



Mayor and Members of Township Council

January 20, 2020

Mr. Ian Clendening, Planner

Township of Minden Hills

Re: Proposed Zoning By-Law Amendment Multiple Properties on Sumac Trail (PLZBA2020074)

On behalf of the Board of Directors of the Gull Lake Cottagers Association we are objecting to the removal of the Hazard Land (HZ) designation on the four (4) properties on Sumac Trail represented by Parts 1 through 9 of Plan 19R-5289 for the following reasons and supporting documentation;

1. The waterbody fronting these properties has been a shallow marsh supporting birds, loons, and aquatic species for the last 40 years I have been on the Lake. (Mike Thorne)
2. This is the only waterbody on Gull Lake that is protected naturally from powerboat wake disturbance-ideal for loon nesting.
3. We believe the zoning condition of Environmental Protection (EP) placed on these properties by the Township of Lutterworth in passing By-Law 4-92, January 16, 1992, amending By-law 4-81 as a condition of rezoning the land from Rural (RU) to Shoreline Residential Type 2 (SR2) was to protect the wetland. This condition was placed "to satisfy the condition of the four land severances granted by the County of Haliburton Land Division Committee". We understand that the EP zoning of these properties was changed to HZ when amalgamation into Minden Hills took place. As noted in 4 below, the EP zoning is more appropriate. See also Attached
4. The waterbody fronting on these properties has recently (2020) been classed as an "Unevaluated Wetland", using a classification system endorsed by MNRF, in a wetland mapping study undertaken by P. Heaven of Glenside Ecological Service Limited on behalf of the Haliburton Highland Land Trust. Mr. Heaven has discussed the results of this mapping with Mr. Clendening and we understand he is in agreement with the wetland designation.

Discussion

As Council is now aware that this is an “Unevaluated Wetland” the GLCA believes the area fronting these properties should be protected from any further degradation and treated as a “Provincially Designated Wetland” until a proper wetland evaluation can be done using the approved Ontario Wetland Evaluation System.

We are including some images to reinforce the value of a wetland.

Value of Wetlands

Wetlands are important to species from many familiar classes of animals, as well as to less commonly known creatures. Every drop of water contains microscopic zooplankton, which are a vital component of the food chain. The water's surface and the wetland bottom are covered with insect eggs, larvae, and nymphs. Wetlands are diverse and delicate ecosystems that are both ecologically and economically valuable

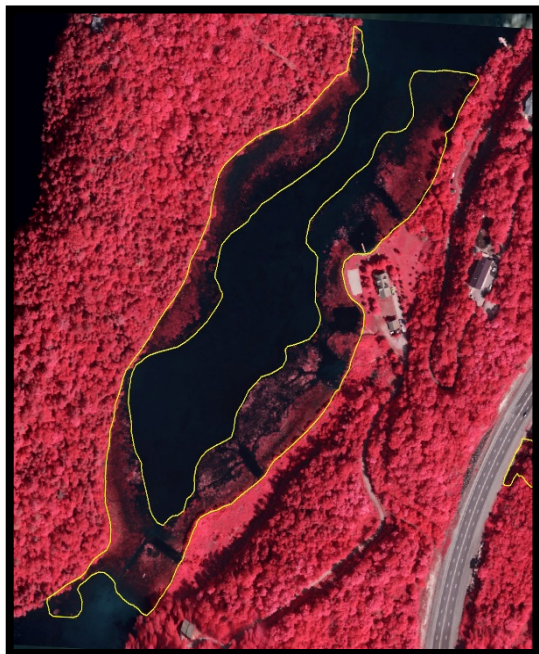


Image A.

