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STAFF REPORT: Planning & Development Services – Planning Division



REPORT TO: Committee of the Whole
MEETING DATE: April 25, 2016
REPORT NO.: PDS.16.46
SUBJECT: Shoreline Hazards Zoning By-laws
Housekeeping Update
PREPARED BY: Denise Whaley, Planner I

A. Recommendations

THAT Council receive Staff Report PDS.16.46 Shoreline Hazards Zoning By-laws Amendment Housekeeping Update for information, and

THAT Council authorize staff to proceed with public consultation in considering amendments to The Town of Thornbury Zoning By-law 10-77 and the Township of Collingwood Zoning By-law 83-40 addressing this matter.

B. Background

The purpose of this report is to let Council know about some issues with a previous housekeeping update to the shoreline hazards zoning provisions, passed through Zoning By-laws 2014-70 (amending Township of Collingwood Zoning By-law 83-40) and 2014-71 (amending Town of Thornbury Zoning By-law 10-77). Staff recommend that Council consider updating the zoning by-laws to reduce interpretation issues, and the number of minor variances requested when development and redevelopment is proposed along the shoreline.

This report will provide some background about the previous housekeeping amendment, explain the current issues staff and residents are experiencing with the shoreline hazard provisions in both zoning by-laws, and provide an approach to improve both zoning by-laws which has been developed in consultation with Grey Sauble Conservation Authority and Town staff.

Development Near Shoreline Hazards

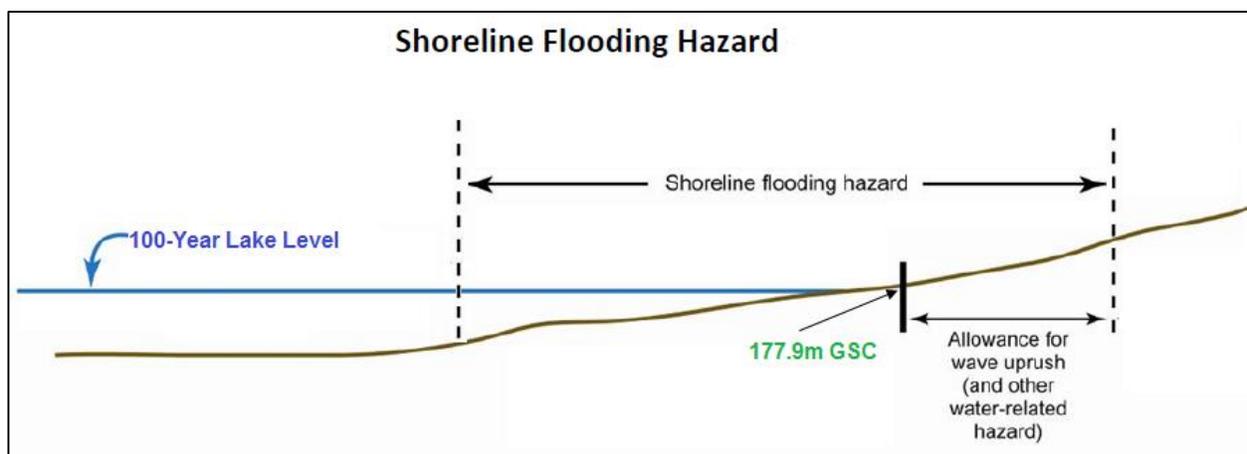
Shoreline hazards areas, like other flooding hazards, are regulated through the Conservation Authorities Act. All of the Town of The Blue Mountains Shoreline falls under *O. Reg. 151/06: Grey Sauble Conservation Authority: Regulation of Development, Interference with Wetlands and Alterations to Shorelines and Watercourses*. The Grey Sauble Conservation Authority (GSCA) would need to issue a permit for development in these areas based on their mandate to regulate shoreline areas from flooding and erosion hazards.

