



311 George St. N. Suite 200  
Peterborough, ON K9J 3H3

T 705.876.8340 | F 705.742.8343

www.ecovueconsulting.com

# Planning Report

**To:** Mayor and Council, Municipality of Magnetawan

**From:** Kent Randall & Chris Conti (EcoVue Consulting),  
Township Planning Consultants

**Subject:** Application for Consent (Cordua)

**Property Location:** Part of Lot 13, Concession 10, Geographic Township of Spence, Municipality of Magnetawan  
Silver Lake Road

**EcoVue File No.:** 23-2125-04

**Date:** July 25, 2023

---

## 1.0 Recommendation

We recommend that Council receive the report dated July 25, 2023 from EcoVue Consulting Services regarding the Consent Application for 184 Silver Lake Road, and that Council approve the application and that the provisional consent be given subject to the following conditions:

1. The Applicants shall undertake and submit, to the satisfaction of the Municipality of Magnetawan, a study carried out by a qualified environmental professional which evaluates the remaining capacity for residential development on Bells Lake and demonstrates that capacity is available for a residence on the proposed severed parcel. The report shall also assess if there is capacity for additional residential development on the proposed retained lands. The report shall identify potential impacts of the residential development of the proposed severed parcel on the lake and identify measures to mitigate potential impacts;
2. The Applicants shall submit to the satisfaction of the Municipality of Magnetawan a study carried out by a qualified environmental professional which assesses the potential impact of residential development of the severed parcel on significant natural heritage features including the Deer Yard identified in Schedule B of the Magnetawan Official Plan and demonstrates that any potential impact can be mitigated so that the proposal will result in no negative impact.
3. That any mitigative measures and recommendations contained in the above noted reports shall be implemented through a development agreement with the Municipality of Magnetawan;



4. That the Applicants provide confirmation satisfactory to the Municipality of Magnetawan that the proposed severed parcel can be adequately serviced by individual on-site septic systems and individual on-site water systems;
5. That the Applicants submit a zoning by-law amendment to rezone the proposed lot to address the non-compliant minimum lot area requirement within the Shoreline Residential designation.
6. That the Applicants provide a draft copy of the deeds (with all schedules) to be approved by the Municipality prior to registration.
7. That a draft reference plan of survey be provided to the Municipality of Magnetawan for review prior to registration.
8. That a parkland dedication fee shall be paid per new lot created as per By-law 2021-49.
9. That all taxes, municipal, legal, and planning fees associated with the processing of this application including fees under By-law 2011-11, 2011-16 and current Municipal Fees & Charges By-law be paid.

## **2.0 The Application**

Ashley and Brandon Cordua (Applicants) have applied to sever a lot with approximately 30.78 metres (101 feet) of frontage on Silver Lake Road, 32.64 metres (107.1 ft.) of frontage on Bells Lake, a depth of approximately 59.59 metres (195.5 feet), and an area of approximately 0.18 hectares (0.45 acres) from a 1.3 hectare property on Silver Lake Road. The proposed retained and severed parcels have frontage on Bells Lake, also known as Silver Lake.

According to the submissions, the Applicants own parts 8 to 13 on Plan 42R-2703 which appears to be an old plan of subdivision. It appears that the lots have been joined in title by the Applicant's common ownership and the intent of the proposed consent is to separate Lot 13 from the remainder of the Applicants' holdings. The purpose of the severance is to construct a cottage on Lot 13. An existing cottage is located on the retained lands.

## **3.0 Planning Analysis**

### **3.1 The Planning Act**

*The Planning Act*, R.S.O., 1990, c.P 13, (Act), through Section 3 (5) (a), requires all decisions that affect a planning matter to be consistent with policy statements that are in effect on the date of the decision. Through this provision, the decision regarding the proposed consent must be consistent with the Provincial Policy Statement (PPS).



