

**Tuesday, March 21<sup>st</sup>, 2023**

**5:30 p.m.**

**Municipal Office – 217 Harper Road, Perth, Ontario**

**Council Chambers**

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*5:30 p.m. Public Meeting - Zoning By-Law Amendment  
Following Council Meeting*

**Chair, Rob Rainer**

**1. CALL TO ORDER**

**2. INTRODUCTION**

- The purpose of this public meeting is to hear an application for a general amendment to Zoning By-Law No. 02-121 for the following application:

**Amendment to Section 3.4 Frontage on an Improved Street, and clarification of the Definition of IMPROVED STREET.**

- The Planner will provide a brief overview of the details of the file and details of the amendment. The public will then be given an opportunity to make comments and ask questions.
- If a person or public body would otherwise have an ability to appeal the decision of the Council of the Corporation of Tay Valley Township to the Ontario Land Tribunal but the person or public body does not make oral submissions at a public meeting or make written submissions to Tay Valley Township before the by-law is passed, the person or public body is not entitled to appeal the decision.
- If a person or public body does not make oral submissions at a public meeting or make written submissions to Tay Valley Township before the by-law is passed, the person or public body may not be added as a party to the hearing of an appeal before the Ontario Land Tribunal unless, in the opinion of the Tribunal, there are reasonable grounds to do so.
- The Clerk must provide notice of Council's decision to all those who request a copy within 15 days after the day the by-law is passed. Anyone may appeal the decision to the Ontario Land Tribunal by filing with the Clerk within 20 days of the notice of decision.

- An appeal to the Ontario Land Tribunal may be filed with the Clerk of the Township not later than 20 days after the day that the notice of decision was given. The notice of appeal must set out the objection to the by-law and the reasons in support of the objection, accompanied by the required fee.
- If you are interested in receiving a copy of the decision, please contact the Administrative Assistant at [adminassistant@tayvalleytwp.ca](mailto:adminassistant@tayvalleytwp.ca).

### **3. APPLICATION**

- i) **FILE #ZA23-02: Tay Valley Township – *attached, page 4.***
  - a) PLANNER FILE REVIEW & PROPOSED BY-LAW
  - b) PUBLIC COMMENTS
  - c) RECOMMENDATION

### **4. ADJOURNMENT**

# APPLICATION

**PUBLIC MEETING CONCERNING PROPOSED ZONING BY-LAW AMENDMENT**

March 21<sup>st</sup>, 2023

**Noelle Reeve, Planner**

**APPLICATION ZA23-01 TAY VALLEY TOWNSHIP**

**STAFF RECOMMENDATION(S)**

It is recommended:

**“THAT**, By-Law #2023-0xx be adopted to clarify the language of Zoning By-law 02-121, Section 3.4 Frontage on an Improved Street and the definition of IMPROVED STREET.

**BACKGROUND**

Between the time of adoption of the Tay Valley Township Zoning By-Law in 2002 (following amalgamation) and May 2009, it was not possible to obtain a building permit for a lot that did not have frontage on an improved street, with limited exceptions. Section 3.4 of Zoning By-Law 02-121 stated:

“No lot shall be used and no building or structure shall be erected on a lot in any zone unless such lot has sufficient frontage on an improved street to provide driveway access. Notwithstanding the foregoing, this provision shall not apply to:

- A non-residential building or structure accessory to an agricultural or conservation use;
- A lot on a registered plan of subdivision and with frontage on a street which will become an improved street pursuant to provisions in, and financial security associated with, a subdivision agreement that is registered on the title to the lots;
- A lot located in a Limited Services Residential zone;
- An existing seasonal dwelling in a Seasonal Residential zone”

This is a common provision in many Zoning By-Laws to prevent development from occurring in an unorganized way and to ensure proper and safe access to residential lots.

Section 3.4 had the effect of preventing development in older subdivisions where the developer had not built the roads within those subdivisions at all or to standards acceptable for the Township to assume them.

After residents expressed concern with their inability to obtain building permits, the Township asked their planner at the time, Novatech Engineering and Planning Consultants, to address the situation.

Novatech proposed an amendment to the Zoning By-Law to add an additional exemption to Section 3.4 (besides the original four).

Their proposal was to add an exemption, “in the case where an owner in a subdivision registered prior to December 10, 2002 has entered into a road access agreement to the satisfaction of the Township”.

