

**Town of Georgina
Lake Drive Shoreline Jurisdiction Ad Hoc Committee
COMMITTEE AGENDA**

Tuesday, September 20, 2016
6:30 PM
Council Chambers- Civic Centre

1. CALL TO ORDER
2. ROLL CALL
3. INTRODUCTIONS OF ADDENDUM ITEM(S)
4. APPROVAL OF AGENDA
5. DECLARATIONS OF PECUNIARY INTEREST AND GENERAL NATURE THEREOF
6. ADOPTION OF MINUTES
 - (1) Pages 1 - 5
Minutes of the meeting held on June 14, 2016.
7. PRESENTATIONS
8. CONSIDERATION OF REPORTS ON THE AGENDA
 - (1) Pages 6 - 16
Correspondence from Andrew Biggart, Ritchie, Ketcheson, Hart and Biggart re: Town of Georgina – Lake Drive Shoreline Road Allowances
 - (2) Pages 17 -22
Draft Policy re: Lake Drive
9. COMMUNICATIONS
10. OTHER BUSINESS
 - (1) Schedule upcoming meeting dates.
11. MOTION TO ADJOURN

**Town of Georgina
Lake Drive Shoreline Jurisdiction Ad Hoc Committee
COMMITTEE MINUTES**

Tuesday, June 14, 2016
6:30 PM
Council Chambers- Civic Centre

1. CALL TO ORDER

The meeting was called to order at 6:33 PM.

2. ROLL CALL

The following Committee members were present:

Alan Direnfeld
Dave Szollosy
Cathy Hasted
Councillor Dan Fellini
Councillor Dave Neeson
Deyril Blanchard, Chair
Mayor Margaret Quirk
Susan Jagminas
Carr Hatch
Terry Holgate
Peter Stevens

The following Staff members were in attendance:

Winanne Grant, Chief Administrative Officer
Dan Pisani, Director of Infrastructure and Operations
Andrew Biggart, Town Solicitor
Velvet Ross, Manager of Planning,
Rod Larmer, Manager of Building and Chief Building Official
Bob Fortier, Manager of Capital Projects
Sarah Brislin, Committee Services Coordinator

3. INTRODUCTIONS OF ADDENDUM ITEM(S)

- (1) Proposed Interim Policy Lake Dr. North and East Road Allowance (agenda item 8(1)).

4. APPROVAL OF AGENDA

Moved by Dave Szollosy, Seconded by Peter Stevens

RESOLUTION NO. LDSJAH-2016-0021

That the agenda for the Lake Drive Shoreline Jurisdiction Ad Hoc Committee meeting held on April 19, 2016, be approved with the addendum item, Proposed Interim Policy Lake Dr. North and East Road Allowance.

Carried.

5. DECLARATIONS OF PECUNIARY INTEREST AND GENERAL NATURE THEREOF - *None*
6. ADOPTION OF MINUTES

(1) Minutes of the meeting held on April 19, 2016.

Moved by Councillor Dave Neeson, Seconded by Councillor Dan Fellini

RESOLUTION NO. LDSJAH-2016-0022

That the minutes of the Lake Drive Shoreline Jurisdiction Ad Hoc Committee meeting held on March 29, 2016, be adopted.

Carried.

7. PRESENTATIONS - *None*
8. CONSIDERATION OF REPORTS ON THE AGENDA

(1) Proposed Interim Policy Lake Dr. North and East Road Allowance

Winanne Grant, Chief Administrative Officer, highlighted the revisions between the current document and the one the Committee had previously been circulated. The comparison was prefaced with the explanation that staff had taken the previous Draft Interim Control By-law and converted it into the Interim Policy. Some content was initially missed in the conversion process.

The Committee discussed the interim policy including the revisions and their concerns with the proposed policy. The following recommendations were made:

- That staff draft a report and policy with revisions as recommended by Committee to:
 - Include the wording changes suggested by the Committee
 - Provisional approval be included in the Interim Policy
 - Exception to nothing new being built be included in the Interim Policy for the following:
 - Stairs
 - Access
 - Docks

- Shoreline erosion retaining walls

Moved by Alan Direnfeld, Seconded by Dave Szollosy

RESOLUTION NO. LDSJAH-2016-0023

That staff return with an updated report accompanied by the amended Interim Policy taking into account recommendations made by the Lake Drive Shoreline Jurisdiction Ad-hoc Advisory Committee and provided well in advance of the next Committee meeting.

