

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

Tuesday, November 8, 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 September 20, 2016.
7. PRESENTATIONS
8. CONSIDERATION OF REPORTS ON THE AGENDA
 - (1) **Pages 6 – 11**
Draft Policy: Lake Drive Shoreline Road Allowances permitted uses.
9. COMMUNICATIONS
 - (1) **Pages 12 - 13**
Lake Drive Residents Position Paper
 - (2) MPAC November 2, 2016, meeting, discussion regarding the outcome of proceedings.
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, September 20, 2016
6:30 PM
Council Chambers - Civic Centre

1. CALL TO ORDER

The meeting was called to order at 6:45 PM.

2. ROLL CALL

The following Committee members were present:

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

The following Committee members were absent:

Councillor Dan Fellini (with regrets)
Carr Hatch

The following staff members were in attendance:

Winanne Grant, Chief Administrative Officer
Andrew Biggart, Town Solicitor
Dan Pisani, Director of Infrastructure and Operations
Harold Lenters, Director, Development Services
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)

4. APPROVAL OF AGENDA

Moved by Dave Szollosy, Seconded by Mayor Margaret Quirk

RESOLUTION NO. LDSJAHC-2016-0026

That the agenda for the Lake Drive Shoreline Jurisdiction Ad Hoc Committee meeting held on September 20, 2016, be approved as presented

Carried.

5. DECLARATIONS OF PECUNIARY INTEREST AND GENERAL NATURE THEREOF - *None*
6. ADOPTION OF MINUTES
 - (1) Minutes of the meeting held on June 14, 2016.

Moved by Dave Szollosy, Seconded by Councillor Dave Neeson

RESOLUTION NO. LDSJAHC-2016-0027

That the minutes of the Lake Drive Shoreline Jurisdiction Ad Hoc Committee meeting held on June 14, 2016, be adopted with the following amendments:

The spelling of “buy” on page 3, second paragraph, provision 2, be corrected to “by”

Carried.

7. PRESENTATIONS - *None*
8. CONSIDERATION OF REPORTS ON THE AGENDA
 - (1) Correspondence from Andrew Biggart, Ritchie, Ketcheson, Hart and Biggart re: Town of Georgina – Lake Drive Shoreline Road Allowances

Before opening the floor to questions regarding the correspondence from Andrew Biggart, Winanne Grant, Chief Administrative Officer, outlined the work that will need to be done by Municipal Property Assessment Corporation (“MPAC”) to inform and assist the process.

The Committee was advised there was a preliminary meeting with MPAC involving staff to explain the Committee’s direction with respect to the Lake Drive Shoreline Road Allowances and adjacent lots. The meeting provided insight into the complexity of the situation; consideration was given to the following:

- There are estimated to be over 1,000 contiguous properties with unique situations along the shoreline.
- In the interest of public inquiries, time will be required to gather information; MPAC will need to look at how the lots might be assessed, and how individual properties are going to be impacted, so the potential owners can inquire before deciding on the transfer/conveyance.

- Giving MPAC a heads up and working with them, considering how MPAC on their end will handle implications of creations/transfers/conveyance of several lots at once.
- MPAC will contact staff if they require information from the Town.

The Committee discussed the transparency of the meeting between staff and MPAC and the following points were raised:

- The meeting was a result of staff process required for the Report.
- The meeting with MPAC was preliminary, and relating to the Committee's previous discussions with respect to the assessment taxation of their property and the implications of the lot creation.
- Committee had not requested that Committee members be involved in the staff process or be present at any meetings that were a result of the process and staff did not believe it was pertinent to involve the Committee members at the preliminary meeting.
- The benefits of releasing land.
- MPAC's standard set of protocols to trigger a reassessment
- How the concept was presented to MPAC (how MPAC perceives the change that may be about to occur).

Moved by Councillor Dave Neeson, Seconded by Terry Holgate

RESOLUTION NO. LDSJAHC-2016-0028

That the Lake Drive Shoreline Jurisdiction Ad Hoc Committee direct staff to find out exactly how many houses there are along Lake Drive (from any credible sources) and report back to this Committee.

Carried.