Even though the exemption for a lot zoned Residential Limited Services (RLS) was among the original four bulleted exemptions, lots in subdivisions where the developer had not built roads to a standard acceptable to the township so that it could assume the road, could not obtain building permits. The RLS bullet was interpreted to apply only for lots on private roads.

Adding the new fifth exemption for lots in older subdivisions was considered the only mechanism to issue a building permit. The existing four exemptions were not meant to be read as a menu to be chosen from. If they had been meant to be read that way, the additional exemption would have not been required.

Following the 2009 amendment to Section 3.4 of the Zoning By-Law, very little development occurred in the pre-2002 subdivisions. The lots in the subdivisions were largely built on with cottages.

However, in 2019 questions were raised about Section 3.4 at the time of a building permit application for a property in a subdivision built before 2002 (with roads that were not brought up to standards that would allow the Township to assume them). The property owner did not want to enter into a road access agreement.

The Council at that time were persuaded by the property owners' housing contractor, and office manager (which was also a member of Council), to rezone the property to Residential Limited Services rather than requiring a Road Access Agreement.

This property-specific decision led to other property owners believing they could pick and choose from the exemptions under Section 3.4 of the Zoning By-Law. However, their interpretation was contrary to the original intent of the Zoning By-Law and the historic interpretation of this section by staff.

## **DISCUSSION**

Clarification of the language of Section 3.4 is necessary to more closely reflect the intention of the 2009 Zoning By-Law amendment. That amendment provided a way for building permits to be issued to properties in subdivisions created before 2002 (with roads that were not brought up by the developer to a standard for the Township to assume). Prior to the 2009 amendment, those properties could not receive building permits because they were not located on Improved Streets.

The intent of Section 3.4 has always been to identify specific circumstances where an exception to the general rule that development can only occur on lots fronting on a public improved street is appropriate. It was not the intent to create an incentive to re-zone lots to Residential Limited Services to avoid the prohibition related to an Improved Street. The historic subdivisions without Improved Streets are a unique form of development in the Township and the Township needs to balance the pressures for development with the ability to ensure a safe access that protects the taxpayers from unintended liability associated with these roads.

The change that is being proposed is a shift from a description of **situations** where Section 3.4 is applicable (that references a mixture of buildings, lots and zones), to a clearer definition of IMPROVED STREET.

### **Planning Analysis**

When proposing an amendment to the Zoning By-Law 02-121, Council must ensure that the proposal complies with the applicable provincial, County and Township planning documents.

### **Planning Act**

Section 34 Zoning By-Laws of the Planning Act allows municipalities to pass zoning by-laws “restricting the use of land”.

### **Provincial Policy Statement**

Section 1.1.5.5 Rural Lands in Municipalities states that, “Development shall be appropriate to the infrastructure which is planned or available, and avoid the need for unjustified and/or uneconomical expansion of this infrastructure”.

### **Lanark County Official Plan**

Section 4.2.1 Local Infrastructure Planning states, “Continued efforts to find solutions to local infrastructure problems by local municipalities are considered to be appropriate and in conformity with the policies of the County Official Plan”.

### **Tay Valley Township Official Plan**

Section 2.17 Public Road Access states:

“All new development shall have frontage on a public road that is maintained by the Township or other public authority, save and except the following:

1. Agriculture, forestry and conservation uses not having an accessory dwelling or any building or structure to which the public has access;
2. Residential uses located on private roads or having only water access and which are zoned as Limited Services in the Zoning By-Law that implements this Plan.”

The municipality clearly established the principle of development for subdivisions (created both before and after December 10, 2002) by its approval of the subdivision agreements.

Section 4.4 Township Roads identifies roads owned and maintained by the Township; minimum right of way standards for Township roads; and as an artefact from the 2008 Official Plan, describes unmaintained Township Roads as private roads for purposes of the Official Plan (for the purposes of Section 4.5).

Section 4.4 of the current Official Plan states that unmaintained municipally owned roads are considered private roads for policy purposes. The statement in 4.4 is intended to apply to the roads polices in section 4. Specially, section 4.5 contains statements that eliminate any

obligation for the Township to maintain private roads – which by implication includes the roads mentioned in section 4.4.

The Novatech planning report dated April 2009 confirmed that the amendment to section 3.4 conformed with the Official Plan. This statement is equally applicable to the amendment before Council. allowing for additional flexibility to allow for development on publicly owned but privately maintained roads maintains the intent of the Official Plan to provide for safe access while still ensuring development can occur at no additional cost to the Township for maintenance.