Carried.

- (2) Memo Re: ownership, leasing and licensing.

Andrew Biggart, Town Solicitor, provided an overview of the memo which outlines options, benefits and detriment of selling, leasing and licensing the lands along the Lake Drive (Shoreline). Mr. Biggart advised the Committee that in researching these options, his recommendation would be for the Town to convey the land along the shoreline subject to two conditions:

1. That a certain amount of land adjacent to the travelled portion be retained for the purposes of allowing maintenance of the road. For example, if a dump truck or crew needed access.
2. That there be a restrictive covenant requiring that the parcels can only be sold with the adjacent properties and bought buy adjacent properties.

The Committee discussed various options for conveyance including potential obstacles and concerns regarding the processes involved in moving forward. The discussion touched on the following points:

- Use of the words convey, sell, buy, and purchase.
- The old land registry system and the new land titles and property identification number system (PINS).
- Who would pay for survey/reference plan?
- Having one company do a survey versus owners individually hiring surveyors.
- Costs of sale and administrative support being included in sale price.
- Where to get a reference point for the price of the land for the conveyance.
- The impact of the high-water mark.
- The cost of acquisition and influences such as liability.
- Potential options for lots that do not line up with an adjacent lot across the roadway (example 5 houses and 6 strips or 6 houses and 2 strips):
 - Highest bidder

- Not selling sections where there could be conflict as to whom to sell to (because there are multiple lots that could be connected).
 - Joint agreements
- A need for a separate process for a beach association.
- Where there are claims of ownership of waterfront the municipality will need to determine whether they accept the claim.
- Barriers to the sale.
 - Increases in taxes and changes to assessment values.

Moved by Dave Szollosy, Seconded by Peter Stevens

RESOLUTION NO. LDSJAHC-2016-0024

That the Lake Drive Shoreline Jurisdiction Ad-hoc Advisory Committee

1. Recommends option 1, the transfer and conveyance, as the preferred option and directs staff to report back to the Committee with the more details of implementation and implications.
2. That the Report include comments with respect to circumstances under which leasing and licensing might be appropriate and then the terms under which those options might be implemented as required.

Carried.

9. COMMUNICATIONS

10. OTHER BUSINESS

- (1) Schedule upcoming meeting dates.

The Committee discussed potential dates and agreed on September 20, 2016, 6:30 PM.

11. MOTION TO ADJOURN

Moved by Alan Drenfeld, Seconded by David Szollosy

RESOLUTION NO. LDSJAHC-2016-0025

That the Lake Drive Shoreline Jurisdiction Ad-hoc Committee June 14, 2016, meeting be adjourned at 9:02 PM.

Carried.

Deyril Blanchard
Chair

C. Sarah A. Brislin
Committee Services Coordinator

VIA EMAIL

September 13, 2016

R. Andrew Biggart
Tel: (416) 622-6601 Ext. 227
abiggart@ritchieketcheson.com

Winanne Grant
Chief Administrative Officer
Town of Georgina
26557 Civic Centre Road, R.R. #2
Keswick, ON L4P 3G1

Dear Ms. Grant:

RE: TOWN OF GEORGINA - LAKE DRIVE SHORELINE ROAD ALLOWANCES

In accordance with Resolution No. LDSJAHC-2016-0024, which was passed by the Lake Drive Ad-hoc Committee on June 14, 2016, we are providing you with a report that addresses the following matters:

1. Details of proposed implementation and implications of the transfer and conveyance of portions of the original shore road allowance from Georgina to purchasers; and,
 2. Consideration of circumstances under which leasing and licensing might be appropriate and the terms under which those options might be implemented.
- 1. Implementation and Implications of Transfer/Conveyance of Original Shore Road Allowance (i.e. Option 1 from our report to you of June 10, 2016)**

(a) Implementation of Transfer/Conveyance

Most of the issues related to the implementation of Option 1 were generally addressed in our report of June 10, 2016. However, now that the Committee has made the decision to proceed with recommending Option 1, we will now, in greater detail, address the steps that could be taken to implement this course of action.

As noted in our report of June 10, 2016, Town Council would need to pass a By-law closing the lands within the road allowance. Thereafter, Council would need to pass a second By-law deeming the relevant lands to be surplus and authorizing the sale of the lands.

