

Planning Report West Oxbow Lake

Part of Lot 3, Concession 6, Finlayson,

Township of Lake of Bays

Muskoka Lakeside Properties Inc.

1.0 Introduction

This planning report has been prepared by John P. Gallagher & Associates in support of applications for plan of subdivision and zoning amendment. The subject applications are submitted in tandem with this report. Included in the submission is an Environment Impact Statement (Riverstone Report), Stormwater Management/ Construction Mitigation Plan and Stage 1 & 2 Archaeological Assessment. The subject lands are located on Part of Lot 3, Concession 6, Finlayson, Lake of Bays. The municipal address is located on West Oxbow Lake Road, but a number has not been assigned. The property has extensive frontage (1000 m +) on Oxbow Lake and comprises about 8.7 ha lot area. The property is currently vacant. The land is generally well treed with deciduous and coniferous trees. The land is slopes from the west down towards the lake. There is a watercourse flowing from the west to the lake on Lot 5. There is existing driveway from West Oxbow Lake Road to the north.

Vacant land to the west of the site is owned by the Crown. Waterfront lots with approximately 49m - 103m frontage and 0.49ha to 1.6 ha lot area are located on the west side of West Oxbow Lake Road. There is a significant amount of Crown Land along the southern portion of the lake.

2.0 Proposed Development

The Owner, Muskoka Lakeside Properties Inc., proposes to create six new lots having frontage on Oxbow Lake. A single detached dwelling is proposed for each new lot. The lot sizes would range from 1.0 ha to 1.469 ha with a minimum 122 m frontage. The lot fabric is well suited for development with ample building locations on each of the lots. The building locations have been identified through GPS in the field, survey information and setbacks envisioned in the Official Plan and Development Permit. The building envelopes are identified on the draft plan and will be incorporated into the Zoning Bylaw for the lands. Private water and sewer services are proposed for all the lots. The lot sizes are identified on the attached plans. Access to the northerly four lots would be from a right of way (along the rear of the lots) to West Oxbow Lake Road. Access for the southerly three lots would be from a proposed access over the Crown land to the west. The Owner submitted the request for the access from the Ministry of Natural Resources and Forestry in the spring of 2020. Prior to submission, preconsultation meetings were held with the Lake of Bays and District of Muskoka Planning Departments. A site inspection was also conducted with them. It was determined by staff that a number of studies such as Environmental

Impact, Fisheries Assessment, Soil Analysis be required. This was carried out by Riverstone Environmental in accordance with the Official Plan requirements and forms part of the submission.

3.0 Lake of Bays Official Plan

The subject lands are designated Waterfront in the Lake of Bays Official Plan.

C.10 The waterfront designation generally encompasses the land outside of a community designation, which surrounds and relates, either physically or functionally, to substantial lakes and rivers. Section H of this plan specifically defines the extent of this designation and provides detailed policy respecting development within the waterfront designation.

The lands are designated within the Waterfront designation of the Official Plan.

C.42 All development will have a sufficient supply of potable water and a suitable system for sewage disposal, both of which are adequate to serve that development over the long term.

Water will be obtained by drilled wells or by taking water from the lake. Ample areas exist on each of the lots for the placement of a septic system.

C.43 Development will be served with a private, individual water supply and sewage disposal system, unless municipal water and sewer services are available, or otherwise specified in this plan.

C.45 Private, individual water and sewage disposal systems generally will not serve more than one property.

No municipal services are available, so private individual services will be provided. A private well or lake water and a septic system will be located on each lot.

C.69 Where access is provided by a private road (i.e. to serve a condominium development), a legal right of way will be secured and the right of way width should be 20 metres (66 feet), where possible and appropriate in the circumstances. Where a condominium development is permitted, the condominium may be serviced with a private road provided that the internal road is connected directly with a public road maintained by a public authority.

The rights of way proposed are 20 metres wide. The right of way will be located at the rear of the lots. The purpose of the southerly right of way is to ensure there is no additional work around the watercourse.

D.5 Where a natural vegetative buffer is required by this plan, the removal of vegetation, including the ground, shrub or canopy layers, or the disruption of the natural landform or soil mantle will be restricted.

It is proposed that vegetation clearing will be limited on each of the sites. This can occur through the development permit and 51(26) agreement registered on title. The Riverstone report makes recommendations to be implemented to achieve this policy.

D.12 New development or the demolition and rebuilding of existing structures other than permitted shoreline structures such as accessory docks, boathouses or marina facilities (including storage, service and maintenance facilities or parking areas), and including any component of an existing private sewage disposal system, will be setback a minimum of 20 metres (66 feet) from the normal or controlled high water mark of a lake or watercourse. Greater setbacks may also be required to address terrain constraints, recreational water quality, land prone to flooding, or to preserve habitat or specific features as specifically outlined in this plan.

