TOWNSHIP OF SOUTH FRONTENAC
COMMITTEE OF THE WHOLE MEETING
AGENDA

TIME: 7:00 PM,
DATE: Tuesday, April 26, 2016
PLACE: Council Chambers.

1.	*Call to Order*	
2.	*Declaration of pecuniary interest and the general nature thereof*	
3.	*Scheduled Closed Session - n/a*	
4.	****Recess **** - n/a*	
5.	*Delegations*	
(a)	David Bucholtz, Cambium Inc, re: Waste Disposal Site Update	4 - 35
(b)	Lindsay Mills, Planner, re: Proposed Zoning By-law Changes	36 - 59
(c)	Larry Arpaia, President, GBCLA, re: Housekeeping Changes to the 30 metre setback.	60 - 63
(d)	Graeme Watson, re: Proposed Zoning By-law Changes	64 - 83
(e)	Bev Mahon, re: Proposed Zoning By-law Changes	84
(f)	Donald Vogan, re: Proposed Zoning By-law Changes (material to follow)	
(g)	Don Stricelj, re: Proposed Zoning By-law Changes	85 - 86
(h)	Timothy Ross, re: Proposed Zoning By-law Changes	87 - 88
(i)	Carol Sparling, re: Proposed Zoning By-law Changes	89 - 90
(j)	Todd Colbourne, re: Proposed Zoning By-law Changes	91 - 92
(k)	Brian Larmon, re: Proposed Zoning By-law Changes	
(l)	Gary Knox, re: Trailer on vacant lot on Howes Lake Lane	
6.	*Reports Requiring Action*	
(a)	Lindsay Mills, Planner, re; Closing of Road Allowance in Part of Lot 10, Concessions XII and XIII, Loughborough District	93 - 97
7.	*Reports for Information - n/a*	
8.	*Rise & Report*	
(a)	Cataraqui Region Conservation Authority	

(b)	Quinte Region Conservation Authority	
(c)	Rideau Valley Conservation Authority	
(d)	Portland Heritage	
9.	*Information Items*	
(a)	Premier Kathleen Wynne, re: response to letter regarding Solar Energy Projects	98
(b)	Laurie Scott, MPP Haliburton-Kawartha Lakes-Brock,re: Human Trafficking	99 - 101
(c)	Tara Mieske, Clerk/Planner Manager, Township of North Frontenac, re: IESO Review of Request for Proposal for the Award of Renewable Energy Contracts	102 - 103
(d)	Kevin Flynn, Minister of Labour, re: Bill 163 Supporting Ontario's First Responder's Act, 2016	104 - 105
(e)	Jamie Curragh, re: Proposed Zoning By-law Changes	106 - 124
(f)	Edwin P. Wilson, re: Proposed Zoning By-law Changes	125 - 127
(g)	Ed Wilson Jr, re: Proposed Zoning By-law Changes	128 - 131
(h)	Alan & Mary Pearson, re: Proposed Zoning By-law Changes	132 - 134
(i)	Tiffany Langille, re: Proposed Zoning By-law Changes	135
(j)	Norm & Nancy Hart, re: Proposed Zoning By-law Changes	136
(k)	Ed Koster & Joanne Irvine, re: Proposed Zoning By-law Changes	137
(l)	Mary Smeaton, re: Proposed Zoning By-law Changes	138
(m)	Jessie Cronister, re: Proposed Zoning By-law changes	139 - 140
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(s)	Gary Kielo, re: Proposed Zoning By-law Changes	161
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(u)	Mac Prescott, re: Proposed Zoning By-law Changes	163 - 164
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(aa)	Tim Edge, re: Proposed Zoning By-law Changes	175
(ab)	R. Bruce Pritchard, re: Collins Lake Subdivision Proposal	176
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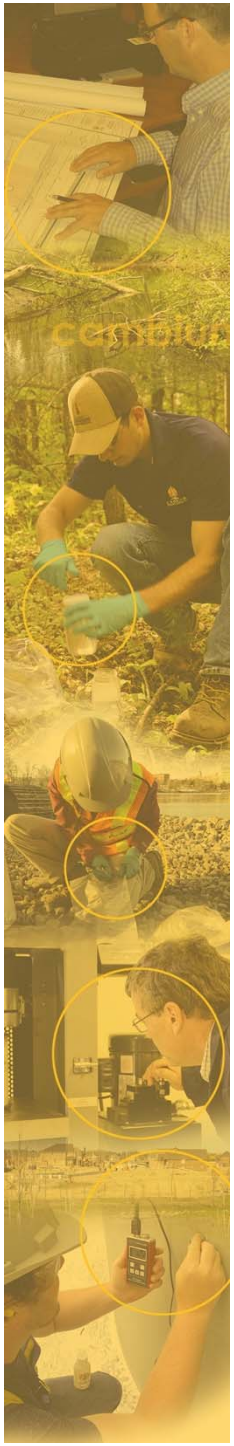
(ad)	Troy Buchanan, re: Proposed Zoning By-law Changes	178
(ae)	Lyle Turner, re: Proposed Zoning By-law Changes	179

10. *Notice of Motions*
11. *Announcements*
12. *Question of Clarity (from the public on outcome of agenda items)*
13. *Closed Session (if requested)*
14. *Adjournment*



ANNUAL UPDATE
WASTE DISPOSAL SITES

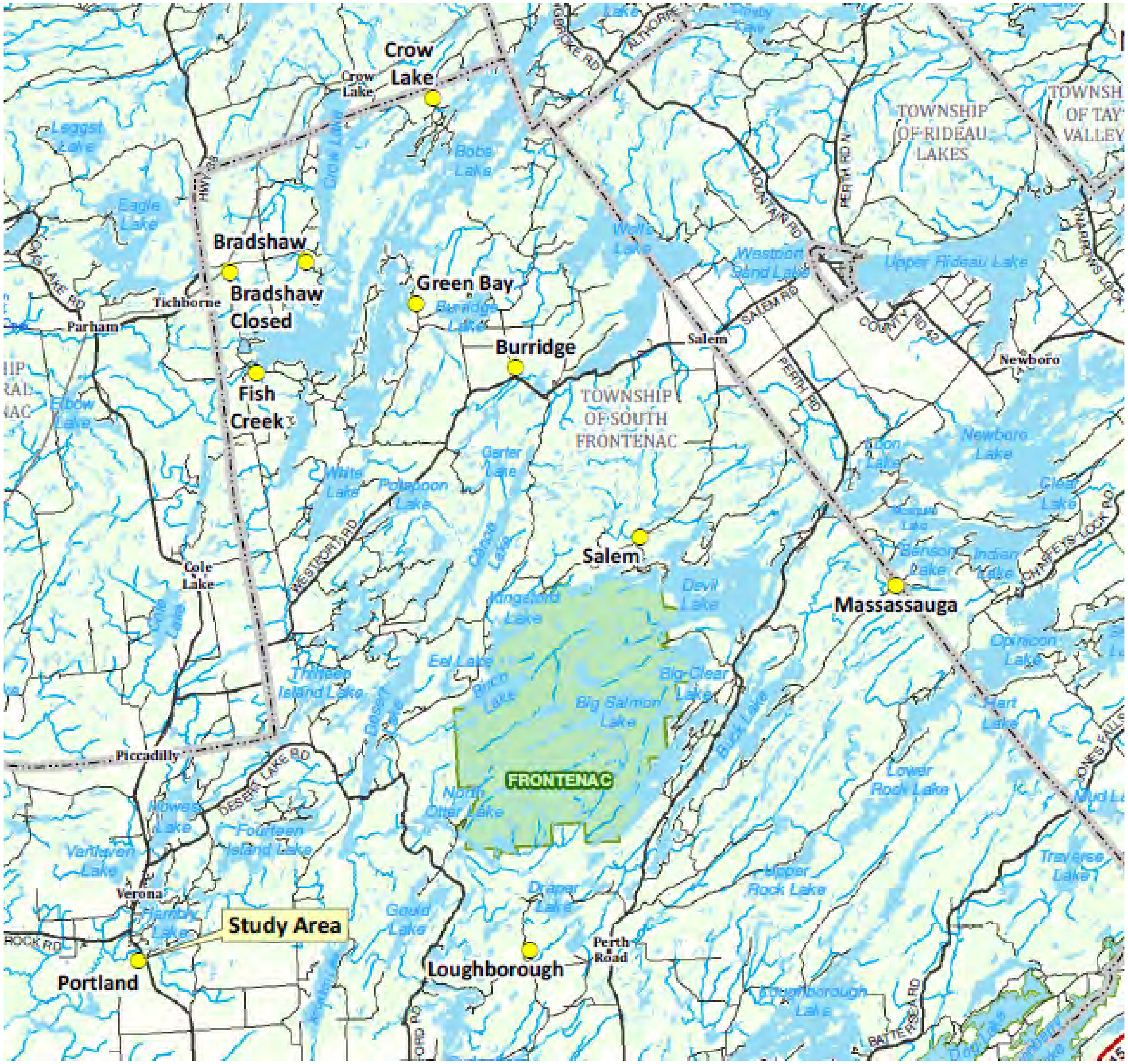
Township of
South Frontenac

April 26, 2016

CAMBIUM

OVERVIEW

- Current System Overview
  - Annual Monitoring & Reporting
  - 5 Active Waste Disposal Sites (landfill)
  - 5 Closed Sites (former landfills)


Crow Lake
Crow Lake
Bobs Lake
Leggat Lake
Eagle Lake
Bradshaw
Bradshaw Closed
Tichborne
Parham
Green Bay
Burridge Lake
Burridge
Fish Creek
Salem
Wolfe Lake
Westport Sand Lake
Upper Rideau Lake
Newboro
Newboro Lake
TOWNSHIP OF RIDEAU LAKES
TOWNSHIP OF SOUTH FRONTENAC
Elbow Lake
Garter Lake
White Lake
Cole Lake
Salem
Devil Lake
Massassauga
Eel Lake
Big Clear Lake
Big Salmon Lake
Thirteen Island Lake
Opinicon Lake
Piccadilly
FRONTENAC
North Otter Lake
Howes Lake
Fourteen Island Lake
Vanhaven Lake
Lower Rock Lake
Verona
Draper Lake
Upper Rock Lake
Gould Lake
Study Area
Portland
Loughborough
Perth Road
Loughborough Lake
Traverse Lake

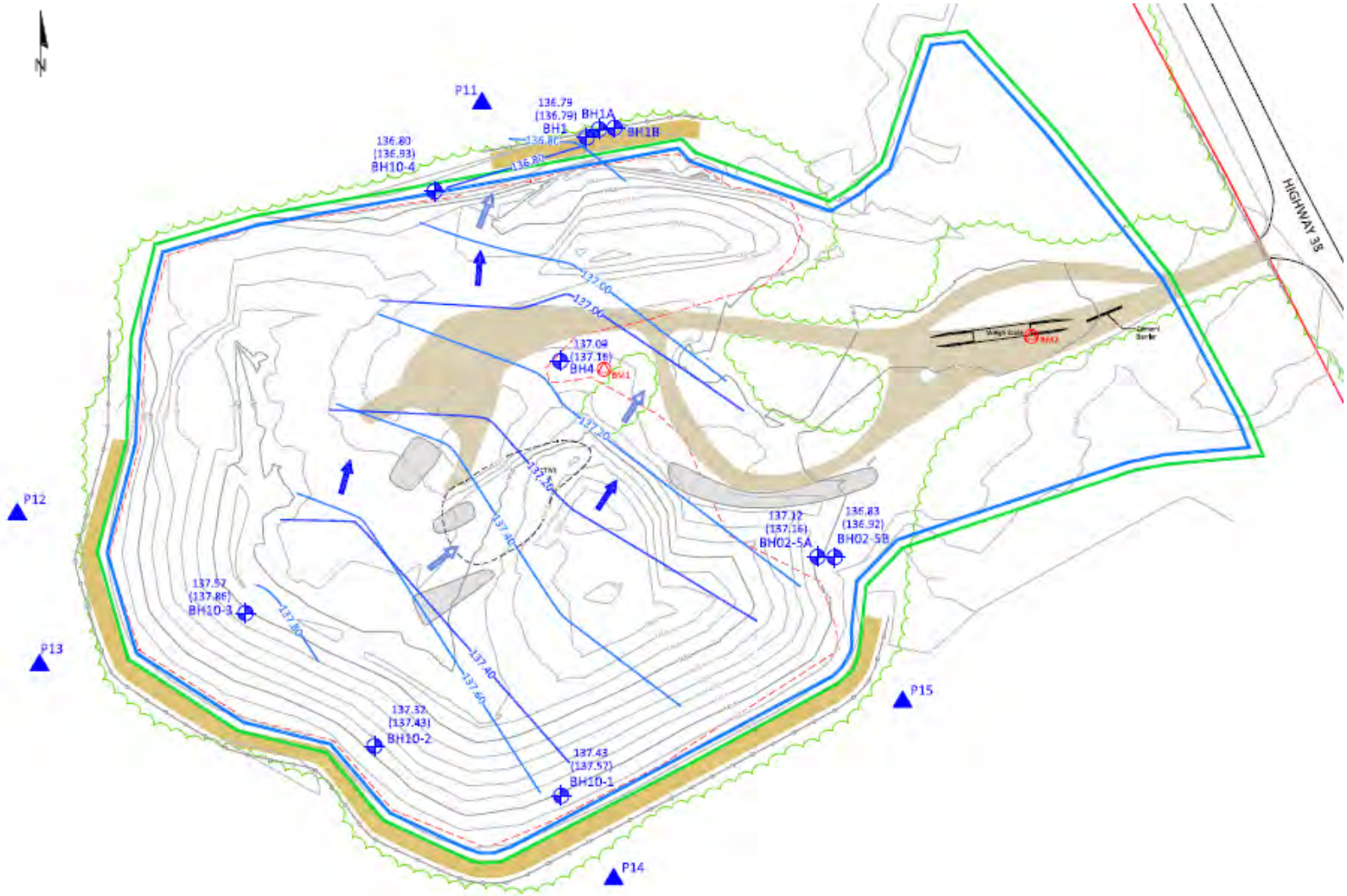
OVERVIEW (CONT'D)

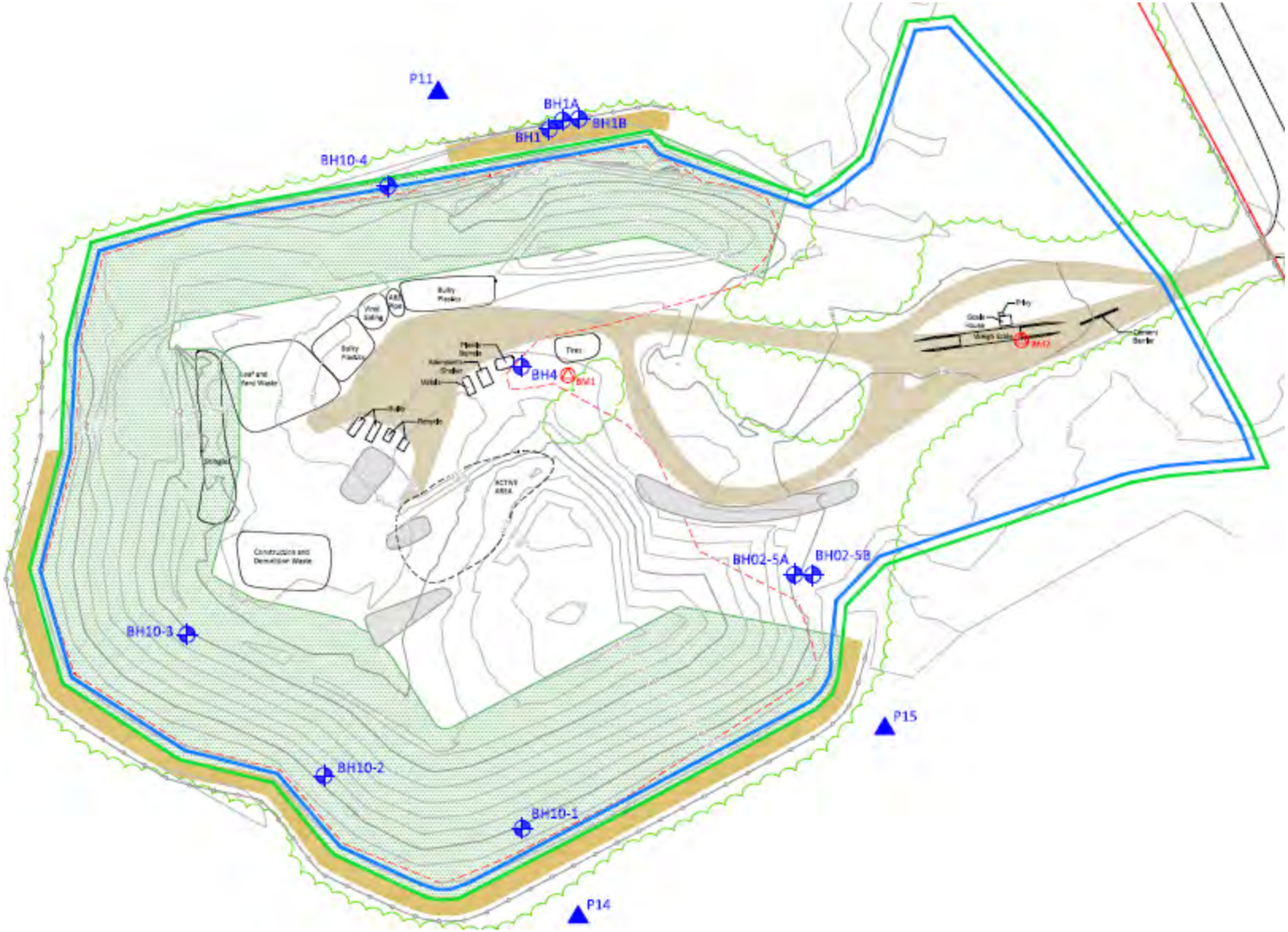
- Annual Monitoring & Reporting
  - Collection of required groundwater, surface water samples and landfill gas annually.
  - Completion of updated topographic capacity surveys.
  - MOECC Guidelines and Accredited Lab
  - Inspection
  - Operational information
  - Summarized in annual report to the MOE, as required by ECA

OVERVIEW (CONT'D)

PORTLAND WDS

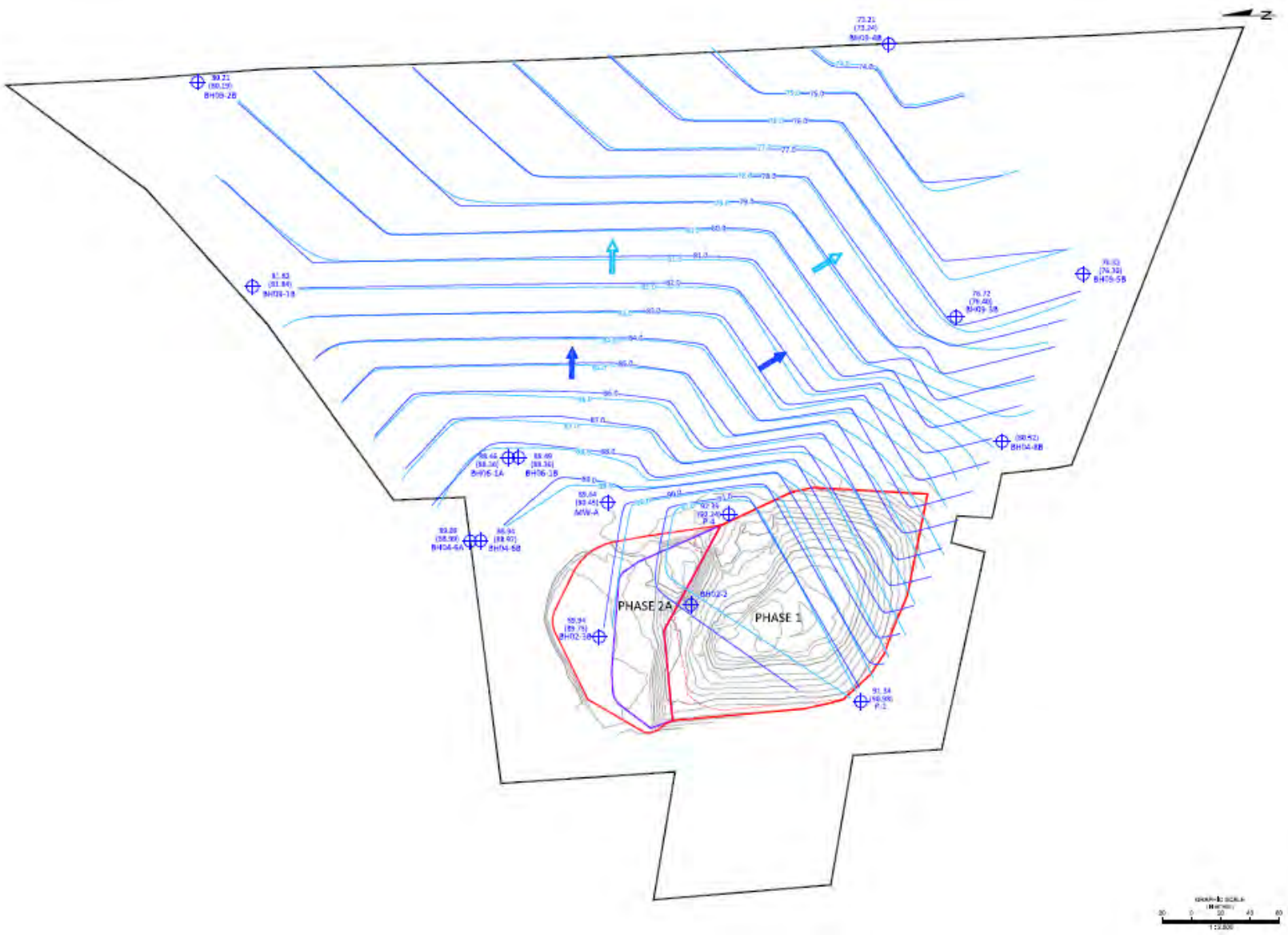
- Operating as a landfill with diversion material transfer
- Groundwater (10 x 2) & Surface Water (5 x 4) sampling
- Annual survey & Report
- Groundwater flows towards the north-northeast in the overburden
- Mound partially closed/capped, mantle installed
- Groundwater meet Compliance Assessment, surface water is ongoing with new locations. Surface water has been a challenge but action has been taken.
- A remaining volume of 178,800 m3 (8,100 m3 in 2015) and an average annual fill rate of 6,445 m3, the remaining life is approximately 28 years
- Scales recently installed

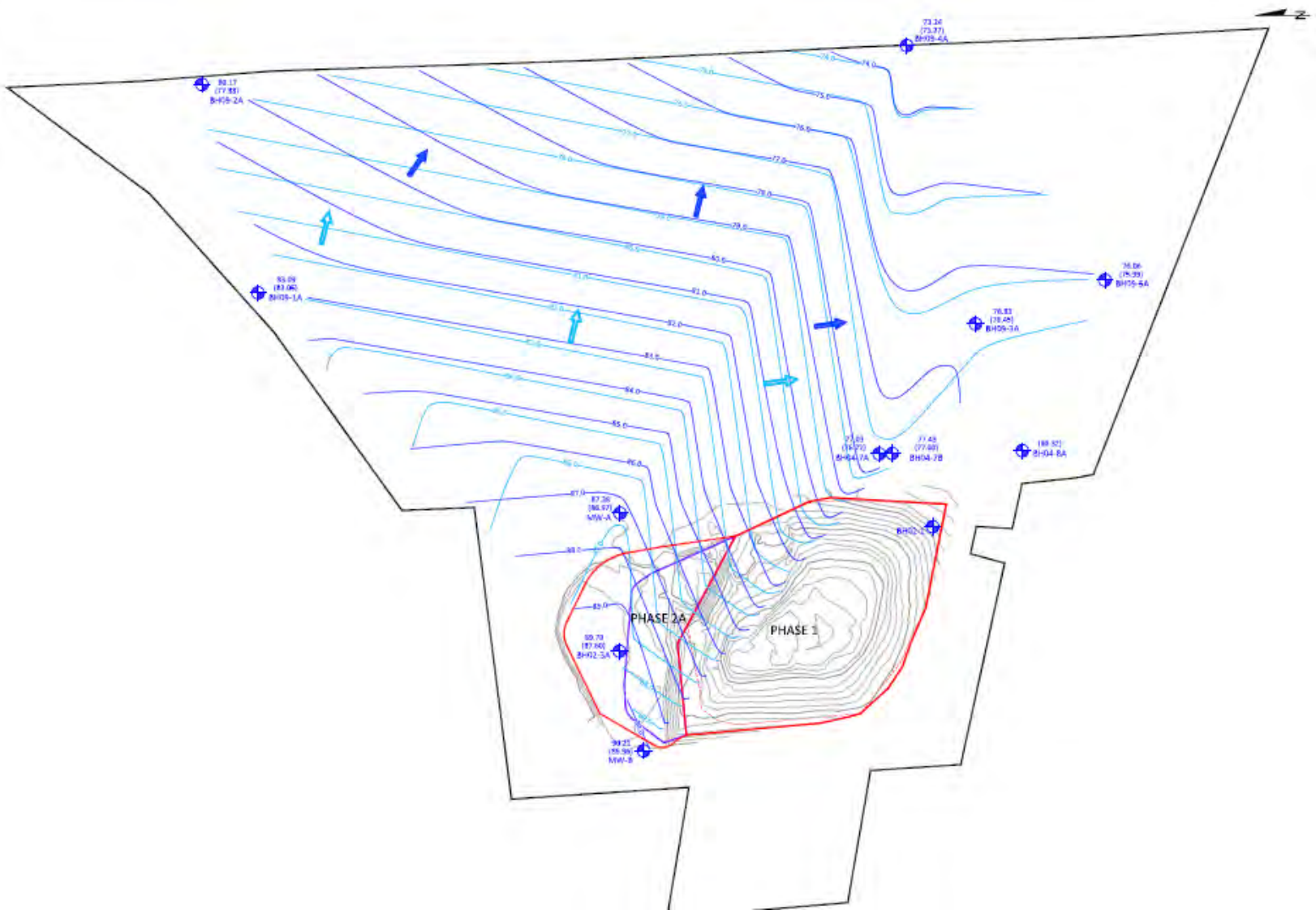

N
P11
136.79
(136.79)
BH1A
BH1
BH1B
136.80
(136.93)
BH10-4
HIGHWAY 35
137.09
(137.18)
BH4
P12
137.12
(137.16)
BH02-5A
136.83
(136.92)
BH02-5B
137.52
(137.86)
BH10-3
P13
P15
137.52
(137.43)
BH10-2
137.43
(137.57)
BH10-1
P14

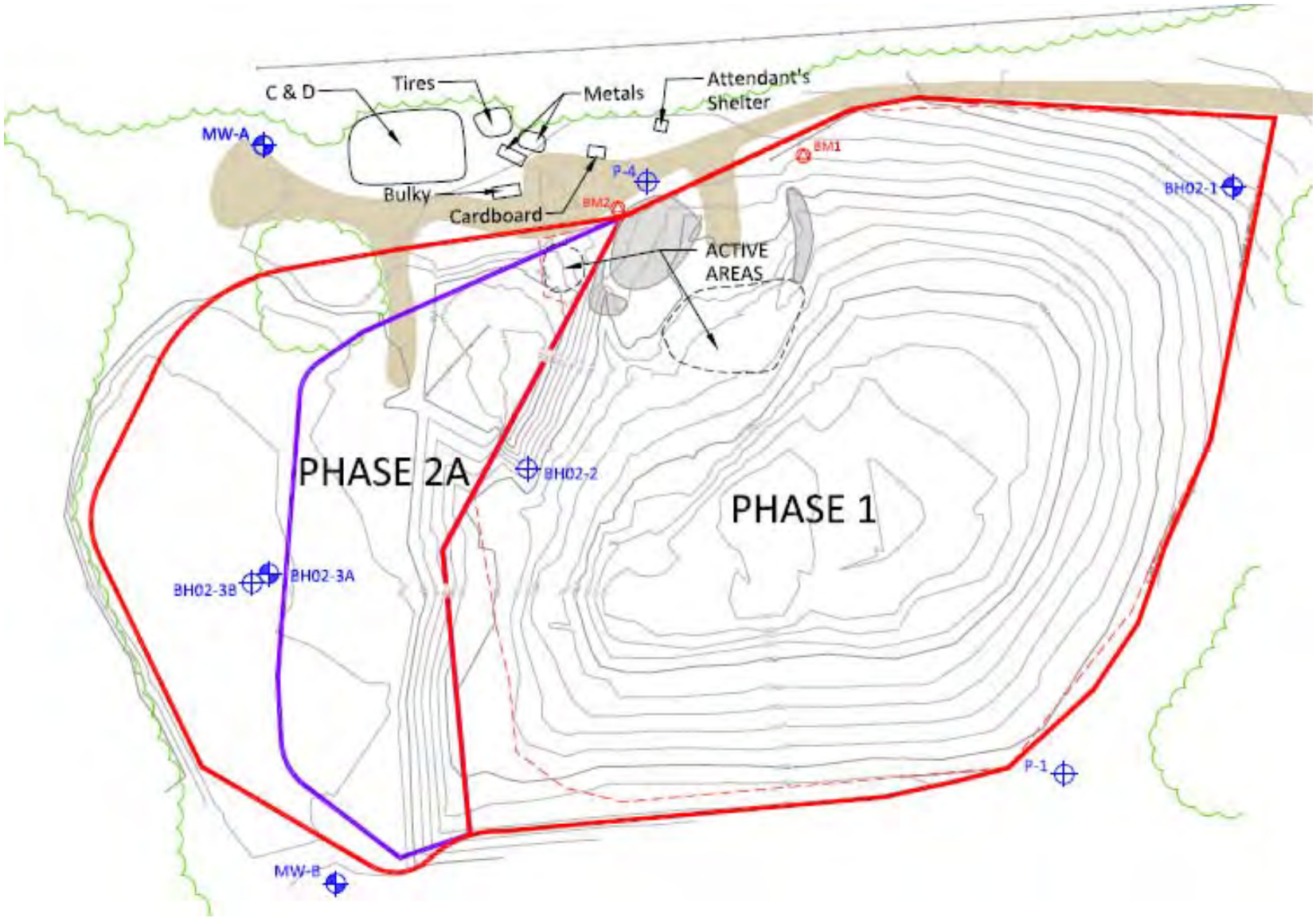

P11
BH1A
BH1B
BH1
BH10-4
BH4
BM1
BM2
BH02-5A
BH02-5B
BH10-3
P15
BH10-2
BH10-1
P14

LOUGHBOROUGH WDS

- Operating as a landfill with diversion material transfer
- Groundwater (27 x 2), no surface water sampling
- Annual Monitoring Report
- Groundwater flows towards northeast and southeast
- Groundwater Compliance requires review and further assessment. Additional action/studies may be required in 2016/2017.
- A remaining volume of 19,690 m3 (1,030 m3 in 2015) in Phase 2A and an average annual fill rate of 3,575 m3, the remaining life is approximately 5 years in Phase 2A.
- Remaining capacity of Phase 2 can be realised upon confirmation of groundwater compliance.

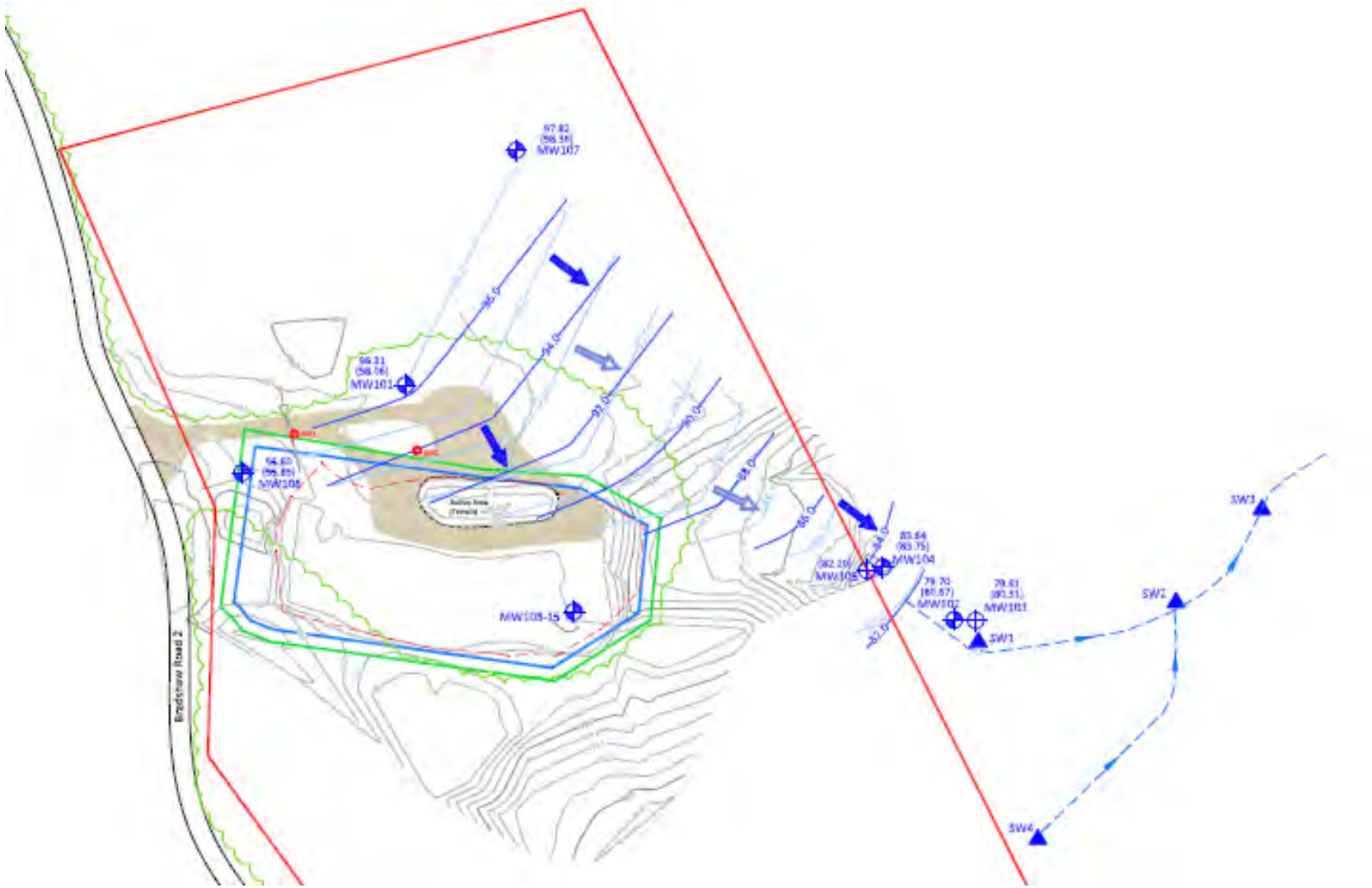

PHASE 2A
PHASE 1

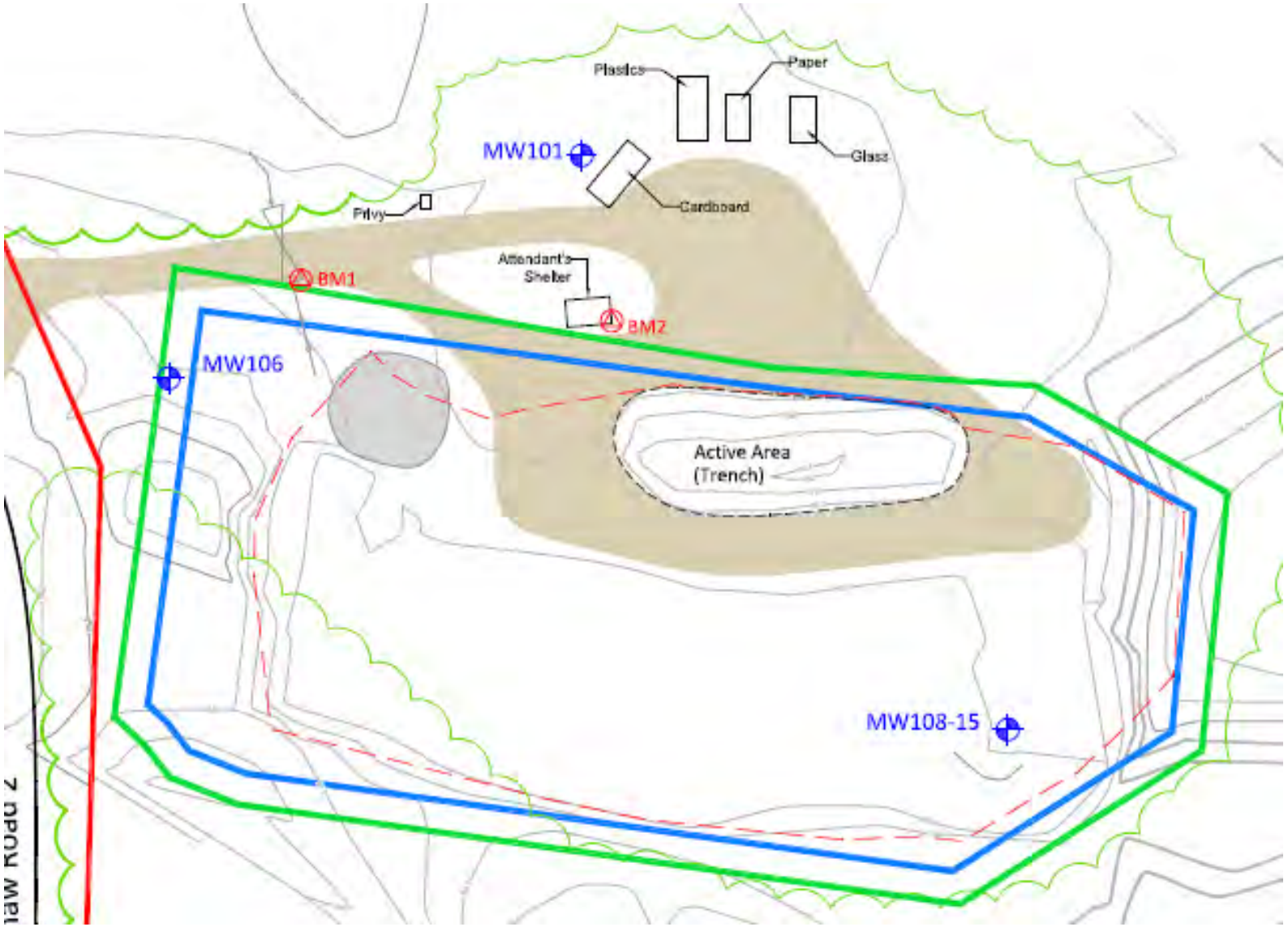

PHASE 2A
PHASE 1


C & D
Tires
Metals
Attendant's Shelter
MW-A
Bulky
Cardboard
P-4
BM2
BM1
BH02-1
ACTIVE AREAS
PHASE 2A
BH02-2
PHASE 1
BH02-3B
BH02-3A
P-1
MW-B

BRADSHAW WDS

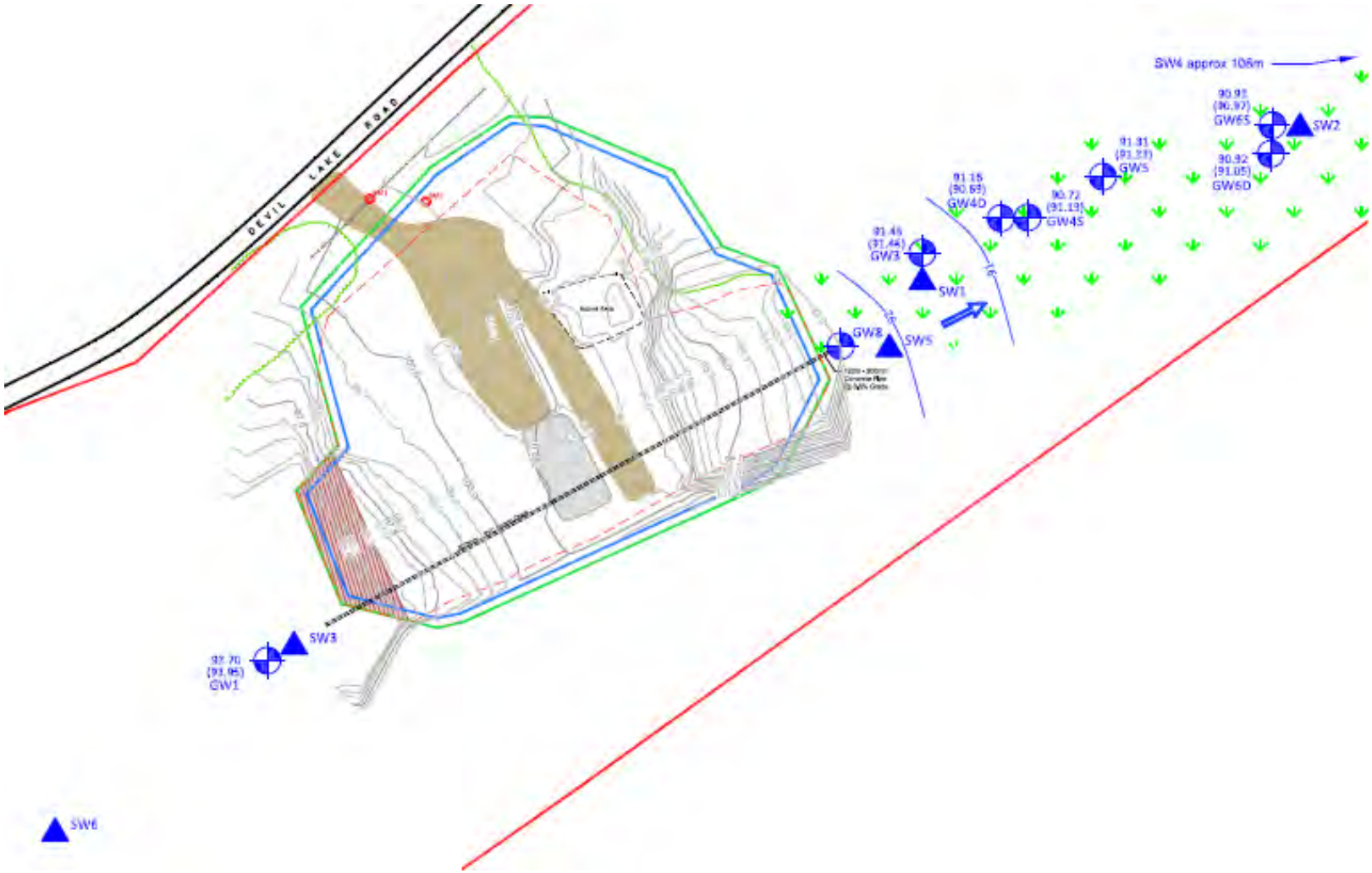
- Operating as a landfill with basic diversion material transfer
- Groundwater (7 x 3), surface water (4 x 3) sampling & landfill gas monitoring
- Annual survey & Report
- Groundwater flows towards the southeast
- Groundwater Compliance Values trigger sporadically. Surface water stable, continue monitoring.
- A remaining volume of 3,230 m3 (210 m3 in 2015) and an average annual fill rate of 300 m3, the remaining life is approximately 11 years.
- Old site closed and no monitoring or reporting


MW107
MW101
MW105
MW108-15
MW104
MW102
MW103
SW1
SW2
SW3
SW4
Bradshaw Road 2


Plastics
Paper
Glass
Cardboard
MW101
Privy
Attendant's Shelter
BM1
BM2
MW106
Active Area (Trench)
MW108-15

SALEM WDS

- Operating as a landfill with basic diversion material transfer
- Groundwater (8 x 2) & Surface Water (6 x 3) sampling
- Annual survey & Report
- Groundwater flows towards the east to northeast
- Groundwater meets Compliance Triggers and RUC
- Surface water meets Compliance Triggers. Sporadic exceedance, continue to monitor.
- A remaining volume of 11,060 m3 (2,000 m3 in 2015) and an average annual fill rate of 830 m3, the remaining life is approximately 13 years.