Requirement for R-Plan to identify Portion of Road Allowance to be Closed and to Create Lots

In order to identify the portion of the road allowance that should be closed, the Town would require a surveyor to attend at the road allowance and survey the land from the traveled portion of the road allowance to the water's edge. The surveyor would also be directed to prepare a Reference Plan (R-Plan) for the purpose of creating lots on the 'lake side' of the road allowance. The lot lines should project from the lot lines that currently exist on the 'non-lake side' of the road allowance toward the lake. The objective is to create lots that extend from the current lot lines on the non-lake side of the road allowance to the water's edge. The traveled portion of the road allowance would still, obviously, separate the two lots.

By-law to Close the Relevant Portions of the Road Allowance

Once an R-Plan is created and registered for all of the lots along Lake Drive, the Town will be able to identify the property within the untraveled portion of the road allowance that should be closed by By-law. The Town could then pass the By-law closing the relevant portions of the road allowance, thus completing the first step necessary to convey the 'lake side lots'.

Invite Declaration of Interest of Qualified Landowners Interested in 'Lake Side Lots'

Once the R-Plan has been created, and the relevant portions of the road allowance have been closed, the Town can advise the public of the Town's intention to convey the 'lake side lots' and invite landowners on Lake Drive to sign Declarations of Interest for the purpose of declaring their interest in the 'lake side lot' that is located in front of their lot and across the traveled portion of the road allowance. The Declaration of Interest would also contain information that would be relevant to the landowner's decision whether to pursue a conveyance of the land from the Town.

A preliminary list of the matters to be addressed as part of the Declaration of Interest is set out in Appendix 1 to this report.

Town to Zone Closed Portions of the Road Allowance

It should be noted that the Town should also zone all portions of the road allowance that have been closed by By-law and which the Town intends to convey or lease. The appropriate zoning of the land is important for the purpose of ensuring that appropriate use is made of the land once it is conveyed to qualified landowners. Clearly, it is to the benefit of all landowners and the Town to make certain that the 'lake side lots' will be used in a way that does not cause an unacceptable adverse impact upon adjacent property owners or the public.

The Zoning of the closed portions of the road allowance must be in full force and effect prior to the transfer of any interest in the lake side lot (i.e. either the sale or lease of a lot).

Review of Declarations of Interest and Conveyance of "Lake Side Lots"

After the Town has, (i) reviewed the Declarations of Interest; (ii) confirmed that the interested landowner does own the lot on the non-lake side of the road allowance; and, (iii) confirmed that the qualified landowner is prepared to enter into an Agreement of Purchase and Sale with the Town in accordance with the terms that will be offered to all other qualified purchasers, Town Council can pass a By-law authorizing the conveyance of the 'lake side lot'.

Each Agreement of Purchase and Sale should also be subject to restrictions upon the future sale, lease or licence related to the 'lake side lot'. The Town will wish to ensure that the 'lake side lot' cannot be sold, leased or licenced to a third party that does not own, lease or licence the lot that is located on the 'non-lake side' of the road allowance. Put simply, the Town will want to make certain that the 'non-lake side lot' and the 'lake side lot' are effectively always treated as one lot when sold or leased. This can likely best be dealt with through a restrictive covenant placed upon the title of the 'lake side lot' that the Town would be conveying.

After Town Council has passed the road closing By-law, and after the Zoning By-law has come into full force and effect, Agreements of Purchase and Sale can be executed with all qualified landowners and the transaction can proceed in the normal course.

(b) Implications of Sale

Clearly, the sale of any land has implications upon both the Town and the Landowner.

Implications Upon the Town

The Town will be required to retain the services of an appraiser to determine the value of lake side lots that will be offered for sale. This can only be determined after the sizes of the various lots have been identified.

Assuming that the transfer of title of the lake side lots occurs, the conveyances will bring to an end a long standing and difficult issue about 'what to do' with the Lake Drive lands that abut the lake. The conveyance of the lands will also relieve the Town of potential liability concerns that may arise based upon persons entering upon Town owned land. If the Town no longer owns the land, the new landowner will be responsible for any personal injury or property damage claims that may occur as a result of the use of the land.

It must also be noted, however, that there will be an issue for the Town to face if not every qualified landowner wishes or is able to purchase the 'lake side lot' that will be available for sale. With some lots having been conveyed to qualified landowners and with other lots presumably not conveyed, the Town will be dealing with a patch-work of lots along the Lakefront that are owned by the Town. While far from ideal, this outcome is not viewed as being unworkable or likely causing any insurmountable difficulties.

