

**MEMORANDUM**

**To:** Ms. Lindsay MacFarlane  
**From:** Chris Jones MCIP, RPP  
**Date:** May 7, 2021  
**Re:** Lighthouse Point Restrictive Covenants

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Further to our discussions, I understand that restrictive covenants were put in place for individual building lots in the Lighthouse Point plan of subdivision and the Town is concerned that these covenants have either been inconsistently applied between the Phase 1 and Phase 2 approvals or will not be effectively enforced now that the original developer has sold the majority of the lots.

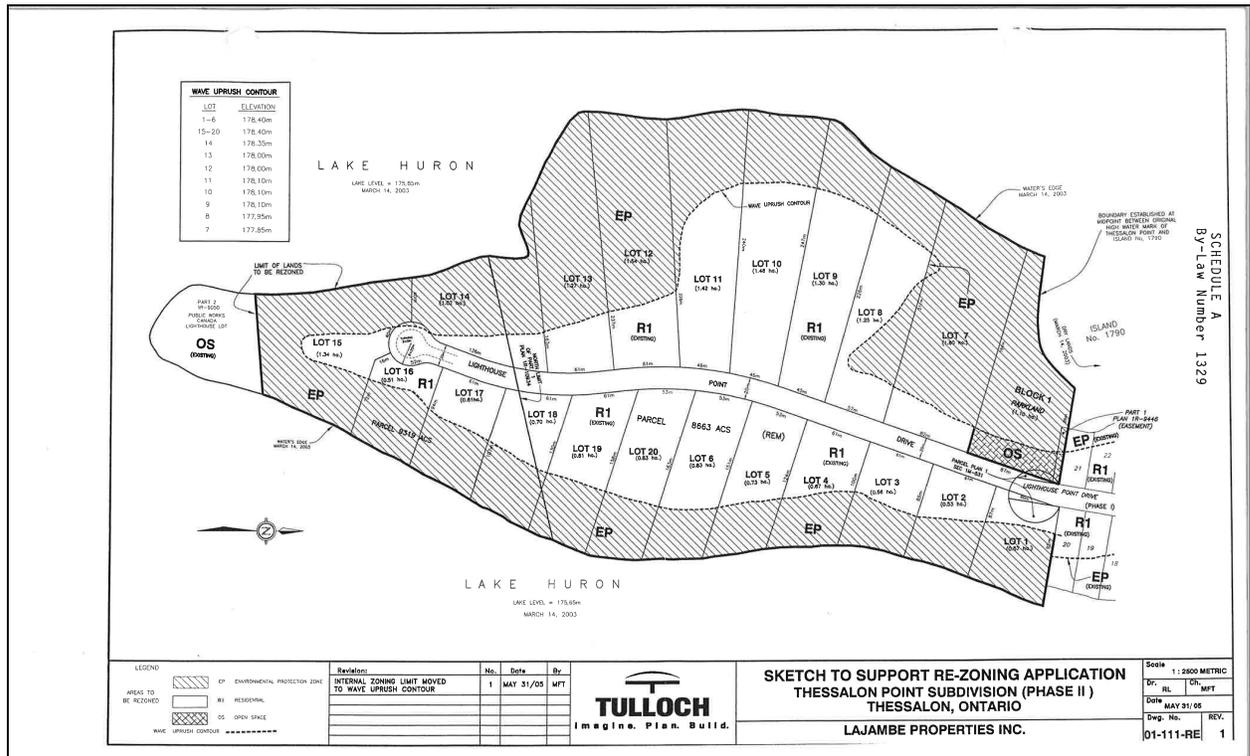
In my experience the use of restrictive covenants has traditionally focused on matters beyond the scope of municipal regulation and/or they are intended to function as a set of neighbourhood specific rules that are ultimately enforced by the neighbourhood.

A municipality's authority to regulate the use of land through zoning is vested in Section 34 of the Planning Act. The principle things that a zoning by-law may regulate includes:

- Prohibitions on land use and construction of buildings, except for such uses set out in the By-law;
- Prohibiting the construction of building on unsuitable lands;
- Regulating the height, bulk, location, size, floor area, spacing, character and use of buildings;
- Regulating opening elevations for door and windows;
- Regulating the provision of loading and parking spaces; and,
- Regulating lot area and density.

You have forwarded to me a number of zoning by-law amendments that have applied to Lighthouse Point. I understand the most recent amendment was By-law 1329 for Phase 2 of the development, the Schedule to which is provided in Figure 1. By-law 1329 appears to be reflected in the Town's Comprehensive Zoning By-law 1490.

Figure 1 – Schedule to By-law 1329



The above schedule appears to have been consolidated in the Town's Comprehensive Zoning By-law together with the prior zoning amendment for the Phase 1 lands. On this basis the Town's Comprehensive Zoning By-law primarily zones the lands as Residential First Density (R1) and Environmental Protection (EP). Given that the R1 Zone is the zone that enables land use permissions, the following are the primary regulations for the R1 Zone:

**Permitted uses** include a single detached dwelling, group home (subject to other regulations), public uses and parks, day nursery and existing institutional uses.

**The R1 Zone regulations** include:

- Minimum Lot Area: 500 m<sup>2</sup>
- Minimum Lot Frontage: 15 m
- Minimum Lot Depth: 26 m
- Minimum Front Yard: 6 m

- Minimum Rear Yard: 8 m
- Minimum Interior Side Yard: 1.5 m
- Minimum Exterior Side Yard: 3 m
- Maximum Height: 10 m
- Maximum Lot Coverage: 50%
- Maximum Number of Dwellings: 1

I have reviewed the 12 restrictive covenants applicable to Phase 1, which are similar to the Phase 2 restrictive covenants and they are paraphrased below:

1. 1 detached dwelling (with attached garage) and a maximum of one accessory building;
2. A single storey dwelling shall have a floor area of at least 1,250 ft<sup>2</sup>;
3. A two-storey dwelling shall have a floor area of at least 1,800 ft<sup>2</sup>;
4. Accessory buildings shall have a finished exterior that matches the dwelling;
5. No satellite dish in excess of 3 ft in diameter and radio transmission towers shall be prohibited;
6. No clothes line visible from the street;
7. No commercial truck or vehicle in excess to 5,000 pounds shall be permitted on any lot;
8. No storage of construction equipment;
9. No dwelling may be occupied until the exterior is complete;
10. No storage of building materials on a vacant lot unless construction is in progress;
11. No travel trailer or mobile homes;
12. No firewood shall be stored on the lake-side of the yard.

In reviewing these restrictive covenants it is my opinion that items 1, 2, 3, 5, 7, 8, 10 and 11 potentially could be regulated through zoning.

Should PAC and Council wish to initiate a process to zone the Lighthouse Point lots to regulate these matters through zoning it will require (in accordance with the Planning Act) the scheduling of a public meeting, notification to each landowner and preparation of an amending by-law. It is noted that if Council initiates an amendment

process it may also provide an opportunity to address other awkward or dogmatic zoning issues related to these lands brought forward by the Town or the individual landowners.

If you have any questions with respect to this memo or would like to discuss this matter on more detail do not hesitate to call.

A handwritten signature in black ink, appearing to be 'CJ', enclosed within a hand-drawn oval.

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Chris Jones MCIP, RPP