

THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN

BY-LAW 2023 - 47

BEING A BY-LAW TO PROVIDE FOR THE EXECUTION OF A CONSENT AGREEMENT, AS A CONDITION OF AN APPROVED ZONING BY-LAW AMENDMENT, WITH THE OWNERS OF THE LANDS:

LYNN AND WILLIAM GREEN - PART OF LOT 20 CONCESSION 8, FORMERLY IN THE GEOGRAPHIC TOWNSHIP OF CROFT, NOW IN THE MUNICIPALITY OF MAGNETAWAN, WITH THE MUNICIPAL ADDRESS OF 121 TRAILS END LANE, ROLL: (49 44 030 005 04500).

WHEREAS, an application for a Consent was approved by the Council with the condition of a development agreement being entered into and registered on title, pursuant to Section 53 (12), 51(25) and 51 (26) of the Planning Act, R.S.O. 1990, regarding the aforementioned lands;

AND WHEREAS, the Council has applied a Consent condition to require an agreement to be entered into;

AND WHEREAS, Council is granted the power pursuant to Section 53(12) and 51(26) of the Planning Act, R.S.O. 1990, to enter into an agreement to be registered against the land to which the consent applies;

AND WHEREAS Council is entitled to enforce the provisions of such an agreement against the owner of the land, pursuant to Section 51(26) of the Planning Act, R.S.O. 1990


AND WHEREAS, Council is satisfied that the proposed development of the lands is appropriate and in conformity with the Municipality's requirements;

NOW THEREFORE the Council of the Corporation of the Municipality of Magnetawan hereby enacts as follows:

1. That the Municipality of Magnetawan enter into a development agreement substantially in the form attached hereto as "the Agreement."
2. That the Mayor and the Clerk are hereby authorized to execute the Agreement and all documents in connection with the Agreement.
3. The Municipality's solicitor is hereby authorized to register the Agreement against the title of the lands to which it applies.

READ A FIRST, SECOND, AND THIRD TIME, passed, signed and the Seal of the Corporation affixed hereto, this 13th day of September, 2023

**THE CORPORATION OF THE
MUNICIPALITY OF MAGNETAWAN**



Sam Dunnett MAYOR

Kerstin Vroom CAO/Clerk

THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN

DEVELOPMENT AGREEMENT

THIS AGREEMENT made this _____ day of _____, 20__.

BETWEEN:

GREEN, Lynn and
GREEN, William

(hereinafter called the "OWNERS")
OF THE FIRST PART

- and -

THE CORPORATION OF THE MUNICIPALITY OF MAGNETAWAN

(hereinafter called the "MUNICIPALITY")
OF THE SECOND PART

WHEREAS the lands that are the subject to this Agreement are the lands described in Schedule "A" attached hereto and as specifically shown on Schedule "B" and which lands are referred to herein as "said land";

AND WHEREAS the OWNER has obtained a provisional consent from the Central Almaguin Planning Board on March 1, 2023, under File B001/23, MAGNETAWAN;

AND WHEREAS one of the conditions of the approval of this consent is that the Owners enter into a Development Agreement to ensure the mitigation measures and recommendations contained in the Environmental Impact Statement be implemented through Consent Approval with the Municipality of Magnetawan;

NOW THEREFORE THIS AGREEMENT WITNESSED that, in consideration of the premises and for other good and valuable consideration (the receipt of which is hereby acknowledged), the parties hereto covenant and agree with one another as follows:

1. **SCOPE OF AGREEMENT**

1.1 **DESCRIPTION OF LANDS**

The land affected by this Agreement are the lands described in Schedule "A" attached hereto, and as specifically shown on Schedule "B" attached hereto and referred to herein as "said lands".

1.2 **CONFORMITY OF AGREEMENT**

The OWNERS covenant and agree that all new work performed on the subject lands shall be in conformity with:

- a) The provisions of this Agreement;
- b) All applicable Municipal By-laws and all applicable Provincial and Federal legislation.

2. **REGISTRATION OF THE AGREEMENT**

- 2.1 The OWNERS agree that all documents required herein shall be submitted in a form suitable to the MUNICIPALITY and suitable for registration.

