

November 14, 2022

Via Email only

The District Municipality of Muskoka
Community and Planning Services Department
70 Pine Street
Bracebridge, Ontario
P1L 1N3

Attention: Arfona Zwiers, Commissioner, Community and Planning Services

Dear Ms. Zwiers:

Re: Township of Muskoka Lakes Official Plan (the “Official Plan”)

We refer to the letter (the “Letter”) dated October 11, 2022 from Greg Knight to David Pink, Director of Development Services and Environmental Sustainability, Township of Muskoka Lakes (the “Township”), providing comments on the Official Plan, and which references a letter from Planscape to Mr. Pink dated August 11, 2022 (the “Planscape Letter”). We are providing comments on the Letter on behalf of the Muskoka Lakes Association and the Friends of Muskoka.

The Letter suggests that there has been inadequate public consultation for the Official Plan, notwithstanding the fact that there have been in excess of 30 public meetings on it over several years, in addition to a community visioning session in 2019 and Township surveys, workshops and open houses. Our groups have also communicated with members to ensure there was wide-spread appreciation that this process was underway and to provide information about how the community could become engaged.

The Letter further suggests that there has been inadequate consultation with the resort industry and that one of the public meetings was held during the summer. However, Mr. Knight notes in the Letter that “several members of the resort community representing a substantial majority of the resort condominium units in the township collectively did manage to provide the township with a lengthy letter of concern in advance of the [August] public meeting”. In addition, Mr. Knight spoke at the October 3rd public meeting and submitted the Letter on October 11, the night before the October 12 public meeting. We further note that this has been a multi-year process and that our membership, volunteers and supporters also have commitments during the summer and many also find it difficult to deal with such matters during the off-season (October to April).

Summary

For the reasons noted in our detailed comments below, we are of the view that there is adequate language concerning support for resorts by virtue of the language recently added as new Section B2g) (addressing Sections 1 to 6 and 17 of the Letter), there is no inconsistency or lack of conformity with the District of Muskoka Official Plan (the “MOP”) (addressing Sections 8, 10, 11, 13 and 14 of the Letter) and the other comments are of a minor nature and can be dealt with through minor changes, if considered appropriate to do so (Sections 7, 9, 12, 15, 16 and 18 of the Letter).

Detailed Comments

Our comments follow the numbering protocol set out in the Letter.

1. The Letter indicates that there is no language in support of resorts in Part B of the Official Plan. However, in the September 22, 2022 draft (and as requested in the Planscape Letter), such an objective was added as new Section B2g): “Support the development of new resorts and the redevelopment of existing resorts, provided the resorts are planned to be commercial in nature at the outset and continue to operate as commercial uses in the future, so that resorts can continue to contribute to the local economy.”

This language is in the final version of the Official Plan approved by the Township.

The language is consistent with the MOP and we do not see any need to include similar language found in the MOP in the Official Plan.

We note there is also language regarding support for resorts in three places in Part F of the Official Plan:

Section F2 states that: “It is an objective of this Plan to:

- a. Support (emphasis added) the continued commercial use of properties used for commercial accommodation uses;
- b. Encourage and support (emphasis added) commercial accommodation uses that demonstrate sustainable economic, social, and environmental practices...;
- c. Support (emphasis added) the development of single-owner commercial accommodation uses...;”

2. The Letter suggests that additional language in support of resorts should be added to Part B of the Official Plan, over and above that requested in Section 1 above and already included. We suggest this is unnecessary, for the reasons noted in Section 1.

3. Section F2c) states that it is the objective of the Plan to: “Support the development of single-owner commercial accommodation uses and discourage the development of commercial accommodation uses by way of Plan of Condominium outside of the Urban Centres;”.

The Letter states that there is no basis for this policy and that it is inconsistent with the MOP. In fact, the policy justifications were discussed at great length during the public consultation process. The community expressed significant concern that resort commercial condominium ownership as a form of tenure effectively leads to high density residential subdivisions on the waterfront (which are strictly prohibited) and requested prohibiting use of this form of tenure. The MOP also prohibits high density residential use, except on municipal services, as would be the case in urban centers. The compromise reached was to state that the Township supports single-owner tenure, but discourages resort commercial condominium uses outside of urban centres. Again, the Township Official Plan may be more restrictive.

4. Section F2c) states that it is an objective of the Official Plan to: “Retain existing and viable commercial accommodation uses to support the continued economic vitality of Muskoka Lakes, while being open to their conversion to residential use, provided the density and scale of the residential development is consistent with the character of the adjacent areas.”

The Letter suggests that this is inconsistent with MOP Section F6d): “The preservation of the quality tourist commercial land base fronting on water is essential to the long term health of the local tourism industry of Muskoka. The down zoning of resort commercial properties with significant land holdings and frontage on water will not generally be supported. In extenuating circumstances down zoning may be considered where the impact of the loss of the commercial land base has been analyzed and it is demonstrated that it would not negatively affect the critical mass of the tourism infrastructure and land base in Muskoka.”