Furthermore, the authority for municipalities to grant severances emanates from Section 53 (1) of the Act which states:

*(1) An owner, chargee or purchaser of land, or such owner's, chargee's or purchaser's agent duly authorized in writing, may apply for a consent as defined in subsection 50 (1) and the council or the Minister, as the case may be, may, subject to this section, give a consent if satisfied that a plan of subdivision of the land is not necessary for the proper and orderly development of the municipality. 2021, c. 25, Sched. 24, s. 4 (1).*

Severances are required to have regard for matters in Section 51 (24) of the Act through reference in Section 53 (12). Section 51 (24) states the following:

*(24) In considering a draft plan of subdivision, regard shall be had, among other matters, to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality and to,*

*(a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2;*

*(b) whether the proposed subdivision is premature or in the public interest;*

*(c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;*

*(d) the suitability of the land for the purposes for which it is to be subdivided;*

*(d.1) if any affordable housing units are being proposed, the suitability of the proposed units for affordable housing;*

*(e) the number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy of them;*

*(f) the dimensions and shapes of the proposed lots;*



- (g) *the restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;*
- (h) *conservation of natural resources and flood control;*
- (i) *the adequacy of utilities and municipal services;*
- (j) *the adequacy of school sites;*
- (k) *the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;*
- (l) *the extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy; and*
- (m) *the interrelationship between the design of the proposed plan of subdivision and site plan control matters relating to any development on the land, if the land is also located within a site plan control area designated under subsection 41 (2) of this Act or subsection 114 (2) of the City of Toronto Act, 2006. 1994, c. 23, s. 30; 2001, c. 32, s. 31 (2); 2006, c. 23, s. 22 (3, 4); 2016, c. 25, Sched. 4, s. 8 (2).*

Through Sections 51 (24) (c) and (g) severances must conform to the applicable Official Plan and Zoning By-law.

The above-noted requirements of the Act are addressed through the sections of this report that follow.

### **3.2 Provincial Policy Statement (2020)**

#### **3.2.1 Managing and Directing Land Use to Achieve Resilient and Efficient Development and Land Use Patterns**

Section 1.1.1 states in part that healthy, livable and safe communities are sustained by promoting efficient development and land use patterns, accommodating an appropriate range and mix of land uses, including recreation, parks and open space, and avoiding development and land use patterns which may cause environmental or public health and safety concerns. The proposed residential use of the severed parcel



is consistent with surrounding land uses and will continue the resource based recreational use of the lands.

Section 1.1.1 (c) indicates that development and land use patterns should be avoided which cause environmental concerns. There is some potential for the proposed consent to affect Bells Lake and other natural heritage features. As noted above, the Applicants will be required to demonstrate that residential use of the severed parcel will not cause environmental concerns. If satisfactory information is provided by the Applicants, the proposal will be consistent with this section of the PPS.

The requirement for studies about the impact of the proposal is discussed more fully later in this report.

### **3.2.2 Rural Lands and Areas in Municipalities**

The provisions in Section 1.1.4 (Rural Areas in Municipalities) and Section 1.1.5 (Rural Lands in Municipalities) of the PPS are relevant as they relate to the proposed consent.

Section 1.1.4.1 refers to building on local character, conserving biodiversity, and considering the ecological benefits provided by nature. The proposed consent will provide a cottage lot which is consistent with the shoreline residential character of the area. Through conditions of approval biodiversity will be conserved and ecological features will be protected.

Section 1.1.5.2 sets out the permitted uses for rural lands in municipalities which include resource-based recreational uses. A recreational dwelling is proposed to be constructed on the severed parcel which is a resource-based recreational use.

### **3.2.3 Natural Heritage**

Section 2.1 of the PPS provides policies about Natural Heritage, and it applies to the proposed consent primarily because of the property's proximity to Bells Lake and because Schedule B of the Magnetawan Official Plan identifies the property within an area identified as a Deer yard.

Section 2.1.1 states that natural features and areas are to be protected for the long term. Furthermore, Section 2.1.2 of the PPS states the following:

*2.1.2 The diversity and connectivity of natural features in an area, and the long-term ecological function and biodiversity of natural heritage systems, should be maintained, restored or, where possible, improved, recognizing linkages between and among natural heritage features and areas, surface water features and ground water features.*



In addition, Section 2.1.5 (d) states that development and site alteration are not permitted in significant wildlife habitat unless it is demonstrated that there will be no negative impact on the natural feature or their ecological functions.

