

Summary of Report by the

*Kahshe Lake Plan Implementation
Committee –
Water Access Sub-Committee*



Submitted to KLRA August 30, 2003

Executive Summary

Water Access Sub-Committee

to investigate ways to ensure the long term provision of adequate parking and docking facilities for water-access-only properties, and

to provide the research to the Kahshe Lake Plan Implementation Committee so they can decide on the best approach to take.

Situation analysis:

Lake Kahshe has approximately 800 parcels of land. About 650 are residential. There are 140 vacant lots, and another potential 75 lots if they are severed with a minimum 300' frontage. The potential growth is 33.15%, 215 in total

We could reasonably expect residential expansion of 20% to 25% in the coming years. This would amount to 130 to 162 new residences.

We estimate that 134 of the potential new residential lots are on the water without road access, a potential increase of 20.6% water access properties.

The predicted growth of the Lake community could result in difficulties in finding docking and parking space in the future. Even worse, would be the loss of one of the existing marina facilities.

There are two issues to resolve:

1. Where do we find the extra space to dock boats and park vehicles?
2. How do we ensure that water access residents have continuous and ongoing access to their properties?

Additional docking and parking capacity

The time frame for growth is very difficult to predict, as it will depend upon how quickly development of the 134 empty lots on the Lake takes place.

The Lake likely will require between 70 and 100 additional docking spaces and 150 to 180 more parking spots to support future development.

Rockhaven has the best potential, as it is the only location with adequate land and waterfront capacity to expand.

We expect the current potential of 50 additional docks and 120 additional parking spaces available at the present marinas (mainly at Rockhaven) will meet our needs for the next 5 to 10 years. This should be reviewed in 5 years.

Recommendations for assured access to water properties

1. Make additional changes in the language in the Lake Plan study and the Official Plan Amendments to protect water access residents before they go to the Town. This has been done.
2. We recommend that the KLRA work in close cooperation with the two commercial marinas on the Lake.

We recommend an agreement with each commercial marina (Denne's and Rockhaven) that wishes to participate in the following plan.

The agreement would require that a marina docking and parking facility would always be available at the property for current and continuing, paid-up customers.

The agreement would be registered on title so that it would be a condition of a future sale or any change in ownership of the property.

A member of KLRA could be added to the master marina agreement by paying a one-time registration fee. Those members who sign the agreement would be assured a maximum of 2 parking spaces and 1 boat slip comparable in size and number to the docking and parking space they normally lease at the marina.

KLRA as not-for-profit corporate entities can only act on behalf of their members. We recommend KLRA strike an arrangement with HRLR for a form of interlocking or associate membership in order that their members can also participate. Also, the marinas could enter a similar agreement directly with any other individuals if they wished.

In order to secure such an agreement, KLRA/HLPA would pass the registration fees on to each marina to improve the docking, parking and other related facilities.

The plan would first be offered to the current customers of the marina, who would be given a reasonable period of time to sign on. Once the time period has passed, the offer would be broadened to new customers.

The registration fee could increase over time in order to support the cost of gaining approvals for expansion of docks, building of docks or parking areas, and other expenses related to the facilities.

In order to continue with their agreement, customers would be required to continue to rent the same docking space and/or parking spaces they had when they registered. The Agreement would end if the customer failed to continue as a customer or fell 60 days in arrears of their annual payment for docking and/or parking space.

KLRA would maintain a list of participating members at each marina who have paid the registration fee. Participants may also wish to register a notice of agreement on their own property title, at their own expense.

The customer, of course, decides which marina he wishes to patronize. Initially, we believe the fee should be identical for each marina, as our objective is to support each marina equally, and leave the marina choice to the customer. At a later stage, the marinas could set their own fees in a competitive environment.

The Associations also would agree to help the marinas market their facilities by promoting the availability and the assurance of future space to potential customers through the newsletter, web site and other publicity material.

In order to maximize our long term options, the Agreement with the marinas should include a first right of refusal if a bona fide offer is made for their

property. This would allow KLRA to pursue some of the other recommendations that we have made, they go beyond our current mandate.

We recommend that KLRA/HRLR assume all the costs related to legal fees to develop the Agreement, registration of the master agreement, and forms required to register customers. There is a budget that has been given to our committee, and we feel this can be handled within the existing budget.

For all water access residents this plan:

- assures continued parking and docking facilities
- facilities at competitive prices.
- provides choice; whether or not they wish to participate, and
- choice of the marina they wish to patronize.
- option protects property for future ownership by KLRA/HRLR, if so desired

For the marinas this plan:

- provides an immediate source of capital,
- “locks in” continued use of their marina,
- ensures that customer accounts are current,
- will attract new customers who wish assured access to their water properties in the future,
- provides promotional help from KLRA/HRLR,
- provides additional registration fees from new customers for expansion purposes
- provides a strong base of committed customers if they wish to sell the facility.

For the Town of Gravenhurst:

- resolves a serious situation that could develop if we were to lose a marina,
- protects the assessment values of water access properties,
- involves local initiative by the residents and the private sector,
- requires no action by the Town,
- there is no cost to the taxpayer.

