AGENDA

for the

SPECIAL MEETING OF COUNCIL

July 5, 2022
9:00 a.m.
Council Chambers
2 West Carling Bay Road, Nobel, Ontario

Those wishing to observer can do so either in person or via the virtual link below

https://meet.goto.com/carlingtwp/morlock

1. CALL TO ORDER

(1) ADOPTION OF AGENDA

2. DISCLOSURE OF PECUNIARY INTEREST

3. ZONING BY-LAW AMENDMENT - Z/2021/08 (GERTNER)

Pages: 3-28

The Agenda and Minutes from the January 25, 2022 Public Meeting can be found on the Agenda and Meetings page of our website HERE.

C545-2022
Moved by
Seconded by

BEING A BY-LAW to amend By-law No. C500-2011, 1 Island 360C (PIN No. 52095-0367)

4. CONFIRMING BY-LAW

Page: 29

2022-
Moved by
Seconded by

BEING A BY-LAW to confirm the proceedings of the Special Meeting of Council held on July 5, 2022.

5. ADJOURNMENT

Resolution 22-
Moved by
Seconded by

NOW THEREFORE BE IT RESOLVED that the Special Meeting of Council be adjourned at _____.

THE CORPORATION OF THE TOWNSHIP OF CARLING
BY-LAW NO. C545-2022

Being a By-law to amend By-law No. C500-2011, 1 Island 360C
(PIN No. 52095-0367)

WHEREAS Section 34 of The *Planning Act* authorizes municipalities to enact zoning by-laws;

AND WHEREAS the owners of 1 Island 360C are proposing to replace an existing seasonal dwelling (classified as legal non-complying due to a reduced front yard setback of 9.0 metres) with a new seasonal dwelling;

AND WHEREAS the proposed seasonal dwelling would be located on an entirely new footprint and with a further reduced front yard setback of 4.6 metres;

AND WHEREAS the owner has filed an application for a Zoning By-law Amendment to seek site-specific approval for the construction of the new seasonal dwelling on an entirely new footprint and with the reduced front yard setback of 4.6 metres.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF CARLING ENACTS AS A BY-LAW OF THE CORPORATION AS FOLLOWS:

1. Schedule 1 of Zoning By-law C500-2011 as amended is hereby further amended by rezoning 1 Island 360C (Morlock Island) being PIN No. 52095-0367, from the Waterfront Residential 2 (WF2) Zone to the Waterfront Residential 2 Exception 34 (WF2-34) Zone, as shown on a copy of part of Schedule 1, attached hereto as Schedule “1”.

2. By-law No. C500-2011 is hereby amended by adding the following subsection to section 9.04:

   “9.04.2.34 Waterfront Residential 2 Exception 34 (WF2-34)

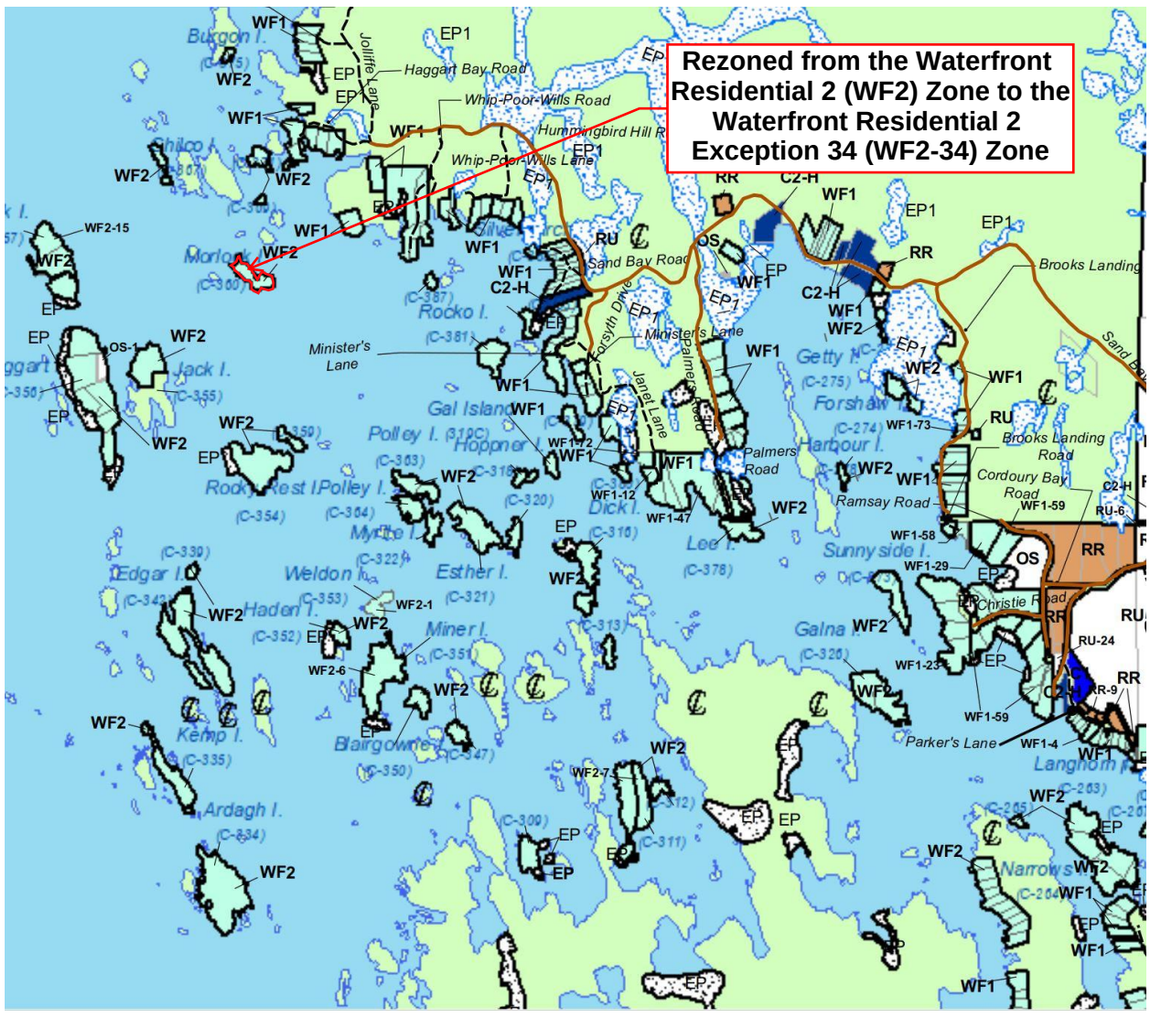
   A seasonal dwelling is permitted on 1 Island 360C (Morlock Island) subject to a minimum front yard of 4.6 metres. All other WF2 zone provisions and general provisions contained in the Township’s Comprehensive Zoning By-law will apply.”

3. This By-law shall come into force upon passage by Council, subject to the provisions of Section 34 of the Planning Act, R.S.O. 1990, as amended.

READ and FINALLY PASSED in OPEN COUNCIL this 5th day of July, 2022.

