

THE CORPORATION OF TAY VALLEY TOWNSHIP

BY-LAW NO. 2019-017

OFFICIAL PLAN – AMENDMENT NO. 5 FARREN LAKE

WHEREAS, *Section 26 (1) of the Planning Act, R.S.O. 1990, Chapter P.13*, provides that if an Official Plan is in effect in a municipality, the Council of the municipality that adopted the official plan shall, in accordance with subsection (1.1), revise the official plan as required to ensure that it;

- a) conforms with provincial plans or does not conflict with them, as the case may be;
- b) has regard to the matters of provincial interest listed in section 2; and
- c) is consistent with policy statements issued under subsection 3 (1).

AND WHEREAS, *Section 17 (22) of the Planning Act, R.S.O. 1990, Chapter P.13*, states that when the requirements of subsections (15) to (21), as appropriate, have been met and the Council is satisfied that the plan as finally prepared is suitable for adoption, the Council may by By-Law adopt all or part of the plan and, unless the plan is exempt from approval, submit for approval;

NOW THEREFORE BE IT RESOLVED THAT, the Council of the Corporation of Tay Valley Township enacts as follows:

1. GENERAL REGULATIONS

- 1.1 **THAT**, Official Plan Amendment No. 5 (Farren Lake), attached hereto as Schedule "A", be adopted.

2. BY-LAWS TO BE AMENDED

- 2.1 **THAT**, By-Law No. 2014-039 is hereby amended.

3. ULTRA VIRES

Should any sections of this by-law, including any section or part of any schedules attached hereto, be declared by a court of competent jurisdiction to be ultra vires, the remaining sections shall nevertheless remain valid and binding.

**THE CORPORATION OF TAY VALLEY TOWNSHIP
BY-LAW NO. 2019-017**

4. EFFECTIVE DATE

4.1 THAT, this By-Law shall come into force and take effect upon the approval of Tay Valley Township Official Plan Amendment No. 5, dated June 25th, 2019, by the County of Lanark.

4.2 ENACTED AND PASSED this 25th day of June, 2019.



Brian Campbell, Reeve





Amanda Mabo, Clerk

**THE CORPORATION OF TAY VALLEY TOWNSHIP
BY-LAW NO. 2019-017**

SCHEDULE "A"

AMENDMENT No. 5

to the

TAY VALLEY TOWNSHIP OFFICIAL PLAN

- PART A** THE PREAMBLE does not constitute part of this Amendment.
- PART B** THE AMENDMENT consisting of the following explanatory text
constitutes Amendment No. 5 to the Tay Valley Township Official Plan.

PART A - THE PREAMBLE

LOCATION

The Official Plan Amendment affects all properties which abut the shorelines of:

- Farren Lake (southwest portion of the geographic Township of South Sherbrooke).

PURPOSE AND EFFECT OF OFFICIAL PLAN AMENDMENT

The Official Plan Amendment was initiated by the Township in response to lake modelling analyses conducted by the Ministry of Environment, Conservation and Parks which identified both Farren and Adam Lakes as being “overcapacity” in terms of phosphorus loading, based on the Ministry’s modelling criteria.

This Amendment responds to the findings on Farren Lake by reinforcing existing Official Plan policies and introducing new policies that are aimed at reducing phosphorous loading from existing and future development on these lakes. The Amendment has been prepared in consultation with various public agencies, property owner associations, and interested residents through an Inter-Agency Working Group which was established by the Township for this purpose.

BASIS OF OFFICIAL PLAN AMENDMENT

1. Background

The Ministry of Environment, Conservation and Parks (MOECP) conducted the above noted modelling on various lakes throughout the Township in 2011 at the request of Lake Associations in Tay Valley Township. In response to the Ministry's findings, the Township passed an Interim Control By-law in 2012, for a period of one year, on all properties abutting the shorelines of both lakes, and initiated a planning study to determine how to address the problem of phosphorus over-loading in the Farren and Adam Lakes. The intent of the study was to identify planning mechanisms to improve existing conditions arising from previous development and to prevent further deterioration arising from future development. The Interim Control By-law was subsequently extended for an additional one-year period.