For KLRA/HRLR:

- solves a major problem highlighted in the Kahshe Lake Plan,
- demonstrates leadership by the Associations, and
- will attract and strengthen membership
- relatively low cost. (legal fees and promotion)
- an option to purchase the marina property provides future flexibility if the present owner decides to sell.

Next steps:

We believe that it is important for the Associations to proceed with **Recommendation** now. There is an opportunity to show leadership, capitalize on the current momentum, assure right of first refusal on the marina property, avoid any change of circumstance before next summer, and protect the water access cottagers.

- **KLRA should develop a means for both KLRA and KRLR members to participate.**

Our committee has been asked to

- **Continue discussions with the marinas**
- **Draft a letter of intent that outlines the agreement**
- **Obtain Board approval of the letter of intent**

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1. Establishment of the Committee and Guidelines

In June of 2002, a Kahshe Lake Study Workshop included a discussion group under the topic: Property Access. One of the recommendations that came from that workshop was:

“As a principal, every water access property should be guaranteed one boat dock space and one parking space on land. There is concern that ownership changes of existing marinas may reduce or eliminate dock and parking spaces for water access property owners. There were questions about the role of the municipal government in addressing this issue since they collect property taxes from water access properties, while providing limited services. The group believes that improved docking (to accommodate elderly and safety), improved lighting and parking are priorities to include when considering this issue.”

Questions relating to water access were included in the Kahshe Lake Plan Resident Survey. The topic became an issue at the Kahshe Lake Plan Workshop held on May 31, 2003. Ultimately, language to protect water access residents was added to the Kahshe Lake Plan and the Proposed Official Plan Amendment.

In July of 2003, the Kahshe Lake Plan Implementation Committee formed a Water Access Sub-Committee to investigate ways “to ensure the long term provision of adequate parking and docking facilities for water-access-only properties, and to provide the research to the Kahshe Lake Plan Implementation Committee so they can decide on the best approach to take.”

This is the Water Access Sub-Committee Report.

2. Objectives

- To establish the scope of the issue and the collective needs of the water-access cottagers on Kahshe Lake
- To investigate ways to ensure the long term provision of adequate parking and docking facilities for water-access-only properties
- To provide the research to the Kahshe Lake Plan Implementation Committee so they can decide on the best approach to take
- To work in a manner that will improve and strengthen the ongoing operations of the current marinas
- To maintain close communications with all the stakeholder groups.

3. Situation Analysis

Residential development on Kahshe Lake.

Kahshe Lake has 85.3 km of shoreline, including a large number of islands. There are more than 800 parcels of land on the Lake, with more than 650 residential uses. We have over 140 vacant lots (not all of which can be developed) and approximately 75 potential new lots from severed properties, on the basis of a minimum 300' frontage.

Kahshe Lake lots	Present	Potential Growth in Residential	Estimated Growth in water access Residential
Parcels of land	+800		
Road Access parcels	Approx 450		
Water Access parcels	Approx 350		
Residential lots	650		
Vacant lots	140	140	70
Other	10		
New lots minimum 300'	75	75	50
Maximum potential residential growth		215	120
Potential percentage growth in residential lots		33.1%	18.5%

All the potential new growth of 215 new residential lots may never happen, because people hold property for future family needs, to protect their privacy, or to conserve the land. But it is clear that a substantial amount of development has taken place on the Lake in recent years. Yet there is more to come as a result of the large inventory of vacant property still available. And, there is pressure to “urbanize” the lake with larger cottages, more facilities, more boats, and more “toys” that will add to the congestion and pressure for additional docking and parking space.

Marina facilities on Lake Kahshe

The Lake Residents Survey shows that the 275 respondents have 1010 watercraft on the Lake. This indicates that there is likely close to 2,400 watercraft on the Lake in total. Almost one-half of them are powered. This could mean an increase of 500 to 600 watercraft on the Lake in future years. About 50% of them would be powerboats.

The trend to barges and deck boats will also add to the pressure for docking space due to the need for larger slips.

There is very little commercial development on Kahshe. We have only three marinas (Denne's, Rockhaven, and Sopher's Bay). There is little property available for new marina facilities on the Lake. The existing marinas are extremely important to the long-term health of the Lake community, particularly for the water access residents who would have difficulty in reaching their property without the present docking and parking facilities.

Current Kahshe Docking and Parking Spaces	Large barges, deck boats	Regular	Total docking spaces	Total auto parking spaces
Denne's Marina	76	22	98	210
Rockhaven Inn	25	96	121	200
Sopher's Landing			20	20
Total			249	430

We estimate that 120 of the 215 potential new residential lots are on the water without road access.

If each new water access residence is to be assured of 1 new boat slip and 2 parking spots, a maximum of 120 new boat slips and 240 additional parking spaces are required.

A more reasonable estimate would be 72 to 90 new boat slips (60% - 75% of maximum) and 144 to 180 parking spaces would be required. Note: parking spaces run at a ratio of 2:1 at the existing marinas.

This represents an increase of approximately 29% to 36% in boat slips and 34% to 41% in parking spaces.

The time frame for growth is very difficult to predict, as it will depend on how quickly development takes place on the Lake.

