



To: Chair and Members
Community and Planning Services Committee

From: Kassidee Fior
Manager of Planning

Lisa Marden
Director of Planning

Date: February 23, 2023

Subject: Adoption of Muskoka Official Plan Amendment 56 (Treetops
Condominium)

Report: CPS-2-2023-6

Recommendation

THAT a by-law **be prepared** to adopt Muskoka Official Plan Amendment 56 (Treetops Condominium) in accordance with Schedule “A”, attached hereto.

Origin

A request to consider the above noted Official Plan Amendment (OPA) was received on October 12, 2022. A background information report was provided to the District’s Community and Planning Services Committee (CPS-20-2022-4) on October 20, 2022. An electronic public meeting (CPS-1-2023) was held on January 19, 2023. Town of Huntsville comments were received on February 6, 2023.

Analysis

Location and Description

The lands subject to the proposed OPA are approximately 5.08 hectares (12.6 acres) in area and are located on the north side of Deerhurst Drive in the “Hidden Valley Recreational Lifestyle and Resort Special Policy Area” of the Muskoka Official Plan, in the Town of Huntsville. More specifically, the subject lands are legally described as Lots 31 and 32, Concession 1, Geographic Township of Chaffey, Parts 1 to 3 on Registered Plan 35R-22870, Town of Huntsville, District of Muskoka.

A location map is attached as Appendix “I”.

Site Characteristics and Surrounding Land Uses

The subject lands are located on a predominantly south facing hillside with large portions of the property containing steep slopes and rocky terrain. The northern boundary of the subject lands abuts the Hidden Valley Highlands Ski Resort property and Deerhurst Drive divides the lands from Deerhurst Resort, which is located directly to the south. Existing single detached residential dwellings are located directly to the east and the lands directly to the west remain predominately undeveloped.

Background

Phased Condominium Description File C2013-03 (Treetops Condominiums) received draft approval on August 26, 2013, for a total of 120 residential apartment-style condominium units contained within 13 three-storey buildings, to be constructed over six phases of development.

Phase 1, which included a single three-storey building containing a total of six residential units, was registered on February 13, 2014, as Muskoka Condominium Plan 76 (MCP 76).

In 2019, a minor amendment was approved that increased the overall number of phases from six to nine, in order to enable the applicant to obtain construction financing on a building-by-building basis.

Phases 2A and 2B, which each included a single, three-storey building containing nine residential units each (for a total of 18 residential units) were registered concurrently on January 22, 2020.

Two extensions of draft approval have also been authorized in 2019 and 2021. The draft approval is currently set to lapse on January 30, 2024. The Condominium Act, S.O. 1998, as amended, requires that the entirety of a phased condominium be registered no later than 10 years after the registration of the initial phase. In this case, the approval will lapse on February 13, 2024. As this is a requirement of the Condominium Act, District staff do not have the ability to extend the approval beyond this date as any further phases will be deemed unregistrable by the Land Registry Office.

A copy of the draft approved condominium description is attached as Appendix "II".

Proposed Official Plan Amendment 56 (OPA 56)

The applicant has advised that they will be unable to complete the construction and registration of the remaining phases within the 10-year timeframe required by the Condominium Act. In order for the applicant to complete their original development concept, the applicant has requested that the existing draft approval be amended to allow a second phased condominium to be registered, which would contain any remaining phases that are not completed by February 13, 2024. This second condominium corporation is proposed by the applicant to both be accessed through and

be serviced by Muskoka Condominium Corporation 76 through shared facility agreements. In accordance with the policies of the Muskoka Official Plan (MOP), the use of private communal services proposed to service residential development requires an amendment to the Plan.

The purpose and effect of the proposed OPA is to permit the proposed development of a second phased condominium corporation on private connections to municipal water and sewer services, where direct connections are unfeasible.

A copy of the proposed Official Plan Amendment is attached as Appendix "IV".