- 2.2 The Agreement shall be registered on title to the subject lands as provided for by Section 53(12) and 51(26) of the Planning Act R.S.O. 1990, by the Municipality, at the expense of the OWNERS.
- 2.3 The OWNERS agree to reimburse the MUNICIPALITY for all administrative and professional costs incurred in preparing, executing, and registering this Agreement.
- 2.4 The OWNERS agree not to make any application or request to deregister this Agreement without the authorization in writing from the MUNICIPALITY.
- 2.5 All offers of Purchase and Sale shall contain a clause advising the potential purchaser of this Agreement.

3. **ISSUANCE OF BUILDING PERMITS**

- 3.1 The OWNERS agree to not request the Chief Building Official to issue a building permit to carry out the development until the Agreement has been registered on title to the subject lands and a registered copy of same has been provided to the MUNICIPALITY.
- 3.2 It is agreed that if the OWNERS fails to apply for a building permit or permits to implement this Agreement within two (2) years after registration, then the MUNICIPALITY, at its option, has the right to terminate the Agreement and require that a new Consent Agreement be submitted for approval and execution.

4. **DEVELOPMENT PROVISIONS**

- 4.1 The OWNERS agree to develop the subject lands in accordance with the Development Agreement and all recommendations and mitigation measures contained in the Scoped Environmental Impact Study prepared by Hutchinson Environmental Sciences Ltd. dated October 3, 2022, and attached hereto in Schedule C, and agree that no work will be performed on the subject lands except in conformity with all provisions of this Agreement.

5. **OTHER REQUIREMENTS**

- 5.1 The OWNER agrees that nothing in this Agreement shall relieve him or her from complying with all other applicable agreements, by-laws, laws, or regulations of the MUNICIPALITY or any other laws, regulations or policies established by any other level of government. Nothing in this Agreement shall prohibit the MUNICIPALITY or its Chief Building Official from instituting or pursuing prosecutions in respect of any violations of the said by-laws, laws, or regulations.

6. **BINDING PARTIES. ALTERATION. AMENDMENT. EFFECT. PENALTY**

- 6.1 This Agreement may only be amended or varied by a written document executed by the parties hereto and registered against the title to the subject lands.
- 6.2 Following the completion of the works, the OWNERS shall maintain to the satisfaction of the MUNICIPALITY, and at their sole expense, all the facilities or works described on Schedule "C".
- 6.3 This Agreement shall ensure to the benefit of and be binding upon the respective successors and assigns of each of the parties hereto.
- 6.4 The OWNERS acknowledge that the Agreement is entered into under the provisions of Section 51(25) and 51(26) of the Planning Act, and that the expenses of the MUNICIPALITY arising out of the enforcement of this Agreement may, in addition to any other remedy the Municipality may have at law, be recovered as taxes under Section 427 of the Municipal Act, 2001, S.O. 2001, c.25 as amended.
- 6.5 The Agreement shall come into effect on the date of execution by the MUNICIPALITY.

6.6 Nothing in this Agreement shall relieve the OWNERS from complying with all other applicable by-laws, laws or regulations of the MUNICIPALITY or any other laws, regulations or policies established by any other level of government. Nothing in this Agreement shall prohibit the MUNICIPALITY from instituting or pursuing prosecutions in respect of any violations of the said by-laws, laws, or regulations.

6.7 The definitions of Municipality of Magnetawan Zoning By-law 2001-26, as amended, shall be used to define any terms used in this Agreement.

7. CONDITIONS PRIOR TO EXECUTION OF AGREEMENT BY THE MUNICIPALITY

7.1 Prior to the execution of this Agreement by the MUNICIPALITY, the OWNERS shall:

- a) Taxes - have paid all municipal tax bills issued and outstanding on the said lands;
- b) Postponements to this Agreement - have delivered to the MUNICIPALITY all postponements of any prior encumbrances so that this Agreement will be first priority against the said lands;
- c) Land Ownership - be the registered owners in fee simple of the lands described in Schedule 'A'.