Legal Considerations for Docks, Ramps, Waterlots, Marinas, Roads

There is some protection for water access residents at the existing marinas as a change in the current zoning would require a zoning amendment, which is only permitted **if** the new use is allowed by the official plan. Construction or new development that does not comply with a zoning by-law is not allowed, and the municipality will refuse to issue a building permit.

Site plan control by-laws are not zoning by-laws; they are used to establish areas where site plan control will be applied over and above those set out in the zoning by-laws. As a condition of site plan approval, the municipality can require the owner to provide land for road widening and public transit rights-of-way. These must be shown or described in the official plan.

In addition, building permits and approvals are required for any building project. A permit from the Ministry of Natural Resources would also be required for any construction in the water (e.g., a dock or boathouse).

The procedure for turning a parcel of land into docking or parking is as follows:

- The land or lot must be zoned CC6 by the Town to allow docking/mooring of boats and parking. This property would have to go through an approval process to designate it CC6 or Commercial with marina type facilities and parking in mind. This would only occur after a lengthy public hearing and approval process.
- The MNR would then have to do an environmental study to allow the area to be used as a docking area. They would look at things such as fish habitat, conservation areas, wetland impact, etc. and hold public hearings. According to the MNR, there are no new applications for approval on the books right now for marina-type locations on Kakshe. Obtaining a new marina approval would be problematic.
- According to the Town, even if areas are zoned as CC6 yet undeveloped, development would only occur if the property meets the guidelines that are in place today, not when it was originally zoned. If a location was zoned for a marina location 20 years ago, and is now considered a fish habitat, it may not be allowed to become a marina now.

It is also difficult to open new roads. An existing road allowance could be used as a private road if a group or an individual applied and developed it at their cost. They would also pay an annual fee. If there was a valid public need, an existing town road allowance could be

opened. The Town is not anxious to open roads as it would then have to maintain the road at its standard. And, it is not interested in supporting private interests with public funds. Public easements also are difficult to obtain. In order to gain an easement through private property, it must be “available to the general public good.”

All the government docks on the Lake, previously owned by the Department of Oceans & Fisheries, were turned over to the Town of Gravenhurst in the 1970’s. The Town also owns the launching ramps and some properties near the docks or ramps. In some areas, the Town holds a permit for a waterlot.

This issue is complicated, as ultimate responsibility for marinas, docks, fish habitat and anything else that happens in the water belongs to the federal Department of Oceans and Fisheries. The exception is navigation concerns, which belong to the Canadian Coast Guard. They cooperate closely on these issues. At one point, the Ontario Ministry of Natural Resources took care of some of these responsibilities for DFO, but the arrangement has been terminated. Notwithstanding the above, the MNR is responsible for the bottom of the Lake, so they also must approve marina permits.

Approval also is required from the Town of Gravenhurst (building permit) as well as the other organizations in order to build a structure in the water. A dock is a “structure.” Any new construction or redevelopment on Kakshe will be required to go through these approvals. The Town building permit is mainly concerned with the safety of structure, use of shoreline, number of buildings on the shoreline, setbacks, etc. Fish habitats are considered by the Town and the MNR to make certain that none are affected. A study may be required.

The MNR states that approvals for floating docks, in non-sensitive areas, are not required. This seems to suggest that Rockhaven could add floating docks to their present marina without new approvals, as long as they do not impede navigation lanes.

However, a building permit would be required for docks. The process is complicated with various levels of bureaucracy that can be time consuming and costly.

We have not been able to secure site plans for marinas on the Lake. The MNR claims that they are held by the Town and the Town tells us to see the MNR.

We do not see any opportunity to increase the number of boat slips or parking spaces at the existing Town dock and launching ramp sites, as there are already marinas in close proximity and obtaining new permits would be difficult and time consuming.

Denne's Marina.

Denne's currently provides accomodation for 98 boats, as follows: 10 for road access cottagers, 76 wet slips for water access cottagers, 2 transient slips (day visitor, rental boat), and 10 boats that are dry sailed from trailers. 4 of the slips are attached to the government dock. Of the 88 wet slips, 76 are 8' wide and 12 are 6' wide. 4 of their slips are attached to the government dock. 48 of their docks are at the end of the small bay area.

There is parking for 96 vehicles in the bay area (2 car end-to-end for each customer), 80 spots (40 2-car spaces) behind the house on North Kahshe Lake Road, 30 to 40 visitors spots (full on long weekends) and 20 spots further back on their property not in use.

These facilities serve 90 to 100 customers. There is no possible way to expand their docking facilities unless they could obtain permission to increase the size of the marina area. They hope to obtain additional property to park approximately 50 more vehicles.

Rockhaven Inn

The Rockhaven Property is zoned CW-8, RC-4, with special provisions S261, S305 and S320. The site, located at 1312 North Kahshe Lake Road, is classified as: "Marina – defined as a commercial facility for the maintenance, storage, service and/or sale of watercraft." It contains 35.89 acres, with 1588 feet of frontage.

Rockhaven has 121 slips; 17 small, 13 medium, 66 large and 25 extra large (barges). At present he has 9 empty slips. All but 6 are used by water access residents.

Rockhaven has a MNR temporary permit for the marina. The permit is renewed annually.

