

**THE CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS  
REPORT**

**TO:** Mayor Young and Members of Council  
**FROM:** Stefan Szczerbak, Planner  
**DATE:** July 12, 2016  
**RE:** By-law Amendment Application Z 21/16 LOB (2423518 Ontario Inc. – Port Cunnington Marina)  
1757-1 Port Cunnington Road

**RECOMMENDATION:**

WHEREAS the Council for the Corporation of the Township of Lake of Bays hereby receives the staff report "By-law Amendment Application **Z 21/16 LOB (2423518 Ontario Inc. – Port Cunnington Marina)**, 1757-1 Port Cunnington Road" dated July 12, 2016.

BE IT RESOLVED THAT application **Z 21/16 LOB (2423518 Ontario Inc. – Port Cunnington Marina)** for a site specific by-law amendment to increase the amount of existing docking and mooring facilities and mainland parking area to expand the existing marina use, be **APPROVED** and that By-law 2016-080 be given three readings.

AND FURTHER THAT Council for the Corporation of the Township of Lake of Bays hereby agrees to delegate the final Development Permit process (site plan) to the Planner.

**ORIGIN:**

This application was submitted by David Smith, President of 2423518 Ontario Inc.

The property is located in Part of Lot 21, Concession 3, Franklin Ward, on Lake of Bays, at 1757-1 Port Cunnington Road, under Roll No. 010-017-03600, as shown on Schedule "A" attached to Appendix "A".

The application was received on June 10, 2016 and deemed to be complete on June 23, 2016.

**ANALYSIS:**

*Purpose and Effect*

The property is currently located within the "**Waterfront Service Commercial with an exception (WRC-E45)**" Development Permit Area of By-law 04-180.

The applicants propose to increase onsite parking (59 parking spaces) and add to the existing docking structures for the purpose of existing the permitted waterfront landing and marina uses. Currently, the marina is approved to accommodate up to

approximately 34 boats on approximately 770.9 square metres of existing shoreline structures (boathouse, docks, etc.). The application has proposed to increase the number of boat slips (some are proposed to be covered) to 57 and the resultant total shoreline activity area coverage will increase to 1641.4 square metres. The parking area is proposed to accommodate 59 vehicles.

Accordingly, the purpose and effect of this application is to amend the provisions of the **“Waterfront Service Commercial with an exception (WSC-E45)”** Development Permit Area as follows:

- (a) Section 5.2.6 (Minimum Shoreline Activity Area Frontage, existing as identified on the proposed sketch;
- (b) Section 5.2.6 (Maximum Shoreline Activity Area Coverage), increase from the existing 770.9 square metres to 1641.4 square metres;
- (c) Section 5.2.6 (Maximum Number of Docking Spaces, increase from the 34 existing spaces to 57 slips) and permit only a portion of the boat slips to be covered (not enclosed) as identified on the proposed sketch.

#### *Site Characteristics and Surrounding Uses*

The main marina property contains the following buildings and structures:

<i>BUILDING</i>	<i>AREA (square metres)</i>
Marina office, sales & retail area	167.2
Small Retail Services Building	28.5
Existing Residence	115.9
Existing Boathouse	245.8
Existing Docks	399.1
Existing Shoreline Boardwalk	125.9
<b>TOTAL</b>	<b>1079.4 square metres</b>

The property is comprised of approximately 140.2 metres of shoreline frontage on Lake of Bays and has a total of 2.27 hectares of land area.

The property slopes in a southerly direction from Port Cunnington Road towards the water. The majority of the property contains existing natural vegetation, except in the developed portions adjacent to the shoreline. The lands also contain steep slopes and significant rock outcrops on the undeveloped portions of the property.

The surrounding lands are developed with low density waterfront uses. The lands directly east of the property contains an existing driveway to the water from Port Cunnington Road and serves as access to the marina as well as the public and commercial water access point. The docks and portions of the driveway are located on the Road Allowance between Lots 20 and 21.

Bigwin Island is located south of the subject lands.