Aerial photo of the mapped wetland boundaries produced by the Haliburton Highlands Land Trust (HHLT), 2019

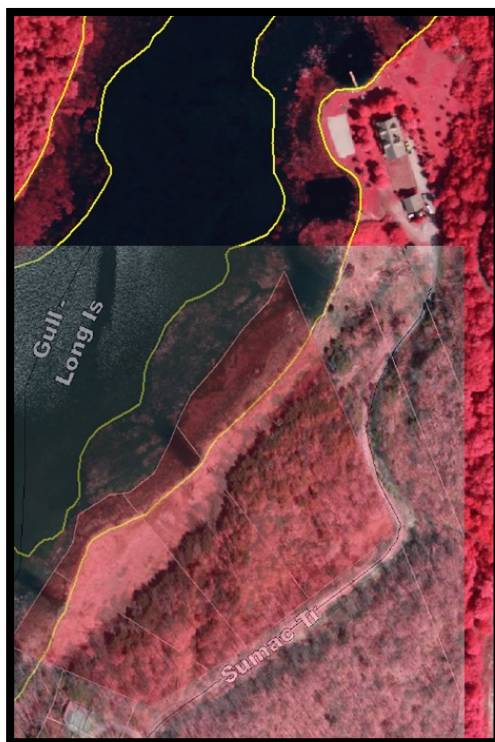


Image B

Aerial photo of Sumac Trail properties superimposed on the HHLT wetlands map.

Image B indicates the mapped wetland boundaries with the Sumac Property boundaries superimposed on the wetland boundaries. It is clear here that the properties interact with the wetland and therefore the Hazard Land designation should not be removed until a proper wetland assessment is undertaken

Image C shows the potential impact of boat passage, dock and swim allowances in removal of aquatic life.