Dennis Ring believes he could easily add 30 to 50 slips to handle expansion at the current site. He also would be prepared, if necessary, to expand across his beach area to accommodate more docks. **It would be necessary for Rockhaven to ensure that they can obtain the necessary permits and clearances for expansion.**

Rockhaven currently has about 200-220 parking spots and could easily handle 50 more. In addition, on big weekends they simply use the front lawn to park additional cars. There also is additional room at the back of the property.

The launching ramp at Rockhaven is primarily on Town of Gravenhurst property.

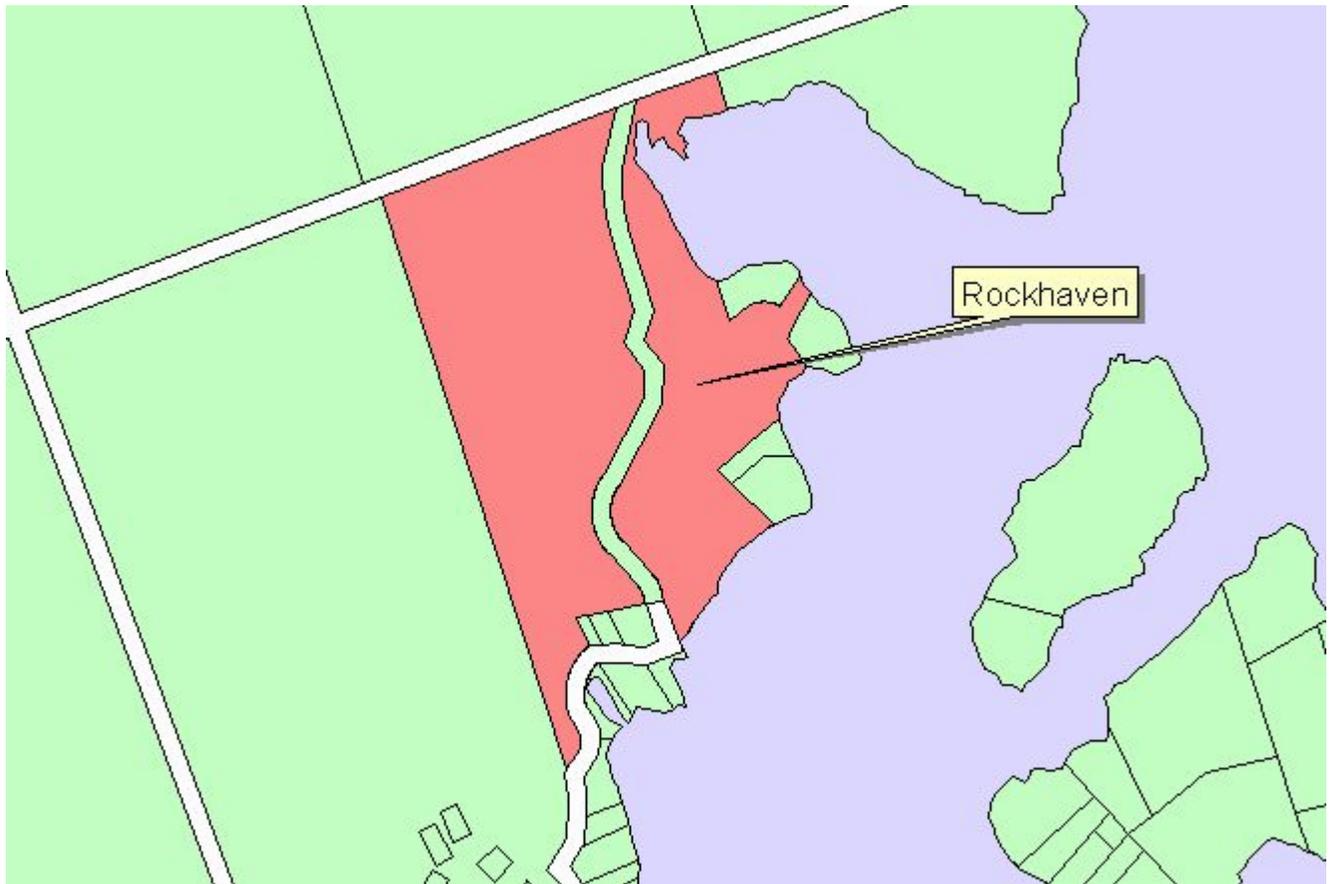
A town road allowance splits the property into two sections. Apparently the property can be separated because it is already split by the road allowance.

However, there has been some confusion concerning the exact location of the road.. We have correspondence and a survey from 1920 to 1926 indicating that the road was purchased from

Thomas Duncan by “the government” in order to “let the Township of Ryde out.” It is apparent that there was an argument taking place between Anderson and Kluey regarding the exact location of the road. The Deputy Minister of the Department of Lands and Forests entered the discussion. In a letter, dated September 27, 1923 he writes:

“.....it would appear that this road has been used as a travelled road, that the Government has spent money on the same but no survey has been made to locate the road. The Township Clerk advises me that the Government bought a right of way from one Thomas Duncan across his lot from the Muskoka Road to the base line and at that time the rest of the land was in the Crown.

It seems to me that if the parties owning the adjoining lands which are being subdivided would show the 66 ft. road in the position as now travelled that this would satisfy the Local Master of Titles.”



