



REPORT

PUBLIC MEETING CONCERNING PROPOSED ZONING BY-LAW AMENDMENT

June 8th, 2021

Noelle Reeve, Planner

APPLICATION ZA21- 10 HOLDING ZONE MABERLY PINES SUBDIVISION

STAFF RECOMMENDATION

It is recommended:

“**THAT**, Zoning By-Law No. 2002-121 be amended to add a Holding zone to the vacant properties in PLAN 21 Lakeside Living Maberly Pines subdivision to address the lack of information provided by the hydrogeological study undertaken for the subdivision in the 1970s.”

BACKGROUND

The company Lakeside Living created a subdivision known as Maberly Pines, located off Bolingbroke Road, South Sherbrooke Ward, that was approved by the provincial government in the late 1970s/early 1980s. The Maberly Pines subdivision currently has 48 vacant lots in it.

The *Provincial Policy Statement Section 1.6.6.1 b) Sewage, Water and Stormwater* requires that, “these systems are provided in a manner that: can be sustained by the water resources upon which such services rely; prepares for the impacts of a changing climate; is feasible and financially viable over their lifecycle; and protects human health and safety and the natural environment”.

To date there has been little development pressure on these lots. However, with the increase in development in Tay Valley due to people seeking to telecommute or simply get out of cities and have more room outside during lockdowns, these lots are being proposed for development.

When the Planner recently reviewed the building permit applications for 3 lots in Maberly Pines, she discovered that there were no layouts of where the wells, houses and septic systems should be located. This led to further review of the subdivision agreement by the Rideau Valley Conservation Authority (RVCA) as well as a review of the background material supplied to support the subdivision.

The *Terrain, Hydrogeological and Ecological Analysis* undertaken by Water and Earth Sciences Associates (WESA) Ltd. in the late 1970s was determined by the RVCA to provide insufficient verification of the principle of development (i.e., that there is suitable water quality and quantity available and sufficient nitrate dilution capacity). Information required since the 1990s by the Ministry of Environment's D-5-4 and D-5-5 documents is not available for this subdivision.

The WESA report identified that there may be insufficient water for dwellings in excess of the demand from cottages and that wells should be a minimum of 30m-50m from septic (instead of the normal 15m requirement).

These requirements raised red flags with the Planner as the RVCA regularly identifies lots in Tay Valley Township (with the exception of a small area around Balderson) as being located above a Highly Vulnerable Aquifer.

The RVCA prepared a memo outlining three options of levels of information or warnings the Township could implement through placing a Holding Zone on the undeveloped lots in the Maberly Pines subdivision (see Attachment 1).

A Holding Zone is permitted to be established under the *Planning Act*. The intent of a Holding Zone is to signify Council's approval in principle to future development of the land for the purposes indicated by the symbol. The holding classification added to a given zone shall restrict development of the land until such time as specific requirements are met.

Holding provisions are typically applied to delay development until local municipal services, (e.g., roads and sewer systems) are in place. In these instances, a holding ('h') symbol precedes the zoning category (R), for Residential, in the by-law.

Holding provisions may also be applied in order to achieve orderly staging of development, to ensure adequate infrastructure and community services and facilities are or will be available, to adopt measures to mitigate negative impacts, to satisfy policies of the *Official Plan* to achieve the exchange of facilities, services or other matters set out in the *Official Plan* and to ensure the execution of legal agreements, approval of subdivision plans and/or approval of necessary studies.

When the circumstances are appropriate as necessary studies have been completed, and development is ready to occur, the holding symbol 'h' can be removed by an amending by-law.

DISCUSSION

The Planner recommends a Holding Zone for the 48 vacant lots in the Maberly Pines subdivision. Lifting the Holding zone would be dependent on receiving the following information recommended by RVCA:

“Retain an experienced hydrogeologist to undertake a new investigation. The investigation would produce an addendum report that provides the missing information, a final private servicing plan, and revised/affirmed recommendations.

The addendum would include the following parts: A summary of the original findings and all missing information; a review of the servicing outcomes at the 4 built-out lots (current groundwater quality, fulfillment of recommendations etc.); additional Procedure D-5-5 testing elsewhere in the subdivision; and confirmation of the available terrain assessment in light of Procedure D-5-4 requirements.”

