

June 20, 2022

Township of Muskoka Lakes  
1 Bailey Street  
P.O. Box 129  
Port Carling, ON POB 1J0

Dear Chair Bridgeman and Planning Committee Members,

**Re: Official Plan Draft #3 - June 9, 2022**

The Muskoka Lakes Association and Friends of Muskoka offer the following summary of comments made by our representatives (Deborah Martin-Downs, Laurie Thomson, Susan Eplett and Ken Pearce) in our delegations to the Special Planning Committee this morning regarding draft #3 of the Official Plan (the "OP").

1. Sustainable Development and Climate Change - Matching Intent with Policy (L10)

Section B2 c) "*Require(s) the implementation of sustainable development practices*". However the policies in L10 provide variable direction, with L10.1 providing general and specific direction while L10.3, L10.4 and L10.5 contain much less specific wording such as "encourage, consider and may". It is imperative that the OP be clear on expectations and especially ensure that Council establishes its commitment and intent to lead the development of guidelines or standards to be applied.

2. Environmental and Natural Heritage Policies

The term **natural heritage features and areas** should have a broader definition in the plan.

D 1.1. a) provides: "*It is an objective of this Plan that the diversity and connectivity of natural features in the Township, and the long-term ecological function and biodiversity of natural heritage systems be maintained, restored or, where possible, improved, recognizing linkages between and among **natural heritage features and areas**, surface water features and ground water features.*"

D1.2 then defines what is included and limits that scope to features and areas as defined in the provincial policy statement as of provincial interest with the exception of including all wetlands and fish habitat. It does include **Muskoka Heritage Areas and Sites** which are part of an appendix and not available for review with this draft. It does not seem to include or recognize the substantial forest cover in Muskoka and its importance to the significant habitats and features as well as water quality.



D2.2 notes that “*the Township shall protect, improve or restore the quality and quantity of water by c) Identifying water resource systems consisting of ground water features, hydrologic functions, natural heritage features and areas, and surface water features including shoreline areas, which are necessary for the ecological and hydrological integrity of the watershed.*”

Without including forest cover, the Township will not be in a position to protect the ecological and hydrological integrity of the watershed.

Part E1 c) and policies in E4.1 note the need to protect other areas including tree cover etc ‘*Protect the integrity of the natural landscape, including but not limited to **tree cover, tree lines and, natural vegetation, natural heritage features and areas and naturally exposed bedrock***’ but only natural heritage features and areas have the safeguards of the restrictive natural heritage policies, assessment requirements and controls through the site alteration process.

We ask that Council amends and expands the definition of **natural heritage features and areas** to include **forested areas** and remove the word **coastal** from other wetlands to reflect the importance of all wetlands to the protection of hydrologic and biological function.

### 3. Recreational Carrying Capacity (“RCC”) (E9)

We support the submission on behalf of the Muskoka Small Lakes Coalition and other lake associations requesting that RCC be a hard cap on the creation of new lots on smaller lakes.

Applying RCC as a hard cap is consistent with the precautionary approach we are taking to development through this Official Plan.

It has been argued that RCC is not scientific. The OMB decision upholding Seguin’s RCC specifically noted that RCC is scientific. It in fact has a basis in models used for boating safety analyses, AND it has been used by many municipalities as a proxy for shoreline overdevelopment. Just like 300-foot frontages feels right on larger lakes, the RCC restriction of 1 lot per 1.6 ha of water surface is a point at which smaller and narrower water bodies can be considered overdeveloped.

Regardless, many planning tools, such as maximum lot coverage and minimum lot frontage are not scientific but are accepted as precautionary tools to put specific limits on development, thereby preventing overdevelopment, just as we believe RCC should be used.

While permitting lot creation on lakes where RCC has been surpassed, subject to conditions, may sound like a balanced compromise approach, it is not. It is like saying you need to have 200 or 300 feet of frontage for new lot creation but we will make exceptions if you site your cottage in a certain place or decrease the size of your dock. The wording as it is in this draft will make it very difficult for Council to refuse any applications to create new lots on lakes that are over their RCC limit - Council can set criteria for building, but these will likely be appealable –

think about the Pandora's box this could open up! And these criteria will not prevent more development on already overdeveloped lakes. Employing RCC as a hard cap would.

