

**THE CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS
REPORT**

TO: Mayor Young and Members of Council
FROM: Stefan Szczerbak, Planner
DATE: November 10, 2015
RE: OFFICIAL PLAN AMENDMENT NO.16 (OPA # 16) – 5 Year
Official Plan Review (Version 3).

RECOMMENDATION:

WHEREAS the Council for the Corporation of the Township of Lake of Bays hereby receives the staff report “OFFICIAL PLAN AMENDMENT NO.16 (OPA # 16) – 5 Year Official Plan Review (Version 3).” dated November 10, 2015.

BE IT RESOLVED THAT Council for the Corporation of the Township of Lake of Bays adopt Official Plan Amendment No. 16 through By-law 2015-113 and direct staff to submit the required information to the District Municipality of Muskoka for approval.

ORIGIN:

On February 19, 2013 Council passed the following Resolution to initiate a review of our Official Plan:

Resolution #5(c)(i)/02/19/13

Councillor Glover and Councillor Burgess

WHEREAS the Council for the Corporation of the Township of Lake of Bays hereby receives the staff report “Proposed Official Plan Review” dated February 19, 2013.

BE IT RESOLVED THAT staff be directed to proceed with the following:

1. Review the entire Official Plan;
2. Create an Official Plan Review Advisory Committee with an approved Terms of Reference and membership in the summer of 2013;
3. Draft a Request for Quotation to determine the costs to hire a consultant to initiate this project in the fall of 2013; and
4. Host Special Public meetings throughout the various stages of this Official Plan review to ensure public involvement.

CARRIED.

ANALYSIS:

On December 17, 2013, Tunnock Consulting Ltd. was awarded the Official Plan review project. Since that time, staff have been working with the consultant and the Official Plan Advisory Committee to work through the recommended changes to the Official

Plan. In addition, the Township has received public input throughout the process including several public workshops and meetings.

Most recently, the Township hosted a Statutory Public meeting and the majority of the comments submitted were categorized around the 4 main topics identified by Council early on in the process. They include:

- Discussion Paper # 1 – Shoreline Setbacks – 20 vs 30 metres;
- Discussion Paper # 2 – Lot Sizes and Housing Affordability (NOTE: This topic must be separated between a discussion/direction for backlots and rural lots);
- Discussion Paper # 3 – Expanding the Development Permit System; and
- Discussion Paper # 4 – Tents and Trailers.

Planning Recommendations

Council directed the consultant to conduct a review and update the Official Plan in terms of new planning legislation, new District of Muskoka Plan policies, a reduction in the repetition found in the document and to simplify some of the language. It was not Council's direction to consider a major overhaul of the document nor to make any fundamental changes to the document. Their main reason for this direction is that there was an overall feeling is that the Official Plan is in "good shape" and it is working in terms of appropriately regulating land use within the municipality.

As a result, the focus has mainly been on appropriately addressing the 4 topics listed above.

Based on our planning analysis and on the public input received during the process, the following recommendations have been incorporated into Version 3.0 of the Official Plan.

Discussion Paper # 1 - 20 vs 30 Metre Setback

It is acknowledged that Council has previously expressed concerns with respect to various planning applications in this regard. However, these applications have always involved additions to existing dwellings or demo/rebuilds of these structures located within the required shoreline setbacks (non-complying situations). Specifically, Section D.14 has been changed to address this problem and it is anticipated that staff would make changes to the Development Permit By-law to delegate certain approvals to staff, having the effect of limiting the number of applications that would be approved by Council for these situations.

It is our professional planning opinion that Council maintain the "status-quo" with respect to maintaining a 20 metre setback on several of the larger lakes and a 30 metres setback for the balance of our smaller lakes. This recommendation is also based on the following reasons:

- a. In accordance with the direction of several policy documents, scientific studies and best practice documents (i.e. District of Muskoka Official Plan, the Provincial Policy Statement, Muskoka Watershed Council (2013), etc.).
- b. Recent and current planning applications involving development in close proximity to the shoreline.
- c. The general consensus from the public based on comments received during the numerous workshops, public meetings and throughout this process.