The RVCA provided two other options for lifting the Holding zone - option 2:

The Township retains a hydrogeologist to obtain groundwater samples from the existing houses for laboratory analysis. The information is provided to future residents for their reference (without reference to specific addresses and names). The township establishes a private servicing plan to implement, as best as possible, WESA’s recommendations, which include several best practices to address significant terrain constraints, including: 50 m (and at least 30 m) separation distances between services (which should pertain to lot boundaries as well); and locating wells up-gradient from septic systems. (RVCA would also suggest increased casing depths, if the drillers think the yield is sufficient to facilitate this.)

The Township informs each lot purchaser of the following (or equivalent):

- The well and septic systems should be constructed as per WESA’s recommendations, which are above the minimums prescribed by the Ontario Building Code and the Wells Regulation. The recommendations were considered mandatory to protect drinking water quality and were to supersede preferences for house locations.
- Well yield may be marginal. Additional in-house storage may be required or other measures.

RVCA’s third and final option (least preferred) was:

The Township establishes a private servicing plan, as above. Informs each lot purchaser, as above as well as stating:

- The drinking water quality was never tested. Therefore, well water should be tested for all parameters listed in the Lanark County subdivision or severance checklists, and for bacteria in accordance with public health guidance (3 times per year, at minimum).

OPTIONS CONSIDERED

All of the options proposed include: “Amend the zoning for all the vacant lots in PLAN 21 Lakeside Living (Maberly Pines Subdivision) geographic Township of South Sherbrooke from Residential (R) to Residential with a holding zone (R-h).” The choices are between doing a new comprehensive hydrogeological study; or doing a limited review of the hydrogeological study from the 1970s by WESA; or simply placing a warning on title about potential well and septic issues for the undeveloped lots.

Option #1 – (Recommended as it provides the greatest protection to well water)

Retain an experienced hydrogeologist to undertake a new investigation for the Maberly Pines Subdivision. The investigation would produce an addendum report that provides the missing information, a final private servicing plan, and revised/affirmed recommendations that meet the Ministry of Environment, Conservation and Parks D-5-4 and D-5-5 requirements for water and waste disposal.

Option #2 – (Not recommended as less information will be available to create a lot servicing plan)

Retain a hydrogeologist to obtain groundwater samples from the existing houses for laboratory analysis. The information is provided to future residents for their reference (without reference to specific addresses and names).

The Township establishes a private servicing plan to implement, as best as possible, WESA's recommendations, which include several best practices to address significant terrain constraints, including: 50 m (and at least 30 m) separation distances between services (which should pertain to lot boundaries as well); and locating wells up-gradient from septic systems. (RVCA would also suggest increased casing depths, if the drillers think the yield is sufficient to facilitate this.)

Option #3 – (Not recommended as even less information will be available to ensure water quality and quantity are protected)

Inform each lot purchaser of the WESA recommendations as well as stating: the drinking water quality was never tested. Therefore, well water should be tested for all parameters listed in the Lanark County subdivision or severance checklists, and for bacteria in accordance with public health guidance (3 times per year, at minimum).

Option #4 – (Not recommended as it won't provide information on how development of a single lot will affect water quality and quantity throughout the subdivision)

Individuals test their own water.

STRATEGIC PLAN LINK

Economic Development: The Township is an attractive community for new residents and is an attractive tourist destination.

Environment: Tay Valley continues to be known for its environmental policies and practices. Our residents have access to clean lakes and a healthy, sustainable environment.

FINANCIAL CONSIDERATIONS

Ownership of the land is distributed among individual owners. Estimates of the cost of a full hydrogeological study for the 48 lots in Maberly Pines Subdivision are in the order of \$25,000 for the hydrogeological analysis plus \$90,000 for the cost of drilling 6 test wells plus another \$5,000 for the laboratory tests.

There are a number of options the Township could review to recover the cost of the hydrogeological work:

- imposing a Local Area Specific Development Charge; would be approximately \$2500/lot to \$2800/lot;
- imposing a Community Improvement Plan (CIP) offering grants or loans within the CIP project area to help pay for certain costs. The CIP can include a Tax-Increment-Financing program (TIF).
TIF is a method of using future incremental property tax revenues generated by the redevelopment of a property to offset the upfront costs of redevelopment. The increase

in the assessed value of the property raises the amount of taxes payable. The difference between the taxes paid by the property prior to redevelopment and the taxes paid following redevelopment is referred to as the “tax increment.” TIFs earmark a portion of the taxes that arise from new development, and redirect these revenues to provide grants to property developers within a designated area; and

- imposing a Local Area Improvement Charge, however, before undertaking a local improvement project, the municipality must notify the public and affected property owners. Residents may petition to LPAT against a project.