There is a survey dated in 1926 that indicates the road is in close agreement with the present road through the property. However a 1993 survey, done by Gravenhurst surveyor, T. A.

Bunker, shows the road west of the current road, then intersecting it at two locations before turning north to the concession road allowance. We have met with Bunker and we are satisfied that the original Ryde colonization road does not follow the same route as the current road through Rockhaven. Therefore, the current road is not public property and could not be developed for public use without incurring the expense of cutting through wooded area and grading it for vehicle traffic.

Rockhaven currently has agreements with several cottagers who use his road to access their properties.

We have been able to determine that there is a subdivision agreement registered on title to some Grant Bay properties, dated August 27, 1968, between Les Ring and the Corporation of the Township of Morrison that says Les Ring will retain sufficient lake frontage to ensure proper water access to serve development. This agreement was not sophisticated or precisely written. However, we feel, if this agreement is registered on title to Rockhaven, the property must have parking and lake access available to purchasers of formerly owned Ring property in perpetuity. The title to the property is currently being searched. Dennis Ring also is aware of the agreements to provide parking and docking for water access Ring properties that were sold by his father in Grant's Bay.

In 1974 there was approval in place for a second marina in the bay at the northwest side of the Rockhaven property (By-law 67-74). However, the Town advises that this by-law has been repealed. Although proper zoning is in place for this marina, all the other approvals would have to be sought again.

Wigwam



The Wigwam property located at 1060 Wigwam Lodge Road, is 6.72 acres with 440' of waterfront. It is zoned FP (flood plain) and RW6. A very small section falls under the flood plain zoning.

Henry Skritek currently rents a number of the former Wigwam Lodge cottages to summer residents. This, along with his residential zoning, has created problems with the Town concerning road allowances, filling with sand, septic systems, and use of the cabins.

He has indicated that he would be prepared to consider development of a small marina if approached by a group of water access residents.

However, this would take some time to develop, zoning would be difficult, and it is unlikely a significant number of docks and parking spaces could be provided. In addition, there is a shore allowance across the waterfront at Wigwam. It could become the site of a Waterfront Landing as proposed under the new Lake Plan. Under POP 5.11. The lake frontage (440' = 134.112 meters) would permit 13 boat slips.

Sopher's Bay.

We understand this is a private co-op, owned by a number of Grant Bay residents. There are four separate small parcels of land owned by the group. There is also one parcel adjacent to the property owned by the Ministry of Natural Resources. At present there are 20 docking spaces in the marina.

There also is a Town wharf agreement in place to cover administration of the government dock and launching ramp at the site.

We do not believe there is any substantial opportunity for parking and docking expansion in this location due to the limited shoreline and the shallow and rocky waterfront.

Housey's Rapid's.

Most property along the shoreline of Housey's Rapids is owned by individuals. A small number of boats are kept along the south shore, but they appear to be at private docks. We do not believe there is any potential for any substantial amount of public docking due to the narrow and shallow watercourse.

Possible loss of marina facilities

The predicted growth of the Lake community could result in difficulties in finding docking and parking space in the future. There is little room for expansion. Rockhaven seems to be the only location with adequate land and waterfront capacity to expand.

Even worse, what would happen if the Lake lost one of these existing marina facilities?

There are many possible causes of marina loss, such as: owner does not want to continue, financial hardship or failure, health related problems, insufficient capital to replace or expand facilities and equipment, environmental problems (gas tanks, septic, etc.), physical damage caused by fire, ice, flood, storm, etc., liability or legal problems, change of ownership, disagreement among marina partners, and other unforeseen events.

It is obvious that the present facilities on the Lake presently are not capable of taking on the development that is forecast for the future. We will need to:

- develop more parking and docking space, and/or
- develop more road access to cottages, and/or
- Stop development.

Situation at other lakes

- In 1996, the only marina on **Pine Lake** closed. For some reason, the cottagers on the Lake were not able to purchase the marina. As a result, the cottagers decided to build two roads that were required to reach their properties. The process was long and expensive. We are told that one road alone amounted to \$460,000. Unfortunately, the cottages were spread out along either shore. The complete project came at very high cost to the water access residents.
- At **Muldrew Lake**, there are two landing areas: Indian Landing and South Landing. These landings and their docks are owned by the Muldrew Lake Cottagers' Association. They also own two additional properties. Use of the parking areas and docks are included in the Associations annual fees. The properties were deeded to the Association by Muldrew cottagers. There is road access to the parking area and one launch ramp owned by the Town of Gravenhurst.
- The Town of Gravenhurst provides some facilities such as roads, parking and launch ramps on other lakes, such as **Loon Lake, Turtle Lake and Sparrow Lake**.
- A marina on **Sparrow Lake** closed at one time, forcing all their customers to find other arrangements on short notice.
- In the 1960's, a developer was building a subdivision on Mile Island in **Morrison Lake**, involving 19 water access properties. In the middle of the project, the developer went into receivership and the Township of Wood Medora inherited the subdivision plan. Subsequently the township became part of the Town of Gravenhurst.

Eventually all the purchasers got their property, but they had no parking or docking facilities. There are no marinas on Morrison Lake. However, one of the first deeds that was registered included a clause that the property owner was entitled to one parking spot and one docking space on the mainland.