DEVIL LAKE ROAD
SW4 approx 106m
SW2
SW1
SW3
SW5
SW6
GW1
GW2
GW3
GW4D
GW4S
GW5
GW6D
GW6S


VIL LAKE RO
BM1
BM2
Plastics
Glass
Paper
Cardboard
Attendant Shelter
Privy
Active Area
GW8
SW5
120m - 300mm ϕ Concrete Pipe @ 0.5% Grade
400mm ϕ PVC Storm Drain

GREEN BAY WDS

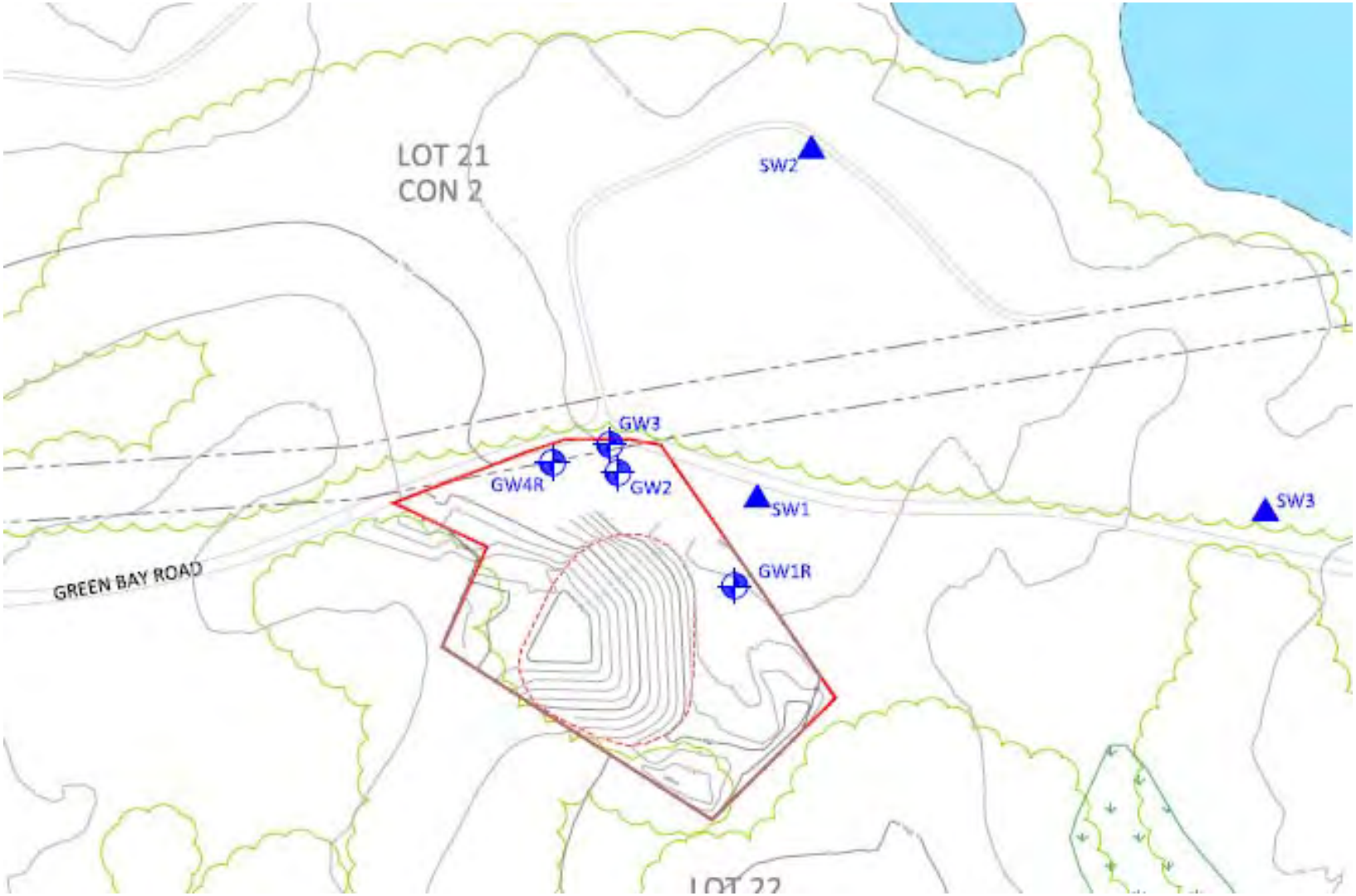
- Operating as a landfill with basic diversion material transfer
- Groundwater (7 x 3) & Surface Water (4 x 3) sampling
- Annual survey & Report
- Groundwater flows southeast
- Groundwater and surface water meet Compliance Triggers
- A remaining volume of 4,030 m3 (170 m3 in 2015) and an average annual fill rate of 220 m3, the remaining life is approximately 18 years.


BURNS ROAD
217.61
(218.25)
MW107
211.99
(213.44)
MW101
SW1
207.61
(207.59)
MW105
206.75
(206.72)
MW106
207.68
(207.65)
MW104
207.62
(207.56)
MW102
207.45
(207.40)
MW103
SW2


MW107
Attendant's Shelter
BM1
Recycle Bins
BM2
Privy
ACTIVE AREA
MW101
SW1
MW105
MW106
MW104
MW102
MW103
SW2

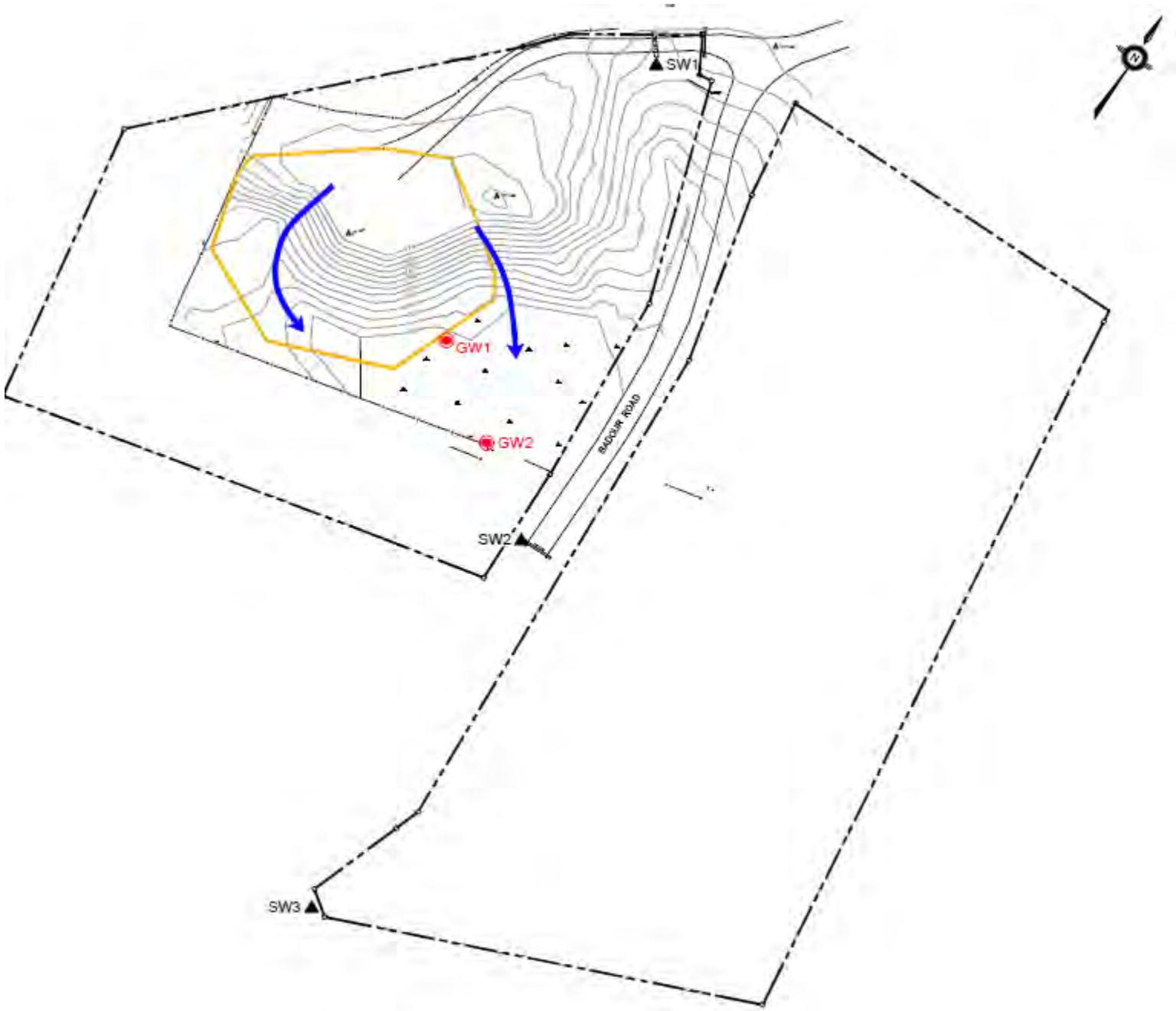
FISH CREEK WDS

- Closed landfill (10 years), no operations
- Groundwater (4 x 1) & Surface Water (3 x 1) sampling
- Annual Report
- Groundwater flows north
- Impacts to groundwater and surface water are minimal, continue monitoring
- Observed to be in good condition with no evidence of erosion, seeps, litter or vermin present


LOT 21
CON 2
SW2
GW3
GW4R
GW2
SW1
SW3
GW1R
GREEN BAY ROAD
LOT 22

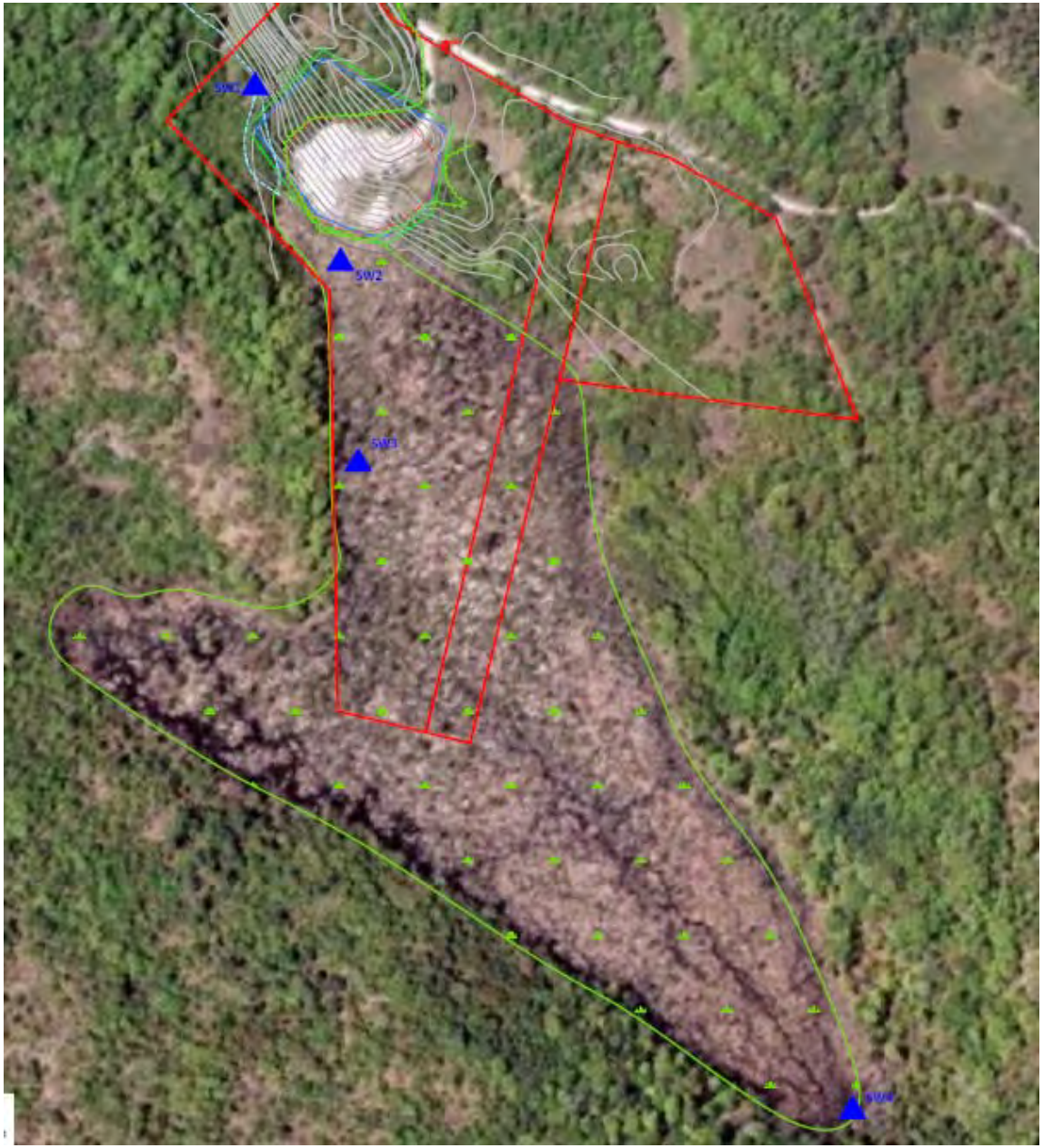
CROW LAKE WDS

- Closed landfill (2002), no operations
- Groundwater (2 x 2) & Surface Water (3 x 3) sampling
- Report…**every 5 years (2018)**
- Groundwater flows southeasterly
- Groundwater and surface water meet Compliance Triggers
- Observed to be in good condition with no evidence of erosion, seeps, litter or vermin present


SW1
GW1
GW2
SW2
SW3
BADGER ROAD

MASSASSAUGA WDS

- Closed landfill (2012), no operations
- Groundwater (5 x 2) & Surface Water (4 x 2) sampling
- Annual Report
- Groundwater flows east to southeast
- Impacts to groundwater and surface water are minimal, continue monitoring
- Observed to be in good condition with no evidence of erosion, seeps, litter or vermin present


SW1
SW2
SW3
SW4

BURRIDGE WDS

- Closed landfill (1991), no operations
- Groundwater (1 x 2) & Surface Water (2 x 3) sampling
- Report
- Approval to reduce monitoring and reporting after 2015
- Minor impacts observed in groundwater and surface water, continued monitoring.
- Observed to be in good condition with no evidence of erosion, seeps, litter or vermin present


Burridge Lake Road
SW 2
BH1
(Decommissioned)
GW1R
Burridge WDS
Westport Road
Watercourse
SW 1

SITE CAPACITY

	Portland	Loughborough	Bradshaw	Salem	Green Bay	Municipality
Approved waste disposal capacity (m^3):	380,100	173,440	16,200	59,000	10,000	638,740
Volume of capacity used (m^3):	201,300	153,710	12,970	47,940	5,970	421,890
Capacity Used in 2015 (m^3):	8,100	1,030	210	2,000	170	11,510
Remaining volume of capacity (m^3):	178,800	19,690	3,230	11,060	4,030	216,810
Average annual waste placement (m^3):	6,445	3,575	300	830	200	11,350
Remaining site life (years):	27.7	5.5	10.8	13.3	20.2	19.1

*Loughborough values for Phase 1 and 2A only.

COMMENTS AND QUESTIONS

PLANNING REPORT

Township of South Frontenac **Planning Department**

Prepared for Committee of the Whole

Agenda Date: April 26, 2016

Date of Report: April 19, 2016 **Applicant: Township-Initiated**

Subject: Township-Initiated Housekeeping Amendments to the Township of South Frontenac Comprehensive Zoning By-law

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Summary of Recommendation:

The recommendation is that Council receive the Planning Report dated April 19, 2016 for information and discussion regarding amendments to sections 5.10.2 and 5.11 of the Comprehensive Zoning By-law.

Purpose of the Report:

The purpose of this report is to bring back to the Committee amendments to two sections of the Comprehensive Zoning By-law to clarify the intent of the wording. The matter was brought to the Committee on September 22, 2015 and January 26, 2016 and a public meeting was held on the proposed changes on March 15, 2016 as required under section 34 of the Planning Act. Attachments include a letter from the Township's solicitor supporting the amendments, a municipal law publication and letters of concern from property-owners.

Background

The Comprehensive Zoning By-law for the Township, has been in full force and effect since 2005 and was prepared to implement the policies of the Official Plan as required by the Planning Act. Using the By-law since 2005, staff periodically become aware of minor errors/omissions in the text of the by-law and in the zoning schedules (maps). On March 15, 2016 Council passed a by-law to correct most of these. However, two of the proposed amendments needed further discussion and were not passed. These were the changes to sections 5.10.2 and 5.11 dealing with legal non-complying structures.

Discussion

There has been concern expressed by Planning and Building over interpretation of sections 5.10.2 and 5.11. The following is a discussion of the proposed amendments to clarify these sections along with an explanation and rationale.

1. Section 5.10.2 <u>Existing Buildings Within 30 Metres (98.4 ft.) of a Waterbody or Watercourse</u> does not permit buildings to be reconstructed. The definition reads as follows:

   > "Where a building has been erected prior to the date of passing of this By-law on an existing lot and said building has less than the minimum 30 metre (98.4 ft.) setback from the highwater mark of a waterbody or watercourse, then said building may be repaired, renovated or strengthened to a safe condition provided there is no enlargement of the gross floor area or increase in height. In addition, no living space shall be added below grade to any existing building or structure."

   This wording allows any building within the 30 metre setback to be renovated, strengthened and made more structurally sound **but it does not permit it to be taken down and reconstructed.**

This section is meant to implement the intent of the Official Plan which is:

i) that all new construction should be well setback from any waterbody with a minimum setback of 30 metres,
ii) that existing buildings within the 30 metre setback, once removed, should be set back further so that, some day, all buildings will be well set back from waterbodies to ensure protection of our lakes into the future,
iii) that existing buildings within the setback may stay as legal non-complying structures but they lose this legal status when they are removed.

The Township's position has been that, when the walls of the building are removed, the building is considered to be gone and it cannot be reconstructed at its present location without a minor variance. However, this interpretation should be 'built-in' to section 5.10.2 so that the meaning is more clear. A letter, dated April 20, 2016, from the Township's solicitor supports this view. The letter is attached hereto as Attachment #1. Attachment #2 is a copy of a municipal law digest publication referred to in the lawyer's letter.

When the proposed change was first brought forward for section 5.10.2 the proposed added wording read:

"For the purposes of interpreting section 5.10.2, once the walls of an existing structure within the minimum 30 metre setback have been removed, the land is deemed to be vacant and the structure may not be reconstructed within the 30 metre setback."

However, following comments at the public meeting it is agreed that the sentence should be changed to include an explanation of reconstruction so that the whole section would read as follows: (changes in bold type)

"Where a building has been erected prior to the date of passing of this By-law on an existing lot and said building has less than the minimum 30 metre (98.4 ft.) setback from the highwater mark of a waterbody or watercourse, then said building may be repaired, renovated or strengthened to a safe condition provided there is no enlargement of the gross floor area or increase in height. **Reconstruction of the building is prohibited.** In addition, no living space shall be added below grade to any existing building or structure.

For the purposes of interpreting section 5.10.2, once more than fifty percent of the exterior load-bearing walls have been removed of a structure located within the minimum 30 metre setback have been removed, the land is deemed to be vacant and the structure may not be reconstructed within the 30 metre setback."

2. Section 5.11 of the by-law **REPLACEMENT OF BUILDINGS OR STRUCTURES,** should be removed completely. This section reads as follows:

"5.11 REPLACEMENT OF BUILDINGS OR STRUCTURES

A building or structure, including a legal non-conforming and/or legal non-complying building or structure, may be replaced with a new building or structure in the case of partial or complete destruction caused by fire, lightning, explosion, tempest, flood or act of God, or demolition permit required by the Corporation of the Township of South Frontenac or other authority for safety, health or sanitation requirements, providing such building or structure is serviced by a potable water supply and sewage disposal system approved by the appropriate responsible authority. A building permit will only be issued, in the absence of zoning relief, provided no enlargement of the footprint or increase in gross floor area is proposed and provided

> the permit is applied for within 12 months of the partial or complete demolition/destruction. The replacement building shall be located on and not increase the footprint or gross floor area of the non-conforming/non complying building. The applicant shall provide proof to the satisfaction of the Chief Building Official that there will be no increase in the size of the building footprint or gross floor area and that the replacement building will be located within the same footprint as the non-conforming/non-complying building. Where applicable, floodproofing and avoidance of erosion hazards should be considered."

This section is intended to permit any building within the 30 metre setback to be reconstructed if it is destroyed by fire or storm or if it is dilapidated to the point where the Township orders it to be removed for safety reasons. This section is meant to permit property-owners to rebuild after destruction that is beyond their control.

However, it has been the subject of some controversy because some property-owners argue that they should be allowed to reconstruct because their structure has deteriorated to the point where it is unsafe and unusable. However, this state of dis-repair is often the result of neglect where the building has been allowed to deteriorate – perhaps moss has grown on the roof for example resulting in water entering into the walls.

It is proposed that section 5.11 be removed completely and deal with each proposed reconstruction through the minor variance process.

The rationale for this is that, in the past, when structures near the water have been destroyed, the owners have applied to expand the structure as part of the plan to rebuild. This has always required a minor variance. If section 5.11 is removed, a MV application could be just a nominal application fee (or no fee) and any proposed expansion of the building would also be considered by the Committee of Adjustment as part of the proposal to rebuild – at this nominal fee. A minor variance application is normally processed within two months.

However, as an alternative to completely removing section 5.11, Council might consider the following options:

1. Change the wording to simply say that when a building or structure is damaged or destroyed due to forces beyond the owner's control then it may be rebuilt…. (*words to this effect*).

2. Leave section 5.11 the way it is.

It should be noted that, under the present wording of section 5.11, if it is claimed that a building is unsafe due to structural weakness etc.., the owner would need to provide an engineer's report to this effect. Council could require that this report be peer-reviewed as well.

PUBLIC COMMENTS
This Committee of the Whole meeting was advertised to the public inviting their views on the matter. Attachment #3 is copies of letters received from property-owners expressing concerns.

RECOMMENDATION
The recommendation is that Council receive the Planning Report dated April 19, 2016 for information and discussion regarding amendments to sections 5.10.2 and 5.11 of the Comprehensive Zoning By-law.

Submitted/Approved by: Lindsay Mills **Prepared by: Lindsay Mills**
attachments

HouskeepingReportToCouncilApril2016

ATTACHMENT #1

Cunningham Swan
LAWYERS

Tony E. Fleming
Direct Line: 613.546.8096
E-mail: tfleming@cswan.com
LSUC Certified Specialist in Municipal Law
(Local Government / Land Use Planning)

April 20, 2016

Township of South Frontenac
P.O. Box 100
Sydenham, Ontario
K0H 2T0

Attention: Mr. Lindsay Mills
Planning Coordinator/Deputy Clerk

Dear Mr. Mills:

RE: Proposed Amendments to By-law 2003-75; Legal Non-complying Structures
Our File No. 12955-433

We reviewed the proposed amendments to By-law 2003-75 as well as your further suggestions for amendment to better reflect the intent of the Township's waterfront development policies. You asked for our opinion as to the enforceability of the proposed amendments and our opinion as to whether the Township can enact zoning controls with respect to legal non-complying structures.

As we understand the Township's goals, it is to ensure that the Official Plan polices respecting waterfront development are implemented unambiguously in the zoning by-law. The Official Plan provides:

> 5.2.7
> ...
> As undeveloped waterfront property becomes increasingly scarce; as existing properties become more intensively used; and as pressures mount to permit higher density development; there is a need to ensure that appropriate Official Plan policies are in place that emphasize the importance of protecting the Township's

> waterfront areas' unique physical, aesthetic, natural and environmental character.
>
> 5.2.7(b)(i)
>
> ... it is the intent of this Official Plan that all buildings, campsites and structures not related to the use of the water and all sewage disposal system leaching beds be well set back from the highwater mark. More specifically, a minimum setback of 30 metres (98.4 ft.) from the highwater mark shall apply ... These measures are intended to minimize environmental and visual lake impacts by reducing phosphorus inputs, preventing erosion and by maintaining a natural appearance of the shorelines. ....
>
> 5.2.7(b)(ii)(2)
>
> On vacant lots existing on the day of adoption of this Plan, a minimum 30 metre (98.4 ft.) setback from the high watermark for all proposed structures shall be required. Consideration may be given to very slight reductions to the minimum 30 metre (98.4 ft.) setback requirement but only if it is not physically possible to meet the setback anywhere on the parcel. Where it is not physically possible to meet the setback, then the structure shall be constructed as far back as possible from the highwater mark. [emphasis added]

The goal of the Township is to ensure that all development is set back as far from the water as possible so that the shoreline does not reflect urbanized development, but rather portrays a natural aesthetic. This will also better protect water quality and the "ribbon of life" concept. Ideally, a 30m setback is the goal, but in certain circumstances some reduction of this setback may be approved, provided it can be demonstrated to be good planning.

In order to implement this policy, the Township seeks to amend its zoning to clarify and strengthen the intent that legal non-complying structures are not demolished and rebuilt within the 30m setback without a planning analysis and permission pursuant to the *Planning Act*. This will ensure that if a reduction in the setback is proposed, that it is assessed and determined to be appropriate, rather than allowing demolition and reconstruction as of right.

Analysis:

The first step in the analysis is to understand the distinction between legal non-conforming uses and legal non-complying structures. Each is dealt with differently in the *Planning Act* and in case law.

Legal non-conforming uses are uses of land or structures that commenced before zoning made the use illegal. Section 34(9) of the *Planning Act* and a long series of cases in Ontario establish that the use may continue so long as the user maintains their intent to continue the use. In certain circumstances a brief cessation of the use may be permitted provided that the user continues to maintain their intent to resume the use. The facts of the situation and the particular intent of the user (and evidence of this intent) are critical to making a determination as to whether the use may continue legally.

The Township has no legal authority to pass a zoning by-law that eliminates a legal non-conforming use; this is codified in section 34(9) of the *Planning Act*. If a legal non-conforming use is undertaken in a building and the building is destroyed or demolished, that use may continue, provided the user has not abandoned the use (which again is a matter of the evidence of intent to continue). The building itself must comply with performance standards (height, setbacks etc. in the zoning by-law). A non-conforming use does not exempt the user from other aspects of zoning related to setbacks etc.

A legal non-complying structure is a structure that was in place before a zoning by-law rendered certain of the physical attributes of the structure non-compliant with the performance standards of the by-law (for example the height at the time of construction may be compliant, but after an amendment to zoning, the height may no longer be compliant). The non-compliant structure may continue to exist, may continue to be used (provided the use conforms to zoning) and it may be repaired and renovated. The structure may not be expanded unless the expansion conforms to zoning standards (setbacks, for example) and the non-complying aspect of the structure may not be increased without *Planning Act* permission (a minor variance or re-zoning).

Where structures are located within the 30m setback from the water the Township may face requests for demolition and rebuilding. In these cases, the structure is non-complying; the use is compliant, and so it is not a non-conforming use, it is a non-complying structure.

We have heard arguments that the *TDL v. Ottawa* case stands for the proposition that a municipality cannot regulate non-complying structures, and specifically that such structures can be demolished and rebuilt without *Planning Act* permission. We do not agree with such an interpretation of this case, or the law generally.

In our opinion, once a legal non-complying structure is demolished, it loses its legal non-complying status and the zoning by-law is applicable to the lot on which the structure sat as the lot is now considered vacant. The TDL case is applicable to the Ottawa zoning by-law amendment it dealt with and in our view does not stand for the broader proposition that a municipality cannot enforce zoning on a lot where a non-complying structure exists (or existed).

Section 34 of the *Planning Act* permits a municipality to enact zoning regulations for structures. There is no prohibition in the Act that eliminates or limits this authority simply because a structure pre-existed the zoning regulations; there is no analogous section for non-complying structures as there is for non-conforming uses.

The best way to describe how the *Planning Act* applies to a structure is to understand the *Planning Act* as only looking forward; it regulates what people want to do with their land. When an owner wants to build a home, they must comply with zoning in order to obtain a building permit; the use must be permitted and the structure must comply with setbacks and other performance standards. Once a building permit is obtained and the structure is built the *Planning Act* no longer regulates that structure – until the owner wants to make a change to the physical structure or how it is used. The zoning by-law is still applicable to the land; it is simply not able to regulate an existing structure, only changes to the structure (or its use).

If a change is made to zoning and the structure, if built under the amended by-law, would not comply, the structure can remain as it exists as the *Planning Act* is not retrospective; it does not regulate after the fact. Thus a structure may be considered to be legally non-complying.

We are aware of no case law that stands for the proposition that non-complying status imbues a structure with any special status such that a municipality's powers to zone the land no longer apply, regardless of what the owner does with the structure. There are very few cases that specifically speak to non-complying structures. Of the few cases we are aware of, the cases indicate that the zoning performance standards are fully in effect for the land and will apply to any alteration of the structure.

It is our opinion that there is a good legal argument that if a non-complying structure is demolished, that it no longer retains any non-complying status and the zoning by-law applicable to the parcel of land applies to regulate the reconstruction of the structure. It may be possible to reconstruct, but permission under the *Planning Act* in the form of a minor variance or zoning amendment would be required unless the performance standards in the by-law are complied with.

An interesting variation on this analysis is the situation where a non-complying structure is only partially demolished. The legal question is at what point does the

structure lose its non-complying status? Or put another way, at what point in demolition does the zoning by-law apply to the reconstruction?

There are no cases that we are aware of that deal directly with this partial demolition scenario. In our opinion this is a decision for the municipality. The decision must be based on sound Official Plan policy and be drafted well so that land owners can understand their rights and obligations under the By-law. Because there are no cases, we cannot state with certainty how a court would interpret the amendments to your by-law dealing with partial demolition.

Given the clear Official Plan direction as excerpted above, we are of the opinion that it is reasonable to enact zoning provisions to give effect to the policy and to seek to have currently non-complying structures moved further back when those structures reach the end of their natural lifecycle. It is reasonable to allow repairs and renovations to extend the life of such structures, but it is equally reasonable to provide that the structure be moved further back from the water when it is at the end of its lifecycle. It is equally reasonable to enact regulations to prevent the piece-meal reconstruction of such structures that has the practical effect of allowing reconstruction in stages, which defeats the intent of the official Plan.

Zoning Amendments

We reviewed the original zoning amendments and the proposed modifications to the amendments.

We have some concern with the language in the original amendment that it may introduce some ambiguity around whether all walls must be removed in order to find that the structure has been demolished.

We suggest below a further modification for consideration, which meets the intent of the Official Plan and attempts to better define and confine the regulations of non-complying waterfront structures:

> 5.10.2
>
> Where an existing structure has been erected prior to the date of passing of this By-law on an existing lot of record and said structure has less than the minimum 30 metre (98.4 ft.) setback from the highwater mark of a waterbody or watercourse, the following restrictions shall apply:
>
> (a) the said structure may not be reconstructed where it is demolished;
> (b) no living space shall be added below grade to the said structure;

(c) the height of the said structure shall not be increased; and
(d) the extent of the non-compliance with the setback from the highwater mark shall not be increased.

A definition of "demolished" would need to be included as well:

> "demolished" means, for purposes of section 5.10.2, removing or replacing more than 50% of the load bearing exterior walls of a structure for any reason.

We hope this opinion is of assistance. Should you have any questions or wish to discuss our suggestions, please give me a call.

Sincerely,

Cunningham, Swan, Carty, Little & Bonham LLP

Tony E. Fleming, C.S.

TEF:kj

ATTACHMENT #2

The Digest of
MUNICIPAL & PLANNING LAW

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THE EVOLUTION OF LEGAL NON-CONFORMING RIGHTS

by Michael Polowin and Elad Gafni

Introduction

Many, if not most, municipalities across Ontario have provisions in their zoning by-laws that purport to limit repair, renovation or use of buildings that are non-conforming as to use or non-complying as to performance standards. The intent and effect of these by-laws are to "encourage" property owners to bring non-conformity or non-compliance to an end. Two recent decisions, *TDL Group Corp. v. Ottawa (City)*, 2009 CarswellOnt 7336 (O.M.B.), striking out a portion of the City of Ottawa's zoning by-law regarding non-conforming rights, and *Ottawa (City) v. TDL Group Corp.*, 2009 CarswellOnt 7168 (Ont. Div. Ct.), which denied the City of Ottawa's leave to appeal of an order of the Ontario Municipal Board (OMB or Board), signifies a clear and unambiguous ruling that municipalities may not limit or coercively bring to an end non-conforming or non-complying rights beyond the narrow constraints permitted by the *Planning Act*, R.S.O. 1990, c. P.13 and at common law.

Background

In 2001, the new City of Ottawa (the City) was created by the amalgamation of the Region of Ottawa-Carleton and 11 local municipalities. On June 25, 2008, following approximately five years of public consultation, the City enacted Comprehensive Zoning By-Law 2008-250 ("CZBL"). The CZBL harmonized the existing 36 zoning by-laws from the former municipalities comprising the new City, into a single zoning by-law, and was designed to implement the new Official Plan of the City, which was adopted on May 14, 2003 and amended in July 2005.

Over seventy appeals regarding the enactment of the CZBL were received by the Ontario Municipal Board. One of these appeals was brought by The TDL Group Corp. ("TDL") to challenge the validity of section 3 of the CZBL which concerned non-conformity and non-compliance. TDL alleged that section 3 of the CZBL was contrary to section 34(9)(a) of the *Planning Act* and was outside the City's authority.