The Riverstone Report has recommended a 30 metre setback from the present high water mark of the lake. The zoning requires the same setback.

D.13 New Leaching beds or other similar devices for distributing effluent will be setback a minimum of 30 metres (98 feet) from the normal or controlled high water mark of a lake or watercourse. Greater setbacks may be required to address terrain constraints, land prone to flooding or to preserve habitat or specific features.

All the leaching beds will be setback in excess of 30 metres from the lake.

D.16 The preservation and restoration of natural shorelines and shoreline vegetation will be strongly encouraged to:

- a) protect the riparian and littoral zones and associated habitat;*
- b) prevent erosion, siltation and nutrient migration;*
- c) maintain shoreline character and appearance; and*
- d) minimize the visual impact of development*

A minimum target of 75% of the shoreline frontage of a lot will be maintained in a natural state to a target depth of 15 metres from the shoreline where new lots are being created and where vacant lots are being developed. Where lots are already developed and further development or redevelopment is proposed, or where the lot is located with a community, these targets should be achieved to the extent possible. Where these targets cannot be met, a net improvement over the existing situation is required.

The development permit zoning and 51(26) agreement will protect the shoreline buffer and other wooded areas on the lands. The plan only allows for a meandering trail and pruning for views creating a natural appearance when viewed from the water. The buildings are also required to setback 30 metres from the lake, lessening the visual impact. The frontage of the lots is large ensuring additional vegetation retention along the shoreline.

D.26 In order to ensure no negative impact on recreational water quality, all substantial development on a lot within the waterfront designation (including backlots), and on shoreline lots in the urban centre and community designations, of moderate and high sensitivity and Over Threshold waterbodies, will be subject to site plan control or development permitting.

All the lots are subject to the Development Permit Bylaw.

D.123 Appendix "A" identifies the sensitive Lake Trout lakes which have been verified by the Province of Ontario³⁷ as being managed for lake trout, and as being unable to sustain further development. Development of existing vacant lots for residential uses may be permitted, subject to the requirement of Section D.121. Further, lot creation will not be permitted on these lakes, unless:

- a) to separate existing habitable dwellings on lots each of which is capable of supporting an approved independent sewage disposal system provided that the land use will not change ;*
- b) new leaching beds for each lot will be setback at least 300 metres (984 feet) from the normal or controlled high water mark of the lake, or so that the drainage from each leaching bed will flow at least 300 metres to the normal or controlled high water mark of the lake or direct tributary;*
- c) new leaching beds on each lot are located so that they will drain into a waterbody other than those identified on Appendix "A"; or*
- d) it is demonstrated through the submission of a site specific soils investigation prepared by a qualified professional in accordance with provincial requirements as set out in Appendix A that the proposal will not negatively impact lake trout habitat including water quality, and provided the associated implementation requirements of Sections J.8 and J.9 are met. The minimum lot area for each lot shall be 0.8 ha (2 acres).*

Riverstone Environmental has provided the site specific soils investigation in accordance with the District of Muskoka, MOECC and Township of Lake of Bays requirements. All the lots are in excess of 0.8ha (2 acres)

D.124 New development, including any component of an existing private sewage disposal system, but not including permitted shoreline structures such as accessory docks, boathouses or marina facilities, will be setback a minimum of 30 metres (100 feet) from the normal or controlled high water mark of an identified Lake Trout lake at capacity. In addition, the removal of natural vegetation within 30 metres of the lake is prohibited, except to accommodate a limited number of paths, water lines, docking facilities or other permitted shoreline accessory structures and removal of trees posing a hazard.

The Riverstone Report has recommended a setback of 30m for all new development with the exception of a 2 metre path to the shoreline structure envelope.

H.4 The waterfront designation identifies and describes the overall low density shoreline community, which is composed of residential, waterfront commercial and open space uses, and is related to the recreational and aesthetic opportunities presented by a significant water resource. Waterfront areas are vital to the image, vision and economic vitality of the Township. The ecological character, health and function of the waterfront are recognized as integral to a sustainable waterfront community.

