

Planning Report

To: Mayor and Members of Council, Municipality of Magnetawan

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

Subject: Proposed Consent, Lot 1, Concession 1 and Part Lot 2, Concession 1 Former Township of Croft, Municipality of Magnetawan

File: EcoVue Project No: 24-2125-04

Date: September 9, 2024

1.0 Recommendation

We recommend that Council receive the report dated September 9, 2024 from EcoVue Consulting Services (Kelly) and that Council approve the application and that the provisional consent be given subject to the following conditions:

1. The Applicant shall provide a draft reference plan of survey to the Municipality of Magnetawan for review prior to registration.
2. The Applicant shall provide a draft copy of the deeds (with all schedules) to be approved by the Municipality prior to registration.
3. 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.
4. 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.

Furthermore we recommend that the Applicants be advised that if new construction is proposed on either the combined severed and benefitting parcel or the retained parcel, that the following requirements shall apply:

1. A site plan shall be submitted which demonstrates to the satisfaction of the Municipality that the parcel can accommodate any buildings and associated facilities that may be proposed including wells and septic systems in such a way that maintains appropriate setbacks, buffers, elevation openings and other requirements as set out in the Municipality of Magnetawan Official Plan and the Municipality of Magnetawan Zoning By-law.
2. The Applicants shall provide information satisfactory to the Municipality demonstrating that the sewage system, if proposed, shall meet the appropriate setback and elevation

requirements in the Official Plan and Zoning By-law and that, as required in Section 4.2 of the Official Plan, a 20 metre wide buffer of natural vegetation will be maintained along the shoreline of Ahmic Lake.

3. The Applicants shall provide sufficient information to satisfy the Municipality that there will be no significant negative impacts on the Deer Wintering area.

2.0 The Application

This report deals with an application for consent that went through the pre-consultation process with the Municipality last month.

Tom Kelly, on behalf of the Kelly Family Cottage Trust, and Helen Bernice Gowdy (Applicants) have applied for a consent to sever a parcel from lands owned by Ms. Gowdy which is intended to be a lot addition to the Kelly property. The property is located at Lot 1, Concession 1 and Part Lot 2 Concession 1, former Township of Croft, Municipality of Magnetawan (subject property). The property is on a peninsula in the southwest portion of Ahmic Lake and is accessible only by water.

According to the application, the Gowdy property has an area of approximately 49.2 hectares and water frontage of approximately 3050 metres. The proposed severed parcel which is located in the northeastern part of the Gowdy property, has an area of approximately 8.6 hectares and approximately 1000 metres of frontage on Ahmic Lake. The retained parcel has an area of approximately 40.6 hectares and shoreline frontage of approximately 2050 metres.

The Kelly property is the benefitting parcel to which the severed parcel will be added. It consists of a smaller site located to the west of the proposed severed parcel. We have calculated the size and shoreline frontage of the Kelly property as approximately 2660 square metres in area with approximately 217.5 metres of shoreline frontage. The combined parcel is expected to have an area of approximately 8.86 hectares with approximately 1217.5 metres of shoreline frontage.

Both the retained parcel and benefitting parcel have cottages located on them and according to the application have been used for cottaging purposes for over 100 years. They are both heavily forested and the general intent is to leave them in their existing condition. There is no intent to construct additional buildings on the retained or severed parcels. The intent is for the parcels to continue as only accessible by water.

The effect of the application will be mainly to enlarge the area of the benefitting parcel.

1.0 Planning Analysis

2.1 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;

(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).*

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

2.2 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.

2.2.1 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 not create additional lots, but will increase the size of the benefitting parcel to bring it into conformity with the requirements in the Magnetawan Official Plan and Zoning By-law for shoreline lots.

Section 1.1.1 (c) indicates that development and land use patterns should be avoided which cause environmental concerns. Since the proposal is not creating an additional lot and is proposing no new buildings, there should be no impact on Ahmic Lake and other natural heritage features.

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 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 increase the size of the benefitting parcel to a size that is more appropriate for a shoreline lot and will maintain a large retained parcel that will also be appropriate. It is not expected that the proposed consent will affect biodiversity or result in negative ecological affects.

Section 1.1.5.2 sets out the permitted uses for rural lands in municipalities which include resource-based recreational uses. The proposed continuation of the use of the severed and retained parcels as cottage properties is consistent with the permitted resource-based recreational use.