Consents are defined in the PPS to be a form of development and the proposed consent must be consistent with the above policies. The capacity of the Bells Lake to support additional cottage development and potential impact of the proposal on the deer yard must be evaluated in conjunction with the proposed consent to ensure consistency with the above policies.

This potential impact on environmental features is addressed more fully later in this report in the context of the policies of the Official Plan.

Section 2.2.1 provides policies to “*protect, improve and restore the quality and quantity of water...*” which includes in Section 2.2.1 (h) “*ensuring the consideration of lake capacity where applicable....*” The proposed consent will be consistent with these policies through the condition that is being imposed to require a study that assesses lake capacity.

Section 3.1 of the PPS provides policies for natural hazards. Section 3.1.1 generally directs development away from hazardous lands adjacent to streams, rivers and small inland lake systems that are impacted by flooding hazards.

The proposed consent is not expected to be significantly affected by flooding hazards. While lot lines of the proposed severed lot may encroach into the high water mark, appropriate setback distances will be maintained from the high water mark for the location of the cottage and other structures.

This matter is dealt with in greater detail below.

Subject to the considerations above, the proposed consent is consistent with the PPS.

### **3.3 Municipality of Magnetawan Official Plan**

The subject property is designated as Shoreline in the Municipality of Magnetawan Official Plan (MMOP). As noted in Section 5.4.1 of the MMOP, in the Shoreline designation detached dwellings are a permitted use as well as a number of tourism and recreation related uses.

Section 5.4.2 provides development standards for the Shoreline designation. It states in part:



*Unless otherwise specified, new lots should be no smaller than 1.0 ha (2.5 acres) in area with 90 metres (300 feet) of water frontage.*

Section 5.4.2 also states that larger lots are required in some circumstances including in deer wintering yards and on lakes less than 40 hectares in size. These circumstances do not appear to apply to the current application.

The size of the proposed lot as noted earlier is approximately 0.18 hectares and water frontage on Bells Lake is 32.64 metres. The proposed severed lot does not meet the size requirements for new lots in the Shoreline designation. However, it is noted that the above policy states that, “...*unless otherwise specified new lots should be no smaller than...*” the size indicated above. Therefore, new lots can be smaller in some circumstances where it is specified.

In view of the history of the property, with the proposed lot being part of an old plan of subdivision, a smaller lot can be justified in these circumstances. However, the lot is substantially smaller than the Official Plan’s requirements. If the consent is to be permitted, the reduced lot size should be justified based upon the studies identified previously and discussed further below, and the suitability of the property to accommodate private servicing.

Section 5.4.5 of the Official Plan states:

*No development should be permitted which would result in a waterbody being developed to a point of being over capacity as estimated by the Ministry of the Environment or Ministry of Natural Resources or as demonstrated by a Lakeshore Capacity Assessment completed in accordance with the Lakeshore Capacity Assessment Handbook. Any development within 300 metres of a waterbody shall be deemed to have an impact on the waterbody.*

Section 5.4.5 also states that development that will bring a lake closer to its estimated capacity should only be considered after the Applicant has submitted an impact report that satisfies the concerns of Council.

Furthermore in Section 5.4.5 it states

*In no case shall any development exceed the capacity of the waterbody to sustain additional development from either a biological and a recreational perspective. For the purpose of this*





*Plan, development shall include new lot creation or additions to commercial operations.  
These policies shall not restrict residential development on existing lots of record.*

For Bells Lake, the recreational carrying capacity is based upon 1.6 hectares of lake surface area per residential unit. The biological carrying capacity is determined through use of the Lakeshore Capacity Assessment Handbook.

Appendix 1 of the Official Plan lists the assimilative capacity of lakes. Bells Lake is identified as having Limited Capacity (10 to 20 seasonal lots). While Bells Lake has limited capacity for development, it is not clear if that capacity has been reduced since the time that the Official Plan was prepared.

It appears that the severed parcel is an old subdivision lot that may have been merged in title with the remainder of the property owned by the Applicants. In view of the Official Plan designation of the property and in recognition that some development rights existed in the past in association with the old plan of subdivision, our opinion is that there should be conditional approval of the consent based upon studies that assess the capacity of the lake, potential impacts on natural heritage features including the deer yard, and determination that the lot can accommodate a private well and septic system. This would provide an opportunity to recognize the development permissions for the property that may have previously existed.