A Mile Island cottager, Gary Tone, discovered the deed in the Archives of Ontario, in Toronto while researching the problem. His wife was employed in the legal profession, and they checked the situation out with several lawyers. They all told him that he was wasting his time, and there was no way of winning against the Town.. The cottagers' basic approach was to argue that the intention of the developer was to include the clause in all the deeds, but the Township dropped them before the subdivision plan was registered, leaving the cottagers high and dry. The cottagers eventually won the day.

The Town of Gravenhurst had a piece of property near the landing that they have made available as public parking for the Mile Island cottagers. They are also able to leave their boats at the landing.

It has worked well for the cottagers (they have no parking or docking costs); however, as the Lake develops, other cottagers are parking there, and leaving boats there. Therefore, they are still facing future problems.

Another group of cottagers found a solution. A fairly large number of them (12 or 13) bought a single lot, registered it in all their names, and now park all their cars and dock all their boats there.

We are told there are Town of Gravenhurst parking and launching facilities on **Riley Lake**.

On **Muskoka Bay**, the Town of Gravenhurst has a large number of docks at Sagamo Park. These are available for seasonal renters. Annual cost for a run about is \$530.00 plus GST. Availability is not certain for the next two years due to the village construction that will begin along the waterfront.

Town of Gravenhurst responsibilities

Although this report does not recommend that the Town of Gravenhurst be involved (other than official plan amendments and support in a crisis situation), they do have responsibility in this area as they have political and financial liabilities and they have been involved to some extent at other lakes.

- The local municipality has facilitated the growth by issuing building permits and approving the lot severances in order to increase assessment value and tax revenues.
- When the Town approves a building permit or severance on a water access property, it requires a letter from one of the marinas stating that they have space for docking and parking to serve the property. However, the letter simply states that the marina has space now, and is of no value in assuring long term access.
- There has been a precedent set on another lakes in the area that suggests the Town acknowledged responsibility to water access residents.
- At the KLRA Annual Meeting on June 30, 2003, John Klinck indicated that he believes the Town does have a responsibility to ensure access to water access residents.
- The Province has transferred planning authority to municipal councils to bring planning closer to the people of a community and encourage cooperation and coordination among various interests.
- The Provincial Policy Statement contains policies dealing with managing growth wisely to promote communities which: are economically and environmentally sound, meet the

full range of needs of current and future residents, and avoid the need for costly remedial measures to correct problems.

- Provincial guidelines also indicate that community planning is aimed at identifying common community goals and balancing competing interests of the various parties.
- The Town has never set docking or parking standards for water access properties.
- It is clear that local planning has not been consistent with the above Provincial policy standards. The ongoing needs of water access residents have not been considered by local planners in the past and the Town now has an obligation to correct the problem before matters become worse.

4. Possible Outcomes

If we were to lose one of the existing marinas on the Lake, and a solution were not in place, we could expect:

- Water access residents would leave their boats wherever they could.
- Road residents who keep a boat in the marina would be forced to pull their boats out of the water.
- People would park their cars wherever possible. North Kakshe Lake Road would likely carry the brunt of this problem.
- Water access cottages would become difficult or impossible to sell and the real estate value of water access properties would drop dramatically.
- The drop in real estate values would result in reduced assessment, which could cost the Town and District lost tax revenues, possibly in the hundreds of thousands of dollars annually. These revenues would have to be picked up from other property owners.
- Outraged taxpayers, including water access and road access residents, would cause a political crisis for the Town.
- There would be immense pressure to find docking/parking facilities, open roads, and/or freeze development on the Lake.
- It is very difficult to stop development. In fairness, how can you tell someone who has purchased property in good faith that they will not be allowed to develop it? This would make the property of little value.
- The local community would place most of the blame on the Town due to lack of sound planning in the past.
- Some would feel that the KLRA/HRLR carries some of the responsibility.

5. Recommendation: Expansion of marina facilities

We have indicated that the Lake likely will require 72 to 90 additional docking spaces and 144 to 180 more parking spots to support future development. However, this development, we believe, will take many years, and may never meet the maximum figure. We believe that we have the following potential at present:

Additional docking and parking spaces available	Marina docking spaces minimum	Marina docking spaces maximum	Vehicle parking spaces minimum	Vehicle parking spaces maximum
Denne's	0	0	20	50
Rockhaven	50	100	100	200
Wigwam	0	13	0	30
Total	50	113	120	280

It is obvious that only Rockhaven has the potential to provide the additional docking and parking facilities that we require in future. They are the only existing location with sufficient waterfront and property to serve the total requirement. Denne's have no room to add slips; they may be able to acquire additional property to add parking for current peak demand. Wigwam has potential only as a Waterfront Landing due to the limited waterfront.

However, we feel that the minimum potential of 50 additional docks and 120 additional parking spaces will meet our needs for the next 5 to 10 years.

The maximum potential of 113 docking spaces and 280 parking spaces will serve our needs in the foreseeable future. At this stage, we are not able to determine the speed of development on the Lake, or the amount of expansion of the road system.

If Rockhaven is to undertake expansion to meet the forecast demand, they should anticipate the growth and ensure they have the required approvals in place in a timely fashion.

