



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

T 705.876.8340 | F 705.742.8343

[www.ecovueconsulting.com](http://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 (Lorusso)

**Property** 754 Nipissing Road South

**Location:** Lots 1 to 8 inclusive, and Block E Plan 253, Magnetawan

**EcoVue  
File No.:** 24-2125-02

**Date:** April 16, 2024

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## Recommendation

We recommend that Council receive the report dated April 16, 2024 from EcoVue Consulting Services regarding application for Lorusso, and that Council approve the application and that the provisional consent be given subject to the following conditions:

1. The Applicants shall submit, to the satisfaction of the Municipality of Magnetawan, information and documentation from a qualified professional which demonstrates that individual on-site septic and individual on-site water services can be provided on the property in a manner that does not compromise the capacity of Ahmic Lake.
2. The Applicant shall submit a site plan acceptable to the Municipality of Magnetawan which identifies the location of the proposed cottage, other buildings and structures, and the proposed septic system, proposed grading and any other proposed changes to the site. The site plan shall demonstrate that the proposal complies with required setbacks from Ahmic Lake, requirements to avoid construction and the placement of fill below the flood elevation of Ahmic Lake, and other Official Plan requirements and zoning standards to the satisfaction of the Municipality of Magnetawan.
3. The Applicant shall provide information acceptable to the Municipality of Magnetawan that demonstrates that access to Nipissing Road South from the combined parcel will be provided in a safe and acceptable manner;



4. That the Applicants provide a draft copy of the deeds (with all schedules) to be approved by the Municipality prior to registration.
5. That a draft reference plan of survey be provided to the Municipality of Magnetawan for review prior to registration.
6. That confirmation be provided in writing from the Municipality of Magnetawan that a 911 Address Number to the new lot created has been assigned.
7. That a payment-in-lieu of a parkland dedication shall be paid in accordance with Section 51.1 of the Planning Act acceptable to the Municipality of Magnetawan in cash or certified cheque.
8. 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 including a 5% parkland dedication fee be paid;
9. The applicant provides 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, shall be paid for by the owner.

## **1.0 The Application**

Carl Lorusso (Applicant) has applied to sever a portion of a property at 754 Nipissing Road South. The subject property contains eight lots and one block (Block E) that were part of a former plan of subdivision (that have since been merged) located on the eastern shoreline of Ahmic Lake. The intent of the application is to sever a portion of the southern part of the former Block E to be added to a lot (former Lots 1, 2 and 3) that abuts former Block E to the south.

The former lots 1, 2 and 3 (benefitting parcel) were the subject of a deeming by-law passed in 2022 under subsection 50 (4) of the *Planning Act*, R.S. O. 1990, c.P. 13 (Act) which deemed them to no longer be part of a plan of subdivision. The lot addition will have the effect of expanding the area of the northern part of the benefitting parcel and also expanding its shoreline frontage.

The proposed severed parcel has a width of approximately 9.14 metres and a length of approximately 107 metres. The area of the former Block E is currently approximately 3 hectares. The existing area of the benefitting parcel is approximately 0.51 hectares. With the lot addition, the benefitting parcel will have an area of approximately 0.61 hectares and straight line water frontage of 38.64 metres. Former Block E will have an area of approximately 0.89 hectares with approximately 87 metres of straight line water frontage.



Currently a cottage and boat house are located on the former Block E and a drive shed is located on the benefitting parcel. If the consent is approved, the intent is to construct a cottage on the expanded benefitting parcel.

The subject lands are designated Shoreline in the Municipality of Magnetawan Official Plan (MMOP) which permits a detached residential use. The area of the property that includes the proposed severed parcel, the benefitting parcel and Block E is zoned Shoreline Residential (RS) in Magnetawan Zoning By-law 2001-26 (MZB). Residential use of the property is one of the permitted uses in this zoning category.

## **2.0 Planning Analysis**

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

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

Pursuant to Section 3(5) (a) of the Act as noted above, the proposed consent must be consistent with the 2020 Provincial Policy Statement (PPS) which provides planning policy direction for all areas of the province, which is intended to be implemented through municipal Official Plans.