The Township initially formed an Inter-Agency Working Group to consider available planning mechanisms/measures that could be introduced to address the phosphorus "overcapacity" of the lakes. The Group met on October 12, 2012. This meeting was followed by:

- 1) collecting existing lot data for each lake, including total number of lots, number of seasonal dwellings, number of permanent dwellings and number of vacant lots; and,
- 2) further consultations with MOECP. Ultimately, no clearly defined, comprehensive solution to the phosphorous "overcapacity" of the lakes was identified as at that time MOECP had not tested its Lake Capacity Model at the Ontario Municipal Board. (It has subsequently and been successful.)

Recommendations from the Inter-Agency Working Group were to continue the Site Plan Control Agreement requirements; continue the mandatory septic re-inspection program; and, continue to educate lake residents about the importance of shoreline buffers and reducing phosphorus loading.

Following the foregoing initial process, the Township instituted an Official Plan Review to update its Plan to be consistent with the Provincial Policy Statement 2014, and to conform to the first approved Official Plan for Lanark County (Lanark County Sustainable Communities Official Plan – Lanark County SCOP). The issue of the phosphorous "overcapacity" in Farren and Adam Lakes was again raised as an important planning issue during the Official Plan Review process and wording was inserted into the new Official Plan requiring planning staff to have regard for Lake Association Management Plans listed in a new Appendix to the Official Plan (Farren and Adam Lakes requested to be listed in that Appendix).

The Township's new Official Plan was approved in February 2016. MOECP's Handbook on Lake Capacity was now part of the updated Provincial Policy Statement, 2014 and the

Township's Official Plan referenced both it and Farren and Adam Lake's Management Plans. A new policy context was, therefore, in play.

Township staff had additional consultations with MOECP staff and the Township's lawyer, and a staff report was submitted to Council recommending that a new Interim Control By-law be passed. The staff report included a review of the legislative tools that are available under the Planning Act (as provided by the Township's lawyer), and alternative development control restrictions related to new lot creation (as provided by the MOECP representative on the Inter-Agency Working Group).

Council passed a new Interim Control By-law in June 2017 (pursuant to the legislative advice provided by the Township's lawyer), and initiated a new planning study on which this Official Plan Amendment is based.

2. Planning Rationale

This Official Plan Amendment is based on:

- a review of the recommendations/suggestions and discussions of the Inter-Agency Working Group, including follow-up discussions with MOECP staff regarding septic systems with capacity for phosphorus removal;
- an overview review of existing development and future development on Farren Lake; and,
- a detailed review of the Township's new Official Plan to determine if it includes the appropriate policies to implement development and re-development approval processes which mitigate potential adverse impacts on Farren Lake.

2.1 Overview of Current Policy and Regulatory Regime

It has been approximately twenty five years since the current policy and regulatory regime for waterfront development was first introduced throughout Eastern Ontario as the means to protect the natural heritage features of lakes and rivers. This policy and regulatory regime was meant to mitigate the potential adverse impacts of such development, based on the recommendations of the "Michalski" report. More recently, in 2014, the "Hutchison" peer review of the original "Michalski" report concluded that this policy and regulatory regime has been effective in mitigating the potential adverse impacts of new shoreline development for most warm water lakes.

Farren Lake is the most sensitive lake in the Township to phosphorous loading. Therefore, changes to protect the lake are warranted.

2.2 Existing Development and Future Development Potential

The shoreline of Farren Lake is primarily developed in seasonal dwellings, with some past conversions (re-development) to permanent occupancy, and a small number of relatively new permanent dwellings. There are also a small number of existing vacant lots which could be developed.

Many of the existing shoreline lots, including both developed and vacant lots, are legal non-conforming (undersized) lots under current zoning regulations. As a consequence, existing uses often do not meet all of the regulatory requirements of the Zoning By-law. Additionally, potential future uses on existing vacant lots are also not likely to meet all the regulatory requirements of the Zoning By-law and will, therefore, require minor variances in order to be developed.