Although the areas are regulated by the GSCA, having the extra assurance of local zoning provisions ensures development in the shoreline area is done in accordance with the Conservation Authorities Act and represents good shoreline development practices. Development proposed within a shoreline hazard area currently requires both approval from

the GSCA as well as zoning relief. Typically, the Committee of Adjustment has granted minor variances to the zoning by-law where the GSCA was satisfied the proposal contained appropriate engineered flood (or erosion) control measures.

The GSCA is the responsible authority for regulating development in these areas, and the default position through the Conservation Authorities Act, O. Reg 151/06 2. (1), is that *development is prohibited* adjacent or close to the shoreline of the Great Lakes-St. Lawrence River System, and in this case, includes the 100 year flood level, plus the appropriate allowance for wave uprush. The regulation does provide for permission to develop where in the GSCA's opinion the control of flooding, erosion, dynamic beaches, pollution or the conservation of land will not be affected by the development. Figure 1 illustrates the shoreline hazard area, including the wave uprush measured based on the 100-year flood line with the wave uprush.

Figure 1:



(Illustration adapted from www.creditvalleyca.ca)

Housekeeping Update 2014

The purpose of the 2014 housekeeping update was to make some technical changes to both by-laws, and although other matters were addressed, the majority of changes were to introduce new provisions for the shoreline hazard area and increase the setback from the 100 year flood line to 15 metres and make this number consistent between both zoning by-laws. The amendments also introduced provisions for "minimum building opening elevations" which applies to doors and windows.

The housekeeping amendments were intended to reflect current standards for setbacks from the shoreline for buildings and structures, make the by-laws more usable and reduce minor variances associated with shoreline development.

Unfortunately, the amendments did not reduce minor variances and at the request of the GSCA, staff undertook a review of the provisions.

Current Shoreline Hazard Issues

In 2015, the Town processed three (3) minor variances applications related to shoreline hazard provisions. Two (2) of these included requests for relief from the minimum

building opening elevation now required in the zoning by-law. The two zoning by-laws have different required minimum building opening elevation numbers and it is not clear where the numbers came from originally; GSCA have commented that they do not recommend this provision.

Staff have also noted confusion around the zone categories that represent the shoreline hazards. The approach of the current provisions differs between the two by-laws. Both measure the shoreline hazard to include the wave uprush, which begins at the 100-year flood line (177.9m GSC elevation) plus 15 metres inland, as shown in Figure 1. In the Town of Collingwood Zoning By-law 83-40 this area is zoned using the Private Open Space (OS2) Zone, where the Town of Thornbury Zoning By-law 10-77, it is zoned Hazard (H).

Requests for a minor variance to a zone boundary, especial a Hazard (H) zone are problematic. Zone boundary adjustments are not meant to be part of the minor variance process, rather the zoning relief should be to provisions under the by-law. In some cases, the (OS2) or (H) zoned area is most or all of the property.

Figure 2 provides an example of the wave uprush area in one area of the Town's shoreline – note the extent of the impact to properties and their development potential.

Figure 2: Example of Wave Uprush Area



Current Proposed Draft Zoning Updates

When consulting with GSCA, it was recommended that the Town use an approach similar to that of Meaford's Zoning By-law. A previous staff report presented to the Planning & Building Committee December 7, 2009 "PL.09.129 Zoning By-law Review Project Update", prepared by the Senior Policy Planner at the time, also recommended using provisions similar to Meaford's Zoning By-law. The draft by-laws attached to this

report are based on the same provisions as are found in Meaford's Zoning By-law after some GSCA and internal staff consultation to further tailor the language.

Highlights of the proposed draft by-laws:

- Change the approach of the by-laws from mapping the wave uprush area as a "hazard zone" (H) or "private open space zone" (OS2) to a 15 metre "setback" from the 100 year flood line
- Clarify that properties with existing buildings or structures are allowed to additions to those buildings and structures provided the addition is no closer to the 100-year flood line
- Remove the sections of the by-laws dealing with building openings at certain elevations (such as basement windows, first floor doors etc.)