2.2.3 Natural Heritage

Section 2.1 of the PPS provides policies regarding Natural Heritage, and it applies to the proposed consent because of the property is in proximity to Ahmic Lake and it is identified on Schedule B of the Municipality of Magnetawan Official Plan (MMOP) as Deer Wintering Area.

Section 2.1.1 of the PPS 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.

From review of Section 4.6 of the MMOP, Deer Wintering Areas may be considered as Significant Wildlife Habitat and through Section 2.1.5.(d) of the PPS and the relevant sections of the MMOP, development may not be permitted unless it is demonstrated that there will be no negative impact on the Deer Wintering Area. The consent is technically considered to be development. However, the proposed consent will not create an additional lot and at present there is no intent to change the use of the properties or construct any new buildings. Therefore, it should not be necessary in

conjunction with the current application, to require a study to demonstrate that there will be no negative impact on the Deer Wintering Area. In the future, if additional consents are proposed or if new construction is proposed on the subject parcels, then it would be an appropriate time to require a study regarding potential impacts on the deer wintering area.

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...” Water quality and the capacity of Ahmic Lake must be taken into account. However, since the proposed consent is only for a lot addition and it does not create an additional lot, there should be no concern from the current application about impacts on the water quality or 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 affected by these policies since no construction is being proposed as a result of the application.

2.3 Official Plan

As noted in Section 51 (24) (c) of the Act, the proposed consent must conform to the requirements of the applicable Official Plan which in this case is the MMOP.

Section 4.2.2 of the MMOP sets out requirements to avoid flood hazards when locating development adjacent to lakes and watercourses. However, since the proposed consent is only for a lot addition, it is not directly affected by these policies. These policies would be applicable if additional severances are proposed or construction is proposed on the parcels.

Section 4.3 includes requirements to protect surface water quality which include requirements for setback of septic systems from the lake and for maintaining natural vegetation along the waterfront. Again the application will not create an additional lot and is not proposing any construction or alteration to the properties. Therefore, the application should not be affected by these policies.

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. There is no need to provide confirmation of adequate water and septic servicing capability for the proposal and that it will not affect wells and surface and groundwater quality, because it will not create an additional lot and no construction is proposed. Therefore the proposal should conform to the above 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. It is expected that portions of the parcels in closest proximity to Ahmic Lake will be in the floodplain. However, since the proposal is only for a lot addition and no construction is proposed the application should conform to this policy.

The subject property is designated as Shoreline. Section 5.4 of the MMOP provides policies for the Shoreline designation. The permitted uses include detached dwellings which is the current use of the benefitting parcel and the subject and retained parcels. The existing and proposed use of the combined severed parcel and benefitting parcel, and the retained parcel is for detached dwellings.

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 parcel is currently undersized in terms of area, but it meets the above requirement for water frontage. The proposed addition of the severed parcel with the benefitting parcel will create a combined parcel that conforms to the above requirement in terms of both lot area and frontage. The retained parcel will continue to conform to these requirements.

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.

Through the above provision, an additional cottage can be permitted on the combined parcel, whereas it would likely not be permitted on the benefitting parcel without the lot addition. However, the current application is not proposing any new construction. If construction is proposed restrictions about maintaining setbacks from Ahmic Lake for buildings, septic systems and other facilities and the need to ensure that there is no negative impact on the deer wintering area should be applied.

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.

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.

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. We expect that the permission through Section 5.4.2 for the development of second cottages on lots that are suitable for severance has anticipated potential impact on the lake capacity and considers it to be acceptable.

Policies which apply specifically to severances are included in Section 7 of the MMOP. In Section 7.1 the MMOP 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 is intended for a lot addition and will not create an additional lot from the subject property. In our opinion, the proposed consent is minor in nature and conforms to the applicable provisions of the MMOP.

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 MMOP and the zoning by-law. No additional lots will be created through the severance and its effect will be to increase the size of the benefitting parcel so that it conforms to the size requirements for lots within the Shoreline designation.

The proposed consent does not require a plan of subdivision. The parcels resulting from the consent will meet lot size requirements.

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 combined parcel and the retained parcel are already developed with buildings. No new buildings are proposed with the current application. Therefore, the above provision does not apply to the current proposal.