Legislation

Section 34(9)(a) of the *Planning Act* creates an exemption to the scope of zoning by-laws that municipalities may enact. The effect of section 34(9)(a) is to establish legal non-conforming uses which are lawful violations of current zoning by virtue of the fact that the use of the land or structure existed in compliance with applicable by-laws before the by-laws with which there is non-compliance was passed. Section 34(9)(a) provides:

> 34. (9) No by-law passed under this section applies,
>
> (a) to prevent the use of any land, building or structure for any purpose prohibited by the by-law if such land, building or structure was lawfully used for such purpose on the day of the passing of the by-law, so long as it continues to be used for that purpose;

The impugned section 3 of the CZBL reads, in part, as follows:

> 3. (1) Nothing in this section affects subsection 34(9) of the *Planning Act, R.S.O. 1990*, Excepted Lands and Buildings, which addresses non-conforming uses.

(2) *No person will repair or rebuild any part of any building housing or otherwise used in connection with a non-conforming use, except as set out in subsection (3).*

(3) *When a building, structure, facility or otherwise, including septic and other servicing systems, used in connection with a non-conforming use is damaged or demolished, the non-conforming right is not extinguished if:* (By-law 2008-462)

(a) *the damage or demolition was involuntary;*

(b) *the building is repaired or re-occupied before the expiry of two years*; and

(c) the building continues to be used for the same purpose after it is repaired as it was used before it was damaged or demolished.

(4) *Non-conforming rights are extinguished*:

(a) *where the damage, demolition or removal of a building is not involuntary*;

(b) *where a damaged building is not repaired or re-occupied before the expiry of two years*; or

(c) where the non-conforming use,

(i) is abandoned, or

(ii) is changed without permission from the Committee of Adjustment.

(5) This section applies, with all necessary modification, to a non-complying building.

. . . [Emphasis added]

Ontario Municipal Board Decision

The position of TDL before the Board was that section 3 of the CZBL unlawfully attempted to narrow, amend and restrict the non-conforming rights of property owners beyond the jurisdiction of the City pursuant to the *Planning Act*. Specifically, TDL took issue with the fact that subsections 3(3) and (4) of the CZBL purported to extinguish property owners' legal non-conforming rights where "damage, demolition or removal of a building is not involuntary", as contrasted to circumstances where repair or rebuilding is done as a result of "involuntary" damage, demolition or removal (i.e. causes beyond the control of the owner).

TDL referred the Board to numerous cases standing for the proposition that as long as the intention of an owner is to continue a long-established pattern of usage, then there can be no loss of a non-conforming use as a result of damage or demolition, whether it was voluntary or non-voluntary.

Moreover, TDL took the position that the decision of the Supreme Court of Canada in *Saint-Romuald (Ville) c. Olivier* (2001), [2001] 2 S.C.R. 898, 22 M.P.L.R. (3d) 1, 2001 CarswellQue 2013, 2001 CarswellQue 2014, [2001] S.C.J. No. 54, REJB 2001-25834, 2001 SCC 57, 204 D.L.R. (4th) 284, 275 N.R. 1 (S.C.C.) stood for the proposition that non-conforming and non-complying uses are not fixed, but can evolve over time, provided that the impact on the surrounding neighbourhood was minimal. As Binnie J. held, "[u]nder the doctrine of "acquired rights", the respondents were not only entitled to continue to use the premises as they were when the new by-law was passed, but was given some flexibility in the operation of that use", including the right to "normal evolution" and to "adapt to the demands of the market or the technology that are relevant to it" (para. 19). Section 3 of the CZBL unlawfully frustrated this right to the "normal evolution" of non-conforming uses by prohibiting activities such as the installation of energy-saving windows or the repair of a decrepit roof because such renovations would run afoul of the prohibition on voluntary damage, demolition or removal contained in subsections 3(3) and (4).

In contrast, the City argued that section 3 was an appropriate vehicle to encourage or "cause" the "evolution" of land use over time from "a legal non-conforming use to one in conformity with the zoning by-law" (pages 8-9). In oral evidence before the Board, the City's land use planner confirmed that the effect of section 3 of the CZBL was that "if a property owner repairs or rebuilds voluntarily, to maintain, upgrade or modernize the building, the non-conforming or non-complying right is lost" (page 3). In fact, according to the City's planner, the City's intent [of section 3 was] to gradually phase out existing legal non-conforming uses (page 3).

The OMB rejected the City's argument in this regard and determined as follows at page 10:

> [O]n a clear reading of section 34(9)(a) of the *Act* . . . such a municipal intent and effect of a zoning by-law is *not* permitted by the *Act*. [. . .]
>
> The cases cited by the Appellant, especially the decisions of the Supreme Court of Canada, *Central Jewish Institute v. City of Toronto and Saint-Romuald (City) v. Olivier* affirm the right of a landowner to continue with a legal non-conforming use. In fact, the Supreme Court of Canada decisions stand for the proposition that such a use may be expanded within the confines of the building, may be intensified as part of the pre-existing activity, and finally, of particular relevance to the case at hand, may see "renewal and change" (*Saint-Romuald (City) v. Olivier*).
>
> The Board finds that section 3 of the CZBL specifically operates to prohibit such "renewal and change". [Emphasis in original]

The City also argued that voluntary cessation of use, including for voluntary repair or replacement of elements of the building, brings legal non-conforming and non-complying uses to an end, and that such will not be the case only if such cessation is beyond the control of the property owner. However, once again, the Board disagreed, holding that the intention of the property owner was paramount. The Board stated at pages 10-11:

> The appellant would not lose its rights to its legal non-conforming use during a closure for a voluntary repair or even replacement of the building. The Board notes the words of the court in *Rotstein v. Oro-Medonte (Township of)*: ". . . intention is a relevant factor to be considered in the case of a long-established pattern of use."

Finally, the Board rejected the two-year limitation period for repairing and reoccupying specified in sections 3(3)(b) and 3(4)(b) of the CZBL. The Board wrote at page 11:

> Again, there is nothing in section 34(9)(a) which allows for the extinguishment of a landowner's right to a legal non-conforming use if repairs or renovations are not completed before the expiry of two years. As noted above, "intention" is determinative. If a landowner demonstrates a continuous intention to continue a long-established pattern of usage, there is no loss of its right, regardless of the time it takes to complete repairs.

The Board then ultimately concluded that "section 3 of the CZBL, in its entirety, improperly narrows, amends and restricts the right of a property owner to a legal non-con-

forming use, contrary to section 34(9)(a) of the *Planning Act*. Section 3 is beyond the jurisdiction of the City" (page 11).

Divisional Court Decision

The City sought leave to appeal the decision of the Board repealing section 3 of the CZBL to the Divisional Court. As a preliminary matter, the City sought that subsections 3(6) to (8) of the CZBL be restored. There was no evidence before the Board that these three subsections were unlawful pursuant to the *Planning Act*. In fact, both the planners for the City and TDL supported these provisions. Justice Toscano Roccamo ordered, on consent of both parties, that subsections 3(6) to (8) be remitted to a rehearing of the matter before the OMB pursuant to section 43 of the *Ontario Municipal Board Act*, R.S.O. 1990, c. O.28.

After reviewing the parties' submissions with respect to the standard of review, the court held the appropriate standard of a review of a decision of the Board to be reasonableness, given that "the Board has specialized expertise in interpreting the provisions of the *Planning Act*, including Section 34, and in applying its underlying policies" (para. 19).

While admitting that "the interpretation of Section 3 of the CZBL is open to considerable debate, such as to arguably run afoul of Section 34(9) of the *Planning Act*" (para. 28) and that its position with respect to the definition of "damage" in the CZBL was "evolving" (para. 29), the City nevertheless asserted that:

> [V]oluntary "demolition" of a structure as under Section 3(4) of the CZBL justifies termination of legal non-conforming rights in the absence of any intention to continue the non-conforming use at the time the by-law was passed, coupled with an interruption in continuity or physical existence of the structure. (para. 29)

TDL argued that the Board's reasoning was an appropriate application of the Ontario Court of Appeal decision in *Ottawa (City) v. Capital Parking Inc.* (2002), 28 M.P.L.R. (3d) 223, 212 D.L.R. (4th) 342, 2002 CarswellOnt 1197, 158 O.A.C. 174, 59 O.R. (3d) 327, [2002] O.J. No. 1511 (Ont. C.A.), which concerned whether the defendant, which enjoyed a legal non-conforming use as a public garage, could be subject to performance standards in the City of Ottawa's zoning by-laws.

All zoning by-laws fall under one of either of two categories: (1) land use provisions; or (2) performance standards provisions. In *Capital Parking*, Doherty J.A. applied the reasoning of the Supreme Court in *Saint-Romuald* and held that performance standards will fail where they are found to interfere with acquired rights, in that they alter the nature of a legal non-conforming use or interfere with the real and reasonable expectations flowing from a legal non-conforming use (para. 35). TDL took the position, supported by the Court, that section 3 of the CZBL, which was a performance standard because it did not purport to regulate the types of uses of land, ran afoul of the holding in *Capital Parking* because the prohibition on voluntary repair or renovation unlawfully interfered with the real and reasonable expectation for the right to "renewal and change" of non-conforming uses as articulated in *Saint-Romuald*.

After reviewing the submissions of both parties, Toscano Roccamo J. found that "the Board's decision in this matter was well reasoned and correct" (para. 39), and stated at paragraphs 36-37 that:

> In specific reference to *Capital Parking*, *supra*, where it engaged the reasoning applied in *Saint-Romuald*, the Board concluded that acquired rights entitled property owners to some flexibility in the operation of the use, including normal evolution of some uses. The Board concluded that normal evolution of use could encompass demolition and rebuilding of a property within its footprint with the intention to continue the use of the building or structure as it existed prior to the enactment of a by-law. I find no error in the Board's reasoning in this respect.
>
> In concluding that Section 3 of the CZBL operated to frustrate the normal evolution of a legal non-conforming use through renewal and change, the board accepted the reasoning in *Rotstein v. Oro-Medonte (Township of)* (2002), 34 M.P.L.R. (3d) 266 (Ont. Sup. Ct.) and *Mohammed v. Dysart (Municipality) Building Official* (2003), 45 M.P.L.R. (3d) 282 (Ont. Sup. Ct.) in support of the proposition that where a landowner demonstrates a long established pattern of use, there is no loss of rights that flows from interruption in use for renovations or repairs, whether or not within the control of the property owner, and regardless of the time needed to effect repairs. Again, I find no cause to doubt the Board's reasoning in this regard.

Accordingly, the City's motion for leave to appeal to the Division Court was dismissed.

Discussion

As noted above, municipalities across Ontario purport to restrict property owners' rights to repair, renovate or use buildings that are non-conforming as to use, in apparent (and now confirmed) contravention of section 34(9)(a) of the *Planning Act*. This is not surprising given that acquired rights are a thorn in the side of municipal planners since they interfere with the achievement of the City's vision articulated in municipal official plans.

The decision of the Board and the Divisional Court in the matter of the *Ottawa (City) v. TDL Group Corp.* represents a warning to cities across the province that the courts will not tolerate attempts by municipalities to overreach their powers under the *Planning Act* and the law to contravene legal non-conforming rights. As noted by Killeen J. in *382671 Ontario Ltd. v. London (City) Chief Building Official* (1996), 32 M.P.L.R. (2d) 1, 1996 CarswellOnt 1388, [1996] O.J. No. 1352, 28 O.R. (3d) 718 (Ont. Gen. Div.) by-laws that seek to restrict non-conforming rights are "nothing more nor less than a clever attempt by the municipality to trench upon and even disembowel section 34(9) of the *[Planning] Act*" (para. 25).

Indeed, many municipalities across the province of Ontario are arguably running afoul of the law with respect to non-conforming rights. At the time of writing, zoning by-laws in the City of Orillia, the Town of Haldimand, the City of Sudbury, and the Town of Dunnville all essentially permit, with minor variances in wording, the strengthening or restoration to a safe condition of any non-conforming building or structure, while restricting the right to rebuild or repair only

for situations where the non-conforming building or structure is damaged or destroyed by causes beyond the control of the owner. See City of Orillia's By-laws No. 2005-72, ss. 3.4.3 and 3.4.5; the Town of Haldimand's By-laws 1-H 86, ss. 6.3.1 and 6.3.2; the City of Sudbury's By-laws No. 95-500Z, s. 4(4)(a); and the Town of Dunnville's By-laws 1-DU 80, ss. 6.3.1 and 6.3.2. The effect of these by-laws is to prohibit voluntary repair or renovation other than for the purpose of improving the safety condition of a non-conforming building or structure. Consequently, renovation for upgrading or modernizing a building, such as the installation of energy-saving windows, would arguably not be permitted. However, as the Board noted in the TDL decision, such restrictions on voluntary repair and renovation are in direct conflict with Binnie J.'s ruling in *Saint-Romuald* that municipalities cannot frustrate the normal evolution of non-conforming uses through "renewal and change".

Even more egregious violations of non-conforming rights can be found in zoning by-laws that prohibit the restoration of non-conforming buildings or structures when they are damaged or destroyed even in cases where the destruction is due to causes beyond the control of the owner. For example, the City of Guelph prohibits "the rebuilding of a non-conforming use if it should be destroyed" (Zoning By-law (1995) — 14864, s. 2.5.3.4). No definition is provided for the term "destroyed". The City of Barrie prohibits the restoration of any non-conforming building or structure "other than a single detached dwelling, converted dwelling or a multiple family dwelling which has been destroyed to the extent of more than fifty percent of the structure (exclusive of walls below grade)" (Zoning By-law 85-95, s. 4.2.6). While residents of the City of Thunder Bay who own legal non-conforming "occupied dwellings" that are "damaged or destroyed by accidental fire or a natural disaster" are permitted to reconstruct their buildings, owners of legal non-conforming buildings or structures "other than a dwelling . . . which has been damaged by accidental fire or natural disaster to the extent of more than sixty percent (60%) of its value are precluded from restoring their buildings or structures" (Zoning By-law 177-1983, s. 5.11.1(a) and (b)).

Such attempts are contrary to Toscano Roccamo J.'s holding in the TDL Group Corp. case that "where a landowner demonstrates a long established pattern of use, there is no loss of rights that flows from interruption in use for renovations or repairs, whether or not within the control of the property owner" (para. 37). It should be noted that nowhere in the *Planning Act* are distinctions made with respect to repair and renovation rights between different types of non-conforming uses, and therefore such attempts in the above noted by-laws are unjustified and unlawful.

Finally, there are also examples of zoning by-laws from across the province that place time limits on the repair or reconstruction of a non-conforming building or structure similar to the two-year limitation period in subsections 3(3)(b) and 3(4)(b) of the City of Ottawa's CZBL that were repealed by the Board and the Court. The City of Kingston permits the replacement of a non-conforming building destroyed by any means beyond the control of the owner "provided that construction is commenced within one year from the date of destruction and provided that the building is completed within a reasonable time thereafter" (Zoning By-law No. 8499, s. 5.24(a)). Similarly, the City of Orillia allows the rebuilding or repair of any building or structure that is damaged or destroyed by causes beyond the control of the owner "provided such rebuilding or repair is conducted within two years" (Zoning By-law 2005-72, s. 3.4.5). However, as the Board held in its decision at page 11, and which was affirmed by the Divisional Court, "[i]f a landowner demonstrates a continuous intention to continue a long-established pattern of usage, there is no loss of its right, regardless of the time it takes to complete repairs."

The above examples of zoning by-laws from across Ontario demonstrate the extent to which municipalities attempt to "encourage" or cause the "evolution" over time from legal non-conforming uses to ones in conformity with current zoning by-laws. The judgment in *Ottawa (City) v. TDL Group Corp.* represents for the first time a clear and unambiguous ruling that such efforts by municipalities are contrary to section 34(9)(a) of the *Planning Act* and are, therefore, beyond their jurisdiction. Municipalities must ensure that their zoning by-laws conform to the law with respect to legal non-conforming rights.

Michael Polowin is a partner with Gowling Lafleur Henderson LLP in Ottawa, practicing in Development and Planning Law. Mr. Polowin advises and represents clients through the full spectrum of the development process. He has acted for some of the largest developers in Canada, and has been involved in developments throughout the Ottawa area and Eastern and Southern Ontario. Mr. Polowin also acts on behalf of municipalities in Eastern Ontario on planning and development and public-private partnership matters.

Elad Gafni is an Articling Student with Gowling Lafleur Henderson LLP in Ottawa, where he also worked as a Summer Student. He graduated in 2009 with an LL.B. (Cum Laude) from the English Common Law Program at the University of Ottawa. Prior to law school Elad attended Queen's University on a Chancellor's Scholarship where he received a B.A. (Hons.) in Economics, as well as the University of Toronto on an Ontario Graduate Scholarship where he received an M.A. in Economics.

ATTACHMENT #3

Lindsay Mills

From: Hans J Kummer <kummer@mast.queensu.ca>
Sent: April-16-16 3:15 PM
To: Lindsay Mills; peck.ja@kos.net
Subject: the proposed bylaw for grandfathered structures

Dear Ms Mills,

I possess a house at 4594 Red Maple Lane which is situated less than the required 100' distance from the lake shore of Loughborough Lake on a lot whose size is approximately one acre. I fear that the proposed bylaw concerning grandfathered structures would negatively effect the sale value of my home. I have paid higher and higher property taxes for my property, because it has 200' waterfront. I think there are a great number of property owners in South Frontenac who are in a similar position as I am. I therefore ask you to reconsider the implementation of the proposed bylaw.

Sincerely yours
Hans J. Kummer

Lindsay Mills

From: kfrancis@kos.net
Sent: April-21-16 12:53 PM
To: Wayne Orr
Cc: Lindsay Mills; Angela Maddocks; rvandewal@southfrontac.net
Subject: Proposed By-Law Changes

Dear Mr Orr,
I am writing to express my concern regarding the proposed by-law changes 5.10.2 and 5.11. The dwellings on my property were built in the 1920's and are located within the 30 meter setback. Like many other SF property owners, the proposed changes would have a very negative impact for me.

My second concern is with another 'housekeeping' item from the same document:

Loughborough Mapping Changes
8. Schedule B the zoning map for Loughborough District has three errors that should be corrected. These are:
i) Part of Lot 7, Concession V. A residential lot at Sydenbam Lake accessed by Sheila Lane, is erroneously zoned Recreational Resort Commercial (RRC). This zone should be changed to Limited Service Residential Waterfront (RLSW).

My questions are:
1) How was it determined that the RRC zoning was an error?
2) Why wasn't I notified of the proposed zone change and given an opportunity to defend or relinquish the zone status?
3) Is making a zone change without notifying the property owner legal?

This property has been in my family since the 1930's, and it was a recreational resort during this time, so one should not assume that being zoned RRC is an error.

I have left two detailed voice messages with Lindsey Mills, and he has not returned my calls. I would appreciate clarification regarding the zoning issue and the proposed by-law change.

Sincerely,
Kathleen Francis
613-376-3799

Lindsay Mills

From: Website Administrator
Sent: April-18-16 8:08 AM
To: Afrobb38@aol.com
Cc: Wayne Orr; Lindsay Mills
Subject: RE: Planning Proposal d/18 Jan 2016 re Amendment to CZ

Thank you for your email. I have copied it to Lindsay Mills, Planner and Wayne Orr, CAO. We will include this with our April 26 Committee of the Whole agenda.

-----Original Message-----
From: noreply@esolutionsgroup.ca [mailto:noreply@esolutionsgroup.ca] On Behalf Of Afrobb38@aol.com
Sent: April-17-16 2:13 PM
To: Website Administrator
Subject: Planning Proposal d/18 Jan 2016 re Amendment to CZ

My Property: 020-020-40700-0000 (Bobs Lake Poplar Island)I would liked to have appeared before the Council on 21 April but I am too late to make a request because I have been away and just received this information.
I am generally in agreement with the proposals from staff regarding amendments to the Comprehensive Zoning By-law with one exception. I disagree that section 5.11 should be removed.
Our cottage property is perfectly viable as a seasonal residence. It was approved and legally built in the early 1980s even though there is no place on the island that was 30m from the water in every direction. If the cottage was destroyed by fire or storm, there is no alternate footprint that is 30m from the water. If this sort of disaster should occur, I should be able to rebuild my cottage on its present foundation without having to go through a costly and long minor variance process.
The cottage has an approved drilled well and an approved septic field.
I feel that section 5.11 should be retained or rewritten in such a way that properties such as ours can be rebuilt on the current foot print without having the added expense or a minor variance procedure.

Origin: http://www.southfrontenac.net/en/index.asp

This email was sent to you by Andrew Robb<Afrobb38@aol.com> through http://www.southfrontenac.net/.

Lindsay Mills

From: Tom McLellan <drtom.mclellan@gmail.com>
Sent: April-17-16 8:49 PM
To: Lindsay Mills
Subject: zoning by-law amendments

Hi Lindsay,
As owners of a cottage on Leonard Lane on Green Bay, Bob's Lake, Jane and I would like to provide input regarding the proposed amendments to the zoning by-law,

First, there are a number of properties that have buildings currently located closer than the 30 metre setback, which have been grandfathered with past by-laws. If any of these buildings need to be restored or rebuilt (without destruction by fire or weather) how does the existing amendment handle these situations? For many of these residents, these grandfathered buildings are part of their summer rental business and rebuilding small rental cottages 30 m from the water may not be an option. Some of the owners of these businesses that we know do not own property further than 30 m from the water so rebuilding would not be an option. This is their livelihood and changing the rules could have a huge financial impact on these people.

The other issue is that current owners of cottage properties with buildings within the 30 metre setback have bought these properties in good faith with the understanding that restoration was permitted on the existing footprint. Current owners have also purchased these properties, which required substantial financial investment, for present-day recreational use but also as a long-term financial investment. If you cannot rebuild on the existing foot print and your lot does not permit a 30 metre setback what are you supposed to do? No one would consider buying such a property. These proposed changes are really unfair and unethical for current owners. It's one thing to have rules for new owners who purchase property without existing structures on the lot, but it's totally not right to change the rules for existing owners who purchased their property and their cottage under a different set of by-laws that permitted restoration on the current footprint (even without destruction by fire or weather). They should still be permitted to rebuild on the existing footprint as should new owners who purchase their property some time in the future.

Jane and Tom McLellan

--
Tom M. McLellan, Ph.D. FACSM
Director
TM McLellan Research Inc.
Exercise and Environmental Physiology Research Consultant
DrTom.McLellan@gmail.com
905-642-0659 (office)
416-206-9367 (cell)

Lindsay Mills

From: Parker, Andrew <APARKER@MCCARTHY.CA>
Sent: April-20-16 7:11 PM
To: Lindsay Mills; Wayne Orr
Cc: patbarr1@aol.com; councillorrevill@gmail.com; lparker@edc.ca
Subject: RE: Objection to Proposed "Housekeeping Changes" to the Bylaws of South Frontenac

Hello Lindsay,

Thanks for the note but I respectfully disagree.

Our view is that the proposed changes are of course about the use of land. The proposed changes can be interpreted to say that if a grandfathered property is renovated by taking down one wall (even if it is an interior wall) then the owner is not permitted to do it because it becomes vacant and must be moved. Or if one exterior wall is damaged or in need of repair it cannot be repaired or replaced unless the building is moved. In our view that is limiting the use of the property. A property owner should be able to renovate their property within the existing foot print in accordance with the current by-laws and the proposed amendment goes too far by restricting an owner's rights to do that, which we believe is against the Planning Act.

Also, I have heard from other sources that your view is that the removal of section 5.11 will just require a minor variance application in the future if a property is involuntarily destroyed. Removal of such a section from the by-laws will only provide a future regulator or official the opportunity to say "rebuilding of a structure that is destroyed by an involuntary event on the same footprint is of course not allowed because there is nothing in the by-law that permits it" or "silence in the by-laws means it is not permitted and that is supported by the fact that there was an amendment to remove it". Your proposal will also require an owner to hire a lawyer and apply for that variance which is expensive and time consuming and has an uncertain outcome. The interpretation of the legislature, by-laws, rules and regulations is based on the wording of such documents. Without any words there is nothing to interpret. That then leaves a property owner with no recourse in a situation that was not their fault. So, if there is some concern over the wording in that section to deal with derelict buildings, deleting the section is not the answer. By the way, our view is that the language in the current bylaw does not need to be changed in any event.

Respectfully,

Andrew and Lisa Parker

From: Lindsay Mills [mailto:lmills@southfrontenac.net]
Sent: Tuesday, April 19, 2016 12:54 PM
To: Parker, Andrew; Wayne Orr
Cc: patbarr1@aol.com; councillorrevill@gmail.com; lparker@edc.ca
Subject: RE: Objection to Proposed "Housekeeping Changes" to the Bylaws of South Frontenac

Dear Lisa and Andrew Parker,

Thanks for your letter.

Just to be clear, we are not talking about the use of the land. We are only talking about the placement of buildings on the land.

If there is a structure that pre-dated our by-laws that is now located within the 30 metre setback from a waterbody and the owner voluntarily takes it down then we would want it rebuilt according to the setbacks of the day. If it can't meet the 30 metre setback because of certain restrictions on the land then we would consider it as part of a minor variance application.

Either way it is very unlikely that it could not be rebuilt somewhere on the lot.

I hope this helps.

Lindsay Mills

From: Parker, Andrew [mailto:APARKER@MCCARTHY.CA]
Sent: April-19-16 10:26 AM
To: Wayne Orr
Cc: Lindsay Mills; patbarr1@aol.com; councillorrevill@gmail.com; lparker@edc.ca
Subject: Objection to Proposed "Housekeeping Changes" to the Bylaws of South Frontenac

Please see attached letter for your consideration.

mccarthy tetrault

Andrew Parker
Partner | Associé
Business | Affaires
T: 416-601-7939
C: 647-286-7939
F: 416-868-0673
E: aparker@mccarthy.ca

McCarthy Tétrault LLP
Suite 5300
TD Bank Tower
Box 48, 66 Wellington Street West
Toronto ON M5K 1E6

JOHN AND BETTY SIMPSON

Box 11080 Carslake Lane
SYDENHAM, ON K0H 2T0

Ph. 613 376 3571 email asdplan@telus.net

April 19, 2016

Mayor and Council
Township of South Frontenac
Box 100
SYDENHAM, ON K0H 2T0

Dear Mayor and Councillors,

RE: Proposed bylaw changes to Section 5 of the zoning bylaw

It is my understanding that the Township is contemplating some rather major changes to the Zoning bylaw and in particular Section 5 of the Bylaw, without any required public consultation. These changes have significant consequences to all landowners and particularly those with waterfront properties. These changes should be rejected by Council until proper consultation has been undertaken.

The zoning bylaw that was approved in 2005 instantly made in my opinion, over 90% and likely close to 100% of lakeshore cottages, houses and buildings non-conforming in that it established a minimum 30 metre setback from waterbodies for such buildings. In establishing this minimum setback, any existing development closer than 30 metres becomes non-conforming.

By definition non-conforming buildings are limited in terms of being able to renovate and expand thus limiting the future opportunities for landowners to maximize the use and enjoyment of their property. The proposed amendment would seek to further reduce the rights of property owners by denying owners to right to renovate and reconstruct older and smaller cottage buildings and properties.

The approval of the bylaw in 2005 unknowingly or otherwise has created a huge issue for the Township in that anyone seeking to purchase an existing cottage is likely purchasing a non-conforming building and thereby limiting future opportunities for improvement. I am guessing that this likely wasn't explained to the general public or to Council in 2005.

In my time on Sydenham Lake, over 50 years as a family, I have witnessed the transition of cottage development to year round residences as well as the expansion/replacement of

older cottages to newer and larger ones. In most cases, I applaud the improvements that have been made as the new buildings are well designed, well maintained and are a general improvement over the previous existing buildings. This should be something that the municipality should be encouraging not discouraging.

With any new development brings the opportunity to improve lakeside development and reduce the overall impact on the lake including the requirement for new sewage systems. This is in addition to creating a larger tax base for the Township.

The proposed amendments consist of 2 major changes. The first would change Section 5.10.2 by eliminating any ability for any reconstruction through adding the words "Reconstruction of the building is prohibited".

Based on the information presented in the March 15th memo to Council, the planners believe that this section has allowed existing dwellings to be demolished and rebuilt on the same footprint. They appear to argue that this is not consistent with the policies in the Official Plan and therefore must be stopped.

On the other hand, the Building Officials who deal with the public on a daily basis understand that strict enforcement of this policy is not practical and have allowed buildings to be reconstruction on the same footprint. The planners obviously disagree with this and want to force a different agenda.

The wording to modify this section to prohibit reconstruction is not acceptable. A landowner should have the right to reconstruct a building on a site provided that the non-complying portion of the building does not further decrease the area of non- compliance. In other words, a reconstructed building should not be allow to encroach into a water front setback more than what was originally allowed.

The second amendment proposes that Section 5.11 be deleted in its entirety. This deals with the replacement of buildings and structures. It could be argued that this section provides the opportunity for reconstruction and therefore is contradictory to the Official Plan.

In the absence of a specific regulation (this section) to deal with existing non-conforming buildings (90% of all cottages and dwellings in the township), the planners will argue that the rules do not permit any reconstruction thereby achieving their desire to move everything back beyond 30 metres. The discussion at the time of a permit application will be that the municipality is not allowed to approve anything that isn't specifically allowed under the bylaw. Removal of this section allows them to invoke a zero tolerance policy to any replacement or renovation to existing non-conforming structures. Moreover they will argue that section 5.2.10 prohibits reconstruction.

The suggestion that without the section, the matter would simply be referred to the committee of adjustment to deal with. This is simply wrong and misleading.

It has been suggested that the way around the "new" rules is for the landowner to apply to the Committee of Adjustment for approval to relax the rules. This begs two questions, why have the rules if they are going to be relaxed all the time? Secondly, why have the landowner go through the added time and expense just to relax the rules? This process does not make sense. Further, what is to stop the planners from arguing that the committee of adjustment has no authority to deal with any application as the bylaw prohibits the reconstruction or that the official plan prohibits reconstruction of existing structures?

It is my belief that the current bylaw that created thousands of non-conforming uses is fundamentally flawed. I have never seen an approach taken to deliberately establish rules that created so many non-conforming uses without regard for the rights of the property owners. Indeed, the approach should have been to reduce the number of non-conforming uses unless there is a specific policy direction that is to be applied in which case it should only be done after and with the support of the general public. If the Township policy is "We hate cottages" then the current bylaw and proposed amendments make sense. However I doubt that is Council's policy. It certainly seems to be the policy of the Township planners however.

Make no mistake, non-conformity brings hardship to landowners in terms of ability to obtain and collect on insurance in the event of a catastrophe. It creates issues in terms of arranging for mortgages. It creates a climate of uncertainty. These proposed amendments only add to the hardship.

In a note prepared by Jeff Peck, it is suggested that the amendments are not housekeeping but represent major change. I am in complete agreement that the change to Section 5 should not be considered as a housekeeping amendment but rather a major change as it represents a fundamental shift in the application of rules to land and buildings in the Township. The amendment if approved in its current form will prohibit thousands of landowners from making substantial improvements to existing dwellings, all without public discussion.

A housekeeping amendment is normally confined to a typographical error, misplaced decimal, a rounding error from imperial to metric or other similar circumstances and not to a significant shift in public policy. This is an abuse of powers.

It is noted that there is a major disagreement between the planners, the maker of policy and the Building Officers who are charged with implementing policy. It is clear that the Building Officials recognize the issues with respect to trying to implement this proposed unworkable policy on a day to day basis. It is further noted that there is no background information, analysis or factual information on which to base a decision and support the change, only anecdotal and value based comments.

Therefore, I urge Council to reject the amendments proposed.

I will be out of country on April 26th and cannot attend the Committee of the Whole meeting but I understand that a second opportunity may avail itself on May 10th. If possible and if the agenda has this as an issue, I would be happy to attend and answer any questions with respect to this submission.

Sincerely,

John A. Simpson

April 13 2016

Mr. Wayne Orr
CAO Township of South Frontenac
4432 George Street
Sydenham, Ontario KOH 2TO

RE: Proposed “Housekeeping Changes” to the 30 M Setback By Laws

Dear Mr. Orr,

The Greater Bobs and Crow Lakes Association (GBCLA), a lake association advocating for over 1430 cottagers, would like to voice their vigorous objection to the proposed “Housekeeping Changes” to the Township of South Frontenac’s (TSF) Bylaws (Section 5.10.2 and 5.11) concerning 30 M Setbacks for “grandfathered lakeshore properties’.

These ill timed, poorly presented and perceived deliberative amendments have the appearance of being devious, manipulative and lacking in integrity. The Township has made little effort to inform the grandfathered property owners that they intend to change bylaws which affect their property rights and economic position. This approach has outraged our members and we find it to be fundamentally flawed and undemocratic.

Over 30 % of the cottages on Bobs and Crow Lakes are subject to the 30 M grandfathered footprint clause. We as an Association are concerned about the environment yet the rights of cottage owners; the property values of these dwellings; the implication by the TSF that many of these building are neglected; and the removal of the “act of God” clause in the Bylaws requires consultative attention. We believe that this proposed ‘housekeeping amendment” takes away ones rights as a landowner.

- Property rights of these grandfathered ‘footprint ‘cottages that have been lived in and kept in working order by (in some cases) generations of families may be jeopardized. By denying lakeshore owners future improvements within their

grandfathered footprint the TSF is taking away their rights as a home owner.

- The reference, within these “housekeeping amendments” of “continually neglected buildings”, connotes that cottages within the 30 M set back are all subject to undo discrimination. The vast majority of cottage owners have maintained their dwellings and their sites are structurally sound. The TSF should identify clearly that those who do not maintain their dwellings and have buildings that are not sound structurally may lose their grandfathered footprint. This should be a separate clause and not identified with all dwellings within the 30 M setback.
- The ‘Act of God’ clause should be kept to allow the lakeshore owner to rebuild on their grandfathered footprint in a situation that has been deemed an act of god . It should not take a minor variance to allow such an action. This appears to be a cash grab by the TSF.
- What are the risks proposed by the bylaw changes identified as housekeeping? These bylaws could affect property values of lakeshore owners who are within the 30 M setback creating a two tier buyer market.
- Finally, we as taxpayers in the Township of South Frontenac are concerned about the potential legal challenges and associated cost that these unnecessary ‘housekeeping changes” will bring to bear upon the Township.

The Greater Bobs and Crow Lakes Association would like to present our concerns at the April 26 meeting of the TSF Council to further articulate our opposition to this action.

We request that you review and respond to the attached questions that have been brought forward by our members. We would appreciate your reply by April 19, 2016. We thank you in advance for this action.

Sincerely submitted on behalf of the Board of Directors of the GBCLA,

Larry Arpaia

Larry Arpaia, President GBCLA
306 Island Drive Lane
RR # 3 Maberly, ON K0H 2B0
613 279 3210
larryarpaia@gmail.com

Questions submitted by the Greater Bobs and Crow Lakes Association to the Townships of South Frontenac concerning the proposed “Housekeeping amendments” to Section 5.10.2 and 5.11 of their Bylaws concerning the 30 M Setbacks.

Submitted by Larry Arpaia (President GBCLA) For the Executive of the Association)

1. What are the intent, purpose and long term implications envisioned by the TSF in implanting the TSF’s “housekeeping amendment” (Section 5.10.2 and 5.11)?

2. The TSF has tried over the past few years to open a dialogue, and create an opportunity to communicate issues pertinent to our lakes and our lakeshore owners with the Lake Associations within TSF. Why did the TSF not directly reach out to Lake Associations concerning this “housekeeping amendment”?

3. The Lake Associations within the TSF were not directly contacted for their input prior to this ‘housekeeping amendment ‘being brought forward to Council’. An attempt to place a notice of such action on the TSF web page (in the first week of April) on such an explosive issue has the appearance of being devious, manipulative and lacking in integrity. What process has been followed to ensure that all grandfathered property owners have been informed of the potential changes to sections 5.10.2 and 5.11?

4. This Housekeeping bylaw amendment appears to decrease the monetary value of ‘older” cottages around the lakes in South Frontenac as it takes away long term “security” of that property. Does the TSF accept the fact that over 30% of the properties around Bobs and Crow Lakes are affected by the grandfathered bylaw and that their property value could decrease with such amendments?

5. Will the TSF staff provide an estimation of what the total net depreciation in property values and tax revenue would be on all lakes

in the township as a result of the implementation of the recommendation related to section 5.11?

6. The January 26, 2016 report to Committee of the Whole suggests that the rationale for removing section 5.11 ('damage, safety issues or acts of god') is that people are circumventing the intent of this section by deliberately allowing their cottage to deteriorate to the point where it is uninhabitable and therefore must be reconstructed. How many applications under section 5:11 have been made where the staff perceive that the grandfathered cottage was deliberately allowed to deteriorate to the point that it needed to be reconstructed?

7. Have the staff considered and put a cost forward for the elected officials the potential cost to the township of a broad legal challenge should the recommendations related to sections 5.10.2 and 5.11 be implemented?

8. Lakeshore owners and taxpayers, inside 30 meters, will want a clear description (ie. black and white) of what grandfathered rights they will still hold under the new bylaw. It seems impossible that the bylaw wording can adequately describe the unmanageable number of unique circumstances that exist for hundreds of cottages. Has the TSF staff undertaken such research and done the appropriate synthesis and analysis to understand the long term concerns?

Larry Arpaia (President Greater Bobs & Crow Lakes Association)

613 279 3210

larryarpaia@gmail.com

306 Island Drive Lane

RR #3 Maberly ON K0H 2B0

Presentation to Council – Graeme Watson, 2086 Little Long Lake Road

Concerns with proposed Amendments to Township of South Frontenac Comprehensive Zoning By-law: Sections 5.10.2 and 5.11

Outline

Concerns with

1. Process
2. Legal Aspects
3. Cost
4. Intent
5. Clarity
6. Removal of 5.11

Illustration of Impact

Solution

Process

- Large numbers affected

- Not enough time and notice given
    - Even if notification was technically adhered to, the gravity of the changes and the fundamental degradation of owner rights dictated that a more comprehensive notification process should have been implemented. This is further reinforced by the environmental underpinnings of the changes which would also indicate that the more extensive public consultation provisions of the Environment protection act should be emulated.

- Not housekeeping, large magnitude of impact

Legal Aspects

- Common Law rights of property owner subjugated without consultation and without demonstrable need.

- Unreasonable taking of land, through Bylaw amendment, circumventing regular Real property instruments such as an Order in Council.

- General principal of Municipality being libel for reduction in land value due to conservation amendments to official plan upheld by OMB:

Injurious affection

Claim for reduction in market value -- Development lots - Expropriation of adjacent lands to create a natural area - Reduction in value based on proximity to natural area, conservation amendments to official plan, development inefficiencies and market perception of risk - Claims of 20% and 50% reduction allowed.
Paciorka Leaseholds Ltd. v. Windsor (City) ..... .
. . . . 99 L.c.R. 269 (O.M.B.)