H.5 The following principles will apply to growth and development within the waterfront designation:

- a) the waterfront area of the Township is an important economic and recreational resource which will be carefully managed to ensure orderly and sustainable development for the long-term;*
- b) the integrity of the natural environment, landscape, shorelines and water quality will be protected;*
- c) cultural heritage, and natural heritage features and habitat will be conserved;*
- d) the aesthetic qualities and scenic features of a waterfront area will be preserved;*
- e) the character of the waterfront area will be maintained;*
- f) the traditional mix of uses in the waterfront will continue;*
- g) development on the land and at the shoreline will be compatible with abutting uses and the surrounding area;*
- h) development will not have a negative impact on the municipal fiscal situation;*
- i) individual private water and sewage services and access will be sustainable;*
- j) the water resources of the Township will continue to be accessible to both private and public users;*
- k) the ability to provide and deliver emergency services, and*
- l) protection against natural hazards*

The water resources and waterfront areas provide major leisure and recreational opportunities, which benefit the Township. The proposal for six new dwellings would represent low density residential creating additional tax benefit to the Township. The lots are larger than most of the lots around the lake. The scenic views of trees along the shoreline will be maintained.

H.9 Settlement in the waterfront designation has traditionally been a mix of residential, tourist and service commercial, and open space uses. Development of the area around the lakes, on islands and along the rivers of the Township is low density and generally has been linear in nature.

H.10 Due to the low density of development and the seasonal nature of this area, services have generally been limited. Private individual water and sewage systems are used and access to properties is often provided by water or by a network of public and private roads.

The proposal represents linear development of a low density. The services proposed are individual water and septic. The access is from a private road to the municipal road.

H.15 Residential development is generally linear in nature following the shoreline. Shoreline residential lots are oriented to the water and include a primary structure; shoreline structures and in many cases a sleeping cabin. Back lot development is generally located on large lots which front on year round maintained public roads. Isolated cases of cluster development may exist, where buildings used

previously in a cottage resort operation have been converted to a residential use, but remain in a single ownership.

The plan is for linear residential development large lots. The setback from the lake is 30 metres. There is ample room on each lot for a dwelling and associated accessory structures.

H.18 The following design principles should be implemented for development in the waterfront designation, as is appropriate for the area and the use proposed:

a) the natural waterfront landscape should prevail with built form blending into that landscape and shoreline;

b) natural shorelines will be retained or restored;

c) lot sizes will respond to the natural landscape, shoreline interface and the character of the lake or river;

d) disturbance on lots should be limited and minimized and the maximum amount of vegetation should be retained on a lot;

e) vegetation should be maintained on skylines, ridge lines or adjacent to the top of rock cliffs;

f) native species should be used for buffers or where vegetation is being restored;

g) rock faces, steep slopes, vistas and panorama should be preserved;

h) buildings and structures should be low profile and generally should not exceed the height of the tree canopy, but a prominent building may be considered for resort commercial development where the architecture would resemble traditional Muskoka resorts and it would serve as a landmark;

i) building mass and coverage should be limited in relation to the size and frontage of the property and the character of the surrounding area;

j) lot lines should follow existing features and terrain and should be configured so that conflicts between abutting properties will be avoided, particularly at the shoreline;

k) building envelopes and the associated activity area should be defined, and located in the most appropriate area on the property, with the remainder of the property generally remaining in its natural state;

l) roads should generally follow the contours of the land, fit into the landscape, and wherever possible, not run perpendicular directly to the water; and

m) disturbance for the construction of roads and other services should be kept to a minimum.

The lot pattern has followed the lay of the land. The Official Plan has policies in it to retain the shoreline buffer along the lake creating natural shoreline and minimizing the vegetation to be cleared. The building envelopes would be located in the area of the soil study and defined to that general area. The access to each lot would be to the rear of the lots that is well setback from the lake.

H.21 The shoreline frontage other than the shoreline activity areas should be retained, restored or enhanced as a natural vegetative buffer, which is at least 15 metres (49 feet) in depth from the normal or controlled high water mark. The preservation, restoration or enhancement of natural vegetated shorelines will be undertaken through the use of development agreements, development permits, zoning and other by-laws to:

- a) protect the riparian and littoral zones and associated wildlife and fish habitat and fish and wildlife corridors;*
- b) prevent erosion, siltation and nutrient migration;*
- c) maintain the shoreline's natural character, definition and appearance;*
- d) minimize the visual impact of development including the footprint and building height of buildings and structures*
- e) maintain, restore or improve the biodiversity and connectivity of the natural heritage;*
- f) control or prohibit the use of fertilizers, pesticides, herbicides and the storage of fuels and hazardous materials, and*
- g) requiring alternative means of access to docks and boathouses through the use of ramps or bridges or other means where these abutting structures would otherwise detract from retaining the shoreline in a naturalized state*

This will be the case.

H.22 Within the natural vegetative buffer, meandering pathways or access points to the shoreline that are constructed of permeable material, pruning of trees for viewing purposes, or the removal of trees for safety reasons may be permitted, but should be specifically designed, and located.

