherford)

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 "**Waterfront Residential (WR)**" Development Permit Area boundary located on **Part Lots 1 and 2, Concession 7, Finlayson 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.
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

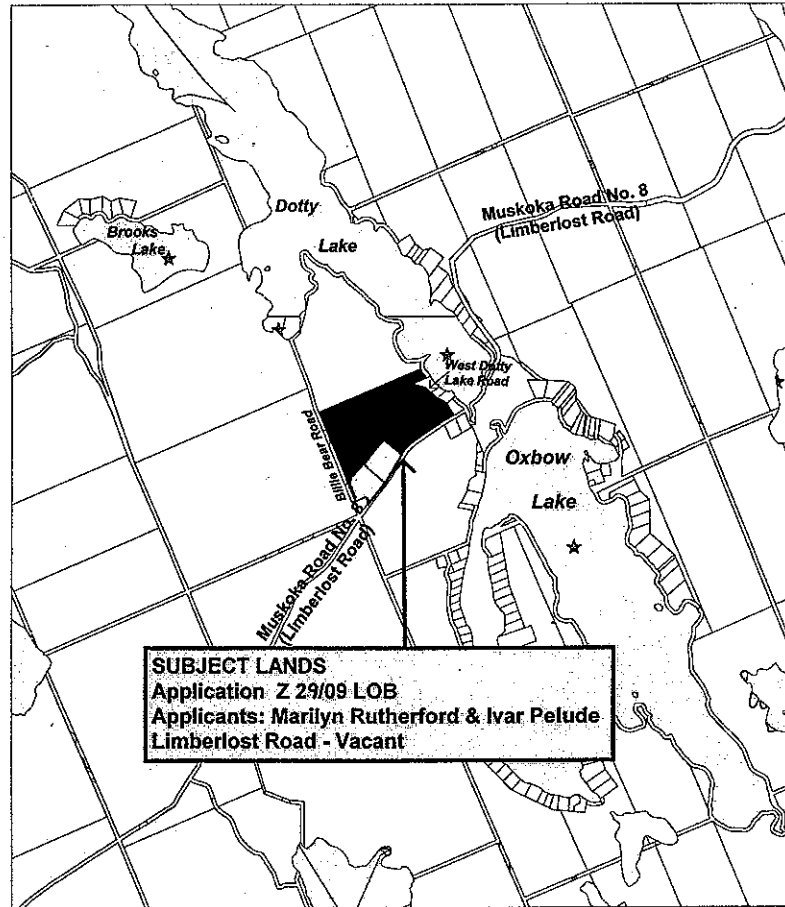
Deputy Clerk

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

Mayor

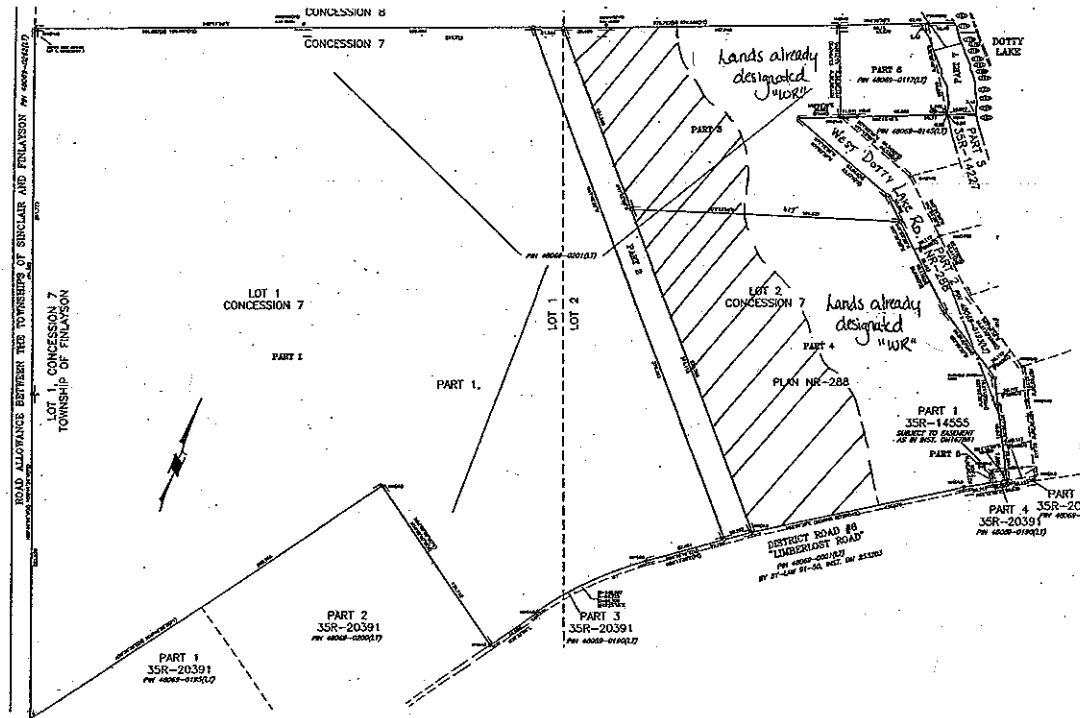
Deputy Clerk


SCHEDULE "A"
By-law Amendment No. 09-115



SCHEDULE "B"

By-law Amendment No. 09-115




PORTION OF SUBJECT LANDS presently identified under Roll No. 020-012-00200 to be included in the "Waterfront Residential (WR)" Development Permit Area under Development Permit By-law No. 04-180

Barrister & Solicitor

P. O. Box 7074
INNISFIL, Ontario
L9S 1A8
Tel: (705)734-9644
Fax: (705)734-0333

June 3, 2009

Township of Lake of Bays
Stefan Szczerbak, Township Planner
1012 Dwight Beach Road
RR #1
Dwight ON P0A 1H0

Township of Lake of Bays
Office of the Clerk
1012 Dwight Beach Road
RR #1
Dwight ON P0A 1H0

Dear Sir/Madam:

RE: Consent Applications B 28 & 29/07 LOB & B 02/08 LOB (PELUDE & RUTHERFORD)

Further to our telephone conversation of May 26, 2009, this letter will confirm to you, our concerns with respect to the storm water runoff issue existing onto the property of Mr. Cheney at 1016 West Dotty Lake Road.