Cost

Real costs;

- Cost of variance
- Cost of legal representation
- Survey
- Reconstruction, including relocation of septic and well.

Value, investment, retirement plans, savings lost

- Loss of home, if no room to rebuild.
- Loss of property value.
- Financial hardship
- Retirement plans jeopardized.

Intent of Amendment

- Intent unclear; why are seasonal residents specifically identified by South Frontenac?

Invitation to Comment

"These two changes relate to rebuilding cottages within the normally required 30 metre setback from water bodies."

- Enacting broad reaching legislation in order to address very limited circumstances such as derelict structures is fundamentally democratically wrong.

- Reasonably the legislation should be structured with a mechanism to remedy the few intended non-compliance situation, without imposing a significant change in property rights, instantly stripping the vast majority of reasonable owners of fundamental property rights and forcing them to fight for previously guaranteed rights.

Environmental Intent

- Many of examples of achieving equivalent environmental aims of buffer zone in existing structures:
  - Environmental compensation
  - Best Practices
  - Zero impact structures

Clarity of amendment

- Walls – does one count?

- What is the difference between reconstruction and renovation? Who determines?

  If Committee of Adjustment determines; why are there the two terms?

Illustration of Impact

Personal situation and possible scenarios:

- Loss of residence would result in unplanned financial strain

- Severance of property may be necessary; resulting in construction and greater environmental impact. Even given the 30 m setback, new houses would exist in place of natural habitat, and have associated environmental ramifications such as septic, and increased runoff.

- Natural shoreline, will be supplanted by residential activity and landscaping.

- Construction of new house, outside of 30 m, but having larger environmental impact.

Primary Concern

Loss of inherent property rights, with detrimental consequences and permanent ramifications.

Invitation to Comment

"These two changes relate to rebuilding cottages within the normally required 30 metre setback from water bodies. One change would clarify that, when buildings are removed by the owner to rebuild, they must rebuild according to the setbacks now in place. The other change would require a minor variance application to rebuild where a building within this 30 metres setback is destroyed by fire or tempest."

Currently with 5.11, responsibility lies with property owners to adhere to the set and defined structure of the building code enforced through the Chief Building Official. This “housekeeping” item irrevocability shifts that responsibility to the subjective realm of Committee of Adjustment. This is a proposed situation where the care and stewardship of the land has been taken from the owners of the land and given over to a changing committee not holding the equivalent emotional affinity to the land.

Best solution

Leave 5.11 intact, or have equivalent wording which respects the rights of the numerous reasonable land stewards and leaves the jurisdiction of this issue under the aegis of the building code.

Original Letter to Council read into 12 April, 2016 minutes

Proposed Amendments to Township of South Frontenac
Comprehensive Zoning By-law: Sections 5.10.2 and 5.11

Concerns – Graeme Watson
2086 Little Long Lake Road

As a waterfront owner this issue is of great concern to myself.

Personally, I proactively exercise environmental stewardship of my land, including waterfront protection and implementing SAR measures.

I work for the Ministry of Transportation and we routinely practice environmental compensation measures such as; developing fish habitat to compensate for lost fish habitat due to construction; and planting 10 Butternut trees for every one cut down.

I see no reason why equivalent measures could not also be part of the Zoning Bylaw, rather than the inflexible amendment proposed.

In fact, my small zero impact structure, acts an environmental placeholder on the waterfront. If it was to be removed for some reason, based on current trends, it would be replaced by a much larger structure at the limit of the setback, beyond the waterfront restrictions, and having a large environmental impact. The land clearing for construction alone would have an immediate and long term effect on the current natural land cover and the environmental migration it provides.

As a professional whose job entails enforcement of environmental standards, I am aware that there can be more effective language for the bylaw, which requires appropriate environmental measures, while retaining the rights of the landowner to retain their structure.

The amendment also appears to contradict the practice of the municipality itself regarding waterfront roads, for example; Little Long Lake road. If the road was washed out, would it be relocated further inland? That would result in significant environmental degradation, and have a permanent effect on the Provincial Significant Wetland that is located alongside the road, and disruption to Blanding's Turtle habitat.

If the argument is made that the environmental concerns I have expressed will still be addressed under the amendments, I must stress that the amendments fundamentally moves the governance of the waterfront away from the set municipal legislation, and shifts it to the more subjective realm of the Committee of Adjustment.

I see this as an unacceptable degradation of property rights through application of and extension of Eminent Domain, without examining alternative language which would fulfill the intent of the Planning Act, without infringement of current standing individual rights.

At the very least I believe for legal, public consultation, and research requirement reasons, that council should deferred any decision on the proposed amendment, and look to drafting a more environmentally aware alternative based on current environment science and practices.
I am also concerned about the lack of public consultation. Although this bylaw is being proposed from a Planning perspective, it's source is environmental and I would suggest that the EA process must have some bearing.

Presentation to Council – Graeme Watson, 2086 Little Long Lake Road

Concerns with proposed Amendments to Township of South Frontenac Comprehensive Zoning By-law: Sections 5.10.2 and 5.11

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1. Process
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- Not housekeeping, large magnitude of impact

Magnitude of Impact

Examples of affected Sydenham Lake area proprieties alone:

Little Long Lake

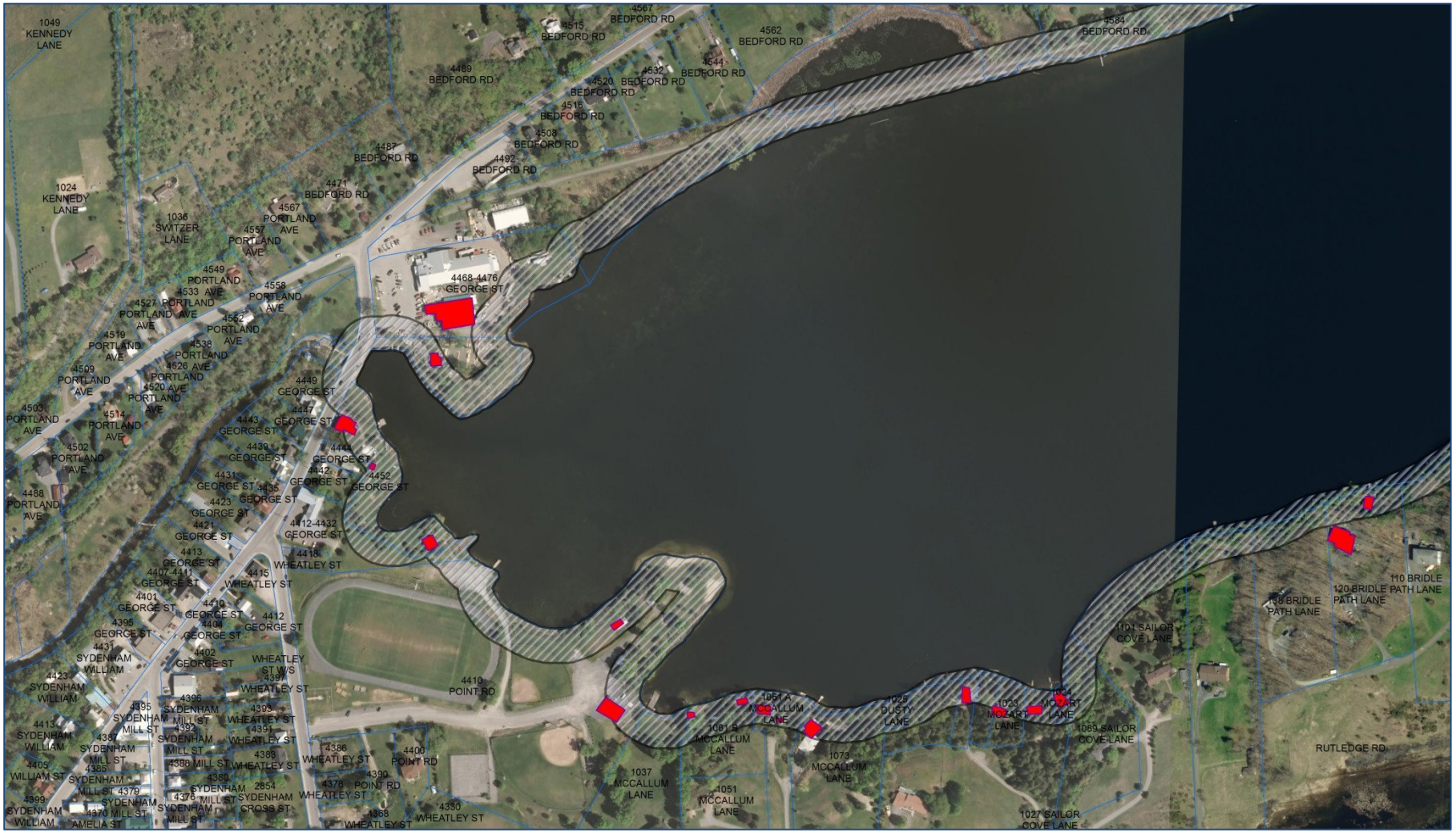
18 Structures

Sydenham Lake North Shore

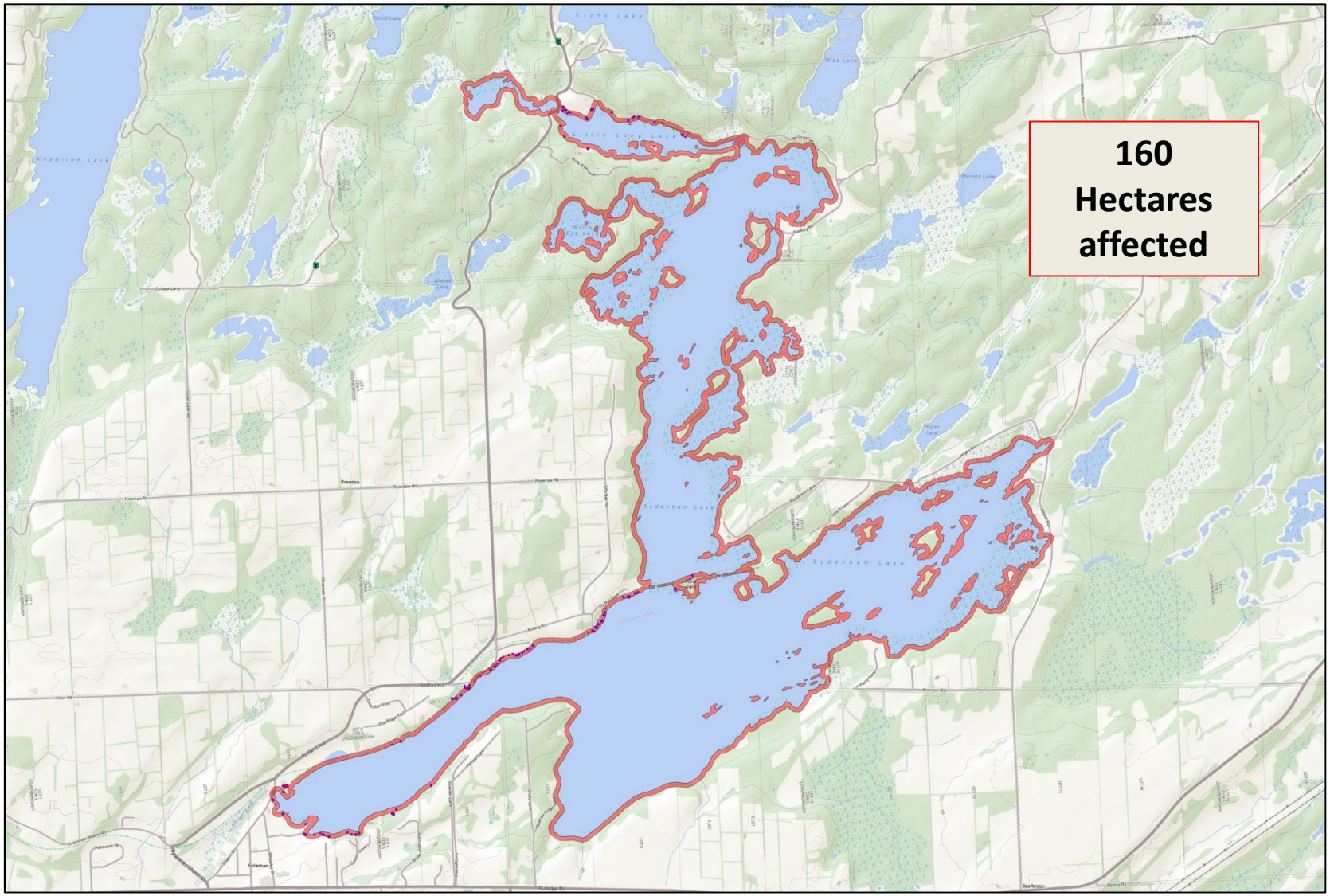
38 Structures within 1.5 km stretch

Sydenham Village

Structures affected in Village



Sydenham Lake Water Basin



Legal Aspects

- Common Law rights of property owner subjugated without consultation and without demonstrable need.

- Unreasonable taking of land, through Bylaw amendment, circumventing regular Real property instruments such as an Order in Council.

- General principal of Municipality being libel for reduction in land value due to conservation amendments to official plan upheld by OMB:

Injurious affection

Claim for reduction in market value -- Development lots - Expropriation of adjacent lands to create a natural area - Reduction in value based on proximity to natural area, conservation amendments to official plan, development inefficiencies and market perception of risk - Claims of 20% and 50% reduction allowed.
Paciorka Leaseholds Ltd. v. Windsor (City) ..... .
. . . . 99 L.c.R. 269 (O.M.B.)

Injurious affection

Claim for reduction in market value -- Development lots - Expropriation of adjacent lands to create a natural area - Reduction in value based on proximity to natural area, conservation amendments to official plan, development inefficiencies and market perception of risk - Claims of 20% and 50% reduction allowed.

Paciorka Leaseholds Ltd. v. Windsor (City) ..... .
. . . . 99 L.c.R. 269 (O.M.B.)

Cost

Real costs;

- Cost of variance
- Cost of legal representation
- Survey
- Reconstruction, including relocation of septic and well.

Value, investment, retirement plans, savings lost

- Loss of home, if no room to rebuild.
- Loss of property value.
- Financial hardship
- Retirement plans jeopardized.

Intent of Amendment

- Intent unclear; why are seasonal residents specifically identified by South Frontenac?

Invitation to Comment

"These two changes relate to rebuilding cottages within the normally required 30 metre setback from water bodies."

- Enacting broad reaching legislation in order to address very limited circumstances such as derelict structures is fundamentally democratically wrong.

- Reasonably the legislation should be structured with a mechanism to remedy the few intended non-compliance situation, without imposing a significant change in property rights, instantly stripping the vast majority of reasonable owners of fundamental property rights and forcing them to fight for previously guaranteed rights.

Environmental Intent

- Many of examples of achieving equivalent environmental aims of buffer zone in existing structures:
  - Environmental compensation
  - Best Practices
  - Zero impact structures

Illustration of Impact

Personal situation and possible scenarios:

- Loss of residence would result in unplanned financial strain

- Severance of property may be necessary; resulting in construction and greater environmental impact. Even given the 30 m setback, new houses would exist in place of natural habitat, and have associated environmental ramifications such as septic, and increased runoff.

- Natural shoreline, will be supplanted by residential activity and landscaping.

- Construction of new house, outside of 30 m, but having larger environmental impact.

Primary Concern

Loss of inherent property rights, with detrimental consequences and permanent ramifications.

Invitation to Comment

"These two changes relate to rebuilding cottages within the normally required 30 metre setback from water bodies. One change would clarify that, when buildings are removed by the owner to rebuild, they must rebuild according to the setbacks now in place. The other change would require a minor variance application to rebuild where a building within this 30 metres setback is destroyed by fire or tempest."

Currently with 5.11, responsibility lies with property owners to adhere to the set and defined structure of the building code enforced through the Chief Building Official. This "housekeeping" item irrevocability shifts that responsibility to the subjective realm of Committee of Adjustment. This is a proposed situation where the care and stewardship of the land has been taken from the owners of the land and given over to a changing committee not holding the equivalent emotional affinity to the land.

Best solution

Leave 5.11 intact, or have equivalent wording which respects the rights of the numerous reasonable land stewards and leaves the jurisdiction of this issue under the aegis of the building code.

Angela Maddocks

From: Beverley Mahon <mahonwiley@gmail.com>
Sent: April-21-16 7:44 AM
To: Angela Maddocks
Subject: April 26, 2016 Planning meeting - South Frontenac

Angela,
Thank you for adding my name to the delegates wishing to speak at the upcoming planning meeting.
My Sister and I jointly own Partridge Island, Con 4, Pt Lot 23 Roll # 020-020-40800-0000 - Bobs Lake.
My home is 1002 Creek Lane, RR 1 Verona Ontario.

The presentation will take less than the 10 minutes allocated. Areas covered will be:
1] Review of the history of Partridge Island,
2] Impact of the changes proposed in the Comprehensive Zoning bylaw -s.5.10.2 for the property
3] Concern regarding the removal of s.5.11 in the Comprehensive Zoning bylaw.
Thank you, again for your help.
Regards,
Beverley Mahon
(613) 374-1541

Angela Maddocks

From: Don Stricelj <don@ryanmedical.com>
Sent: April-20-16 2:09 PM
To: Angela Maddocks
Subject: FW: Housekeeping by-law ammendment - request to speak as a delegate in front of the committee of the whole April 26th
Attachments: Bylaws delegate request April 26th, 2016 - Don Stricelj.docx

Hello Angela, amaddocks@southfrontenac.net

Housekeeping by-law amendment - request to speak as a delegate in front of the committee of the whole.

I wish to express my views on the proposed housekeeping zoning-by-law amendments on April 26th, 2016 to the committee of the whole:

- Changes are not minor in nature – infringement of property rights. It imposes restrictions to land use and development.
- Negative property value Impact to property owners if grandfathered structures inside of 30M are not allowed. This means boathouses, cottages, workshops, sheds, decks, garages…any structure. This will increase costs to owners to fight to re-instate rights from the OMB or provincial courts and taxpayers to fight the mounting legal challenges that the Township of South Frontenac will face. Already, we know of 2 such legal challenges and others are being prepared.
- It has not been an open and transparent process. In fact, it has been disguised as a housekeeping amendment of text changes, not as what it really is, a major change in how grandfathered, existing structures are managed.
- Notification was only published in local papers. For such an important issue notification could have been sent out with the taxes. It was not posted on the website landing page. It was buried in the meeting notes. The housekeeping document refers that debate and discussion would take place in January. Nice timing to exclude all seasonal residents away during the winter months. Additionally, the meeting March 15 when it was tabled occurred during, spring break. Many families were away.
- No mandate for council to act was created by the taxpayers/voters to make changes to the section of the official plan proposed to be eliminated. Initiated without public debate on the issue.
- Housekeeping amendment is driven by one individual in the Planning department/Building department not in agreement that no reconstruction on same footprint be allowed.
- Proposed plan to hire director to coordinate planning and building illustrates that there is a need to have a unified fair process with the taxpayers
- Suggest that recommendations by planning department to the committee of adjustments (coa) and the committee of the whole (cotw) with any application, minor variance, or Zoning by law, need to be on public record. Also, that the information must be to be validated with the applicant prior to, or at the time the meeting where the application is being voted on. An applicant has no idea if the information delivered to the committee(s) by the planning department has been presented truthfully and accurately.
- If having a cottage/boathouse/other structure inside the 30M zone is more hazardous to the lakes than outside of 30M, where are the scientific studies? Wouldn't it make sense that if there was a question of sensitivity to a structure in this zone that an environmental assessment could capture it and recommend modern technologies and building designs to completely mitigate that impact rather than not permit reconstruction at all.
- The impact from upstream pollution from commercial businesses operating within 30M zones, agricultural lands draining fertilizers, cattle operations not containing run off from the pastures into the lake and allowing cattle access to lakes would impact the lakes more than thousands of cottagers enjoying their time in the country in

structures in the same zone, but using modern tertiary septic (potable water flows from them) and modern water diversion technologies to protect water and land quality.

- There are many lots that do not accommodate a structure being moved back to 30M, shape and size of the property, terrain, road setbacks (10M), therefore the only logical place to reconstruct is on the same footprint.
- I would recommend to council to defer the issue until all of the cottage associations and citizens groups, public have an opportunity to organize, meet and offer feedback to the council.
- In summary, simply this housekeeping zoning by-law amendment and does not represent what voters/residents want and does nothing to protect our lakes only adds a complexity and additional cost to owning a cottage property and the assurance that taxes will skyrocket to pay for litigation.

Sincerely,

Don Stricelj
1610 Don Moore Lane RR#3,
Seeley's Bay, ON
KOH 2NO

Timothy N. Ross
1026 Anker Lane, RR#1
Sydenham, Ontario
K0H 2T0

April 20 2016

By Email to: worr@southfrontenac.net
amaddocks@southfrontenac.net

Township of South Frontenac
4432 George Street, Box 100
Sydenham, Ontario
K0H 2T0

Attention: Wayne Orr
Chief Administrative Officer

Angela Maddocks
Executive Assistant

Dear Sir, Madame,

I am writing to you because I wish to appear before Council at the meeting to be held next Tuesday April 26 2016 for the purpose of considering proposed changes to the Comprehensive Zoning By-law.

I propose to make submissions as the representative of a group of property owners and neighbors on the north side of Sydenham Lake. All of the properties have legal non-conforming use attributes, including buildings within the 30 m waterfront set back area. As such, the matters before Council at that meeting have a direct impact on these properties and their owners.

I am a lawyer and a member of the Law Society of Upper Canada. I am not, however, acting for or representing anyone as their lawyer. My submissions are made as an affected property owner and as a member of the community.

In summary, I wish to present the following concerns for the consideration of Council.

1. The proposed changes to s. 5.10 and s. 5.11 are well-intentioned but also encroach too far into the property rights of individual landowners.

2. The changes may well have impacts which are the opposite of those intended. Specifically, the changes support and encourage the gradual dilapidation of existing buildings, with the result that environmental damage would occur as paint chips fall off and buildings fall to the ground, and into our waterways.

3. The proposed by-laws would not be enforceable. They contravene s. 34 (9) of the Ontario Planning Act, as well as established case law on the topic. As a result, challenges to the proposed by-laws would have to be expected. And the Township would be expected to lose those challenges. All of this would inevitably result in significant (and in my view, wasted) costs to both the affected landowner and the Township. This should be avoided. It would also result, inevitably, in the need for further and correcting amendments to the same by-law provisions – all of which would take time and resources.

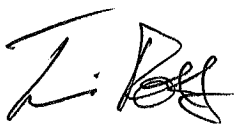
4. We wish to review a copy of a legal opinion which we understand has been / is being prepared by a law firm at the request of Council. I would be grateful if you could provide me with a copy of the legal opinion, if it is already available.

   Depending on what the legal opinion says, I may wish to make submissions in respect of its analysis or conclusions.

   In the meantime I wish to emphasize that there are, in many situations, different opinions on the same legal questions.

5. Finally, I would seek clarity from Council on whether there is any need to change the definition of "Top of Bank". The January 18, 2016 Planning Report describes this change as being important to certain residents of Bob's Lake. The same report goes on to say, however, that a special provision will be adopted for the Bob's Lake residents. If a special provision is adopted to cover the Bob's Lake situation, then why would it be necessary to change the definition of "Top of Bank"? My concern is that the proposed change would have the effect - whether intended or not – of allowing a great number of new buildings to be constructed, and other uses to occur, much closer to our waterways than presently permitted.

Yours sincerely,



Timothy N. Ross

Request to submit comments and appear as a Delegate at either April 26 or May 10, 2016 Committee of the Whole on proposed amendments to sections 5.10.2 and 5.11 of the Comprehensive Zoning By-law

April 21, 2016

To: Members of the Committee of the Whole and Council,

Finally, an opportunity for property owners to speak and learn more about these proposed amendments. I look forward to further information on the Township website of an expanded planning rationale for these bylaw changes as well as a legal opinion.

As Council Members, you know that there are more than 75 lakes in South Frontenac (SF) and many property owners like myself have "legal non-complying structures" within the 30 m setback and are "grandfathered structures". Thus there are many seasonal and permanent residents who are affected by this proposed by-law. I am confused, disturbed and questioning what has generated the need for this proposed amendment which has the intent to remove longstanding historical rights to rebuild on the existing footprint.

It appears that **s. 5.10.2** with the additions will eliminate "grandfathered rights". The additional clause that "Reconstruction of the building is prohibited" with the further interpretation that "once the walls … have been removed, the land is deemed to be vacant and the structure may not be reconstructed within the 30 m setback"
This proposed amendment is too rigid and excessive. We are using, maintaining and updating our buildings consistent with the current by-law. As responsible property owners, we are making environmental and renewable changes to these structures with steel roofing, mason and brick maintenance , septic and water run-off updating and other measures to protect the lakes.

Delete **s. 5.11** which permits any grandfathered structures to be re-built in the event of partial or complete destruction caused by fire, fallen tree, explosion or act of God in the same location as long as it keeps the same footprint. The proposed deletion eliminates the automatic right of rebuild. Instead property owners will have to apply before the Committee of Adjustment (CoA) and seek an approval to rebuild. This takes time and money for the application and the right to rebuild is not automatic and may be denied. The CoA may recommend moving the building to another location with greater costs to the property owner as the original site has foundation, plumbing, septic, geothermal system and the alternate site has none of these costly requirements. With limited property size and geography, the proposed site may be unattractive and unworkable with loss of enjoyment to the owner in addition to the increased costs of relocation.

As stated, I remain confused and disturbed by the proposed by-laws:
Why is SF proceeding to eliminate grandfathered rights of property owners in apparent violation of the Ontario Planning Act? Why is a Township legal opinion only now being sought?
Why have the many seasonal and permanent property owners not been notified of these proposed by-laws and afforded an opportunity for input.
What is the required Notice for proposed by-laws? It remains confusing as recent SF news items refer to "rebuilding of cottages within the 30 m setback" rather than the clearer reference to buildings and not just cottages.

Request

1. More time for notice, information and input from property owners, particularly seasonal owners.

2. Retain existing bylaws to maintain and recognize legal rights of grandfathered property owners who use and maintain their buildings. If the issue is derelict and unmaintained buildings and grandfathered rights, then rewrite the bylaws with this direction

Lastly, with these proposed by-laws, the Township can't penalize property owners who acted in good faith at the time of purchase of their properties – many years and decades ago.

Thank you

Carol Sparling
Sydenham Lake property Owner of a legal non-complying building for past 16 years.

613 376-3354
csparls57@gmail.com

Todd Colbourne
1960 Morrison Road
Perth Road, Ontario

April 26, 2016

Att: Angela Maddocks, executive Assistant
South Frontenac Township
4432 George Street
Sydenham, Ontario K0H 2T0

Re: Request to Appear as A Delegation
Committee of The Whole on April 26, 2016

Please be advised that I request to appear as a delegation at the April 26th Committee of The Whole meeting in regard to the proposed amendments to 5.10.2 and 5.11 of the Comprehensive Zoning By-Law.

I own a waterfront home on the south-east end of Sydenham Lake, and it includes a boathouse that was legally erected under a permit and complied to the zoning by-law at the time.

The Township has advised that they intend to introduce a "housekeeping" by-law to pass amendments to the Comprehensive Zoning By-law to "correct errors and omissions". However, the proposed changes to Sections 5.10.2 and 5.11 are not minor corrections, but rather an attempt to restrict the enacted rights of property owners. The proposed changes would not be legal, and would seriously impact the rights and property values of land owners in this municipality.

As an architect, I recognize the importance of preserving and protecting our environment. However, the rights of property owners must also be weighed in any planning decisions.

I deal with municipal, provincial, and federal regulations on a daily basis, especially zoning by-laws, the Ontario Building Code, and the Planning Act. A simple rule of law that the municipality seems to be trying to subvert is that a lower level of government cannot pass a law that overrides or alters a law by a higher level of government. OMB case law has held that municipalities may not restrict or eliminate a property owner's non-conforming or non-complying rights beyond the narrow constraints permitted by the Planning Act.

The planning Act is very clear on this subject. Section 34.(9)(a) of The Planning Act says:

> "34. (9) No by-law passed under this section applies, (a) to prevent the use of any land, building or structure for any purpose prohibited by the by-law if such land, building or structure was lawfully used for such purpose on the day of the passing of the by-law, so long as it continues to be used for that purpose."

Case law has stricken out attempts by municipalities to contravene and ignore this right of property owners as set out in the Planning Act. For example, the City of Ottawa attempted to define a property owner's non-conforming rights in a manner that was far less impactful than what South Frontenac is proposing (in fact, I find Ottawa's proposal reasonable) however even that bylaw was struck down. I

understand that the Township is seeking legal advice on this matter, and I am curious to see what that advise will be and if the advisor has a clear understanding of the Planning Act and applicable Case Law.

The existing wording of 5.10.2 and 5.11 already infringes on the rights as set in the Planning Act. The proposed amendments would further restrict this right of law, and would no doubt be deemed void by the OMB or by a court. A better approach would be to repeat the wording from 34.(9)(a) of the Planning Act or to simply reference it.

As a member of the Sydenham Lake Association, I am in full agreement with preserving and enhancing our waterfront, both for the enjoyment of adjacent landowners and visitors, and also to preserve and enhance our natural environment. A much more effective way to do this would be to further restrict and control run-off from adjacent and nearby farmland (as that is the by far the most significant contribution to water degradation on the lake), to enhance rules governing landscaping within the 30 m setback, and requiring use of environmentally appropriate materials in the renovation of any structure within the setback.

I trust that the municipality will realize that these proposed amendments will unlawfully attempt to diminish the established rights of property owners in this municipality, and will not proceed with these by-law amendments, but rather seek meaningful discussion with residents on ways to enhance our community without negatively impacting its residents.

Sincerely,

Todd Colbourne

SCOUTS CANADA

It starts with Scouts.

Tout commence
avec les Scouts.

ATTACHMENT #1

March 29, 2016

Lindsay Mills
Planner/Deputy Clerk
Township of South Frontenac
4432 George St., Box 100
Sydenham, ON K0H 2T0

Re: Camp Otter Lake Road Closure

Dear Mr. Mills:

We are writing to request the closure of an unopened road allowance that exists on the Otter Lake Scout Camp property located at 6605 Salmon Lake Road. This road allowance runs from our boundary with Frontenac Provincial Park and ends at a cliff that overlooks North Otter Lake.

The road allowance first came to our attention when we met with the Township's Chief Building Official to discuss the construction of a new four-season facility. A portion of the preferred location for this building is on the road allowance.

Camp Otter Lake was established in 1962. Its primary use is a camp for members of Scouts Canada, including youth from ages 5 to 26. In addition to an annual use by over 1,600 Scouting youth, the camp has been utilized by other youth-minded organizations. This has included the Limestone District School Board, the Boys and Girls Club of Kingston, the Navy League, and the Queen's University outdoor education program and Camp Outlook.

It is our intention to more fully develop this camp property and to build a four-season facility that would allow us to offer winter programming for the youth in our area. This vision includes a bunkhouse and in the near future a four-season kitchen and dining hall.

Our request is that South Frontenac Township takes the steps necessary to close the unopened road allowance and transfer the property to the camp. We are prepared to pay the costs associated with this process.

Should you wish to discuss this request further or require any further information, please contact the Camp Otter Lake Property Manager, Dr. William Racz. Bill can be contacted at 613-389-0694 or raczw@queensu.ca.

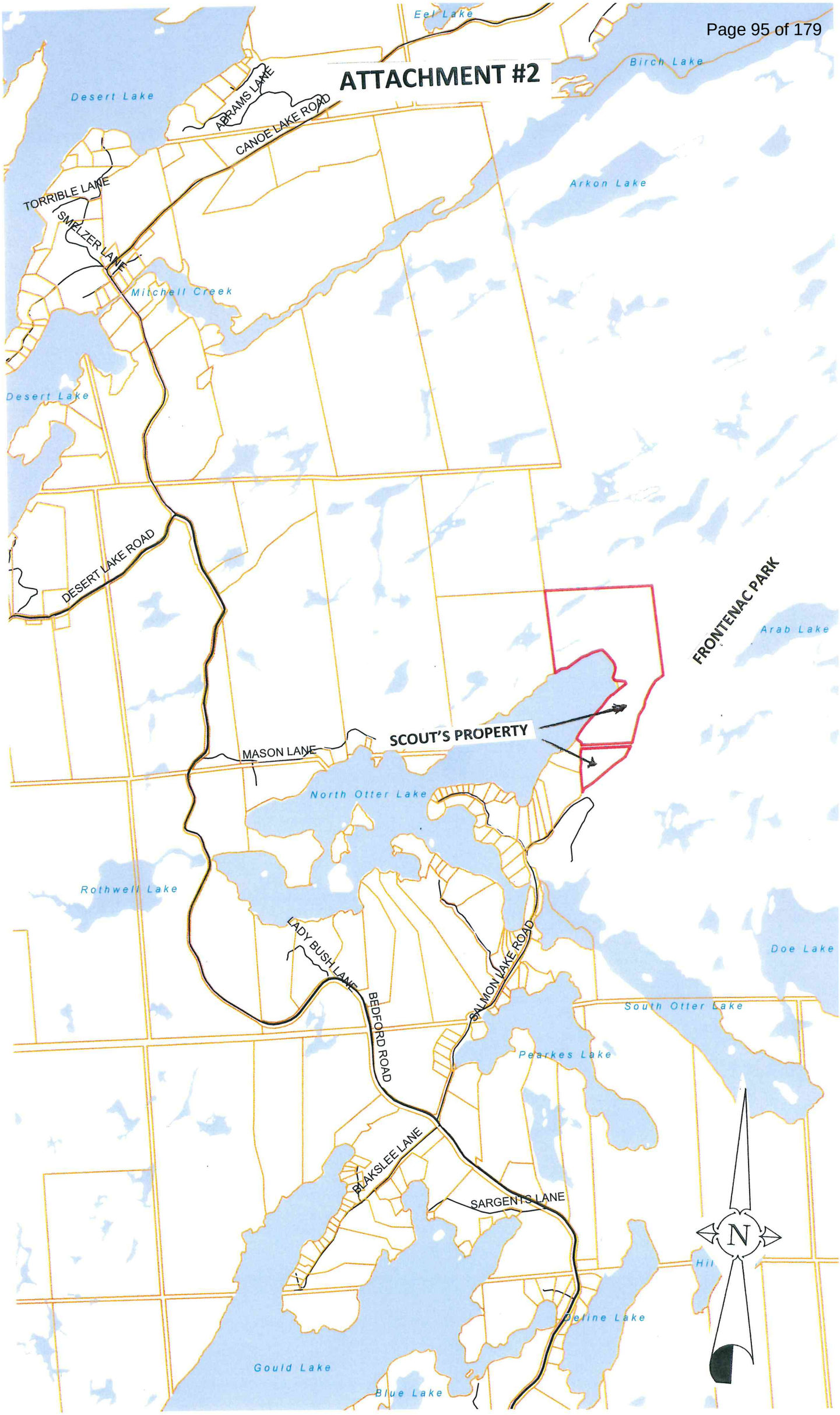
Please advise of any further information or processes that are required to accomplish this request. Thank you for your consideration of this matter.

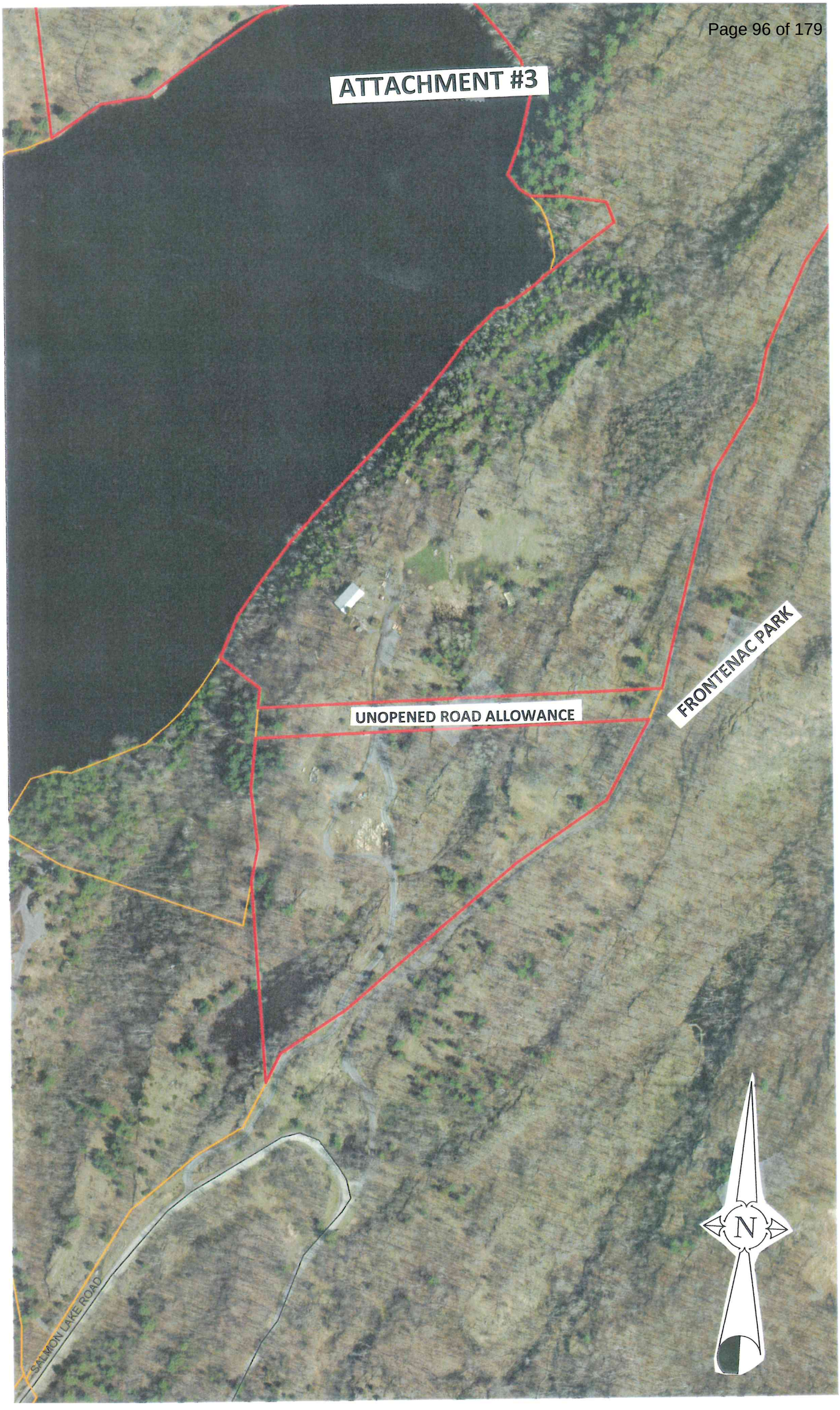
Yours truly,

David Wands
President & Director

L. Brian Moore
Executive Secretary

Copy:
William Racz, Property Manager
Elizabeth Barrow, Operations Manager-Properties & Facilities


ATTACHMENT #2
Eel Lake
Birch Lake
Desert Lake
ABRAMS LANE
CANOE LAKE ROAD
TORRIBLE LANE
SMELZER LANE
Arkon Lake
Mitchell Creek
Desert Lake
DESERT LAKE ROAD
FRONTENAC PARK
Arab Lake
SCOUT'S PROPERTY
MASON LANE
North Otter Lake
Rothwell Lake
LADY BUSH LANE
BEDFORD ROAD
SALMON LAKE ROAD
Doe Lake
South Otter Lake
Pearkes Lake
BLAKSLEE LANE
SARGENTS LANE
N
Hil
Deline Lake
Gould Lake
Blue Lake


ATTACHMENT #3
UNOPENED ROAD ALLOWANCE
FRONTENAC PARK
SALMON LAKE ROAD
N

PLANNING REPORT

Township of South Frontenac **Planning Department**
Prepared for Committee of the Whole

Agenda Date: April 26, 2016 **File: RC-16/03**

Date of Report: April 20, 2016

Subject: Closing of Road Allowance in, Part of Lot 10, Between Concessions XII and XIII, Loughborough District, Township of South Frontenac: Scouts Canada

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Summary of Recommendation:
The recommendation is that the Committee receive the Planning Report dated April 20, 2016 and consider the closing and transferring ownership of a portion of unopened road allowance in the District of Loughborough.