We do not agree with the new language in E9 c) viii) that RCC should not apply to proposed development within the Urban Centres or Community Areas. An RCC model will help protect the safety on the water in these areas, as well as fish habitat and shoreline ecology. Applying an RCC model with docking limitations at tourist commercial establishments, public boat launches and waterfront landings as suggested by Meridian will not restrict development in these areas; it will simply limit the number of property owner boat slips and boat launches in these areas. Boat slips needed to meet commercial parking requirements have been specifically excluded from the model.

The proposed development in Gravenhurst's Muskoka Wharf is a striking example of why RCC is relevant in an Urban Centre (55 new boat slips are being proposed in the bay).

#### 4. Main floor of boathouses (E4.10)

We request that the words 'to the extent permitted by law' be added to E4.10 c). This will reflect the language in Section 10 of Regulation 161-17 to Ontario's Public Lands Act which regulates the use of single story boathouses: "4. The boathouse is a single-storey building and the interior of the boathouse is designed and used solely for the purpose of storing and docking boats and related equipment."

We note that at the March 22nd Special Planning Committee meeting, there was support for a 'small' amount of recreational floor area in the main floor of a boathouse. Committee discussed a maximum of up to 20-25% and 500 or 650 sq feet (to be comparable or less than the living space that's allowed on the second floor). We recommend a maximum square footage.

We further note that with 300' or more of frontage, the main floor of a boathouse could be more than 3,000 sq ft.

We'd also like to point out that damage to structures on lands subject to flooding may trigger complaints to the Township.

#### 5. Resorts on Islands (F3.4.2d))

We again request that a provision be added to prohibit resorts on islands. We suggested wording in our March submission: "Meet the following minimum lot and siting requirements: A) on a mainland property; B) a lot area of 2 ha; and C) a water frontage of 150 m." We do not want another Langmaid's Island (Lake of Bays). No resorts on islands has been a long established policy in our Township. This would create numerous issues, such as mainland parking, boat slips and boat traffic and septic concerns. There is approximately 27 km of shoreline available for resorts. Similarly, a resort should not be on a small property with limited

shoreline. Our suggested wording is derived from the current Official Plan, Section B11.16 and we ask that it be carried forward.

6. Resorts: Maximum Owner Occupancy - Resort is Open Year-Round (F3.3.2.1e)

With a unit being in a rental pool at least 26 weeks per year, arguably it is not commercial or residential. The predominant use is neither one or the other. However, at some point you reach a tipping point. Previously, 10 weeks in a rental pool was considered sufficient to qualify as commercial, with 42 weeks of exclusive owner usage.

A provision has been added to permit an owner to use the unit when it was not rented. However, this could lead to a unit being used 100% of the time by the owner. We had suggested a maximum, but did not indicate a number of weeks. Meridian is proposing 39 weeks or 75% (effectively splitting the baby between 50% and 100%). We suggest this is too much. It is only three weeks shy of the 42 weeks which we found so objectionable (only 10 weeks in a rental pool). It is a long way from 50-50. We suggest an additional six weeks, so a maximum of 32. Anything over 26 is trending towards residential.

The problem is Friday Harbour where people living in the units (as their principal residence, notwithstanding it was a commercial resort) had to move out for 60 days (about nine weeks) each year and stay with friends and family. Apparently this proved to be too much of a hardship and they also complained that they could not get a residential mortgage at lower rates than they could for a commercial mortgage. Innisfil ultimately relented and is allowing them to be completely residential! Definitely a slippery slope.

That said, we are appreciative that Meridian did provide that it would in no way affect the maximum owner usage of four weeks during July and August. So we request a maximum of 32 weeks please, and the same change for Section F3.3.2.2e) - Not Open Year-Round.

7. Resorts: Unit Owner Use Restrictions - Resort Outside of Urban Centres (F3.3.2e)

Meridian Consulting suggested that when a resort ceases to carry on business, unit owners should not be precluded from using their units. They MAY operate the resort themselves, but they cannot convert them to residential use. The current Official Plan goes on to say that if the units are unable to be operated as part of a resort, use of the units shall cease until it is possible to operate them as such. We suggest this needs to go back in, otherwise it is residential. Either that or they SHALL operate it as a resort and if they don't, they can't use their unit.

We recognize unit owners may not be able to operate a restaurant or even a pool, but they can operate a commercial condo by operating the rental program, etc. It would not be difficult or onerous. In many cases the owner/developer is no longer in the picture and it is just the condo corporation. It must be a commercial condo, not a residential condo. This is what the current OP says.