Moved by Peter Stevens, Seconded by Alan Drenfeld

RESOLUTION NO. LDSJAHC-2016-0029

That a special meeting between the Municipal Property Assessment Corporation and staff be arranged as soon as feasible and that the Lake Drive Shoreline Jurisdiction Ad Hoc Committee has a representative at the meeting.

Carried.

The Committee discussed the correspondence from Andrew Biggart regarding Lake Drive Shoreline Road Allowances. Following the discussion, it was clarified that the correspondence would not be subject to amendments as it represents the legal opinion of Andrew Biggart. The Committee was advised they can accept or reject the recommendation.

Winanne Grant advised the Committee that the Report was for informational purposes and intended to be received and that there was a need for more fact finding and gathering of information.

Moved by Peter Stevens, Seconded by Dave Szollosy

RESOLUTION NO. LDSJAHC-2016-0030

That the formula for payment of shoreline lots be based upon the square foot or square meters surveys data rather than by appraisal.

[No vote on motion]

Moved by Dave Szollosy, Seconded by Alan Direnfeld

RESOLUTION NO. LDSJAHC-2016-0031

Postpone the consideration of the previous motion until the Committee is prepared to make recommendations to Council.

Carried.

Moved by Alan Direnfeld, Seconded by Dave Szollosy

RESOLUTION NO. LDSJAHC-2016-0032

That the Lake Drive Shoreline Jurisdiction Ad Hoc Committee receive the Correspondence from Andrew Biggart.

Carried.

(2) Draft Policy re: Lake Drive

Andrew Biggart explained the mindset of the Draft Policy is fair use. The Policy takes a stance of what's permitted rather than what is prohibited. The proposed Policy, if approved would allow Council to figure out what to do with lands while staff effectively carry out a "will" of Council.

The Committee suggested a preamble or intro be included which articulates that the Policy is a temporary policy. The Committee requested a draft policy come back for review after it has been transposed into the Town policy template, which would include a preamble, purpose or intent.

Moved by Alan Direnfeld, Seconded by Terry Holgate

RESOLUTION NO. LDSJAHC-2016-0033

That the Lake Drive Shoreline Jurisdiction Ad Hoc Committee receive the Draft Policy regarding Lake Drive.

Carried.

9. COMMUNICATIONS

10. OTHER BUSINESS

(1) Schedule upcoming meeting dates.

The Committee discussed potential meeting dates and agreed on November 8, 2016, and requested Sarah Brislin, Committee Service Coordinator, send the calendar invite to members.

11. MOTION TO ADJOURN

Moved by David Szollosy, Seconded by Terry Holgate

RESOLUTION NO. LDSJAHC-2016-0034

That the Lake Drive Shoreline Jurisdiction Ad Hoc Committee September 20, 2016, meeting be adjourned at 9:00 PM.

Carried.

SUBJECT: DRAFT Lake Drive – Interim Policy RE: Development of Town road allowance in the area of Lake Drive North and East shoreline.	AUTHORITY: Council Resolution TBA	
DEPARTMENT:	PAGES:	DAY MONTH YEAR XX/XX/XX
APPROVED BY:	CONTACT POSITION FOR INFO:	

BACKGROUND

Most of the road allowances for Lake Drive North and Lake Drive East run along the shoreline of Lake Simcoe and Cook’s Bay but there are, at some locations, substantial amounts of land lying between the travelled portion of the road and the shoreline (hereinafter the “lake side lands”). The Town has allowed certain use of this land to be made by the owners of lands abutting the east and south sides of the road allowances, and other uses have occurred without Town approval. The Town is currently in the process of undertaking a review as to how it will deal with the lake side lands including, among other matters, a review of the ownership of those lands and the appropriate uses that should be permitted on the lake side lands. While the review is underway, the Town will continue to allow abutting owners to use and maintain the land in accordance with the below policy.

POLICY STATEMENT

Before the Town will approve of any construction, repair, renovation or replacement of any building, deck, dock, fence, retaining wall, stairs or structure, as the case may be, and as may be permitted in accordance with this policy RD XX, the abutting owner must ensure that all of the applicable approvals are in place including those from the Lake Simcoe Region Conservation Authority, the Ministry of Natural Resources, any other applicable Town policies, and any other governing authorities. In some cases, abutting land owners may be required to provide engineered drawings when requested by the Town.