_____ _____

Mike Konoval, Mayor Kevin McLlwain, CAO/Clerk



THIS IS SCHEDULE “1” TO BY-LAW NO. C545-2022

PASSED THIS 5h DAY OF JULY, 2022

MIKE KONOVOL, MAYOR

KEVIN MCLLWAIN, CAO/CLERK

John Jackson Planner, Inc.
1 Mall Drive Unit #2, Parry Sound, Ontario P2A 3A9
Tel: (705) 746-5667 E-Mail: JJPlan@Vianet.ca

PLANNING REPORT

PROPOSED REZONING

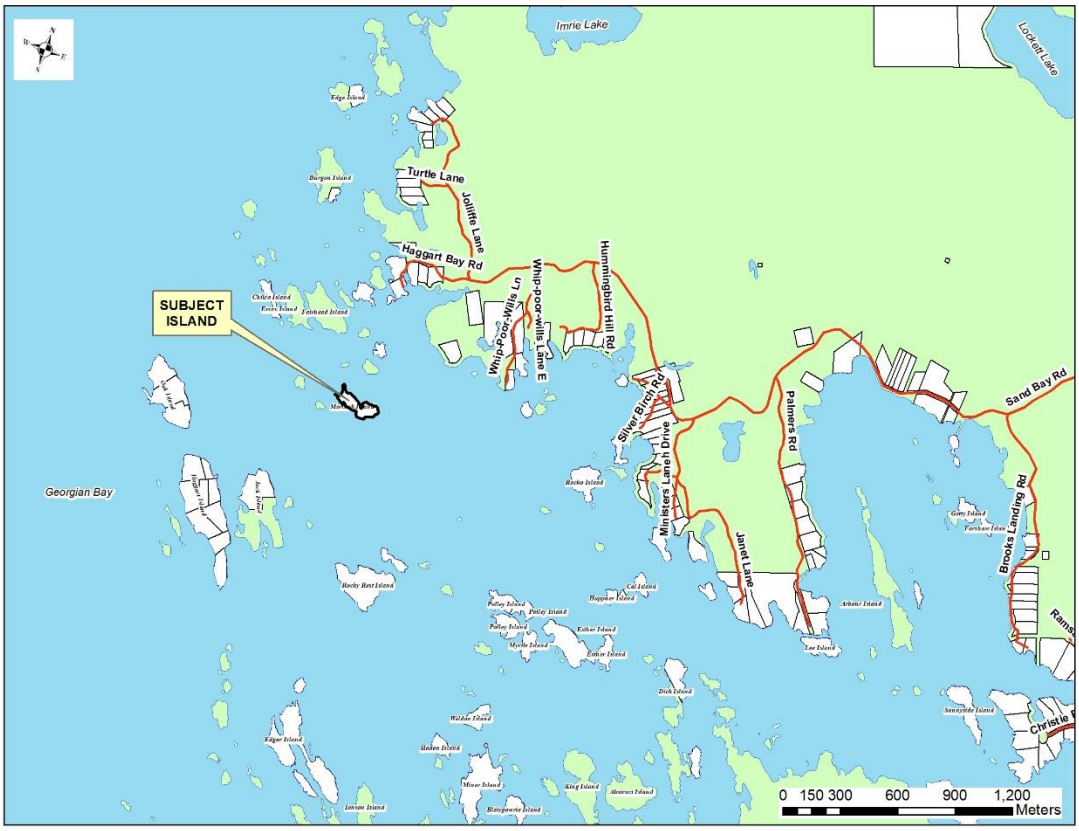
MORLOCK ISLAND NO C360

TOWNSHIP OF CARLING

JUNE 21, 2022

BACKGROUND/PURPOSE

The Chief Administrative Officer of the Township of Carling has requested an outside professional planning opinion on a controversial rezoning application for a privately owned island located on the main channel in the northwest sector of the Township. Morlock Island is an elongated island that is 1.25 hectares (3.12 acres) and has been the site of a small dwelling (±400 square feet) that was constructed in the 1960's.



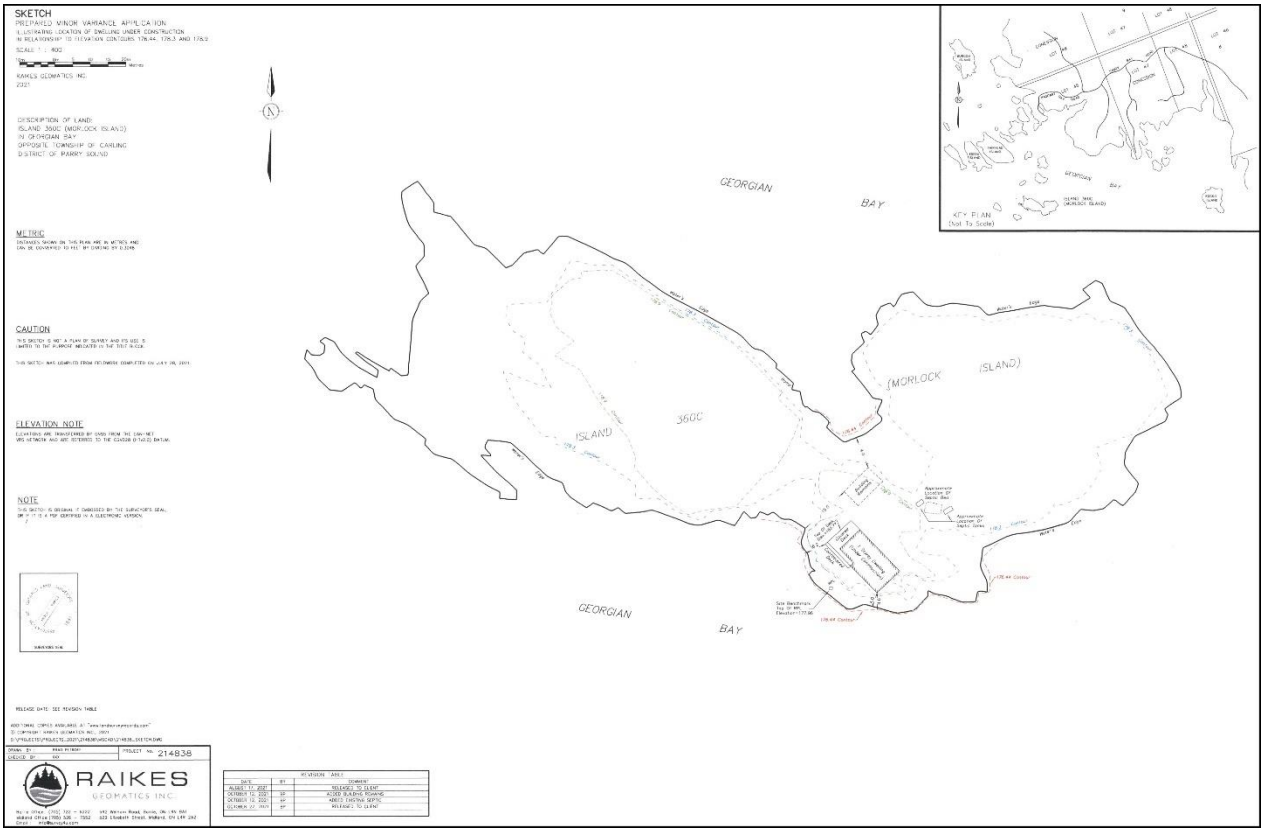
The current owner of Morlock Island has built a new sleeping cabin on the island (2020) together with a number of 'A' frame type structures. The 'A' frame structures are allegedly below 10 m² that are below the threshold for requiring a building permit. The sleeping cabin was constructed by a building permit in 2019.

In the more recent period (2021-2022), the owner has removed the former cottage and built a new single storey frame cottage without the benefit of a building permit.

The replacement cottage has not been permitted and, more importantly, does not meet the performance standards of the Township of Carling Zoning By-Law. The required front yard is deficient.

A Stop Work Order has been issued.

Although the replacement cottage has not been authorized, its construction is well advanced to a point when its final design is well defined.



Despite the Stop Work Order, the structure has been enclosed to protect building materials from the elements. This was an arrangement negotiated between the owner and the building department of the Municipality.

PROCESS

The procedure for allowing a structure to be granted relief from the provisions of the zoning By-Law, is by minor variance or zoning by-law amendment.

In this instance, no relief was sought and, therefore, the existing structure is unlawful.

The appropriate requirement is to have the owner remove the offending structure. However, the courts have ruled on similar occasions, that a land owner should be granted an opportunity to determine whether a planning application may be successful to allow for the needed relief.

The owner has applied for a site specific zoning By-Law for the island to permit the main dwelling to be located within the required front yard and maintaining a 4 metre setback from the specified front lot line on the island.