Purpose of Report:
The purpose of this report is to provide the background information necessary to enable Council to provide direction to staff regarding the closing of an untravelled Township road.

Background & Discussion:
Scouts Canada is requesting to know whether Council would agree to the closure and sale of a portion of unopened road allowance that runs east and west through their land near Frontenac Park. Their letter dated March 29, 2016, explains that it is their intention to more fully develop the camp property and to build a four-season facility that would allow Scouts Canada to offer winter programming for youth. The vision includes a bunkhouse and in the near future a four season kitchen and dining hall. However, one of the proposed structures would be located on the Township-owned road allowance. Attachment #1 is a copy of the letter and Attachment #2 shows the location of the Scouts' property. Attachment #3 shows the portion of unopened road allowance requested to be closed.

The subject portion of road allowance is approximately 270 metres (885 ft.) long and is 5,8410 square feet in size. The land is mostly scrub brush land with some mature forest cover and it is relatively flat. At its westernmost point the road allowance appears to have led to the shore of North Otter Lake at some point but approximately 60 metres of the road allowance at the shore has already been closed. The east extent of the road allowance ends at the boundary of Frontenac Park and does not continue any further. Ultimately, it does not seem reasonable that this portion of road allowance would ever be required by the Township for use as a public road.

Direction Requested:
Staff is seeking direction as to whether Council has any objections to the closure and transfer of this unused portion of road allowance. Council policy related to the sale of closed Township roads would result in a total price of approximately $26, 800.00.

Submitted/approved by: **Lindsay Mills** Prepared by: **Lindsay Mills,** attachments

RoadClosureReportScoutsCanadal

The Premier of Ontario

Legislative Building, Queen's Park
Toronto, Ontario M7A 1A1

Ontario

La première ministre de l'Ontario

Édifice de l'Assemblée législative, Queen's Park
Toronto (Ontario) M7A 1A1

April 8, 2016

His Worship Ron Vandewal
Mayor
Township of South Frontenac
4432 George Street
PO Box 100
Sydenham, Ontario
K0H 2T0

Dear Mayor Vandewal:

Thank you for taking the time to send your letter on behalf of council regarding solar energy projects in your community. I appreciate hearing from you.

Building clean, reliable and affordable energy in a way that respects communities is a top priority for our government. We will ensure that future long-term energy plans are cost effective, reliable and clean, while engaging a community and putting conservation first.

As the issues you raised fall within the area of responsibility of my colleague the Honourable Bob Chiarelli, Minister of Energy, I have forwarded a copy of your correspondence to him and have asked that he, or a member of his ministry staff, provide you with a response.

Once again, thank you for writing. Please accept my best wishes.

Sincerely,

Kathleen Wynne
Premier

c: The Honourable Bob Chiarelli

Ontario
LEGISLATIVE
ASSEMBLY

Laurie Scott, MPP
Haliburton-Kawartha Lakes-Brock

Queen's Park Office:
Rm. 434, Main Legislative Bldg.
Queen's Park
Toronto, Ontario M7A 1A8
Tel. (416) 325-2771
Fax (416) 325-2904
E-mail: laurie.scott@pc.ola.org

Constituency Office:
14 Lindsay St., North
Lindsay, Ontario K9V 1T4
Tel. (705) 324-6654
1-800-424-2490
Fax (705) 324-6938
E-mail: laurie.scottco@pc.ola.org

April 7, 2016

Mayor Ron Vandewal
Township of South Frontenac
4432 George St., Box 100
Sydenham, ON K0H 2T0

Dear Mayor Vandewal,

I write to you today to ask you to support my efforts as MPP and PC Critic for Women's Issues, to call on the provincial government to take immediate steps to combat human trafficking in Ontario and to raise public awareness of this horrid crime.

Human trafficking is a heinous crime that has been referred to as nothing short of modern day slavery. It is one of the fastest growing crimes, and starts and stays in Canada – over 90 percent of victims are Canadian-born. Worse, Ontario is a major hub for human trafficking in Canada, as the proximity to cities along the Highway 401 corridor provides an accessible thoroughfare for traffickers, and the ability to keep victims isolated. Victims are lured over the internet, meaning that this crime is in our neighbourhoods, our communities and our towns.

Victims – predominantly girls averaging the age of 14, and shockingly as young as 11 – are lured into a nightmare that they can almost never escape on their own. Traffickers recruit, transport, harbour and control the girl next door for sexual exploitation or forced labour.

On February 18, 2016, the Legislative Assembly of Ontario unanimously supported Bill 158 on Second Reading, which aims to take immediate steps against human trafficking in Ontario.

The bill provides as follows:

- Declare February 22nd as Human Trafficking Awareness Day in Ontario;
- Allow for an application to be brought by a parent of a trafficking victim under the age of 18, a trafficking victim aged 18 or over or an authorized agent such as Covenant House to obtain a protection order from a judge to prohibit the trafficker from contacting or approaching the victim. Such an order would remain in place for a minimum of three years;

- Create a tort or civil action of human trafficking, allowing victims to sue their traffickers for damages and an accounting of profits; and
- Amend the definition of "sex offender" under *Christopher's Law (Sex Offender Registry), 2000* to include criminal offences for trafficking of victims under the age of 18 years.

In May of last year, I also received unanimous support for a motion asking the Government of Ontario to immediately create a provincial task force to combat human trafficking in Ontario.

The task force would have a similar structure and funding model to the Guns and Gangs Task Force. A multi-jurisdictional task force made up of specially-trained police officers, Crown prosecutors, judges, and frontline workers would coordinate information sharing, and collaboratively work to apprehend criminals and rescue victims. Training and education would also have to be specialized not only for law enforcement and the justice system, but for victims' services, health care workers, schools and businesses.

The task force was endorsed by the Select Committee on Sexual Violence and Harassment, which I had the honour of co-chairing.

The two recommendations are as follows:

> 57. The Ontario government provide resources for the development of a coordinated approach to help victims of human trafficking, allowing providers of support services and the criminal justice system to share information and work collaboratively.
>
> 58. The Ontario government develop a multi-ministerial, province-wide strategy on human trafficking.

Ontario is far behind other provinces when it comes to combatting human trafficking and taking significant action. For instance, in Manitoba, they have enacted legislation as far back as 2012, which has seen multiple victims rescued and traffickers put behind bars for breaching protection orders.

I ask that you and your council members consider putting forward a resolution to support the following attached draft resolution.

I look forward to your support.

Sincerely,

Laurie Scott

Laurie Scott, MPP
Haliburton-Kawartha Lakes-Brock

Municipal Resolution on Anti-Human Trafficking Task Force and Bill 158, *Saving the Girl Next Door Act, 2016*

WHEREAS human trafficking is a heinous crime that has been referred to as modern day slavery; and

WHEREAS traffickers recruit, transport, harbour and control the girl next door for sexual exploitation or forced labour; and

WHEREAS it is one of the fastest growing crimes that starts and stays in Canada, targeting victims – 90 percent of which are Canadian-born and predominantly female, averaging the age of 14; and

WHEREAS Ontario is a major hub of human trafficking in Canada, and victims are lured, manipulated and coerced, often over the internet from every part of Ontario; and

WHEREAS human trafficking is in our neighbourhoods and our communities;

THEREFORE BE IT resolved that the Council of (name of municipality) support Bill 158, *Saving the Girl Next Door Act, 2016*, support MPP Laurie Scott's motion for a multi-jurisdictional and coordinated task force of law enforcement agencies, Crown prosecutors, judges, victims' services and frontline agencies; and

That a copy of this resolution be forwarded to all Members of Provincial Parliament and municipalities.

Township of North Frontenac
6648 Road 506
P.O. Box 97, Plevna, Ontario K0H 2M0
Tel: (613) 479-2231 or 1-800-234-3953, Fax: (613) 479-2352
www.northfrontenac.ca

April 13, 2016

All Municipalities
Via Email

Attention: All Municipalities within Ontario

Dear Clerks:

Re: Independent Electrical System Operator Review of Request for Proposal Process for the Award of Renewable Energy Contracts

Please be advised the Council of the Corporation of the Township of North Frontenac passed the following Resolution at the March 18, 2016 Council Meeting:
Moved by Councillor Good, Seconded by Councillor Inglis #155-16
WHEREAS the Independent Electrical System Operator has requested input on the RFP process used to award renewable energy contracts;

AND WHEREAS the government indicated that new contracts would be directed to willing host communities with the Minister of Energy indicating on March 7 that it would be 'almost impossible' for a contract to be granted under the current process without municipal agreement;

AND WHEREAS three of the five contracts announced on March 10 2016 did not have municipal support for the project;

AND WHEREAS the current process does not meet the government's standards for openness and transparency because municipal Councils are asked to support power projects based on little or no detail and further, the recipient municipalities are unable to determine the basis on which individual contracts were awarded;

AND WHEREAS the province has not demonstrated that renewable energy projects are of sufficient strategic importance in meeting Ontario's electricity generation requirements and/or carbon emission reduction targets to warrant the province taking action to override municipal decisions;

THEREFORE BE IT RESOLVED THAT the Council of the Township of North Frontenac requests:

1. That the Municipal Support Resolution become a mandatory requirement in the IESO process;
2. That the rules be amended to require that the resolution related to this support must be considered in an open Council meeting held after the community engagement meeting organized by the proponent;
3. That full details of the project, including siting of project elements and site consideration reports, are required to be made available at the community engagement meeting and to the Council before the resolution is considered;
4. That the terms of any municipal agreement related to the project also need be discussed In open Council and that such agreements cannot contain terms that limit the municipality's ability to exercise Municipal Act powers relative to the project;
5. That the process includes the requirement for the municipality to provide comments on the project directly to the IESO;
6. That any points for Aboriginal participation in a given power project be limited to the First Nation who has a comprehensive claim on the land where the project will be built;
7. That any announcement of the successful bidders includes an explanation of the points awarded to each bid.

AND THAT this Resolution be provided to the President of IESO; Minister of Energy; All Municipalities within the Province; Randy Hillier, MPP; and AMO.

AND THAT the Mayor is authorized to do a press release.
Carried

Please provide the Resolution to your Council for consideration of the request for support.

If you have any questions or concerns, please do not hesitate to contact me.

Yours truly,

Tara Mieske

Tara Mieske
Clerk/Planning Manager
TM/bh

From: Minister of Labour (MOL) [mailto:MinisterofLabour@ontario.ca]
Sent: April-19-16 12:23 PM
To: Minister of Labour (MOL) <MinisterofLabour@ontario.ca>
Subject: Letter from the Minister of Labour / Lettre du ministre du Travail

Message from the Minister of Labour

I am proud to write today to inform your municipality that Bill 163, the *Supporting Ontario's First Responders Act, 2016,* has passed third reading and received Royal Assent on April 6, 2016. Municipalities across Ontario play a vital role in the delivery of emergency services. Consequently, it is important that municipalities are aware of this critical legislation to support Ontario's first responders.

Over the last decade there has been an increased awareness of the effects of post-traumatic stress disorder (PTSD). We know PTSD can be serious and debilitating, and that first responders are at least twice as likely as the general population to suffer from PTSD.

The Premier asked me to bring forward a plan that addressed prevention of and resiliency to PTSD, and she also asked that we create legislation that makes PTSD a workplace presumption for first responders. First responders put their lives at risk each and every day to keep all of us safe, and it's important we provide our first responders the same unconditional support they provide to us when we need them.

That's why I committed Ontario to becoming a leader in dealing with first-responder PTSD, and we know the solution lies with a comprehensive approach that includes both preventative and legislative measures. The *Supporting Ontario's First Responders Act, 2016* is a key component of that comprehensive strategy. It will provide a presumption that PTSD diagnosed in first responders is work-related, allowing for faster access to WSIB benefits, resources and the timely treatment needed to heal and return to work safely.

The specific groups covered under the PTSD presumption include:

- Police, including First Nations constables, and chiefs of police
- Firefighters (including part-time and volunteer firefighters), including those who are employed or who volunteer to provide fire protection services on a reserve, fire investigators, and fire chiefs
- Paramedics and emergency medical attendants, and ambulance service managers
- Workers involved in dispatching emergency services, including workers who play a role in the chain of communications which lead up to the dispatch for ambulance services, firefighters and police
- Correctional officers/youth services workers (including managers) and workers who provide direct health care services in adult institutional corrections and secure youth justice facilities
- Members of emergency response teams dispatched by a communications officer.

The *Supporting Ontario's First Responders Act, 2016* also amends the *Ministry of Labour Act* to allow the Minister of Labour to collect information about an employer's plans to prevent PTSD and authorizes the Minister to publish those plans. Collecting this information is intended to encourage the development of prevention plans and assess progress in the prevention of PTSD in these workplaces. It will also serve to highlight gaps and inform future prevention initiatives.

I will formally direct certain employers to provide me with information on their workplace post-traumatic stress disorder prevention plans by April 23, 2017. This direction will be published in the *Ontario Gazette*, Volume 149, Issue 17, which will be available at www.ontario.ca/search/ontario-gazette. Additional information can also be found on the Ministry of Labour website at www.labour.gov.on.ca/english/hs/ptsd.php.

As your municipality is an employer or is responsible for employers of workers covered under the PTSD presumption, I am advising you of this direction and look forward to receiving information in a timely manner. You are able to determine an approach that reflects your local context, taking into consideration the ways that first responder services are delivered and

supported locally. I would request that you forward this correspondence to any administrations that fall within your purview, so they are aware of the direction to submit information and are engaged in the process as appropriate.

Information about prevention plans should be submitted in electronic Word format to ptsdprevention@ontario.ca. When submission by this method is not possible, information can be mailed to the Ontario Ministry of Labour, Att: PTSD Prevention Plan, 400 University Avenue, 14th Floor, Toronto, ON, M7A 1T7. Resources to assist in the development of a prevention plan are available online as part of a free online toolkit (see the link below). Should you have any questions, please contact ministry staff at 416-325-4575.

These legislative amendments build on our previously announced PTSD prevention strategy, which includes:

- The creation of a radio and digital campaign aimed at increasing awareness about PTSD among first responders, their families and communities and eliminating the stigma that too often prevents those in need from seeking help
- An annual leadership summit to be hosted by the Minister of Labour to highlight best practices, recognize leaders, and monitor progress in preventing and addressing PTSD
- A free online toolkit at www.firstrespondersfirst.ca with resources on PTSD tailored to meet the needs of employers and each of the first responder sectors
- Grants for research that supports the prevention of PTSD.

We started on the prevention initiatives in March 2016 with the launch of the public radio and digital awareness campaign, as well as the free online toolkit.

Through the alignment of research, prevention and treatment efforts, Ontario will create a solid and coordinated set of resources to provide the support needed by the brave men and women who put their lives on the line in our time of greatest need. This is the beginning of a new way forward in preventing PTSD and providing support for our first responder community in Ontario. With your help, our government has put in place a strategy that will help protect our dedicated first responders who put themselves in harm's way to ensure our safety.

These changes will positively impact many lives across the province, and will provide our 73,000 first responders and their families some peace of mind.

Please accept my thanks for your support.

Sincerely,

[Original signed by]

Kevin Flynn
Minister of Labour

To South Frontenac Township

I would like to express my concerns to the proposed amendments to the Township of South Frontenac Comprehensive Zoning by-law: section 5.10.2 and section 5.11.

I have reviewed the non-conforming and non-complying uses with regards to existing properties with structures within the 30 metre setbacks of Central Frontenac, North Frontenac, Frontenac Islands and the existing South Frontenac zoning by-law.

Central Frontenac has the most up to date comprehensive zoning by-laws which was adopted by council in 2011. Below is the excerpt from their zoning by-laws.

4.26 Non-Conforming and Non-Complying Uses

(a) Continuance of Existing Uses

Nothing in this By-law shall apply to prevent the ***use*** of any land, ***building*** or ***structure*** for any purpose prohibited by the By-law if such land, building or structure was lawfully used for such purpose on the day of the passing of the By-law so long as it continues to be used for that purpose. The non-conforming use of any land, building or structure shall not be changed or enlarged except to a use which is in conformity with the provisions of the ***zone*** in which the land, building or structure is located, without permission from the Committee of Adjustment pursuant to the *Planning Act*.

(b) Prior Building Permits

Nothing in this By-law shall prevent the erection or ***use*** of any ***building*** or ***structure*** for which a building permit has been issued under the *Building Code Act* prior to the passing of this By-law, so long as the building or structure when ***erected*** is used and continues to be used for the purpose for which it was ***erected*** and provided the permit has not been revoked under the *Building Code Act;*

(c) Road Widening

Nothing in this By-law shall prevent the ***use*** of any land, ***building*** or ***structure*** or the ***erection*** of any building or structure on a ***lot*** which does not comply to the minimum ***lot frontage*** and/or ***lot area*** and/or ***front yard setback*** and in the case of a ***corner lot***, the ***side yard setback***, as a result of a road widening taken by the Township of Central Frontenac or the Ministry of Transportation of Ontario, provided all other requirements of this By-law are complied with;

(d) Reconstruction of Existing Use

(i) Nothing in this By-law shall prevent the reconstruction or strengthening to a safer condition of any ***non-complying building*** or ***structure*** which is destroyed or rendered uninhabitable by fire or other natural cause, provided the ***height*** and ***gross floor area*** are not increased, and the new building or structure is erected or on the same building footprint

(ii) An existing ***non-complying building*** or ***structure*** may be renovated only, provided the renovation does not further reduce any zoning requirements or increase the ***gross floor area***.

(e) Extension or Addition to Existing Biulding or Structure

Nothing in this By-law shall prevent the extension or addition to a ***building***,

structure or individual on-site sanitary ***sewage disposal system*** which is used for a purpose specifically permitted within the ***zone*** in which such building or structure is located and which building or structure existed at the date of passing of this By-law but which ***building*** or ***structure*** does not comply with one or more of the zone requirements of this By-law, provided such extension or addition does not further reduce the requirements of this By-law.

(f) Existing Undersized Lots

Despite anything else contained in this By-law, where a vacant ***lot*** having a lesser ***lot frontage*** and/or ***lot area*** than is required by this By-law is held under distinct and separate ownership from adjoining lots, according to the register for land in the Land Titles, or Registry Office, on the date of the passing of this By-law, it may be used for a purpose permitted in the ***zone*** in which the said lot is located, provided it can be adequately serviced with water and sewage services, has a suitable ***building envelope***, has an absolute minimum lot area of 1,950 m2 [20,990 ft2] and provided that all other applicable provisions in this By-law are complied with.

4.27 Occupancy Restrictions

Human habitation shall not be permitted in any building that does not meet the Ontario Building Code or before an occupancy permit has been issued.

4.28 Outdoor Display and Open Storage

No ***person*** shall ***use*** any ***lot*** or part thereof for ***outdoor display*** or open storage except as permitted by this By-law and in accordance with the following:

(a) Open storage except for the sale of firewood shall not be permitted within any required ***front yard*** and not closer than 5 m [16.4 ft] to any ***side lot line*** or ***rear lot line***;

(b) Where open storage areas abut a ***zone*** in which ***residential uses*** are permitted, the open storage area shall be set back a minimum of 10 m [32.8 ft] from the ***lot line*** of the zone in which the residential uses are permitted, and the open storage area shall be visually screened from said zone;

(c) Any areas used for open storage shall not reduce any minimum off-street ***parking area*** or ***loading areas*** required by this By-law;

(d) An ***outdoor display*** area shall be permitted as an ***accessory use*** to any permitted ***commercial use***,

North Frontenac adopted the current comprehensive zoning by-law in 2004.

4.23 Non-Conforming and Non-Complying Uses

(a) Continuance of Existing Uses

Nothing in this By-law shall apply to prevent the use of any land, building or structure for any purpose prohibited by the By-law if such land, building or structure was lawfully used for such purpose on the day of the passing of the By-law so long as it continues to be used for that purpose. The non-conforming use of any land, building or structure shall not be changed except to a use which is in conformity with the provisions of the zone in which the land, building or structure is located, without permission

from the Committee of Adjustment pursuant to the *Planning Act*.

(b) Prior Building Permits
Nothing in this By-law shall prevent the erection or use of any building or structure for which a building permit has been issued under the *Building Code Act* prior to the passing of this By-law, so long as the building or structure when erected is used and continues to be used for the purpose for which it was erected and provided the permit has not been revoked under the *Building Code Act.*

(c) Road Widenings
Nothing in this By-law shall prevent the use of any land, building or structure or the erection of any building or structure on a lot which does not comply to the minimum lot frontage and/or lot area and/or front yard setback and in the case of a corner lot, the side yard setback, as a result of a road widening taken by the Township North Frontenac or the Ministry of Transportation of Ontario, provided all other requirements of this By-law are complied with.

(d) Reconstruction of Existing Use
Nothing in this By-law shall prevent the reconstruction or strengthening to a safer condition of any non-conforming or non-complying building or structure which is unintentionally damaged by fire or other natural cause, provided the height and bulk are not increased, approved flood proofing techniques are used (if required) and provided that reconstruction is commenced within two (2) years from the date of destruction.

(e) Addition to Existing Building or Structure
Nothing in this By-law shall prevent the renovation, extension, improvement, addition or modification to an existing building or structure where the renovation, extension, improvement, addition, or modification does not further encroach towards the water or front yard setback requirement and may be permitted without a minor variance (except where **Section 4.12** applies), provided all other setback requirements are maintained and does not contravene any other requirements of this By-law or any requirements of Ministries and agencies.

(f) Existing Undersized Lots
Notwithstanding anything else contained in this By-law, where a vacant lot having a lesser frontage and/or area than is required by this By-law is

held under distinct and separate ownership from adjoining lots, according to the register for land in the Land Titles, or Registry Office, on the date of the passing of this By-law, it may be used for a purpose permitted in the zone in which the said lot is located, provided it can be adequately serviced with water and sewage services, has a suitable building area and provided all other applicable provisions in this By-law are complied with.

Frontenac Islands comprehensive zoning by-law was approved by the OMB in August, 2005.

Comprehensive Zoning By-law - Frontenac Islands Page 47
December, 2003 - OMB Approved August, 2005

3.5.6 Reconstruction of Damaged Existing Buildings or Structures
Nothing in this By-law shall apply to prevent the reconstruction of any lawful nonconforming
building or structure, existing as of the date of passing of this By-law, which is damaged by causes beyond the control of the owner, provided that such reconstruction is
proceeded with expeditiously.
3.5.7 Building Permit Issued
The provisions of this By-law shall not apply to prevent the erection or use of any building or
structure, for a purpose prohibited by this By-law, for which a permit has been issued pursuant to Section 3 of The Building Code Act prior to the date of passing of this By-law, so
long as the building or structure, when erected, is used and continues to be used for the purpose for which it was erected, provided further that the permit has not been revoked pursuant to Section 6 of The Building Code Act.
3.5.8 Existing Floor Area Less than Required
Nothing in this By-law shall prevent an extension or an addition being made to a permitted
dwelling house, which dwelling house existed at the time of passing of this By-law but which
has a dwelling unit area less than required by this By-law, provided such extension or additions does not contravene any other provisions of this By-law.
3.6 Undersized Lots
3.6.1 Existing Undersized Lots
Notwithstanding any other provision of this By-law to the contrary, where a lot, having a lesser lot area and/or frontage than required herein existed prior to the date of passing of this
By-law, is held under distinct and separate ownership from an abutting lot or lots as shown
by a conveyance of title properly registered prior to the date of passing of this By-law, or,
where such a lot is created as a result of an exploration, such smaller lot may be used and a
building or structure may be erected, altered or used on such smaller lot provided such smaller lot has a frontage of not less than 13 metres and that all other applicable zone provisions of this By-law are complied with.

As illustrated above, in the comprehensive zoning by-laws of the rest of the County of Frontenac, I feel the changes proposed by the planning department of South Frontenac with regards to 5.11 of the zoning by-law will create an additional level of bureaucracy by forcing the South Frontenac resident, in the case of a fire, tornado or other action where their property is destroyed, of undue delays and expense dealing with the severance committee while in some instances being homeless.

A catastrophic event such as a forest fire or tornado, where multiple waterfront properties within the 30 metre setback are partially or totally destroyed, could lead to months if not years of waiting for a ruling by the severance committee.

At best, as published on the Township web site, 90 days is required to accomplish a minor variance with the severance committee and we have all heard of cases that exceed this time frame. I am sure the insurance company that insures the property owner would refuse to compensate the displaced owner for lodging for an unknown amount of time while the severance committee is deliberating the file.

The right to rebuild, as illustrated by the documents from the rest of the County, should be an inherent right and a building permit should be issued without the added restriction of playing "lets make a deal" with the severance committee. We all have seen examples where further restrictions are forced on landowners of the township to receive the committee's blessing.

If you were to choose to act as your own contractor to rebuild a destroyed structure, the normal discount to payout by the insurance companies of 20% is the norm. In the case of a refusal by the township to allow you to rebuild on a lot within the 30 metre setback, would the property owner be subject to the same 20% loss of the value of their property if a cash settlement was offered by the insurance company to settle the claim?

This could lead to a loss of $20,000.00 per $100,000.00 of insured property value and the ownership of a lot that is un-build-able and worthless if section 5.11 is rescinded.

Section 5.10.2 seems to be a contentious issue between the building department and the planning department. The planning department position is an arbitrary requirement with regards to the walls remaining. The building department, whose expertise we rely on in the construction industry, are of the opinion as long as the same footprint of an existing building are used for the re-construction, the replacement of the building from the foundation up of the same square footage should be the criteria for re-construction if the owner deems this a necessary approach for re-construction.

This not only makes economic sense, it also brings the rebuilt structure to the present building code of Ontario with regards to the insulation, structural integrity and current building practises enforced by the building department of South Frontenac.

There are thousands of waterfront homes and cottages in South Frontenac that are within the 30 metre setback that was enacted in the official plan in 2003. Prior to the current official plan and the subsequent adoption by council in 2005 of the comprehensive zoning by-law, legal lots were severed and building permits were issued by the township and land taxes were collected. For over a decade, the existing zoning by-laws have been adequate to administrate the issuance of building permits as the need arose and the need for more restrictive and arbitrary changes eludes me. Considering the zoning by-law policies of the other townships in Frontenac County, I would question the planning

department's position.

The stringent wording proposed by the planning department such as "**Reconstruction of the building is prohibited**" and " **once the walls of an existing structure within the 30 metre setback have been removed, the land is deemed to be vacant and the structure may not be constructed within the 30 metre setback**". I would question the authority of the township planner to try to enact these changes and suggest there are precedents ruled upon by the OMB and Divisional Courts in Ontario that will dispute the planning departments position.

In the case of TDL Corp versus Ottawa (City), 2009 Carswell Ontario 7336, the OMB ruled that the buildings may see renewal and change and that the appellant would not lose its right to legal non-conforming use during a closure for a voluntary repair or even replacement of the building. Ultimately, the board found that a legal non-conforming use could be re-established even if the building within which that use is established were voluntarily removed.

The City of Ottawa sought leave to appeal the matter to Divisional Court and the Divisional Court upheld the ruling by the OMB.

The above ruling should suggest a little overzealousness on the part of the township planner to enact rules that are just not needed to administrate the building activity of non-conforming designated properties in South Frontenac Township.

The following pages are an article published by the Digest of Municipal Planning Law titled The Evolution Of Legal Non-Conforming Rights. The article elaborates on the legislation Section 34(9) (a) of the Planning Act and the legal rights of the property owners with regards to continued usage of their property, including the legal right to rebuild, if desired or necessary due to fire, flood, etc.

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THE EVOLUTION OF LEGAL NON-CONFORMING RIGHTS

by Michael Polowin and Elad Gafni

Introduction

Many, if not most, municipalities across Ontario have provisions in their zoning by-laws that purport to limit repair, renovation or use of buildings that are non-conforming as to use or non-complying as to performance standards. The intent and effect of these by-laws are to "encourage" property owners to bring non-conformity or non-compliance to an end. Two recent decisions, *TDL Group Corp. v. Ottawa (City)*, 2009 CarswellOnt 7336 (O.M.B.), striking out a portion of the City of Ottawa's zoning by-law regarding non-conforming rights, and *Ottawa (City) v. TDL Group Corp.*, 2009 CarswellOnt 7168 (Ont. Div. Ct.), which denied the City of Ottawa's leave to appeal of an order of the Ontario Municipal Board (OMB or Board), signifies a clear and unambiguous ruling that municipalities may not limit or coercively bring to an end non-conforming or non-complying rights beyond the narrow constraints permitted by the *Planning Act*, R.S.O. 1990, c. P.13 and at common law.

Background

In 2001, the new City of Ottawa (the City) was created by the amalgamation of the Region of Ottawa-Carleton and 11 local municipalities. On June 25, 2008, following approximately five years of public consultation, the City enacted Comprehensive Zoning By-Law 2008-250 ("CZBL"). The CZBL harmonized the existing 36 zoning by-laws from the former municipalities comprising the new City, into a single zoning by-law, and was designed to implement the new Official Plan of the City, which was adopted on May 14, 2003 and amended in July 2005.

Over seventy appeals regarding the enactment of the CZBL were received by the Ontario Municipal Board. One of these appeals was brought by The TDL Group Corp. ("TDL") to challenge the validity of section 3 of the CZBL which concerned non-conformity and non-compliance. TDL alleged that section 3 of the CZBL was contrary to section 34(9)(a) of the *Planning Act* and was outside the City's authority.

Legislation

Section 34(9)(a) of the *Planning Act* creates an exemption to the scope of zoning by-laws that municipalities may enact. The effect of section 34(9)(a) is to establish legal non-conforming uses which are lawful violations of current zoning by virtue of the fact that the use of the land or structure existed in compliance with applicable by-laws before the by-laws with which there is non-compliance was passed. Section 34(9)(a) provides:

> 34. (9) No by-law passed under this section applies,
>
> (a) to prevent the use of any land, building or structure for any purpose prohibited by the by-law if such land, building or structure was lawfully used for such purpose on the day of the passing of the by-law, so long as it continues to be used for that purpose;

The impugned section 3 of the CZBL reads, in part, as follows:

> 3. (1) Nothing in this section affects subsection 34(9) of the *Planning Act, R.S.O. 1990*, Excepted Lands and Buildings, which addresses non-conforming uses.

(2) *No person will repair or rebuild any part of any building housing or otherwise used in connection with a non-conforming use, except as set out in subsection (3).*

(3) *When a building, structure, facility or otherwise, including septic and other servicing systems, used in connection with a non-conforming use is damaged or demolished, the non-conforming right is not extinguished if:* (By-law 2008-462)

(a) *the damage or demolition was involuntary;*

(b) *the building is repaired or re-occupied before the expiry of two years;* and

(c) the building continues to be used for the same purpose after it is repaired as it was used before it was damaged or demolished.

(4) *Non-conforming rights are extinguished:*

(a) *where the damage, demolition or removal of a building is not involuntary;*

(b) *where a damaged building is not repaired or re-occupied before the expiry of two years;* or

(c) where the non-conforming use,

(i) is abandoned, or

(ii) is changed without permission from the Committee of Adjustment.

(5) This section applies, with all necessary modification, to a non-complying building.

. . . [Emphasis added]

Ontario Municipal Board Decision

The position of TDL before the Board was that section 3 of the CZBL unlawfully attempted to narrow, amend and restrict the non-conforming rights of property owners beyond the jurisdiction of the City pursuant to the *Planning Act*. Specifically, TDL took issue with the fact that subsections 3(3) and (4) of the CZBL purported to extinguish property owners' legal non-conforming rights where "damage, demolition or removal of a building is not involuntary", as contrasted to circumstances where repair or rebuilding is done as a result of "involuntary" damage, demolition or removal (i.e. causes beyond the control of the owner).

TDL referred the Board to numerous cases standing for the proposition that as long as the intention of an owner is to continue a long-established pattern of usage, then there can be no loss of a non-conforming use as a result of damage or demolition, whether it was voluntary or non-voluntary.

Moreover, TDL took the position that the decision of the Supreme Court of Canada in *Saint-Romuald (Ville) c. Olivier* (2001), [2001] 2 S.C.R. 898, 22 M.P.L.R. (3d) 1, 2001 CarswellQue 2013, 2001 CarswellQue 2014, [2001] S.C.J. No. 54, REJB 2001-25834, 2001 SCC 57, 204 D.L.R. (4th) 284, 275 N.R. 1 (S.C.C.) stood for the proposition that non-conforming and non-complying uses are not fixed, but can evolve over time, provided that the impact on the surrounding neighbourhood was minimal. As Binnie J. held, "[u]nder the doctrine of "acquired rights", the respondents were not only entitled to continue to use the premises as they were when the new by-law was passed, but was given some flexibility in the operation of that use", including the right to "normal evolution" and to "adapt to the demands of the market or the technology that are relevant to it" (para. 19). Section 3 of the CZBL unlawfully frustrated this right to the "normal evolution" of non-conforming uses by prohibiting activities such as the installation of energy-saving windows or the repair of a decrepit roof because such renovations would run afoul of the prohibition on voluntary damage, demolition or removal contained in subsections 3(3) and (4).

In contrast, the City argued that section 3 was an appropriate vehicle to encourage or "cause" the "evolution" of land use over time from "a legal non-conforming use to one in conformity with the zoning by-law" (pages 8-9). In oral evidence before the Board, the City's land use planner confirmed that the effect of section 3 of the CZBL was that "if a property owner repairs or rebuilds voluntarily, to maintain, upgrade or modernize the building, the non-conforming or non-complying right is lost" (page 3). In fact, according to the City's planner, the City's intent [of section 3 was] to gradually phase out existing legal non-conforming uses (page 3).

The OMB rejected the City's argument in this regard and determined as follows at page 10:

> [O]n a clear reading of section 34(9)(a) of the *Act* . . . such a municipal intent and effect of a zoning by-law is *not* permitted by the *Act*. [. . .]
>
> The cases cited by the Appellant, especially the decisions of the Supreme Court of Canada, *Central Jewish Institute v. City of Toronto and Saint-Romuald (City) v. Olivier* affirm the right of a landowner to continue with a legal non-conforming use. In fact, the Supreme Court of Canada decisions stand for the proposition that such a use may be expanded within the confines of the building, may be intensified as part of the pre-existing activity, and finally, of particular relevance to the case at hand, may see "renewal and change" (*Saint-Romuald (City) v. Olivier*).
>
> The Board finds that section 3 of the CZBL specifically operates to prohibit such "renewal and change". [Emphasis in original]

The City also argued that voluntary cessation of use, including for voluntary repair or replacement of elements of the building, brings legal non-conforming and non-complying uses to an end, and that such will not be the case only if such cessation is beyond the control of the property owner. However, once again, the Board disagreed, holding that the intention of the property owner was paramount. The Board stated at pages 10-11:

> The appellant would not lose its rights to its legal non-conforming use during a closure for a voluntary repair or even replacement of the building. The Board notes the words of the court in *Rotstein v. Oro-Medonte (Township of)*: ". . . intention is a relevant factor to be considered in the case of a long-established pattern of use."

Finally, the Board rejected the two-year limitation period for repairing and reoccupying specified in sections 3(3)(b) and 3(4)(b) of the CZBL. The Board wrote at page 11:

> Again, there is nothing in section 34(9)(a) which allows for the extinguishment of a landowner's right to a legal non-conforming use if repairs or renovations are not completed before the expiry of two years. As noted above, "intention" is determinative. If a landowner demonstrates a continuous intention to continue a long-established pattern of usage, there is no loss of its right, regardless of the time it takes to complete repairs.

The Board then ultimately concluded that "section 3 of the CZBL, in its entirety, improperly narrows, amends and restricts the right of a property owner to a legal non-con-

forming use, contrary to section 34(9)(a) of the *Planning Act*. Section 3 is beyond the jurisdiction of the City" (page 11).

Divisional Court Decision

The City sought leave to appeal the decision of the Board repealing section 3 of the CZBL to the Divisional Court. As a preliminary matter, the City sought that subsections 3(6) to (8) of the CZBL be restored. There was no evidence before the Board that these three subsections were unlawful pursuant to the *Planning Act*. In fact, both the planners for the City and TDL supported these provisions. Justice Toscano Roccamo ordered, on consent of both parties, that subsections 3(6) to (8) be remitted to a rehearing of the matter before the OMB pursuant to section 43 of the *Ontario Municipal Board Act*, R.S.O. 1990, c. O.28.

After reviewing the parties' submissions with respect to the standard of review, the court held the appropriate standard of a review of a decision of the Board to be reasonableness, given that "the Board has specialized expertise in interpreting the provisions of the *Planning Act*, including Section 34, and in applying its underlying policies" (para. 19).

While admitting that "the interpretation of Section 3 of the CZBL is open to considerable debate, such as to arguably run afoul of Section 34(9) of the *Planning Act*" (para. 28) and that its position with respect to the definition of "damage" in the CZBL was "evolving" (para. 29), the City nevertheless asserted that:

> [V]oluntary "demolition" of a structure as under Section 3(4) of the CZBL justifies termination of legal non-conforming rights in the absence of any intention to continue the non-conforming use at the time the by-law was passed, coupled with an interruption in continuity or physical existence of the structure. (para. 29)

TDL argued that the Board's reasoning was an appropriate application of the Ontario Court of Appeal decision in *Ottawa (City) v. Capital Parking Inc.* (2002), 28 M.P.L.R. (3d) 223, 212 D.L.R. (4th) 342, 2002 CarswellOnt 1197, 158 O.A.C. 174, 59 O.R. (3d) 327, [2002] O.J. No. 1511 (Ont. C.A.), which concerned whether the defendant, which enjoyed a legal non-conforming use as a public garage, could be subject to performance standards in the City of Ottawa's zoning by-laws.