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

Section 1.1.1 of the PPS 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 detached residential use of the benefitting parcel combined with the severed parcel is consistent with surrounding land uses and will continue the appropriate 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 the capacity of Ahmic Lake. As noted above, the Applicant must provide information that the proposed development of the expanded benefitting parcel will not compromise the capacity of Ahmic Lake. If this information is provided by the Applicant, the proposal will be consistent with this section of the PPS.

### ***2.2.2 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 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. The above-noted conditions of approval are intended to ensure that biodiversity is conserved and ecological features are protected.

Section 1.1.5.2 sets out the permitted uses for rural lands in municipalities which include resource-based recreational uses. Recreational dwellings are considered to be a resource-based recreational use. Therefore, the cottage that is proposed to be constructed on the combined severed and benefitting parcel is permitted under this section.

### **2.2.3 Natural Heritage**

Section 2.1 of the PPS provides policies for the protection of natural heritage features and functions. This section applies to the proposed consent because of the property's proximity to Ahmic Lake and because an area on the shoreline to the north of the proposed consent is zoned Environmental Protection (EP) in the MZB.

Based on available mapping, the area zoned EP appears to contain a wetland, although this has not been confirmed from available information. However, this area is located approximately 150 metres from the proposed severed parcel and, therefore, it should not be affected by the proposal and does not require an evaluation under the PPS to determine if there may be negative impacts.

Section 2.1.1 states that natural features and areas are to be protected for the long term. 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.*

The natural heritage system should be maintained and is not expected to be negatively impacted by the proposed consent.

Section 2.1.5 restricts development in significant natural features unless it has been demonstrated that there will be no negative impact on the features or ecological functions. Section 2.1.8 restricts development on adjacent lands to significant natural heritage features unless a natural heritage evaluation demonstrates that there will be no negative impact. However, no significant natural heritage features according to the provisions of Section 2.1.4 and 2.1.5 have been identified in proximity to the location of the proposed consent.



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 capacity of Ahmic Lake to support an additional cottage is not expected to be affected by the proposal. However, as noted above the Applicant must provide information to confirm that Ahmic Lake can accommodate the proposed cottage.

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. Appropriate setback distances will be required from the flood elevation and the high water mark of Ahmic Lake for the location of the cottage and other structures.

The above matters are dealt with in greater detail below as may be appropriate.

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

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

According to Section 51 (24) (c) of the Act, the proposed consent must conform to the requirements of the local Official Plan (Municipality of Magnetawan Official Plan (MMOP)).

As noted earlier, the subject property is designated as Shoreline in the MMOP. Section 5.4 provides policies for the Shoreline designation. The permitted uses include detached dwellings which is the proposed use of the benefiting and the severed parcel once they are combined.

Section 4.2.2 of the MMOP sets out policies for dealing with flood hazards and identifies a flood elevation of 281.97 C.G.D. for Ahmic Lake. The policy states that the Municipality will not support the placement of fill below the flood elevation unless a report by a qualified engineer demonstrates that there will be no negative impact on upstream and downstream properties. It appears from broad scale mapping that portions of the property in proximity to the shoreline may be within the flood elevation.

Section 4.3 of the MMOP requires septic systems to be located at least 30 metres from a waterbody and includes further restrictions for lakes that are “at or near capacity”. In Appendix 1 of the MMOP Ahmic Lake is not classified as at or near capacity, but as “developable with a cautionary approach”. However, given that the proposed consent will not result in additional building lots and will not facilitate additional



development beyond what is currently permitted on the subject lands, it is our opinion that there would be no further impacts to the development capacity of Ahmic Lake.

Also included in Section 4.3 is a requirement for maintaining a 20 metre wide shoreline buffer of natural vegetation where possible. Through the conditions noted above which require the submission of the site plan, the location of proposed buildings and structures, the septic system, the 20 metre wide buffer and any other proposed alterations to the site should be illustrated. The Municipality can then ensure that flooding will not be affected by the proposal, and that appropriate buffer and setback distances are maintained to conform with the above-noted policies. The Applicant should provide a site plan for the development of the property which demonstrates compliance with these requirements.