Discussion Paper # 2 – Lot Sizes

Backlots – The consultant and Township staff originally suggested a policy change that would reduce the lot area ONLY for backlots (from 4 to 3 hectares) while maintain the required road frontage (134 metres). The rationale for suggesting this modest reduction was to provide some flexibility to those property owners with larger lots to consider severing their property provided that they met the minimum lot size and road frontage requirements. In addition, it is staff's opinion that the character of our waterfront area is mainly based on the density of waterfront and backlots which is mainly determined by road and water frontage.

Having heard from the public and the Lake of Bays Association, it is our professional opinion that we maintain the status quo (4 hectares and 134 metres of road frontage) as it relates to the minimum lot area and frontage for backlots (Section H.51).

Rural Lots – Sections I.26 & I.30 in the Official Plan already provide flexibility with respect to lot area within the rural designation (2-4 hectares). The consultant and staff conducted a thorough review of lot sizes within the rural area and it was determined that a smaller lot within the rural designation does not necessarily equate to a cheaper property. There are too many factors (outside of land area and road frontage) that determine the value of the property; including but not limited to the number and size of structures found on the property, the existing land use(s), access and proximity to built-up areas, natural features or crown land. In addition, our discussions with many Real Estate agents have concluded that ANY property sold in the region, often includes a premium for being located in "Muskoka". Whereas properties of a similar size located in areas outside of Muskoka (i.e. Haliburton, Parry Sound, etc.) are noticeably cheaper. Finally, the complaints that have been submitted state that it is too expensive to build in Muskoka. To address this concern, the District of Muskoka and Township of Lake of Bays recently reduced the required Development Charges to assist new builds in this regard.

It is recommended that that the policies remain the same for the reasons noted above as well as the following:

- a. **A reduction to the lot size does not conform to the overall direction of the Township and District's Official Plan and it can lead to situations that are not consistent with the Provincial Policy Statement (directs development away from our built-up communities). It will alter the character of our rural areas;**
- b. **There is no demand for the creation of small rural lots; and**
- c. **The region already contains a significant amount of vacant rural lots (currently there are 1,000's of vacant rural lots in excess of 1 hectare having access from a municipal road throughout Muskoka).**

Discussion Paper # 3 – Expansion of the Development Permit Area

Staff and the development community have requested consideration for the extension of the development permit system throughout the entire municipality. Very few concerns were expressed during the Official Plan review process. Of those submitted, they have been appropriately addressed through policy changes that specifically exempt new and existing forestry and aggregate uses from regulation of vegetation removal and site alteration under the development permit process (Section 1.42). In addition, concerns were raised about the implementation of the system. As these policies are simply enabling policies and as the draft By-law provisions has not been created, Council and the public will have another opportunity to review a draft By-law after the Official Plan review has been completed. Should Council and the public choose not to move forward, the existing Comprehensive Zoning By-law would continue to apply.

It is recommended that the revised policies be supported for the following main reason:

- a. **To extend this existing system into the communities and rural areas to provide a consistent, predictable and streamlined planning system within the entire Township of Lake of Bays.**

Discussion Paper # 4 – Tents and Trailers

No changes are required with the Official Plan. Changes to the land use by-law(s) are required as well as the drafting of a separate By-law written under the Municipal Act to regulate specific things like size and number of trailers, appropriate septic systems, civic addressing, time limitations, etc.

Finally, the draft Official Plan (Version 3.0) has been consolidated based on the recommended changes to date, with the exception of the noted changes that have been recommended by the District of Muskoka (a copy of their letter dated August 21, 2015 is attached), and some other minor changes to clarify the document.

Staff and Tunnock Consulting are now in a position to recommend that Council adopt the amendment as drafted. Any minor formatting and clarifications to the Plan could be

considered, but any significant departure(s) from the overall policy direction may require additional public meeting(s) to obtain comments before adopting the Plan.

PUBLIC / AGENCY CONCERNS:

See Appendix "A".
District of Muskoka letter dated August 21, 2015.

FINANCIAL IMPLICATIONS:

To date the project has cost \$34,035.

An additional \$9,000 from the Planning Reserve has been allocated to update the Official Plan schedules.

ALTERNATIVES:

Council may choose one of the following options:

- Adopt OPA # 16 as drafted and submit to the District of Muskoka for approval;
- Adopt OPA # 16 with minor changes as directed by Council and submit to the District of Muskoka for approval; or
- Agree to suggest other policy changes for review and direct staff to return with a discussion paper for consideration and conduct another public meeting for comment.