## **ZONING BY-LAW**

The attached draft by-law clarifies the wording of Section 3.4 Frontage on an Improved Street by leaving the exemption for agricultural and non-residential buildings in Section 3.4. The proposed definition of IMPROVED STREET clarifies the remaining bulleted exemptions from the 2009 version of Section 3.4 by identifying the exemptions based on descriptions of the types of streets/roads included. The references to lots and buildings has been removed.

These two minor wording changes are proposed to help clarify the definition of an IMPROVED STREET and, therefore, the conditions under which a building permit may be issued.

## **PUBLIC COMMENTS**

The majority of the comments from 59 residents received by the Planner were submitted before the proposed wording changes to Section 3.4 and the definition of IMPROVED STREET were made public.

As such, they expressed a blanket opposition to any change to Zoning By-Law 02-121 Section 3.4.

A few of these comments did, however, raise specific areas of concern:

- That their property value would decrease because contractors would not want to bear the liability associated with these roads;
- The validity of a subdivision agreement if parties did not fulfill their requirements (e.g., to bring the roads up to Township standards).

These are not concerns that are relevant to the land use planning analysis that is required in order to amend the Zoning By-Law.

## **OPTIONS TO BE CONSIDERED**

Option #1 (Recommended) – Council clarify the wording of Zoning By-Law 02-121 to reflect the intent of Section 3.4 as it was written in 2009 by Novatech Consultants. That wording was designed to allow building permits to be issued in subdivisions created before December 10, 2002 (where the roads were not built by the subdivision developer to a standard acceptable to the Township and which would allow the Township to assume them into its road network).

Option #2 – Council does not change the wording to clarify the intent of Section 3.4 of Zoning By-law 02-121. In this case, the Township will continue to face confusion from the public over whether their lot has frontage on an improved street and their options to obtain a building permit.

## **FINANCIAL CONSIDERATIONS**

None, at this time as the intent of the Zoning By-Law is maintained from the 2009 amendment written by Novatech Consulting Engineers and Planners. The proposed wording is proposed to clarify that intent.

## **STRATEGIC PLAN LINK**

**Economic Development:** Fiscal responsibility.

## **CLIMATE CONSIDERATIONS**

Not applicable.

## **CONCLUSIONS**

The wording of Section 3.4 of Zoning By-Law 02-121 requires clarification because residents have interpreted it to mean that the bulleted exemptions in Section 3.4 are interchangeable options to pick from.

The location of a lot in a Limited Services zone was available as an exemption between 2002 and 2009, but was only applicable to lots on private roads. The exemption was not deemed to be applicable to lots in subdivisions created before 2002 as those roads were not private roads. They were Township owned, privately maintained, unassumed roads.

Therefore, the interpretation promoted by some members of the public is not what the original planners, Novatech Engineering and Planning Consultants, had in mind when they amended Section 3.4 in 2009. The 2009 amendment was intended to allow building permits to be issued for lots on roads in subdivisions created before 2002 (whose roads had not been brought up to a standard by the developer that would allow the Township to assume them into its road network). Until 2009, these lots had been unbuildable under the Tay Valley Township Zoning By-Law created in 2002.

The proposed amendment to Zoning By-Law 02-121 was drafted to remove any confusion over the intent of the Township to plan for orderly, safe growth by clarifying Section 3.4 Frontage on an Improved Street and by clarifying the definition of IMPROVED STREETS.



## **ATTACHMENTS**

1. April 8, 2009 Novatech Engineering and Planning Consultants letter - Amendment to Road Access Requirement of Section 3.4, Comprehensive Zoning By-law, Our File: 98096
2. By-Law to amend Zoning By-Law 02-121 to clarify Section 3.4 Frontage on an Improved Street and the definition of IMPROVED STREET.

