

THE MUNICIPALITY OF LAMBTON SHORES

Report PL 06-2022

Council Meeting Date: April 26, 2022

TO: Mayor Weber and Members of Council

FROM: Will Nywening, Senior Planner

RE: ZBA Application ZO-02/2022
Concession Lake Road East, Part Lot 13 (BO)
10039, 10045, 10051, 10057, and 10063 Lakeshore Road

RECOMMENDATION:

THAT Report PL 06-2022, relating to a ZBA Application, submitted by Michael Backx, be received;

THAT ZBA Application ZO-02/2022, submitted by Michael Backx, requesting an amendment to Zoning By-Law 1 of 2003 to rezone portions of 10039, 10045, 10051, 10057, and 10063 Lakeshore Road to the R6 Zone, be approved, subject to the woodlot outside of the proposed development envelopes being zoned EP-WD; and

THAT By-Law 27 of 2022 be approved.

SUMMARY

This report relates to the Zoning Amendment Application submitted by Michael Backx as agent for himself, Dayna Atkinson, Mary Ann Atkinson, and David Atkinson, affecting five parcels of land known as 10039, 10045, 10051, 10057, and 10063 Lakeshore Road*. The applicant seeks to amend Zoning By-law 1 of 2003 by changing the zone designation to "Residential-6 (R6) Zone" on those portions of the lands that are currently designated "Agriculture-2 (A2) Zone". In this respect, the applicant proposes zoning that would allow construction of a single detached dwelling on each lot, or in the case of some of the lots, extend the area where a single detached dwelling is already permitted.

*There is nothing in the *Planning Act* to prevent an individual from submitting a zoning amendment that affects more than one property.

BACKGROUND

Subject Lands: The application applies to five abutting lots. From southwest to northeast, they are:

Address	Frontage	Depth	Area	Zoning
10039 Lakeshore Rd	48.66m (159 ft)	231m (758 ft)	1.35ha (3.3ac)	R6 & A2
10045 Lakeshore Rd	40.9m (134 ft)	231m (758 ft)	1.04ha (2.6ac)	A2

10051 Lakeshore Rd	40.9m (134 ft)	231m (758 ft)	1.04ha (2.6ac)	R6, EP-NC, A2
10057 Lakeshore Rd	40.9m (134 ft)	160.9m (528 ft)	0.7ha (1.7ac)	A2
10063 Lakeshore Rd	40.95m (134 ft)	267m (876 ft)	2.56ha (6.3ac)	A2

Previous Consents: 10063 Lakeshore Road used to “dog-leg” along the rear of the other four lots. In 2019, the Committee of Adjustment approved lot additions from 10063 to the three southwesterly lots, which created the current lot configuration (Attachment 1).

Official Plan: In the Lambton Shores Official Plan, the subject lands and properties to either side are designated North Bosanquet Future Residential. Lands on the opposite side of Lakeshore Road are also designated residential (Highway 21 Gateway Residential). Lands to the south are designated “Agriculture” and “Thedford Bog”. The Official Plan identifies a “Significant Woodlot” on portions of the subject lands and “General Regulation Area” (areas regulated by the Ausable Bayfield Conservation Authority) along the rear edge of the lands.

Zoning By-law: The zone designations of each lot in Zoning By-law 1 of 2003 are noted in the table above:

- The southwesterly most of the lots (10039) is already partially zoned “Residential-6 (R6)”, but only the portion closest to Lakeshore Road. The R6 Zone permits single detached dwellings. The balance of the lot is zoned “Agriculture-2 (A2)”.
- The middle lot (10051) was rezoned by By-law 66 of 2018 to R6 and “Environmental Protection – Natural Conservation (EP-NC)”, a zone to conserve the trees and vegetation outside of the R6 Zone building envelope. The rezoning was done prior to the 2019 lot additions, so the rear of the lot is still zoned A2.
- The other three lots are zoned A2 in their entirety.

The A2 Zone permits a dwelling only if accessory to a farm use. There are no farms uses on these lots, so the A2 Zone effectively acts as a holding zone.

The woodlot is not recognized by the Zoning By-law except for the portions of 10051 Lakeshore Road rezoned to EP-NC in 2018.

DISCUSSION

Compatibility: The North Bosanquet Future Residential policies indicate that the lands are not needed over the 20 year planning horizon. In the meantime, the policies allow existing residential and commercial uses and minor infilling with residential and commercial uses. The proposed residential uses conform to the Official Plan in this respect. They are also compatible with the existing residential uses on similar lots abutting to either side and the residential designation on the opposite side of Lakeshore Road.