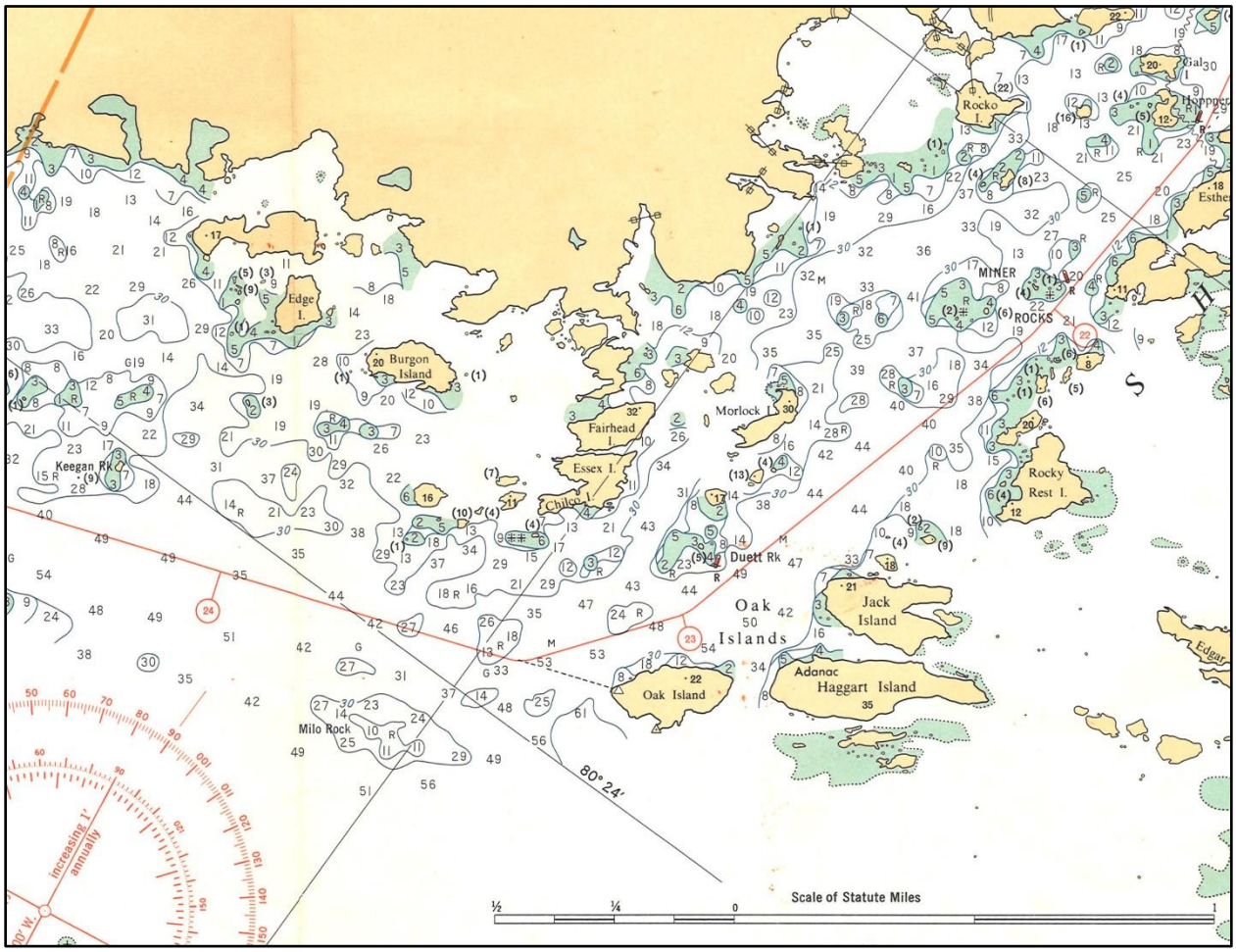
The statutory public meeting for this proposed rezoning was held on January 25, 2022.

The process of assessing the application must assume that the building of the dwelling has not occurred and that the proposal is to be reviewed as a vacant property or a greenfield. This is somewhat complicated by the previous structures and other existing structures on the property.

This planning report is being prepared as if the property has not been developed with the unpermitted replacement cottage.

PROPERTY DESCRITION

Morlock Island, No. C360 is an average-sized island in the northwest sector of the Georgian Bay coastline of Carling Township. It is located on the main navigation channel through Carling.



The island features are typical of other islands in the vicinity with a rocky foreshore and vegetation in the form of mixed scrub oaks and maples with an abundance of low lying bushes.

The terrain is uneven with a high point of the island rising as much as 10 metres off the Georgian Bay water level.

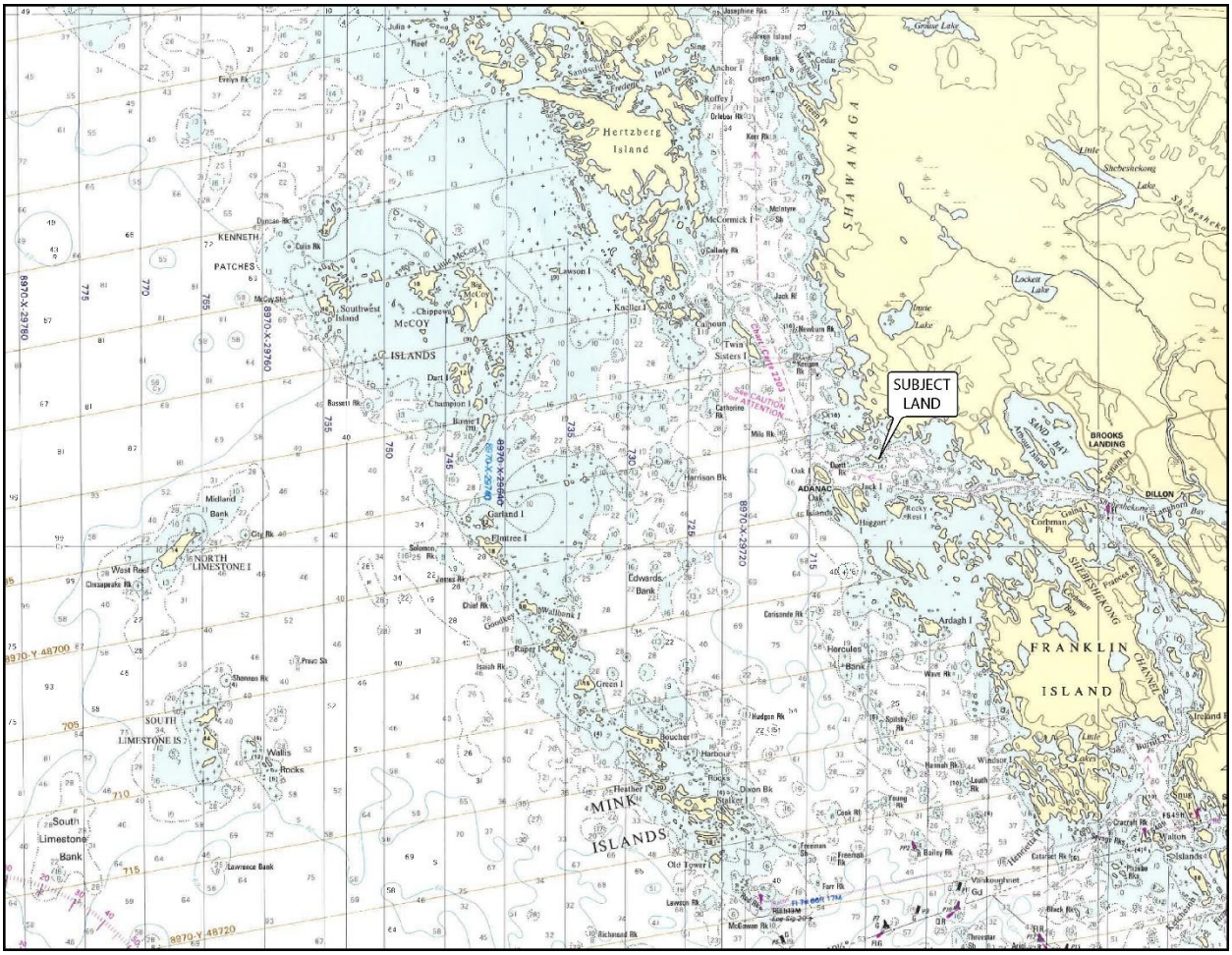
The air photography illustrates the general conditions of Morlock Island.

The 2016 air photo illustrates the irregular shape of the island with a protected harbour on the north side.

The near shore area is typical of islands in the area with a barren rock near-shore and a dense mixed forest in the central part of the island.