**Prepared and Submitted By:**

**Approved for Submission By:**

**Noelle Reeve,  
Planner**

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



April 8, 2009

Kathy Coulthart-Dewey  
Chief Administrative Officer  
Tay Valley Township  
217 Harper Road  
R.R. No. 4  
Perth, Ontario K7H 3C6

BY EMAIL

Dear Ms. Coulthart-Dewey:

**Reference: Amendment to Road Access Requirement of Section 3.4, Comprehensive Zoning By-law  
Our File: 98096**

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**BACKGROUND & ISSUE:**

Section 3.4 in the Township Zoning By-law prohibits the issuance of a building permit for a lot that does not have frontage on an improved street. The provision reads as follows:

*"No lot shall be used and no building or structure shall be erected on a lot in any zone unless such lot has sufficient frontage on an improved street to provide driveway access. Notwithstanding the foregoing, this provision shall not apply to:*

- *A non-residential building or structure accessory to an agricultural or conservation use;*
- *A lot on a registered plan of subdivision and with frontage on a street which will become an improved street pursuant to provisions in, and financial security associated with, a subdivision agreement that is registered on the title to the lots;*
- *A lot located in a Limited Services Residential zone;*
- *An existing seasonal dwelling in a Seasonal Residential zone"*

The Maberly Pines subdivision (PI 21), located in Lot 13, Concession 5 and 6, in the geographic Township of Sherbrooke, was registered in the 1980s. A subdivision agreement between the owner, Lakeside Living Ltd., and the Township of Sherbrooke included a provision that the roads in the subdivision were to remain private roads until the roads were brought to municipal standards and assumed by the Corporation of the Township of South Sherbrooke.

Lakeside Living was to deposit a fully executed deed for Lot 9 to be used as security for completing the roads in the event that Lakeside Living Ltd. did not complete construction of the roads to municipal standards within 3 years of the registration of the subdivision agreement. According to Township files, there was no financial commitment received from Lakeside Living Ltd., and today the roads remain as unimproved streets owned by the municipality.

Given the status of the roads in the Maberly Pines subdivision and the effect of the above-noted zoning by-law provision, it is not possible to obtain a building permit. According to Township files

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Suite 200, 240 Michael Cowpland Dr., Ottawa ON K2M 1P6 Tel: (613) 254-9643 Fax: (613) 254-5867 [www.novatech-eng.com](http://www.novatech-eng.com)

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and additional research conducted by Township staff, there are other pre-2002 subdivisions with vacant lots where Zoning By-law provision 3.4 prohibits the issuance of a building permit.

Following previous public meetings and Council/Committee discussion regarding approaches to resolve the Maberly Pines matter, it was decided that a zoning by-law amendment be brought forward to amend Section 3.4 of the Zoning By-law to provide an additional exemption.

#### Purpose of the Zoning Amendment:

The purpose of this zoning amendment is to add an additional provision to Section 3.4 of the Zoning By-law that would provide an exemption to the requirement to have frontage on an improved street in the case where an owner in a subdivision registered prior to December 10, 2002 has entered into a road access agreement to the satisfaction of the Township.

The effect of the zoning by-law amendment would be to permit development on a lot without frontage on an improved street under certain circumstances where the Township is satisfied that suitable arrangements have been made for dependable access to the property.

(A road access agreement has been prepared by the Township's solicitor. The agreement serves as a pre-condition to obtaining a building permit on vacant lots where lot frontage is on an unmaintained public road).

#### DISCUSSION

##### Official Plan

Official Plan policy 2.16 Public Road Access, states:

*"All new development shall have frontage on a public road that is maintained by the Township or other public authority, save and except the following:*

- 1. Agriculture, forestry, and conservation uses not having an accessory dwelling or any building or structure to which the public has access;*
- 2. Residential uses located on private roads or having only water access and which are zoned as Limited Services in the Zoning By-law that implements this Plan".*

This policy mandates that all new development shall have frontage on a public road, and is implemented through Section 3.4 of the Zoning By-law. Section 3.4 includes certain exceptions that would enable development under circumstances. The proposed amendment would add an additional exception to Section 3.4.

It is our opinion that this amendment is in conformity with Official Plan. The amendment would have the same effect as the requirement for entering into a Limited Services Agreement when rezoning a property from the Seasonal Residential (RS) zone to the Residential Limited Services (RLS) zone. It should be noted that this does not constitute the creation of a new private road, but rather, it implements a new zoning provision to resolve a zoning matter with respect to existing,

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municipally-owned roads within approved subdivisions where the intent was to bring the streets to municipal standards.