There is opportunity for new lot creation, with some existing properties large enough to be severed as infill lots in conformity with existing zoning regulations. Any remaining large properties along the shoreline which does not front on existing private roads will not likely be developed because the Official Plan policies do not permit extensions to existing private roads or new private roads. Under these policies, any future development of these large vacant properties would have to be undertaken by plan of subdivision or condominium, where the subdivision has direct access to an existing public road, and this is not considered likely in most instances.

Based on the foregoing, it has been determined that there is opportunity for new development along the shorelines of both lakes, either by developing existing vacant lots or by creating new lots through the consent process. It has also been determined that re-development of existing uses (alterations, extensions and/or replacements) will predominate along the shoreline of Farren Lake in terms of future development activity.

2.3 Review of Current Official Plan Policies

A detailed review of the new Official Plan was undertaken based on the foregoing in order to identify any policy shortcomings that potentially inhibit implementation measures designed to mitigate against phosphorus over-loading in the lakes, both for new development and for re-development.

This review confirmed that two planning tools suited to addressing the phosphorus overcapacity issue are contained in the Official Plan policies related to: Site Plan Control (Section 5.4) and Environmental Impact Assessment (Section 2.22.7). However, these tools have not protected Farren Lake from becoming over capacity for phosphorus.

The Interagency Working Group recommended five actions to protect Farren Lake. Of the five actions listed below, Council approved the first three for consultation with residents of Farren Lake.

- 1) Increase lot frontages,
- 2) Increase lot area,
- 3) Add a phosphorus removal adjunct to new or replacement septic systems,
- 4) Require an Environmental Impact Assessment for development or redevelopment, and
- 5) Encourage voluntary Site Plan Control Agreements by waiving their fee.

OVERALL CONCLUSIONS

In order to protect Farren Lake, Official Plan policies need to provide the policy regime to address the issue of phosphorus overcapacity in Farren Lake. Therefore, the Official Plan should be amended, as described in Part B of this Amendment, to explicitly require that this policy regime be applied to Farren Lake, without precluding that this policy regime can also be applied to all other waterfront properties in the Township.

It is further concluded that this Amendment is consistent with the Provincial Policy Statement 2014 (PPS), and that it conforms to the Lanark County Sustainable Communities Official Plan.

Based on the foregoing conclusions, Council has deemed it advisable to amend the Official Plan as described in Part B of this Amendment.

Adam Lake is expected to request Council to amend the Official Plan for their lake following their Annual General Meeting in July. However, the Farren Lake Association urged Council to not delay protection for their lake.

PART B - THE AMENDMENT

All of this part of the document entitled PART B - THE AMENDMENT, consisting of the following map and explanatory text constitutes Amendment No. 5 to the Tay Valley Township Official Plan.

Details of the Amendment

Section 2.24.1 Lake Capacity, is hereby amended by adding new subsections “d”, as follows:

- d) Farren Lake has been identified as being overcapacity for phosphorus loading, based on modelling conducted by the Ministry of Environment, Conservation and Parks (MOECP) using the Ministry’s *Lake Capacity Handbook* criteria. Of the Lakes in Tay Valley Township studied by MOECP, Farren Lake has been identified as more sensitive in terms of future phosphorus loading.

This Plan contains a comprehensive policy regime intended to protect the natural heritage features of all lakes in the Township, and the application of these policies to future development and redevelopment proposals on Farren Lake is considered important in terms of mitigating the phosphorus loading caused by existing development, and of reducing or eliminating additional phosphorus loading from future development and redevelopment.

The following additional policies apply to all future development and re-development on all properties abutting the shorelines, or within 30 m of the shoreline. These additional policies are meant primarily to establish the processes by which the Plan’s existing policy regime is to be implemented, and are not meant to be interpreted such that they are not also applicable to other lakes in the Township.

1. Where re-development is proposed, including extensions to, or replacement of existing buildings, septic system re-inspection shall be required. Where alterations (adding one or more runs or increasing size) are required to existing septic systems or where replacement systems are required, and they are not able to be located at least 30 m from the shoreline, phosphorus removal systems or soil attenuation through acidic non-calcareous soils shall be required to achieve Phosphorus – 1.0mg/L as per the standards of CAN/BNQ 3680-600. The required Site Plan Control Agreement shall show the location of the repaired or replaced septic system.
2. Where the existing lot of record is undersized to the extent that the Water Setback policy requirements below cannot be met, owners are encouraged to obtain a lot addition consent so that the setbacks can be met, including the 30 m setback for septic systems. Where the 30 m setback for septic systems cannot be met phosphorous removal systems or soil attenuation using imported

acidic non-calcareous soils shall be required to achieve Phosphorus – 1.0mg/L as per the standards of CAN/BNQ 3680-600.