There are a number of shallow, rocky shelves along the shore.

Morlock Island is located on the main north channel entering Carling from the north. It is a prominent and heavily travelled route throughout the navigation season.



The principal access for this area of Carling is the community of Dillon. There is a small, but vital marina facility at Dillon approximately five kilometres to the east.

Morlock Island is in a part of the island community that has a rich history. Adenac (Haggart Island) as an example, was once a resort destination where steamships would stop for early vacations in the area.

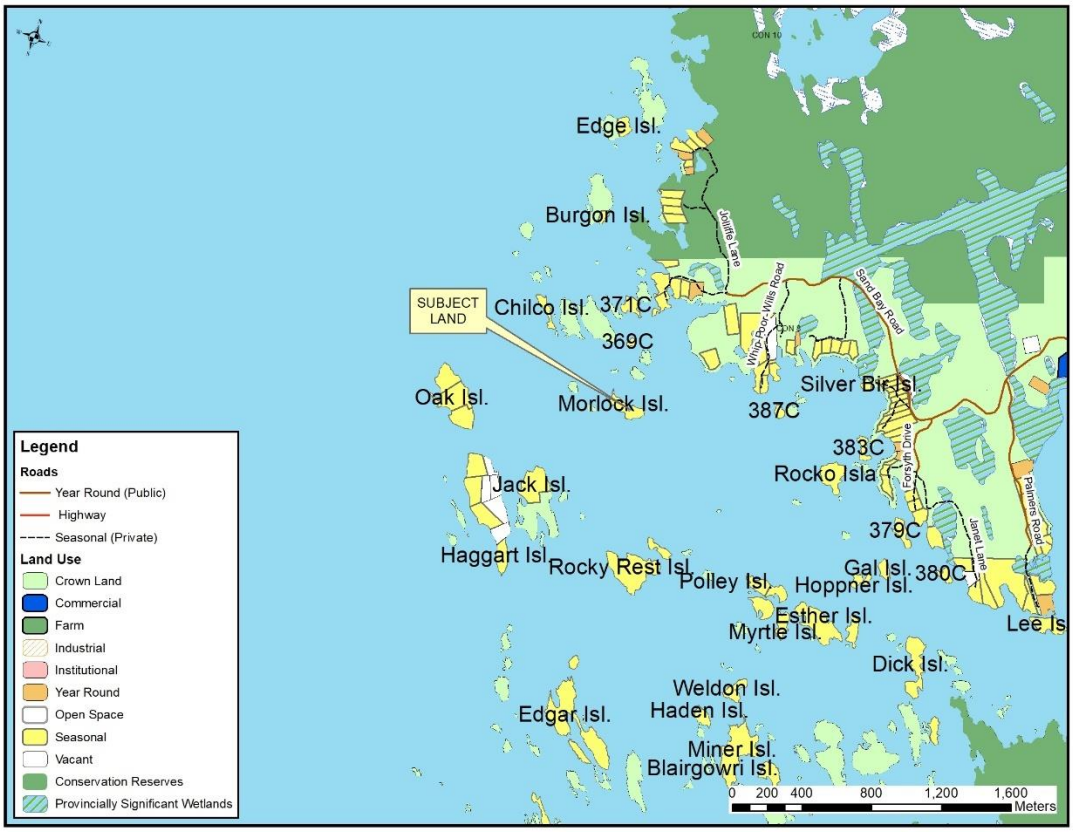
Many of the island owners are multi-generational and have had their islands in the family for many decades.

Morlock Island was originally surveyed in 1910 but was never purchased from the Crown until 1952.The current owner acquired the island in 2018. These transfer documents are attached.

OFFICIAL PLAN

Morlock Island is subject to the official plan for the Township of Carling. This official plan has been in effect since 2010. The plan is currently being updated and although it is

expected to be a major update, the general and specific policies applicable to the shoreline and island properties along the Georgian Bay.



Like all islands, Morlock is designated in the Waterfront land use category. Dwellings are permitted in the Waterfront policy area.

Purpose of the Official Plan

2.03 The purpose of this Official Plan is to establish goals, objectives and land use policies to primarily manage and direct physical change and the effects on the social, economic and natural environments of the Township of Carling.

This report will respond to this fundamental purpose of the plan.

Vision of the Official Plan

There are a number of relevant basic statements set out in the vision of the plan.

6.01 The Township of Carling is situated amidst the eastern shore of Georgian Bay, a world renowned place recognized as an irreplaceable semi-wilderness destination designed as the "Georgian Bay Biosphere Reserve" by UNESCO. This combination of geographic, ecological, biological and aesthetic characteristics are not found anywhere else in the world. It is only because of this unique combination that the shoreline of Georgian Bay is a world renowned

destination. The policies of this document are to be interpreted in a manner that recognizes this reality and among a complex competition of multiple resource uses, the highest need is to protect and promote this area as a recreational and eco-tourism resource for this is its best and highest land use. A large majority of property owners in the Township support the principle of preserving, enhancing and promoting sound development in harmony with the natural environment resulting in sustainable development along the waterfront.

6.15 The preservation of the low density character and the ability of the land and adjacent waterbodies to accept new development should be the key factors for determining the location and density of development. The nature of the geography including the terrain, topography and vegetation dictate the need for policy measures that reflect the capability of the land to accommodate additional development and what mitigative measures are necessary to protect the natural environment. As part of the background for the preparation of official plan policy, the Council of the Township of Carling has consulted with qualified environmentalists to assist in the construction of appropriate policies. One of the key components for any land use strategy for Carling Township will be the management and preservation of the natural environment which is central to the goal and objectives of the plan.

The general vision of the future of policy for Carling along the Georgian Bay is to preserve the natural landscape as far as possible.

Philosophy of the Plan

There are key policies that set out the general philosophy of the plan to preserve the character of Carling;

7.01.2 Carling Township is a rural-recreational municipality with a significant proportion of its development located along the shores of Georgian Bay. The shore of Georgian Bay is an internationally renowned area for recreation in its many forms including cottaging, boating, camping and tourism.

7.01.4 The high quality natural environment including pristine waters, rugged shoreline and picturesque scenery continues to generate a strong appeal for Carling Township. It is within this context that the goals, objectives and policies have been prepared to maintain Carling's appeal to residents as well as visitors to the area.

Much of the land base along the coast of Georgian Bay is Crown land and in the 1990's, a Crown land use strategy developed a special recognition for Georgian Bay referred to a the Great Lakes Heritage Coast. Carling, through supporting policies, endorses this theme.

7.02.4 The Great Lakes Heritage Coast will be managed to protect its outstanding beauty and to ensure only compatible development. The Plan opposes any development on the Great Lake Coast that conflicts with the land use intent.

7.04.7 In Carling Township, the predominant principle in its vision or philosophy will be to avoid or eliminate "over development" in all areas. "Over development" is interpreted to be the introduction of artificial structures or activities to an extent

that is significant enough to alter the character of an area or neighbourhood in the municipality or would cause significant damage to the environment, particularly the shoreline. Preserving the water quality of the municipality's recreational waterbodies is the single highest priority for Carling Township when considering waterfront development.

Goal of the Official Plan

8.01 The goal of the Official Plan for the Township of Carling is to preserve the high quality of the natural and physical environments that generate a high level of appeal for residents and visitors to the Township. Preserving the water quality of the municipality's recreational waterbodies is the single highest priority for Carling Township when considering waterfront development.

The Goal of the official plan is all about preserving quality. Quality is not defined by any particular criteria, but is a culture of appeal that all enjoy.

Objectives of the Plan

There are a number of objectives that apply to achieve Carlings official plan goal.

9.01 To maintain, protect and enhance the natural environment within the Township by requiring development or redevelopment to adhere to the principles of sustainable development. Sustainability is defined to ensure that there are minimal or no adverse impacts on the natural resources of the municipality and that the management of environmental resources is considered for future as well as existing inhabitants of the Township. Preserving the water quality of the municipality's recreational waterbodies is the single highest priority for Carling Township when considering waterfront development. When considering impacts on the natural resources, such impacts will be viewed from a cumulative perspective as more than one "minimal" such impact may become adverse.