This forecast should be reviewed within five years to gauge change in circumstances.

6. Recommendation: Ensuring continued operation of our marinas

Our recommendations for ensuring continued operation of our current marinas include several stages:

A. Additional Proposed Official Plan Amendments.

B. Solution for a Short Term Crisis.

C. KLRA/HRLR “Assured Access” Agreement.

6A. Additional Proposed Official Plan Amendments

Of greatest importance is to deal with additional changes in the language in the Lake Plan study and the Official Plan Amendments before they go to the Town.

The Kahshe Lake Plan study clearly identifies the future problems we expect to face in the section “What are the pressures on land use on the lakes?” i.e., the pressure of new residential development, new lot creation, lack of available land for resort or other commercial redevelopment, need for expansion of public services/facilities, little opportunity for new marina facilities. However, The Kahshe Lake Strategic Plan does not deal with any of the issues, nor does it provide any solutions. There should be language in the Strategic Plan that deals with the future growth and the need for access to water properties.

The Kahshe Lake Strategic Plan section headed “Expected Outcomes” includes one outcome to be “Improved development standards and changes to the Gravenhurst Official Plan and Zoning By-law.” However, we are not able to find any proposals that deal with new standards regarding water access, except in POP5.11 concerning waterlot landings, which we believe are not viable.

POP 4.2 confirms the admission that “A significant number of water access properties without road access will affect the nature of the use on the lake.” This section recognizes the problem, and should be changed to read: “a significant **additional** number of water access properties **could adversely** affect the nature of the use **of** the lake”

This section strongly implies a need for a policy, but the plan does not include any means of resolving the problem or setting standards to ameliorate the problem.

POP 4.2 should include “**the Town shall set adequate, specific standards for parking and docking before any further water access development takes place**”, similar to POP 5.11 on waterfront landings.

We do not feel it is necessary to include specific figures in the KLPIC document, but they could be along the lines of 1 boat slip and 2 parking spots for each residence. The requirement should consider how to keep them available in perpetuity.

Similar wording should be included in POP 5.4 concerning new cluster residential development and POP 5.5 concerning redevelopment of existing resort commercial properties.

These recommendations were approved by the KLPIC on August 17, 2003.

6B. Solution for a Short Term Crisis

In the case of a short-term situation, i.e., a “surprise situation” where a marina suddenly becomes unavailable, our first line of defense would be to obtain approval for the continued use of the marina and parking facilities until the situation is stabilized.

It would be necessary to reach a suitable arrangement with the family, executor, receiver or whoever carried the responsibility for the property and operation, as required.

We expect in this kind of situation, the party responsible would be interested in maintaining services and cash flow.

We expect KLRA/HRLR would be prepared to lead the way in negotiating, resolving and organizing a resolution if such a situation came about, and we recommend that such a policy be communicated to all Association members. We also expect that it may require the close cooperation of the Town of Gravenhurst.

In a crisis situation we would expect the Associations to make use of volunteers to organize docking/parking and maintain control, if necessary.

A much better alternative would be to proceed with **Recommendation 6C**. If it is put in place, it is unlikely that this solution would ever be required

6C. KLRA/HRLR Marina “Assured Access” Agreement

The Plan

We recommend that the KLRA/HRLA negotiate an agreement with each of the commercial marinas (Denne’s and Rockhaven) that wish to participate in the following plan.

The agreement would require that a marina docking and parking facility would always be available at the property for current and continuing, paid-up customers. The agreement would be registered on title so that it would be a condition of a future sale or any change in ownership of the property.

In addition, each marina would agree to maintain docking and parking at fees competitive with local marinas with similar facilities on smaller Muskoka lakes.

A member of KLRA/HRLR could be added to the master marina agreement by paying a one-time registration fee. Those members who sign the agreement would be assured a maximum of 2 parking spaces and 1 boat slip comparable in size and number to the docking and parking space they normally lease at the marina.

KLRA/HRLR as not-for-profit corporate entities can only act on behalf of their members. However, the marinas could enter a similar agreement directly with other individuals if they wished.

In order to secure such an agreement, KLRA/HLPA would pass the registration fees on to each marina to improve the docking, parking and other related facilities.

The plan would first be offered to the current customers of the marina, who would be given a reasonable period of time to sign on. Once the time period has passed, the offer would be broadened to new customers. The registration fee could increase at that time in order to support the cost of gaining approvals for expansion of docks, building of docks and other expenses related to the facilities.

In order to continue with their agreement, customers would be required to continue to rent the same docking space and/or parking spaces they had when they registered. The Agreement would end if the customer failed to continue as a customer or fell 60 days in arrears of their annual payment for docking and/or parking space.

KLRA/HRLR would maintain a list of participating customers at each marina who have paid the registration fee. Participants may also wish to register a notice of agreement on their own property title, at their own expense.

The customer, of course, decides which marina he wishes to patronize. Initially, we believe the fee should be identical for each marina, as our objective is to support each marina equally, and leave the marina choice to the customer. At a later stage, the marinas could set their own fees in a competitive environment.

The Associations also would agree to help the marinas market their facilities by promoting the availability and the assurance of future space to potential customers through the newsletter, web site and other publicity material.