With the Town having completed and registered an R-Plan, there will now be a clear record of which lands are owned by the Town. With new and complete records of which lands are owned by the Town, the Town would need to set up a programme of maintenance and monitoring of its lands for any safety hazards.

If 'lake side lots' are not conveyed to qualified landowners, Town Council will also have to make a decision as to whether it will allow persons to enter onto the non-conveyed lots. Town Council can consider a range of options from making the lands available for the general public to, at the other end of the spectrum, erecting a fence around the property and prohibiting anyone from entering upon the lots. As discussed later in this report, Council could also consider granting a lease to qualified landowners to provide them with exclusive possession of the 'lake side lot' for an identified period of time.

Implications Upon the Landowners

Just as with the Town, the conveyance of the 'lake side lot' along the Lake Drive lands to adjacent landowners will bring to an end a long standing and difficult issue about 'what to do' with the Lake Drive lands.

The conveyance of the 'lake side lot' will provide the landowners with certainty of ownership and certainty of use of the land that is adjacent to the road allowance and the waterfront. The conveyance will also allow the landowner to stop members of the general public from entering upon the landowner's lands.

Although it is not a legal issue *per se* it is possible that the value of the 'non-lake side' lot will increase in value as a result of owning the 'lake side lot' on the other side of the road allowance. The increase in value brings about the possibility of increased property tax assessment due to the increase in acreage owned by the landowner and the potential increase in the total value of the land holdings.

Finally, it should be noted that with the zoning having been established for the lots prior to the conveyance, the landowner will have a clear understanding of exactly what uses can be made of the lots. This would include limitations and permissions related to, for example, the renovation, repair or replacement of existing buildings or the construction, renovation, repair or replacement of docks, decks or stairs.

Discussions with Representatives of Municipal Property Assessment Corporation (MPAC)

On September 12, 2016, a meeting was held with Town staff and representatives of the Municipal Property Assessment Corporation (MPAC) for the purpose of discussing the potential impact to property assessments if the Town proceeds with selling or leasing lake side lots to qualified landowners. As you may be aware, MPAC is an independent, not-for-profit corporation funded by all Ontario municipalities. MPAC's role is to accurately assess and classify all properties in Ontario according to the Assessment Act and regulations established by

the Ontario Government. The purpose of engaging MPAC in preliminary discussions is to determine whether MPAC could assist the Town in quantifying any property tax implications that may arise if the Town proceeds with granting an interest in the lake side lots to qualified landowners. The decision to sell or lease lake side lots to qualified landowners is at the discretion of the Town.

It was agreed that before MPAC could assist the Town and landowners in understanding any potential property assessment implications arising from a possible transfer of an interest in lake side lots, a review must first be undertaken to confirm the status of the current assessments along Lake Drive. The representatives from MPAC were very helpful and clearly understood the need of the Town and its residents to obtain information related to the property assessment implications that may arise as a result of any changes along Lake Drive.

MPAC has agreed that it will, starting in November, commence a review of the current assessments along Lake Drive. This thorough review will take some time to complete as it may require a search of each property along the subject area of Lake Drive. MPAC has offered to provide monthly updates to Town staff on its progress after it starts its review in November. MPAC will also be contacting Town staff, if necessary, to obtain information required to complete its review.

As with any decision, it is always better to have more information available than to have less information when called upon to make the decision. MPAC has agreed to assist in compiling more information before further steps are taken by the Town or its residents.

2. Consideration of circumstances under which leasing and licensing might be appropriate and the terms under which those options might be implemented.

For the purposes of this issue, we will treat leasing and licensing as being the same and will refer to leasing for ease of reference. As can be seen in our report of June 10, 2016, the distinction between leasing and licensing is not of sufficient importance for the purpose of addressing the above issue.

Based upon the circumstances that have been brought to our attention during meetings with the Lake Drive Ad-hoc Committee and based upon our consideration of the issues that the Town and the residents of Lake Drive are attempting to address, it is our opinion that there are likely two situations in which the Town could consider leasing 'lake side lots' to qualified lessees.

(a) *Options When Qualified Landowners Are Unable or Unwilling to Purchase "lake side lots"*

While the 'non-lake side lots' along Lake Drive are certainly some of the most desirable lots within the Town of Georgina, it should not be presumed that every landowner along Lake Drive has the financial ability or desire to purchase additional land on the other side of the road allowance.