In Section 5.4.1 the MMOP states that all shoreline areas in the Municipality are designated as shoreline but it is not the intent that all shoreline areas be developed for permitted uses. In consideration of this statement there are factors that may come into play for restricting development of shoreline areas.

However, it should be noted in this case, that the subject lands had been part of a plan of subdivision where some development permissions were already available. The severance is not creating a new development opportunity, but it will expand the area of the benefitting parcel and bring it into greater conformity with lot size requirements.

Section 5.4.2 sets out development standards for Shoreline properties. 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.*

The benefitting lot is currently deficient regarding the above standards. Although it will be enlarged through the consent process, the resulting lot will still be deficient. As noted earlier, the resulting shoreline frontage will be 38.64 metres and the lot area will be 0.61 hectares. If the severance is approved, the frontage and area of Block E will also be marginally smaller than the above requirements for the Shoreline designation.

However, the provision indicates that there is some flexibility in this policy through the statement “Unless otherwise specified”. Also, the proposed consent will not result in a “new lot”, but rather enlarges the area of an existing lot.





Section 5.4.5 requires that no development should be permitted which would result in a lake being over capacity. However, as previously noted, the proposed lot addition does not result in additional development that would impact lake capacity. Policies which apply specifically to severances are included in Section 7 of the OP. In Section 7.1 the OP states:

*Applications for land division through the consent process shall only be considered if the proposal is minor in nature, does not result in unnecessary expansion of the present level of municipal services, is in compliance with the Objectives and General Development policies of this Plan and the applicable Land Use policies for the designation in which the land is located.*

Since the proposed lot addition is not creating a new development opportunity, it is our opinion that the consent is minor in nature and will not result in the unnecessary expansion of municipal services.

Criteria for severances are set out in Section 7.1.1. They include that the proposal must not require a plan of subdivision and that the lot size and setback requirements will satisfy the specific requirements of the OP and the zoning by-law.

The proposed consent does not require a plan of subdivision. As noted earlier the size of the benefitting parcel does not meet the requirements of the Official Plan. It is expected that setback requirements can be met for a cottage development, but this requires submission of a more detailed plan.

Section 7.1.1 (c) requires that new lots front on a publicly maintained municipal road or in the case of lots in the Shoreline designation new lots can front on existing private roads with a registered right of way to a municipally maintained road. The benefitting parcel currently has 64.3 metres of frontage on Nipissing Road which is a year round maintained municipal road. The frontage will increase by 9.1 metres with the addition of the proposed severed parcel.

Section 7.1.1 (e) of the OP states:

*(e) the lot must have road access in a location where traffic hazards such as obstructions to sight lines, curves or grades are avoided;*

Furthermore, in Section 7.1.1 (f) the OP states:

*(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 proposed consent is not creating a new development opportunity, but it does expand the benefitting parcel. In view of the above policies and in anticipation of development of the expanded benefitting parcel, the Applicant should demonstrate that the development will have appropriate access to Nipissing Road and that an adequate building site and means of sewage treatment and water supply is available. These matters are addressed in the recommended conditions of approval.

Section 7.1.1 (h) requires lots created for permanent residential use to have access to a year round maintained municipal road or provincial highway. It is not clear if the proposed use of the benefitting parcel will be for permanent residential use, but the requirement of this policy is met because the property fronts on Nipissing Road.

In view of the above, our opinion is that the proposed consent conforms to the MMOP.

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

As noted earlier, the portion of the subject property which includes the proposed severed parcel, the benefitting parcel and Block E is zoned Shoreline Residential (RS) in Magnetawan Zoning By-law 2001-26 (MZB). It appears from Schedule A2 of the MZB that an area in the northern portion of the property is zoned Environmental Protection (EP). However, this area appears to affect lots 6 to 8 of the Applicant's property and it is well removed from the proposed severed parcel and the benefitting parcel. The proposed severed parcel is approximately 150 metres from the area identified as EP. The proposal is not expected to affect the part of the Applicant's lands in the EP zone.