The provisions regarding road access are not applicable. However, Section 7.1.1 (g) states the following:

(g) Notwithstanding subsection c), lots created for seasonal or recreational purposes may be permitted where the access to the lot is by a navigable waterbody provided that Council is satisfied that there are sufficient facilities for mainland parking and docking;...

The above provision provides relief from the requirement for road access to the proposed lots. The proposed access to the properties is intended to remain the same as the current means of access, that is by boat from the Municipal Docks on Ahmic Lake.

Based upon the above factors, the application conforms to the applicable parts of Section 7.1.1 of the OP.

The remainder of the policies in the OP do not directly apply to the proposed consent.

In view of the above, the proposed consent will conform to the applicable policies of the Official Plan.

2.4 Municipality of Magnetawan Zoning By-law

The subject property is zoned Shoreline Residential (RS) in the Municipality of Magnetawan Zoning By-law 2001-26 (MMZB).

Section 3.5 of the MMZB 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 combined severed and benefiting parcel and the retained parcel will be irregularly shaped. However, the shape and dimension of the lots will comply with the above requirement.

Section 3.6 of the MMZB provides requirements for the development of additional dwelling units on lots. According to this section additional dwelling units are permitted on lots in the Shoreline Residential zone. No new construction is currently being proposed. If additional dwelling units are proposed on the proposed combined parcel or the retained parcel they must comply with the requirements in this section, including demonstrating that the additional unit can be serviced appropriately with a sewage disposal system.

Section 3.8 (c) includes a requirement for frontage on a navigable waterway which states:

(c) Navigable Waterway

Notwithstanding the provisions of 3.9 (a) and (b) where a lot is only accessible by a navigable waterway, such lot may be used for a Seasonal Residential Dwelling and accessory uses only.

Both the combined and retained parcels will be only accessible by water and are intended only for seasonal residential use.

Section 3.14 sets out requirements for minimum elevation of openings to buildings. Section 3.26 of the MMZB requires 20 metre minimum setbacks for most buildings and structures from the high water mark of watercourses. Also, Section 3.36 provides setback and elevation requirements for septic systems.

Currently no new construction is proposed on the subject property. In the future, if new construction is proposed on the combined or retained parcels the above requirements will apply.

Section 4.2 of the MMZB includes provisions for the Shoreline Residential zoning category. In Section 4.2.1 the MMZB 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.*

The proposed combined severed and benefitting parcel and the retained parcel will comply with the above-noted size and frontage requirements. Any new construction that may be proposed on the parcels should comply with the other requirements noted above.

Section 4.2.3 includes requirements for permitting additional dwelling units in the Shoreline Residential zone. It states that on lots that have at least 180 metres frontage on Ahmic Lake an additional detached dwelling unit is permitted in the rear yard. Based upon this policy, an additional dwelling unit would be permitted on both the combined and the retained parcels.

In view of the above considerations, the proposed consent will comply with the applicable standards of the MMZB.

3.0 Summary and Conclusions

Based upon the submitted documents, the Applicants are proposing to sever a large shoreline parcel owned by the Gowdy's to provide a lot addition to a smaller parcel owned by the Kelly's. The intent of the application is for estate purposes.

Both the combined and retained parcels are already developed with cottages, and they meet the size requirements for shoreline lots in the Official Plan and Zoning By-law. The proposed consent is only for a lot addition and will not create an additional lot. No new construction is proposed on the parcels.

However, because of the enlargement of the benefitting parcel, it will be eligible for the construction of an additional dwelling unit. The retained parcel was already eligible for an additional detached dwelling unit.

In view of the above, the proposal conforms to the relevant provisions of the OP and the MZB. Furthermore, it has regard for the requirements of Section 51 (24) of the Act it and does not raise any significant concerns.

However, if new construction is proposed on the parcels, the Applicants should submit site plans to demonstrate that all setback requirements, the elevation of openings, and other requirements of the OP and MZB are met. Potential impacts on Deer Wintering habitat also should be address at that time.

The recommendation included at the beginning of this report includes the required standard conditions for approval of the consent and also deals with additional requirements if construction is proposed on the parcels in the future.

Respectfully submitted,



ECOVUE CONSULTING SERVICES INC.

Handwritten signature of J. Kent Randall in blue ink.

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