While the Town may offer all 'lake side lots' for sale to qualified landowners, it is reasonable to assume that not every lot offered for sale will be purchased. If a lot is not purchased by a qualified landowner the Town has at least the following four options available to it as it retains ownership of the lake side lots:

- (1) make the lots available for public access;
- (2) prohibit access to the lots
- (3) apply policies to be enforced for the use of the lots; or
- (4) offer the lake side lots available for Lease

Public Access Option

If the qualified landowner decides not to purchase the lake side lot the Town could decide to allow the public to use the lot. As this would likely cause an increase in the use of the lands, an increase in the potential for exposure for damages claims against the Town and increased monitoring requirements by the Town, we do not recommend this approach. However, if the lot is neither purchased nor leased, the Town may wish to re-visit this option.

Prohibit Access Option

If the qualified landowner does not wish to purchase the lake side lot the Town could decide to fence in the lot and exclude all persons from entering upon the lot. Of course, this would reduce the Town's exposure to damages claims but Town Council would have to balance that reduction in risk against the aesthetics of such an approach and the practicable ability of the Town to actually keep people off of the lake side lot through the use of a fence. Constructing and maintaining the fences would be costly both in terms of initial installation and monitoring. The Town would also have to monitor all fenced in lake side lots to make certain that people are not entering the lots. For these reasons, we do not recommend this approach.

Apply Policies to Town owned Lake Side Lots

If the lake side lots are neither purchased nor leased, the Town could still allow use of the lots and apply policies that would restrict the use. It is assumed that the policies would be in similar to the policies that are now under consideration as the "Draft Policies for Lake Drive" that may be implemented while the process discussed earlier in this report is undertaken.

If the Town proceeds with this option, the qualified landowner who neither purchases nor leases the lake side lot would continue to have access to the lake side lot but the Town would not be able to assure the qualified owner that the public could not also enter onto the lot. As municipally owned land that is not subject to a lease members of the public are entitled to enter onto the property unless they are served with a notice of trespass. Clearly, the Town would not be in a position to serve notices of trespass upon every person who enters onto a lake side lot that is not subject to a lease. The qualified landowner would not be able to serve a notice of trespass upon members of the public because the qualified landowner would have no interest in the property.

If the Town were to allow qualified landowners to use the lake side lot subject to policies related to use, the Town would also continue to bear the risk of property and personal injury claims arising from the use of the property because the Town would not be a named insured on any insurance policy of the qualified landowner. For these reasons, we do not recommend this option.

Offer the Lake Side Lots Available for Lease

Another option, which tries to strike a balance between making the land available to the public or fencing it in, is for the Town to lease the lake side lot to the landowner across the road allowance, even if the landowner had decided not to purchase the 'lake side lot'.

In deciding whether to lease lots, the Town will have to make a decision as to whether it wishes to entice landowners on the 'non-lake side' to purchase lots or lease lots. Of course, if the purchase price is reasonably low and if lease rates are higher, more people will decide to purchase rather than lease. Council could also decide to make the difference between purchasing and leasing effectively cost neutral depending upon the 'offer' that is made by the Town for selling or leasing.

Prior to making any lots available for lease, the Town would be required to retain an appraiser to determine the value of the lots in the context of a lease.

If the Town does decide to lease 'lake side lots' to landowners who decided not to purchase such lots, the Town must, as noted in our report of June 10, 2016, require all lessees to provide proof that the Town has been named as an additional insured, at an amount satisfactory to the Town, on the landowner's policy of insurance. This, along with the other pertinent terms of the lease, would all be addressed in the Lease Agreement.

Finally, it should be noted that the Town could decide to lease 'lake side lots' for either a short term (e.g. 1-3 years) or for a long term (e.g. 99 years), depending upon the decision of Council.

(b) "Lake Side Lots" Which Are Currently Used By More Than One Person

Although not specifically addressed in the questions posed during the last meeting of the ad-hoc Committee, it was brought to our attention during the last meeting on June 14, 2016, that there is at least one portion of the lake side road allowance that is used by an association of cottagers/landowners. It is our understanding that there are a large number of association members who currently access the lake by entering upon the lake side of the road allowance. It is also our understanding that the members of the association do not pay any money for the use of this access.

In our opinion, it would be inappropriate to simply offer the sale or lease of the newly created 'lake side lot' to one member of the association. This would, of course, cause the risk that all other members of the association would be prohibited from accessing the lake.