LINKAGE TO THE COMMUNITY-BASED STRATEGIC PLAN:

This report represents the following strategic priorities:

- Engage and communicate openly with the community;
- Develop a sustainable local economy that supports our vision;
- Ensure sound, innovative, transparent financial planning;
- Develop long-term land, lake, and community plans that are balanced and adaptive;
- Protect, preserve, and promote our healthy natural environment;
- Work in collaborative partnerships; and
- Develop our capacity to provide social services.

Prepared by:


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

Approved by:


Michelle Percival, CMMIII, CMO
Chief Administrative Officer

Reviewed by:


Glenn Tunnock, MPA, MA, RPP
Tunnock Consulting Ltd.

REFERENCES:

Township of Lake of Bays Official Plan, 1999 (as amended);
District of Muskoka Official Plan;
2014 Provincial Policy Statement;
Discussion Paper # 1 – Shoreline Setbacks – 20 vs 30 metres;
Discussion Paper # 2 – Lot Sizes and Housing Affordability;
Discussion Paper # 3 – Expanding the Development Permit System;
Discussion Paper # 4 – Tents and Trailers;
District of Muskoka letter dated August 21, 2015.



THE DISTRICT MUNICIPALITY OF MUSKOKA

PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT
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August 21, 2015

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

VIA FAX AND EMAIL

Dear Mr. Szczerbak:

Re: District of Muskoka Comments – Lake of Bays Official Plan Review

We have had the opportunity to review the second draft of the Township's Official Plan dated July, 2015. While some of the comments outlined in our March 9, 2015 letter have been incorporated in this most recent draft, we understand that once additional comments are received at the public meeting on August 26, 2015 it is intended that District and Township staff will meet to discuss the inclusion of outstanding items in the next draft. In anticipation of such a meeting and in order to assist in the preparation of any necessary revisions to the proposed Plan, we have attached an updated list of comments, which focus on consistency with the Provincial Policy Statement (PPS) and conformity to the District of Muskoka Official Plan (MOP).

We look forward to continuing our work together on this project and would be happy to meet to discuss the next steps of this important initiative.

Yours truly,

Melissa Halford, B.A. (Hons), Eco. Mgt. (Dipl), MCIP, RPP
Manager of Planning

PPS Consistency

Provincially Significant Wetlands (PSWs)

Section 2.1.4 of the PPS states that development is not permitted within Provincially Significant Wetlands. In order to be consistent with the PPS, a policy that explicitly prohibits development within these sensitive features should be included.

In addition, Section 2.1.9 of the PPS would permit existing agricultural uses to continue within PSWs. As such, Section D.80 of the Township's draft OP should be clarified by stating that only *existing* agricultural uses are permitted to continue within wetlands and natural heritage areas.

Lake Trout Lakes

The list of Sensitive Lake Trout Lakes has not been made available with this version of the draft OP. This list should be cross-referenced with the list provided in the MNRF's Information Package dated May 13, 2015 in order to ensure consistency.

New Communities

As currently worded, Section C.13 of the Township's draft OP is not consistent with PPS policy for the expansion or establishment of new settlement areas. Therefore, this section needs to be amended to reflect the requirements of the PPS, such as demonstrating that there are not sufficient opportunities for intensification and redevelopment within existing settlement areas and the availability of infrastructure and public service facilities to service the proposed development over the long term.

Growth in Unserved Communities

Throughout the Township's draft OP, language has been added to reflect the policies of the PPS that direct development to settlement areas and that encourage intensification and redevelopment to occur within settlement areas. However, Section 1.6.6.5 of the PPS limits new development within unserved communities to infilling and minor rounding out of existing development. In addition, Section D.12 of the Muskoka Official Plan (MOP) generally limits development within these types of communities to limited minor infilling, with only a few minor exceptions. Sections C.9, G.12, G.15, G.163 and G.242 of the Township's draft OP should be revised to clarify that only minor infilling and rounding out is permitted within these types of settlement areas and that intensification can only occur within the limits of private individual services.