CONCLUSION

No matter the decision of Council on hydrogeological information options, the Holding zone is recommended to be placed immediately. The Township would not want to earn a reputation as a place where lots turn out to be lemons because of insufficient hydrogeological information.

The Planner recommends that a proposed amendment to Zoning By-Law No. 2002-121 be made to add a Holding zone to vacant properties in PLAN 21 Maberly Pines. The Holding zone would be lifted based on one of the three options identified in the recommendations.

A webpage will be created for this topic to provide information to the 48 affected property owners.

NEXT STEPS

- June 22nd Council Meeting – Adoption of Holding Zone By-Law
- June 22nd Council Meeting – Council have further discussion on the options regarding the hydrogeological information required
- Once an option is chosen then further information will be communicated

ATTACHMENTS

- i) RVCA Memo on Maberly Pines Servicing Options
- ii) Draft By-Law

Prepared and Submitted By:

Approved for Submission By:

**Noelle Reeve,
Planner**

**Amanda Mabo,
Acting Chief Administrative Officer/Clerk**

Technical Review Memorandum



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To Glen McDonald, RPP, MCIP, Department of Science and Planning
From Claire Milloy, P.Geo., Department of Engineering and Regulation
Date April 29, 2021
File **Maberly Pines Subdivision (Lakeside Living)**
Tay Valley Township, Lanark County
Subject **Private servicing**

RVCA was asked whether the original hydrogeological investigation (1980s) for the registered but undeveloped Maberly Pines subdivision in Tay Valley Township provides sufficient information and guidance to ensure the suitability of groundwater quality as it now builds-out.

RVCA did not find any information to indicate that the groundwater will meet the current drinking water standards, objectives and guidelines (groundwater chemistry was not analysed). However, information and opinions are provided to indicate that the use of individual septic systems is not suitable on certain terrain units within the subdivision, and that best practices should be used on all other terrain units. As a result, RVCA provides possible approaches for the township to facilitate safer servicing at the site. The approaches are listed at the end of the memorandum before which several considerations are discussed as to better frame the circumstances.

The subdivision was originally planned for seasonal occupancy. This seasonality was one of the main concepts relied on to "guarantee the integrity of the groundwater supply". However, given the current development climate, it is likely that all lots would now be permanently occupied; all new houses will be much larger than originally foreseen (cottage); and that secondary dwelling units will be permitted on each lot (e.g. AirBnBs). As a result, the aquifer will have **increased demand**. It will both supply more water than originally planned and will be loaded with additional (and only partially treated) septic effluent.

The original hydrogeology report indicates that most **well yields** were **low** in the area and that significant volumes should not be taken from the aquifer. However, no pumping tests were conducted on-site. This indicates that future lot purchasers are not guaranteed sufficient well yield and at minimum may need to rely on additional storage units etc. Further, this may constrain the feasibility/ sustainability of supplemental dwelling units.

The original report also indicates that specific development recommendations should be followed to ensure that wells do not become contaminated with septic effluent nor pond water (although these were not translated into a servicing plan.).

Proudly working in partnership
with our 18 watershed municipalities
Athens, Augusta, Beckwith, Central Frontenac, Clarence-Rockland,
Drummond/North Elmsley, Elizabethtown-Kitley, Merrickville-Wolford, Montague,
North Dundas, North Grenville, Ottawa-Perth, Rideau Lakes, Smiths Falls, South Frontenac, Tay Valley, Westport



Rideau Valley
Conservation
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Possible approaches

The first approach listed below would provide information to current standards and is therefore most technically suitable. Other approaches are provided given that the subdivision is already registered and there may be legal, time, process, and funding considerations for the township that preclude the best option. Options should be considered in light of any relevant planning and legal considerations of which the conservation authority may not be aware.

1) *recommended approach*

- Retain an experienced hydrogeologist to undertake a new investigation. The investigation would produce an addendum report that provides the missing information, a final private servicing plan, and revised/affirmed recommendations.
- The addendum would include the following parts: A summary of the original findings and all missing information; a review of the servicing outcomes at the 4 built-out lots (current groundwater quality, fulfillment of recommendations etc.); additional Procedure D-5-5 testing elsewhere in the subdivision; and confirmation of the available terrain assessment in light of Procedure D-5-4 requirements. (* the lots are predominantly hydrogeologically sensitive, so a detailed D-5-4 assessment would not be suitable. Best practices would have to be used, as originally recommended by WESA.)