3. Where a new lot is to be created by consent (severance), the lot to be created (and the retained lot) shall be capable of conforming to the Water Setback policies below. However, increased setbacks, as well as lot depths, may be required based on site conditions such as slope, soil/bedrock characteristics, proximity to shoreline wetland areas, etc. The proposed minimum area for new lots on Farren Lake is 0.8-ha (2 acres). The proposed minimum frontage for new lots on Farren Lake is 91m.
4. Stewardship practices are considered to be an extremely important component in protecting and improving the natural heritage features of Farren Lake, including practices to reduce phosphorous migration into the lakes. Stewardship often includes property maintenance and management practices that are not directly regulated under Official Plan policies or Zoning By-law regulations, particularly in those circumstances where development or re-development approvals are not required. Stewardship practices are especially important on these lakes since much of the shorelines are already developed. Accordingly, the Township encourages property owner associations and individual land owners to consult with the Conservation Authority in order to identify shoreline vegetation replanting or retention management practices that can be implemented to improve the natural heritage features.
5. Other Best Management Practices that landowners are encouraged to follow include using a septic system with nitrogen as well as phosphorous removal, re-naturalizing hardened surfaces, using Low Impact Development stormwater management tools such as rain gardens, etc.

PART C - APPENDICES

APPENDIX A

- Letter to property owners on Farren Lake – brief explanation of the proposed changes to the Official Plan
- Creation of municipal webpage – explanation of proposed changes to the Official Plan
- Report #PD-2018-039 – Proposed Official Plan Amendment for Farren and Adam Lake – Provided on municipal website
- Report #PD-2018-034 – Proposed Official Plan Amendment for Farren and Adam Lake – Provided on municipal website
- Report #PD-2018-09 – Interim Control By-Law Extension – Farren & Adam Lakes – Provided on municipal website
- Report #PD-2017-18 – Options for Severances on Farren and Adam Lakes – Provided on municipal website
- By-Law No. 2017-043 – Interim Control By-Law – Provided on municipal website
- By-Law No. 2018-024 – Interim Control By-Law Amendment – Farren and Adam Lakes – Provided on municipal website
- By-Law No. 2018-057 – Interim Control By-Law Amendment – Farren and Adam Lakes – Provided on municipal website
- PowerPoint with explanation of proposed changes to Official Plan and Zoning By-Law as presented at the Public Information Centre held on May 25, 2019
- Farren Lake – Potential Severances – Before and After Official Plan Amendment – Map (available at Public Information Centre and on municipal website)

PART C - APPENDICES

APPENDIX B

Paul Seidl, Landowner

George Willet, President of the Farren Lake Association

Fred Godard, President of the Adam Lake Property Owners Association

PART C - APPENDICES

APPENDIX C

**PUBLIC MEETING
OFFICIAL PLAN AMENDMENT
ZONING BY-LAW AMENDMENT
MINUTES**

Tuesday, June 25th, 2019

5:30 p.m.

**Tay Valley Municipal Office – 217 Harper Road, Perth, Ontario
Council Chambers**

ATTENDANCE:

Members Present:

Chair, Reeve Brian Campbell
Deputy Reeve Barrie Crampton
Councillor Gene Richardson
Councillor RoxAnne Darling
Councillor Mick Wicklum
Councillor Fred Dobbie
Councillor Rob Rainer

Staff Present:

Noelle Reeve, Planner
Amanda Mabo, Acting Chief Administrative Officer/Clerk
Janie Laidlaw, Deputy Clerk

Public Present:

Janet Bushinsky
Alex Bushinsky
Dawna Garber
Paul Seidl
Fred Godard
Eugenia Flegt
Roy Flegt
George Willett

1. CALL TO ORDER

The public meeting was called to order at 5:30 p.m.