Flooding

Although the PPS is very restrictive regarding development in the floodplain, it is recognized that some flexibility is required in the Muskoka context for minor additions and alterations to existing development within the floodplain. In light of this, Section E.19 of the Township's draft OP should be clear that while minor additions are permitted in certain circumstances, new development is generally not permitted in flood prone areas (e.g. the construction of a new residential dwelling on a vacant lot).

Muskoka Official Plan Conformity

Lake System Health

Section K.37 of the MOP states that exceptions to minimum lot size requirements for the separation of existing uses may only be considered provided that water quality is not further

impaired and an overall net improvement is achieved in accordance with the redevelopment policies in the water quality section of the Plan. Although, Section J.45 of the Township's Plan was amended to reflect this, Section J.52 should also be revised to include this requirement.

Shoreline Buffers and Setbacks

Section F.21 of the MOP requires that a minimum target of 75% of the linear shoreline frontage of a lot will be maintained in a natural state to a target depth of 15 metres. This target should be reflected in Section D.4 of the Township's draft OP. Also, in order to conform with F.43 of the MOP, additional wording should be included in the Over Threshold Lake policies in order to ensure that development permits will be required to implement buffers, stormwater and phosphorus management and building and septic system (including the leaching bed) envelopes. The above two recommendations are consistent with the Township's Development Permit By-law, which already implements this requirement.

Lastly, as Section F.22 of the MOP requires that leaching beds be setback 30 metres from any shoreline, policy "Option 2" within Section D.12 of the Township's draft OP, which includes a 20 metre proposed setback for these structures, would not conform to the MOP.

Inactive and Active Waste Disposal Sites

We understand that Schedule D2 (referenced in Section E.32) is not yet available for review, however we note that we have recently provided the Township with a newly updated list of known operating and non-operating municipal and non-municipal waste disposal sites for inclusion on this schedule.

Section E.33 and E.34 of the Township's Plan specifies that setbacks and potential influence area distances should be measured from the licensed footprint of the site. Although this may be possible where the extent of the footprint is known, the District Engineering and Public Works Department has advised that if the footprint is unknown, the MOE generally recommends that the setback/potential influence area be measured from the property line. Therefore, the Township should include reference to both situations in this policy.

Lastly, although Section E.36 of the Township's draft OP has been amended to better reflect Section H.43 h) of the MOP, it should be further revised to state that no new private waste disposal are permitted within one kilometre of a residential dwelling or within 500 metres of a public road.

Setbacks from Municipal Water Supply Intake or Sanitary Sewage Outfall

We recognize that when the Township's OP first came into effect, Baysville did not have municipal water or sewer service. Now that this is the case, a policy which would conform to Section H.16 of the MOP should be added to the Township's draft OP that would prohibit development within 1000 metres of a municipal water supply intake or sanitary sewage outfall unless the District is satisfied that that the proposal will have no detrimental impacts on the municipal servicing system. Section H.16 of the MOP also requires that, where necessary, the proponent provide sufficient data in order to demonstrate no negative impact of the proposed developments in these areas. This requirement should also be added to the Township's draft OP.

Resorts and Tourism

It remains our understanding that the resorts and tourism policies have not been updated at this time in order to allow for the District to complete its review of the related policies in the MOP.

Municipal Water and Sewer Services

As you are aware, Official Plan Amendment No. 1 to the Township's current OP was intended to acknowledge that municipal water and sewer services were to be installed within the Community of Baysville. As services have now been installed, policy updates to reflect this have been included in the draft OP.

For clarification purposes, we would suggest that the following sections be further revised:

- The municipal water and sanitary sewer facilities in Baysville were designed and constructed to service the development that existed at the time they were built as well as an estimate of future development potential of existing lots within this serviced area (i.e. through infill, redevelopment and intensification). The policy preambles on pages C-11 and G-15 and Section G.88 of the Township's draft OP should be revised to indicate that in the foreseeable future, there are no plans to extend services beyond the existing serviced area. In addition, we understand that Schedule A2-1 "Baysville Servicing Schedule" (reference in Section G.95) is not yet available for review. Additional comments may be forthcoming once this schedule is provided.
- Sections H.9 and H.13 of the MOP indicate that municipal services or infrastructure will not be extended beyond urban boundaries, except in limited instances. These limited circumstances include where a multi-unit resort commercial development is proposed by way of a condominium description, where the extension of municipal services has been determined to be in the public interest or where municipal services are needed to remedy a health hazard of environmental concern. These exceptions are more stringent than those currently articulated in Section C.59 c) of the Township's OP and as such, this policy should be amended to reflect these specific exceptions.
- In order to conform to the MOP, Section C.61 of the Township's draft OP should be revised to limit development in single service areas to limited infilling.
- Section H.6 of the MOP outlines the limited instances in which exemption from connection to municipal services is permitted. Cost prohibitiveness is not included in this list of permitted exemptions. As such, Section G.90 of the draft OP should be revised to remove that criterion.