However, it should be noted that Section 5.4.5 above is prohibitive. If the development of an additional lot on Bells Lake as proposed would result in the lake being over capacity, then it cannot be permitted. As stated in Section 5.4.5, the study should determine if the proposed development of the severed parcel would bring Bells Lake to the point of being over capacity. As part of the study, the Ministry of the Environment, Conservation and Parks (MECP) and the Ministry of Natural Resources and Forestry (MNRF) should be consulted to determine if there is information about the current capacity of the lake which would be relevant. The Lakeshore Capacity Assessment must be completed to demonstrate that capacity is available in Bells Lake to accommodate the proposed development of the severed parcel.

The study should be undertaken by a qualified environmental professional with experience in completing Lakeshore Capacity Assessments and familiarity with the Lakeshore Capacity Assessment Handbook.

Section 5.4.2 of the MMOP states the following:

*It is a policy of this Plan to permit one additional cottage and accessory buildings where the parcel may otherwise be eligible for a severance and the additional buildings are located in*





*conformity with the provisions of the Plan as if the lots were separated. Site specific zoning may be used to enable the additional dwelling and prevent the further division of the lands.*

Through this policy, two dwellings could be permitted on large Shoreline lots. The size of the subject property is 1.3 hectares which should allow the location of another dwelling which would be in conformity with the provisions of the MMOP. The effect of this policy would be similar to allowing the consent.

However, the prohibition in Section 5.4.5 still applies. An additional cottage on a lot would consume some of the capacity of the lake to absorb development. Therefore, the requirements of Section 5.4.5 must still be addressed.

Section 4.3 of the Official Plan provides policies to protect surface water quality. It states that septic systems shall be located at least 30 metres from a watercourse or water body and that lot creation and land use changes that would bring a lake closer to capacity should only be permitted under one of a number of special circumstances. This section also requires that a 20 metre wide shoreline buffer of natural vegetation should be maintained. It appears that the proposed lot may be deep enough to locate a septic system 30 metres from the lake as required.

Section 4.6 of the Official Plan states that the MNRF has identified large portions of the Municipality as significant deer habitat. Development in these areas must be sensitive to impacts on deer wintering areas and vegetation removal in these areas must be minimized.

The subject property including the proposed lot is within an area identified as “Deer Yard” in Schedule B of the MMOP. It appears from Schedule B that the subject property does not contain deer wintering habitat. However, the presence of deer wintering habitat and the potential impacts of the proposed development on the deer yard must be assessed through an environmental study that is required prior to final approval of the consent. It must be demonstrated that there is no negative impact on significant natural heritage features.

Based on Schedule C of the Official Plan, Silver Lake Road is a private road. Section 6.3 of the Official Plan states that existing private roads shall continue to be used but shall not be extended. It also states:

*New development of seasonal residences on existing private roads may be permitted where it is considered infilling between existing residential units. No new development of permanent residences may be permitted on existing private roads.*



The development of a cottage on the proposed severed parcel could be considered as infilling and therefore, the proposal would conform to this policy.

Section 7.1.1 of the Official Plan provides criteria for severance applications. The proposed severance meets most criteria in this section.

In Section 7.1.1 (b), it states that when creating a new lot, the lot size and setback requirements will satisfy requirements of this Plan and meet the implementing zoning by-law requirements. As noted earlier, the proposed lot does not meet the size requirements for a new lot in the Shoreline designation.

However, given the existing circumstances (the proposed lot appears to be part of an old plan of subdivision, and Section 5.4.2 of the MMOP which permits an additional cottage on some lots), the creation of the proposed lot would conform to the MMOP.

Section 7.1.1 (c ) states:

*c) the proposed lot must front on a publicly maintained road or, within the Shoreline designation, between existing lots on an existing private road with a registered right-of-way to a municipally maintained road or be a condominium unit, which may be created on private roads having access to a municipal year round road;*

The subject property complies with this policy since it fronts on an established private road which provides access to a municipal road.