In situations as described above, it is our recommendation that the Town treat the association as it would any other landowner in the area. The Town would have the same options available to it as if it were dealing with one qualified landowner. The Town could:

- (a) convey title of the 'lake side lot' to the association or,
- (b) If the association does not wish to purchase the lake side lot, the Town could retain ownership of the lot and:
 - (i) make the lots available for public access;
 - (ii) prohibit access to the lots
 - (iii) apply policies to be enforced for the use of the lots; or
 - (iv) offer the lake side lots available for Lease

The recommendations regarding each of these options remains the same as previously identified when discussing individual qualified landowners.

Of course, it must be recognized that the Town can only contract with a legal entity. This must be a person or an incorporated body. If the association is not incorporated, the members would have to create a corporation and then raise the necessary funds to either purchase or lease the 'lake side lot', as offered by the Town. The association, once incorporated, could provide access to the 'lake side lot' to members of the association who paid toward the cost of the purchase or lease of the lot and it could prohibit access to all others. In short, those members of the association that joined in the creation and/or funding of the incorporated body could decide to take control of the 'lake side lot' and those that did not pay toward the cost would do so at their risk of being prohibited from entering the property.

It should, however, be noted that if the association is either unwilling or unable to incorporate for the purpose of dealing with the Town, the Town may wish to declare the subject lake side lot as a public access point to the lake. This would, if Town Council wishes, allow the association's members to continue to use the lake side lot at no cost. However, the members of the association would also have to accept the fact that the lake side lot could also be used by members of the public. By declaring the subject lake side lot as a public access point, the Town would avoid having to enter into lease agreements with each member of the association who wish to use the lake side lot. Having a lease agreement with each member of the association would likely be unworkable as it would require numerous agreements related to one parcel of land. This would be costly for the Town to maintain simply from a records keeping perspective.

If the Town were to declare the subject lake side lot as being a public access point to the lake, the Town would avoid having to enter into numerous leasing agreements with members of the association but the Town would continue to bear the risk of damages claims arising from the use of the property.

Given the above, it is our recommendation that the Town pursue either a sale or lease of lake side lots with a corporation that has all members of the association as shareholders. If that is not possible, the Town should consider declaring the specific lake side lot as a public lot.

Ritchie Ketcheson
Hart &
Biggart

We would be pleased to answer any questions that the Committee may have when we convene for the next Committee meeting on September 20, 2016.

Yours truly,

**RITCHIE KETCHESON
HART & BIGGART LLP**



R. Andrew Biggart

Appendix 1

(Items to be Included in Declaration of Interest in "Lake Side Lot")

1. All declarations of interest to purchase a 'lake side lot' must be made in writing and in accordance with the "Declaration of Interest" form created by the Town. The form is not an Agreement of Purchase and Sale but is a declaration of interest in purchasing land from the Town. The purpose of the form is to determine who is interested in purchasing a portion of the road allowance and to provide potential purchasers with general information as to what the Town will require of purchasers.
2. Declarants must provide sufficient evidence to the Town that the Declarant (i.e. the potential purchaser) is the registered owner of property that abuts the opposite side of the road allowance. If the Declarant is the owner of property that abuts the opposite side of the road allowance, the Declarant will be a "qualified landowner". This 'pre-screening' will be in place to stop third parties from purchasing the portion of the road allowance and, possibly, prohibiting the owner on the non-lake side of the road allowance from accessing the water. It is also designed to make certain that third parties do not attempt to purchase a series of properties for the purpose of creating one large lot on the lake side of the road allowance.
3. The Declarants must agree that they will purchase the 'lake side lot' from the Town at the offered price which will be based upon a "dollar per square meter/square foot" price. The price per square meter/square foot will be the same for all property that is for sale in order to ensure that all residents are treated equally. The price per square meter/square foot will be set out on the Declaration form. To be clear, this is not the 'offer' from the Town but it is designed to be fair warning to potential purchasers of the price at which the Town will be willing to sell the land.
4. The Declarants must agree that they will pay the Town's cost of surveying the land necessary to effect the sale, the Town's legal fees related to the sale and the costs of registering the deed. This cost should be a set cost which is set out on the Declaration form to allow the Declarant to know the cost when deciding whether to purchase the 'lake side lot'.
5. The Declarants must agree that they will accept the property on an "as-is-where-is" basis and agree to hold harmless the Town from any future environmental claims related to the 'lake side lot' to be purchased.
6. The Declarant must agree that the 'lake side lot' will be subject to a restrictive covenant (or some other appropriate mechanism) which will prohibit the sale or lease of the 'lake side lot' unless the 'non-lake side lot' is also part of the same transaction. The concept is to provide fair warning to the purchaser that both lots, although separate, must be treated as one lot when dealing with the sale, leasing or licensing of same.