All zoning by-laws fall under one of either of two categories: (1) land use provisions; or (2) performance standards provisions. In *Capital Parking*, Doherty J.A. applied the reasoning of the Supreme Court in *Saint-Romuald* and held that performance standards will fail where they are found to interfere with acquired rights, in that they alter the nature of a legal non-conforming use or interfere with the real and reasonable expectations flowing from a legal non-conforming use (para. 35). TDL took the position, supported by the Court, that section 3 of the CZBL, which was a performance standard because it did not purport to regulate the types of uses of land, ran afoul of the holding in *Capital Parking* because the prohibition on voluntary repair or renovation unlawfully interfered with the real and reasonable expectation for the right to "renewal and change" of non-conforming uses as articulated in *Saint-Romuald*.

After reviewing the submissions of both parties, Toscano Roccamo J. found that "the Board's decision in this matter was well reasoned and correct" (para. 39), and stated at paragraphs 36-37 that:

> In specific reference to *Capital Parking*, *supra*, where it engaged the reasoning applied in *Saint-Romuald*, the Board concluded that acquired rights entitled property owners to some flexibility in the operation of the use, including normal evolution of some uses. The Board concluded that normal evolution of use could encompass demolition and rebuilding of a property within its footprint with the intention to continue the use of the building or structure as it existed prior to the enactment of a by-law. I find no error in the Board's reasoning in this respect.
>
> In concluding that Section 3 of the CZBL operated to frustrate the normal evolution of a legal non-conforming use through renewal and change, the board accepted the reasoning in *Rolstein v. Oro-Medonte (Township of)* (2002), 34 M.P.L.R. (3d) 266 (Ont. Sup. Ct.) and *Mohammed v. Dysart (Municipality) Building Official* (2003), 45 M.P.L.R. (3d) 282 (Ont. Sup. Ct.) in support of the proposition that where a landowner demonstrates a long established pattern of use, there is no loss of rights that flows from interruption in use for renovations or repairs, whether or not within the control of the property owner, and regardless of the time needed to effect repairs. Again, I find no cause to doubt the Board's reasoning in this regard.

Accordingly, the City's motion for leave to appeal to the Division Court was dismissed.

Discussion

As noted above, municipalities across Ontario purport to restrict property owners' rights to repair, renovate or use buildings that are non-conforming as to use, in apparent (and now confirmed) contravention of section 34(9)(a) of the *Planning Act*. This is not surprising given that acquired rights are a thorn in the side of municipal planners since they interfere with the achievement of the City's vision articulated in municipal official plans.

The decision of the Board and the Divisional Court in the matter of the *Ottawa (City) v. TDL Group Corp.* represents a warning to cities across the province that the courts will not tolerate attempts by municipalities to overreach their powers under the *Planning Act* and the law to contravene legal non-conforming rights. As noted by Killeen J. in *382671 Ontario Ltd. v. London (City) Chief Building Official* (1996), 32 M.P.L.R. (2d) 1, 1996 CarswellOnt 1388, [1996] O.J. No. 1352, 28 O.R. (3d) 718 (Ont. Gen. Div.) by-laws that seek to restrict non-conforming rights are "nothing more nor less than a clever attempt by the municipality to trench upon and even disembowel section 34(9) of the *[Planning] Act*" (para. 25).

Indeed, many municipalities across the province of Ontario are arguably running afoul of the law with respect to non-conforming rights. At the time of writing, zoning by-laws in the City of Orillia, the Town of Haldimand, the City of Sudbury, and the Town of Dunnville all essentially permit, with minor variances in wording, the strengthening or restoration to a safe condition of any non-conforming building or structure, while restricting the right to rebuild or repair only

for situations where the non-conforming building or structure is damaged or destroyed by causes beyond the control of the owner. See City of Orillia's By-laws No. 2005-72, ss. 3.4.3 and 3.4.5; the Town of Haldimand's By-laws 1-H 86, ss. 6.3.1 and 6.3.2; the City of Sudbury's By-laws No. 95-500Z, s. 4(4)(a); and the Town of Dunnville's By-laws 1-DU 80, ss. 6.3.1 and 6.3.2. The effect of these by-laws is to prohibit voluntary repair or renovation other than for the purpose of improving the safety condition of a non-conforming building or structure. Consequently, renovation for upgrading or modernizing a building, such as the installation of energy-saving windows, would arguably not be permitted. However, as the Board noted in the TDL decision, such restrictions on voluntary repair and renovation are in direct conflict with Binnie J.'s ruling in *Saint-Romuald* that municipalities cannot frustrate the normal evolution of non-conforming uses through "renewal and change".

Even more egregious violations of non-conforming rights can be found in zoning by-laws that prohibit the restoration of non-conforming buildings or structures when they are damaged or destroyed even in cases where the destruction is due to causes beyond the control of the owner. For example, the City of Guelph prohibits "the rebuilding of a non-conforming use if it should be destroyed" (Zoning By-law (1995) — 14864, s. 2.5.3.4). No definition is provided for the term "destroyed". The City of Barrie prohibits the restoration of any non-conforming building or structure "other than a single detached dwelling, converted dwelling or a multiple family dwelling which has been destroyed to the extent of more than fifty percent of the structure (exclusive of walls below grade)" (Zoning By-law 85-95, s. 4.2.6). While residents of the City of Thunder Bay who own legal non-conforming "occupied dwellings" that are "damaged or destroyed by accidental fire or a natural disaster" are permitted to reconstruct their buildings, owners of legal non-conforming buildings or structures "other than a dwelling ... which has been damaged by accidental fire or natural disaster to the extent of more than sixty percent (60%) of its value are precluded from restoring their buildings or structures" (Zoning By-law 177-1983, s. 5.11.1(a) and (b)).

Such attempts are contrary to Toscano Roccamo J.'s holding in the TDL Group Corp. case that "where a landowner demonstrates a long established pattern of use, there is no loss of rights that flows from interruption in use for renovations or repairs, whether or not within the control of the property owner" (para. 37). It should be noted that nowhere in the *Planning Act* are distinctions made with respect to repair and renovation rights between different types of non-conforming uses, and therefore such attempts in the above noted by-laws are unjustified and unlawful.

Finally, there are also examples of zoning by-laws from across the province that place time limits on the repair or reconstruction of a non-conforming building or structure similar to the two-year limitation period in subsections 3(3)(b) and 3(4)(b) of the City of Ottawa's CZBL that were repealed by the Board and the Court. The City of Kingston permits the replacement of a non-conforming building destroyed by any means beyond the control of the owner "provided that construction is commenced within one year from the date of destruction and provided that the building is completed within a reasonable time thereafter" (Zoning By-law No. 8499, s. 5.24(a)). Similarly, the City of Orillia allows the rebuilding or repair of any building or structure that is damaged or destroyed by causes beyond the control of the owner "provided such rebuilding or repair is conducted within two years" (Zoning By-law 2005-72, s. 3.4.5). However, as the Board held in its decision at page 11, and which was affirmed by the Divisional Court, "[i]f a landowner demonstrates a continuous intention to continue a long-established pattern of usage, there is no loss of its right, regardless of the time it takes to complete repairs."

The above examples of zoning by-laws from across Ontario demonstrate the extent to which municipalities attempt to "encourage" or cause the "evolution" over time from legal non-conforming uses to ones in conformity with current zoning by-laws. The judgment in *Ottawa (City) v. TDL Group Corp.* represents for the first time a clear and unambiguous ruling that such efforts by municipalities are contrary to section 34(9)(a) of the *Planning Act* and are, therefore, beyond their jurisdiction. Municipalities must ensure that their zoning by-laws conform to the law with respect to legal non-conforming rights.

Michael Polowin is a partner with Gowling Lafleur Henderson LLP in Ottawa, practicing in Development and Planning Law. Mr. Polowin advises and represents clients through the full spectrum of the development process. He has acted for some of the largest developers in Canada, and has been involved in developments throughout the Ottawa area and Eastern and Southern Ontario. Mr. Polowin also acts on behalf of municipalities in Eastern Ontario on planning and development and public-private partnership matters.

Elad Gafni is an Articling Student with Gowling Lafleur Henderson LLP in Ottawa, where he also worked as a Summer Student. He graduated in 2009 with an LL.B. (Cum Laude) from the English Common Law Program at the University of Ottawa. Prior to law school Elad attended Queen's University on a Chancellor's Scholarship where he received a B.A. (Hons.) in Economics, as well as the University of Toronto on an Ontario Graduate Scholarship where he received an M.A. in Economics.

In closing, I will give my personal perspective on how the changes to the zoning by-laws could affect me. I live on Howes Lake on a private lane with a lot configuration of 231 feet of waterfront by 100 foot depth that borders on the private lane. It is my fear, that the imposition placed upon me by the township, if a fire etc. were to occur, would place me in an unenviable position of a prolonged, arduous task trying to obtain a building permit that would allow me to rebuild my home. The unknown time delay I would experience playing "lets make a deal" with the severance committee would probably take longer than the actual rebuilding of my home with an immediate issuance of a building permit, if a fire etc. occurred. I therefore find the planning department's position to be flawed in light of the precedents of OMB hearings and Divisional Court rulings included in my objection.

The planning department, led by Lindsay Mills, seem to have a biased disregard for the waterfront land owners who happen to live on waterfront lots within the 30 metre setback designation. To describe the proposed amendments as minor errors/omissions in the text as found in the planning report dated March 10 2016 insults the intelligence of the waterfront taxpayers of South Frontenac Township. These are major changes to the zoning by-laws 5.10.2 and 5.11 that will eventually cost the taxpayers of the township thousands of dollars if the changes are made by council and challenged at the OMB.

An example of our township planner's bias is the paragraph that states "that existing buildings within the 30 metre setback, once removed, should be setback further so that, some day, all buildings will be well set back from water bodies to ensure protection of our lakes into the future."

This appears to be a targeted approach to eliminate through the planning department individual non-conforming properties one at a time with the refusal of a building permit. .Remember, these are changes proposed **"Reconstruction of the building is prohibited."**

Another example of the biased approach of our planner, is the planner's interpretation of dilapidated. "perhaps moss has grown on the roof and water has been allowed to enter the walls." Shingles have a limited lifespan and heavily wooded areas along the shoreline promote moss growth. Could a leaky roof and moss growth on my roof lead to a condemned classification where the township orders my residence to be removed? Who at the township, has the authority to assess and condemn existing structures?

Council should ask themselves these questions.

If the other three townships in Frontenac County have adopted basically the same wording that exists in the present comprehensive zoning by-laws that relate to this issue, why is South Frontenac Township trying to make the by-laws more stringent then their counterparts.

Is the expense of an OMB hearing necessary, when the outcome is clear based on the past OMB hearings and judgments by the Divisional Court?

Who will pay for the devaluation of the waterfront landowner if their house burns and a building permit is denied and could this lead to a civil case involving the township?

At an OMB hearing, the expert witnesses called are supposed to give an unbiased testimony, could you categorize our planner as unbiased and would you have to import an unbiased planner to represent the township and at what cost?

I would question the motive for the changes proposed and would like an explanation for not only the timing of the agenda, where the majority of the cottagers are away and the legitimacy of the zoning by-law amendments.

What instigated these changes and why is an additional layer of bureaucracy through the severance committee approach being added to the waterfront residents of South Frontenac if their house burns?

Sincerely, Jamie Curragh
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PLANNING REPORT: PUBLIC MEETING

Township of South Frontenac **Planning Department**

Prepared for Council

Agenda Date: March 15, 2016

Date of Report: March 10 18, 2016 **Applicant: Township-Initiated**

Subject: Township-Initiated Housekeeping Amendments to the Township of South Frontenac Comprehensive Zoning By-law

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Summary of Recommendation:
The recommendation is that Council pass amendments to the Comprehensive Zoning By-law to correct minor errors/omissions both in the mapping and in the text of the document.

Purpose of the Report:
The purpose of this report is to bring to Council amendments to the Comprehensive Zoning By-law to correct errors and omissions and to hold a public meeting on the changes as required under section 34 of the Planning Act. The report includes a location maps and an amending by-law.

Background
The Comprehensive Zoning By-law for the Township, has been in full force and effect since 2005 and was prepared to implement the policies of the Official Plan as required by the Planning Act. Using the By-law since 2005, staff periodically become aware of minor errors/omissions in the by-law that need to be corrected and a housekeeping by-law is necessary to correct them. At this time a number of mapping errors have been noticed and clarity in the wording is needed on sections of the text.

Discussion
The following is a list of the proposed eleven amendments that would help to correct the by-law along with an explanation and rationale for the changes. It should be emphasized that the changes to the zone maps are mostly technical in nature and simply reflect errors during map preparation. These amendments were already presented to the Committee of the Whole on January 26, 2016.

Text Changes
There has been concern expressed by Planning over interpretation of the following sections:

1. Section 5.10.2 Existing Buildings Within 30 Metres (98.4 ft.) of a Waterbody or Watercourse does not permit buildings to be reconstructed. The definition reads as follows:

   "Where a building has been erected prior to the date of passing of this By-law on an existing lot and said building has less than the minimum 30 metre (98.4 ft.) setback from the highwater mark of a waterbody or watercourse, then said building may be repaired, renovated or strengthened to a safe condition provided there is no enlargement of the gross floor area or increase in height. In addition, no living space shall be added below grade to any existing building or structure."

   This wording allows any building within the 30 metre setback to be renovated, strengthened and made more structurally sound **but it does not permit it to be taken down and reconstructed.**

   This section is meant to implement the intent of the Official Plan which is:
   i) that all new construction should be well setback from any waterbody with a minimum setback of 30 metres,

ii) that existing buildings within the 30 metre setback, once removed, should be set back further so that, some day, all buildings will be well set back from waterbodies to ensure protection of our lakes into the future,

iii) that existing buildings within the setback may stay as legal non-complying structures but they lose this legal status when they are removed.

The Township has always interpreted that, when the walls of the building are removed, the building is considered to be gone and it cannot be reconstructed at its present location without a minor variance. However, this interpretation should be 'built-in' to section 5.10.2 so that the meaning is more clear.

It should also be noted that the Building Department has not agreed with this interpretation – they believe that renovations may include building from the foundation up on the same footprint.

Thus, a new sentence should be inserted to say that reconstruction is prohibited. Also, an explanation of reconstruction should be included so that the section reads as follows: (changes in bold type)

"Where a building has been erected prior to the date of passing of this By-law on an existing lot and said building has less than the minimum 30 metre (98.4 ft.) setback from the highwater mark of a waterbody or watercourse, then said building may be repaired, renovated or strengthened to a safe condition provided there is no enlargement of the gross floor area or increase in height. **Reconstruction of the building is prohibited.** In addition, no living space shall be added below grade to any existing building or structure.

For the purposes of interpreting section 5.10.2, once the walls of an existing structure within the minimum 30 metre setback have been removed, the land is deemed to be vacant and the structure may not be reconstructed within the 30 metre setback."

2. Section 5.11 of the by-law **REPLACEMENT OF BUILDINGS OR STRUCTURES,** should be removed completely. This section reads as follows:

"5.11 REPLACEMENT OF BUILDINGS OR STRUCTURES
A building or structure, including a legal non-conforming and/or legal non-complying building or structure, may be replaced with a new building or structure in the case of partial or complete destruction caused by fire, lightning, explosion, tempest, flood or act of God, or demolition permit required by the Corporation of the Township of South Frontenac or other authority for safety, health or sanitation requirements, providing such building or structure is serviced by a potable water supply and sewage disposal system approved by the appropriate responsible authority. A building permit will only be issued, in the absence of zoning relief, provided no enlargement of the footprint or increase in gross floor area is proposed and provided the permit is applied for within 12 months of the partial or complete demolition/destruction. The replacement building shall be located on and not increase the footprint or gross floor area of the non-conforming building. The applicant shall provide proof to the satisfaction of the Chief Building Official that there will be no increase in the size of the building footprint or gross floor area and that the replacement building will be located within the same footprint as the non-conforming/non-complying building. Where applicable, floodproofing and avoidance of erosion hazards should be considered."

This section is intended to permit any building within the 30 metre setback to be reconstructed if it is destroyed by fire or storm or if it is dilapidated to the point where the Township orders it to be removed. This section is a measure of fairness to permit property-owners to rebuild after destruction that is beyond their control.

However, it has been the subject of some controversy because many property-owners will argue that they should be allowed to reconstruct because their structure has deteriorated to the point where it is unsafe and unusable. However, this state of dis-repair is often the result of neglect where the building has been neglected – perhaps moss has grown on the roof for example and water has been allowed to enter into the walls.

It is proposed that section 5.11 be removed completely and deal with each proposed reconstruction through the minor variance process.

3. **Definition of Mobile Home: The definition of Mobile Home presently reads as follows:**

"MOBILE HOME shall mean any dwelling that is designed to be made mobile, and constructed or manufactured in accordance with the Ontario Building Code Act and CSA standards for mobile homes to provide accommodation for one or more persons, but does not include a modular home or travel trailer as defined herein."

The Chief Building Official has advised that the definition should be changed to delete the reference to the 'Ontario Building Code Act' since it does not apply to mobile homes.

4. **Definition of Top-of-Bank: The definition of Top-of-Bank presently reads as follows:**

> **"TOP OF BANK** (Slope) shall mean a point which is the beginning of a significant change in the land surface, then from which the land surface slopes downward (at a grade of 30% or more) towards an abandoned or existing waterbody or watercourse. When two (2) or more slopes are located together, the slope that is highest and farthest away from the watercourse shall be the slope considered for the top of bank and must be at least a 30% grade at a point at the highwater mark."

This definition should be amended to specify that, when there are 2 or more slopes separated by plateaus leading away from the shore of a waterbody, then it is only the first slope that is considered for the top-of-bank calculation. The definition should read:

> **"TOP OF BANK** (Slope) shall mean a point which is the beginning of a significant change in the land surface, then from which the land surface slopes downward (at a grade of 30% or more) towards an abandoned or existing waterbody or watercourse. When there are two (2) or more slopes located together separated by plateaus, the slope that is the closest to the water is considered for the top-of-bank calculation."

5. The waterfront lots in the Badour Farm subdivision in Bedford District slope steeply down from the road to the highwater mark of Bob's Lake. The homes here are constructed as close to the water's edge as the setback rules will allow. Planning has received many requests to locate detached garages in the front yards of these lots. As the Committee may be aware, the zoning by-law does not permit accessory structures in the front yard. The reason for this restriction is to ensure that unsightly

buildings or sheds are not located in plain view and dominate the streetscape.

The waterfront lots in Badour Farm cannot accommodate structures behind the houses because the minimum water setback will not permit it. However, Planning undertook a land use survey here and noted that, the land slopes down to the water from the road and often is heavily treed. Also, the lots themselves are very deep and the homes here on average are 150 metres from the road. For these reasons no garage or other accessory building located in the front yard would be exposed to view from the street. Thus, there should be no reason to require accessory structures to be placed only in the back yard.

It was proposed to include a special provision in the zoning for these lots to permit accessory buildings in the front yard. However, Planning has removed this amendment from the housekeeping by-law for the reason that a more complete land use survey must first be conducted to determine which lots are subject to the change.

6. The definition of Building Height presently reads as follows:
"Building Height shall mean the vertical distance between the established grade and the highest point of the building or structure but does not include chimneys antennas or other similar objects."

   The by-law should specify that the height of buildings should be measured from the average established grade. This change has been requested by the Chief Building Official.

7. The provisions of section 21 – Urban Industrial Zone should be changed. As The Committee is aware, some controversy resulted from the realization that the Urban Industrial zone permitted a motor vehicle repair garage (which may include an auto body shop) and that it allowed structures to be as high as 50 feet. These two provisions seem incompatible with development in the hamlets considering that residential uses occur in proximity. Note also that the Official Plan does not contemplate auto body shops in the hamlet so this use should not have been in the UI zone in the first place.

   Subsections 21.2 and 21.3 should be changed to specify that an auto body repair shop is not permitted and to reduce the maximum permitted building height from 15 metres (50 ft.) to 11 metres (36.1 ft.).

Loughborough Mapping Changes

8. Schedule "B" the zoning map for Loughborough District has three errors that should be corrected. These are:

   i) Part of Lot 7, Concession V. A residential lot at Sydenham Lake accessed by Sheila Lane, is erroneously zoned Recreational Resort Commercial (RRC). This zone should be changed to Limited Service Residential Waterfront (RLSW).

   ii) Part of Lots 20 & 21, Concession VII. The zoning for a large 150 acre parcel of land at the end of Walsh Road is not properly shown on the Map schedule. This is the Greek Orthodox Church Camp which was rezoned approximately ten years ago to permit a retreat camp with an assembly hall, dormitories and recreation facilities. It should be properly zoned Community Facility (CF-3) to permit this use.

iii) Part of Lot 10, Concession XII. The Scouts Canada Otter Lake Camp located at the end of Salmon Lake Road beside Frontenac Park is zoned Rural (RU). Planning had discussions with the owners of this land in the past and the proper zoning for the land was discussed. This property should be zoned Community Facility (CF) to recognize its long standing use as a scout camp.

Attachment #1 shows the locations of these three properties.

Storrington Mapping Change

9. Schedule "C" the zoning map for Storrington District has an error that should be corrected as follows:

   i) Part Lot 20, Concession X; A large rural lot at Dog Lake, accessed by Osborne Lane and Christel Lane, is incorrectly zoned as partially Rural (RU) and partially Limited Service Residential-Waterfront (RLSW). Recently three severances were approved on this land which necessitates the proper delineation of these zones. The zoning boundaries of the RLSW zones should now properly conform to the lot lines of the new waterfront lots that were created.

   Attachment #2 shows the location of this property.

Bedford Mapping Change

10. Schedule "D" the zoning map for Bedford District has an error that should be corrected as follows:

   i) Part Lots 25 & 26, Concession X; A flag-shaped lot at Wolfe Lake, accessed by Lee Road, is technically incorrectly zoned as Limited Service Residential-Waterfront (RLSW) to recognize that it is accessed by a private lane. However, because the long finger of land (or handle of the flag) extends all the way south (approximately 861 metres) to Lee Road, the lot technically has frontage on a public road and, thus, should be zoned Waterfront Residential (RW) and not RLSW.

   Attachment #3 shows the location of this property.

CONCLUSION

An amending by-law to effect these changes is attached hereto as By-law No. 2016-20. The Planning Department advertised these changes according to the provisions of the Planning Act. The text changes are expected to help staff and the public to interpret the zoning regulations more clearly and the mapping changes more correctly identify the land uses on each subject parcel. Therefore, the proposed changes are supported by Planning.

RECOMMENDATION

It is recommended that the attached zoning amending By-law No. 2016-20 to effect minor text changes and mapping changes in the Township of South Frontenac's Comprehensive Zoning By-law, **be passed**.

Submitted/Approved by: Lindsay Mills **Prepared by: Lindsay Mills**
attachments

I will give my personal perspective on how the changes to the zoning by-laws could affect me. I live on Howes Lake on a private lane with a lot configuration of 231 feet of waterfront by 100 foot depth that borders on the private lane. It is my fear, that the imposition placed upon me by the township, if a fire etc. were to occur, would place me in an unenviable position of a prolonged, arduous task trying to obtain a building permit that would allow me to rebuild my home. The unknown time delay I would experience playing "lets make a deal" with the severance committee would probably take longer than the actual rebuilding of my home with an immediate issuance of a building permit, if a fire etc. occurred. I therefore find the planning department's position to be flawed in light of the precedents of OMB hearings and Divisional Court rulings included in my objection.

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An example of our township planner's bias is the paragraph that states "that existing buildings within the 30 metre setback, once removed, should be setback further so that, some day, all buildings will be well set back from water bodies to ensure protection of our lakes into the future."

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Is the expense of an OMB hearing necessary, when the outcome is clear based on the past OMB hearings and judgments by the Divisional Court that have been deliberated and ruled upon?

Who will pay for the devaluation of the waterfront property landowner if their house burns and a building permit is denied and could this lead to a civil case involving the township and the resident?

At an OMB hearing, the expert witnesses called are supposed to give an unbiased testimony, could you categorize our planner as unbiased and would you have to import an unbiased planner to represent the township and at what cost?

I would question the motive for the changes proposed and would like an explanation for not only the timing of the agenda, where the majority of the cottagers are away and the legitimacy of the zoning by-law amendments.

What is the scientific evidence that requires such a drastic policy change, when the Kingston Health Unit operated by the Ministry of the Environment, still legally allow a tile bed and septic system within 50 feet of the high watermark as observed last year on a new construction of a home I priced on the Rideau Canal?

What instigated these changes and why is an additional layer of bureaucracy through the severance committee approach being added to the waterfront residents of South Frontenac if their house burns?

Finally, I would like to remind the council, multiple generations have enjoyed their investment and in some instances, decades of taxes have been paid by year round residents and seasonal property owners who have chosen to purchase or have inherited waterfront property from their family.

The majority of the owners are responsible landowners and should have the right to maintain or replace, if needed any component of their structure, including the walls and if the lifespan of their structure requires replacement, on the same footprint if no alternative is available, our council should support them.

Waterfront properties in South Frontenac cumulatively pay the highest land taxes in the township. I was taught to not bite the hand that feeds me, council should proceed with caution.

Sincerely, Jamie Curragh
12

From: Ed Wilson [mailto:epwilson@msn.com]
Sent: April-14-16 12:16 PM
To: Ross Sutherland <7846elbe@gmail.com>
Cc: Wayne Orr <worr@southfrontenac.net>; Ed Wilson JR <epwilsonjr@sbcglobal.net>; Lyle Oneil <lyleoneil@gmail.com>
Subject: Re: Buildings on Loughborough shore line.

When you state that buildings must be 100 feet back from the shore line I assume that you realize that a boathouse is a building!

Going a bit further, what is the danger of having a sleeping cabin within a few feet of the shoreline? What you have is a floor, four walls a roof and a couple of windows and a door. Inside you have a couple of twin beds or bunk beds, a table with a lamp on it, a couple of chairs and a closet to hang some clothes in and a towel rack to hang a towel on that you use when you go swimming. So what exactly are you afraid of? How does this threaten the environment? Are you afraid that it will suddenly sprout legs and jump into the water? There is no reason in the world that a sleeping cabin must be 100 feet from the shore line! I am waiting to hear why you think so.

Respectfully

Ed Wilson Sr.

Sent from my iPhone

On Apr 14, 2016, at 7:26 AM, Ross Sutherland <7846elbe@gmail.com> wrote:

Hi Ed and Ed, thanks you for your comments. It is good to see that you have sent them to the Township. I note that you have concerns about boat houses. I can not remember it coming up in this discussion. I was wondering if you could pass along the origin of your concerns. thanks, Ross

On Wed, Apr 13, 2016 at 11:11 PM, Ed Wilson <epwilson@msn.com> wrote:
I find it hard to believe that perhaps you want to eliminate boathouses. What is next? Docks!

I don't have a boathouse on the water but would strongly object to any idea of someone who has one to have to remove it. A boathouse does not pollute!

Our island is Bear Berry Island which my father bought back in 1946 and which we have enjoyed for numerous years. 70 years to be exact! Over the years we have pumped many thousands of dollars into the local economy.

Being a small island, most of our buildings are not far removed from the shoreline. However we are very concerned about the environment and go out of our way to be sure we do not pollute. We only use biodegradable soap and have replaced our toilet with composting toilets in order to be sure our septic is not a problem. Our laundry washing machine only uses cold water and no soap since we bought an ozone generator for it which eliminates the need for soap.

I think that you should honor longtime neighbors that are environmentally conscious and not even think of requiring them to remove any of their buildings.

Since I live in Colorado during the winter I can't get to your meeting to voice my opinions. I hope you consider some of my comments that are found in this letter.

Sincerely,

Edwin P Wilson & Edwin P Wilson Jr.
303-526-1923
412-488-6434
Island # 613-353-2085 Sent from my iPhone

From: Edwin Wilson [mailto:epwilsonjr@sbcglobal.net]
Sent: April-16-16 10:07 AM
To: Ross Sutherland <7846elbe@gmail.com>
Cc: Ed Wilson <epwilson@msn.com>; Wayne Orr <worr@southfrontenac.net>
Subject: Re: Buildings on Loughborough shore line.

Hello again.... I am now even more concerned

If you can have a boat house on the shore, what is the reason that a structure that was legally built between the shoreline and 100 cannot be rebuilt? Property owners that have legal dwellings should have grandfathered footprints...end of story.

I understand the need for setbacks. At my house in Los Angeles, I cannot build a structure within 3ft of my side property line and I cannot build my front wall/gate within 5ft of the road. On the side, the setback was established so that next door neighbors don't encroach on one another and, in the front, it allows for a sidewalk and potential widening of the road. I am sure your towns have similar setback rules that actually have merit in helping neighbors to get along. I doubt there are plans to build sidewalks or to expand the lake. A structure closer than 100ft from the shore does not encroach on a neighbor.

Every 10ft is huge. In high rise condos with views, each floor (about 10ft higher) can command more than $50K to a $100K? I assume that most structures that are closer than 100ft were built there for a reason. This proposal may prevent the property owner from having a water view or the benefits of a lake breeze, depending on the topography of the property. In fact 100ft on the mainland may cause the owner to be close to a creek or swamp. I assume that when these cases are brought forward, waivers will be granted. So then, what is the benefit from this proposal? It seems to me that it could have significant economic impacts to the property owners (and no apparent concern about this from the proposal writers), increased administrative costs to your offices to defend challenges, and I still don't see the offsetting benefit that makes this all worthwhile. Again, if you can have a structure on the shoreline, there is absolutely no reason to establish the 100ft setback in the first place....and especially when you are considering the fate of structures that were legally built. We have intentionally left our property as natural as possible. All native plants and our structures are surrounded by huge trees..some within inches of our buildings (we have carved into the side of our roofs in some places to allow trees to grow). We live in constant fear of one of these giants taking out a building but have opted to leave the trees, take out insurance, and cross our fingers. If this proposal passes, we may have to have hundreds of trees removed.

Sorry to be so long winded about this, but I really am concerned :-)

Best Regards,

Ed Wilson, Jr.

Sent from my iPad

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Edwin P Wilson & Edwin P Wilson Jr.
303-526-1923
412-488-6434
Island # 613-353-2085

Sent from my iPhone

From: Ed Wilson [mailto:epwilsonjr@sbcglobal.net]
Sent: April-14-16 7:22 AM
To: Ed Wilson <epwilson@msn.com>; 7846elbe@gmail.com; Wayne Orr <worr@southfrontenac.net>
Subject: Re: Buildings on Loughborough shore line.

To add to my father's email, my concern is that many islanders, due to the shape and size of our properties, cannot comply with the 100 foot set back. Islands with dwellings are worth far more than those without and it is on that higher value that we pay thousands of dollars in taxes and thousands of dollars in insurance to replace structures in the event of loss. In our case, if we are unable to rebuild on our footprint, we would lose $500K+ of value. What is the proposal to compensate property owners who would suffer these loses? The proposal is clearly being made by folks who will not be impacted if it passes and discussing it in April and May when a significant volume of islanders will not be around.

I agree with my father that we have taken every step possible to keep the lake we love clean and have left natural vegetation that almost hides our dwellings.

I live in Los Angeles so will not be there in April or May

Best Regards,

Ed Wilson, Jr.
323-951-1901
646-703-4832

From: Ed Wilson [mailto:epwilson@msn.com]
Sent: April-16-16 11:49 AM
To: 7846elbe@gmail.com
Cc: Wayne Orr <worr@southfrontenac.net>; Lyle Oneil <lyleoneil@gmail.com>; Ed Wilson JR <epwilsonjr@sbcglobal.net>
Subject: Re: Buildings on Loughborough shore line.

I agree 100% with my son's letter. Perhaps your agenda is to try to make us move since it appears as though you think that the structures on our island are objectionable to your view. I would like to point out that a conservative estimate of the amount of money that, over the years, we have pumped into the local economy is in excess of $1,500,000. Sorry that you seem to think that all of the islanders are bad neighbors.

Ed Wilson Sr.

Sent from my iPhone

On Apr 16, 2016, at 8:10 AM, Edwin Wilson <epwilsonjr@sbcglobal.net> wrote:

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Sincerely,

Edwin P Wilson & Edwin P Wilson Jr.
303-526-1923

412-488-6434
Island # 613-353-2085

Sent from my iPhone

From: Mary Pearson [mailto:marapearson@gmail.com]
Sent: April-15-16 3:24 PM
To: Wayne Orr <worr@southfrontenac.net>
Subject: Re: Concerns over proposed comprehensive re-zoning legislation

Thank you.
I realized after I sent the email that there were some typos.

Please circulate this clean version.

Many thanks,
Mary Pearson

Dear Mr. Orr,

I am a cottage owner on Bobs Lake in South Frontenac. We have an island property that we have owned for over 25 years. Our cottage, like many other cottages on Bobs Lake is grandfathered in in terms of setbacks. We are summer only resisidents, pay our taxes and maintain a well functioning & maintained property with a full septic system, natural shoreline, bush, (no lawn, etc.)

I'm concerned over the proposed planning changes that would potentially limit our ownership and property rights, by undermining the current grandfathering protection we have. We love our cottage, the lake and are careful stewards of the beautiful enviroment we inhabit over the summer months.

All our island neighbours are equally concerned over the proposed legislation as it be could uniquely be detrimental to island landowners.

Thank you for your consideration.

Sincerely,
Mary Pearson,
Summer:
Bird Island
Bobs Lake 613-375-6790

Toronto
416-923-1905

Sent from my iPhone

On 2016-04-15, at 3:11 PM, Wayne Orr <worr@southfrontenac.net> wrote:

Hello

Thank you for your email.

Your comments will be circulated to Council as part of the April 26, agenda package

Wayne

Wayne Orr
Chief Administrative Officer
Township of South Frontenac
4432 George St., Box 100
Sydenham ON, K0H 2T0

T (613) 376-3027 ext 2225
F (613) 376-6657

-----Original Message-----
From: Mary Pearson [mailto:marapearson@gmail.com]
Sent: April-13-16 7:26 PM
To: Wayne Orr <worr@southfrontenac.net>
Subject: Concerns over proposed comprehensive re-zoning legislation

Dear Councillor Orr,

I am a cottage owner on Bobs Lake in South Frontenac. We have an island property that we have owned for over 25 years. Our cottage, like many other cottages on Bobs Lake is grandfathered in in terms of setbacks. We are summer only resisidents, play our taxes and maintain a well functioning & maintained property with a full septic system, natural shoreline, bush, (no lawn, etc.)

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All our island neighbours are equally concerned over the proposed legislation as it be could uniquely be detrimental to island landowners.

Thank you for your consideration.

Sincerely,
Mary Pearson,
Summer:
Bird Island
Bobs Lake 613-375-6790

Toronto
416-923-1905

From: pearsonalang@gmail.com [mailto:pearsonalang@gmail.com]
Sent: April-15-16 11:52 AM
To: Wayne Orr <worr@southfrontenac.net>; Lindsay Mills <lmills@southfrontenac.net>
Subject: Fw: Changes to the Comprehensive Zoning By-Law

My wife and I have owned an island property in the West Basin of Bobs Lake for over 25 years. There are a number of buildings on the island which have setbacks which are non-conforming and have been 'grandfathered in'. Our cottage was built in 1940 and a number of other buildings were built in the same period.
We are good stewards of the property - our taxes are paid regularly, buildings are in a good state of repair, our septic tank and bed is well maintained and pumped regularly, growth of brush is down to the water, trees are regularly trimmed or felled as needed, and wild life are encouraged.
We are not in agreement with the proposed changes to section 5.10.2 and section 5.11 of the Comprehensive Zoning By-law which for instance would place unfair restrictions on our property if buildings required renovation from the ground up or were completely destroyed and had to be moved from their current non-conforming location to meet the 30 metre set back. This does not appear to be a legal amendment as defined by the Planning Act Section 34(9)(a) for Ontario which establishes legal non-conforming uses.
We believe that the current bylaws are well worded and defined and cover most situations and align with the intent of Section 34 of the Planning Act. Those that do not fit exactly can be resolved through the current appeals process as laid down for the Committee of Adjustment and then if necessary the Ontario Municipal Board.
The changes proposed to the Bylaws would increase costs for cottagers and landowners who would now be forced to seek legal and planning representation to go through the Committee of Adjustment and then the OMB if the Township forced them to rebuild outside the 30 metres limit. If the appellant won at the OMB and costs were awarded as recently happened with a property on Loughborough Lake these costs would be borne by ALL of South Frontenac residents and could be very expensive.
We ask that consideration be given to our viewpoint before instituting any further Bylaw restrictions which are questionable under the 1990 Planning Act.
Regards Alan and Mary Pearson

Sent from Windows Mail

From: Tiffany Langille [mailto:tiffanylangille@gmail.com]
Sent: April-09-16 9:47 AM
To: Wayne Orr <worr@southfrontenac.net>
Subject: Proposed 30m setback bylaw amendment

Hi Wayne,

I am a seasonal cottage owner of 1010 Blue Jay Lane on Knowlton Lake.

I am upset and strongly opposed to the proposed bylaw amendments. My cottage would be affected by this bylaw. I am the sole owner, purchasing the cottage 5 1/2 years for my children and my enjoyment. We would be left with a large mortgage and a worthless property if any of the towering trees surrounding the cottage decided to come down on top of it as we could not rebuild on the existing location of the foundation with it's existing setback. Going through the application process for rebuilding something that already existed sounds costly, time consuming and unnecessary.

Please rethink this proposed bylaw and pass my name and contact info on to whomever necessary.

Regards,

Tiffany Langille, BCom
Salesperson
Realtysource Inc., Brokerage
Cell: 613 561-2554
tiffanylangille@gmail.com

From: Norm & Nancy Hart [mailto:hartwork@kingston.net]
Sent: April-12-16 7:23 AM
To: Wayne Orr <worr@southfrontenac.net>; Wayne Orr <worr@southfrontenac.net>
Subject: 30 Metre Setback

Good Morning Mr. Orr -

My husband and I were permitted to build our home closer to the lake [Sydenham] than usual because there had been a building on this lot before we bought it [it burned] & the septic system was in place, so we worked with that & have been here for 28ish years.

It now sounds as if a tree were to fall on our house and make it necessary to take the house down, or lightning were to strike and burn
it down, we'd have to move the house back to rebuild it. It's
impossible because of the locations of our septic and tile bed, so we'd have a piece of land which would have been rendered useless [and valueless, really] through no fault of our own. We do maintain our home; we cannot foresee what Mother Nature may choose to do. And while the Committee of Adjustment is available should we need their adjudication, if township plan is really NOT to allow re-builds closer than 30 metres from the lake...