Section 3.18 (b) of the MZB contains provisions for existing undersized lots as follows:]

#### *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.*

The benefitting parcel prior to the deeming By-law, consisted of 3 existing undersized lots. In view of the above provision, the proposed consent will recognize the development opportunity that was available and will provide for a parcel that has greater compliance with the MZB. As noted in the last sentence in the above provision, lots which are increased in frontage or area, which is the case with the benefitting parcel, will be deemed to comply and may be used in accordance with the provision of the MZB.

Section 3.26 of the MZB requires 20 metre minimum setbacks for most buildings and structures from the high water mark of watercourses. In addition, Section 3.36 requires a 20 metre setback from the high water mark for septic systems and leaching beds and requires that they be located above the Regulatory Flood Elevation. The proposal for development of the combined severed and benefitting parcel must address the above requirements as they may be applicable to the site.

Section 4.2 of the MZB includes provisions for the Shoreline Residential zoning category. In Section 4.2.1 the MZB identifies the permitted uses in the RS zone which include “detached dwelling”.

Section 4.2.2 provides the property standards for the RS zone which include the following:

*Minimum Lot Area - 1.0 ha*

*Minimum Lot Frontage - 90 m*

*Minimum Front Yard - 15 m*

*Minimum Interior Side Yard - 3.5 m*

*Minimum Exterior Side Yard - 7.5 m*

*Minimum Rear Yard - 10.0 m*

*Maximum Lot Coverage - 15%*

*Maximum Building Height - 10.7 m*

*Minimum Ground Floor Area - 65.0 mx) Minimum Natural Vegetation Area or  
Landscaped Open Space - 70% of front yard.*



It is expected that most of the above standards can be met by a development proposal for the combined severed and benefitting parcel. As noted earlier, the lot area of the benefitting parcel and the lot frontage with the addition of the severed parcel will be deficient and they will not meet the above requirements. However, as noted above, the benefitting parcel consists of lots that were part of a plan of subdivision and some form of development would have been available for those lots. The proposed consent will increase the size of the benefitting parcel and bring it into greater conformity with the MZB. Furthermore, since the benefitting parcel consists of former lots that will have their area and frontage increased, through provision 3.18 (b) it should be deemed to comply with the MZB and may be used in accordance with its provisions.

In view of the above, our opinion is that the proposed consent will comply with the MZB.

### **Summary of Planning Considerations**

After reviewing the relevant policy requirements, our opinion is that the proposed consent is consistent with the PPS, it conforms to the relevant provisions of MMOP and to the applicable standards of the MZB.

The proposal can be considered as a technical severance since as it is a lot addition which has the effect of increasing the size of an adjacent parcel and does not create a new development opportunity. It will provide for a parcel for which a development opportunity previously existed that will be in greater conformity with the MZB's standards.

With regard to Section 51 (24) of the *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),



- The consent will comply with the intent of the MZB and appropriate zoning standards and other applicable restrictions pursuant to Section 51 (24) (g),
- The proposed consent will not impact Ahmic Lake or other natural heritage features. In addition, any construction on the property should 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.

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

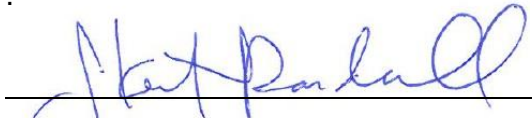
### **Recommendations**

That the consent application to sever a parcel at 754 Nipissing Road South from Block E in Plan 253, to be added to former lots 1, 2, and 3 Plan 253, 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.




Report to Council  
Application for Consent (Lorusso)  
Municipality of Magnetawan  
April 22, 2024

Respectfully Submitted,  
**ECOVUE CONSULTING SERVICES INC.**

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



  
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Chris Conti, M. E.S.  
Senior Planner

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