8. **NOTICE**

8.1 Any notice, required to be given pursuant to the terms hereto, shall be in writing and mailed or delivered to the other at the following addresses:

OWNERS NAMES AND ADDRESS: William and Lynn Green
264 Riverview Place
Guelph, ON, N1E 7H8

MUNICIPALITY: Kerstin Vroom, CAO / Clerk
Municipality of Magnetawan
P.O. Box 70
Magnetawan, ON
POA IPO

THIS AGREEMENT shall inure to the benefit of and be binding upon the OWNERS and their respective heirs, executors, administrators, successors, and assigns.

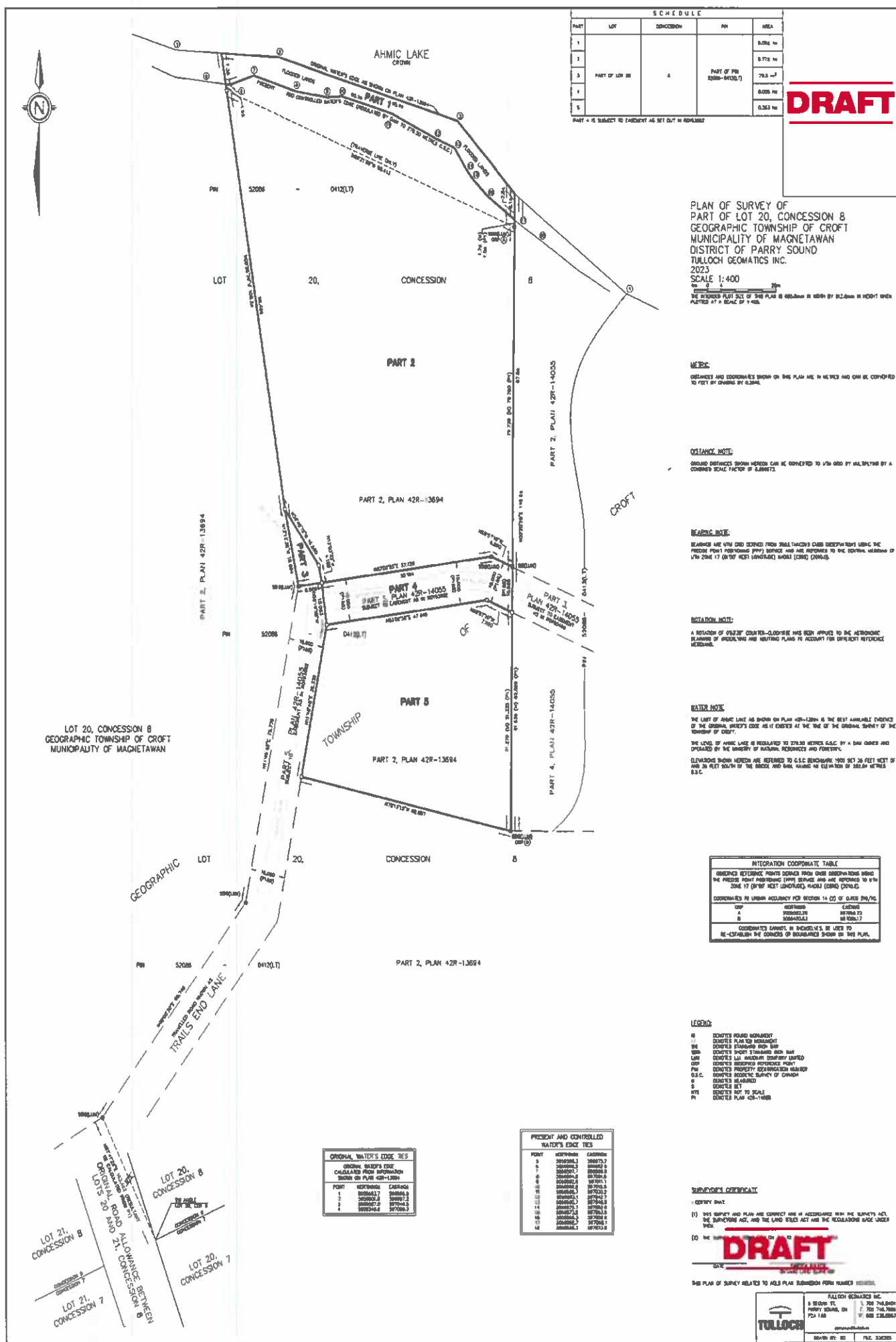
IN WITNESS WHEREOF the OWNER and the MUNICIPALITY have caused their corporate seals to be affixed over the signatures of their respective signing officers.