You can see why we are concerned. Is there any plan in place to agree that those of us on small lakefront lots will [always] be able to rebuild, in exactly the current footprint, our home should it become necessary as long as the tile bed and septic system are the regulated distances from the lake? Surely it's the septic system that's more of a potential problem to the health of the lake than a dwelling?

Please consider this when making your recommendations to council.

Thank you,

Nancy and Norm Hart
613 376-9998

From: Joanne [mailto:joanneirvine56@aol.com]
Sent: April-12-16 12:00 PM
To: Lindsay Mills <lmills@southfrontenac.net>
Cc: Wayne Orr <worr@southfrontenac.net>; 7846elbe@gmail.com
Subject: Comments re proposed amendments to section 5.10.2 and 5.11

We wanted to voice our concerns with the Proposed By-Law changes re the 30 Meter Setback from Lakes - Section 5.10.2 and 5.11.

Our names are Edward Koster and Joanne Irvine and we own a cottage property on Knowlton Lake at 1573 Everett Lane. My husband Edward purchased the lot in 1972 and built the cottage in 1974. Back then, there were no regulations as to how far the cottage should be set back from the lake and our property is not large enough to have the cottage set back 30 meters from the lake should a disaster occur causing the wall/s of our cottage to come down.

We were recently notified by the Knowlton Lake Cottage Association that the current by-law which allows grandfathered structures to be re-built in the event of an Act of God, (fire, fallen trees, etc) in the same location as long as it retains the same footprint is being revised. The proposed change would take away this automatic right. Instead property owners would have to make an application before the Committee of Adjustment and seek its approval. The ability to rebuild would no longer be guaranteed and the potential refusal by the Township to issue a permit to rebuild would render the property to be deemed vacant and unacceptable as a building lot for future purchasers.

Should the proposed changes be implemented, a cottage currently grandfathered as legal non-conforming experiencing partial destruction for whatever reason would result in the property owner incurring additional administrative fees, legal expenses and an unknown time frame to fight the township to obtain an approval with no guarantee of success at the end and the very real possibility of a total erosion of property value. We have always maintained our cottage, replacing the roof and pumping the septic tank on a regular scheduled basis. We have paid our taxes and have been responsible cottage owners. We are respectful of the lake and the waterfront environment (we do not even own an outboard motor). We strongly oppose this change as it relates to the no rebuilding once the walls have been removed especially in the event of an Act of God. Were this situation to occur, it would be totally out of one's control and it would unjustly and unfairly punish the cottage owners within the 30 Meter Setback from the lake.
We are of the opinion that council should distinguish between the situation where a building is damaged by “an act of God”, out of the owners control where rebuilding should be allowed, and a situation where the dwelling has not been properly maintained where an application would be required.

We request that Council reject the proposed By-Law changes.

Sincerely,

Ed Koster & Joanne Irvine
1573 Everett Lane, South Frontenac

Home Address:
4599 Fox Ridge Trail
Sydenham, On
K0H 2T0

Phone: 613-376-3879

From: Mary Smeaton [mailto:smeatonmary@gmail.com]
Sent: April-13-16 10:44 AM
To: Wayne Orr <worr@southfrontenac.net>
Cc: patbarr1@aol.com; councillorrevill@gmail.com; Susan O'Brien Mactaggart <obmact@live.com>; Diana Pozer <mandrake7@rogers.com>; Philip Pozer <ppozer@hotmail.com>; norm.mole@sympatico.ca; aparker@mccarthy.ca; larryarpaia@email.com
Subject: proposed by-law changes to granfathered properties

Mr. Wayne Orr
Chief Adminitrative Officer
Township of South Frontenac

Dear Mr. Orr,

I was shocked to learn via third parties recently that council is proposing to greatly alter the granfathering status of properties built closer to the water than the 100 ft. setback.

I feel that to legislate that such a property owner could not take down a wall, to install windows etc., to enhance their property is unbelievable.
Even more draconian is the proposal that buildings destroyed by acts of God, such as fire or windstorm etc., may not be allowed to be rebuilt on their same footprint.

I would consider the adoption of these changes to be a violation of my rights and think affected parties would be looking for legal redress for any losses, not only from the township, but also from the individuals that unadvisedly put such provisions in place.

I trust that you will present my strong objections to any meeting held in this regard.

I should also add that it was most disturbing that I received no direct notice from the township that these proposals were being considered. I've received other communications (like notice of a nearby owners application to the committee of adjustments, and my tax bill), but no word about a by-law change that if passed would severely affect my rights, how I use my property and its re-sale value. I would have thought that at the very least my elected representative on council would have insisted that affected property owners be contacted.

Our family property is located at 627 Burns Lane (Conc 5 Pt. Lot 26).

Sincerely,
Mary Smeaton

From: Jessie Cronister [mailto:jwcron@rochester.rr.com]
Sent: April-17-16 4:26 PM
To: Wayne Orr <worr@southfrontenac.net>
Cc: jwcron@rochester.rr.com
Subject: Proposed By-Law changes as reported on January 18, 2016

Dear Mr. Orr,

As a seasonal resident and property owner on Loughborough Lake, I have reservations concerning the changes to By-Law as reported in the Housekeeping Report on January 18, 2016.

My understanding of the proposal is that if a structure (currently grandfathered-in) located less than 30 meters from the shoreline is destroyed, it can not be rebuilt without additional reviews and permits that currently are not required. There would be a possibility that the replacement structure would not be approved even if it would be in the exact same location with the same foot print (height/width and depth) with the same designed purpose as the lost building due to the placement on the property.

I respect the objective of the Planning Committee to preserve the beauty of the lakes and importance of supporting the natural environment. I also want to be able to enjoy our simplistic lifestyle on the lake without over development. We love our spectacular views and our connection with nature.

My concern is personal as my family has owned and loved our property on Loughborough Lake for over fifty years. I own an island that does not have space to rebuild a structure which could be set back from the shoreline 30 meters. Our island's shape is too thin. We are fortunate to have been grandfathered-in to enjoy the structures we use continually. We keep our bunkies and cabin in good repair and would be devastated should through an act of nature we loose one or all of our structures. We would want to reconstruct what could be damaged as quickly as possible maintaining the look and intent of the original use and design. I also feel that I should not have to pay for additional charges for reviews and permits that others would not need to pay.

From what I am understanding, should this By-Law be changed, our ability to reconstruct a damaged structure could be either rejected or the length of time to build could be postponed based on the review for additional permits. This is even more concerning to me because we can not locate a building less than 30 meters from the shoreline due to the island's shape.

As an island dweller, we pay annually for all the services through our taxes however do not have the benefit of using our property through most of the year. We pay insurance for replacement value for a building should it be destroyed or damaged. We want to be able to use our property as we have for over fifty years respecting the environment and be in compliance with the laws.

My hope is that when changes are made to By-Laws, that the township will respect the seasonal property owners who are invested in the community too. I feel that this By-Law, although well intended could have a negative effect on my rights as a property owner to reconstruct a building should a crisis or devastation by nature destroy it. I would want to quickly and simply have the ability to reconstruct the cabins as they had been originally designed and with the identical usage.

Should I have misinterpreted the proposed changes or should you like to reach out to me to discuss my concerns, please feel free to either reply to my email (jwcron@rochester.rr.com) or mail communications to my home address as indicated below.

Thank you for your considerations and look forward to hearing from you.

Sincerely,

Jessie Cronister
Round Rock Island
Loughborough Lake
South Frontenac Township

36 New Tudor Road
Pittsford, New York 14534 USA
Phone: 585-749-7724

-----Original Message-----
From: Trevor Owen [mailto:towen@rogers.com]
Sent: April-16-16 9:56 AM
To: rvanewal@southfrontenac.net; Wayne Orr <worr@southfrontenac.net>; Lindsay Mills <lmills@southfrontenac.net>; 7846elbe@gmail.com; markschjerning@outlook.com; patbarr1@aol.com
Cc: larryarpala@gmail.com
Subject: Amendment to Bylaws Section 5.10.2 and 5.11

I strongly oppose your "housekeeping amendment" to the subject bylaws. I have spent considerable time and money maintaining my cottage and do not wanted it lumped into the same category as a "continually neglected building".

I support the GBCLA's concerns that are being presented on 26 April 2016.

Trevor Owen
17 Gull Bay Lane

From: afyoung@rogers.com [mailto:afyoung@rogers.com]
Sent: April-16-16 4:34 PM
To: Ron Vandewal <rvandewal@southfrontenac.net>
Cc: Wayne Orr <worr@southfrontenac.net>; Lindsay Mills <lmills@southfrontenac.net>; 7846elbe@gmail.com; markschjerning@outlook.com; patbarr1@aol.com
Subject: A "housekeeping amendment" that is surreptitiously being brought forward by the Township.

Please note the following as a cottage owner on Bob's Lake:

With regard to the housekeeping amendment that is being proposed by the Township of South Frontenac, please let it be noted that as a cottage owner on Bob's lake for the past 26 years and having paid municipal taxes for that same period of time, we feel that this is another way of cottage owners loosing control of our investment and are in **complete and total disagreement with this action**.

Regards,
Austin & Frances Young,
Cottage owner - Bob's Lake

Angela Maddocks

From: noreply@esolutionsgroup.ca on behalf of Afrobb38@aol.com
Sent: April-17-16 2:13 PM
To: Website Administrator
Subject: Planning Proposal d/18 Jan 2016 re Amendment to CZ

My Property: 020-020-40700-0000 (Bobs Lake Poplar Island)I would liked to have appeared before the Council on 21 April but I am too late to make a request because I have been away and just received this information.
I am generally in agreement with the proposals from staff regarding amendments to the Comprehensive Zoning By-law with one exception. I disagree that section 5.11 should be removed.
Our cottage property is perfectly viable as a seasonal residence. It was approved and legally built in the early 1980s even though there is no place on the island that was 30m from the water in every direction. If the cottage was destroyed by fire or storm, there is no alternate footprint that is 30m from the water. If this sort of disaster should occur, I should be able to rebuild my cottage on its present foundation without having to go through a costly and long minor variance process.
The cottage has an approved drilled well and an approved septic field.
I feel that section 5.11 should be retained or rewritten in such a way that properties such as ours can be rebuilt on the current foot print without having the added expense or a minor variance procedure.

Origin: http://www.southfrontenac.net/en/index.asp

This email was sent to you by Andrew Robb<Afrobb38@aol.com> through http://www.southfrontenac.net/.

April 11,2016

Mr. Wayne Orr
CAO Township of South Frontenac
4432 George Street
Sydenham, Ontario KOH 2TO

Dear Mr. Orr,

RE: Proposed "Housekeeping Changes" to the By Laws for South Frontenac

It is with great concern that I write to Council about the proposed housekeeping changes to sections 5.10.2 and 5.11 of the By Laws for South Frontenac and to register my objection. The proposed amendments would have serious unintended consequences for the community of South Frontenac and undermine the vision of the Official Plan. It is for these reasons that I strongly encourage the Council not to proceed with the amendments as drafted.

The Official Plan for South Frontenac is an excellent document, one that was ahead of its time in addressing environmental concerns and shoreline development. It acknowledged the need to preserve one of the Township's greatest assets, its network of pristine lakes. During the 30 plus years that I have been involved with the Bobs & Crow Lakes Association, I oversaw the 2005 formal Lake Plan for these lakes and sat on the Township Committee for the drafting of the current Official Plan. With consideration to the challenges and lessons learned in the development of these documents, I wish to make the following observations as they relate to the proposed amendments to sections 5.10.2 and 5.11.

1. If a grandfathered building has been in continual use and maintained, the Township should not thwart or deny the landowner future upgrades or improvements to said structure as long as these improvements are within the footprint (area on the ground) and meet the guidelines for environmental integrity because of their proximity to the lake.

2. Improvements to the grandfathered building should not be extended to include total demolition. The By Laws should dissuade a landowner from demolishing a grandfathered building in order to take advantage of the footprint so as to construct a modern structure closer to the lake. If total demolition is required, and a new location for the building is viable on the property, then the setback requirements should apply.

3. If a building has been continually neglected to the point the structure is compromised due to the neglect, the By Laws should stipulate the owner

has then forfeited the privilege of continuing to use the grandfathered footprint.

4. Whereby a fire, storm or an act of God were to destroy the grandfathered building, the By Laws should permit the landowner to rebuild on the same footprint. A minor variance should not be required in these unique circumstances.

I strongly encourage the Council to re-evaluate the proposed amendments to sections 5.10.2 and 5.11, as they will not achieve their intended objectives. They will present a serious challenge for the Township in the future as they undermine basic landowner property rights. Were the proposed amendments to proceed as drafted, they could very easily trigger an increased number of lawsuits against the Township from frustrated landowners.

Recognizing that Council may be seeking to address issues and concerns tied to grandfathered buildings on our lakes, it is the identification and condition of the septic systems that should take priority. This issue has been voiced to the Township on numerous occasions and yet there has been no definitive action to date. It is strongly encouraged that council address the issue of mandatory septic inspection.

Respectfully submitted,

Susan O'Brien Mactaggart
Bedford District Resident
Green Bay of Bobs Lake

Cc. L.Mills – Planner/Deputy Clerk
Pat Barr – Councillor – Bedford District
Alan Revill – Councillor – Bedford District

Subject: Changes Affecting All Property Owners in South Frontenac

Desert Lake Property Owners, Mayor and Councillors of South Frontenac Township, and other concerned South Frontenac Property Owners:

On Saturday April 16th Donna and I went to an informal meeting of property owners in South Frontenac Township (SFT) held in Battersea. Two meetings were called in haste by some property owners in the Township to address a proposal that is to be put forward to the SFT Council for a vote sometime in May. As far as we could tell, there were no others from Desert Lake, and no members of the Desert Lake Property Owners Association at the meeting we attended. Perhaps some had attended the meeting on April 14th (we heard there were about fifty people there.) There was a councillor at the meeting we attended, who is also the president of the Sydenham Lake Owners Association, who sent out information (including the 3 attachments below) on April 8th asking that this be shared with others. The deputy mayor of SFT was also present.

As can be found on the township website (www.**southfrontenac**.net) there are two changes proposed that are designated as 'housekeeping'. We do not consider these to be simply housekeeping changes, as they will affect property values and property owners rights which we now have and will lose unless the proposal is more carefully worded or scrapped.

According to what is on the SFT website:

"These two changes relate to rebuilding cottages within the normally required 30 metre setback from waterbodies.

One change would clarify that, when buildings are removed by the owner to rebuild, they must rebuild (SIC) according to the setbacks now in place.

The other change would require a minor variance application to rebuild where a building within this 30 metres setback is destroyed by fire or tempest.

These measures are to help protect the water quality of the lakes by maintaining a natural buffer around the lakes as much as possible."

In our opinion, both of these changes go much further than is past practice with respect to 'legal non-conforming properties and structures'. For this reason we need to be certain that the rights already established for property owners of these structures by the Ontario Municipalities Board are not subordinated by the proposed 'housekeeping' measures.

The proposal goes beyond owners present rights to rebuild by now having to petition for a minor variance (at a substantial cost) on an original footprint if the structures are damaged by forces out of their control (fire, tempest). It is not clear what would be needed to be granted the minor variance.

Also, it is not clear what the situation would be in respect to upgrades such as would be required to reinforce walls, meet accepted building codes, improve energy efficiency, change windows, repair a roof or a wall when a tree falls on it, etc. on a legally non-compliant building. It is now proposed to require a move to a setback of 30 meters if a situation occurs where "buildings are taken down by the owner to rebuild." It needs to be clearly stipulated what this means; all four walls to foundation, one wall, walls that require reinforcement to support a steel roof, etc.

It appears that if an owner has no space to rebuild 30 meters from the waterfront they could lose their home or cottage. We think this issue is of great concern. If the goal of SFT is to *maintain* a natural buffer around the lake as much as possible, this is laudable. It seems however, that the goal is to increase the buffer. Individual property owners rights might be sacrificed to reach that goal.

We are sending this message along due to the possibility that this issue has not been widely distributed to seasonal cottage owners or to other residents/property owners of our lake area (Desert Lake) and to other residents of the Township. We have been in touch with Rik Saaltink, the president of the Desert Lake Property Owners Association (DLPOA), who has confirmed that the executive is looking into the matter. We believe all concerned should write letters to the Township, and many of you might wish to present a statement of intention to address the council at either of these meetings.

(www.**southfrontenac**.net: Anyone wishing to speak as a delegation at either of the April 26 or May 10 meetings (7pm) should contact Angela Maddocks at amaddocks@southfrontenac.net or 613 376-3027 ext. 2222, by no later than noon on the Thursday preceding the meeting.)

There are three attachments here that give additional information. The Planning 'Housekeeping Report' proposal is included. There is also a legal document analyzing an appeal given on a similar proposed change in Ottawa that was denied by a district appeal court (Non Complying Article). Third, a balanced letter (Friends and Neighbours) written by Jeff Peck. If you chose, please forward this to others who are affected by the proposed changes and would be interested in keeping informed or presenting their opinions. We realize that many of you receiving this letter are already well informed, but think perhaps you may wish to see what we have written as well.

Thank you,

Stan Brown (and Donna Brown)
1105 Sassy Tree Lane
Desert Lake
613 417-1828
cell: 613 540-2535

PLANNING REPORT

Township of South Frontenac **Planning Department**

Prepared for Committee of the Whole

Agenda Date: January 26, 2016

Date of Report: January 18, 2016

Subject: Township-Initiated Housekeeping Amendment to the Township of South Frontenac Comprehensive Zoning By-law

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Summary of Recommendation:

The recommendation is that the Committee consider amendments to the Comprehensive Zoning By-law to correct a number of minor errors/omissions both in the mapping and in the text of the document. In order to properly make these changes an amending by-law must be passed dealing with every proposed correction (informally termed a "housekeeping bylaw").

Purpose of the Report:

The purpose of this report is to bring to the Committee housekeeping amendments to the Township's Comprehensive Zoning By-law - proposed by the Planning Department. The report includes map schedules.

Background

The Comprehensive Zoning By-law for the Township, has been in full force and effect since 2005 and was prepared to implement the policies of the Official Plan as required by the Planning Act. Using the By-law since 2005, staff periodically become aware of minor errors/omissions in the by-law that need to be corrected and a housekeeping by-law is necessary to correct them. At this time a number of mapping errors have been noticed and clarity in the wording is needed on two sections of the text.

Discussion

The following is a list of the proposed ten amendments that would help to correct the by-law along with an explanation and rationale for the changes. It should be emphasized that the changes to the zone maps are mostly technical in nature and simply reflect errors during map preparation. Some of the amendments were already recently presented to the Committee of the Whole.

Text Changes

There has been concern expressed by Planning over interpretation of the following sections:

1. Section 5.10.2 Existing Buildings Within 30 Metres (98.4 ft.) of a Waterbody or Watercourse does not permit buildings to be reconstructed. The definition reads as follows:

> "Where a building has been erected prior to the date of passing of this By-law on an existing lot and said building has less than the minimum 30 metre (98.4 ft.) setback from the highwater mark of a waterbody or watercourse, then said building may be repaired, renovated or strengthened to a safe condition provided there is no enlargement of the gross floor area or increase in height. In addition, no living space shall be added below grade to any existing building or structure."

This wording allows any building within the 30 metre setback to be renovated, strengthened and made more structurally sound **but it does not permit it to be taken down and reconstructed.**

This section is meant to implement the intent of the Official Plan which is:

i) that all new construction should be well setback from any waterbody with a minimum setback of 30 metres,

ii) that existing buildings within the 30 metre setback, once removed, should be set back further so that, some day, all buildings will be well set back from waterbodies to ensure protection of our lakes into the future,

iii) that existing buildings within the setback may stay as legal non-complying structures but they lose this legal status when they are removed.

The Township has always interpreted that, when the walls of the building are removed, the building is considered to be gone and it cannot be reconstructed at its present location without a minor variance. However, this interpretation should be 'built-in' to section 5.10.2 so that the meaning is more clear.

It should also be noted that the Building Department has not agreed with this interpretation – they believe that renovations may include building from the foundation up on the same footprint.

Thus, a new sentence should be inserted to say that reconstruction is prohibited. Also, an explanation of reconstruction should be included so that the section reads as follows: (changes in bold type)

"Where a building has been erected prior to the date of passing of this By-law on an existing lot and said building has less than the minimum 30 metre (98.4 ft.) setback from the highwater mark of a waterbody or watercourse, then said building may be repaired, renovated or strengthened to a safe condition provided there is no enlargement of the gross floor area or increase in height. **Reconstruction of the building is prohibited.** In addition, no living space shall be added below grade to any existing building or structure.

For the purposes of interpreting section 5.10.2, once the walls of an existing structure within the minimum 30 metre setback have been removed, the land is deemed to be vacant and the structure may not be reconstructed within the 30 metre setback."

2. Section 5.11 of the by-law **REPLACEMENT OF BUILDINGS OR STRUCTURES,** should be removed completely. This section reads as follows:

"5.11 REPLACEMENT OF BUILDINGS OR STRUCTURES

A building or structure, including a legal non-conforming and/or legal non-complying building or structure, may be replaced with a new building or structure in the case of partial or complete destruction caused by fire, lightning, explosion, tempest, flood or act of God, or demolition permit required by the Corporation of the Township of South Frontenac or other authority for safety, health or sanitation requirements, providing such building or structure is

serviced by a potable water supply and sewage disposal system approved by the appropriate responsible authority. A building permit will only be issued, in the absence of zoning relief, provided no enlargement of the footprint or increase in gross floor area is proposed and provided the permit is applied for within 12 months of the partial or complete demolition/destruction. The replacement building shall be located on and not increase the footprint or gross floor area of the non-conforming building. The applicant shall provide proof to the satisfaction of the Chief Building Official that there will be no increase in the size of the building footprint or gross floor area and that the replacement building will be located within the same footprint as the non-conforming/non-complying building. Where applicable, floodproofing and avoidance of erosion hazards should be considered."

This section is intended to permit any building within the 30 metre setback to be reconstructed if it is destroyed by fire or storm or if it is dilapidated to the point where the Township orders it to be removed. This section is a measure of fairness to permit property-owners to rebuild after destruction that is beyond their control.

However, it has been the subject of some controversy because many property-owners will argue that they should be allowed to reconstruct because their structure has deteriorated to the point where it is unsafe and unusable. However, this state of dis-repair is often the result of neglect where the building has been neglected – perhaps moss has grown on the roof for example and water has been allowed to enter into the walls.

It is proposed that section 5.11 be removed completely and deal with each proposed reconstruction through the minor variance process.

3. **Definition of Mobile Home: The definition of Mobile Home presently reads as follows:**

"MOBILE HOME shall mean any dwelling that is designed to be made mobile, and constructed or manufactured in accordance with the Ontario Building Code Act and CSA standards for mobile homes to provide accommodation for one or more persons, but does not include a modular home or travel trailer as defined herein."

The Chief Building Official has advised that the definition should be changed to delete the reference to the 'Ontario Building Code Act' since it does not apply to mobile homes.

4. **Definition of Top-of-Bank: The definition of Top-of-Bank presently reads as follows:**

> **"TOP OF BANK** (Slope) shall mean a point which is the beginning of a significant change in the land surface, then from which the land surface slopes downward (at a grade of 30% or more) towards an abandoned or existing waterbody or watercourse. When two (2) or more slopes are located together, the slope that is highest and farthest away from the watercourse shall be the slope considered for the top of bank and must be at least a 30% grade at a point at the highwater mark."

This definition should be amended to specify that, when there are 2 or more slopes separated by plateaus leading away from the shore of a waterbody, then it is only the first slope that is considered for the top-of-bank calculation. The definition should read:

> **"TOP OF BANK** (Slope) shall mean a point which is the beginning of a significant change in the land surface, then from which the land surface slopes downward (at a grade of 30% or more) towards an abandoned or existing waterbody or watercourse. When there are two (2) or more slopes located together separated by plateaus, the slope that is the closest to the water is considered for the top-of-bank calculation."

5. The waterfront lots in the Badour Farm subdivision in Bedford District slope steeply down from the road to the highwater mark of Bob's Lake. The homes here are constructed as close to the water's edge as the setback rules will allow. Planning has received many requests to locate detached garages in the front yards of these lots. As the Committee may be aware, the zoning by-law does not permit accessory structures in the front yard. The reason for this restriction is to ensure that unsightly buildings or sheds are not located in plain view and dominate the streetscape.

   The waterfront lots in Badour Farm cannot accommodate structures behind the houses because the minimum water setback will not permit it. However, Planning undertook a land use survey here and noted that, the land slopes down to the water from the road and often is heavily treed. Also, the lots themselves are very deep and the homes here on average are 150 metres from the road. For these reasons no garage or other accessory building located in the front yard would be exposed to view from the street. Thus, there should be no reason to require accessory structures to be placed only in the back yard.

   It is proposed to include a special provision in the zoning for these lots to permit accessory buildings in the front yard.

6. The definition of Building Height presently reads as follows:
   "Building Height shall mean the vertical distance between the established grade and the highest point of the building or structure but does not include chimneys antennas or other similar objects."

   The by-law should specify that the height of buildings should be measured from the average established grade. This change has been requested by the Chief Building Official.

7. The provisions of section 21 – Urban Industrial Zone should be changed. As The Committee is aware, some controversy resulted from the realization that the Urban Industrial zone permitted a motor vehicle repair garage (which may include an

auto body shop) and that it allowed structures to be as high as 50 feet. These two provisions seem incompatible with development in the hamlets considering that residential uses occur in proximity. Note also that the Official Plan does not contemplate auto body shops in the hamlet so this use should not have been in the UI zone in the first place.

Subsections 21.2 and 21.3 should be changed to specify that an auto body repair shop is not permitted and to reduce the maximum permitted building height from 15 metres (50 ft.) to 11 metres (36.1 ft.).

Loughborough Mapping Changes

8. Schedule "B" the zoning map for Loughborough District has three errors that should be corrected. These are:

   i) Part of Lot 7, Concession V. A residential lot at Sydenham Lake accessed by Sheila Lane, is erroneously zoned Recreational Resort Commercial (RRC). This zone should be changed to Limited Service Residential Waterfront (RLSW).

   ii) Part of Lots 20 & 21, Concession VII. The zoning for a large 150 acre parcel of land at the end of Walsh Road is not properly shown on the Map schedule. This is the Greek Orthodox Church Camp which was rezoned approximately ten years ago to permit a retreat camp with an assembly hall, dormitories and recreation facilities. It should be properly zoned Community Facility (CF-3) to permit this use.

   iii) Part of Lot 10, Concession XII. The Scouts Canada Otter Lake Camp located at the end of Salmon Lake Road beside Frontenac Park is zoned Rural (RU). Planning had discussions with the owners of this land in the past and the proper zoning for the land was discussed. This property should be zoned Community Facility (CF) to recognize its long standing use as a scout camp.

   Attachment #1 shows the locations of these three properties.

Storrington Mapping Change

9. Schedule "C" the zoning map for Storrington District has an error that should be corrected as follows:

   i) Part Lot 20, Concession X; A large rural lot at Dog Lake, accessed by Osborne Lane and Christel Lane, is incorrectly zoned as partially Rural (RU) and partially Limited Service Residential-Waterfront (RLSW). Recently three severances were approved on this land which necessitates the proper delineation of these zones. The zoning boundaries of the RLSW zones should now properly conform to the lot lines of the new waterfront lots that were created.

   Attachment #2 shows the location of this property.

Bedford Mapping Change

10. Schedule "D" the zoning map for Bedford District has an error that should be corrected as follows:

    i) Part Lots 25 & 26, Concession X; A flag-shaped lot at Wolfe Lake, accessed by Lee Road, is technically incorrectly zoned as Limited Service Residential-Waterfront (RLSW) to recognize that it is accessed by a private lane. However, because the long finger of land (or handle of the flag) extends all the way south (approximately 861 metres) to Lee Road,

the lot technically has frontage on a public road and, thus, should be zoned Waterfront Residential (RW) and not RLSW.

Attachment #3 shows the location of this property.

CONCLUSION

The Planning Department expects to advertise these changes and bring them forward to a public meeting with Council within the next month.

RECOMMENDATION

It is recommended that the Committee receive the Planning Report dated January 18, 2016, regarding corrections to minor errors/omissions to the Comprehensive Zoning By-law for information.

Submitted/Approved by: Lindsay Mills **Prepared by: Lindsay Mills**

attachment

HouskeepingReportToCofW2016

The Digest of
MUNICIPAL & PLANNING LAW

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THE EVOLUTION OF LEGAL NON-CONFORMING RIGHTS

by Michael Polowin and Elad Gafni

Introduction

Many, if not most, municipalities across Ontario have provisions in their zoning by-laws that purport to limit repair, renovation or use of buildings that are non-conforming as to use or non-complying as to performance standards. The intent and effect of these by-laws are to "encourage" property owners to bring non-conformity or non-compliance to an end. Two recent decisions, *TDL Group Corp. v. Ottawa (City)*, 2009 CarswellOnt 7336 (O.M.B.), striking out a portion of the City of Ottawa's zoning by-law regarding non-conforming rights, and *Ottawa (City) v. TDL Group Corp.*, 2009 CarswellOnt 7168 (Ont. Div. Ct.), which denied the City of Ottawa's leave to appeal of an order of the Ontario Municipal Board (OMB or Board), signifies a clear and unambiguous ruling that municipalities may not limit or coercively bring to an end non-conforming or non-complying rights beyond the narrow constraints permitted by the *Planning Act*, R.S.O. 1990, c. P.13 and at common law.

Background

In 2001, the new City of Ottawa (the City) was created by the amalgamation of the Region of Ottawa-Carleton and 11 local municipalities. On June 25, 2008, following approximately five years of public consultation, the City enacted Comprehensive Zoning By-Law 2008-250 ("CZBL"). The CZBL harmonized the existing 36 zoning by-laws from the former municipalities comprising the new City, into a single zoning by-law, and was designed to implement the new Official Plan of the City, which was adopted on May 14, 2003 and amended in July 2005.

Over seventy appeals regarding the enactment of the CZBL were received by the Ontario Municipal Board. One of these appeals was brought by The TDL Group Corp. ("TDL") to challenge the validity of section 3 of the CZBL which concerned non-conformity and non-compliance. TDL alleged that section 3 of the CZBL was contrary to section 34(9)(a) of the *Planning Act* and was outside the City's authority.

Legislation

Section 34(9)(a) of the *Planning Act* creates an exemption to the scope of zoning by-laws that municipalities may enact. The effect of section 34(9)(a) is to establish legal non-conforming uses which are lawful violations of current zoning by virtue of the fact that the use of the land or structure existed in compliance with applicable by-laws before the by-laws with which there is non-compliance was passed. Section 34(9)(a) provides:

> 34. (9) No by-law passed under this section applies,
>
> (a) to prevent the use of any land, building or structure for any purpose prohibited by the by-law if such land, building or structure was lawfully used for such purpose on the day of the passing of the by-law, so long as it continues to be used for that purpose;

The impugned section 3 of the CZBL reads, in part, as follows:

> 3. (1) Nothing in this section affects subsection 34(9) of the *Planning Act, R.S.O. 1990*, Excepted Lands and Buildings, which addresses non-conforming uses.

(2) *No person will repair or rebuild any part of any building housing or otherwise used in connection with a non-conforming use, except as set out in subsection (3).*

(3) *When a building, structure, facility or otherwise, including septic and other servicing systems, used in connection with a non-conforming use is damaged or demolished, the non-conforming right is not extinguished if:* (By-law 2008-462)

(a) *the damage or demolition was involuntary;*

(b) *the building is repaired or re-occupied before the expiry of two years*; and

(c) the building continues to be used for the same purpose after it is repaired as it was used before it was damaged or demolished.

(4) *Non-conforming rights are extinguished*:

(a) *where the damage, demolition or removal of a building is not involuntary*;

(b) *where a damaged building is not repaired or re-occupied before the expiry of two years*; or

(c) where the non-conforming use,

(i) is abandoned, or

(ii) is changed without permission from the Committee of Adjustment.

(5) This section applies, with all necessary modification, to a non-complying building.

. . . [Emphasis added]

Ontario Municipal Board Decision

The position of TDL before the Board was that section 3 of the CZBL unlawfully attempted to narrow, amend and restrict the non-conforming rights of property owners beyond the jurisdiction of the City pursuant to the *Planning Act*. Specifically, TDL took issue with the fact that subsections 3(3) and (4) of the CZBL purported to extinguish property owners' legal non-conforming rights where "damage, demolition or removal of a building is not involuntary", as contrasted to circumstances where repair or rebuilding is done as a result of "involuntary" damage, demolition or removal (i.e. causes beyond the control of the owner).

TDL referred the Board to numerous cases standing for the proposition that as long as the intention of an owner is to continue a long-established pattern of usage, then there can be no loss of a non-conforming use as a result of damage or demolition, whether it was voluntary or non-voluntary.

Moreover, TDL took the position that the decision of the Supreme Court of Canada in *Saint-Romuald (Ville) c. Olivier* (2001), [2001] 2 S.C.R. 898, 22 M.P.L.R. (3d) 1, 2001 CarswellQue 2013, 2001 CarswellQue 2014, [2001] S.C.J. No. 54, REJB 2001-25834, 2001 SCC 57, 204 D.L.R. (4th) 284, 275 N.R. 1 (S.C.C.) stood for the proposition that non-conforming and non-complying uses are not fixed, but can evolve over time, provided that the impact on the surrounding neighbourhood was minimal. As Binnie J. held, "[u]nder the doctrine of "acquired rights", the respondents were not only entitled to continue to use the premises as they were when the new by-law was passed, but was given some flexibility in the operation of that use", including the right to "normal evolution" and to "adapt to the demands of the market or the technology that are relevant to it" (para. 19). Section 3 of the CZBL unlawfully frustrated this right to the "normal evolution" of non-conforming uses by prohibiting activities such as the installation of energy-saving windows or the repair of a decrepit roof because such renovations would run afoul of the prohibition on voluntary damage, demolition or removal contained in subsections 3(3) and (4).

In contrast, the City argued that section 3 was an appropriate vehicle to encourage or "cause" the "evolution" of land use over time from "a legal non-conforming use to one in conformity with the zoning by-law" (pages 8-9). In oral evidence before the Board, the City's land use planner confirmed that the effect of section 3 of the CZBL was that "if a property owner repairs or rebuilds voluntarily, to maintain, upgrade or modernize the building, the non-conforming or non-complying right is lost" (page 3). In fact, according to the City's planner, the City's intent [of section 3 was] to gradually phase out existing legal non-conforming uses (page 3).

The OMB rejected the City's argument in this regard and determined as follows at page 10:

> [O]n a clear reading of section 34(9)(a) of the *Act* . . . such a municipal intent and effect of a zoning by-law is *not* permitted by the *Act*. [. . .]
>
> The cases cited by the Appellant, especially the decisions of the Supreme Court of Canada, *Central Jewish Institute v. City of Toronto and Saint-Romuald (City) v. Olivier* affirm the right of a landowner to continue with a legal non-conforming use. In fact, the Supreme Court of Canada decisions stand for the proposition that such a use may be expanded within the confines of the building, may be intensified as part of the pre-existing activity, and finally, of particular relevance to the case at hand, may see "renewal and change" (*Saint-Romuald (City) v. Olivier*).
>
> The Board finds that section 3 of the CZBL specifically operates to prohibit such "renewal and change". [Emphasis in original]

The City also argued that voluntary cessation of use, including for voluntary repair or replacement of elements of the building, brings legal non-conforming and non-complying uses to an end, and that such will not be the case only if such cessation is beyond the control of the property owner. However, once again, the Board disagreed, holding that the intention of the property owner was paramount. The Board stated at pages 10-11:

> The appellant would not lose its rights to its legal non-conforming use during a closure for a voluntary repair or even replacement of the building. The Board notes the words of the court in *Rotstein v. Oro-Medonte (Township of)*: ". . . intention is a relevant factor to be considered in the case of a long-established pattern of use."

Finally, the Board rejected the two-year limitation period for repairing and reoccupying specified in sections 3(3)(b) and 3(4)(b) of the CZBL. The Board wrote at page 11:

> Again, there is nothing in section 34(9)(a) which allows for the extinguishment of a landowner's right to a legal non-conforming use if repairs or renovations are not completed before the expiry of two years. As noted above, "intention" is determinative. If a landowner demonstrates a continuous intention to continue a long-established pattern of usage, there is no loss of its right, regardless of the time it takes to complete repairs.

The Board then ultimately concluded that "section 3 of the CZBL, in its entirety, improperly narrows, amends and restricts the right of a property owner to a legal non-con-

forming use, contrary to section 34(9)(a) of the *Planning Act*. Section 3 is beyond the jurisdiction of the City" (page 11).

Divisional Court Decision

The City sought leave to appeal the decision of the Board repealing section 3 of the CZBL to the Divisional Court. As a preliminary matter, the City sought that subsections 3(6) to (8) of the CZBL be restored. There was no evidence before the Board that these three subsections were unlawful pursuant to the *Planning Act*. In fact, both the planners for the City and TDL supported these provisions. Justice Toscano Roccamo ordered, on consent of both parties, that subsections 3(6) to (8) be remitted to a rehearing of the matter before the OMB pursuant to section 43 of the *Ontario Municipal Board Act*, R.S.O. 1990, c. O.28.

After reviewing the parties' submissions with respect to the standard of review, the court held the appropriate standard of a review of a decision of the Board to be reasonableness, given that "the Board has specialized expertise in interpreting the provisions of the *Planning Act*, including Section 34, and in applying its underlying policies" (para. 19).

While admitting that "the interpretation of Section 3 of the CZBL is open to considerable debate, such as to arguably run afoul of Section 34(9) of the *Planning Act*" (para. 28) and that its position with respect to the definition of "damage" in the CZBL was "evolving" (para. 29), the City nevertheless asserted that:

> [V]oluntary "demolition" of a structure as under Section 3(4) of the CZBL justifies termination of legal non-conforming rights in the absence of any intention to continue the non-conforming use at the time the by-law was passed, coupled with an interruption in continuity or physical existence of the structure. (para. 29)

TDL argued that the Board's reasoning was an appropriate application of the Ontario Court of Appeal decision in *Ottawa (City) v. Capital Parking Inc.* (2002), 28 M.P.L.R. (3d) 223, 212 D.L.R. (4th) 342, 2002 CarswellOnt 1197, 158 O.A.C. 174, 59 O.R. (3d) 327, [2002] O.J. No. 1511 (Ont. C.A.), which concerned whether the defendant, which enjoyed a legal non-conforming use as a public garage, could be subject to performance standards in the City of Ottawa's zoning by-laws.