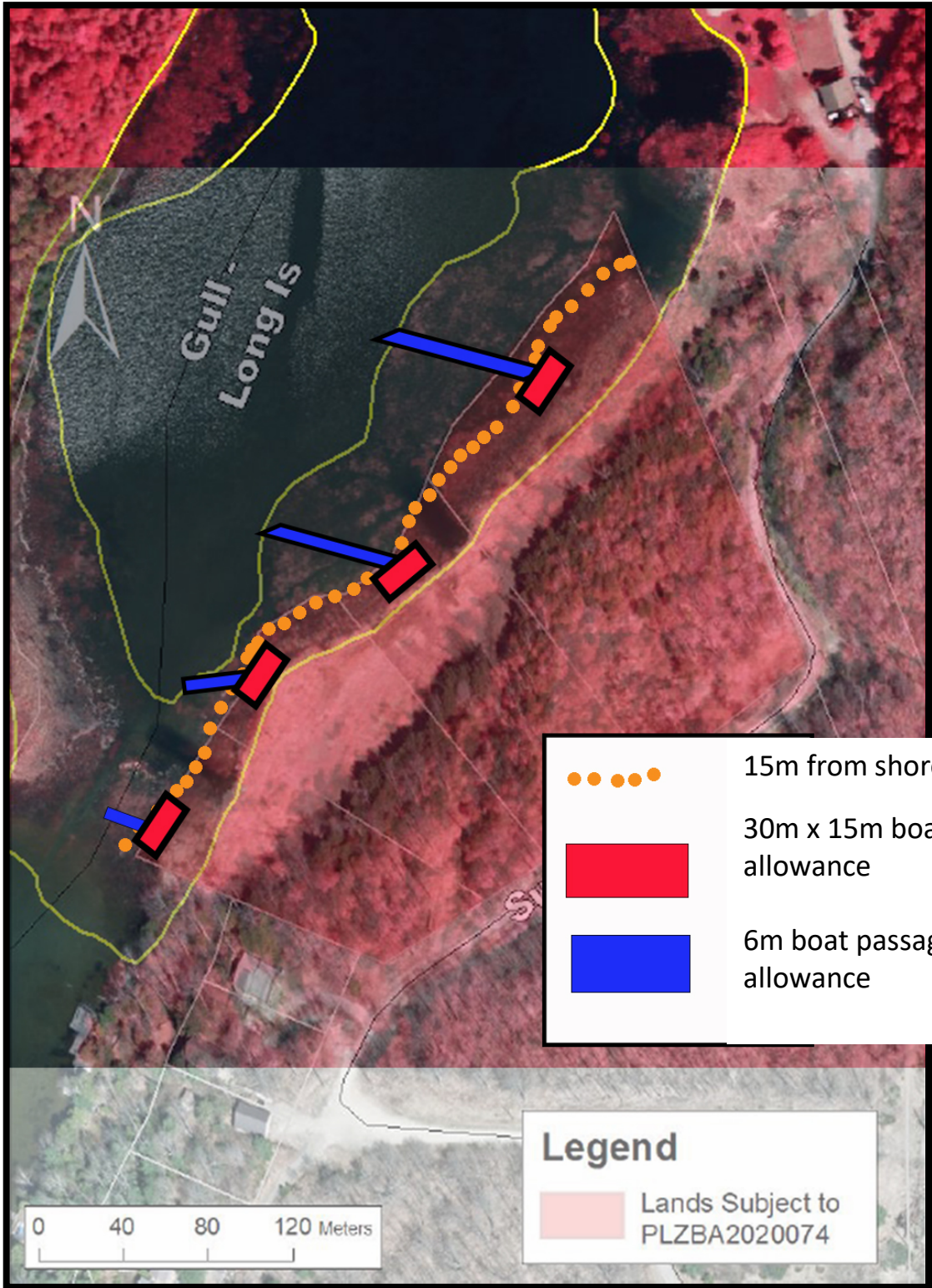


Image D and Image E show the dryland to the wetland.



Image D Overview of wetland area looking west



*Image E South entrance to
the wetland*

We are also including photos (*Images F and G*) of the waterfront showing some of the marsh features we have a responsibility to protect



*Image F. Shoreline of some Sumac Trail properties
May 2016*



*Image G. Fresh material dumped close to wetland
May 2016*

In order to indicate the value of protecting wetlands we have included here some documentation from the three levels of Government; Ontario, County of Haliburton and Township of Minden Hills. These documents are shown in the Appendix.

CONCLUSION

We respectfully thank members of Council for doing the right thing and protect our valuable wetlands now and in the future.

In summary

1. Do not remove the HZ zoning unless it is going to be replaced with an EP zoning.
2. Regardless of the zoning, ensure that a complete Environmental Impact Study is done to assess the impact of any development on the only undesignated wetland on Gull Lake.

Respectfully submitted on behalf of the Gull Lake Cottagers Association (GLCA)

Michael Thorne P. Eng. Lake Steward

Keith Kennedy President

GLCA

Cc: GLCA Board members

County of Haliburton

John Yakabuski, Minister of Natural Resources and Forestry

Laurie Scott, MPP

Jamie Schmale, MP

Pam Sayne, Minden Councillor Ward 2

Suzanne Shalla, MNRF Bancroft District Manager

Haliburton Highlands Land Trust

Paul MacInnes CHA

APPENDIX

ONTARIO

In a 2017 summary statement from the Ontario Wetland Conservation Strategy the Hon. Kathryn McGarry, Minister of Natural Resources and Forestry stated;

”..... They're vital to the health of our province, giving us clean and abundant water, protecting us from flooding, and reducing the effects of climate change. However, wetlands are sensitive ecosystems - and they're under pressure from land conversion, invasive species, pollution and climate change. Without action, our wetlands will be severely impacted, with many likely to disappear in the face of these significant threats. The conservation of wetlands and the biodiversity they support are an important part of the Ministry of Natural Resources and Forestry's mandate.”

The Provincial Vision regarding Wetlands states: Ontario's wetlands and their functions are valued, conserved and restored to sustain biodiversity and to provide ecosystem services for present and future generations.

Ontario Ministry of Natural Resources and Forestry. 2017. A Wetland Conservation Strategy for Ontario 2017–2030. Queen's Printer for Ontario. Toronto, ON.

We are restating here excerpts from the Official Plans of Haliburton and Minden Hills that support the fact that the wetland should be protected and support the Hazard Land (HZ) zoning remaining on the Sumac Trail properties. We also think Environmental Protection (EP) zoning designation would be a better description of the Zoning restriction on the properties than the Hazard Land designation based on the clauses in the Minden Hills Official Plan which are outlined below.

