

# Planning Report

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

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

**Subject:** Application for Zoning By-law Amendment (Cordua)

**Location:** Part Lot 13, Concession 14, Geographic Township of Spence, Municipality of Magnetawan, 184 Silver Lake Road

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

**Date:** October 17, 2024

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## 1.0 Recommendation

We recommend that Council receive the report dated October 17, 2024 from EcoVue Consulting Services regarding the application (Cordua) for a Zoning By-law Amendment (ZBA) at 184 Silver Lake Road, Geographic Township of Spence, and that Council approve the application subject to the following conditions:

1. That all recommendations set out in the Scoped EIS/Water Quality Impact Assessment Report prepared by Michalski Nielson Associates Limited, in particular those on pages 18 to 20 inclusive, which are discussed in this report be adopted and applied to the development of the site,
2. That prior to final adoption of the ZBA:
  - a) that site plan control be applied to the property,

- b) that the owners submit a site plan according to the requirements of the Scoped EIS/Water Quality Impact Assessment Report and based upon the plan included in that report which identifies the location of all existing and proposed buildings, the septic system, the proposed road entrance and other proposed structures and facilities which is acceptable to the Municipality,
- c) That the property be developed according to the site plan which is approved by the Municipality,
- d) That the owners agree to enter into a site plan agreement and any other agreements for the development of the property as may be required by the Municipality.

## **2.0 Background**

Brandon and Ashley Cordua (Owners) applied for a consent to create an additional cottage lot at the above-noted location which was given provisional approval through a decision of the Municipality's Committee of Adjustment issued on September 4, 2024.

The original application was for the creation of a lot with approximately 32.64 metres of frontage on Bell's Lake and an area of approximately 0.18 hectares. However, the application was amended before it was considered by the Municipality's Committee of Adjustment. The application that was approved by the Committee of Adjustment was to create an additional waterfront lot with approximately 80 metres of lake frontage, a depth of approximately 62 metres and an area of approximately 0.47 hectares. The retained lands have water frontage of approximately 104 metres, a depth of approximately 62 metres and an area of approximately 0.91 hectares.

The Decision of the Committee of Adjustment imposed a number of conditions on the approval including that a study be submitted to address the capacity of the lake to accommodate an additional lot and to assess potential impacts on deer wintering habitat. The Committee also required that an application be submitted for a ZBA because the lots do not meet the area and frontage requirements in the Magnetawan Zoning By-law No. 2001-26 (MMZB).

The Owners have recently submitted a ZBA application supported by a Planning Justification Report prepared by Planscape Inc. and the Scoped EIS/Water Quality Impact Assessment Report prepared by Michalski Nielson Associates Inc. to address the above-noted conditions of the consent. The reports address a number of the provincial legislative and policy requirements and relevant policies in the Municipality of Magnetawan Official Plan and requirements in the Municipality of Magnetawan Zoning By-law No. 2001-26 (MMZB).

The Scoped EIS/Water Quality Impact Assessment Report addresses a number of the environmental concerns that are raised through the policies of the Municipality of Magnetawan Official Plan and that we had identified on our report on the consent application. The report makes a number of detailed recommendations for the development of the severed parcel as follows:

- 1. development of the severed lot be subject to site plan control;*
- 2. development of a cottage, associated amenity area and sewage disposal bed are all to*

*generally occur within the building envelope that is identified on the Severance*

*Sketch;*

- 3. the foundation of the dwelling is to be a minimum 30 m back from the shoreline, with a 5 m allowance (i.e., a minimum 25 m back from the shoreline) for decks, patios and hard landscaping;*

- 4. the sewage disposal bed is to be located a minimum 50 m back from the shoreline;*

- 5. lands within 25 m of the shoreline are to be retained as a natural buffer. Tree removals within this buffer are to be limited to the minimum requirements to create a pathway of no more than 2 m width down to a dock and shoreline amenity area; a clearing of no more than 5 m x 8 m (or another configuration totaling 40 m<sup>2</sup> or less)*

*as a shoreline amenity area for such features as a deck, patio, fire pit and/or storage shed; limited limbing of trees to create view windows from the cottage down to the lake; and the removal of trees certified by an arborist to pose a legitimate safety hazard;*

*6. there are to be minimal tree removals within the eastern portion of the lot that is located beyond the identified building envelope. By restricting tree removals to the building envelope, and to a very minimal number of trees within the adjacent riparian area, well our 75% of the natural vegetation of this lot will be retained, including the great majority of that contributing to winter deer cover and to the shoreline buffer that protects fish habitat, potential turtle habitat and water quality;*

*7. tree removals to accommodate development on this lot should generally occur outside of the period of both breeding bird activity and bat roosting and summer maternity use. This allows for tree removals between October 1 and April 15. If select tree removals are to occur outside of this period, it is recommended that there first be a survey to ensure no breeding bird activity and no bat roosting opportunities/use in the trees being removed;*

*8. the sewage disposal bed is to include additional rich orange-brown 'B' horizon soils that are salvaged from the building area (from a depth of 0.1 m to 0.4 m beneath the surface), bringing the depth of 'B' horizon soils within/beneath the bed to a minimum depth of 0.6 m;*

9. *prior to any construction, sediment fencing is to be properly installed around the downgradient limits of all earthworks, including that associated with the construction of the cottage, any accessory buildings and the sewage disposal system. In doing so, it is recognized that shallow bedrock may limit opportunities to trench traditional sediment fencing in, with opportunities in such instances to either secure the base of such fencing in pea gravel or to use an alternate form of sediment and erosion control, such as Silt Soxx;*