It is important to note that the wave uprush area is not proposed to change. Removing the requirement for minimum building openings elevation and clarifying that existing buildings may be expanded or rebuild so long as they are not increasing the flood risk, should reduce minor variance applications, but also make the by-law easier to use for staff and residents. In addition, changing the wave uprush area from a "zone" to a "setback" is more appropriate where zoning relief to permit development is still required and the GSCA is satisfied appropriate flood control measures will be taken.

Attached to this report is also a comparison chart of the current provisions and the proposed draft by-laws. After a review of the comments received from the public meeting, staff will provide a summary at a future Committee of the Whole meeting.

C. The Blue Mountains' Strategic Plan

The recommendation in this staff report supports the following Goals and Objectives:

Goal #3 - Support healthy lifestyles, Objectives #3. Manage Growth and Promote Smart Growth, and #4. Commit to Sustainability; and

Goal #4 - Promote a culture of organizational and operational excellence, Objective #5. Constantly Identify Opportunities to Improve Efficiencies and Effectiveness.

D. Environmental Impacts

None.

E. Financial Impact

None.

F. In Consultation With

Grey Sauble Conservation Authority and Internal Departmental Staff were instrumental in developing the draft by-law.

G. Attached

1. Comparison Chart – Shoreline Hazards Areas in the Zoning By-laws (current provisions with proposed changes)
2. Draft By-laws to amend the Township of Collingwood Zoning By-law 83-40 and Town of Thornbury Zoning By-law 10-77

Respectfully submitted,

Denise Whaley, Planner I

Michael Benner, Director of Planning
and Development Services

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Township of Collingwood By-law 83-40		
	Current Provisions	Proposed Provisions
Interpretation provisions	<p>Section 4: Zoning</p> <p>4.3 Zone Boundaries</p> <p>(iv) Notwithstanding Subsection (iii) above, the boundary of the Private Open Space (OS2) Zone abutting Georgian Bay furthest inland from the shoreline shall be equal to the 177.9 metres (GSC) elevation plus 15 metres. <i>(added by By-law 2014-70)</i></p>	<i>Delete</i>
Main Shoreline hazard provisions	<p>Section 5: General Provisions</p> <p>5.25</p> <p>On lots that abut Georgian Bay or a marine or shore road allowance that abuts Georgian Bay, the minimum elevation of any opening in the building shall be 179.2 m (GSC). <i>(added by by-law 2014-70)</i></p>	<p><i>Delete and Replace with:</i></p> <p>5.25 Special Setbacks from Georgian Bay (Shoreline Hazards Area)</p> <p>(a) Notwithstanding any other provision in this By-law, buildings and structures shall not be located within 15.0 metres of the 177.9 metre G.S.C. elevation adjacent to Georgian Bay, including:</p> <ul style="list-style-type: none"> (i) The habitable area of any main building or accessory building; (ii) A detached accessory building or structure with a non-habitable floor area, including a swimming pool, deck, gazebo, pergola, detached private garage. <p>(b) This provision does not apply to a boathouse, dock, boat lift, boat launching ramp, marine railway, waterline and heat pump loop.</p> <p>(c) This provision shall not prevent:</p> <ul style="list-style-type: none"> (i) The expansion of the habitable living area of a main building or accessory building that existed on [date of by-law], provided the additional habitable living area is not located closer to the water's edge than the main building or accessory building on

Comparison Chart – Shoreline Hazards Areas in the Zoning By-laws (March 2016)

		<p>the lot and provided the expansion complies with all of the other applicable provisions of this Bylaw;</p> <p>(ii) The expansion of a non-habitable accessory building or structure that existed on [date of by-law] provided the expansion is not located any closer to the water's edge than the existing structure and the expansion complies with all of the other applicable provisions of this Bylaw;</p> <p>(iii) The erection of a second storey over any building or structure that existed in any location on a lot on [date of by-law], provided the additional floor area complies with all other applicable provision in this By-law; or</p> <p>(iv) The replacement of a building or structure that existed on [date of by-law].”</p>
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Comparison Chart – Shoreline Hazards Areas in the Zoning By-laws (March 2016)

