

Planning Report

To: Mayor and Council, Municipality of Magnetawan

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

Subject: Application for Consent

Property

Location: 5993B Highway 124 South, Part Lot 18, Concession 9 and Broken Lot 18, Concession 8
Former Township of Croft, Municipality of Magnetawan

Ecovue File No: 24-2125

Date: July 31, 2024

1.0 Recommendation

We recommend that Council receive the report dated August 6, 2024 from EcoVue Consulting Services regarding consent application Jolic, and that Council approve the application and that the provisional consent be given subject to the following conditions:

1. Prior to final approval the Applicant shall provide additional topographic information acceptable to the municipality demonstrating that the placement or removal of fill will not occur below the flood plain elevation for Ahmic Lake of 281.97 m. C.G.D. and that the elevation of openings to proposed habitable buildings will not be located below 283.16 m. C.G.D.
2. Prior to final approval the Applicants shall submit a site plan acceptable to the Municipality which incorporates the topographic information noted above and identifies the location of proposed buildings, the septic system and associated facilities in such a way that maintains appropriate setbacks, buffers, elevation openings and other requirements as set out in the Official Plan and the Magnetawan Zoning By-law. The sewage system shall meet the appropriate setback and elevation requirements in the Official Plan and Zoning By-law. Furthermore, as required in Section 4.2 of the Official Plan, a 20 metre wide buffer of natural

vegetation shall be maintained along the shoreline of Ahmic Lake to the satisfaction of the Municipality.

3. Confirmation be provided from the North Bay Mattawa Conservation Authority (NBMCA) that the proposed Severed and Retained Lot can be adequately serviced by individual on-site septic systems.
4. That the Applicants provide a draft copy of the deeds (with all schedules) to be approved by the Municipality prior to registration.
5. A draft reference plan of survey shall be provided to the Municipality of Magnetawan for review prior to registration.
6. A parkland dedication fee shall be paid in accordance with Section 51.1 of the Planning Act acceptable to the Municipality of Magnetawan in cash or certified cheque.
7. 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 shall be paid.

2.0 The Application

Daniel and Susan Jolic (Applicants) have applied for a consent to create one additional lot on the subject property which consists of a relatively large parcel located on a small peninsula on the shoreline of Ahmic Lake. The property has an area of approximately 3.18 hectares, with approximately 197.3 m. frontage on the lake.

Access to the property is provided by White's Road, a private road that runs in a predominately north/south direction and connects with Highway 124 which is located to the north of the property. The property contains an existing dwelling, a bunkie and boathouse that are all located in its western half.

The Applicants are proposing to divide the property into two approximately equal parts to create one additional lot. The proposed severed parcel will have an area of approximately 1.589 hectares with shoreline frontage of 94.3 metres. The retained parcel will have an area of approximately 1.589 hectares with a shoreline frontage of approximately 103 metres.

The intent is for the severed parcel to be used for shoreline residential purposes. The retained lot will continue in its current use as a waterfront residential parcel.

The proposed consent went through the pre-consultation process in May which identified issues that required further information. Subsequently the Applicants have submitted the following documents:

1. A copy of the signed and commissioned application form,
2. A covering letter from Morgan Planning and Development Inc.,
3. A Planning Justification Report prepared by Morgan Planning and Development Inc.
4. A copy of a septic confirmation letter,
5. A copy of a Lot Configuration Sketch prepared by Morgan Planning and Development Inc.

Based upon the submissions and our planning analysis, discussed below, we have concluded that the application is generally acceptable. However, there are some issues that require further submissions before final approval of the consent should be given. They are addressed in the recommendation included above and in the remainder of this report.

3.0 Planning Analysis

3.1 The Planning Act

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;

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;

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).

The application must address the above requirements including through sections 51 (24) (c) and (g), the applicable Official Plan and Zoning By-law. These requirements as they apply to the proposal are addressed in the remainder of this report where appropriate.

3.2 Provincial Policy Statement (2020)

Through Subsection 3 (5) of the Act, the proposed consent must be consistent with policy statements issued under Subsection 3 (1). The Provincial Policy Statement (PPS) is the relevant policy statement which applies to the proposal.