Over the last few years, the Pelude/Rutherford property has been logged and changes made to the road entrance to their lake front lot from the existing right of way. The storm water runoff has increased and has been directed by a series of ditches to a point behind Mr. Cheney's lot and then through a culvert under the existing right of way directly to Mr. Cheney's property. Mr. Cheney has been forced to take extensive measures to protect his property and newly installed septic system from the increasing flow. The storm water appears to be entering the lake in a sensitive fish habitat. The overland runoff has increased since the two original lots were severed from the Pelude/Rutherford property with the permission of the Township, and has become a significant year round issue. We have also noted an increase of storm water accumulating on the Pelude/Rutherford lands all along the westerly edge of the existing right of way (West Dotty Lake Road), which sits in large stagnant pools for extensive periods of time. We have discussed the problem directly with Mr. Pelude to no avail. Mr. Watson, your Chief Building Official was aware of the problem last September. Further development of the property will decrease vegetation on the Pelude/Rutherford property, further exacerbating the existing situation. We are therefore asking that a storm water review and conditions for the management and containment of storm water on the Pelude/Rutherford property, be imposed.

We did not raise these concerns at the Hearing of the Committee of Adjustment because, as you are now aware, we were not sent a notice, despite notifying the Town several times that Mr. Kenneth Albert Cheney is the owner of the property and requesting that the lists at the Town be updated accordingly. Further to these requests, we were assured that the information on file at the Town had been updated and was correct. We would have been present had we been notified, and we would have objected to the severances and new right-of-way creation, which because of its length will decrease vegetation and absorption in the area and provide a less absorbing hard packed surface. As Mr. Cheney's land and Dotty Lake are downhill, the increased storm water from development of the Pelude/Rutherford lands will directly effect his land and the lake, unless conditions for its containment on the Pelude/Rutherford lands or flow to the Township ditches are provided for.

We have reviewed the minutes of the November 25, 2008 hearing and agree with Councillor Boivin, during committee deliberations, that severances in this case are not the appropriate planning vehicle and that since Mr. Pelude and Ms. Rutherford have already severed two lots, the severance of another two lots and the right-of-way should properly be done by way of a Plan of Subdivision. We understand from the committee deliberations that an ecological study was done and we are requesting a copy of that study, since it appears, it is the basis of a staff conclusion that this severance did not cause issues that were required to be addressed through a plan of subdivision. We, at this point, without seeing the study, take exception to that conclusion.

Mr. Kenneth Albert Cheney, also hereby gives notice that he objects:

1. To the granting of the severances on November 25, 2008 for consent applications B 28 & 29/07 & B 02/06 LOB (Pelude & Rutherford);
2. To any extension of the one year time period, within which Mr. Pelude and Ms. Rutherford must complete the severances and right-of-way creation;
3. To the application, if any and when made, to close the Original Shore Road Allowance (OSRA) as such a closure would be premature until the drainage issues on the retained lot and all of the adjoining lots, are resolved;
4. To the application, if any and when made, to rezone the lands located within Comprehensive Zoning By-Law No. 04-181 to be entirely included within Development Permit By-Law No. 04-180;
5. To the validity of any Certificate of Planning Official issued pursuant to the Provisional Consents of November 25, 2008 due to a failure of notice requirements for the meeting, including a failure to notify Mr. Cheney, and the fact that the notice is dated on a date that the Township Offices and the Post Office were closed;

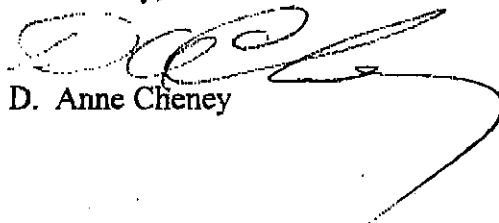
unless, and until the storm water run-off and drainage issues are resolved for the Cheney property and the existing right-of-way. We confirm that you advised on May 26, 2009, that no applications for re-zoning or the purchase of the Original Shore Allowance have been made to date.

Mr. Kenneth Albert Cheney requires:

- a) confirmation in writing from the Township of Lake of Bays, that his name and correct mailing address is properly entered on **ALL NOTICE LISTS, MAILING LISTS AND OTHER LISTS USED BY THE TOWNSHIP OF LAKE OF BAYS, AS THE CURRENT OWNER OF THE PROPERTY MUNICIPALLY KNOWN AS 1016 WEST DOTTY LAKE ROAD;**
- b) Inclusion in the notice on title for any Site Plan Agreements or amendments to existing Agreements, that the adjoining land owners shall be consulted with respect to the provisions for the management and containment of storm water run-off and surface drainage prior to any development, site alteration and vegetation removal on the lands, or the issuance of a building permit.
- c) that he be immediately advised if any applications for re-zoning or the purchase of the Original Shore Allowance in this matter are received by the Township.

We look forward to hearing from you in the near future.

Yours truly,


D. Anne Cheney

cc Burgar Rowe LLP