9.03 Promoting additional growth in limited amounts and at low densities (outside of identified communities) that is justifiable at levels that are sustainable and responsible in appropriate locations to meet the demand within the municipality.

9.04 To promote the health, safety, convenience and welfare of the residents of Carling by preserving the features of the character of the municipality that secures its attractiveness as an area of quiet enjoyment and stability of communities.

9.07 Ensuring the compatibility of land uses by protecting the quiet enjoyment of residential properties.

Natural Heritage Policies

14.02.1 Where development or site alteration is proposed within the Township, Council will generally require a site evaluation report or assessment by a qualified environmental consultant. The site evaluation may include but not be limited to:

(a) identification and analysis of the significant natural features which

exist or potentially exist on or adjacent to the property; these features would include significant habitat of endangered or threatened species, wetlands, fish and wildlife habitat or any other environmental feature on site and within the regional context;

(b) identification and analysis of any environmental feature identified on or adjacent to the site for which the area has been identified;

(c) identification of any impacts that the proposed development may have on the natural heritage features;

(d) identification of any mitigation measures that may be implemented to limit or avoid any adverse impacts on the environmental features;

(e) the appropriateness and adequacy of any enforcement or implementation measures to ensure environmental protection;

(f) an analysis of the appropriateness of the site to accommodate the proposed development.

14.03.2 The Township of Carling supports the protection of endangered and threatened species. Council recognizes the importance and value of the endangered and threatened species.

14.03.5 There are many significant habitats of endangered and threatened species of concern that have not been identified in the Township of Carling. Before granting any new development approvals, Council will generally require a site evaluation or environmental assessment as outlined in Section 14.02.

The primary natural heritage feature to be considered for lands adjacent to Georgian Bay relate to threatened and endangered species and particularly impacts on their habitat.

Waterfront Policies

The applicable Waterfront policies include the following.

21.0 WATERFRONT DEVELOPMENT

21.01 Definition

21.01.1 All of the lands adjacent to the recreational waterways of the municipality are available for waterfront development, with the exception of those lands that are designated as EP and other lands determined to be inappropriate for development based on other polices of the Official Plan. Generally these lands are designated as Waterfront and are illustrated on Schedule 'A', Land Use Plan.

21.02 Form of Development

21.02.1 The general form of development includes:

(a) low density, single detached residential development;

The principles of waterfront development are set out as follows.

21.03 Principles of Waterfront Development

21.03.1 The principles to preserve the existing character of open space, low residential land uses along the waterfront with a sprinkling of tourist commercial uses include the following:

(a) assessing any potential environmental impacts and protecting against any negative impacts on any ecological functions;

(d) minimizing the obtrusiveness of built form by controlling building location, height, coverage and natural vegetation protection measures;

(f) assessing the impact of development on the character of a shoreline in a particular area or neighbourhood in the Township;

A significant principle when considering shoreline development relates to visual impacts.

21.03.2 It is the policy of the Township of Carling that the natural landscape should dominate the character of the waterfront. Regulations on built form shall be devised to ensure this dominance and restrictions will be put in place to protect tree cover and other natural vegetation along the shoreline. In particular, the removal of excessive numbers of trees and the planting of lawns within 20 metres of the shoreline will be discouraged.

There are a number of relevant principles when modifying shoreline structures.

21.06.1 Principles

21.06.1.2 In order to preserve the natural character of the shoreline, the following principles should be applied:

(a) preserve as much of the natural landscape as possible;

(b) maintain natural vegetation buffers of an effective depth along the shoreline;

(c) impose strong, but reasonable, building restrictions near and adjacent to the shoreline;

(d) apply aesthetic controls to ensure there is minimum visual impact on the natural shoreline conditions and aesthetic qualities of the waterfront;

(h) promote revegetation of disturbed areas along the shoreline.

Georgian Bay Policies

There are a number of policies that recognize the importance of Georgian Bay.

22.01 General

22.02.6 The Township will ensure that the natural beauty, wild landscapes, sensitive ecosystems and important heritage and cultural resources along the Georgian Bay will be protected, preserved and enhanced wherever possible.

22.02.15 Aesthetic qualities and scenic features will be preserved.

PROVINCIAL POLICY STATEMENTS

The property is subject to the 2020 provincial policy statements.

Morlock Island is considered Rural in the P.P.S. and subject to section

1.1.5 Rural Lands in Municipalities

1.1.5.2 On rural lands located in municipalities, permitted uses are:

a) the management or use of resources;

b) resource-based recreational uses (including recreational dwellings);

1.1.5.3 Recreational, tourism and other economic opportunities should be promoted.

1.1.5.4 Development that is compatible with the rural landscape and can be sustained by rural service levels should be promoted.

Morlock Island is also subject to the natural heritage policies set out in section 2.1 of the P.P.S.

2.1 Natural Heritage

2.1.1 Natural features and areas shall be protected for the long term.

2.1.7 Development and site alteration shall not be permitted in habitat of endangered species and threatened species, except in accordance with provincial and federal requirements.

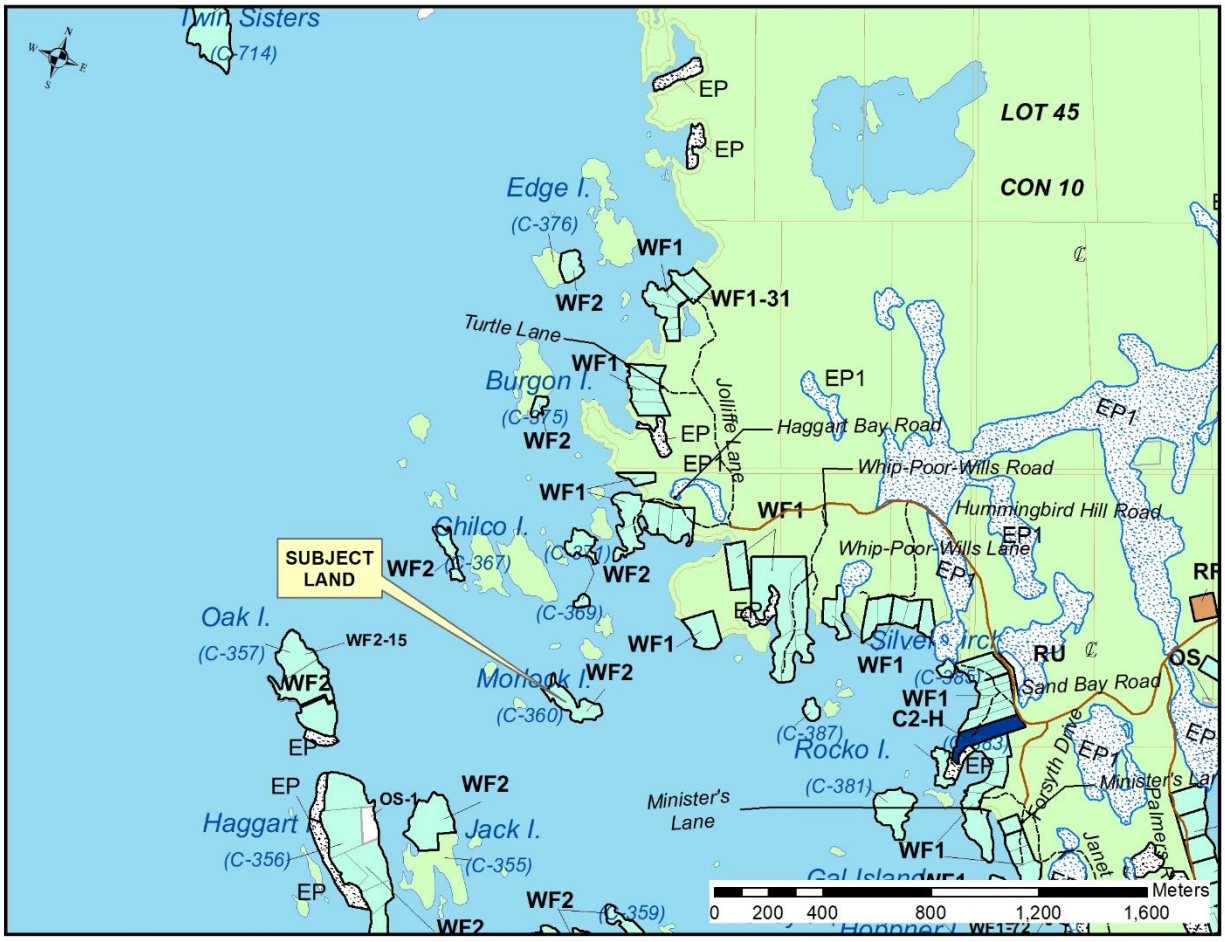
GROWTH PLAN FOR NORTHERN ONTARIO

Carling Township is subject to the Growth Plan for Northern Ontario.