SCHEDULE ¹¹A¹¹

LEGAL DESCRIPTION OF THE LANDS

Part of Lot 20, Concession 8, Geographic Township of Croft, Municipality of Magnetawan

Part of PIN 52086-0412(LT)



SCHEDULE "C"

Environmental Mitigation Measures

1. Site Selection

The size and location of building envelope(s) can influence its impact on the surrounding environment. The building envelope(s) should be concentrated as much as possible so that encroachment into, and fragmentation of, natural habitat is avoided or minimized. Areas for construction laydown and storage should be kept as small as possible and away from sensitive natural heritage features. HESL provided Environmental Constraints (Figure 4) for the proposed lot to guide future development away from sensitive areas and minimize or prevent impacts to these features.

2. Timing

Future development and site alteration should be scheduled for times of the year that avoid or minimize wildlife disturbance. These periods vary depending on wildlife species and habitat types. For example, hibernating wildlife are vulnerable to site clearing if it destroys their overwintering habitat (e.g., dens), while the spring and summer season is a sensitive period for many species that reproduce and raise young during this time.

Migration period is a higher risk period for many species of birds (Government of Canada 2019). Where it is not possible to avoid construction during sensitive wildlife periods, additional mitigation measures should be implemented as described in the following sections (i.e., buffers, exclusion fencing, lighting, wildlife inspections, fill management, retention of vegetation etc.). The federal *Migratory Birds Convention Act (1994)* protects the nests, eggs and young of most bird species from harm or destruction. Development activities that could disturb breeding birds, such as clearing of vegetation, should be scheduled outside of the periods identified by the Act (Government of Canada 2019). The peak breeding bird season for the west Parry Sound area extends from mid-April through late August for most species (ECCC 2017).

To avoid harm to SAR bats that may be utilizing the treed areas on the property, tree clearing activities should take place after October 1st and before April 1st of any year.

Amphibian and reptile populations are active from March to October in southern Ontario (MNRF 2016). Construction activities should be scheduled outside of these periods in areas close to, or including, potential habitat (such as wetlands and upland woodland habitat) to avoid disturbance of these species, and their habitats and movement corridors. For example, adult Snapping Turtles migrate from winter hibernation sites to summer habitat in April and May, while hatchlings move to water in early fall (MNRF 2016). Amphibian species generally breed from mid-March to the end of July (Bird Studies et al. 2009).

3. Erosion and Sediment Control Plan

An erosion and sediment control (ESC) plan should be developed to control erosion and subsequent sedimentation associated with development or site alteration to protect adjacent aquatic habitat. Controls, such as sediment barriers, should be securely installed prior to the initiation of work to avoid leakage during inclement weather. Regular monitoring and inspection should be carried out to ensure control measures are sound and functioning effectively (including within 24 hours following any storm event). Adjustments to controls should be made as necessary to improve performance. Control measures should be maintained until vegetation has established on exposed soils.

4. Retention of Vegetation and Habitat Features

The natural vegetation in the study area should be protected as much as possible, to maintain native plant diversity and the wildlife habitat it provides. Any future development should avoid removing snags that are larger than 10 cm in diameter unless a bat snag survey has been completed to confirm the presence/absence of potential bat habitat.

Vegetation that must be removed during development or site alteration should be replaced with plantings of native species once development is complete. Future development plans for the proposed lot should aim to maintain at least 85% of the existing vegetation and limit the size of the building envelope. It is recommended that no tree is removed or injured that is located more than 10 m from the outer edge of a building, accessory structure, access road or septic system.

Topsoil management should be implemented as part of revegetation efforts. Stripped topsoil should be retained, stored, and used in restoration works so that the native and local seedbank is retained. Revegetated areas should be monitored to ensure successful establishment of native plantings.

