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Planning Report

To: Mayor and Council, Municipality of Magnetawan

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

Subject: Application for Consent (Mcllroy)

Property Location: Part of Lots 69 and 70, Concession B, Geographic Township of Spence, Municipality of

Magnetawan
Nelson Lake Road

EcoVue File No.: 24-2125-03

Date: March 21, 2024

1.0 Recommendation

We recommend that Council receive the report dated March 21, 2024 from EcoVue Consulting Services regarding consent application - Mcllroy, that Council approve the application, and that provisional consent be given subject to the following conditions:

1. That prior to registration, the Applicants shall complete a plan of survey of the proposed severed parcel delineating the road right of way acceptable to the Municipality of Magnetawan (Municipality).
2. That the Applicants provide a draft copy of the deed (with all schedules) to be approved by the Municipality prior to registration.
3. 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;
4. That the Applicants satisfy the Municipality and obtain the required approvals for any required improvements to the driveway and an entrance onto Nelson Lake Road.
5. That the Applicants provide confirmation from the Municipality of Magnetawan Roads Foreman with respect to entrance Municipal fees and disbursements (legal, engineering, planning), if any incurred by the Municipality with respect to this application. Payment of these subject fees is the responsibility of the Applicants.



2.0 The Application

James McIlroy and Bonnie Eng (Applicants) have applied on behalf of Gregory and Janice Black (owners) to create an easement over the Black's property in order to provide driveway access from the Applicants' property to Nelson Lake Road. According to the application, the driveway already exists and the purpose of the consent is to legalize the access.

The Applicants' property is located at Part Lot 70, Concession B, former Township of Spence while the owner's property is located at Part Lot 69, Concessions B. The proposed easement will have frontage of 9.14 metres on Nelson Lake Road and a length of approximately 79.38 metres. It will run in a mainly north/south direction to connect the Applicants' property to Nelson Lake Road.

The total area of the easement will be approximately 725.53 square metres. The retained parcel will have an area of approximately 40 hectares. According to the application, both the severed and retained parcels are currently vacant.

The purpose of the proposed consent is to legalize an existing driveway which provides access from the Applicants' property to Nelson Lake Road through the owner's property. There is no intent to change the use of any of the parcels.

As such, the proposal is for a technical severance which will not create any new development opportunities or result in any change in use of the lands.

Nelson Lake Road is a municipal road that is maintained year round.

3.0 Subject Property

The subject property (the land owned by the Blacks and the location of the proposed easement) has an area of approximately 40 hectares and is located to the southwest of the intersection of Nipissing Road and Nelson Lake Road. The northern part of the property is intersected by a portion of Nelson Lake Road which runs westward and turns south along western boundary of the subject property. Nelson Lake Road joins Blacks Road to the south of the property boundary.

The Applicants' property is approximately 20 hectares in size and it is located to the north of the subject property, to the northeast of the intersection of Nipissing Road and Nelson Lake Road. The proposed easement is intended to connect the southeast portion of the Applicants' property with Nelson Lake Road through the subject property.

Much of both the subject property and the Applicants' lands are wooded. According to information from the Applicants, their property is used mainly for recreational purposes.



The surrounding area is characterized mainly by large properties with extensive wooded areas. Some scattered residences located close to Nelson Lake Road. Some residences are located along roads and on the shoreline of the lakes that are scattered throughout the larger area.

According to available information, an abandoned mine site is located to the northeast of the Applicants' property. The subject property is within the 1 kilometre buffer area of the mine according to Schedule D to the Magnetawan Official Plan. However, it appears that proximity to the mine will not impact the proposal.

4.0 Planning Analysis

4.1 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 consents 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).

Consents 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) consents must conform to the applicable Official Plan and Zoning By-law.

The proposed consent is a technical consent for an easement that will legalize an existing driveway and will not change the use of the properties or create new development opportunities. The above provisions of Section 51 (24) must be addressed, but given the nature of the consent, not all are directly relevant and not all require detailed analysis.

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

4.2 Provincial Policy Statement (2020)

4.2.1 *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 consent will facilitate existing use of the Applicants' property and legalize an existing driveway. It will provide for the continuation of existing permitted uses. Furthermore, the proposal will ensure that the entrance onto Nelson Lake Road by the Municipality meets all requirements. The proposal should not cause any environmental, public health or safety concerns and will ensure that if there are any concerns for the entrance they will be addressed.