#### 8. Site Plan Control By-law (E5 and E4.2.2 g))

Section E5 of the draft OP refers to the Township's Site Alteration By-law. It describes the purpose of the by-law (to control site alteration in the waterfront and other areas) and requires the by-law to be updated to include certain environmental protections.

Director Pink has explained that the Site Alteration By-law does not apply to land that is being developed pursuant to a building permit or a site plan agreement. Instead, the Site Plan Control By-law applies. We request that the Site Plan Control By-law be added to E5, to ensure that it is also amended to include the protections in the new OP.

We also request that patios be added to the list of structures that should be considered in the updated by-laws.

In addition, E4.2.2 g) states that Waterfront Areas shall be subject to the Tree Preservation By-law and Site Alteration By-law. We ask that the Site Plan Control By-law should be added. In addition, we note that the name of the Tree Preservation By-law is being changed to Tree Conservation By-law.

#### 9. Dark Sky Lighting (L14 e))

We recommend that the Township's dark sky lighting policies be updated to reflect the new dark sky lighting standards that have evolved to deal not just with light trespass and shining downwards, but also light glare, clutter and skyglow. The International Dark Sky Association describes these standards, which also provide that exterior lighting be of minimal intensity, minimally intrusive colours, and only when needed. We included suggested wording in our March submission that we believe should be included in section L14 e) along with definitions.

#### 10. Building Elevation Drawings in Site Plan Control (E7 b) i))

Building elevation drawings are integral to decisions on site plan control. We recommend that E7 b) i) provide that the location of buildings will be based on building elevation drawings.

#### 11. Setbacks on Properties in the waterfront area (E4.12)

The recent application regarding a property on Acton Island has shown that properties with two water frontages can create significant issues when they are developed. We request that where a property has two distinct lake frontages on two sides (for example, on a peninsula), an equivalent setback should apply to both frontages. This will ensure that an entire building is setback appropriately from the water, not just the front side of the building.

## 12. Downzoning and Siting of Marinas (E4.8)

Given the importance of marina operations to the Township, we repeat our suggestion that any application to downzone or re-zone a marina shall only occur at the time of a comprehensive review or some other Township-wide planning process such as the Transportation Master Plan process.

We repeat our request that new marinas not be located in shallow bays or wetlands, given the environmental damage this would cause.

## 13. Development on Islands slightly Less than 0.8 hectares (E4.5.3 a))

The existing OP requires an Environmental Impact Study for development on islands slightly less than 0.8 hectares. We recommend that this EIS requirement be carried forward into s. E4.5.3 a) of the new OP because of the special concerns when very small islands are developed, including visual impact and environmental impact, access and provision of services.

## 14. Estate Lots in Rural Areas (H2.1.2.k)

Section H2.1.2.k relating to estate lots in rural areas states that estate residential development of 20 lots or less may be considered by way of Official Plan Amendment, with consideration given in particular to Section H2.1.2 a).

However, the Provincial Policy Statement directs the majority of growth in municipalities to serviced urban areas and allows for limited residential development in the rural areas. Similarly, Section D2 of the District of Muskoka Official Plan (MOP) permits limited rural growth and directs most of the growth to the serviced urban areas. In TML those areas would be Bala and Port Carling and to a lesser extent other community areas which are unserviced at this time.

The District indicates that the settlement areas will be the focus of year-round population and the 2019 Forecast and Allocation Report prepared by the District indicates that the population of TML will increase by only 200 people or 300 homes between 2016 and 2036. The MOP has targeted 70% of permanent residential growth to the urban and community areas, which leaves about 80 new permanent dwellings in total for rural and shoreline areas, or 4 new homes per year.

Furthermore, the MOP requires in section J3.5.1 f) that rural lot creation consider, among other things:

- avoidance of further fragmentation of large, intact nature spaces;
- appropriate access to employment, schools, community facilities, services and amenities; and
- fiscal impacts on the short and long term provision of hard and soft services.

We do not see how opening the door to rural estate development is consistent with the PPS, the MOP or growth targets for the region.

It is also not consistent with the latest thinking on building sustainable communities which directs that new development be located near existing development in serviced areas with easy access to shops, schools, hospitals and other services.

Thank you for considering our comments, and we urge Committee to schedule a public meeting as soon as possible, so this OP can get well down the road during this term of Council.

Sincerely,



Deborah Martin-Downs  
President  
Muskoka Lakes Association



Laurie Thomson  
President  
Friends of Muskoka

cc. David Pink, Director of Development Services and Environmental Sustainability  
Nick McDonald, Meridian Planning Consultants