In order to maximize our long term options, the Agreement with the marinas should include a first right of refusal if a bona fide offer is made for their property. This would allow KLRA/HRLR to pursue some of the following proposals if they so desired. We suggest this option should be good for 120 days in order to provide time to resolve financing.

We recommend that KLRA/HRLR assume all the costs related to legal fees to develop the Agreement, registration of the master agreement, and forms required to register customers.

For all water access residents this plan:

- assures continued parking and docking facilities
- facilities at competitive prices.
- provides choice; whether or not they wish to participate, and
- choice of the marina they wish to patronize.
- option protects property for future ownership by KLRA/HRLR, if so desired

For the marinas this plan:

- provides an immediate source of capital,
- “locks in” continued use of their marina,
- ensures that customer accounts are current,
- will attract new customers who wish assured access to their water properties in the future,
- provides promotional help from KLRA/HRLR,
- provides additional registration fees from new customers for expansion purposes
- provides a strong base of committed customers if they wish to sell the facility.

For the **Town of Gravenhurst:**

- resolves a serious situation that could develop if we were to lose a marina,
- protects the assessment values of water access properties,
- involves local initiative by the residents and the private sector
- requires no action by the Town,
- there is no cost to the taxpayer.

For **KLRA/HRLR:**

- solves a major problem highlighted in the Kahshe Lake Plan,
- demonstrates leadership by the Associations, and
- will attract and strengthen membership
- relatively low cost. (legal fees and promotion)
- an option to purchase the marina property provides future flexibility if the present owner decides to sell.

Organizational considerations. We have been apprised of organizational concerns as a result of the two organization KLRA/HRLR structure of the KLPIC. We are told that the proposal will require member approval at each Association's Annual Meeting in July of next year. We are very uncomfortable with this situation. We are at a point where there have been a number of meetings with the marinas. We are confident that they are prepared to proceed. We feel it would be awkward to withdraw from negotiations now, and we also feel it would be awkward to finalize negotiations now when the proposal would be put "on hold" until next summer. In effect, we would miss a whole cottage season. We have two suggestions to move the process ahead.

KLRA Leading Role. We suggest that it would be preferable for the KLRA to take the leading role in this situation. If it is possible for the KLRA to approve the proposal and act as the plan sponsor on behalf of the total Lake, it can move ahead quickly. We would then have one party dealing with the marinas. KLRA is the larger of the two organizations. The marinas are located in the KLRA geographic sphere. KLRA can still work on behalf of all water access residents. HRLR would still be able to promote the proposal to their members, and continue to play their role as part of the KLPIC. Legally, KLRA can only represent their own members. It could be possible to establish "associate membership" status for HRLR members. However, KLRA could negotiate a master agreement that would be registered. HRLR members and any other individual could sign similar agreements directly with the marina of their choice. Both KLRA and HRLR would receive full recognition for developing the plan as part of KLPIC.

Individual Initiative. If it is not possible to move ahead through one or both Associations, the four water access members of the Water Access Sub-Committee are prepared to continue to negotiate an agreement with Rockhaven Inn. We would act as individuals. Our plan would be to work directly with Rockhaven's legal counsel to finalize the agreement, and sign four separate individual agreements. We, of course, would not seek a right of first refusal in the individual agreements. We would have the four agreements registered on title.

At this point, there would be no KLRA/HRLR involvement. Once it is completed, the KLRA/HRLR could:

- use the individual agreements to provide the basis for future agreements between the Associations and the marinas, or between individuals and their marina.
- Decide how each Association wishes to become involved
- Obtain board and membership approval as required.
- Seek a right of first refusal in an Association agreement

or

- Decide not to get involved as an Association, and leave the plan up to individuals

7. Next steps

We believe that it is important for the Associations to proceed with **Recommendation 6C** now. There is an opportunity to show leadership, capitalize on the current momentum, assure right of first refusal on the marina property, avoid any change of circumstance before next summer, and protect the water access cottagers.

Delay means that we risk a “bad” circumstance that would reflect poorly on the Associations, may find the marinas “cool” to the idea, miss nine months of marketing opportunity, and lose the first right of refusal. Cottagers could lose the protection of an agreement.

If individuals begin the project, it would not be possible to work with both marinas at once. Some customers could be annoyed, and we could not negotiate a first right of refusal.

The current proposal holds no financial liability for the Associations. A budget has been assigned to the Sub-Committee by KLPIC, which can be used to draft the agreement.

We recommend that:

The KLPIC approve the feasibility of **Recommendation 8C**, and recommend to the KLRA and HRLR Boards that we proceed.

That the Association Boards approve the next stage, as follows:

- Continue negotiation with the marinas
- Draft a letter of intent that outlines the agreement
- Develop a means for both KLRA and KRLR members to participate.
- Obtain Board approval of the letter of intent
- Use legal counsel to draft final agreement.
- Obtain approval of Boards
- Sign agreements
- Register agreement
- Prepare forms for members to register
- Provide draft material to marinas to allow non-members to participate if they wish
- Begin promotion of agreement

Respectfully submitted,

Charles Baker
Bruce Chadwick, Chair
Eleanor MacLean

Henry Kowalewski
Garth Wilby
KLPIC Water Access Sub-Committee