*Resource and Other Information*

<b>Previous/Current Files:</b>	<ul style="list-style-type: none"> <li>• B 13/16 LOB (Easement-to water)</li> <li>• DP 26-15 LOB (Permit the construction of a washroom and some additional docks); and</li> <li>• Minor Variance A 4-92 LOB.</li> </ul>
<b>Natural Constraints:</b> <i>Values obtained from Official Plan Schedules &amp; District of Muskoka Web Mapping</i>	<ul style="list-style-type: none"> <li>• “Type 2” fish habitat;</li> <li>• Steep Slopes in excess of 20%; and</li> <li>• Closed Private Waste Disposal Site x4182 (Note: Proposed docks are located outside of the potential influence zone)</li> </ul>
<b>LOB Official Plan:</b>	<ul style="list-style-type: none"> <li>• Waterfront</li> </ul>
<b>District Official Plan:</b>	<ul style="list-style-type: none"> <li>• Waterfront</li> </ul>
<b>Development Permit By-law 04-180:</b>	<ul style="list-style-type: none"> <li>• “<b>Waterfront Service Commercial with an exception (WRC-E45)</b>” Development Permit Area</li> </ul>
<b>Planning Justification Report from Agent</b>	<ul style="list-style-type: none"> <li>• Available upon request.</li> </ul>
<b>Original Shore Road Allowance Status</b>	<ul style="list-style-type: none"> <li>• Closed by By-law No. 96-067 and registered as Instrument 196832.</li> </ul>

*Planning Review*

The overall direction of the Township’s Official Plan, (Sections F.13, H.61 and H.63) is to encourage the expansion and redevelopment of existing tourist commercial (marina) facilities within the waterfront designation. In addition, Section H.29 of the Official Plan permits mainland parking and docking facilities for water access properties through commercial marinas.

The application has been submitted to permit a proposed dock expansion. Section H.64 states that the appropriate limits to upgrade or expand an existing waterfront commercial use will be established in the Development Permit for individual sites. Setting limits will ensure any increase in density of development or intensity of use (buildings, structures, facilities, boat slips, lot coverage, etc.) will be appropriate for the site, provide adequate access and services, be compatible with surrounding properties.

*Proposed New Boat Slips and Docking.*

As this application proposes the establishment of a significant boat docking or mooring facility, a municipally directed boat impact assessment was conducted in accordance with Section H.36 and J.15 of the Official Plan. The Boating Impact Study, written by Michalski Nielsen Associates Ltd. dated February 2016, has appropriately evaluated the suitability of the land-water interface of a site and the immediate area this application. Based on several assumptions clearly described in the report, the following key recommendations and conclusions include:

- Currently, while overcapacity boating situations are presently being experienced approximately 2% of the time during the busiest portion of the boating year, the

Port Cunnington marina application, together with proposed development on the “dry-dock” or barge landing on Bigwin Island (to be reviewed in a future application), are predicted to increase to 8% of the time, without the application of mitigation measures. It should be noted that, even using what are considered to be very conservative (i.e., worst case) predictions, superimposed on days that were specifically selected to represent the busiest boating days at present, most of the daily traffic will remain within, and usually well within, the boating capacity of the study area. Occasional periods of predicted overcapacity situations are far different than a regular and persistent pattern of exceedances. Regardless, it is recommended that several practical measures can be implemented to minimize any such increases in overcapacity.

- The usage of safety buoys, signage and staff interaction with guests to remind boaters they are in a congested area, with other user groups including adjacent cottagers, swimmers and paddlers.
- Another option to mitigate potential concerns over boating safety is to request speed limit restrictions in the area between Port Cunnington Marina and Bigwin Island.
- Other similar recommendations can be made at or near the Bigwin Island barge docks to ensure these overcapacity situations have been minimized.
- The report concludes: “With the implementation of such measures, we are confident that the number of overcapacity circumstances can be reduced beyond those predicted. Keeping in mind that the predictions we have made are conservative, that they are based on worst case days, and that even then they do not predict significant overcapacity situations, we are confident that the expansion of both Port Cunnington Marina and Bigwin Island North Landing can occur without negatively impacting on the safety and enjoyment of boating in this area, or on the experience of adjacent shoreline residents.”.

#### *Additional Mainland Parking*

With respect to the mainland development, the applicants are not proposing any changes to the existing retail buildings or the dwelling at this time. Sections 4.50, 4.55 and 4.59 of the Development Permit By-law, set out the requirements for the provision of additional parking. As the applicant is providing a significant amount (59 spaces) of parking for their paying customers to use this access point and as the Marina Buildings and residence are not being enlarged, additional mainland parking is not required. Therefore, the proposed parking numbers exceed the minimum requirements for a marina use.