Excerpts from County of Haliburton Official Plan

The County of Haliburton operates as a two-tier system of municipal government and this Official Plan sets the role of the County as one of general policy development and guidance. Detailed planning will be carried out by local official plans, in conformity with the County Plan. It must be emphasized that the County Official Plan and the local official plans cannot be read in isolation. Local official plans will contain detailed policies pertaining to their municipality and must be read in conjunction with the County Official Plan. This Plan encourages each local municipality to undertake responsible local planning and update their official plans and zoning bylaws on a regular basis.

5.0 Environment

Introduction

We know that the County of Haliburton supports the protection of wetlands as evidenced by the following excerpts The County of Haliburton has extensive natural areas. These areas provide the basis for a wide range of natural, economic and social functions, ranging from ecological to tourism to resources. The natural environment forms the basis for Haliburton's way of life and its stewardship is central to this Plan. Climate change and environmental protection require innovative approaches to sustaining and restoring Haliburton's network of lakes, forests and natural habitats. This Official Plan, in

partnership with other levels of government, includes land use planning approaches based on watersheds, lake capacities and fluctuating water levels within its control and recognizes the control by the Federal and Provincial governments on the Trent-Severn water system and their reservoir lakes. The approaches and remedial actions will be designed to sustain and improve environmental quality and ecological function.

5.3.3 Wetlands

5.3.3.1 The County of Haliburton, Ministry of Natural Resources and Forestry and Ducks Unlimited have undertaken an extensive mapping project to clarify the boundary of wetlands. Approval authorities shall use this mapping as a screening tool when reviewing development applications. Screening will be undertaken as follows:

a. Where a development proposal will extend into an area identified on the County wetland mapping, the applicant shall undertake a site assessment to accurately delineate the wetland boundaries.

b. If the proposed development is determined to occur adjacent to or within the wetland then the applicant will undertake an Environmental Impact Study demonstrating that there will be no negative impacts to the wetland feature or its ecological function;

c. If development is proposed on or within 120 metres of an unevaluated wetland that has characteristics or contains components that are typical of a provincially significant wetland, as determined through a site evaluation report prepared in accordance with Section 7.8.8 of this Plan, a wetland evaluation shall be prepared by a qualified professional and submitted to the Ministry of Natural Resources and Forestry for approval to determine if it is a provincially significant wetland;

d. Where a development proposal is located within the adjacent lands to a wetland, as set out in the local official plans and Provincial policy, the applicant shall undertake a scoped Environmental Impact Study demonstrating that there will be no negative impacts to the wetland feature or its ecological function; and

e. The Natural Heritage Reference Manual shall be the minimum guidance document for policy section 5.3.3 of this plan.

Excerpts from Township of Minden Hills Official Plan

When the Township of Minden Hills was created the Zoning on the four properties was changed from Environmental Protection (EP) to Hazard Lands (HZ). We believe this was a mistake as the Environmental Protection (EP) designation is more appropriate as outlined in the Township of Minden Hills Official Plan

Vision

The natural environment and open space in Minden Hills is fundamental to the identity of the Township and through this Official Plan and its implementation, Minden Hills will become a leader in sustainability aimed at protecting the natural environment and the clean air and water that it provides. It is also recognized that maintaining the health and well-being of the citizens of Minden Hills is integral to the development of a sustainable, economically viable and socially vibrant community.

1.3 Principles

1.3.1 Growth Management

1.3.1.1 Evaluation of environmental impact will be the biggest factor in determining the suitability of any property for development.

1.3.4 Natural Environment

1.3.4.1 To protect significant natural heritage features and functions in the Township. 1.3.4.2 A thorough understanding of the natural environment will guide land use decision-making in the Township.

1.3.4.3 Groundwater and surface water resources are critical resources that need to be protected from adverse impacts.

1.3.4.4 The maintenance of an open space system that links environmental and recreational resources in the Township will continue to be a priority in future community development.

1.3.5 Lake and Shoreline Areas

1.3.5.1 Lake and shoreline areas are a unique and special natural resource.

1.3.5.2 Efforts by stakeholders to physically maintain and/or remediate ecologically functional and natural shorelines will be encouraged.