Details of the Proposed Amendment:

This proposed amendment to the Zoning By-law, as advertised, would only revise Section 3.4 in the General Provisions section of the Zoning By-law. Section 3.4 (Frontage on an Improved Street) of Zoning By-law No 02-121 would be amended inserting the following new bullet immediately after the second bullet:

*"A lot on a plan of subdivision registered before December 10, 2002, that has frontage on a street that is not an improved street, where the owner has entered into a Road Access Agreement to the satisfaction of the Township;"*

The above-noted amendment, as drafted, does not provide site-specific zoning for all undeveloped subdivision lots with frontage on unmaintained roads, such as in the case of Maberly Pines. Accordingly, the zoning of the properties would remain as Residential (R). There would be no 'flag' or trigger mechanism in place on the zoning schedule that would identify the requirement to enter into Road Access Agreement prior to development. It should be noted that all zoning by-law provisions (including those within Section 3 (General Provisions)), remain applicable, and therefore all new development must comply with all relevant provisions. Although certain zoning provisions only appear in the 'General Provisions' section of the Zoning By-law (e.g. parking requirements, open storage), this does not exempt their applicability with regards to new development.

Council had previously considered the implementation of a 'holding provision' that could only be removed on the condition that a Road Access Agreement is executed prior to issuance of a building permit. It is understood that Council has decided that the holding provision was not a desirable zoning approach and prefers not to introduce a holding provision as a means to flag a requirement to comply with Section 3.4.

Should Council wish to incorporate a mechanism on the zoning schedule to clearly indicate the requirement for compliance with Section 3.4, it would be necessary to re-advertise for another public meeting, and include a more precise indication of which lots are to be rezoned. It is our opinion that there would be significant risk of an appeal to the amendment if the zoning amendment had the effect of rezoning certain lots without giving notice of which lots were to be rezoned.

It is our opinion that the amendment, as drafted, is appropriate and that there is no need to provide any further indication in the zoning by-law that refers readers to Section 3.4. This approach is in keeping with the overall structure of the Zoning By-law and the requirement for all development to comply with all relevant sections of the document.

Consultation:

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Notice of the Public Meeting was given in accordance with the requirements of Ont. Regulation 545/06. The notice of public meeting was appeared in the Perth Courier on March 24<sup>th</sup>, 2009, and was mailed to owners of lots in the Maberly Pines subdivision and Bennett Lake Estates.

As indicated above, the notice of public meeting indicates that the proposed amendment affects Section 3.4 of the Zoning By-law. It does not provide clear indication of any specific lots that would be affected.

As of the date of this report, the following comments have been received with respect to this proposed amendment:

- Submission from Antonin Wild, letter dated April 7, 2009 (attached)

RECOMMENDATION:

This is a general amendment to the Township Zoning By-law with the intent that it addresses site-specific circumstances affecting certain subdivision lots in the Township. The amendment has been written in a manner that it is keeping with the structure of zoning by-law document, and therefore no site-specific zoning is required.

It is recommended that the Township Zoning By-law No. 02-121 be amended, as drafted.

Please let me know if you have any questions.

Yours truly,

**NOVATECH ENGINEERING CONSULTANTS LTD.**

A handwritten signature in black ink, appearing to read "Steve Pentz", is written over a light grey rectangular background.

Steve Pentz, MCIP RPP  
Planner

# THE CORPORATION OF TAY VALLEY TOWNSHIP

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## BY-LAW NO. 2023-0XX

### A BY-LAW TO AMEND ZONING BY-LAW NO. 2002-121, AS AMENDED

#### Section 3.4 Frontage on an Improved Street and Definition of IMPROVED STREET Amendment to Comprehensive Zoning Bylaw No. 02-121

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**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 polices 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**, Section 3.4 (Frontage on an Improved Street) is hereby amended as follows:

##### 3.4 Frontage on an Improved Street

No lot shall be used, and no building or structure shall be erected, on a lot in any zone unless such lot has sufficient frontage on an Improved Street to provide driveway access. Notwithstanding the foregoing, this provision shall not apply to a non-residential building or structure that is accessory to an agricultural or conservation use.

- ~~— A non-residential building or structure accessory to an agricultural or conservation use;~~
- ~~— A lot on a registered plan of subdivision and with frontage on a street which will become an improved street pursuant to provisions in, and financial security associated with, a subdivision agreement that is registered on the title to the lot;~~
- ~~— A lot on a plan of subdivision registered before December 10, 2002, that has frontage on a street that is not an improved street, where the owner has entered into a Road Access Agreement to the satisfaction of the Township;~~
- ~~— A lot located in a Limited Services Residential zone;~~

~~—A existing seasonal dwelling in a Seasonal Residential zone~~

**1.2** That the Definitions section is hereby amended as follows:

STREET shall mean a public thoroughfare under the jurisdiction of either the Corporation, the County or the Province of Ontario. This definition does not include a lane, a private road (private right-of-way) or easement.