#### *Other Site Plan Related Matters*

Related to the other matters (i.e. building locations, garbage and recycling facilities, etc.), staff are generally satisfied with the Proposed sketch and any minor modifications

to the final plan could be delegated to staff, prior to the issuance of a Development Permit.

**Conclusion:**

In view of the foregoing, as the proposal generally conforms to the intent and purpose of the Official Plans and Development Permit By-law, staff have no concerns with the approval of the application and any minor site plan modifications and clarification can be addressed through the issuance of a Category 1 – Staff Development Permit.

A building permit will not be made available for the proposed dock extension to the small retail store building, until Council reviews and grants permission to address the encroachments of this building on the Original Shore Road and Road Allowance between Lots 20 & 21.

**PUBLIC / AGENCY CONCERNS:**

- Clerk's Department – RE: Small Retail Store - partially located on the Shore/Road Allowance. Any improvements to this structure, including any proposed dock additions, must be approved by Council prior to the issuance of any building permit.

**FINANCIAL IMPLICATIONS:**

None.

**ALTERNATIVES:**

Upon review of the proposal Council may choose one of the following options:

- Defer making a decision on the application with a clear direction on the proposed revisions to the proposal, and/or further clarification respecting the existing and proposed structures;
- Deny the application; or
- Approve the application (refer to recommendation).

**LINKAGE TO THE COMMUNITY-BASED STRATEGIC PLAN:**

This report represents the following strategic priorities:

- Engage and communicate openly with the community;
- Develop long-term land and community plans that are balanced and adaptive; and
- Protect, preserve and promote our healthy natural environment.

Prepared by:

Reviewed by:

  
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Stefan Szczerbak, M.Sc., RPP, MCIP  
Planner

  
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Michelle Percival, CMMIII, CMO  
Chief Administrative Officer

**REFERENCES:**

- Township of Lake of Bays Official Plan, Dec. 14, 1999 (as amended);
- Muskoka Web Map;
- Development Permit By-law 04-180; and
- Various Laserfiche (archived) documents
- Muskoka Web Mapping

## Appendix “A”

### THE CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS BY-LAW 2016-080

BEING A BY-LAW TO AMEND BY-LAW 04-180 KNOWN AS THE DEVELOPMENT PERMIT BY-LAW (2423518 Ontario Inc. – Port Cunnington Marina)

**WHEREAS** it is deemed expedient to amend By-law 04-180.

**NOW THEREFORE** the Council of the Corporation of the Township of Lake of Bays enacts as follows:

1. Schedule “A” to By-law 04-180 as amended, is hereby further amended by deleting all of the wording associated with the “**Waterfront Service Commercial with an exception (WSC-E45)**” Development Permit Area and replacing it with the following:

“On lands designated WSC-E45, as shown on Schedule “B” attached to By-law 2016-xx, no person shall use any lot or erect, alter or use any building or structure except in accordance with the Waterfront Service Commercial (WSC) Development Permit Area designation permitted uses and amended by the following:

- a) Notwithstanding any provisions within Development Permit By-law No. 04-180, a Development Permit must be received prior to any development or site alteration on the subject lands in order to: a) ensure the retention of the vegetative buffer surrounding the proposed development; b) to appropriately site the location of any proposed buildings and/or structures, including any site alteration associated with the construction of the road and the parking area; and c) clarify the type of covered boat slips proposed directly adjacent to the shoreline.

b) The following uses shall also be permitted:

- Bed and breakfast, commercial
- Tourist establishment
- Resort
- Institutional tourist establishment
- Motel
- Restaurant.

c) Substituted Development Permit Designation Provisions:

**i) MAXIMUM SHORELINE ACTIVITY AREA FRONTAGE**

STANDARD	STAFF VARIATION	COUNCIL VARIATION
As shown on Schedule “B”	None	None

**ii) MAXIMUM SHORELINE ACTIVITY AREA COVERAGE**

STANDARD	STAFF VARIATION	COUNCIL VARIATION
As shown on Schedule “B” and not to exceed 1641.4 square metres of permitted shoreline structures.	None	None

**iii) MAXIMUM NUMBER OF DOCKING SPACES**

STANDARD	STAFF VARIATION	COUNCIL VARIATION
57 – Covered Slips are permitted directly adjacent to the shoreline as shown on Schedule “B”	None	3 additional spaces