Supporting Documentation

The following plans and reports were submitted in support of the original application and remain applicable to the current proposal:

- [Environmental Evaluation Report prepared by Michalski Nielsen Associates Limited and dated June 2008;](#)
- [Site Servicing, Stormwater Management, Grading and Construction Mitigation Plans prepared by Pinestone Engineering Ltd., dated October 2010 and revised on October 15, 2019;](#)

The following additional documentation has been submitted in support of the current application:

- [Legal Framework Letter, Aird and Berlis, June 24, 2022](#)

The Legal Framework letter advises that the applicant will be unable to complete the registration of the entirety of Draft Approved Phased Condominium Description File C2013-03 (Treetops Condominiums) by February 13, 2024. It further provides a series of opinions on how the proposal conforms to the general intent of the Muskoka Official Plan and options for mitigating risk to the District of Muskoka (e.g. shared facilities agreements, easements etc.). The Official Plan Amendment was circulated to District's Legal Department for review and comment.

Circulation, Public Meeting and Consultation

Notice of Complete Application and Notice of Public Meeting were circulated to all required agencies and adjacent property owners in accordance with the Planning Act, R.S.O. 1990, as amended. A sign containing the Notice of Public Meeting was posted on the subject lands and the Notice was also posted to the District website.

The statutory public meeting was held electronically on January 19th by the District of Muskoka (CPS-1-2023). Two members of the public provided verbal submissions, with one submission being made in support of the proposal and one being made in opposition to the proposal. Two written submissions in opposition to the proposal were also received from one member of the public. The written and verbal objections to the application were focused on concerns related to stormwater from the existing

development in relation to perceived impacts on an adjacent privately owned property. It is our understanding that these matters were previously subject to private civil adjudication resulting in a settlement between the applicant and the adjacent property owner, to which the District was not a party. In addition, while preliminary stormwater management reports/plans were submitted with the original application, prior to final approval and registration of any future phases of development on the subject lands, detailed stormwater management reports/plans are required to be submitted to the satisfaction of the Town of Huntsville and District of Muskoka. All development on the subject lands will be required to be undertaken in accordance with these approved plans and is enforceable through the registered site plan(s) and/or condominium agreements with the Town of Huntsville.

Written comments were also received from Bell Canada, the Ministry of Transportation (MTO), and the Town of Huntsville. Bell Canada indicated that they have no objections to the proposal. MTO provided comments that due to the proximity of the development to Highway 60, a Traffic Impact Study may be required. These comments have since been clarified through further correspondence that no study is required as part of the OPA approval, and that MTO will review the need for a Traffic Impact Study as part of future application submissions.

The Town of Huntsville had no objection with regards to the proposed OPA as detailed in Town Staff report (DEV-2023-17) dated January 25, 2023 and related resolution PD10-23. District Engineering and Public Works and Legal staff provided comments which indicated no objection to the proposed OPA.

Planning Analysis

An analysis of Provincial, District, and Area Municipal land use planning policy has been conducted in review of the proposed OPA.

2020 Provincial Policy Statement (PPS)

The 2020 Provincial Policy Statement (PPS) applies to this proposal. The PPS indicates that settlement areas shall be the focus of growth and their vitality and regeneration shall be promoted. Land use patterns within settlement areas shall also be based on densities and a mix of land uses, including attainable housing units, which efficiently use land and resources and support active transportation.

The PPS further promotes development in settlement areas on full municipal water and sewer services and in close proximity to urban amenities. Full municipal water and sewer services are the preferred form of servicing in settlement areas to support protection of the environment and minimize potential risks to human health and safety.

Muskoka Official Plan

As a result of a comprehensive review of the Huntsville Official Plan, Official Plan Amendment (OPA) 48 re-designated subject lands from “Urban Centre” to the “Hidden Valley Recreational Lifestyle and Resort Special Policy Area” in the MOP. In

accordance with the consolidated MOP, the intent of this special policy area is to encourage economic development to attract tourists and seasonal residents to the District of Muskoka and Town of Huntsville through a concentration of tourist commercial, recreational, and resort-related residential uses.