- IMPROVED STREET shall mean a street which has been assumed by the Corporation, the County or the Province and is maintained on a regular, year-round basis. Notwithstanding the generality of the foregoing, in the circumstances listed below an Improved Street shall be defined to include:
- a street which is intended to become an Improved Street pursuant to provisions in, and financial security associated with, a subdivision agreement that is registered on the title to the lot in a plan of subdivision registered after December 10, 2002;
- a street that is within a plan of subdivision registered before December 10, 2002, where the street is subject to a Road Access Agreement entered into to the satisfaction of the Township;
- a private road in a Limited Services Residential zone; and
- a private road in a Seasonal Residential zone.

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

**2. 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.

**3. EFFECTIVE DATE**

ENACTED AND PASSED this 28<sup>th</sup> day of March 2023.

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**Rob Rainer, Reeve**

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**Amanda Mabo, Clerk**

## Zoning By-law Amendment Section 3.4 and Definition of IMPROVED STREET

### **Public Notice**

Pursuant to the Planning Act, Notice of public meeting is to be provided a minimum of 20 days prior for a Zoning By-law Amendment. Notice was duly given by posting in the newspaper.

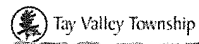
### **Ontario Land Tribunal**

Please be cautioned that if, at a later date, a person or public body choose to appeal Council's decision on this matter to the Ontario Land Tribunal, the Tribunal may dismiss all or part of an appeal without holding a hearing if the reasons set out in the appeal do not refer to land use planning grounds offended by the decision, the appeal is not made in good faith, or is frivolous or vexatious or made only for the purpose of delay.

The Tribunal may also dismiss the appeal if the appellant did not make oral submission at the public meeting or did not make written submission before the plan or amendment were adopted.

If you choose to appeal, you must submit written reasons, the prescribed fee and any other background material requested. This notice is not intended to discourage your objection in any way. It is intended only to inform you of your rights and obligations and to encourage early participation.

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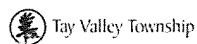


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## Zoning By-law Amendment Section 3.4 and Definition of IMPROVED STREET

- The application is a general amendment to the text of Zoning By-law 02-121, rather than a site-specific zoning change.
- The purpose of the amendment is to clarify the application of Section 3.4 Frontage on an Improved Street.
- Currently the wording of Section 3.4 contains references to a mixture of buildings, lots and zones.
- To clarify the application of Section 3.4, a revised definition of IMPROVED STREET is also proposed.
- The effect of the amendment is to provided consistency in the application of Section 3.4.

2



2



## Zoning By-law Amendment Section 3.4 and Definition of IMPROVED STREET

Currently Zoning By-law 02-121 Section 3.4 states "No lot shall be used and no building or structure shall be erected on a lot in any zone unless such lot has sufficient frontage on an improved street to provide driveway access. Notwithstanding the foregoing, this provision shall not apply to:

- A non-residential **building** or structure accessory to an agricultural or conservation use;
- A **lot** on a registered plan of subdivision and with frontage on a street which **will become an improved street** pursuant to provisions in, and financial security associated with, a subdivision agreement that is registered on the title to the lots;
- A **lot** on a plan of subdivision registered before December 10, 2002, that has frontage on a street that is **not an improved street**, where the owner has entered into a Road Access Agreement to the satisfaction of the Township;
- A **lot** located in a Limited Services Residential **zone**;
- An existing seasonal **dwelling** in a Seasonal Residential **zone**"

3



3

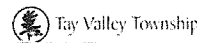
## Zoning By-law Amendment Section 3.4 and Definition of IMPROVED STREET

The amended Section 3.4 proposes the following wording:

### **3.4 Frontage on an Improved Street**

No lot shall be used, and no building or structure shall be erected, on a lot in any zone unless such lot has sufficient frontage on an improved street to provide driveway access. Notwithstanding the foregoing, this provision shall not apply to a non-residential building or structure that is accessory to an agricultural or conservation use.

4



4

## Zoning By-law Amendment Section 3.4 and Definition of IMPROVED STREET

The current definition of STREET (shown below) is not proposed to change. The current definition of IMPROVED STREET (shown below) is proposed to change.