4.2.1.1 *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 for 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 maintain existing land uses, and is consistent with local character. It is not expected to negatively affect biodiversity or ecological functions.

Section 1.1.5.2 sets out the permitted uses for rural lands in municipalities which include the management and use of resources, resource-based recreational uses and locally appropriate residential development.



The application will facilitate the continuation of the recreational use of the property. It does not propose a change in use and therefore, it will provide to continuation of a permitted use.

4.2.2 Natural Heritage

Section 2.1 of the PPS provides policies for the protection of natural heritage features and functions.

While the subject property and the Applicants' property contain woodlands, they have not been identified as a significant feature. In the Magnetawan Official Plan, the subject property is included in an area identified as a deer wintering yard, stratum 2. The Official Plan includes policies to ensure protection of deer habitat. These are addressed in more detail later in this report and any requirements as they relate to the proposal will be met.

However, the proposed consent will create an easement to legalize an existing driveway and is not expected to require any significant tree removal or alteration to the site. It is not expected to cause any significant change in the vegetation or characteristics of the site and therefore, is not expected to have a negative effect on deer habitat or other natural heritage features. Therefore, our opinion is that the proposed consent is consistent with the policies in Section 2.1.

4.2.3 Minerals and Petroleum

Section 2.4 of the PPS contains policies for Minerals and Petroleum. The subject property is included in the Magnetawan Official Plan in an area of Aggregate and Mineral Resources.

Section 2.4.2.1 states the following:

2.4.2.1 Mineral mining operations and petroleum resource operations shall be identified and protected from development and activities that would preclude or hinder their expansion or continued use or which would be incompatible for reasons of public health, public safety or environmental impact.

The proposed consent is intended to maintain the existing recreational use of the properties and should not affect the potential for mineral mining operations on the property.

4.2.4 Mineral Aggregate Resources

Section 2.5 sets out provisions for the protection of Aggregate Resources. Through Section 2.5.1 they are to be protected for the long term.



Since the proposal is only for a technical consent that will not result in significant physical change to the property and will not affect the use, the proposal should not affect the protection of aggregate resources.

4.2.5 Human Made Hazards

Section 3.2 of the PPS provides policies for human-made hazards. Section 3.2.1 of the PPS states:

3.2.1 Development on, abutting or adjacent to lands affected by mine hazards; oil, gas and salt hazards; or former mineral mining operations, mineral aggregate operations or petroleum resource operations may be permitted only if rehabilitation or other measures to address and mitigate known or suspected hazards are under way or have been completed.

As noted previously, the Applicant's property is within the buffer area of an abandoned mine. It is not clear if there has been rehabilitation of the mine site, but given the nature of this application, it should not be restricted by this policy because of the proximity of the mine. The proposal is for a technical consent which will not cause significant physical change or change the use of the subject property or the Applicant's property.

Based upon the considerations above, our opinion is that the proposed consent is consistent with the PPS.

4.3 Municipality of Magnetawan Official Plan

The subject property and Applicants' property are designated as Rural Area with an identification of Aggregate and Mineral Resources in the Municipality of Magnetawan Official Plan (MMOP).

4.3.1 Aggregate and Mineral Resources

Section 4.14 of the MMOP provides policies for Aggregate and Mineral Resources. In section 4.14.1 it states that areas with high aggregate resource and mineral potential are identified on Schedule A. It further states:

Development of these areas for purposes other than resource extraction will not be permitted except where it can be shown that the proposed development has a greater public interest than the extraction of the resource and will not adversely affect the availability of the resource and long-term viability of the aggregate industry in the future.

This section also includes provisions for development in or adjacent to areas of known mineral or aggregate resources.



However, the proposed consent is not intended to facilitate any development of the Applicants' property or the owner's property. The proposed consent is only for an easement to legalize the use of an existing driveway. The use of the properties will not change. Therefore, the proposed consent will not offend the policies in Section 4.14.1 of the MMOP.

4.3.2 Deer Habitat

As noted previously, the properties are also identified as Deer Wintering Yard, stratum 2 in Schedule B of the MMOP.