1.3.5.3 Development policies and guidelines in the Official Plan will aspire to maintain a natural shoreline character on lakes in the Township.

1.3.5.4 Water quality of lakes will be improved or protected through stormwater management practices, revegetating shoreline areas and upgrading or replacing septic systems.

1.3.5.5 The maintenance of dark skies in rural and shoreline areas will be encouraged.

2.7 Hazard Lands Overlay

2.7.1 Purpose

The purpose of the Hazard Lands Overlay designation is to: a) identify lands which may pose a risk to people and property due to flooding; and, b) establish policies to guide development or redevelopment in such areas.

2.7.2 Location

The Hazard Lands Overlay designation as shown on the Schedules "A" and "A-1" to this Plan applies primarily to lands adjacent to the Gull River and its tributaries, primarily within the Minden Settlement Area.

2.7.3 Permitted Uses

Permitted uses on lands designated Hazard Lands Overlay include existing uses, open space uses and uses related to conservation or flood control

2.7.4 Form of Development

It is the intent of this Plan that new development within the Hazard Lands Overlay designation be restricted, however, development may be permitted in accordance with the underlying land use designation without the need for an Official Plan Amendment, but shall be subject to the policies in Section 2.7.5.

2.7.5 Development Policies

2.7.5.1 Development will generally be directed to areas outside of hazardous lands adjacent to the shoreline of inland lakes, and river and stream systems which pose risks due to wave uprush, flooding and/or erosion hazards. Hazardous sites may also consist of steep slopes, unstable soils, organic soils, and unstable bedrock. Where development of a vacant lot or the physical expansion of existing buildings and structures is proposed within or partly within these features, the development proponent shall submit a technical study prepared by a qualified professional to the satisfaction of Council which demonstrates the following: a) the hazard can be safely addressed, and the development and site alteration can be carried out in accordance with established standards and procedures; b) new hazards are not created and existing hazards are not aggravated; c) no adverse environmental impacts will result;

d) vehicles and people have a way of safely entering and exiting the area during times of flooding, erosion and other emergencies; and, e) the development does not include institutional uses or essential emergency services or the disposal, manufacture, treatment or storage of hazardous substances.

2.7.5.2 Recommendations made in the technical report(s) will be implemented through the planning process. Where the technical report indicates that development within a particular hazard is not feasible, the development shall not proceed.

2.7.5.3 Within a floodway, the creation of a new lot, a change in land use or the construction of buildings and structures requiring a Planning Act approval is prohibited, except for development and site alteration which, by its very nature, must be located within a floodway. For the purpose of this policy, Schedule F to this Plan identifies the location of the Floodway as originally derived from Flood Damage Reduction Program mapping (FDRP 1988). A floodway consists of those areas, usually lowlands adjoining watercourses, which have been or may be subject to flooding hazards.

2.7.5.4 Where development and site alteration is proposed in the vicinity of flooding hazards, a detailed engineering study will first confirm the actual extent of the flooding hazard. Development and site alteration will only proceed if it has been demonstrated to the satisfaction of the approval authority that it can occur safely on the subject lands outside of the flooding hazard, and not upon lands which are high points within the flood hazard. Lands impacted by flooding hazards will be zoned appropriately to

prohibit development and site alteration, except for that development and site alteration which must, by its very nature, be located within a floodway.

2.7.6 Implementation

Lands within the Hazard Lands Overlay designation will primarily be zoned to recognize existing uses as zone exceptions and such exceptions may establish limitations on new development and expansion in accordance with the policies of this Plan

3.2.3.6 Shoreline Setbacks

3.2.3.6.1 Setbacks will be implemented through zoning: · to establish vegetative buffers for shoreline protection and the protection of habitat, wetlands or other sensitive natural areas; and, · to maintain a natural area between buildings, reduce the dominance of built form, ensure compatibility, maintain privacy and attenuate noise.