The MOP requires that development within serviced areas proceed on the basis of full municipal water and sewer services. In this case, full municipal water and sanitary sewer services are currently available along Deerhurst Drive, and private internal connections owned and operated by MCC76 are currently servicing Phases 1, 2A and 2B of the development from this location. However, the applicant is proposing to provide water and sanitary sewer services by connecting to the existing private internal connections owned by MCC76. Based on the submitted proposal, these water and sewer service connections would service two separate individual condominium corporations, with no plans or ability for these services to become municipally owned and operated in the future. In accordance with the policies of the MOP, private communal services proposed to service residential development requires an amendment to the Plan.

In this case, development was planned to proceed immediately adjacent to Deerhurst Drive, with subsequent phases located to the rear (north) of the first phases. The possibility that the development may not be completed within the required ten-year timeframe was originally contemplated and addressed through provisions in the District Condominium Agreement that would see any remaining undeveloped lands either become common elements to the condominium or merge with an adjacent parcel under the same ownership to address the aforementioned concerns pertaining to access and servicing. However, there are identified terrain challenges including bedrock and steep slopes which largely preclude direct access or a direct connection to municipal services in order to allow for development of the remaining phases.

The applicant has provided a draft legal framework to allow the provision of water and sewer services to the proposed second condominium description through the first condominium description. This framework proposes the submission of a second condominium applications for those remaining blocks that cannot be completed within the 10 year time limit, accompanied by a shared facilities agreement and reciprocal easements between the existing phased condominium and the second condominium to address the sharing of the provision of and costs related to access, private internal roads and private servicing and amenity facilities.

As previously noted, existing water and sanitary sewer servicing for Phases 1, 2A and 2B of this development is via a private system connected to municipal water at the property line. OPA 56 would facilitate the development of the site as originally proposed, including a continuation of the private internal works and access already designed and approved for the entire site. It is proposed that matters such as the responsibility for upkeep, maintenance and repair would be addressed through the shared facilities agreement. In this instance, it would appear that concerns related to the long-term provision of municipal services and access to a year-round municipal road are largely addressed through the shared facilities agreement and reciprocal easements,

particularly as the internal provision of services (beyond the property) will largely function as currently approved. It is further understood that the applicant may seek to amalgamate the first condominium description with the proposed second condominium description in the future.

Furthermore, District staff are currently investigating options for potential revisions to several servicing policies in the MOP due to an increase in recent applications for site-specific amendments to these policies. In this regard, it is anticipated that a further staff report and recommendations will be provided to Committee in the near future.

Town of Huntsville Official Plan

The subject lands are contained within the Hidden Valley Recreational Lifestyle and Resort Area in the Huntsville Official Plan (HOP). This policy area identifies and describes the overall Hidden Valley area, which is composed of Resort Commercial, Recreational Resort Residential and Open Space land uses, and is related to the recreational, tourism and aesthetic opportunities associated with the area. In this instance, the lands are included within the Resort Commercial designation, which anticipates commercial uses and recreational resort residential uses. As the lands are already zoned for their intended use, and were intended to proceed as condominium development with common access along a private condominium road connecting to Deerhurst Drive, the proposed amendment would not adversely impact the character of the area. The design of development, including building heights, massing, density, and layout of the site would be unchanged.

Policies respecting servicing within the Hidden Valley Recreational Lifestyle and Resort Area contained within the HOP indicate that development within the Hidden Valley Recreational Lifestyle and Resort Area will generally proceed on the basis of full municipal water supply and sanitary sewer services. Where the services form part of a condominium corporation and where the requirements of the authorities having jurisdiction with respect to such services are met, communal services could be supported. The requirement for a shared servicing agreement included as part of this amendment, and the requirement for reserve funds for operation and maintenance would be appropriate to address potential concerns relating to coordinating construction, operation and long term maintenance of joint services in this instance.