2. INTRODUCTION

The Chairman provided an overview of the Zoning By-Law application review process to be followed, including:

- the purpose of the meeting

- the process of the meeting
- all persons attending were encouraged to make comments in order to preserve their right to comment should the application(s) be referred to the Local Planning Appeal Tribunal (LPAT)
- the flow and timing of documentation and the process that follows this meeting
- any person wanting a copy of the decision regarding the applications on the agenda was advised to leave their name and mailing address on the sheet provided at the meeting

The Chairman asked if anyone had any questions regarding the meeting and the process to be followed. Given that there were no questions, the meeting proceeded.

3. **FILE #OPA-05 & #ZA-19-03: Official Plan Amendment No. 5. & General Amendment – OPA No. 5 - Farren and Adam Lakes**

a) PLANNER FILE REVIEW & PROPOSED AMENDMENT

The Planner reviewed the file – *attached, page 4.*

b) PUBLIC COMMENTS

Paul Seidl, landowner gave a PowerPoint on the survey results that Farren Lake conducted regarding the Official Plan changes – *attached, page 11.*

George Willet, President of the Farren Lake Association explained what the Lake Association is doing to reduce phosphates on the lake, they are promoting plant buffers to absorb phosphates, promoting using outhouses as far away as possible from the lake, providing information on soaps and cleaning products that are truly phosphate free and they have done testing on the phosphate input going into the lake from the swamp and beaver dam, if the phosphate results are high may look at filters.

Fred Godard, President of the Adam Lake Property Owners Association, stands by and recommends to the members to support the Official Plan and Zoning By-Law recommendations. The information needs to get out to the members of the association and would recommend deferring the By-law until after they have the Annual General Meeting in July.

The Reeve explained the implications of deferring the By-law on Adam Lake until August. The Adam's Lake Property Owners Association understands what those implications could be.

c) RECOMMENDATION

That the Official Plan Amendment By-law be approved for Farren Lake and be deferred for Adam Lake until the Council meeting in August.

4. ADJOURNMENT

The public meeting adjourned at 6:13 p.m.

Chairperson

Deputy Clerk

PART C - APPENDICES

APPENDIX D

From: Jennifer J Foster
Sent: May 3, 2019 5:20 PM
To: Kristi McDonald; TVT Planner
Cc: Tim O'Dacre
Subject: Re: Farren Lake Health

Thank you for this message. We are on Lane 32 and had not received the meeting notification letter.

I have a few questions:

- 1) how will the septic systems be monitored, and how will replacement be enforced? This seems like the most pertinent element of the strategy in terms of reducing phosphorous levels.
- 2) are there any maps accompanying the proposed OP amendments? It would be useful to visualize the scenarios under consideration.
- 3) Is it possible for FLPOA and/or Tay Valley Township to provide updates on adherence to the proposed amendments, should they go through? We are one of the properties that will not be able to sever should the proposed amendments go through, and we are fine with that as long as there is a strong commitments to all provisions of the strategy. The severance changes should be straightforward, but how will we know whether the septic upgrades are happening? Surely the Interagency Group has considered this, and records of inspections will be filed. Will all properties be inspected? Maybe regular reports on how many upgrades are complete or pending? Again, maps and visuals would be an effective way to communicate. I am hoping that there will be some assurance that the burden of reducing phosphorus levels will be shared, and all property owners will be required to comply (not just those whose opportunities for severance are restricted).

Thanks very much,
Jennifer Foster and Timothy O'Dacre

TVT Planning Assistant

From: Municipal Planning <MunicipalPlanning@enbridge.com>
Sent: June 11, 2019 10:29 AM
To: TVT Planning Assistant
Subject: RE: Notice of Public Hearing - OPA & ZBLA

Thank you for your circulation.

Enbridge Gas Inc. does not object to the proposed application however, we reserve the right to amend our development conditions.

Please continue to forward all municipal circulations and clearance letter requests electronically to MunicipalPlanning@enbridge.com.

Casey O'Neil

Sr Analyst Municipal Planning
Long Range Network Analysis

ENBRIDGE GAS INC.