Town of Thornbury 10-77		
	Current Provisions	Proposed Provisions
Interpretation provisions	<p>Section 5: Interpretation</p> <p>5.4 Zone Boundaries</p> <p>(e) Where a boundary is indicated as approximately parallel to a street line or other feature indicated in Clauses (a), (b) or (c) of this Subsection, and the distance from such street line or other feature is not indicated, and Clause (d) above is not applicable, such boundary shall be construed as being parallel to such street line or other feature, and the distance therefrom shall be determined according to the scale shown on Schedule “A”. The inland boundary of the Hazard (H) Zone where it abuts Georgian Bay shall be the 177.9 m (CGD) elevation plus 15 metres. <i>(By-law 2014-71)</i></p>	<i>Delete</i>
Main Shoreline hazard provisions	<p>Section 6: General Provisions</p> <p>6.19a “Minimum Opening Elevation – Georgian Bay”</p> <p>On lots that abut Georgian Bay or a marine or shore road allowance that abuts Georgian Bay, the minimum elevation of any opening in the building shall be 179.83 m (GSC). <i>(By-law 2014-71)</i></p>	<p><i>Delete</i></p> <p><i>(*Note: 6.19 was inadvertently reused for by-law 2014-71 – add new section 6.20 below)</i></p>
		<p><i>New Section to be Added:</i></p> <p>Section 6: General Provisions</p> <p>6.20 Special Setbacks from Georgian Bay (Shoreline Hazards Area)</p>

Comparison Chart – Shoreline Hazards Areas in the Zoning By-laws (March 2016)

		<ul style="list-style-type: none"> (a) Notwithstanding any other provision in this By-law, buildings and structures shall not be located within 15.0 metres of the 177.9 metre G.S.C. elevation adjacent to Georgian Bay, including: <ul style="list-style-type: none"> (i) The habitable area of any main building or accessory building; (ii) A detached accessory building or structure with a non-habitable floor area, including a swimming pool, deck, gazebo, pergola, detached private garage. (b) This provision does not apply to a boathouse, dock, boat lift, boat launching ramp, marine railway, waterline and heat pump loop. (c) This provision shall not prevent: <ul style="list-style-type: none"> (i) The expansion of the habitable living area of a main building or accessory building that existed on [date of by-law], provided the additional habitable living area is not located closer to the water's edge than the main building or accessory building on the lot and provided the expansion complies with all of the other applicable provisions of this By-law; (ii) The expansion of a non-habitable accessory building or structure that existed on [date of by-law] provided the expansion is not located any closer to the water's edge than the existing structure and the expansion complies with all of the other applicable provisions of this By-law; (iii) The erection of a second storey over any building or structure that existed in any location on a lot on [date of by-
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Comparison Chart – Shoreline Hazards Areas in the Zoning By-laws (March 2016)

		<p>law], provided the additional floor area complies with all other applicable provision in this By-law; or</p> <p>(iv) The replacement of a building or structure that existed on [date of by-law].</p>
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The Corporation of the Town of The Blue Mountains

By-law No. 2016-____

Being a by-law to amend

By-law No. 83-40, as amended, respecting shoreline hazards setbacks

Whereas the Council of The Corporation of The Town of The Blue Mountains deems it in the public interest to pass a by-law to amend Zoning By-law No. 83-40;

And Whereas pursuant to the provisions of Section 34 of the Planning Act, R.S.O. 1990, c. P.13, the by-laws may be amended by a council of a municipality;

Now therefore, the Council of The Corporation of The Town of The Blue Mountains enacts as follows:

1. Section 4 of By-law 83-40 is hereby amended by deleting subsection 4.3 (iv) and renumbering the subsequent provision from (v) to (iv).
2. Section 5 of By-law 83-40 is hereby amended by deleting subsection 5.25 and replacing with the following:

“5.25 Special Setbacks from Georgian Bay (Shoreline Hazards Area)