Proposed Development: Since the existing A2 Zone acts as a holding zone, rezoning to R6 is necessary on three of the lots (10045, 10057 and 10063) in order to construct a house at all. The rezoning is required on 10039 Lakeshore Road to allow the house to be built further back on the lot. The proposed building envelopes on these lots are identified in the first image to the right. The second image below identifies the building envelope created for the middle lot (10051) by the 2018 rezoning. Note that the areas identified as “EP-WD” were instead zoned to “EP-NC” by the rezoning.



Image Source: Figure 5 – MTE Information Gathering Form for activities that may affect species or habitat protected under the *Endangered Species Act*.



Image Source: Pg. 8 – Zelinka Priamo Ltd. Planning Justification Report for 10051 Lakeshore Road. July 13, 2018.

Services: Municipal water service is available along Lakeshore Road. The lots will require private sewage disposal systems. At the time of writing, Staff has not received comments from County Building Services in this respect, but does not anticipate any concerns. Generally lot sizes of 1 acre or more in sandy soils are adequate to meet Ministry reasonable use guidelines.

Hazards: The portions of the lot identified as “General Regulation Area” and regulated by the ABCA under the *Conservation Authorities Act* touch only the rear edge of the properties and do not affect the proposed development envelopes.

Natural Heritage: The Official Plan (and also Provincial Policy Statement) do not permit development in a significant woodlot unless it can be shown that there are no negative impacts. MTE completed an “Information Gathering Form (IGF)” on behalf of the applicants to address potential requirements under the *Endangered Species Act* (ESA) with respect to the subject lands. The woodlot is identified as “significant” because of its size. The IGF indicates it is a pine plantation and that there is historic and ongoing maintenance of undergrowth. Given the nature of the woodlot, Staff did not require an Environmental Impact Study (EIS), but instead allowed the natural heritage assessment to be limited to an investigation for species at risk (SAR) pursuant to the ESA. The IGF did not find any SAR or suitable habitat and the Ministry of Environment Conservation and Parks (MECP) has provided written correspondence agreeing that the proposed development is unlikely to contravene the ESA.

Based on the IGF findings, the applicants have requested that all portions of the properties currently zoned A2 be rezoned to R6.

After reviewing the IGF and MECP’s response however, Staff recommends that those portions of the woodlot located outside of the proposed development envelopes be placed in a conservation zone. Because of the character of the woodlot, Staff allowed natural heritage investigations to be scoped to SAR habitat. Although the pine plantation woodlot is somewhat “artificial” it still serves a more generic natural heritage function and is worth protecting. Also, when the MECP provided concurrence that the proposed development was unlikely to contravene the ESA, it noted it was conditional upon several recommendations. Two of those recommendation included preserving vegetation outside the development envelopes:

8. Removal of vegetation and debris must be restricted to only within the footprint of the development area (i.e. building footprint and construction area/access).