2) *alternate approach A (minimum with water chemistry)*

- The township retains a hydrogeologist to obtain groundwater samples from the existing houses for laboratory analysis. The information is provided to future residents for their reference (without reference to specific addresses and names)
- The township establishes a private servicing plan to implement, as best as possible, WESA's recommendations, which include several best practices to address significant terrain constraints, including: **50 m** (and at least 30 m) separation distances between services (which should pertain to lot boundaries as well); and locating wells up-gradient from septic systems.
 - RVCA would also suggest increased casing depths, if the driller's think the yield is sufficient to facilitate this.
- The township informs each lot purchaser of the following. (or equivalent)
 - The well and septic systems should be constructed as per WESA's recommendations, which are above the minimums prescribed by the Ontario Building Code and the Wells Regulation. The recommendations were considered mandatory to protect drinking water quality and were to supersede preferences for house locations.
 - **Well yield may be marginal.** Additional in-house storage may be required or other measures.

(Registered) Mayberly Pines Subdivision, Tay Valley Township, Lanark County



**Rideau Valley
Conservation
Authority**

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- The drinking water quality was only tested at *township to insert locations here*. Therefore, well water should be tested for all parameters listed in the Lanark County subdivision or severance checklists, and for bacteria in accordance with public health guidance (3 times per year, at minimum)
- Individual well and septic system owners are responsible for any well interference or contamination that they cause off of their property.

3) *alternate approach B (minimum)*

- The township establishes a private servicing plan, as above.
 - Inform each lot purchaser, as above and:
 - The drinking water quality was never tested. Therefore, well water should be tested for all parameters listed in the Lanark County subdivision or severance checklists, and for bacteria in accordance with public health guidance (3 times per year, at minimum).
-

(Registered) Mayberly Pines Subdivision, Tay Valley Township, Lanark County

THE CORPORATION OF TAY VALLEY TOWNSHIP

BY-LAW NO. 2021-0xx

A BY-LAW TO AMEND ZONING BY-LAW NO. 2002-121, AS AMENDED PLAN 21 LAKESIDE LIVING (MABERLY PINES) (GEOGRAPHIC TOWNSHIP OF SOUTH SHERBROOKE)

WHEREAS, the *Planning Act, R.S.O. 1990, Chapter P.13 Section 34 as amended*, provides that the Councils of local municipalities may enact by-laws regulating the use of land and the erection, location and use of buildings and structures within the municipality;

AND WHEREAS, By-Law No. 2002-121, as amended, regulates the use of land and the erection, location and use of buildings and structures within Tay Valley Township;

AND WHEREAS, the Council of the Corporation of Tay Valley Township deems it advisable to amend By-Law No. 2002-121, as amended, as hereinafter set out;

AND WHEREAS, this By-Law implements the policies and intentions of the Official Plan for Tay Valley Township;

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

1. GENERAL REGULATIONS

1.1 THAT, By-Law No. 2002-121, as amended, is further amended by adding the following new subsection at the end of Section 5.1.4 (Exception Zones):

the zoning of Residential (R) on the vacant lands legally described in PLAN 21 geographic Township of South Sherbrooke, now in Tay Valley Township, County of Lanark be amended with the addition of a Holding symbol (h), in accordance with Schedule "A" attached hereto and forming part of this By-Law.

1.2 THAT, the vacant properties in PLAN 21 are hereby placed into a holding designation. The holding designation requires:

- A supportive Hydrogeological Report as well as a Servicing Options Report before building permits can be issued;
- Site Plan Control Approval.

1.3 THAT, all other applicable standards and requirements of By-Law No. 2002-121 shall continue to apply to the subject properties.

**THE CORPORATION OF TAY VALLEY TOWNSHIP
BY-LAW NO. 2021-0xx**

1.4 THAT, this By-Law shall come into force and effect with the passing thereof, in accordance with *the Planning Act*, as amended.

2. ULTRAVIRES

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.

3. EFFECTIVE DATE

ENACTED AND PASSED this 22nd day of June 2021.