We suggest that “being open to” conversion to residential use/downzoning is not inconsistent with the language in the MOP.

We do not see the merit of including a provision in the Official Plan that purports to bind a future Council by providing that “upon the next official plan review, commercially zoned properties that have not been redeveloped to operate as resorts be removed from the commercial designation”, as was suggested in the Letter.

5. In our view, Section F3.1a) accurately and factually sets out the context of the significance of resorts. There can be no doubt that their economic importance to the Township and, indeed, the District, has declined, and continues to decline, significantly (as we set out in our earlier letter from the undersigned to Lisa Marden, Director of Planning, District of Muskoka dated August 29, 2022 and as confirmed by the Altus Study commissioned by the District). See also the chart in Section F6 of the MOP, which notes that resorts in the Township have gone from 173 in 1957 to only 26 in 1991 and, in the District, from 554 in 1957 to 126 in 1991 (and, per the Altus Study, only 32 in 2018).

We do not see the need to repeat general statements from the MOP in the Official Plan, as suggested by the Letter.

6. Section F3.1b)ii) states that resorts are commercial establishments that: “Are professionally managed, with all resort commercial accommodation units available to the travelling & vacationing public for reasonable periods of time and which are included in a mandatory furniture, fixtures & equipment program;”

Section F6c) ii) of the MOP states that: “Regardless of the form of tenure, accommodation units within a resort development will be made available to the travelling public, be operated under central management on location...”

The Letter suggests that, and we agree, some aspects of Section F3.1b) are already included in, or should be included in, the resort condominium section.

We suggest that Section F3.1b) ii) be amended to read: “Are operated under central management on location, with all resort commercial accommodation units available to the travelling & vacationing public;”.

We further suggest that Section F3.3.2b) be amended to add the following language to the end of such section: “, and which units shall be included in a mandatory furniture, fixtures & equipment program”.

7. The Letter indicates that Section F3.1b) iii) and iv) suggest resorts provide access to significant tourism assets and experience to the travelling and vacationing public and that this should be expanded to include the public generally. We note that, in connection with Minett Official Plan Amendment 56, this comment was made, and ultimately rejected, since private landowners raised a concern that they should not be required to make their property available to the public generally.

8. The Letter indicates that Section F3.2c) is similar to Section F3.1b) ii). However, they are not identical and the former emphasizes the requirement to generate a turnover of occupants through mandatory rental pools/programs (emphasis added), among other things, which the latter does not (instead referencing that units be available to the travelling & vacationing public-similar to Section F6c) ii) of the MOP which states that: “Regardless of the form of tenure, accommodation units within a resort development will be made available to the travelling public...”).

Contrary to the comment in the Letter, we suggest these provisions are not too specific (and, in fact, are in conformity with MOP Section F6c) ii), as noted above) and contend they are appropriate and important to ensure ongoing commercial use. Further, we would argue that these provisions are not inconsistent with MOP Section F6c) i), as the Letter claims. We acknowledge MOP Section F6c) i) states that: “All forms of tenure will be considered for new, expanded or redeveloped resorts...”. However, as noted above, MOP Section F6c) ii) begins with “Regardless of the form of tenure, accommodation units within a resort development will be made available to the travelling public...”, which clearly contemplates a turnover of visitors in all circumstances.

9. Section F3.2e) states that: “The density of commercial resort development is controlled through the implementing Zoning By-law. Following the approval of this Plan, the Township shall review the implementing Zoning By-law to determine if further restrictions on density are required.”

The Letter queries under what circumstances additional density restrictions will be required, what policy direction is provided and what analysis has been conducted. We suggest this will be dealt with by Council when it deals with the implementing Zoning By-law.

10. Section F3.3.2a) states that: “...the Township’s preferred form of tenure for resorts is single ownership (that is, no ownership of individual units by unit owners)...”.

The Letter states that there is no policy reason for such preference. In fact, as noted in Section 3 above, the policy justifications were discussed at great length during the public consultation process. The community expressed significant concern that resort commercial condominium ownership as a form of tenure often effectively leads to high density residential subdivisions on the waterfront and requested the prohibition of this form of tenure. The compromise reached was to state that the Township’s preferred form of tenure is single ownership, but still leave the door open to resort commercial condominium ownership, provided commercial use is maintained. Again, notwithstanding the MOP support for resort development through various tenures, the Township may be more restrictive.

11. The Letter states that certain sections regarding commercial use are quite specific and that this is unwarranted (that is, Sections F.3.3.2b), c), d) and e), F3.3.2.1, F3.3.2.2 and F3.3.2.3). With respect, based on our experience in connection with several Local Planning Appeal Tribunal (now the Ontario Land Tribunal) hearings, it has become quite clear that very specific language and policies are essential in both the Official Plan and in the implementing Zoning By-law.