7. The Declarants must acknowledge that the property will be zoned prior to the sale. The zoning that does or will apply to the lands should be set out on the Declaration form to allow the purchaser to understand what uses are permitted, and what uses are not permitted, under the zoning.

DRAFT POLICY RE: LAKE DRIVE

1. Definitions

For the purpose of this policy:

- (a) “Building” shall have the same meaning as such term has for the purposes of the Town’s Zoning By-law No. 500, as amended;
- (b) “Council” shall mean the Council of The Corporation of the Town of Georgina;
- (c) “Deck” means a structure constructed on or over land and supported wholly on land and includes portions of the same structure that partially extends over water;
- (d) “Dock” means a structure extending along shore or out from the shore into a body of water, to which boats may be moored and upon which people may stand or sit for a temporary period.
- (e) “Fence” shall mean a physical barrier or structure, including one for noise attenuation, that wholly or partially screens from view, encloses or divides land, and includes any hedge or shrub that has the same effect except that does not include a building as defined by the Building Code Act;
- (f) “Retaining Wall” shall mean a wall that holds back earth or water;
- (g) “Stairs” shall mean a series of steps or flights of steps for passing from one level to another;
- (h) “Structure” shall have the same meaning as such term has for the purposes of the Town’s Zoning By-law No. 500, as amended;
- (i) “Subject Lands” means all lands contained within the untraveled portion of the road allowance on Lake Drive North and Lake Drive East that is between the lake and the traveled portion of the road allowance; and
- (j) “Town” shall have the same meaning as such term has for the purposes of the Town’s Zoning By-law No. 500, as amended.

2. General

- (a) Except as provided in Policy 3 to 7 of this Policy, no person shall construct, repair, renovate or replace a Structure or Fence, in whole or in part, upon the Subject Lands.
- (b) Except as provided in Policy 7 and 8 of this Policy, no person shall carry out any grading works on the Subject Lands.
- (c) No person shall construct, repair, renovate, replace, use, occupy or maintain a Structure or Fence, in whole or in part, within 1.5 metres of the traveled portion of the road upon the Subject Lands.
- (d) Nothing in this policy relieves any person from the obligation to comply with all applicable statutory and regulatory requirements applicable to the Subject Lands including, but not limited to, the Building Code Act, the Ontario Building Code, the Ministry of Natural Resources and the Lake Simcoe Regional Conservation Authority.
- (e) This Policy is not applicable to existing Structures that are under litigation.

3. Buildings

- (a) A person may apply to the Director of Operations and Infrastructure or his/her designate for approval to renovate, repair or replace an existing Building that was in existence on the date of the passing of this Policy and continued to be in existence provided that the renovation, repair or replacement of the existing Building is in the same location and does not result in a Building that occupies an area of land or has a floor area, use or height, as the case may be, that exceeds or differs from that which was in existence on the Subject Lands on the date of the passing of this Policy.
- (b) When deciding whether to allow a person to renovate, repair or replace a building, the Director of Operations and Infrastructure or his/her designate will consider:
 - (i) the proposed location of the Building;
 - (ii) any safety and liability issues related to the construction of the Building; and
 - (iii) any other matter deemed relevant by the Director of Operations and Infrastructure or his/her designate, including, consulting with the Chief Building Official on whether a building permit will be required.
- (c) Notwithstanding Policy 3(a), no person shall have a plumbing permit issued pursuant to the *Building Code Act* 1992, S.O. 1992, c.23, as amended, and its

regulations and the Town's Building By-law No. 2015-0150 (BU-1) for any Building or Structure located on the Subject Lands.

4. Docks

- (a) A person may apply to the Director of Operations and Infrastructure or his/her designate for approval to construct a new Dock that is proposed to be partially built on, over or supported by the Subject Lands.
- (b) A person may apply to the Director of Operations and Infrastructure or his/her designate for approval to renovate, repair or replace an existing Dock that is partially built on, over or supported by the Subject Lands.
- (c) When deciding whether to allow a person to construct, renovate, repair or replace a Dock, the Director of Operations and Infrastructure or his/her designate will consider:
 - (i) the proposed location of the Dock;
 - (ii) any safety and liability issues related to the construction of the Dock; and
 - (iii) any other matter deemed relevant by the Director of Operations and Infrastructure or his/her designate, including, consulting with the Chief Building Official on whether a building permit will be required.