TEL: 416-495-5180
500 Consumers Rd, North York, ON, M2J 1P8
enbridgegas.com
Safety. Integrity. Respect.



3889 Rideau Valley Drive
PO Box 599, Manotick ON K4M 1A5
T 613-692-3571 | 1-800-267-3504
F 613-692-0831 | www.rvca.ca

June, 14, 2019
19-TAY-ZBA-0034 (SS & NB)

Tay Valley Township
217 Harper Road
Perth, Ontario
K7H 3C6

Attention: Noelle Reeve, Planner

Subject: Amendment to Tay Valley's Official Plan & Zoning By-law affecting:

- Properties along Farren Lake;
- Properties along Adam Lake

Dear Ms. Reeve,

The Rideau Valley Conservation Authority (RVCA) has reviewed the subject application within the context of:

- Section 1.6.6 Sewage, Water and Stormwater, 2.1 Natural Heritage, 2.2 Water and 3.1 Natural Hazards of the Provincial Policy Statement under Section 3 of the Planning Act;
- The Mississippi-Rideau Source Water Protection Plan

The Proposal

The RVCA understands that the purpose and intent of this amendment is to adopt recommendations proposed by the interagency working group to protect Farren and Adam Lakes from phosphorus loading. The effect of the amendments would be to increase the minimum required frontage and area on Farren Lake to 91 metres and 0.8 hectares, respectively. In addition, phosphorus removing add-on technology would be required for new development, redevelopment or replacement along Farren Lake. Adjacent Adams Lake, the effect of the amendments would be to increase the minimum required lot area to 0.8 hectares and require phosphorus removing add-on technology would be required for new development, redevelopment or replacement along Adam Lake.

**Proudly working in partnership
with our 18 watershed municipalities**

Athers, Augusta, Beckwith, Central Frontenac, Clarence-Rockland
Drummond/North Elmsley, Elizabethtown-Ritley, Merrickville-Wolford, Montague,
North Dundas, North Grenville, Ottawa, Perth, Rideau Lakes, Smiths Falls, South Frontenac, Tay Valley, Westport

The Area

Based on our review, properties surrounding both Farren and Adam Lake are the subject of this concurrent official plan and zoning by-law amendment.

Review Comments

Provincial Policy Statement

With respect to the PPS, the primary area of review for conservation authorities relates to sewage, water and wastewater (Section 1.6.6), natural heritage (Section 2.1), water (Section 2.2) and natural hazards (Section 3.0).

With respect to Section 1.6.6, 2.1 and 3.0 the reviewing planner has no concerns. Although Adam Lake, specifically, does have areas of provincially significant wetland and organic soils within its vicinity, and both Farren and Adam Lake have several watercourses entering into these waterbodies, our office would comment on these features during future applications. For the purposes of the OPA/ZBA, these are simply being noted.

With respect to 2.2 of the PPS, which primarily addresses how planning authorities shall protect, improve or restore the quality and quantity of water, our office is of the opinion that the proposed amendments are consistent with it in the following ways:

- They use the watershed as the ecologically meaningful scale for integrated and long-term planning, which can be a foundation for considering cumulative impacts of development;
- They minimize potential negative impacts through restrictions on lot frontage and lot size;
- They implement necessary restrictions on development to protect, improve or restore vulnerable surface and ground water, sensitive surface water features and their hydrologic functions;
- They have considered environmental lake capacity; and,
- They restrict development near sensitive surface water features to protect, improve or restore their related hydrologic function.

Conclusions

Through participation of the interagency working group, our office has viewed the draft official plan amendment and provided pre-consultation comments to the Township. The RVCA has appreciated the opportunity to be involved during pre-consultation of these amendments.

In conclusion, our offices have no objection to either the Official Plan or Zoning By-law amendment.

Please advise us on the status of these applications following the public meeting. Please circulate our office on all future public information in relation to this file.

Thank you for the opportunity to comment and please do not hesitate to contact the undersigned at (613) 267-5353 x 131 should you have any questions.

Yours truly,

A handwritten signature in cursive script, appearing to read "Phil Mosher".

Phil Mosher
Planner