3.2.3.6.2 Setbacks are utilized to attenuate phosphorus loadings from storm water as well as to maintain the natural integrity of shorelines, including fish and wildlife habitat. Setbacks are also utilized to reduce or soften the visual impact of development on a lot. Vegetation within the setback should be disturbed as little as possible, and the soil mantle should not be altered.

3.2.3.6.3 In general, development and site alteration should be set back a minimum of 30 metres (100 feet) from the high water mark of lakes and rivers, with the following exceptions: The minimum setback is 23 metres (75 feet) for principle buildings and structures and 30 metres (100 feet) for tile fields for a vacant lot in existence on the date of approval of this Official Plan

3.2.3.6.4 A lesser setback may be permitted if: · it is not physically possible, due to terrain or lot depth features, to meet the required setback; · in the case of redevelopment of a property, the imposition of the new setback would result in a more negative impact on the property than allowing reconstruction at the existing setback; and, · a site evaluation report in support of the request to reduce the setback is submitted, to the satisfaction of the Township.

3.2.3.6.5 Major development proposals (i.e. multi-lot plan of subdivision) within 300 metres of a waterbody, other than at capacity lake trout lakes which are regulated under Section 3.2.3.1.1.3 of this plan, will require a lake impact assessment to determine if the lake can accommodate development without adversely affecting water quality.

3.4 Environmental Protection

3.4.1 Purpose 3.4.1.1 To maintain and enhance the ecological integrity of environmental and natural heritage features in the Township.

3.4.1.2 To recognize the important natural role that wetland areas provide in managing stormwater, facilitating groundwater recharge and providing habitat to flora and fauna.

3.4.1.3 To identify natural features that are Provincially and locally significant. 3.4.2 Description of the Environmental Protection Designation

3.4.2.1 The Environmental Protection designation primarily is comprised of lands having environmental significance such as Provincially Significant and unevaluated wetlands as shown on Schedule “B” to this Plan. However the Environmental Protection designation may also include natural hazard lands such as floodplains, steep slopes or lands characterized by any other physical condition which makes them physically unsuitable for development. General policies relating to these features can be found in Section 4.

3.4.2.2 Lands designated Environmental Protection, as shown on Schedule “A” or “A-1”, are intended for protection and conservation of the natural land and/or environment. These lands should be managed to complement adjacent land uses and should be protected in their natural state. The Environmental Protection designation is based upon resource mapping provided by the Ministry of Natural Resources.

3.4.3 Permitted Uses 3.4.3.1 Permitted uses in the Environmental Protection designation are limited to those uses which do not diminish the natural environment or the habitats of the fish or wildlife therein such as resource management uses and wildlife conservation areas.

3.4.3.2 No permanent buildings or structures shall be permitted, except those required for flood and erosion control and which have obtained applicable approval from the Ministry of Natural Resources or Department of Fisheries and Oceans.

3.4.4 Development

3.4.4.1 Within the areas designated Environmental Protection, the preservation and enhancement of the natural environment will take precedence over all other uses and therefore development within the Environmental Protection designation shall not be permitted. However, where it has been demonstrated through the completion of an EIS in accordance with Section 4.11 that specific lands should not be placed in the Environmental Protection designation and can accommodate development, such lands may be redesignated by an Official Plan Amendment.

3.4.4.2 In addition development proposals on lands within 120 metres of a Wetland identified on Schedule “B” to this Plan, and on lands which connect individual wetland areas, shall be subject to the preparation of an EIS in accordance with Section 4.11 and shall specifically ensure that the development will not result in: i) The loss of wetland functions; ii) Conflict with existing wetland management practices; or; iii) The loss of contiguous wetland area or wetland complex.

3.4.5 Parkland Dedication

3.4.5.1 The Township is under no obligation to accept Environmental Protection lands as part or all of a parkland dedication in accordance with the Planning Act.

3.4.6 Redesignation

3.4.6.1 Where privately owned lands are designated Environmental Protection in this Plan, it does not mean that this land will necessarily remain as such indefinitely, nor shall it mean that such lands are free and open to the general public or will be purchased by the Municipality or another public agency.