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 creation of an additional residential parcel for shoreline residential use 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 Ahmic Lake through the development of the severed parcel and the use of private services. If the parcel can accommodate the proposed dwelling, well and septic systems and maintain appropriate setbacks and buffers, we expect that this concern should be addressed.

The submissions by the Applicants address this concern in part. It appears that there is sufficient space for the dwelling and to accommodate private services. However, there is a floodplain issue identified through the provisions of the Official Plan and Zoning By-law which may affect the layout of buildings and facilities on the site and should be addressed before final approval is given.

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. The proposed consent is not expected to cause negative impacts on biodiversity.

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 consistent with the permitted resource-based recreational use.

3.2.3 Natural Heritage

Section 2.1 of the PPS provides policies regarding Natural Heritage, and it applies to the proposed consent primarily because of the property's proximity to Ahmic Lake.

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.

The proposed severed consent is not expected to have negative impact on Ahmic Lake, and therefore the consent should be consistent with the above policy.

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. While it appears that the proposed severed parcel is heavily forested, no significant wildlife habitat has been identified in Schedule B of the Municipality of Magnetawan Official Plan (MMOP). Furthermore, the property has not been identified as containing Significant Forest.

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..."* Provided that appropriate buffers are maintained it is expected that the proposal will not negatively impact water quality and the capacity of Ahmic Lake.

Section 3.1 of the PPS includes 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. The policies in the Magnetawan Official Plan provide setback requirements from the high water mark of the lake and the minimum elevation of structures so that flooding issues can be avoided. These matters are dealt with in greater detail later in this report.

In consideration of the above and subject to the submission of satisfactory information regarding floodplain issues and the site plan, it is expected that the proposed consent will be consistent with the PPS.

3.3 Magnetawan Official Plan

The Municipality of Magnetawan Official Plan (MMOP) sets out policy requirements for the development of lands including for consents. In addition, as noted earlier Section 51 (24) (c) of the Act, requires that the proposed consent must conform to the requirements of the applicable Official Plan.

The subject property is designated Shoreline in the Municipality of Magnetawan Official Plan which permits the proposed detached residential use.

Section 4.2.2 sets out requirements to avoid flood hazards when locating development adjacent to lakes and watercourses. It states in part:

Specifically for lakes like Ahmic and Cecebe the floodplain is defined by the following elevations:

Lake Cecebe 284.67 CGD

Ahmic Lake 281.97 CGD

The Municipality will not support the placement or removal of fill below such elevations unless a site-specific report by a qualified engineer has demonstrated to Council's satisfaction that there will not be significant impacts on up-stream or down-stream lands.

A review of existing mapping shows that a portions of the property in the immediate vicinity of Ahmic Lake may be below the above elevation. The lot configuration sketch prepared by Morgan Planning and Development demonstrates that there is sufficient space on the lot to locate a dwelling and septic system but does not provide topographic information. It cannot be determined from the

submissions if there will be the placements or removal of fill below the 281.97 C.G.D. elevation which is identified in Section 4.2.2 as the flood elevation for Ahmic Lake.

Prior to final approval of the consent the Applicants should submit topographic information to demonstrate that the proposal conforms to Section 4.2.2 of the MMOP.

Section 4.3 includes requirements to protect surface water quality. The policy requires septic systems to be located at least 30 metres from a watercourse or waterbody. Further restrictions are applicable to lakes that are “at or near capacity”. The capacity ratings of lake are provided in Appendix 1 of the OP which indicates that Ahmic Lake is “developable with a cautionary approach”. Therefore, some development is still permitted on Ahmic Lake and it is not subject to the policies that apply to “at or near capacity” lakes.

It also states in Section 4.3 :

As a condition of development approval, a natural shoreline vegetation buffer shall be preserved within at least 20 metres of all water courses and water bodies wherever possible except for the removal of hazardous trees and a narrow area to allow a pathway to the shoreline.