Section 7.1.1.(e) requires road access to be provided in a location where traffic hazards are avoided. It is not expected that the access to Silver Lake Road will be provided in an area where there are traffic hazards.

Section 7.1.1 (f) state the following:

*f) the lot size, soil and drainage conditions must allow for an adequate building site and to allow for the provision of an adequate means of sewage disposal and water supply, which meets the requirements of the Building Code, the lot must have safe access and a building site that is outside of any flood plain or other hazard land;*



The suitability of the subject parcel for the location of a private septic system and a well is a required condition of approval and must be demonstrated before the consent is finally approved. It is not expected that there will be issues with safe access or locating the building outside of the floodplain.

The other provisions of Section 7.1.1 are not applicable to the proposed consent.

As discussed above, the proposed severance complies with most applicable policies of the Official Plan. The main issues are the smaller size of the lot than required in the Shoreline designation and consideration for the capacity of the lake. There is also some concern for impacts on other natural heritage features.

However, the severance could be approved based upon the existing site characteristics and historic separation of the lots (e.g. accommodating private servicing and recognition of the parcel identified in the R-Plan), and if the other matters discussed above are addressed, in particular if there is sufficient capacity in Bells Lake for another seasonal dwelling unit.

Subject to the above requirements, our opinion is that the proposed consent conforms to the MMOP.

### **3.4 Municipality of Magnetawan Zoning By-law No. 2001-26**

The subject property is zoned Shoreline Residential (RS) in Magnetawan Zoning By-law 2001-26. Permitted uses include detached dwellings as well as home occupations and bed and breakfast establishments.

Section 4.2.2 of the By-law sets out the regulations for the RS zone. They include a minimum lot area of 1 hectare and a minimum lot frontage of 90 metres. The proposed severed parcel is undersized in relation to the requirements of the RS Zone, as well as the Official Plan.

Section 4.2.3 of the By-law permits additional dwelling units on lots which have at least 180 metres frontage on Ahmic Lake, Cecebe Lake and the Magnetawan River. In addition in Section 3.6 under the definition of "Dwelling Units on a Lot" the By-law states:

*On the lands abutting a navigable waterway, where a lot has at least 180 metres of frontage, a second dwelling unit is permitted provided that there is not more than one sleeping cabin on the lot.*



While the subject property does not have frontage on Ahmic Lake, Cecebe Lake or the Magnetawan River, the above provisions acknowledge the acceptability of permitting additional dwellings units on large waterfront lots.

Section 3.3 includes requirements for septic systems and leaching beds. Leaching beds and tertiary system treatment units and leaching beds, must be set back at least 20 metres from the high water mark. They must also be above the Regulatory Flood elevation.

As noted earlier, there appears to be sufficient depth of the proposed severed parcel to locate a septic system the required distance from the high water mark. However, the suitability of the lot to accommodate private septic and services must be confirmed through a condition of approval of the severance.

Section 3.17 (b) sets out requirements for undersized lots. It states the following:

*b) Existing Undersized Lots*

*Where a lot, having a lesser lot area and/or lot frontage than required herein, existed on the date of passing of this By-law, or where such a lot is created by a public authority or correction of title, such a smaller lot may be used and a permitted building or structure may be erected and/or used on such a smaller lot provided that all other applicable provisions of this By-law are complied with and provided that a sewage system that complies with the regulations under Building Code can be installed on the lands. Lots which have been increased in lot area or lot frontage following enactment of this By-law shall be deemed to comply to the By-law, and may be used in accordance with the provisions of the By-law.*

It is not clear if the proposed severed parcel would have existed as a separate lot on the date of the passing of the By-law. However, the above provision recognizes that it is acceptable in some circumstances to permit development on undersized lots.

In addition, Section 3.8 (b) allows the construction of buildings on private roads if the road existed on the date of passing of the By-law.

In consideration of the above, it appears that the proposed severance will comply with most provisions of the By-law. The main divergence from the By-law's standards is with regard to the lot size and lot frontage provisions.



The tests for approval of the application are mainly those set out in the Official Plan regarding lake capacity, potential natural heritage impacts, as well as the ability of the site to accommodate private sewage and water services. If those tests are met through the matters set out in the conditions of the approval, our opinion is that the intent of the Official Plan and the Zoning By-law will be met.