3.4.6.2 Where a parcel of land is deemed not to be environmentally significant or environmentally sensitive by the Municipal Council, in consultation with the Ministry of Natural Resources, such lands may be redesignated at the time of an Official Plan Review or by an Official Plan Amendment.

3.4.7 Non-Conforming Uses

3.4.7.1 The expansion of any non-conforming uses in the Environmental Protection designation shall be subject to a Minor Variance. The expansion of such uses may only be considered provided the expansion does not adversely affect the ecological integrity of the natural lands, fisheries and wildlife habitat, and areas of biological or ecological significance exhibited by the feature. The expansion of non-conforming uses in floodplains is prohibited.

3.4.7.2 The replacement of non-conforming buildings and uses in the Environmental Protection designation may be permitted provided the replacement does not adversely affect the ecological integrity of the natural lands, fisheries and wildlife habitat, and areas of biological or ecological significance in the area.

3.4.4.2 In addition development proposals on lands within 120 metres of a Wetland identified on Schedule "B" to this Plan, and on lands which connect individual wetland areas, shall be subject to the preparation of an EIS in accordance with Section 4.11 and shall specifically ensure that the development will not result in: i) The loss of wetland functions; ii) Conflict with existing wetland management practices; or; iii) The loss of contiguous wetland area or wetland complex.

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3.4.8 Implementation

Lands within the Environmental Protection designation will primarily be zoned to restrict or prohibit development.

Attachments:

1. Notice of the Passing of a Zoning By-Law RZ-5/91 (4/92) Page 1
2. Notice of the Passing of a Zoning By-Law RZ-5/91 (4/92) Page 2
3. Notice of the Passing of a Zoning By-Law RZ-5/91 (4/92) Map 1
4. Notice of the Passing of a Zoning By-Law RZ-5/91 (4/92) Map 2

FILE # RZ-5/91

NOTICE OF THE PASSING OF A ZONING BY-LAW

BY

THE CORPORATION OF THE TOWNSHIP OF LUTTERWORTH

TAKE NOTICE that the Council of the Corporation of the Township of Lutterworth passed By-law No. 4-92 on the 16th day of January, 1992, under the provision of Section 34 of the Planning Act, S.O., c.1., 1983.

AND TAKE NOTICE that any person or agency may appeal to the Ontario Municipal Board in respect of the By-law by filing with the Clerk of the Corporation of the Township of Lutterworth not later than the 11th day of February, 1992, a notice of appeal setting out the objection of the By-law and the reasons in support of the objection.

An explanation of the purpose and effect of the By-law, describing the lands to which the By-law applies, and a Key Map showing the location of the lands to which the By-law applies, are attached. The complete By-law is available for inspection in the Municipal Offices during regular office hours.

Dated at the Corporation of the Township of Lutterworth this 22nd day of January, 1992

Mary Jane Irwin, Clerk
Corporation of the Township of Lutterworth
P.O. Box 850
MINDEN, Ontario.
K0M 2K0

FILE # RZ-5/91

EXPLANATORY NOTE

PURPOSE OF BY-LAW

The purpose of By-law No. 4-92 is to amend By-law No. 4-81, the comprehensive Zoning By-law, of the Corporation of the Township of Lutterworth. The amending By-law serves to rezone approximately 2.88 hectares (7.12 acres) of land from the Rural (RU) Zone to the Shoreline Residential Type Two (SR2) and the Environmental Protection (EP) Zones. This serves to satisfy a condition to four land severances granted by the County of Haliburton Land Division Committee.