Section 4.6 of the MMOP includes policies related to deer habitat. The policies indicate that development in these area must be sensitive to the impact on deer wintering yards and the removal of vegetation should be minimized. The policies also state that new lots should avoid areas of dense conifer cover and be of sufficient size to provide a suitable development area. Further provisions for development in these areas are also included.

However, the proposed consent is not intended to result in significant change to the properties, No new development opportunities will result from the proposal. The proposed consent will only create an easement which will legalize the use of an existing driveway. No significant removal of vegetation is proposed.

Therefore, given the nature of the proposal, our opinion is that it conforms to the above policies.

4.3.3 Rural Area Designation

The permitted uses for the Rural Area designation are set out in Section 5.2.1 and include forest management, conservation, parkland, fisheries resource management, hunt camps and others. The current recreational use of the property is consistent with these types of uses.

Section 5.2.8 includes policies aggregate extraction and it sets out requirements for applications for aggregate extraction operations. Since the proposal is only for a technical consent that is intended to legalize an existing driveway, and no change in use of the property is intended, these policies do not apply to the proposal. The proposed consent should not affect any potential future use of the property to extract aggregate.



4.3.4 Consent Policies

Section 7.1 of the Official Plan contains policies that govern consent applications. It states that consents shall only be considered if they are minor, do not require the extension of municipal services and they comply with the Objectives and General Development policies and the applicable Land Use policies in them MMOP. The proposed technical consent is minor, is not proposing any municipal services or new services to the properties or any change in use. The proposed consent complies with all applicable policies including those that apply to the Rural Areas designation.

Section 7.1.1 provides the criteria for the creation of new lots through consent applications. However, the proposal is not intended to create a new lot. The application will only create an easement for access purposes to the Applicants' property. Therefore, the policies in Section 7.1.1 do not directly apply to the proposal.

In consideration of the above, our opinion is that the proposal conforms to the consent policies in the MMOP.

Sections 7.2 and 7.3 of the MMOP provide policies for Subdivisions and Condominiums and Parkland Dedication respectively. These sections are not applicable to the proposed consent.

The remaining sections of the MMOP deal mainly with procedural matters and other policies that are not directly applicable to the application. Based upon the above considerations, our opinion is that the proposed consent complies with the MMOP.

4.4 Municipality of Magnetawan Zoning By-law No. 2001-26

The subject property and the Applicants' property are both zoned Rural (RU) in Magnetawan Zoning By-law 2001-26 (MZB).

The permitted uses in the Rural zone are set out in Section 4.6.1 of the MZB. They include a wide range of uses including farms, hunt camps, logging, public parks, golf courses, resource management activities and detached dwellings. Standards for lots and for development in areas zoned Rural are also included.

The proposed consent will not change the use of the recreational use of the property which is consistent with the permitted uses noted above.



Much of the remainder of MZB involves standards for other zones and procedural matters that do not apply specifically to the proposal. The proposed ZBA does not conflict with these provisions.

In consideration of the above, our opinion is that the proposed consent complies with all applicable requirements of the MZB.

4.5 Summary of Planning Considerations

In view of the above, the proposed consent is consistent with the applicable requirements of the PPS and complies with all requirements of the Official Plan. The proposed consent also complies with Zoning By-law No. 2001-26.

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,
- 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 appropriate for the use of the property and consent will facilitate legal access pursuant to Section 51 (24) (e),
- The dimension and shapes of the subject parcel is appropriate as required in Section 51 (24) (f),
- Pursuant to Section 51 (24) (g) the consent complies the Zoning By-law and other applicable restrictions,
- The proposed consent is not expected to impact the conservation of natural resources and flood control as required in Section 51 (24) (h).
- Pursuant to Section 51 (24) (i) the proposed consent should not affect utilities and services available for the property except for legalizing the existing driveway to provide access.



- Regarding Section 51 (24) (j) the proposed consent is not expected to impact the need for school sites.
- The proposed consent is not expected to require a dedication of land for public purposes pursuant to Section 51 (24) (k).
- Pursuant to Section 51 (24) (l) the proposed consent impact the supply, use or conservation of energy.

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.

5.0 Recommendations

That the consent application by James McIlroy and Bonnie Eng to create an easement for driveway access to Nelson Lake Road 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.
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