Rural Business

Although Section I.36 of the draft OP has been amended in order to conform to Section D.23 of the MOP, it should be further amended to clarify that commercial, industrial and institutional uses that require municipal services should be directed to the serviced area of Baysville, which is considered an Urban Centre in the MOP.

Frontage on District Roads

Section C.74 of the Township's draft OP currently relates to frontage requirements on Township roads. As these requirements may differ from the District's requirements for development along District roads, Section C.74 of the Township's draft OP should include a specific reference to District road frontage requirements.

Technical

The following technical comments are also provided for the Township's consideration.

General	
References to legislation, other government documents etc.	Consideration should be given to including less-specific references to government documents, legislation or studies, as they are subject to change (i.e. "Planning Act, as amended", "guidelines developed by the authority having jurisdiction", "most recent Muskoka Growth Strategy", etc.) and this would avoid the need for future technical amendments to update references.
Reference to District	As the District is the authority with jurisdiction over District roads, solid waste disposal and the provision of municipal services, policies related to these services should include reference to the District (for example C.70) as appropriate.
Condominium Roads	Although several policies have been amended to permit access by way of condominium roads for new development, there are still some additional sections that may require revisions in order to avoid confusion and maintain consistency (i.e. Section I.21 would permit condominium road access within the Rural area, however Section I.30 does not appear to permit this form of access).
Section C	
C.24	Although Sections C.23 and C.25 of the Township's draft OP have been revised as per our previous comments, the reference to secondary suites in Section C.24 should be deleted, as it appears that this policy is intended to apply to garden suites only.
C.69	As the responsibility for access permits and transportation infrastructure based on the ownership of specific roads, this policy should indicate that it applied to Township roads only, and that the Province and the District are responsible for roads under their jurisdiction.
Section D	
"Recreational Water Quality" Preamble, page D-6	This preamble reflects the outdated development capacity-based approach to water quality protection as opposed to the revised lake sensitivity to phosphorus approach, as outlined in Section F of the MOP. Minor revisions appear to be needed to update the language in this preamble, as well as in Section J.32 b) to be consistent with the current approach to water quality protection.
Section E	
E.31	As the Province is the approval authority for renewable energy projects under the Green Energy Act, the appropriateness of these policies that outline design criteria and require information to be submitted to the Township is unclear.
E.39	In accordance with the MOE and Section H.14 of the MOP, development adjacent to sanitary sewage facilities is discouraged and minimum development setbacks from such municipal systems have been established. We note that, in some instances, Section H.14 of the MOP allows lesser setbacks than what Township has included in Section E.39.
Section F	
F.44	As the District of Muskoka no longer has a Good Forestry By-law, the reference to it should be deleted.

Section G	
G.10	The 2013 Muskoka Growth Strategy Update continues to report that given the forecast growth rates for the Township of Lake of Bays, expansions to community boundaries are not envisioned during the life of the Township's OP. As such, this circumstance should be reflected in the contextual introduction at the beginning of Section G.10 of the Township's draft OP.
G.88	In order to capture new development that could connect to existing services but where a connection does not yet exist, it is recommended that the words "connections exist" be deleted and replaced with the words "is available".
Section H	
Deleted H.80	Instead of deleting this policy, it could be changed to reflect the limits to growth assessment approach as outlined in Section F.12 of the MOP.
Section I	
I.3 b)	In the past, there has been confusion surrounding how to interpret policies requiring public road access "is available". Consideration should be given to providing more specific criteria or language regarding when public road frontage is a requirement.
Section J	
J.49	The reference to "vacant land" should be left in, as it is appropriate for vacant land units should be considered in the same manner as lots. By deleting the reference to "vacant land", other condominium units, such as those within a building, would also be subject to requirements applicable to lots.