"STREET shall mean a public thoroughfare under the jurisdiction of either the Corporation, the County or the Province of Ontario. This definition does not include a lane, a private road or private right-of-way."

"IMPROVED STREET shall mean a street which has been assumed by the Corporation, the County or the Province and is maintained on a regular, year-round basis."

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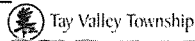
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## Zoning By-law Amendment Section 3.4 and Definition of IMPROVED STREET

The amended definition of IMPROVED STREET proposes:

IMPROVED STREET shall mean a street which has been assumed by the Corporation, the County or the Province and is maintained on a regular, year-round basis. Notwithstanding the generality of the foregoing, in the circumstances listed below an Improved Street shall be defined to include:

- a street which is intended to become an Improved Street pursuant to provisions in, and financial security associated with, a subdivision agreement that is registered on the title to the lot in a plan of subdivision registered after December 10, 2002;
- a street that is within a plan of subdivision registered before December 10, 2002, where the street is subject to a Road Access Agreement entered into to the satisfaction of the Township;
- a private road in a Limited Services Residential zone; and
- a private road in a Seasonal Residential zone.



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## Zoning By-law Amendment Section 3.4 and Definition of IMPROVED STREET

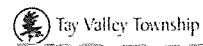
### Planning Act

- Section 34 Zoning By-laws - allows municipalities to pass zoning by-laws "restricting the use of land".

### Provincial Policy Statement (PPS)

- Section 1.1.5.5 Rural Lands in Municipalities states that, "Development shall be appropriate to the infrastructure which is planned or available and avoid the need for unjustified and/or uneconomical expansion of this infrastructure".

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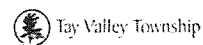
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## Zoning By-law Amendment Section 3.4 and Definition of IMPROVED STREET

### County Sustainable Communities Official Plan

- Section 4.2.1 Local Infrastructure Planning states, "Continued efforts to find solutions to local infrastructure problems by local municipalities are considered to be appropriate and in conformity with the policies of the County Official Plan".

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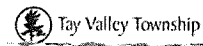
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## Zoning By-law Amendment Section 3.4 and Definition of IMPROVED STREET

### Tay Valley Official Plan

- Section 2.17 Public Road Access states: "All new development shall have frontage on a public road that is maintained by the Township or other public authority, save and except the following:
  1. Agriculture, forestry and conservation uses not having an accessory dwelling or any building or structure to which the public has access;
  2. Residential uses located on private roads or having only water access, and which are zoned as Limited Services in the Zoning By-Law that implements this Plan." The municipality established the principle of development for subdivisions by its approval of the subdivision agreements.
- Section 4.4 Township Roads identifies: roads owned and maintained by the Township; minimum right of way standards for Township roads; and Township Roads as private roads (for the purposes of Section 4.5)

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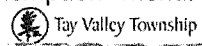
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## Zoning By-law Amendment Section 3.4 and Definition of IMPROVED STREET

### Zoning By-law

- Section 3.4 Frontage on an Improved Street and the Definition of an IMPROVED STREET are proposed to be amended to provide consistency with the intent of the original 2009 amendment to Comprehensive By-law 02-121.
- The amendment provided a way for building permits to be issued to lots in subdivisions that did not have improved roads.
- These lots had been unbuildable between 2002 and 2009, despite four exemptions to Section 3.4 being available.
- The fifth exemption proposed by the 2009 amendment was the only one available to subdivisions built prior to December 2002.
- It was not a choice added to a "pick your own exemption" menu.

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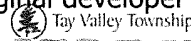
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## Zoning By-law Amendment Section 3.4 and Definition of IMPROVED STREET

### Public Comments

- The majority of the 59 comments received at the time of writing the report were submitted before the proposed wording changes to Section 3.4 and the definition of IMPROVED STREET were made public.
  
- As such, they expressed a blanket opposition to any change to Zoning Bylaw 02-121 Section 3.4.
  
- However, a few commenters raised specific areas of concern:
  - That their property value would decrease because contractors would not want to bear a portion of the liability for maintaining these roads;
  
  - Is a subdivision agreement valid if the original developer did not complete all requirements.

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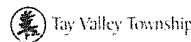
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## Zoning By-law Amendment Section 3.4 and Definition of IMPROVED STREET

### Recommendation

"THAT, Zoning By-Law No. 2002-121 be amended to clarify the application of Section 3.4 Frontage on an Improved Street and clarify the definition of IMPROVED STREET ."

12



12