10. The vegetated areas and/or debris remaining on site should not be grubbed or cleared...

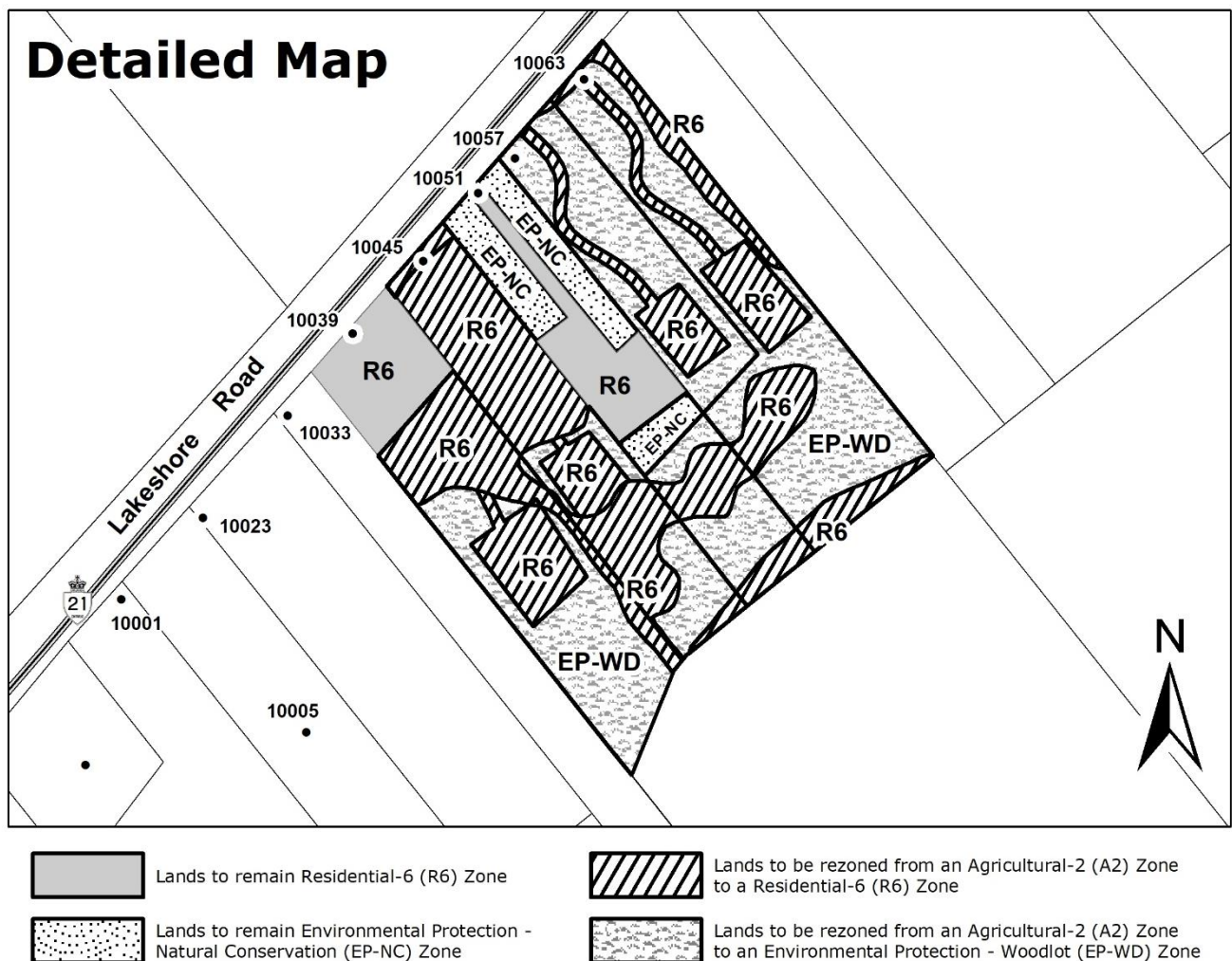
For these reasons, Staff recommends that the R6 Zone be limited to the proposed development envelopes and those portions of the subject lands located outside the woodlot boundary (see image on the third page of this report). This approach is consistent with the conservation zoning that was applied in the 2018 rezoning of the front portion of the middle lot (10051).

Protecting the trees outside the development envelopes will also implement various sections of the Official Plan, which encourage and/or require the preservation of a 23m wide vegetated corridor along Lakeshore Road as a means of buffering residential uses from traffic and preserving the natural heritage identity of the area in the public mind.

Draft Amending By-law: Staff has drafted an amending by-law included in the by-laws section of Council's agenda. As drafted, the amendment would change the zoning on the proposed development envelopes, driveways, and open areas to the "Residential-6 (R6) Zone" (those portions that are not already R6). Those portions of the woodlot located outside of the development envelopes and driveways however, would be rezoned to the "Environmental Protection – Woodlot Zone", contrary to the applicants' request that all A2 Zone areas of the properties be rezoned to R6.

For clarity, the proposed zoning amendment would not affect the portions of the middle lot (10051) already dealt with in the 2018 rezoning and would not affect the portion of the most southwesterly of the lots (10039) that is already zoned R6.

Based on the characterization of the woodlot in the IGF, Staff is suggesting the use of the EP-WD Zone rather than the EP-NC Zone. The EP-WD Zone is a "softer" conservation zone than the EP-NC Zone. Both prohibit structures, but the EP-WD allows for more flexibility for ongoing maintenance of the woodlot according to good forestry practices. In contrast, the EP-NC Zone is more appropriate for areas intended to be "left to nature".



Planning Opinion: Based on the foregoing, it is Staff's opinion that the proposed zoning amendment as drafted supports development of the lands for uses consistent with applicable Official Plan policies, preserves natural heritage features, and represents good planning. Staff has no objection to approval of the amendment, provided those portions of the woodlot located outside of the proposed development envelopes are placed in a conservation zone, as per the draft amending by-law presented by Staff in the by-laws section of Council's agenda.

ALTERNATIVES TO CONSIDER

The application requests that every portion of the properties currently zoned A2 be rezoned to R6. Staff has instead prepared an amending by-law that rezones to EP-WD, those portions of the woodlot that are outside of the proposed development envelopes. At the time of submitting this report, the applicants have not responded as to whether they are agreeable to this approach, but Staff's recommendation in this respect is not contingent on applicant support. Council could approve the amendment as requested and direct that Staff prepare a revised amending by-law for a future Council meeting. This would however be inconsistent with the conditions in the MECP's correspondence respecting their review of the IGF and requirements under the ESA.