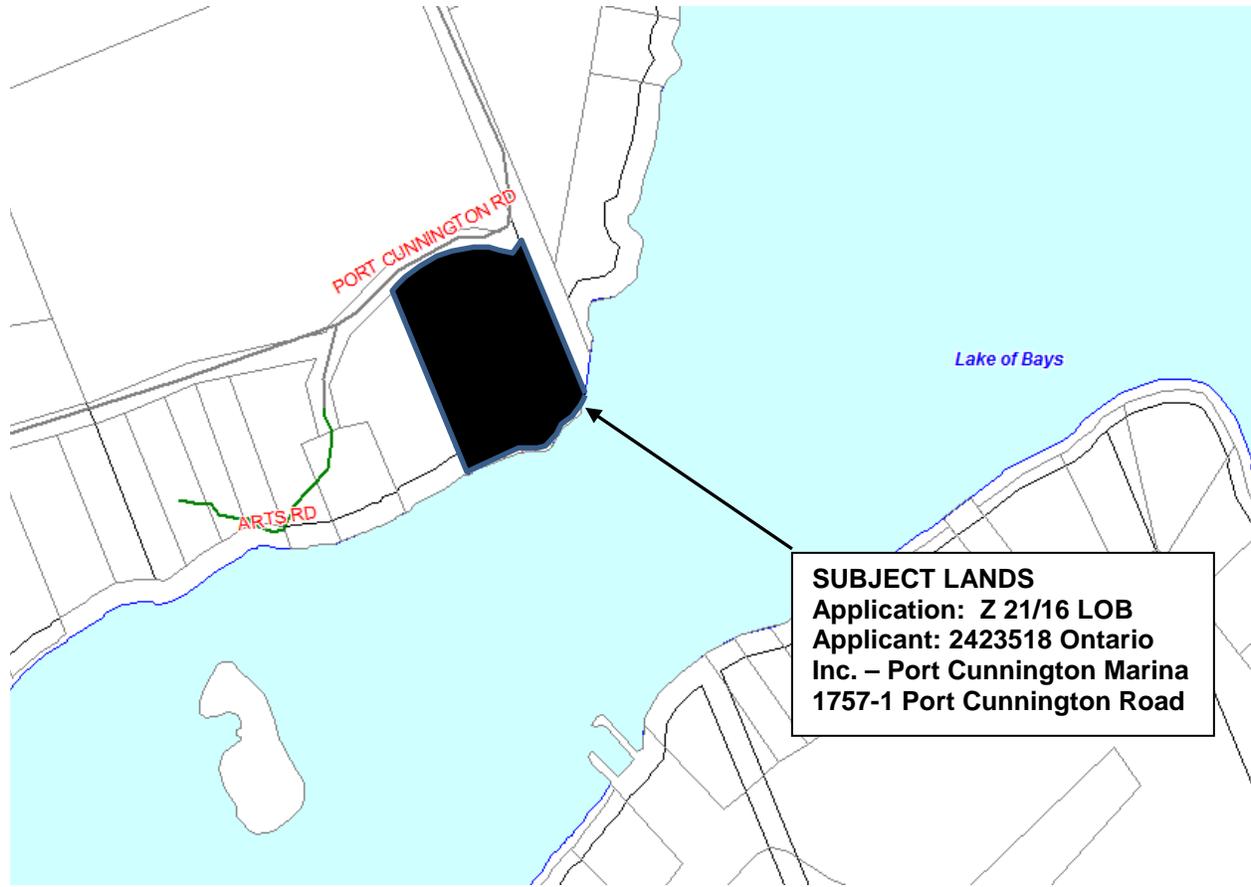
2. Schedules “A” and “B” hereby form part of this By-law.
3. All other provisions of By-law 04-180, as amended, shall apply.

**READ a FIRST, SECOND and THIRD time this 12<sup>th</sup> day of July, 2016.**

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Mayor Robert Young

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Deputy Clerk – Kelly Stronks

**SCHEDULE "A"**  
**By-law Amendment No. 2016-080**  
File Z 21/16 LOB (2423518 Ontario Inc. –  
Port Cunnington Marina)  
Property Roll No. 010-017-03600



**SUBJECT LANDS**  
Application: Z 21/16 LOB  
Applicant: 2423518 Ontario  
Inc. – Port Cunnington Marina  
1757-1 Port Cunnington Road

**SCHEDULE "B"**  
**By-law Amendment No. 2016-080**  
**File Z 21/16 LOB (2423518 Ontario Inc. – Port**  
**Cunnington Marina)**  
**Property Roll No. 010-017-03600**