All zoning by-laws fall under one of either of two categories: (1) land use provisions; or (2) performance standards provisions. In *Capital Parking*, Doherty J.A. applied the reasoning of the Supreme Court in *Saint-Romuald* and held that performance standards will fail where they are found to interfere with acquired rights, in that they alter the nature of a legal non-conforming use or interfere with the real and reasonable expectations flowing from a legal non-conforming use (para. 35). TDL took the position, supported by the Court, that section 3 of the CZBL, which was a performance standard because it did not purport to regulate the types of uses of land, ran afoul of the holding in *Capital Parking* because the prohibition on voluntary repair or renovation unlawfully interfered with the real and reasonable expectation for the right to "renewal and change" of non-conforming uses as articulated in *Saint-Romuald*.

After reviewing the submissions of both parties, Toscano Roccamo J. found that "the Board's decision in this matter was well reasoned and correct" (para. 39), and stated at paragraphs 36-37 that:

> In specific reference to *Capital Parking*, *supra*, where it engaged the reasoning applied in *Saint-Romuald*, the Board concluded that acquired rights entitled property owners to some flexibility in the operation of the use, including normal evolution of some uses. The Board concluded that normal evolution of use could encompass demolition and rebuilding of a property within its footprint with the intention to continue the use of the building or structure as it existed prior to the enactment of a by-law. I find no error in the Board's reasoning in this respect.
>
> In concluding that Section 3 of the CZBL operated to frustrate the normal evolution of a legal non-conforming use through renewal and change, the board accepted the reasoning in *Rotstein v. Oro-Medonte (Township of)* (2002), 34 M.P.L.R. (3d) 266 (Ont. Sup. Ct.) and *Mohammed v. Dysart (Municipality) Building Official* (2003), 45 M.P.L.R. (3d) 282 (Ont. Sup. Ct.) in support of the proposition that where a landowner demonstrates a long established pattern of use, there is no loss of rights that flows from interruption in use for renovations or repairs, whether or not within the control of the property owner, and regardless of the time needed to effect repairs. Again, I find no cause to doubt the Board's reasoning in this regard.

Accordingly, the City's motion for leave to appeal to the Division Court was dismissed.

Discussion

As noted above, municipalities across Ontario purport to restrict property owners' rights to repair, renovate or use buildings that are non-conforming as to use, in apparent (and now confirmed) contravention of section 34(9)(a) of the *Planning Act*. This is not surprising given that acquired rights are a thorn in the side of municipal planners since they interfere with the achievement of the City's vision articulated in municipal official plans.

The decision of the Board and the Divisional Court in the matter of the *Ottawa (City) v. TDL Group Corp.* represents a warning to cities across the province that the courts will not tolerate attempts by municipalities to overreach their powers under the *Planning Act* and the law to contravene legal non-conforming rights. As noted by Killeen J. in *382671 Ontario Ltd. v. London (City) Chief Building Official* (1996), 32 M.P.L.R. (2d) 1, 1996 CarswellOnt 1388, [1996] O.J. No. 1352, 28 O.R. (3d) 718 (Ont. Gen. Div.) by-laws that seek to restrict non-conforming rights are "nothing more nor less than a clever attempt by the municipality to trench upon and even disembowel section 34(9) of the *[Planning] Act*" (para. 25).

Indeed, many municipalities across the province of Ontario are arguably running afoul of the law with respect to non-conforming rights. At the time of writing, zoning by-laws in the City of Orillia, the Town of Haldimand, the City of Sudbury, and the Town of Dunnville all essentially permit, with minor variances in wording, the strengthening or restoration to a safe condition of any non-conforming building or structure, while restricting the right to rebuild or repair only

for situations where the non-conforming building or structure is damaged or destroyed by causes beyond the control of the owner. See City of Orillia's By-laws No. 2005-72, ss. 3.4.3 and 3.4.5; the Town of Haldimand's By-laws 1-H 86, ss. 6.3.1 and 6.3.2; the City of Sudbury's By-laws No. 95-500Z, s. 4(4)(a); and the Town of Dunnville's By-laws 1-DU 80, ss. 6.3.1 and 6.3.2. The effect of these by-laws is to prohibit voluntary repair or renovation other than for the purpose of improving the safety condition of a non-conforming building or structure. Consequently, renovation for upgrading or modernizing a building, such as the installation of energy-saving windows, would arguably not be permitted. However, as the Board noted in the TDL decision, such restrictions on voluntary repair and renovation are in direct conflict with Binnie J.'s ruling in *Saint-Romuald* that municipalities cannot frustrate the normal evolution of non-conforming uses through "renewal and change".

Even more egregious violations of non-conforming rights can be found in zoning by-laws that prohibit the restoration of non-conforming buildings or structures when they are damaged or destroyed even in cases where the destruction is due to causes beyond the control of the owner. For example, the City of Guelph prohibits "the rebuilding of a non-conforming use if it should be destroyed" (Zoning By-law (1995) — 14864, s. 2.5.3.4). No definition is provided for the term "destroyed". The City of Barrie prohibits the restoration of any non-conforming building or structure "other than a single detached dwelling, converted dwelling or a multiple family dwelling which has been destroyed to the extent of more than fifty percent of the structure (exclusive of walls below grade)" (Zoning By-law 85-95, s. 4.2.6). While residents of the City of Thunder Bay who own legal non-conforming "occupied dwellings" that are "damaged or destroyed by accidental fire or a natural disaster" are permitted to reconstruct their buildings, owners of legal non-conforming buildings or structures "other than a dwelling . . . which has been damaged by accidental fire or natural disaster to the extent of more than sixty percent (60%) of its value are precluded from restoring their buildings or structures" (Zoning By-law 177-1983, s. 5.11.1(a) and (b)).

Such attempts are contrary to Toscano Roccamo J.'s holding in the TDL Group Corp. case that "where a landowner demonstrates a long established pattern of use, there is no loss of rights that flows from interruption in use for renovations or repairs, whether or not within the control of the property owner" (para. 37). It should be noted that nowhere in the *Planning Act* are distinctions made with respect to repair and renovation rights between different types of non-conforming uses, and therefore such attempts in the above noted by-laws are unjustified and unlawful.

Finally, there are also examples of zoning by-laws from across the province that place time limits on the repair or reconstruction of a non-conforming building or structure similar to the two-year limitation period in subsections 3(3)(b) and 3(4)(b) of the City of Ottawa's CZBL that were repealed by the Board and the Court. The City of Kingston permits the replacement of a non-conforming building destroyed by any means beyond the control of the owner "provided that construction is commenced within one year from the date of destruction and provided that the building is completed within a reasonable time thereafter" (Zoning By-law No. 8499, s. 5.24(a)). Similarly, the City of Orillia allows the rebuilding or repair of any building or structure that is damaged or destroyed by causes beyond the control of the owner "provided such rebuilding or repair is conducted within two years" (Zoning By-law 2005-72, s. 3.4.5). However, as the Board held in its decision at page 11, and which was affirmed by the Divisional Court, "[i]f a landowner demonstrates a continuous intention to continue a long-established pattern of usage, there is no loss of its right, regardless of the time it takes to complete repairs."

The above examples of zoning by-laws from across Ontario demonstrate the extent to which municipalities attempt to "encourage" or cause the "evolution" over time from legal non-conforming uses to ones in conformity with current zoning by-laws. The judgment in *Ottawa (City) v. TDL Group Corp.* represents for the first time a clear and unambiguous ruling that such efforts by municipalities are contrary to section 34(9)(a) of the *Planning Act* and are, therefore, beyond their jurisdiction. Municipalities must ensure that their zoning by-laws conform to the law with respect to legal non-conforming rights.

Michael Polowin is a partner with Gowling Lafleur Henderson LLP in Ottawa, practicing in Development and Planning Law. Mr. Polowin advises and represents clients through the full spectrum of the development process. He has acted for some of the largest developers in Canada, and has been involved in developments throughout the Ottawa area and Eastern and Southern Ontario. Mr. Polowin also acts on behalf of municipalities in Eastern Ontario on planning and development and public-private partnership matters.

Elad Gafni is an Articling Student with Gowling Lafleur Henderson LLP in Ottawa, where he also worked as a Summer Student. He graduated in 2009 with an LL.B. (Cum Laude) from the English Common Law Program at the University of Ottawa. Prior to law school Elad attended Queen's University on a Chancellor's Scholarship where he received a B.A. (Hons.) in Economics, as well as the University of Toronto on an Ontario Graduate Scholarship where he received an M.A. in Economics.

Friends and Neighbours,

AIM

SF Township Planning Department recently proposed a number of changes to the Comprehensive Zoning Bylaw (CZBL). They did this as part of a routine "Housekeeping Amendment". I would suggest that the proposed changes to s.5.10 and s.5.11 of the CZBL are not routine and not simple "housekeeping". If passed they will have significant ramifications for those of you who have legal non-complying structures on the water.

The intent of this email if three-fold:

1 - If you are not already aware, to inform you of the recent proposed SF Township Bylaw Amendment,

2 - To offer you my (unsolicited) opinion on the matter,

3 - To offer suggestions on what you can do if you share my concerns.

Please note that the following opinion is strictly mine. I welcome/encourage anyone to contact me if they have any questions, or want to discuss, or disagree. My intent is to encourage better decision making through informed dialogue

BACKGROUND - WHAT DO I THINK?

Currently any new build has to be constructed outside the 100ft setback. However, there are many "legal non-complying structures" within the setback. These are structures that were already in existence at the time the CZBL was enacted. For example, they include houses, cottages, boathouses, & bunkies. (I will refer to these as "grandfathered" structures). If the bylaw passes, the proposed changes would seriously affect the rights of property owners who have one of these grandfathered structures on their property. My best guess is that this would affect approx 30-35% of the residents on Sydenham Lake.

I have attached the proposed "Housekeeping" Amendment below. Please read.

This is my assessment of the changes:

s.5.10.2 - The township is proposing additional language be inserted in this Section to provide clarity. I believe the proposed additional language would make it easier for SF to extinguish grand-fathered rights once a wall is removed from a grandfathered structure. I do not have any issue with this policy if the building is derelict and has not been used for a period of time. However, most grandfathered structures are used. There are many reasons why the owner might want to remove a wall. For example - install new windows, update from 2x4 to 2x6 construction and/or replace a log in the wall.

I have personally been involved in a file where an applicant simply wanted to put in 2 big windows. They were told, that since the windows were so large, it meant a wall would essentially be removed, and therefore the grandfathered footprint would be lost.

This proposed amendment goes too far. If the concern is derelict structures, then the bylaw should be written that way. It should not be so broad as to affect all of us who have used our structures consistently and just want to update them.

s.5.11 - The township wants to remove this section of the CZBL. This section allows for any grandfathered structures to be re-built in the event an Act of God (Fire, Fallen Tree, etc) in the same location as long as it keeps the same footprint. The proposed changes would take away this automatic right of rebuild. Instead, property owners would have to make an application before the Committee of Adjustment (CoA) and seek its approval prior to any re-build. Going to the CoA costs money (approx 1k without a lawyer) and takes time (best case 2 months, but not unusual to take 6 months +). In the end your right to rebuild is not automatic and the CoA may deny your application and recommend moving your structure to another location. From having gone through the CoA process and having followed it for the last 7-8 years, my opinion is that if there is another footprint available, planning staff will recommend that the building be moved.

WHAT DOES THE LAW SAY?

As many of you know I am a lawyer. Full disclosure: I am not a property/planning lawyer, nor do I profess to be one. I cannot/will not give anyone legal advice on this matter. However, I have done extensive research on this issue over the past 5 years.

My assessment is that the law is on our side. I have attached an article that I used as part of an OMB file I was involved in a couple of years ago. It is a nice summary of this situation. Please read. It explains the law better then I can.

In summary - s.34.9 of the The Planning Act says that no Municpal By-law can be passed:

(a) **to prevent the use of any** land, building or **structure** for any purpose prohibited by the by-law if such land, building or structure was lawfully used for such purpose on the day of the passing of the by-law, so long as it continues to be used for that purpose.

OMB and Court decisions have provided clarity to this issue and have confirmed that grandfathered rights cannot be frustrated through the drafting or rigid interpretation of municipal bylaws. As long as a land owner can demonstrate consistent use of a structure, they are able to continue to use and improve. Many of our existing bylaws (and their interpretation) already violate this section of the Planning Act.

Looking at the other side of the story, there is some case-law where grandfathered rights were extinguished. However, if you look at the facts of those cases, they are easily distinguishable because there was not consistent use. For example, in the Ontario Court of Appeal decision, Feather v Bradford (Town), the applicants had submitted an application to raise a sunken boathouse which had been uninhabitable for over 14 years. The applicants were not the original owners at the time the boathouse sank, and the property had changed hands numerous times in the successive years. In this case, the court held that the “intention to use” was not good enough to maintain the grandfathered right. Instead, owners must demonstrate continuous use. I have no problem with this decision and think it is an excellent example of when we can deem a structure as having lost its grandfathered status.

Bottom-line - as long as you can demonstrate consistent use of a grandfathered structure, then you should have the ability to renovate/reconstruct as long as the use/footprint remain the same. Any Bylaws, or interpretation of Bylaws that frustrate this right should be voided.

WHAT ARE OTHER MUNCIPALITIES DOING?

In preparation, I have done research across multiple Ontario jurisdictions, predominately in cottage country. I am confident that South Frontenac has one of the strictest CZBL regarding shoreline development. In addition, how these CZBL are interpreted and applied by staff are also more strict.

Generally, I think this is a good thing. As waterfront owners, we are all stakeholders in the environment.

However, I do believe a balance can be achieved between the environment and the rights of property owners

MY PROPOSAL

This issue reveals the tension between property rights and environmental concerns. I do think the two can be balanced. I would suggest the following approach with the Township:

1 - We agree on the importance of the environment,
2 - SF recognizes the legal rights of grandfathered property owners and our ability to use/maintain them,
3 - We concede that derelict buildings, which have not been used or maintained for a period of time (i.e no consistent use) have lost their grandfathered rights,
4 - We agree that any time you re-construct/renovate your grandfathered structure, best building/environmental practices are to be used. For example, attach conditions ensuring septics are updated, run-off water collection is installed, steel roofings, etc.

SO WHAT? - WHAT CAN YOU DO?

I was recently informed that SF Council will hear delegations on this issue at their next Committee of a Whole Meeting on 26 April and 10 May (if required). A decision will be made at the Council Meeting on 17 May.

I have to be honest. The cards are stacked against us. At this point in time, I think we may only have 1-2 councillors who are receptive. We need to make them aware that this issue is extremely important to us and may determine how we vote.

How can we do this?

1 - Become informed

2 - If you are not a public speaker or you are a seasonal resident - Email/Write your councillor and Town CAO (Take a look at the SF website to get their email address)

SF CAO - Wayne Orr <worr@southfrontenac.net>

3 - Ask to be a delegation at one of the upcoming CoW Meetings. (You will have 10 minutes)

The full process for attending as a delegation can be found on the SFT website at: http://www.southfrontenac.net/en/town-hall/delegations-and-deputations.asp?_mid_=13131

Basically, you need to do the following

1. Submit a letter to the CAO stating that you would like to appear before Council with a summary of your concerns. E-mail to worr@southfrontenac.net
2. Provide a written summary of your presentation by 12:00 noon on Thursday, April 21st.

Many delegations across the districts will hold weight

4 - Attend the CoW meeting and show your support.

5 - Please fwd this email to your lake associations/friends/neighbours in SF. Spread the word.

This is a real opportunity to have your voice heard and effect change.

Sincerely,

Jeff Peck

From: Gary Kielo [mailto:gary.kielo@sympatico.ca]
Sent: April-15-16 1:59 PM
To: patbarr1@aol.com
Cc: Wayne Orr <worr@southfrontenac.net>; savesfpropertyvalues@gmail.com; rvanewal@southfrontenac.net
Subject: Bylaw Housekeeping Amendment

Hello Pat

I have read some communications from the Greater Bobs and Crow Lake Association concerning grandfathered buildings within the setback allowance. You will know the details.

The Association does make a good case concerning the clarification of the bylaws being called an amendment. It's quite an impactful change as I read it.

As an landowner, along with my wife, of such a building I am interested is hearing your position, as our councillor, on this at this point in time?

Can you email me in a timely manner as several deadlines for this are quite soon

Gary Kielo
15A Demerling Ln.
Bedford-South Frontenac Twnshp.

From: Barry Black <b2bblack@gmail.com>
Subject: Comments on Housekeeping Amendment to the Township of South Frontenac Comprehensive Zoning Bylaw
Date: April 18, 2016 at 2:26:18 PM EDT
To: rvanewal@southfrontenac.net, 7846elbe@gmail.com, markschjerning@outlook.com, wor@southfrontenac.net, lmils@southfrontenac.net
Cc: larryarpaia@gmail.com

Although I will not be able to attend upcoming Council meetings in person, as a property owner, I would like to voice my perspective on the proposed Housekeeping Amendment to the Township of South Frontenac Comprehensive Zoning Bylaw.

Specifically, section s.5.11 appears to remove the right of property owners of grandfathered, legal non-conforming or non-complying structures to be rebuilt in the case of Act of God destruction without going through the process of applying to the Committee of Adjustment to seek approval. This process would be arbitrary and costly for property owners as well as contrary to section s.34.9 of The Planning Act.

I ask that you give careful consideration to balancing the need for environmental protection with the needs and rights of your constituency property owners.

regards…. Barry Black
85 Rainbow Lane RR #2, Godfrey

Sent: April-19-16 10:10 AM
To: rvanewal@southfrontenac.net; 7846elbe@gmail.com; markschjerning@outlook.com; patbarr1@aol.com; Wayne Orr <worr@southfrontenac.net>; Lindsay Mills <lmills@southfrontenac.net>
Cc: Mac Prescott <macprescott@bell.net>
Subject: Proposed Bylaw Changes 5.10.2 & 5.11

Good morning. Please find below a letter which as a property owner in South Frontenac Township represents my concerns in this matter. As a resident of Bobs and Crow Lake I endorse the position taken by The Greater Bobs and Crow Lake Association.

I encourage you as the representatives of this Township to demonstrate the type of leadership that is required in this matter and withdraw the proposed changes to bylaws 5.10.2 and 5.11 and replace the current faulty process with one that is more inclusive, transparent and involves all stakeholder groups.

Best regards

Mac Prescott
481 Bob's Lake Road

To Members of South Frontenac Council and Staff

I am writing to you as a property owner on Bobs Lake to express my disagreement and strong concerns with both the substance and the manner in which the proposed " "Housekeeping Changes" to by laws 5.10.2 and 5.11 are being processed by the staff and political representatives of this township.

In the first place to suggest that these changes are merely housekeeping is grossly inaccurate and misleading. These changes dramatically reduce property owner's rights and diminish their property value. Secondly, I am incredulous that Council would move to change the property rights of possibly thousands of property owners without making any effort to inform them - beyond a posting on the Township website. This process is undemocratic and fraught with legal difficulties should these proposals be implemented.

Our cottage property has been in the family for five generations. We have paid taxes in this area for over 75 years. We are proud owners, and like the vast majority of "grandfathered property" owners we maintain our property to a high standard. We have always felt a part of this Township and have supported its programs and activities. Unfortunately, as a result of these proposed bylaw changes we feel disenfranchised and under attack from the very political system which we have supported.

The intent of the proposed change to Section 5.10.2 seems to further restrict the rights of "grandfathered" property owners. If the intent is to prevent derelict buildings from being rebuilt then the wording should reflect this. As it stands the issue of when walls have been removed from an existing structure is unclear as to it meaning. The proposed wording does not provide any clarity and in fact leads to more confusion.

The effect of the proposed removal of section 5.11 is to dramatically alter the property rights and lower the property values of the affected properties. Currently, "grandfathered " properties are clearly protected under 5:11 to rebuild should they experience a calamitous event such as " fire, lighting, etc." This section of the bylaw reflects a measure of fairness to permit property owners to rebuild after destruction that is beyond their control. To take away this protection and replace it with the minor variance process is to remove a guaranteed right and replace it with a political process from which no one can predict the outcome. This suggested change is an unnecessary intervention by the Township into the area of property rights and if approved, will result in a flurry of hostile legal action and a fracturing of the political process in South Frontenac.

I would encourage you to withdraw the proposed changes to bylaws 5.10.2 and 5.11 and replace this process with one that is more inclusive, transparent and that involves all stakeholder groups.

Yours truly,

Mac Prescott

481 Bobs Lake Road

From: Parker, Andrew [mailto:APARKER@MCCARTHY.CA]
Sent: April-20-16 7:11 PM
To: Lindsay Mills <lmills@southfrontenac.net>; Wayne Orr <worr@southfrontenac.net>
Cc: patbarr1@aol.com; councillorrevill@gmail.com; lparker@edc.ca
Subject: RE: Objection to Proposed "Housekeeping Changes" to the Bylaws of South Frontenac

Hello Lindsay,

Thanks for the note but I respectfully disagree.

Our view is that the proposed changes are of course about the use of land. The proposed changes can be interpreted to say that if a grandfathered property is renovated by taking down one wall (even if it is an interior wall) then the owner is not permitted to do it because it becomes vacant and must be moved. Or if one exterior wall is damaged or in need of repair it cannot be repaired or replaced unless the building is moved. In our view that is limiting the use of the property. A property owner should be able to renovate their property within the existing foot print in accordance with the current by-laws and the proposed amendment goes too far by restricting an owner's rights to do that, which we believe is against the Planning Act.

Also, I have heard from other sources that your view is that the removal of section 5.11 will just require a minor variance application in the future if a property is involuntarily destroyed. Removal of such a section from the by-laws will only provide a future regulator or official the opportunity to say "rebuilding of a structure that is destroyed by an involuntary event on the same footprint is of course not allowed because there is nothing in the by-law that permits it" or "silence in the by-laws means it is not permitted and that is supported by the fact that there was an amendment to remove it". Your proposal will also require an owner to hire a lawyer and apply for that variance which is expensive and time consuming and has an uncertain outcome. The interpretation of the legislature, by-laws, rules and regulations is based on the wording of such documents. Without any words there is nothing to interpret. That then leaves a property owner with no recourse in a situation that was not their fault. So, if there is some concern over the wording in that section to deal with derelict buildings, deleting the section is not the answer. By the way, our view is that the language in the current bylaw does not need to be changed in any event.

Respectfully,

Andrew and Lisa Parker

From: Lindsay Mills [mailto:lmills@southfrontenac.net]
Sent: Tuesday, April 19, 2016 12:54 PM
To: Parker, Andrew; Wayne Orr
Cc: patbarr1@aol.com; councillorrevill@gmail.com; lparker@edc.ca
Subject: RE: Objection to Proposed "Housekeeping Changes" to the Bylaws of South Frontenac

Dear Lisa and Andrew Parker,

Thanks for your letter.

Just to be clear, we are not talking about the use of the land. We are only talking about the placement of buildings on the land.

If there is a structure that pre-dated our by-laws that is now located within the 30 metre setback from a waterbody and the owner voluntarily takes it down then we would want it rebuilt according to the setbacks of the day. If it can't meet the 30 metre setback because of certain restrictions on the land then we would consider it as part of a minor variance application.

Either way it is very unlikely that it could not be rebuilt somewhere on the lot.

I hope this helps.

Lindsay Mills

From: Lindsay Mills
Sent: April-19-16 12:54 PM
To: Parker, Andrew <APARKER@MCCARTHY.CA>; Wayne Orr <worr@southfrontenac.net>
Cc: patbarr1@aol.com; councillorrevill@gmail.com; lparker@edc.ca
Subject: RE: Objection to Proposed “Housekeeping Changes” to the Bylaws of South Frontenac

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Either way it is very unlikely that it could not be rebuilt somewhere on the lot.

I hope this helps.

Lindsay Mills

From: Parker, Andrew [mailto:APARKER@MCCARTHY.CA]
Sent: April-19-16 10:26 AM
To: Wayne Orr
Cc: Lindsay Mills; patbarr1@aol.com; councillorrevill@gmail.com; lparker@edc.ca
Subject: Objection to Proposed “Housekeeping Changes” to the Bylaws of South Frontenac

Please see attached letter for your consideration.

mccarthy tétrault

Andrew Parker
Partner | Associé
Business | Affaires
T: 416-601-7939
C: 647-286-7939
F: 416-868-0673
E: aparker@mccarthy.ca

McCarthy Tétrault LLP
Suite 5300
TD Bank Tower
Box 48, 66 Wellington Street West
Toronto ON M5K 1E6

Lisa and Andrew Parker
Home - 25 Southlea Avenue, Toronto, Ontario, Canada M4G 3L8
Cottage – 191 Burns Lane North, Bobs Lake

April 18, 2016

Mr. Wayne Orr
CAO Township of South Frontenac
4432 George Street
Sydenham, Ontario
K0H 2T0
worr@southfrontenac.net

Dear Mr. Orr,

Re: Proposed "Housekeeping Changes" to the Bylaws of South Frontenac

We are writing to you to express our significant concerns and disappointment over the blatant attempt to remove fundamental property rights of owners of property in the Township of South Frontenac by way of a so called "housekeeping bylaw" which will likely negatively impact the value of historic cottages and add to their expense in that such cottages should be allowed to be repaired, renovated or strengthened without having to be moved and rebuilt to meet the 30 metre setback.

We are of the view that the proposed "housekeeping bylaw" is regulation that has gone amok and is illegal by virtue of it violating The Planning Act (Ontario) which provides that no Municipal By-Law (such as the proposed amendments) can be passed to **prevent the use of any land, building or structure for any purposes prohibited by the by-law, if such land, building or structure was lawfully used for such purpose on the day of the passing of the by-law**.

As a property owner of a cottage that was built in the 1940's, we should be allowed to lawfully use our cottage with the ability to repair and replace walls within the structure of our cottage and on the existing footprint and not be subject to the proposed prohibition. Moreover, we would point out that any such repair and replacement will have no detrimental effect to the environment if existing laws are abided by. Forcing cottage owners to rebuild their cottages beyond the 30 metre set back in such a manner will lower (and maybe destroy) resale value of the property. It would also add unnecessary expense which could then cause such cottage owners not to be able to afford such a rebuild and therefore have to abandon the property.

We are appalled and outraged that a municipal government would be of the view that it is within their rights to dictate that if a cottage is destroyed (including partially) by fire, lightening, explosion or a tree falling on it through no fault of an owner, that the owner of that cottage cannot repair such damage and instead must be rebuilt outside the 30 m setback. This suggests to us that we do not live in a democracy and instead live in a totalitarian state. Telling someone that through no fault of their own an owner had to remove all of the historical memories of generations of a family when a cottage is so damaged or destroyed is shocking to us. Again, we are of the view that if a cottage is rebuilt on an existing footprint in accordance with existing laws, rules and regulations there will be absolutely no detriment to the environment and so there in no reason to destroy those memories.

You MUST NOT pass the amendments to section 5.10.2 and 5.11 of the bylaws. These amendments are outrageous and were not part of any of the councillors' mandates when they

were elected that we are aware of. If councillors feel strongly about such changes, they should include the changes in their platform when they are up for re-election so voters can properly consider them. This should not be a unilateral action by the Council with no electorate mandate to do so.

Respectfully,

Lisa Parker Andrew Parker

Lisa and Andrew Parker
191 Burns Lane North – Bobs Lake

cc. Lindsay Mills (Planner/Deputy Clerk) - lmills@southfrontenac.net
Pat Barr (Councillor – Bedford District) - patbarr1@aol.com
Alan Revill (Councillor – Bedford District) - councillorrevill@gmail.com

April 19, 2016

Mr. Wayne Orr

CAO Township of South Frontenac

4432 George Street

Sydenham, ON

K0H 2T0

Dear Mr. Orr:

I'm writing to express my concerns with the proposed "housekeeping changes" to sections 5.10.2 and 5.11 of the By-Laws of South Frontenac Township. I strongly object to the proposed changes because they are arbitrary, haven't been reviewed with the majority of stakeholders and violate the rights of the property owners. The Lake associations were not consulted nor were the significant numbers of property owners that would be affected if the proposed changes to the By-Laws were enacted.

Moreover, the Township has not provided/promulgated a driving rationale for making such a significant change, a change that over time could potentially impact over thirty (30) percent of the property owners on the lakes and waterways in South Frontenac Township.

Ergo, I'm recommending that the Township proceed as follows:

1. Immediately stop the enactment of the proposed changes as drafted.

2. Do not implement the proposed change to section 5.10.2. Instead:

    a. If the Township has a governing rationale and changes must be made to control derelict structures, then the by-law should be re-written to target only these derelict structures and not encompass the maintained structures of other property owners. Through neglect the owner of the derelict structure has forfeited the privilege of using the grandfathered footprint.
    b. Where the grandfathered building is in continual use and maintained, the owner should be allowed future upgrades and improvements inside the footprint.

    c. Improvements to the grandfathered buildings should not be extended to include demolishing the total building and then rebuilding on the footprint.

3. Do not replace 5.11 with the expensive and cumbersome Minor Variance Process.

4. Retain Section 5.11 considering the points below:
   a. In the case where a fire, storm or act of God destroys the building, the By-Laws should *continue to allow the landowner to rebuild on the existing footprint.*
   b. The reconstruction/replacement building must be located on and not increase the footprint.

5. Recognize the legal rights of the grandfathered property owners.

I'm certainly aligned with the Township on the importance of the environment and assume protection of the environment is the impetus for these proposed changes. As such, any time a grandfathered structure is reconstructed or renovated on the existing footprint, best practices should be used including a septic review, and upgrading if required, grey water management, along with gutters, downspouts and runoff water management. It should be strongly considered for inclusion, that these sources of possible environmental contamination to the waterways, be channeled back beyond the thirty meter (30m) setback even if the structure is not. Moreover, a strong position on the retention of the forest canopy to the waters edge is required.

Considering the above, and during a moratorium on the proposed changes the Township should convene a series of meetings embracing the stakeholders (representatives from the property owners and the presidents of a good number, if not all the lake associations in South Frontenac Township), to present the Township's rationale and objective(s) for any proposed changes or suggested revisions. Also, to glean from the stakeholders, in a non-combative scenario, what they believe is a workable position on these issues.

Sincerely,

Norman Mole

942 Sunset Shores Lane

Green Bay of Bobs Lake

Cc, L. Mills, Planner/Deputy Clerk

Pat Barr, Councillor, Bedford District

Alan Revill, Councillor, Bedford District

-----Original Message-----
From: John Seidenspinner [mailto:seidenspinner123@yahoo.com]
Sent: April-15-16 2:53 PM
To: Wayne Orr <worr@southfrontenac.net>
Subject: April 26

As a property owner in TSF I am worried about the changes that are proposed. I think that they will be harmful to the owners affected(I am not one) but also to he rest of us TSF. I will be at the meeting and look forward to listening to why you feel the changes are good and fair and hope you will extend the same courtesy to those of us who disagree.
I look forward a resolution that is good for all John Seidenspinner

20 April 2016

Wayne Orr
Chief Administrative Officer
Township of South Frontenac
4432 George Street
Box 100, Sydenham
Ontario, K0H 2T0

Dear Mr Orr

Re: Proposed changes to the Comprehensive Zoning Bylaw

I have been informed of the proposed amendment to the Comprehensive Zoning Bylaw (CZBL) s.5.10.2 and removal of s.5.11. - considered "housekeeping".

Unfortunately, I am unable to attend the meeting on April 26 as I have a prior commitment and am away on May 10.

I strongly oppose the amendments which are more than "housekeeping" as they would restrict the non-conforming rights of property owners to re-build in case of fire or other disaster, or to provide appropriate maintenance to the building without going through the Committee of Adjustment which adds additional bureaucracy, time and costs; and could be denied. This uncertainty would also impact the value of the property.

Subsection 34(9)(a) of the Ontario Planning Act provides that a municipality's zoning by-law cannot prohibit any particular use of property (lands, buildings or structures) if that use lawfully existed on the date that the zoning by-law was passed, provided that the use has continued since then.

The aim of the township to protect the environment is recognized and can be part of the building permit application.

In the future, it would be appreciated that property owners be informed by mail of proposals that could affect them, especially since many live out of the area, rather than finding out by word of mouth.

Your attention to our concerns is appreciated, and I trust will result in a win-win situation.

Your truly

Carol Whyman
1037 McCallum Lane
Sydenham
Ontario
K0H 2T0

From: Mark Cooke [mailto:mncooke@sympatico.ca]
Sent: April-17-16 4:58 PM
To: Mayor Ron Vandewal: <rvanewal@southfrontenac.net>; Wayne Orr <worr@southfrontenac.net>; Lindsay Mills <lmills@southfrontenac.net>
Cc: Larry Arpaia <larryarpaia@gmail.com>
Subject: Concerns regarding Proposed Amendments 5.10.2 and 5.11

Good afternoon to our Township Council,

I have just leaned of the proposed amendments to sections 5.10.2 and 5.11 of the Comprehensive Zoning By-law with regard to rebuilding or maintenance of cottages which had been grandfathered to remain within the 30 metre set-back from waterbodies.

If one's cottage was destroyed by an act of god, it does not make sense that a variance needs to be applied for to rebuild. The variance application allows the Township to deny rebuilding of the cottage which is preposterous. A building permit allowing the rebuild to within the same grandfathered footprint should be permitted without the vote of council.

Cottages are typically held in families for generations. Some generations of families have differing financial resources. If a cottage is passed down to a son or daughter who is in a better financial state then there should be no restrictions to allow improvements to the building as long as it stays within the same grandfathered footprint. Specific clauses already exist for replacement of septic systems which protects the waterfront. I do not understand how restrictions on maintenance could affect the waterfront as long as one stays within the footprint.

As responsible cottage owners, we understand the need to protect the waterfront and are making efforts through our GBCLA to improve the quality of our lake. We fully agree to restrictions on new construction. The proposed amendments are based in trying to protect the lake which is a good cause, however these amendments as worded give sufficient power to council to strip our cottage from my family.

Mark Cooke

From: edge.x@sympatico.ca [mailto:edge.x@sympatico.ca]
Sent: April-02-16 6:31 PM
To: Wayne Orr <worr@southfrontenac.net>
Subject: zoning changes

my apologies for writing to you wayne....i was trying to get to the mayor but cant find his email address anywhere.

i have just returned to canada following several months in the us, only to find that the south frontenac is in the process of changing its zoning bylaws for waterfront property, without any consultation with your property owners.
if i hadnt just met a fellow property owner who outlined the changes, i would never have known until it was too late to present my own opinions.

i have tried to discover the proposals on your website....to no avail....perhaps i am not sufficiently technically adept to handle sf's website.

would you please pass this along to the mayor.

i request a detailed description of the proposals and a phone call from the mayor to explain how the process has got this far without my knowledge

tim edge
214 zimmerman lane
613 824 0581

Mr. Ron Vandewal
Mayor of South Frontenac Township
P.O. Box 100
4432 George Street
Sydenham, ON
K0H 1S0

April 19, 2016

re: Collins Lake Subdivision Proposal

Dear Mr. Vandewal:

I raised a number of concerns at the public meeting held on April 5, 2016. I look forward to hearing answers to my questions.

Since April 5th I have learned of many residents who were not aware of the public meeting. Some who were aware did not have enough information to fully appreciate the proposal.

The proposed developer has had many months to prepare a case for proceeding with a subdivision. Those of us who are nearby residents and taxpayers have had one public meeting and approximately one month to respond to the subdivision proposal.

I request that the Council of the Township of South Frontenac conduct another Public Meeting to discuss the Collins Lake Subdivision Proposal. I would like to hear at that public meeting what our representatives and council as a whole feel about the proposal.

Would Council tell us how many homes may ultimately be built in the area bordered by Lakefield Drivn Holmes Road, Perth Road and Spooner Road?

As a Council would you please share with us the identity of MAYBACH GROUP INC. Is the group local with a vested interest in this community?

Thank you once again for considering my requests.

Sincerely,

R. B. Pritchard

R. Bruce Pritchard
3757 Maple Crest Court

From: Margaret Boucher <boucher.peggy@gmail.com>
Sent: Wednesday, April 20, 2016 2:51 PM
To: Wayne Orr; 7846elbe@gmail.com
Subject: Proposed by law changes

Dear Ross and Wayne,

We are concerned about the proposed By Law changes mandating a 30 meter set back from the water. We own a small one acre island on Loughborough Lake. It has been a family treasured summer home serving four generations for 54 years. We take great pride and enjoyment in having this beautiful retreat on Loughborough Lake.

The proposed By Laws changes could affect our property and the future value of the property. Given the shape and contours of our island, there is no place a replacement structure could be built 30 meters from the shoreline. We do work *very* hard to maintain our buildings on the property, however an act of nature, or vandalism causing a structural fire, is always a high risk on a remote seasonally used property. We urge the South Frontenac Township Council to continue to permit rebuilding cottages/"bunkies" using the historical footprint of buildings on a lakefront property.

Additionally,we urge the Council to consider the affect on property values if the proposed By Laws were approved . Using our property as an example, the value of the property would drop dramatically if we were not allowed to rebuild our cabins. Ultimately,the assessed value would be affected, altering the tax structure for the property.

We are unable to attend the meetings. Please share our opinion with the other council members.

Thank you.
Sincerely,
Edward and Margaret Boucher

Peggy Boucher
boucher.peggy@gmail.com

April 20, 2016

To Wayne Orr, Lindsay Mills, Angela Maddocks, Ron Vandewal and Ross Sutherland,

Recently, it has come to our attention that the Township of South Frontenac is proposing to change the bylaw regarding buildings within the 30m setback of the lake.

Although we recognize a need for standards and environmental stewardship, we feel the proposed bylaw infringes on our right to improve a structure on our property. If a resident wishes to enhance their waterfront home or cottage, they should be able to do so. This will not only maintain the beauty of individual properties, but will also add to the overall standard of the lakefront community. It is frustrating to see the township upgrade 'the point' and the athletic fields, but not allow individuals to update their properties.

Thanking you in advance for taking the time to further consider the bylaw amendment.

Sincerely,

Troy and Natasha Buchanan

1249 Retreat Lane

From: Lyle Turner [mailto:turnerlyle@hotmail.com]
Sent: April-21-16 9:41 AM
To: Wayne Orr <worr@southfrontenac.net>
Cc: patbarr1@aol.com; councillorrevill@gmail.com; Kathy Turner <kathy@nexicom.net>
Subject: Proposed blylaw changes - taxpayer concerns -

Wayne, thanks for your time on the phone earlier this week.

Please accept this email expressing our concerns with respect to proposed clauses to cottage properties currently grandfathered within 30M of the water.

The ‘Act of God’ clause should be maintained and allow the lakeshore owner to rebuild on their grandfathered footprint. It should not take a minor variance or appearing in front of a municipal board to allow such an action.

Future improvements on the existing footprints should remain grandfathered.

The "housekeeping amendments”, of “continually neglected buildings”, connotes that cottages within the 30 M set back are all subject to undo discrimination. These clauses should apply to all properties not just those within 30M or apply to NONE at all as this criteria is very subjective and open to challenge.

Lyle Turner, P. Eng.
office:- 705-932-2865
cell:- 416-427-3748