This provincial plan is intended to support growth and development in Ontario's north, subject to complying with sound environmental protection practises.

ZONING BY-LAW

The island is zoned Waterfront Residential 2 (WR2) in Zoning By-Law No. C500-2011.



The relevant performance standards for the WF2 Zone include:

Minimum Front Yard	20 m measured from 176.44 G.S.C
Maximum Building Height	9 m
Maximum G.F.A (Main Dwelling)	93m² + 2%
Maximum Floor Area (Accessory Building)	93 m² + 1%
Max Sleeping Cabin (Accessory Building)	56 m²

NON COMPLYING BUILDINGS

There is a provision in the By-Law that recognizes that here may be buildings that encroach upon the required yards set out in the By-Law. The By-Law has a table that allows for some additions to these circumstances.

5.09.1 Non-Complying Buildings

(d) Notwithstanding the provisions of 5.09.1 (a) above, where a dwelling unit encroaches upon the required front yard in a WF1 through WF5 zoning, the dwelling may be enlarged, repaired, replaced or renovated in that yard provided that the enlargement, repair, replacement or renovation does not further contravene the front yard and complies with the following:

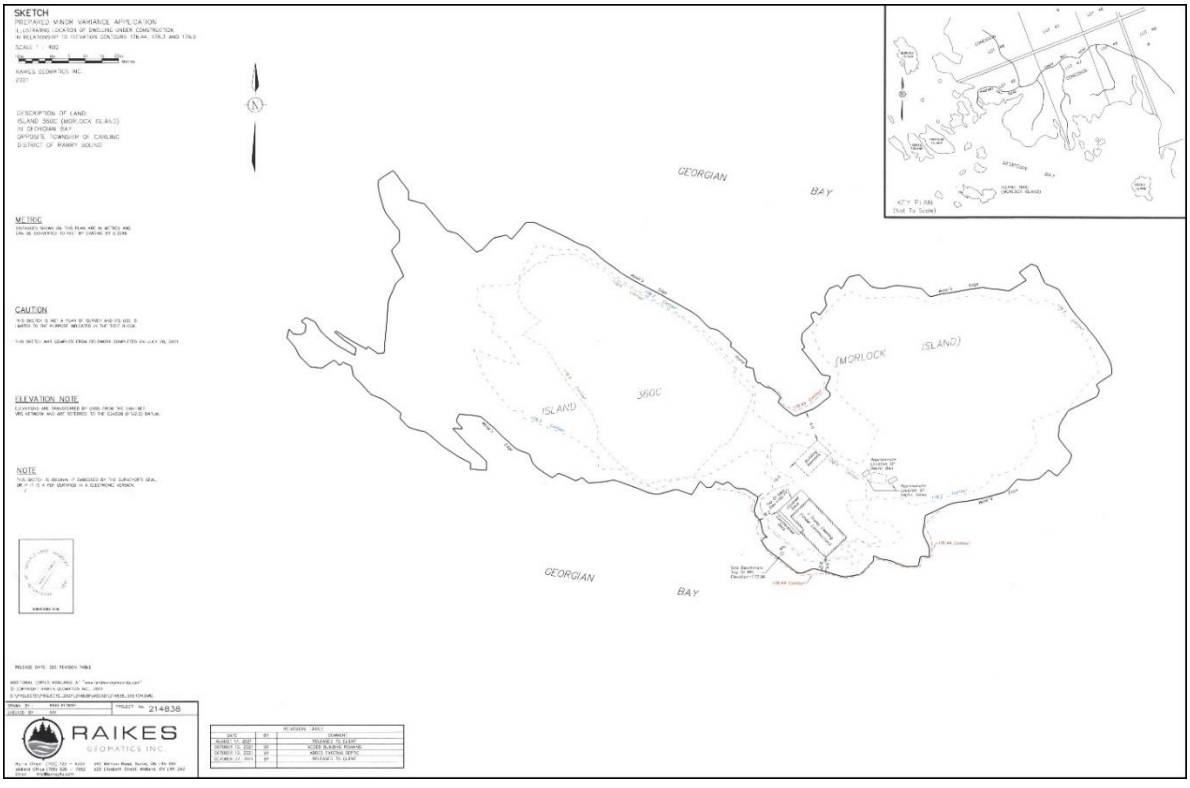
Existing *Front Yard*	Maximum Allowable *Gross Floor Area* Increase
<5m	0
>5m - <10m	50m²
>10m - <15m	75m²
>15m - <20m	100m²

PLANNING ANALYSIS

Existing Conditions

There are a variety of structures on Morlock Island, each with some potential By-Law conflicts. This information has been compiled by a review of the file, attending at the site, and by examining West Parry Sound Geographic data.

The survey of the property has been used to overlay the structures that exist on the island. These structures have been transferred from air photo imagery and the site plan provided by the Municipality.



The survey, together with the aerial imagery illustrates the following.

Structure	Size m²	Status	Comments
Main Dwelling	±167	Unlawful	Pending rezoning to all 4 m front yard
Sleeping Cabin	±50	Unlawful	Permitted but located in front yard without authorization
3 Accessory 'A' frames	10.2	unlawful	No permits have been issued for sleeping cabins

The 2021 imagery illustrates the existing conditions.

The historical location of the cottage is also illustrated on the survey. This structure also shows on the 2021 air photo but has since been removed.

The photographs below illustrate the conditions of the dwellings

Wastewater Facilities

It is understood that the new main dwelling is a two bedroom structure. The sleeping cabin is a one bedroom with a loft. Each of the 'A' frame structures were identified as having bedrooms. The septic system would need to be designed for at least 7 bedrooms. It appears that the wastewater system is considerably smaller than what would be required for 7 bedrooms.

CARLING OFFICIAL PLAN

A number of the general and specific policies in Carling's official plan are offended by the consideration of reduced front yard on Morlock Island. While exposure of the island and many others in the immediate area are clearly evident, there are policies and planning rules in place to mitigate the general impacts from conflicting with the philosophy prescribed in the plan.

Consider a request for setback relief in the context of the following excerpts of the official plan.

> ***"The preservation of the low density character and the ability of the land and adjacent waterbodies to accept new development should be the key factors for determining the location and density of development."***
> ***(Vision: 6.15)***

It has been understood that when one speaks of density amongst the Georgian Bay Islands, it relates to the frequency of built form that contrasts with the natural landscapes.

It is fair to regard this notion as having a somewhat subjective component particularly in areas of high exposure. Yet this theme is repeated throughout the plan.

> ***"The objectives necessary to fulfill the goal of the official plan include:***
>
> ***"To maintain, protect and enhance the natural environment within the Township by requiring development or redevelopment to adhere to the principles of sustainable development. Sustainability is defined to ensure that there are minimal or no adverse impacts on the natural resources of the municipality and that the management of environmental resources is considered for future as well as existing inhabitants of the Township. Preserving the water quality of the municipality's recreational waterbodies is the single highest priority for Carling Township when considering waterfront development. When considering impacts on the natural resources, such impacts will be viewed from a cumulative perspective as more than one "minimal" such impact may become adverse."***

(Objectives: section 9.01)

"the principles to preserve the existing character of open spaces, low density residential land uses along the waterfront [ ] include:

Minimizing the obtrusiveness of built form by controlling building location, height, coverage and natural vegetation protection measures."