5. Buffers

A 30 m buffer has been established from Ahmic Lake, inland for the protection of Blanding's Turtle habitat, which in turn will further protect any sensitive fish habitat and maintain a natural buffer between the development and Ahmic Lake.

Shoreline buffers can play an important role in protecting lake health. The physical separation they provide between upland human activity and the aquatic environment can aid in mitigating the effects of development and site alteration on water quality, erosion and flood control, and wildlife habitat. As stated in Section 4.3 of the OP,

'a natural shoreline vegetation buffer shall be preserved within at least 20 metres of all water courses and Municipality of Magnetawan Official Plan 11 Update - June 27, 2012 water bodies wherever possible except for the removal of hazardous trees and a narrow area to allow a pathway to the shoreline. Council may require a wider buffer depending on site-specific conditions and the sensitivity of the adjacent natural heritage features.'

The area from the highwater mark extending inland a depth of a minimum of 20 metres, for the entire width of the lot, should be maintained with natural vegetation and preservation of at least 85% of trees within buffer. It is acknowledged that access to the shoreline will be required and where possible disturbance to the vegetated buffer should be kept to a minimum. Where a walkway is required through the buffer, it should meander to the shoreline and be constructed of permeable material or be raised off the ground allowing for growth beneath the structure (Muskoka Watershed Council 2013). There are no specific guidelines in the Municipality of Whitestone's Official Plan or Zoning By-Law No. 07-2018 for walkway access to the shoreline, therefore HESL recommends a maximum width of 1.6 metres based on nearby Township of Georgian Bays Zoning By-law (2014-75).

5.1 Blanding's Turtle Habitat Protection

Natural vegetated buffers provide many important functions, including provision of shade, food, nesting habitat, movement corridors, and protection from predators. The Constraints Analysis depicted in Figure 4 should be used to direct development outside of the 30 m buffer for Blanding's Turtle habitat. The following additional mitigation measures are recommended to provide protection of Blanding's Turtles and their habitat:

- Installation of all Erosion and Sediment Control (ESC) measures prior to onsite disturbance;
- Work outside of species sensitive periods or mitigation including construction of barriers and exclusion fencing to occur during species-specific timing windows: and,
- Establishing and maintaining a 30 m natural buffer from the highwater mark of Ahmic Lake.

6. Fish Habitat

The incorporation of the following mitigation measures will further minimize impacts to fish habitat should in-water structures be constructed in future:

- Utilize a dock design that has a small footprint on the lakebed, such as a floating dock;
- Implement a timing window for dock installation outside of October 15 to July 15th to protect spring and fall spawning species;
- Clearing of riparian vegetation should be kept to a minimum;
- Minimize the removal of natural woody debris, rocks, sand or other materials from the banks, the shoreline or the bed of the waterbody below the ordinary highwater mark. If material is removed from the waterbody, set it aside and return it to the original location once construction activities are completed;
- Immediately stabilize shoreline or banks disturbed by any activity associated with the project to prevent erosion and/or sedimentation, preferably through re-vegetation with native species suitable for the site;
- Restore bed and banks of the waterbody to their original contour and gradient; if the original gradient cannot be restored due to instability, a stable gradient that does not obstruct fish passage should be restored; and,
- If replacement rock reinforcement/armouring is required to stabilize eroding or exposed areas, then ensure that appropriately-sized, clean rock is used; and that rock is installed at a similar slope to maintain a uniform bank/shoreline and natural stream/shoreline alignment.

Regulatory Authorization

Natural heritage related permitting may be required should the proposed lot be developed in the future. Details on potential regulatory authorization requirements are provided below.

1. MECP Consultation

It is recommended prior to any development that the Ministry of Environment Conservation and Parks is consulted regarding Species at Risk to determine any requirements under the *ESA*, 2007.

2. DFO - Self-Review Process

Prior to any installation of in-water structures it is recommended that the future property owner or ideally, an environmental consultant undertake a self-assessment to determine if the project requires a review from the Department of Fisheries and Oceans.