The development permit and 51(26) agreement will implement this requirement for each of the lots.

H.26 In order of preference, development of shoreline lots may be permitted with the following access:

- a) seasonally maintained, public road;*
- b) a private road, with a legal right of way; or*
- c) water access.*

Access is from the private road that is connected to a municipal year round road being West Oxbow Lake Road.

H.34 Development in the waterfront area will generally be serviced by private individual water and sewage systems, except as provided for in Section C.66 of this Plan.

There is ample room on each lot for a septic system and well water.

H.37 The following uses may be permitted within the waterfront designation:

- a) residential uses;*
- b) waterfront commercial uses;*
- c) open space; or*
- d) conservation.*

H.39 All lots will be of sufficient size and dimension and possess terrain suitable to appropriately accommodate the use proposed. Among other matters, this should include consideration of the following:

- a) environmental concerns and development constraints;*
- b) provision of water supply and sewage disposal;*
- c) provision of appropriate access and a safe road entrance; and*
- d) provision of a sufficient area to accommodate buildings and structures without substantial alteration of the natural landscape.*

Residential uses such as single detached dwellings are permitted in the waterfront designation. The lots are quite large in terms of lot area and frontage. Safe access is proposed to the rear of the lots. There is ample space within the building envelope to limit site alteration.

H.40 A variety of lot sizes will be required to address the principles for growth and development and the design principles for the waterfront designation, among other matters. These matters will be addressed prior to the creation of a lot.

H.41 Unless otherwise specified, new lots should be no smaller than 0.4 hectares (1 acre) in area with 60 metres (197 feet) of water frontage.

H.43 Within the waterfront designation, residential use will be limited to single detached dwellings in the form of shoreline development, back lot development and cluster development.

H.44 Shoreline development consists of single detached dwellings and accessory buildings and structures located on individual lots, which are situated in a linear fashion along the shoreline.

H.48 New lots on Category 2 and 3 lakes as identified on Schedule C3, or on lakes specified below will have the following minimum water frontages:

a) Category 2 lakes and Peninsula Lake – 122 metres (400 feet); and

The proposal meets the requirements of the above noted policies. Oxbow Lake is a Category 2 lake and as such, the requirement is for increased frontage of 122 metres, as shown on the draft plan.

J.8 Where lot creation is proposed on lakes identified in Appendix A as being lake trout lakes at capacity pursuant to Section D.103(d) and the site specific soils investigation identified in D.103(d) is satisfactory to the Township, the following requirements shall be implemented through a by-law amendment and in Section 51(26) Planning Act agreements and/or Development Permit agreements registered on title in perpetuity:

a) A 30 metre minimum undisturbed shoreline buffer and soil mantle, with the exception of a pervious pathway;

b) Stormwater management report and construction mitigation plan (including phosphorus attenuation measures such as directing runoff and overland drainage from driveways, parking areas, other hard surfaces to soak away pits, infiltration facilities);

c) Location of the tile-bed, in accordance with the recommendations of the site specific soils investigation;

d) Require that, if additional fill material is needed for the construction of the tile bed, that it consists of silt-free, fine to medium grained non-calcareous soils (sediments) showing the presence of aluminum and iron; and

e) Securities in order to ensure that the requirements of the agreements and Development Permit are implemented;

f) Monitoring will be reported to the Township of Lake of Bays and the Ministry of Environment and will be undertaken in accordance with provincial monitoring requirements as set out in Appendix A;

g) Other requirements, in accordance with the Official Plan.

The proposed lots would be required to meet the above policies. This can be done through the imposition of a 51(26) agreement and the development permit zoning.

4.0 District Official Plan

The property is identified in the District Plan as Waterfront.

J4.3 a) Permitted uses within the Waterfront Area designation shall be limited to:

- i) Resource-based recreational uses including low density, single unit recreational dwellings;*
- ii) Limited year-round low density, single unit residential development subject to Section J3.5;*
- iii) Tourist commercial uses (e.g. resorts, institutional camps and attractions);*
- iv) Small-scale industrial and commercial uses that are appropriate in and provides services to the Waterfront Area (e.g. contractors yards, boat building, restaurants, art galleries, and conference spaces); and,*
- v) Open space uses and waterfront landing areas.*

b) Area Municipal Official Plans shall determine which of the above uses are to be permitted and under which conditions as appropriate and may provide additional detail regarding permitted uses, provided they meet the objectives of this Plan.

c) All new development shall be appropriate to the infrastructure which is planned or available, to avoid the need for unjustified and/or uneconomical expansion of this infrastructure.