The submitted lot configuration sketch demonstrates that the appropriate setback from the lake for the septic system and buffer requirement along the shoreline can be met for the proposal .

Section 4.15 requires confirmation that there is adequate water supply and a septic disposal system available to service proposed development and that development will not have an adverse impact on neighbouring wells and surface and groundwater quality. The submissions demonstrate that is sufficient space for a septic system and the proposed water source is the lake. Any revision to the site plan that may be required should also demonstrate that the proposed septic system can be located appropriately and meet all requirements.

Section 5.3.6 of the MMOP restricts development in floodplains including in the floodplain area of Lake Cecebe and Ahmic Lake as stated in Section 4.2. Development is generally not permitted below the flood elevation except for structures like docks which must be located close to the water and structures necessary for flood and erosions control. The proposed development of the severed parcel must conform to this policy. The submission of topographic information to address Section 4.2.2 will also address the requirements of this policy.

The subject property is designated as Shoreline and Section 5.4 of the OP provides policies for the Shoreline designation. The permitted uses include detached dwellings which is the current use of the property and the intended use of the severed and retained parcels.

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 proposed severed and retained parcels will meet both the area and frontage requirements stated above.

Section 5.4.2 also 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.

According to this provision an additional cottage and accessory buildings are permitted on lots that would be eligible for severance and where the buildings could be located in accordance with the provisions of the MMOP. Presumably, parcels that are eligible for severance are large enough to accommodate a second cottage and associated septic system without causing significant impacts or with impacts that can be mitigated through standard measures.

The type of development proposed by the Applicant is permitted on the property through this policy without going through the consent process. Therefore, it is expected that the potential impacts from this type of development must be anticipated through this policy and considered to be acceptable.

Section 5.4.5 requires that no development should be permitted which would result in a lake being over capacity. It further states that the assimilative capacity of lakes according to their biological carrying capacity is provided in Appendix 1.

As noted earlier, Ahmic Lake is identified in Appendix 1 as being “developable with a cautionary approach”. Based upon this classification we understand that there is still capacity available for some development on the shoreline of Ahmic Lake. The permission through Section 5.4.2 for the

development of second cottages on lots that are suitable for severance further supports the proposal.

Section 6.3 of the OP addresses requirements for development on private roads. It states in part:

Existing private roads may continue to be used but shall not be extended...

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 proposed severed parcel can be considered as infilling between cottage properties. The existing cottage on the proposed retained parcel is located to the west of the severed parcel while another cottage is located on the property to the northeast. The main intent of the above policy is to avoid the extension of private roads and to discourage development on new private roads. The subject property and adjacent lots are all accessed through White's Road which should not require an extension to service the severed parcel.

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.

The proposed consent will result in the creation of only one cottage lot which meets the requirements of the MMOP. It 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 retained and severed parcels meet the requirements of the Official Plan. The Lot Configuration Sketch prepared by Morgan Planning and Development demonstrates that setback requirements can be

met for the cottage development on the severed parcel. However, as noted earlier in this report additional topographic information is required.

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 proposed severed parcel will have frontage on White's Road which is within a registered right of way extending to Highway 124.

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 severed parcel appears to be at the end of White's Road and it is not expected that there will be issues related to traffic hazards and sight lines for the access onto White's Road. However, the design of the access should be acceptable to the Municipality.

The Proposed Lot Configuration Plan submitted by the Applicants demonstrates that there is sufficient space on the severed parcel for a building site, including a means of sewage treatment and water supply. However, policies about the placement of fill and development in the floodplain must be addressed through the submission of topographic information. This may have an influence on the layout of buildings and facilities on the site.

The remainder of the policies in the MMOP do not directly apply to the proposed consent. Subject to the submission of additional information as noted above, the proposed consent will conform to the MMOP.

3.4 Municipality of Magnetawan Zoning By-law 2001-26

The subject property is zoned Shoreline Residential (RS) in Magnetawan Zoning By-law 2001-26 (MZB).

Section 3.5 of the MZB provides a requirement for the dimension and shape of lots and states:

No lot shall have a lot depth exceeding 5 times the lot width.