Town of Huntsville Comprehensive Zoning By-law and Community Planning Permit System By-law

The subject lands were previously zoned Residential Four with exception "1837" (R4-1837) in the Town of Huntsville Comprehensive Zoning By-law (By-law 2008-66P, as amended). The exception provisions applicable to the lands were added to the lands in 2008 through approval of Zoning By-law Amendment Z/32/2008/HTE and permit the 120 unit multiple residential development to proceed on the lands in accordance with site specific setback and height provisions.

On January 31, 2023, the Town of Huntsville’s new Community Planning Permit System By-law came into force and effect. Under this new system, the subject lands are contained within a Resort Recreational Commercial (RRC) Precinct and include a previous R4-1837 Exception Zone under the CPP By-law. This implies that the previous site specific R4-1837 zoning provisions apply to these lands. These provisions are intended to permit the proposed development. Similar to the Zoning By-law, no conflicts with general or site-specific provisions of the CPP By-law are anticipated as result of the proposed OPA.

Financial Considerations

Funds for the proposed Muskoka Official Plan Amendment are available in the Draft 2023 Tax Supported Operating Budget and are expected to be sufficient to undertake the amendment process.

Climate Change Implications

The District assesses climate implications in all staff reports using the Clean Air Partnership’s [‘Municipal Climate Lens Tool’](#) to consider climate impacts or benefits associated with any project, program or initiative. The following is a summary of the results.

Municipal Climate Lens Tool	Results
Mitigation	Project does not result in GHG reduction, but more GHG intensive options exist
Temperature	There are no Temperature impacts associated with this report
Precipitation	Precipitation impacts has been considered and improved over base case

Climate Considerations Summary: The proposed development would not appear to result in GHG or temperature reduction, although more intensive options do exist. The precipitation impact has also been considered and may be improved over base case when the proposed stormwater management measures are implemented in accordance with the recommendations within the required preliminary and detailed stormwater management report/plans that are required as part of the condominium/development approval process. However, the proposed development will contribute to the low and medium density housing supply in the Town of Huntsville, and meets the objectives of the PPS and the MOP with regards to healthy communities and sustainable development. If the same development were proposed outside of an existing settlement area, the climate change impacts would be more intensive.

Communications

This report is available through the District of Muskoka website as part of the Community and Planning Services agenda package. The Notice of Decision will be circulated in accordance with the Planning Act.