- (a) Notwithstanding any other provision in this By-law, buildings and structures shall not be located within 15.0 metres of the 177.9 metre G.S.C. elevation adjacent to Georgian Bay. This provision applies to:
 - (i) The habitable area of any main building or accessory building;
 - (ii) A building or structure with a non-habitable floor area, including a swimming pool, deck, gazebo, pergola, or garage; or
 - (iii) A private sewage system.
- (b) This provision does not apply to a boathouse, dock, boat lift, boat launching ramp, marine railway, waterline and heat pump loop.
- (c) This provision shall not prevent:
 - (i) The expansion of a main building, accessory building or structure that lawfully existed on [date of by-law], provided the addition is not located closer to the water's edge than the main building or accessory building on the lot, and provided the expansion complies with all of the other applicable provisions of this Bylaw;
 - (ii) The erection of a second storey over any building or structure that lawfully existed in any location on a lot on [date of by-law], provided the addition complies with all other applicable provision in this By-law; or
 - (iii) The replacement of a building or structure that lawfully existed on [date of by-law].”

And further that this By-law shall come into force and take effect upon the enactment thereof.

Enacted and passed this _____ day of _____, 2016.

John McKean, Mayor

Corrina Giles, Clerk

I hereby certify that the foregoing is a true copy of By-law No. 2016-____ as enacted by the Council of the Corporation of the Town of The Blue Mountains on the _____ day of _____, 2016.

DATED at the Town of The Blue Mountains this _____ day of _____, 2016.

Signed: _____
Corrina Giles, Clerk

DRAFT

The Corporation of the Town of The Blue Mountains

By-law No. 2016-____

Being a by-law to amend
By-law No. 10-77, as amended, respecting shoreline hazard setbacks

Whereas the Council of The Corporation of The Town of The Blue Mountains deems it in the public interest to pass a by-law to amend Zoning By-law No. 10-77;

And Whereas pursuant to the provisions of Section 34 of the Planning Act, R.S.O. 1990, c. P.13, the by-laws may be amended by a council of a municipality;

Now therefore, the Council of The Corporation of The Town of The Blue Mountains enacts as follows:

1. Section 5 of Zoning By-law No. 10-77 is hereby amended by deleting the last sentence in subsection 5.4 (e).
2. Section 6 of Zoning By-law No. 10-77 is hereby amended by deleting Section 6.19a "Minimum Opening Elevation – Georgian Bay".
3. Section 6 of Zoning By-law No. 10-77 is hereby amended by adding the following new section 6.20:

"6.20 Special Setbacks from Georgian Bay (Shoreline Hazards Area)

- (a) Notwithstanding any other provision in this By-law, buildings and structures shall not be located within 15.0 metres of the 177.9 metre G.S.C. elevation adjacent to Georgian Bay. This provision applies to:
 - (i) The habitable area of any main building or accessory building;
 - (ii) A building or structure with a non-habitable floor area, including a swimming pool, deck, gazebo, pergola, or garage; or
 - (iii) A private sewage system.
- (b) This provision does not apply to a boathouse, dock, boat lift, boat launching ramp, marine railway, waterline and heat pump loop.
- (c) This provision shall not prevent:
 - (i) The expansion of a main building, accessory building or structure that lawfully existed on [date of by-law], provided the addition is not located closer to the water's edge than the main building or accessory building on the lot and provided the expansion complies with all of the other applicable provisions of this By-law;
 - (ii) The erection of a second storey over any building or structure that lawfully existed in any location on a lot on [date of by-law], provided the addition complies with all other applicable provision in this By-law; or
 - (iii) The replacement of a building or structure that lawfully existed on [date of by-law]."

And further that this By-law shall come into force and take effect upon the enactment thereof.

Enacted and passed this _____ day of _____, 2016.

John McKean, Mayor

Corrina Giles, Clerk

I hereby certify that the foregoing is a true copy of By-law No. 2016-____ as enacted by the Council of the Corporation of the Town of The Blue Mountains on the _____ day of _____, 2016.

DATED at the Town of The Blue Mountains this _____ day of _____, 2016.

Signed: _____
Corrina Giles, Clerk

DRAFT