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;

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- (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
- (k) "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

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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:

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- (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,

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- (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

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- (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 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.

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AGENDA ITEM FOR DISCUSSION by the Lake Drive Shoreline Jurisdiction Ad-Hoc Committee at its November 8, 2016 meeting

Update and Position Prepared by the Lake Drive Residents Committee on Behalf of Lake Drive Residents:

Lake Drive residents on the Ad-Hoc Committee distributed a confidential survey in mid-October. Two hundred and fifty (250) Lake Drive residents received the survey and there was a sixty five percent (65%) response rate.

Survey's Key Findings:

- The responses are fairly equally split between Lake Drive East and North residents.
- Eighty-six percent (86%) have read the Town's lawyer's letter dated September 13, 2016.
- Forty percent (40%) say they own their waterfront; a deed, a survey, or the fact that they pay two tax bills are the most cited reasons.
- Seventy percent (70%) have lived on Lake Drive more than 10 years.
- Eighty percent (80%) want ownership subject to comments below.

Reminder about the Town's Goal of Release of Liability:

The Town initiated this process through a staff report brought to Council in July 2015. They stated then, and continue to state that their reason for bringing this issue forward is out of concern over liability and how to deal with development along the Lake side properties. Lake Drive Ad-Hoc Committee residents wish this to remain top of mind when considering the process.

Reminder about the Facts of this Issue:

- Lake Drive residents have enjoyed exclusive use of their waterfronts for decades, and longer in many cases.
- The lakeside properties are alienated land and of no use or practical value to anyone except the landowner on the other side of the street.
- Lake Drive residents have no issue with assuming "legal" liability for their property since they already feel they have liability now, and would be held liable in the event of a lawsuit.
- Lake Drive residents are interested in working with the Town to resolve ownership as long as they perceive the process to be reasonable and fair.
- The Ad-Hoc Committee Lake Drive residents have sought our own legal opinion and it contrasts sharply with the Town's lawyer.

Recommendation for Moving Forward:

Residents of the Lake Drive Ad-Hoc Committee would like to move forward with the following recommendation at our next Ad-Hoc meeting. It is based on precedent (e.g. conveyance of the Reed Farm), simplicity, transparency, and efficiency.

1. Invite landowners on Lake Drive to sign Declarations of Interest for the purpose of declaring their interest in the "lake side lot".

2. Implement the steps required for the closing of the lands within the road allowance, including the R-Plan and a by-law to close the relevant portions and zone the closed portions as necessary.
3. The offer of conveyance should be tied to and inseparable from the title of the property immediately opposite the lake side property being conveyed. The conveyance would restrict the selling of the lake side property separate from the land opposite it.
4. The costs should be as already established by precedent.
5. Properties that already have separate PINs and property tax bills for the lakeside should be given exemptions on costs since they already own and have paid through their property taxes.

What's at Risk:

The residents have stated their willingness to work with the Town to resolve this issue, but their cooperation has its limits. Their responses indicate they interpret the lawyer's letter as an opportunity for the Town to make money.

There is no interest in paying higher taxes; residents are clear that they already pay above average rates that reflect their waterfront status. In addition, property values are set by the market. Any intervention by MPAC or the involvement of appraisers will be viewed as an unnecessary intrusion in that market driven process.

Furthermore the process will not be resolved if Lake Drive Residents see the Town attaching high costs to alienated land that they already enjoy and believe to be theirs. Throughout all of this, the Town's liability will continue, while residents' exclusive use will remain as it always has.

Regular Meetings Needed:

The Lake Drive residents on the Ad-Hoc Committee reiterate the need to return to regular monthly meetings so we can move this process forward without delay. The process is dragging and inserting unnecessary complications such as MPAC and appraisals will cause the timeline to drag past the tenure of the current council.

Clarification of ownership will lead to significant benefits to Town staff who we understand have been frustrated for decades. Such benefits will include policies/by-laws for the waterfront and revised zoning all of which will give clarity to staff.

This issue of indeterminate ownership of the lake side lands has been going on for decades and needs resolution. Simplifying the process by following steps that the Town has already done before such as in the case of the Reed Farm, will move the process forward towards resolution.