Brian Campbell, Reeve

Amanda Mabo, Clerk

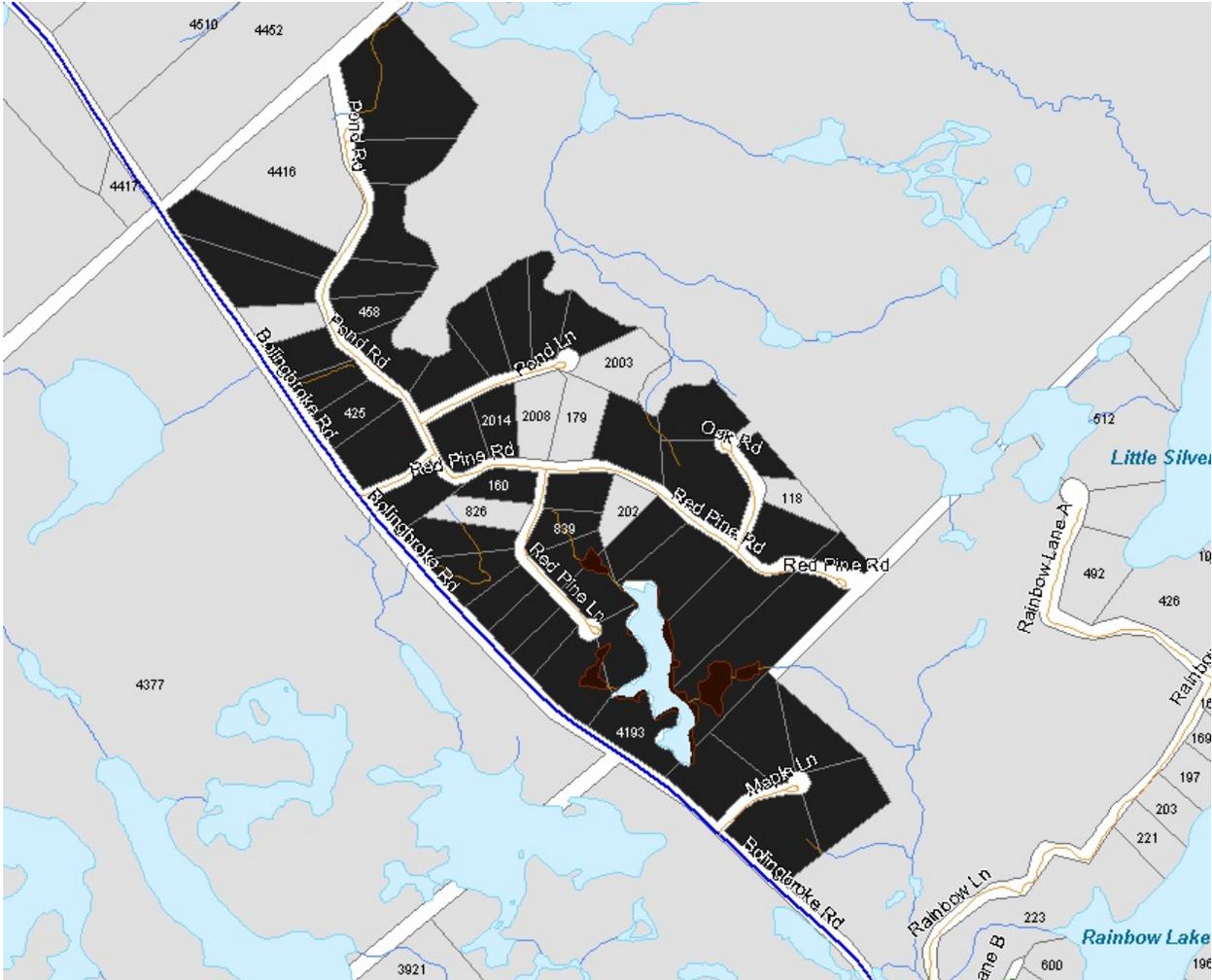
**THE CORPORATION OF TAY VALLEY TOWNSHIP
BY-LAW NO. 2021-0xx**

SCHEDULE "A"

Specified Vacant lots in PLAN 21

Lots 1,2,3,4,5,7,8,9,10,11,12,13,14,15,16,17,18,19,21,25,26,27,28,29,30,31,32,33,34,36,
37,38,39,40,41,42,43,44,45,46,48,49,50,51,52,53,54

Geographic Township of South Sherbrooke Tay Valley Township



Area(s) Subject to the By-Law

To amend the Zoning provisions of
Residential (R) to
Residential Holding (R-h)

Certificate of Authentication

This is Schedule "A" to By-Law 2021-0xx
passed this 22nd day of June 2021.

Reeve

Clerk