* THE CONDIT
OF SEVERA

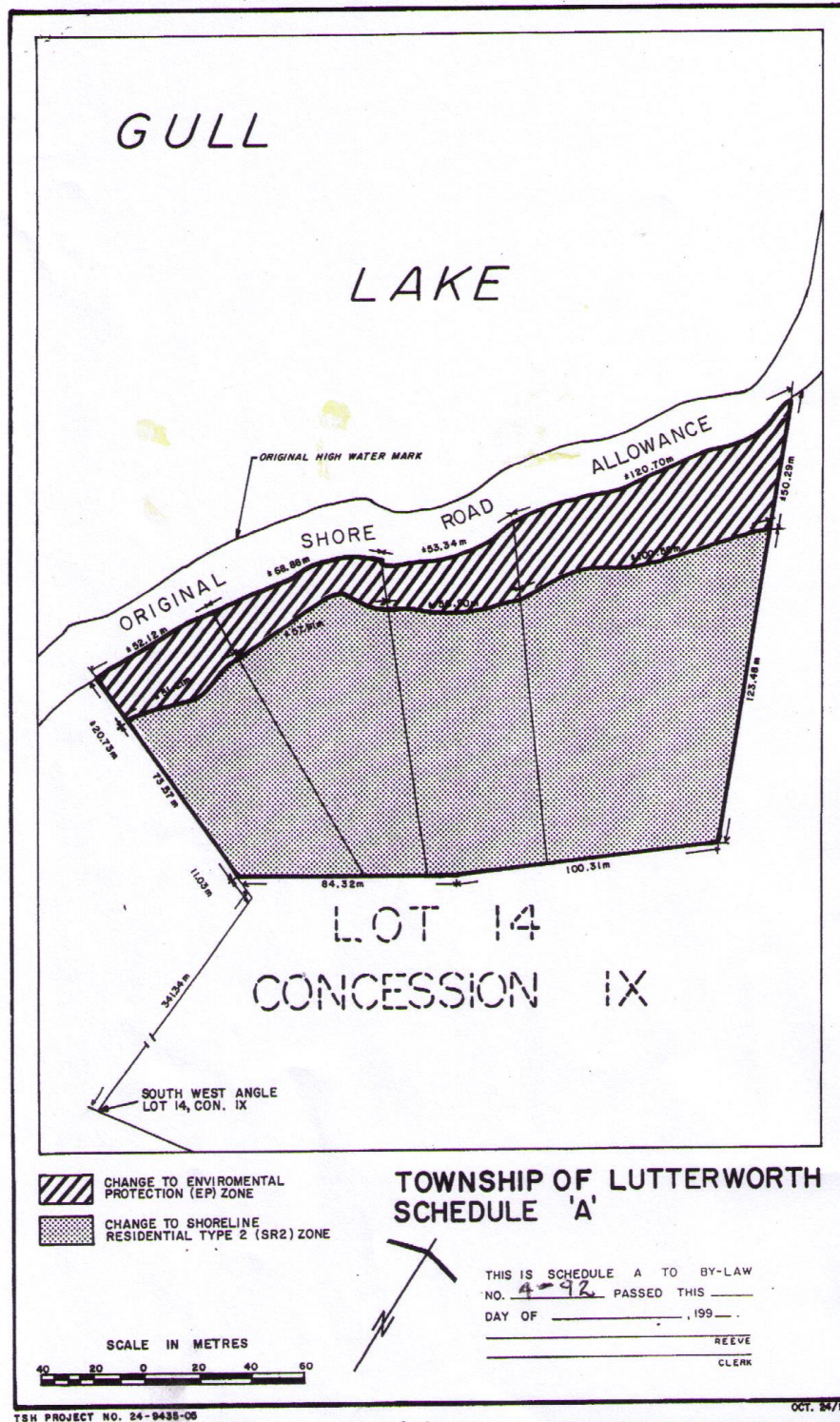
LOCATION OF SUBJECT LANDS

The lands affected by By-law No. 4-92 are located in Part of Lot 14, Concession IX, in the Township of Lutterworth. The lands in question are conceptually illustrated on the Location Map attached hereto, and in detail on Schedule "A", attached to and forming part of Zoning By-law No. 4-81. Reference should be made to the Zone Map forming part of the amending By-law to determine the exact location and dimensions of the lands affected.

EFFECT OF BY-LAW

The effect of By-law No. 4-92 is to rezone the subject lands from the Rural (RU) Zone to the Shoreline Residential Type Two (SR2) and the Environmental Protection (EP) Zones.

Note: As previously noted, copies of the amending By-law are available for public scrutiny in the Municipal Offices during regular office hours.



LOCATION MAP