Strategic Priorities

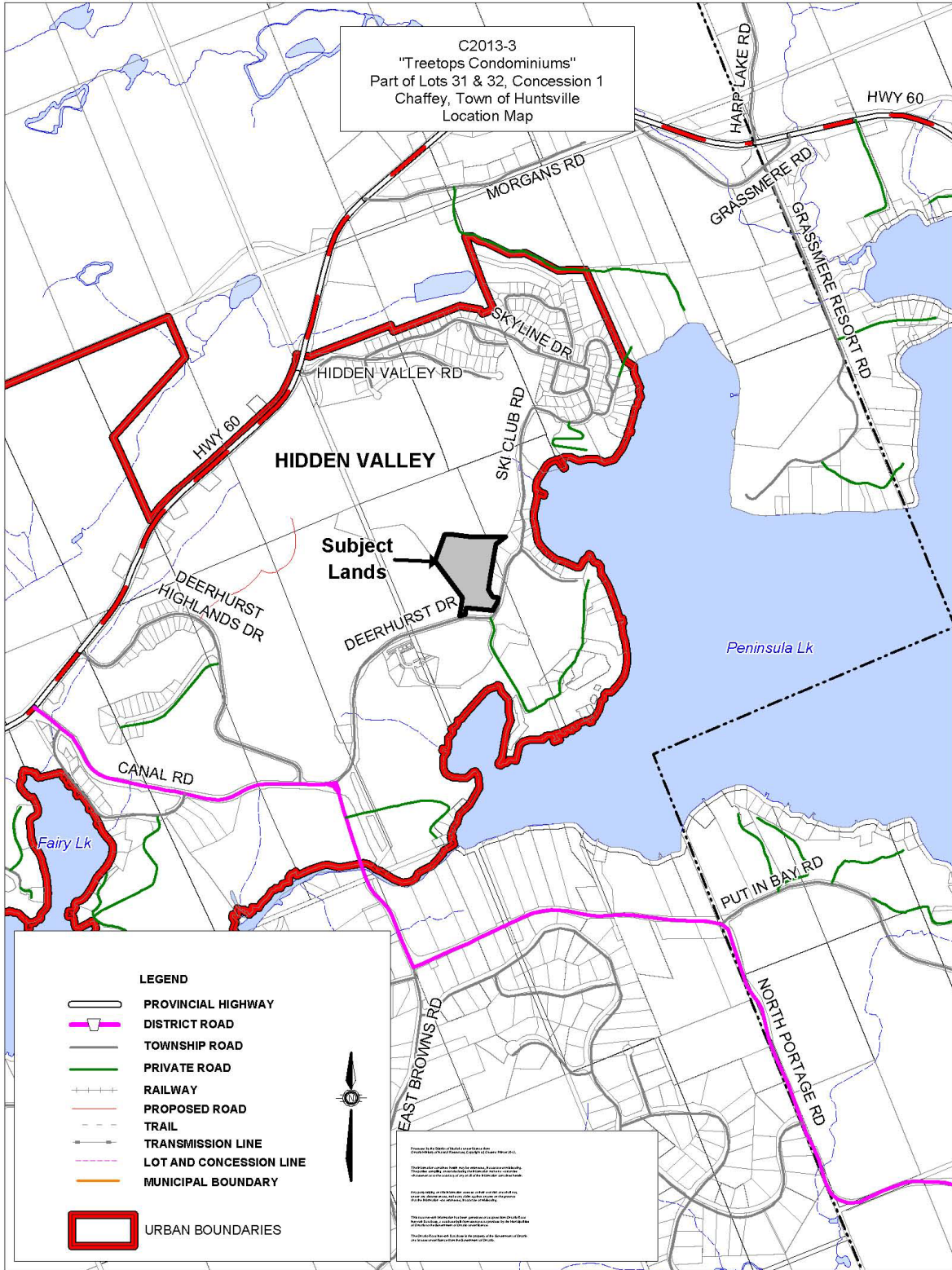
This report supports the following [District of Muskoka Strategic Priorities](#):

Natural Environment s1.4, 1.5;
Governance s2.5; and
Community s5.1.

Respectfully submitted,

Kassidee Fior, AICP, Manager of Planning;
Lisa Marden, MCIP, RPP, Director of Planning; and
Arfona Zwiers, B.SW., M. Ed. Commissioner of Community and Planning Services

Appendix "I" Location Map



**Appendix “III”
Proposed Official Plan Amendment**

SECTION 5. THE AMENDMENT

5.1 Section D15.6.1 of the Muskoka Official Plan is hereby amended by the addition of the following sub-section after Section D15.6.1.1.a):

“D15.6.1.1.b) SITE SPECIFIC POLICIES

Notwithstanding Section 15.6.1 of this Plan, on lands shown as Schedule “A”, Map 1 to Amendment 56, known as Treetops Phased Condominium, legally described as Lots 31 & 32, Concession 1, Geographic Township of Chaffey, Town of Huntsville, District of Muskoka, private communal water and sewage services may be permitted;

- i) To service the development of a second Phased Condominium Description encompassing the remaining phases of the Treetops Phased Condominium Development File C2013-3;
- ii) Where authorized and enforceable agreement(s) are registered against the title of the subject lands which require the property owner(s) to be responsible for the repair, maintenance, replacement and/or upgrade of the private communal infrastructure internal to the subject lands, including the establishment of a reserve fund, as required;
- iii) Where best efforts will be made to consolidate the two phased condominium corporations upon final approval and registration of the last phase of development; and,
- iv) Where the development is in accordance with all other policies of this Plan.”