The Letter seems to suggest that the work completed by the Minett Joint Policy Review Steering Committee (“MJPRSC”) and the Township’s Minett OPA 56 and the District’s Minett OPA 49 should not inform the Township’s resort policies in its Official Plan. With respect, we disagree. We note that a key word in the MJPRSC is “Joint”. It was a joint committee formed by the District and the Township, with funding, including for expert studies, provided by both.

Again, we suggest that these provisions are in conformity with the MOP, and that they may be more restrictive.

12.(a) The Letter suggests that Section F3.3.2.1b) requiring occupancy by owners of resort commercial condominium units to be for a minimum of seven consecutive days does nothing to ensure commerciality. In fact, this is precisely what it is designed to do. Otherwise, unit owners could select every weekend or only Fridays and Saturdays for their personal use permissions, rendering the units commercially unviable.

(b) The Letter notes that Section F3.3.2.2 contemplates use provisions where the resort condominium is not operated year round and recommends that year round operation should be required as part of the test for commerciality. While that is laudable, we also acknowledge that it may not be commercially viable for all resorts to operate year round and that flexibility is warranted in this regard.

(c) Regarding the comment concerning Section F3.3.2.3 about making tourism assets available to the public generally, we reiterate our comment in Section 7 above.

(d) Regarding the comment concerning Sections F3.3.2.2 and 3.3.2.3, we would be supportive of clarifying that these provisions relate to condominiumized units, as we believe this was the intent. For the reasons noted in Section 11 above, we suggest that these provisions are appropriate and should remain in the Official Plan, with the minor clarification noted.

13. Section F3.4.1a) states that: “Any application to develop a new commercial resort outside of an Urban Centre shall require an Amendment to this Plan and shall be supported by evidence satisfactory to the Township that there is a need for additional commercial resort accommodation in the Township.”

The Letter states that there is no basis for this policy and that it is inconsistent with the MOP. We note that Section F6b) of the MOP states that: “New resort development may only be established in the Waterfront Designation by amendment to the Area Municipal Official Plan.” In addition, this is not a new policy, as Section 11.17 of the Township’s current Official Plan states that: “New resorts in the Waterfront designation shall only be permitted through an Amendment to this Plan.”

14. The Letter notes that Section F3.4.1e) ii) requires new resorts to be on mainland property only. We note that this is not a change and is in the current Official Plan, which states in Section 11.16b) that: "New resorts shall meet the following minimum lot and siting requirements: b) on a mainland property;"

We do not believe that this is inconsistent with the upper tier policy that is supportive of resort development. In any event, the lower tier policy can be more restrictive. There are planning and environmental justifications for not permitting resorts on islands. For example, there are typically significant challenges providing mainland parking and boating access and siting appropriate septic facilities. An example is the proposed Glen Echo Resort on Taylor Island in Gravenhurst (14 units currently requested, but up to 48 units permissible).

We suggest that bringing forward this language in the current Official Plan is appropriate.

15. The Letter notes that Section F3.4.2 includes a number of provisions required [to be complied with] in the design of new resorts or the redevelopment and expansion of existing resorts and that some clarity must be provided to the term "expansion of existing resorts" to ensure required new amenities are commensurate with the magnitude of the expansion. With respect, adding the words "significant" or even "major" in front of "expansion of existing resorts" would not solve the problem and only creates a different definitional issue of what is meant by "significant" or "major".

We believe that staff and Council are in the best position to determine the appropriate amount of amenities commensurate with the magnitude of the proposed expansion.


16. Regarding the comment in the Letter concerning Section F3.4.2 and the request to include language making tourism assets available, not only to the travelling and vacationing public, but also the public generally, we reiterate our comments in Section 7 above.

17. We believe the Letter refers to Section F3.6d) ii) concerning downzoning of resorts (not F3.6(ii)). For the reasons noted in Section 4 above, we suggest that no changes are required to this section.

18. Finally, we note that the transitional provisions have been exhaustively discussed and are of the view that they adequately address transition issues.

We trust these comments will be useful in your review of the Letter and the Official Plan.

Yours very truly,



Ken Pearce

Director, Vice-President and Secretary
Muskoka Lakes Association

Director and Secretary
Friends of Muskoka

cc Lisa Marden, Director of Planning, District of Muskoka
David Pink, Director of Development Services & Environmental Sustainability,
Township of Muskoka Lakes
Nick McDonald, President, Meridian Planning Consultants Inc.
Elizabeth Purcell, Manager of Planning, District of Muskoka
Jim Dymont, President, Municipal Planning Consultants Inc.
Susan Eplett, President, Muskoka Lakes Association
Laurie Thomson, President, Friends of Muskoka