(Waterfront principles – section 21.03.1 (d))

"It is the policy of the Township of Carling that the natural landscape should dominate the character of the waterfront. Regulations on built form shall be devised to ensure this dominance and restrictions will be put in place to protect tree cover and other natural vegetation along the shoreline. In particular, the removal of excessive numbers of trees and the planting of lawns within 20 metres of the shoreline will be discouraged."

(Section 21.03.2)

"The principle objectives of the policies for development in the waterfront area of the Township of Carling are to preserve, maintain and enhance the natural features of the shoreline and ridgelines.

In order to preserve the natural character of the shoreline, the following principles should be applied:

- ***a) Preserve as much of the natural landscape as possible;***
- ***b) Maintain natural vegetation buffers of an effective depth along the shoreline;***
- ***c) Impose strong, but reasonable, building restrictions near and adjacent to the shoreline;***
- ***d) Apply aesthetic controls to ensure there is minimum visual impact on the natural shoreline conditions and aesthetic qualities of the waterfront;***
- ***h) Promote vegetation of disturbed areas along the shoreline."***

(section 21.06.1.2)

Any application to seek relief from the building setback rules have a challenging set of policies to overcome.

The question is whether there are underlying supportable criteria to endorse relief in the face of these policies. Such might include a review of alternatives, hardship, context, need, existing patterns and neighbourhood support.

NATURAL HERITAGE CONCERNS

The official plan for the Township of Carling includes policies to recognize the protection of the habitat of threatened and endangered species.

"The Township of Carling supports the protection of endangered and threatened species. Council recognizes the importance and value of the endangered and threatened species.

The PPS directs new development and site alteration not be permitted in the significant habitat of endangered and threatened species."

(section 14.03.2/14.03.3)

The applicant in this instance has engaged an environmental consultant to assess the impact of locating a structure on Morlock. (recalling that the assessment must be based upon the absence of the unlawful structure).

It is questionable that the environmental report prepared in this instance correctly observed the legislation.
One needs to consider the following:

"Regulation under the Endangered Species Act"

Protected habitat of the Eastern Foxsnake. (O. Reg. 832/21)

(2) Subsection (1) applies to the following areas:

1. ***An eastern foxsnake (Georgian Bay population) hibernaculum.***
2. ***The area within 100 metres of the area described in paragraph 1.***
3. ***A naturally occurring eastern foxsnake (Georgian Bay population) egg laying site that is being used, or has been used at any time in the previous three years, by an eastern foxsnake (Georgian Bay population).***
4. ***An eastern foxsnake (Georgian Bay population) egg laying site, other than a naturally occurring egg laying site, being used by an eastern foxsnake (Georgian Bay population) from the time it is used until the following November 30.***
5. ***A naturally occurring eastern foxsnake (Georgian Bay population) shedding or basking site that is being used, or has been used at any time in the previous three years, by two or more eastern foxsnakes (Georgian Bay population).***
6. ***An eastern foxsnake (Georgian Bay population) shedding or basking site, other than a naturally occurring shedding or basking site, that is being used by two or more eastern foxsnakes (Georgian Bay population) from the time it is used until the following November 30.***
7. ***The area within 30 metres of an area described in paragraph 3, 4, 5 or 6.***
8. ***Any part of a rock barren, open forest, old field, marsh, shoreline or similar area that is being used by an eastern foxsnake (Georgian Bay population) or on which an eastern foxsnake (Georgian Bay population) directly depends to carry on its life processes.***

Under the Endangered Species Act (Section 10)

10 (1) No person shall damage or destroy the habitat of,

a) ***A species that is listed on the Species at Risk in Ontario List as an endangered or threatened species; or***
b) ***A species that is listed on the Species at Risk in Ontario List as an extirpated species, if the species is prescribed by the regulations for the purpose of this clause. 2007, c, 6,s.10 (1).***

It is clear that Morlock Island is regulated as habitat for the Eastern Foxsnake. As such, the legislation is established to require a permit should one wish to damage or destroy the habitat. Such a permit would be filed with the Ministry of Environment, Conservation and Parks, and be assessed accordingly.

The assessment done by the applicants consultant does not appear to have properly considered the legislated habitat on Morlock Island.

Should this application proceed, it may be necessary to undertake a peer review of the environmental report.

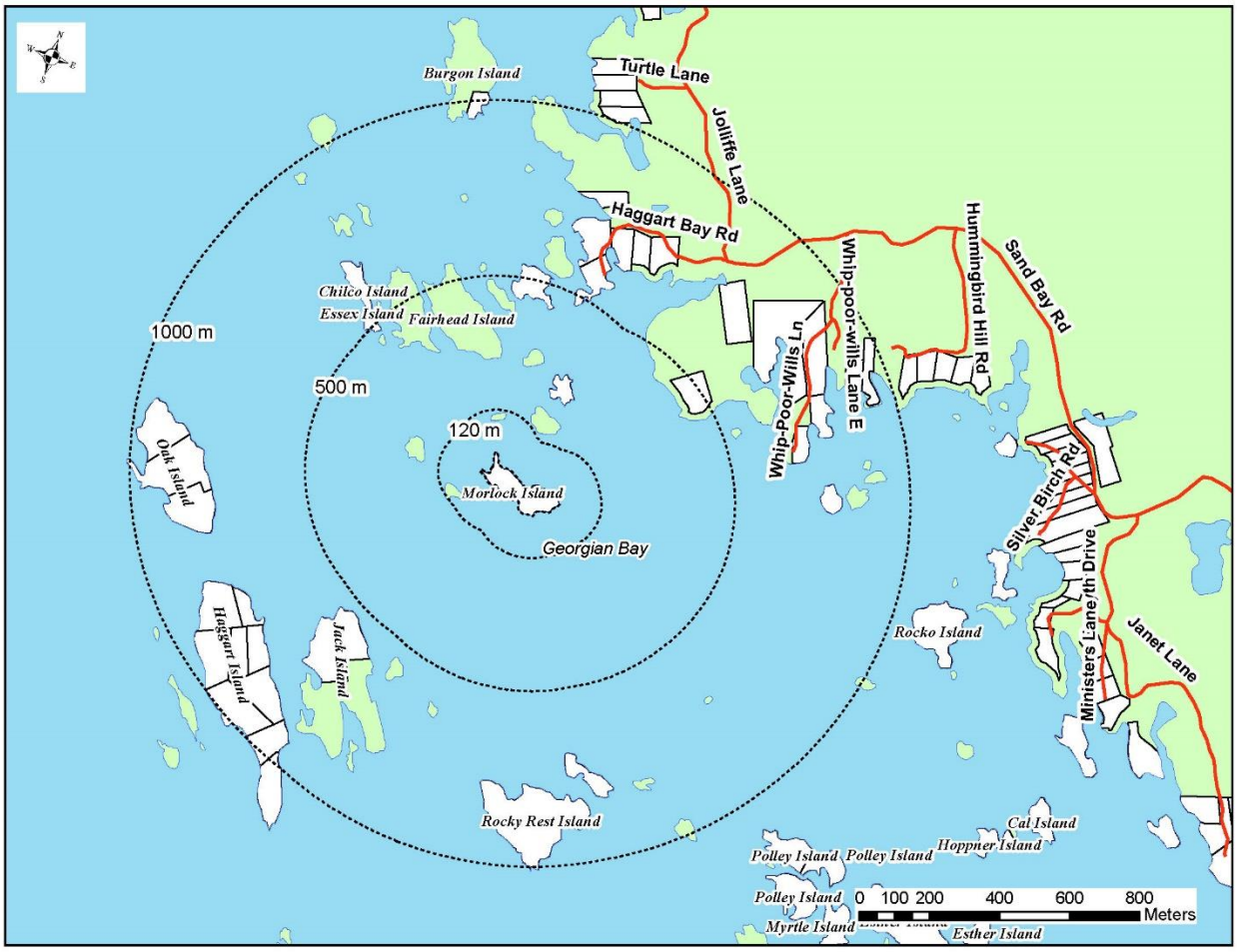
REZONING APPLICATION

The applicant has applied for a rezoning to obtain front yard relief for Morlock Island.

A public meeting was held virtually in January, 2022.