However, since the proposed severed parcel will not meet the By-law's standards for lot size and frontage, a Zoning By-law amendment (ZBA) is required to place the proposed lot in a special RS Exception Zone. This requirement is included in the recommended conditions of approval.

### **3.5 Summary of Planning Considerations**

In view of the above, the proposed consent is consistent with the applicable policies of the PPS and complies with all provisions of the MMOP subject to the requirements to address the capacity of Bells Lake for additional cottage development, to address potential natural heritage impacts and to ensure that the property can accommodate private sewage and water systems.

The size of the proposed lot is substantially smaller than the requirements of the Official Plan for the Shoreline designation and the Zoning By-law for the Shoreline Residential zone. However, most other provisions of the MMOP and Zoning By-law are met by the proposed consent.

The MMOP acknowledges that the lots smaller than the minimum lot area standard of 1.0 hectare might be appropriate in some circumstances. In addition, the MMOP can permit an additional cottage on large shoreline lots.

It is also important to note that the Zoning By-law permits additional dwelling units within some waterfront areas. Through the definition of dwelling units on a lot this seems to apply to all lots on navigable waterways with at least 180 metres frontage. The subject property has sufficient water frontage to qualify. While the proposal is to allow another cottage on a separate lot, it would essentially have the same effect as allowing a second dwelling on a large waterfront parcel.

Furthermore, the proposed lot appears to be part of an old plan of subdivision as set out on an R-Plan. It is reasonable to recognize some development potential for the parcel as long as the issues of lake capacity, natural heritage impacts, and private servicing can be satisfactorily addressed.



In consideration of these factors our opinion is that the consent should be approved based upon the requirements for studies and additional information that are included in the recommendation at the beginning of his report.

With regard to Section 51 (24) of the *Planning Act*:

- The proposed consent is not expected to affect matters of provincial interest as required in Section 51 (24) (a);
- Pursuant to Section 51(24) (b) the consent is not premature, and it is in the public interest,
- Subject to the requirements in the conditions of approval, the consent conforms to the Official Plan as required in section 51 (24) (c) and the land is suitable for the purpose of the consent as required in Section 51 (24) (d),
- The road access is sufficient for the consent pursuant to Section 51 (24) (e),
- The dimension and shapes of the proposed lot is appropriate as required in Section 51 (24) (f),
- Subject to the proposed zoning by-law amendment for the severed parcel, the consent will comply with standards in the zoning By-law and other applicable restrictions pursuant to Section 51 (24) (g),
- The studies required through the proposed conditions will ensure that the proposed consent will not impact natural heritage features on the site. In addition, any construction on the property will avoid areas prone to flooding. Therefore, the proposed consent has regard for the conservation of natural resources and flood control as required in Section 51 (24) (h).
- Pursuant to Section 51 (24) (i) appropriate utilities and services are available for the property.
- Regarding Section 51 (24) (j) the proposed consent is not expected to impact the need for school sites.
- A cash in-lieu parkland dedication will be required pursuant to Section 51 (24) (k).
- Pursuant to Section 51 (24) (l) any buildings that may be constructed on the severed parcel will be subject to energy conservation measures in the Ontario Building Code.



- Regarding Section 51 (24) (m) the proposal will comply with site plan control measures as may be required.

Therefore, in view of the above, the proposed consent has appropriate regard for Section 51 (24) of the Act.

Our planning opinion is that the consent is consistent with, or complies with all applicable planning provisions, subject to the conditions listed in the recommendation.

#### 4.0 Recommendations

That the consent application to create an additional Lot on Silver Lake Road, identified as Part 13 on R Plan 42R-2703 within the Municipality of Magnetawan be approved and that the provisional consent be recommended to the Central Almaguin Planning Board subject to the conditions contained in this report.

Respectfully Submitted,

**ECOVUE CONSULTING SERVICES INC.**

A handwritten signature in blue ink that reads "J. Kent Randall".

J. Kent Randall B.E.S. MCIP RPP  
Township Planning Consultant



A handwritten signature in blue ink that reads "Christopher L. Conti".

Chris Conti, M. E.S.  
Senior Planner