RECOMMENDED ACTIONS

That Council:

- Receive Report PL 06-2022;
- Approve ZBA Application ZO-02/2022 with the modification that portions of the woodlot outside the proposed development envelopes be zoned for conservation; and
- Approve implementing By-law 27 of 2022.

FINANCIAL IMPACT

The applicant has paid the Municipality a \$1200 application fee.

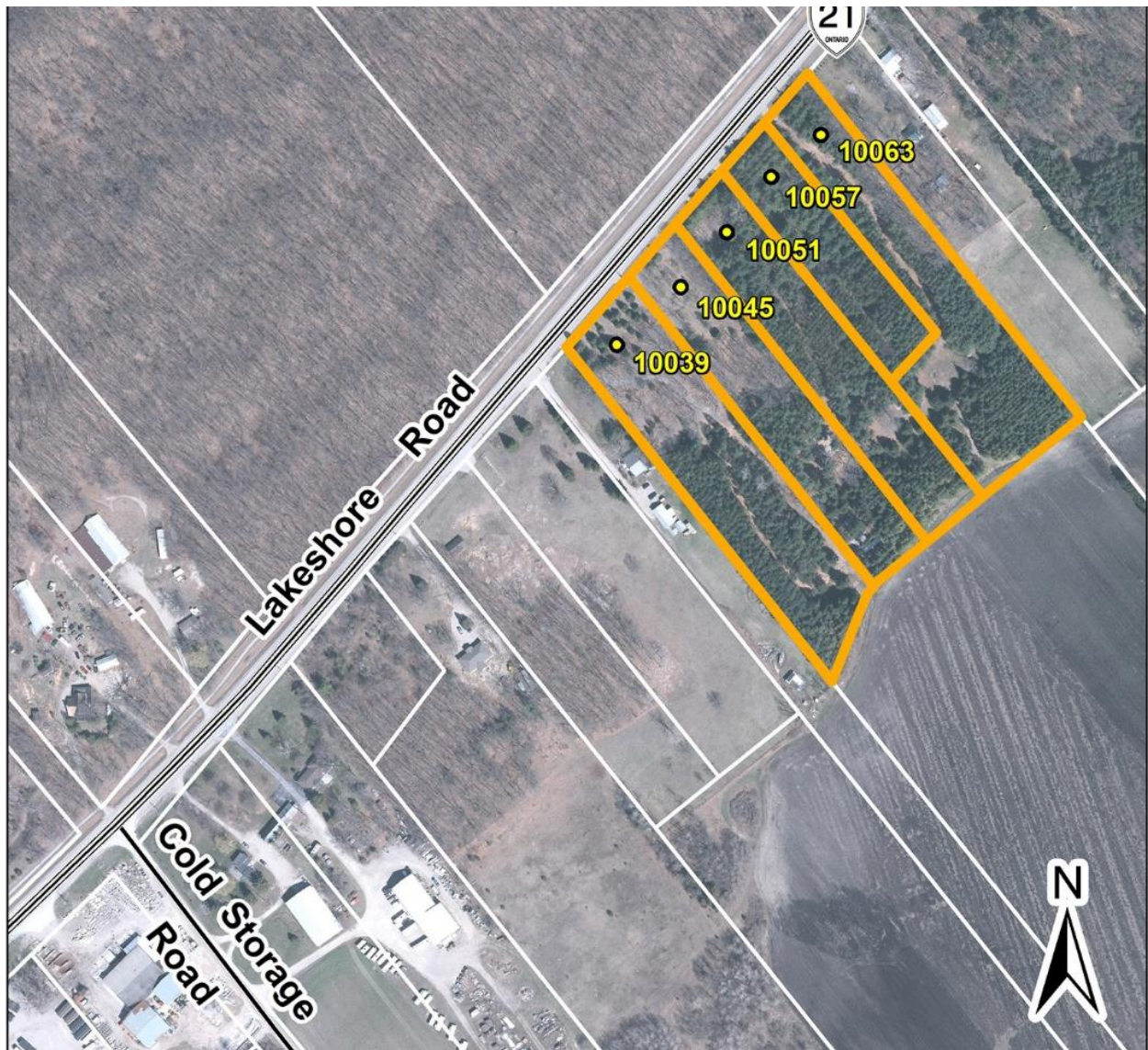
CONSULTATION

The applicants

Staff consulted the Information Gathering Form produced by MTE and correspondence from the MECP to MTE

Meghan Tydd-Hrynyk, Ausable Bayfield Conservation Authority

Subject Lands



SUBJECT PROPERTIES