There were a large number of attendees at this meeting, many of which opposed the application because of a variety of reasons ranging from conflicts with the official plan, to precedents and many concerns relating to the failure of applicant to obtain the necessary permits to allow for the new dwelling.

The proposed application has generated a significant interest in the community. The area of influence in terms of interest has been far reaching. Below is a sketch showing the subject island with the extent of properties within 120 metres (statutory notice limits) and 500 metres that captures some of the objecting neighbours. Many letters of objection were received from property owners well beyond one or two kilometres based upon the history of the application.



No decision has been made respecting the rezoning application.

The applicant has asked that the matter continue to be deferred pending the completion of his own professional planning report.

CONCLUSIONS

1. There is no basis to further defer this application given the awareness of the facts.

2. This matter has been evaluated as though the rebuilt cottage does not exist so that it may be considered in accord with sound planning considerations.

3. This approach is common practise where a proponent has proceeded with a project contrary to applicable regulations. Provincial courts have allowed for such a retrospective analysis before any judgements are made.

4. A request to reduce the front yard in this case is contrary to the fundamental tenets of the official plan. It does not conform to the goals, objectives, philosophy or specific policies of the official plan.

5. The test for a rezoning application is to consider impacts and assess whether any such adverse impacts may be unacceptable.

6. A determination that the application does not conform to the official plan for the Township of Carling would effectively deny the ability to adopt the requested amending By-Law.

   In accord with section 24(1) of the Planning Act:

   > "No by-law shall be passed for any purpose that does not conform with the [Official Plan] "

7. The general purpose and intent of the Zoning By-Law is to implement the policies of the official plan. Morlock Island is an elongated island with some locational constraints. However, the 20 metre setback line depicts two areas that can meet the front yard regulation.

8. The former cottage on the island (now removed) has a 9 metre front yard. This recognized, non-complying dwelling can be recognized with its current front yard and some expansion rights, within limits.

9. The authorized sleeping cabin at the west end of the island also encroaches on the required front yard. Council will want to consider legitimizing this structure given that a permit was issued.

10. The wastewater system on Morlock has a number of potential inadequacies. There needs to be an assessment done respecting the septic system and any upgrades required.

11. The unlawful dwelling on the island is likely in contravention of the Endangered Species Act.

RECOMMENDATION

That proposed zoning By-Law amendment No. Z/2021/08 as applied for by Alan Gertner for Morlock Island be denied.

A copy of a Notice of denial is attached.

Respectfully,

John Jackson, M.C.I.P., R.P.P.

JJ;jc

PROPERTY DESCRIPTION: PCL 6641 SEC SS; ISLAND 360C IN THE GEORGIAN BAY OPPOSITE THE TWP OF CARLING; CARLING

PROPERTY REMARKS: CROWN GRANT SEE LP6907.

ESTATE/QUALIFIER:
FEE SIMPLE
ABSOLUTE

RECENTLY:
FIRST CONVERSION FROM BOOK

PIN CREATION DATE:
2006/04/24

OWNERS' NAMES
GERTNER, ALAN JOSEPH

CAPACITY SHARE
ROWN

REG. NUM.	DATE	INSTRUMENT TYPE	AMOUNT	PARTIES FROM	PARTIES TO	CERT/ CHKD
** PRINTOUT INCLUDES ALL DOCUMENT TYPES (DELETED INSTRUMENTS NOT INCLUDED) **						
GB114304	2018/08/16	TRANSFER	$615,000	PINA, ADRIAN PINA, KRIS ALICE	GERTNER, ALAN JOSEPH	C
REMARKS: PLANNING ACT STATEMENTS.						

PARCEL REGISTER

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VOLUME 35

Address:
191 Fairlawn Ave.,
Toronto, 12,
Ontario.

NOTICE
[illegible]

PARRY SOUND SOUTH SECTION PARCEL 6641

Under Patent Number 6907, ~~RONALD HARTLEY HILL~~ the Younger, of the City of Toronto, in the County of York, Insurance Agent, is the owner in fee simple with an Absolute Title of that certain parcel of land registered under The Land Titles Act as Parcel 6641, in the Register for Parry Sound, South Section situate in the Township of Carling, in the District of Parry Sound, and Province of Ontario, namely:

SUMMER RESORT LOCATION comprising Island 360B in the Georgian Bay, opposite the said Township of Carling, containing 3.12 acres more or less, as shown on plan of survey by J.H. Burd, Ontario Land Surveyor, dated 1910, of record in the Department of Lands and Forests, also of record in the Office of Land Titles at Parry Sound,

SAVING AND EXCEPTING ANY Public or colonization roads or any highways crossing the said land at the date of these Letters Patent, dated the 14th October 1952.

SAVING AND EXCEPTING the reservations and exceptions contained in the original patent from the Crown namely, all ores mines or minerals which are or shall hereafter be found on or under the said land, and the free use, passage and enjoyment of, in, over and upon all navigable waters which shall or may hereafter be found on or under or be flowing through or upon any part of the said land, and also right of access to the shores of all rivers, streams and lakes for all vessels, boats and persons, AND ALSO ALL TIMBER AND TREES standing, being, or hereafter found growing on the said land, together with the right to enter thereon to remove the said timber or otherwise deal therewith pursuant to the provisions of the Crown Timber Act or any other Act or any other Act substituted therefor.

The Title of the owner is subject to the following:

1. The provisions of Section 61 of the Public Lands Act.

2. Any unpaid Provincial or Municipal taxes , charges rates assessments, school or water rates imposed upon the said lands,

And is also subject to the exceptions and qualifications mentioned in The Land Titles Act.

IN WITNESS WHEREOF I have hereunto subscribed my name this 4th day of December 1952.

[signature]
L.M.T.

CERTIFICATE ISSUED

Charges Parcel in favour of Bank of Montreal, Athens, Ontario.
Discharged under No. 99547
Dated Oct. 17 1975
Registered Oct. 23 1975
being the Discharge of the Charge
[signature]
Deputy Land Registrar

Under Charge No. 85200, registered the 31st. of January, 1973, the above parcel was charged in favour of BANK OF MONTREAL, a body corporate, duly incorporated, having its head office in the City of Montreal, Province of Quebec, and authorized to lend money on the security of real or immoveable property, with the payment of $20,000.00 with interest at 10% per annum, maturing the last day of January, 1978.

[signature]
Deputy M. of T.

Dupl: L.C.
Dup. given up and destroyed.

Charges Parcel in favour of Bank of Montreal, Athens, Ontario.
Discharged under No. 99048
Dated Oct. 17 1975
Registered Oct. 23 1975
being the Discharge of the Charge
[signature]
Deputy Land Registrar

Under Charge No. 96436, registered the 12th. of May, 1975, the above parcel was charged in favour of BANK OF MONTREAL, a body corporate, duly incorporated, having its head office in the City of Montreal, Province of Quebec, and authorized to lend money on the security of real or innovable property, with the payment of $22,500.00 with interest at 12% per annum, payable on demand.
And with a Guarantors Clause.
~~Subject to Charge No. 85200.~~

Dup. given up and destroyed

[signature]
Deputy Land Registrar

THE CORPORATION OF THE TOWNSHIP OF THE CARLING

BY-LAW NO. 2022 -

To Confirm the Proceedings of the Special Meeting of Council held on July 5, 2022

The Council of the Corporation of the Township of Carling

ENACTS AS FOLLOWS:

[1] That action of Council at its Special Meeting held on July 5, 2022 in respect of each motion, resolution and other action taken by the Council at its meetings is, except where the prior approval of the Ontario Municipal Board is required, hereby adopted, ratified and confirmed.

[2] The Mayor and the proper officers of the Corporation are hereby authorized and directed to do all things necessary where required and the Mayor and the proper officers of the Corporation are hereby directed to execute all documents necessary in that behalf and the Clerk shall hereby be authorized and directed to affix the seal of the Corporation to all such documents.

[3] This By-law shall come into force and take effect on the day of the final passing thereof.

READ and **FINALLY PASSED** in **OPEN COUNCIL** this **5th day** of **July, 2022.**

THE CORPORATION OF THE TOWNSHIP OF CARLING

_____ _____

Mike Konoval, Mayor Kevin McLlwain, CAO/Clerk