d) Although no settlement area boundary expansions are anticipated during the life cycle of this Plan, development and land use patterns that would prevent the efficient expansion of Urban Centres and Community Areas or that would cause a conflict between permitted uses in the Waterfront Area and those uses permitted in the settlement areas shall be avoided, particularly within one kilometre of the Urban Centre and Community Area boundaries.

e) The Waterfront Area is a major recreation resource area that should be made accessible to both public and private users.

f) Within the Waterfront Area designation, natural form and function shall be the predominant characteristic of the landscape.

g) The maintenance of the shoreline of lakes and rivers is key to preserving the quality of the natural and cultural heritage of Muskoka within the Waterfront Area. Tree cover, vegetation and other natural features are encouraged to be retained to uphold the visual and environmental integrity of the Waterfront Area.

h) Natural landscape features such as watercourses, significant heights of land, rock faces or cliffs, waterfalls, rapids, beaches, vistas, panoramas, landmarks, and other similar features shall be conserved to the extent feasible. New development shall generally be located and designed to protect these characteristic features unless the development serves a greater long-term public interest.

i) In order to ensure compatibility with existing development, new development should generally have a physical character similar to or compatible with existing development in terms of density, lot sizes, maximum building heights, and minimum setbacks.

The proposal represents low density residential development in a linear fashion along a lake. The excessive frontages and vegetation retention proposed strengthen the natural form on the lots. The lots are in conformity with the policies respecting compatibility and there is less density than most lots around the lake. The lot frontages are substantially larger. The implementation of the recommendations of the reports will ensure development occurs in a sustainable way and protect natural features.

J4.4.2 a) The forms of residential development, which are permitted within the Waterfront Area designation, include linear shoreline development, back lot development and cluster development. Multiple-unit residential development is not permitted.

b) Shoreline development shall consist of single unit dwellings and accessory buildings and structures located on individual lots (i.e. one dwelling per lot) that are located in a linear fashion along the shoreline.

c) New residential shoreline lots shall have a minimum lot area of 0.4 hectares and a minimum water frontage of 60 metres. Larger lot areas and frontages may be required to accommodate the proposed use, address environmental constraints or land use compatibility matters, or in consideration of lake character. Reduced shoreline frontage may be considered if a significant portion of the shoreline frontage is to be conveyed to land trust or the Area Municipality for conservation purposes in perpetuity.

d) Back lot development consists of single unit dwellings on individual lots (i.e. one dwelling per lot) that are physically separated from the shoreline by lots that have direct frontage on the shoreline. Back lots are usually located in a linear fashion along a road which generally runs parallel to the shoreline and which separates back lot development from shoreline development, but back lots may also be located on a road which runs perpendicular to the shore.

The proposal meets the above noted policy and lots would be in excess of the frontage and lot area requirements.

The Official Plan classifies Oxbow Lake as phosphorus sensitivity low.

5.0 Provincial Policy Statements

The applications are consistent with the Provincial Policy Statement 2020, by allowing proper use of the existing infrastructure, providing employment opportunities and housing, while meeting the servicing policies of the statements. The layout of the lots is efficient and will not require municipal public works services, but will provide additional tax revenue for other municipal services such as parks and libraries. The environmental issues have been studied by qualified professionals and their recommendations will ensure protection of sensitive uses such as Type 1 Fish Habitat and the watercourse. Any dwellings proposed on the lots would meet the current Ontario Building Code and Fire Code, which supports climate change initiatives.

The District and Township have provided policy to permit the residential development in accordance with respective waterfront designations. Stormwater Management has been included in the proposal

and private services are the preferred method of servicing in the waterfront areas, where no municipal water and sewer services exist.

6.0 Zoning

In reviewing the Development Permit Bylaw on the subject lands, the proposed lots are designated Waterfront Residential (WR). The proposed lots would meet the requirement of that zone. A further amendment to the Development Permit is proposed to implement the recommendations of the Riverstone Report and Official Plan policies. The building envelopes will be identified on each of the lots. This will ensure vegetation retention in the near shore area. The docking/boathouse locations will be identified in zoning to avoid placement in the Type 1 Fish Habitat. It is appropriate to zone the lands in this manner.

7.0 Conclusion

It is my professional opinion the proposed draft plan of subdivision and zoning amendment are consistent with the Provincial Policy Statement 2020, conforms to the District Official Plan, Lake of Bays Official Plan and Development Permit. The applications as submitted are appropriate and represent good planning.

Respectfully yours,

A handwritten signature in black ink, appearing to read 'John P. Gallagher', written in a cursive style.

John P. Gallagher, CPT, MCIP, RPP

Professional Planning Consultant