5. Decks and Stairs

- (a) A person may apply to the Director of Operations and Infrastructure or his/her designate for approval to construct a new Deck or Stairs that is proposed to be built on, over or supported by the Subject Land.
- (b) A person may apply to the Director of Operations and Infrastructure or his/her designate for approval to renovate, repair or replace an existing Deck or Stairs that is built on, over or supported by the Subject Land.
- (c) When deciding whether to allow a person to construct, renovate, repair or replace a Deck or Stairs, the Director of Operations and Infrastructure or his/her designate will consider:
 - (i) the proposed location and height of the Deck or Stairs;
 - (ii) any safety and liability issues related to the construction of the Deck or Stairs; and

- (iii) any other matter deemed relevant by the Director of Operations and Infrastructure or his/her designate, including, consulting with the Chief Building Official on whether a building permit will be required.

6. Fences

- (a) A person may apply to the Director of Operations and Infrastructure or his/her designate for approval to construct, renovate, repair or replace a Fence.
- (b) A Fence shall only be constructed, repaired, renovated, replaced or maintained so that it:
 - (i) has a maximum height of no more than 1.0 metre above the centreline of the adjacent Lake Drive North or East, as applicable, but in no case may exceed 2.0 metres in height,
 - (ii) is parallel to the edge of the adjacent Lake Drive North or East, as applicable, road pavement, and
 - (iii) has an area of Fence material that is not greater than 50% of the overall vertical plane surface area of the fence.
- (c) The height of a Fence shall be determined by measuring the vertical distance from grade to the top of the fence.

7. Retaining Walls

- (a) A person may apply to the Director of Operations and Infrastructure or his/her designate for approval to construct a new Retaining Wall that is proposed to be built on the Subject Lands.
- (b) A person may apply to the Director of Operations and Infrastructure or his/her designate for approval to renovate, repair or replace an existing Retaining Wall that is built on the Subject Lands.
- (c) When deciding whether to allow a person to construct, renovate, repair or replace a Retaining Wall, the Director of Operations and Infrastructure or his/her designate will consider:
 - (i) the proposed location and height of the retaining wall;
 - (ii) the purported need for the retaining wall;
 - (iii) any safety and liability issues related to the construction and maintenance of the retaining wall; and,

- (iv) any other matter deemed relevant by the Director of Operations and Infrastructure or his/her designate, including, consulting with the Chief Building Official on whether a building permit will be required.
- (d) Where approval is granted by the Director of Operations and Infrastructure or his/her designate, prior to the renovation, repair or replacement of a Retaining Wall on the Subject Lands, the person seeking to undertake such works shall:
 - (i) provide evidence to the Director of Operations and Infrastructure or his/her designate of the height of the retaining wall prior to performing such works;
 - (ii) provide evidence sufficient to the Director of Operations and Infrastructure or his/her designate that the wall will be safe during and after it is to be repaired or replaced, as the case may be; and
 - (iii) execute an Acknowledgment that the retaining wall, after all works have been completed, will not exceed the height of the retaining wall that was in existence on the date of the passing of this policy.

8. Grading

- (a) A person may apply to the Director of Operations and Infrastructure or his/her designate for approval to carry out grading works on the Subject Lands.
- (b) The Director of Operations and Infrastructure or his/her designate may, in his sole discretion, refuse to permit any grading works on the Subject Lands if the Director of Operations and Infrastructure or his/her designate is of the opinion that such grading works will:
 - (i) have an adverse impact on the Subject Lands;
 - (ii) have an adverse impact on any abutting lands or existing infrastructure.
- (c) If the Director of Operations and Infrastructure or his/her designate does provide written permission to carry out any grading works on any part of the Subject Lands, such grading work shall be limited to a maximum slope of 3:1 measured horizontal to vertical on any portion of the Subject Lands.

9. Other

- (a) A person may apply to the Director of Operations and Infrastructure or his/her designate for approval to renovate, repair or replace an existing Structure not otherwise described in this Policy that was in existence on the date of the passing of this Policy and continued to be in existence provided that the renovation, repair or replacement of the existing Structure is in the same location and does not result in a Structure that occupies an area of land or has a floor area, use or height, as the case may be, that exceeds or differs from that which was in existence on the Subject Lands on the date of the passing of this Policy.