The proposed retained and severed parcels will be irregularly shaped, in part to provide frontage for both lots on White's Road. However, the shape and dimension of the lots comply with the above requirement.

Section 3.8 (b) includes a requirement for frontage on private roads which states:

b) Frontage on Private Road

Notwithstanding the provision in 3.9 (a) where a lot fronts upon a private road or private right-of-way, a use, building or structure shall be permitted on such lot, in accordance with the applicable provisions of this By-law provided such private road or private right-of-way existed as of the date of passing of this By-law.

Both the retained and severed parcels will have frontage on White's Road. Our understanding is that White's Road existed prior to the passing of the By-law. As required the use of the lots will be in accordance with the applicable provisions of the MZB.

Section 3.14 sets out requirements for minimum elevation of openings to buildings as follows:

Where lands abut Lake Cecebe or Ahmic Lake no opening to a habitable building shall be located below the following elevations.

Abutting Lake Cecebe 285.60 m CGD

Abutting Ahmic Lake 283.16 m CGD.

The proposed cottage must maintain openings above the elevation of 283.16 m C.G.D. and the municipality must be satisfied of compliance with this provision. The submission of topographic information for the property should address the above requirement.

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 provides setback and elevation requirements for septic systems which generally state that they must be setback at least 20 metres from the high water mark and leaching beds and treatment systems should be above the regulatory flood.

The above-noted setback requirement should be addressed in the site plan for the proposal, based upon the topographic information which will be provided.

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:

- i. *Minimum Lot Area – 1.0 ha*
- ii. *Minimum Lot Frontage – 90 m*
- iii. *Minimum Front Yard – 15 m*
- iv. *Minimum Interior Side Yard – 3.5 m*
- v. *Minimum Exterior Side Yard – 7.5 m*
- vi. *Minimum Rear Yard – 10.0 m*
- vii. *Maximum Lot Coverage – 15%*
- viii. *Maximum Building Height – 10.7 m*
- ix. *Minimum Ground Floor Area – 65.0 mx) Minimum Natural Vegetation Area or Landscaped Open Space – 70% of front yard.*

It is expected that the above standards can be met by a development proposal for the severed parcel. It meets the requirements for lot area and frontage. The above requirements are met in the Proposed Lot Configuration Plan which has been submitted. If there are changes to the plan as a result of the provision of topographic information or for other reasons, the above noted requirements should be incorporated into the plan.

In view of the above, it is expected that the proposed consent will comply with the MZB.

4.0 Summary and Conclusions

Based upon the submitted documents, the Applicants are proposing to sever a large shoreline parcel into two lots which will both meet the size and frontage requirements for shoreline lots in the MMOP and the MZB. The lots will both have frontage on a private road which has access to Highway 124 which is a public road. Given the proposed size of the parcel, there should be adequate space on the severed parcel to meet all requirements of the MMOP and MZB and to maintain appropriate setbacks for the cottage, the septic system and other structures from other properties and from the high water mark of Ahmic Lake.

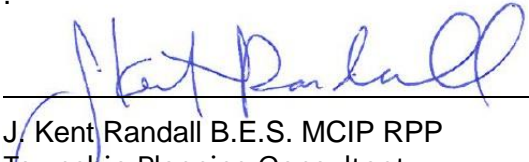
However, as noted above, additional topographic information is required to ensure that the building, septic system, any required filling, and the location of openings to habitable buildings are located above the appropriate flood elevations noted in the MMOP and MZB. The topographic information may affect the location of the building, septic system and other facilities and therefore a finalized site plan should be submitted prior to final approval.

Assuming that appropriate topographic information can be provided, the proposed consent should conform to the relevant provisions of the MMOP and the MZB. Furthermore, it should have regard for the requirements of Section 51 (24) of the Act it and does not raise any significant concerns.

In consideration of the above, we recommend that provisional approval of the consent be given subject to the submission of additional information as discussed above and to recommendations included earlier in this report.

Respectfully submitted

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