10. *sediment controls are to be inspected by the contractor at least twice per week and maintained in good condition over the entire period of construction;*

11. *sediment controls are to be properly maintained until such time as all disturbed areas have been fully stabilized through landscaping or the reestablishment of vegetation;*

12. *minimal grading and blasting is to be undertaken in association with construction of the cottage, any accessory structures, the sewage disposal system and associated amenity space/landscaped areas;*

13. *roof leaders for the cottage and any accessory structures should drain to soakaway pits or gravel splash pads which infiltrate and/or broadly disperse any flows. Grading should encourage the broad dispersal of all runoff from the building area through the riparian zone, as opposed to encouraging any concentration of such flows; and*

14. *similarly, the driveway should be graded such that it broadly disperses runoff. In no instance should there be any channelization of flows from such areas towards Bells*

Lake;

*15. the dock should be located within the docking envelope identified on the Severance*

Sketch;

*16. the dock should consist of a gangway of no more than 1.3 m in width, extending to a distance of at least 5 m offshore, to a floating dock. The gangway, which can be pole supported and/or suspended, should be at least 0.5 m above the water, minimizing its impacts on the shading of aquatic vegetation. With the floating dock component of this dock system being at least 5 m offshore, there will be minimal impacts on aquatic vegetation. A dock of this design will also keep boat slips to areas of greater water depths, and outside of the area of dense woody debris on the lakebed, allowing better access and egress for boats. Further a dock of this design will also protect turtles potentially using the very nearshore area; and*

*17. apart from the installation of a shoreline structure, there is to be no disturbance of the shoreline or nearshore. Shoreline vegetation is not to be removed, woody material is not to be removed, beach creation is not to be permitted, and nearshore substrates are not to be altered.*

As noted above, the Scoped EIS/Water Quality Assessment Impact Report has recommended that the development of the property take place through a site plan application to the Municipality incorporating the above-noted requirements. If the property is developed as recommended, the proposal should meet the policy requirements for the protection of natural heritage and retaining

the capacity of Bell's Lake. The proposed ZBA will then also be appropriate as it will facilitate the development based upon these recommendations and a site plan acceptable to the Municipality.

The remainder of this report assesses the appropriateness of the ZBA application as supported by the above-noted studies in relation to the applicable planning policy requirements.

### **3.0 The Subject Property**

The subject property consists of approximately 1.38 hectares of land located on the shore of Bell's Lake in the southwestern area of the Lake's shoreline. The subject has approximately 184 metres of lake frontage and portions of the southern boundary of the property have frontage on Silver Lake Road which provides vehicular access to the property. The property appears to have been part of an old plan of subdivision, containing six of the former lots.

A cottage and associated structures are located in the western portion of the property. The approved consent will separate the eastern part of the property and the intent is to construct a cottage on the severed parcel.

### **4.0 Proposed Zoning By-law Amendment**

As noted above, the requirement to apply for a ZBA for the property is a condition of approval of the consent. The subject property is zoned Shoreline Residential (RS) in the MMZB. The standards in the MMZB for lots in the RS zone require a minimum lot area of 1 hectare and a minimum shoreline frontage of 90 metres.

The purpose and effect the ZBA is to permit exceptions to the MMZB for the subject property to allow the severed parcel to have a lot area of 0.47 hectares and shoreline frontage of 80 metres and the retained parcel to have an area of 0.91 hectares. The remainder of the MMZB's standards will not be affected by the proposed ZBA and the zoning category will be unchanged.

## **5.0 Planning Analysis**

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 ZBA must be consistent with the Provincial Policy Statement 2020 (PPS).

In addition, it is expected that the new Provincial Planning Statement will be issued by the province on October 20<sup>th</sup>. Therefore, the decision regarding the proposed ZBA must also be consistent with the Provincial Planning Statement.

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

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

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

Section 1.1.1 (c) indicates that development and land use patterns should be avoided which cause environmental concerns. The requirements of the Scoped EIS/Water Quality Impact Assessment Report address the environmental issues identified in planning policies. The measures recommended in the report should protect the natural heritage features and functions of Bell's Lake and associated area.

#### **5.1.2 Rural Lands 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 ZBA.

Section 1.1.4.1 refers to building on local character, conserving biodiversity, and considering the ecological benefits provided by nature. The proposed ZBA will provide for two cottage lots which are



consistent with the shoreline residential character of the area. Through the requirements of the Scoped EIS/ Water Quality Impact Assessment Report the biodiversity should be conserved and significant ecological features should be protected.

Section 1.1.5.2 sets out the permitted uses for rural lands in municipalities which include resource-based recreational uses. The proposed ZBA will allow for increased resource based recreational use of the property by providing appropriate zoning for the additional lot.

### **5.1.3 Natural Heritage**

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

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

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

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

Furthermore, Section 2.2.1 provides policies to “protect, improve and restore the quality and quantity of water...” which includes in Section 2.2.1 (h) “ensuring the consideration of lake capacity where applicable....”

The proposed ZBA is consistent with the above policies which have been addressed through the Scoped EIS/Water Quality Impact Assessment Report which has been prepared for the proposal. The capacity of the Bells Lake to support additional cottage development and the potential impact of the proposal on the deer yard have been evaluated and mitigative measures are recommended in the report to protect

these features and their functions. Provided these measures are implemented in conjunction with the project, the ZBA will be consistent with this policy.

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

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

Based upon the above, the proposed ZBA will be consistent with the PPS.

## **5.2 Provincial Planning Statement 2024**

### **5.2.1 Rural Lands in Municipalities**

This section of the Provincial Planning Statement is similar to Section 1.1.5 of the PPS. The policies recognize that resource based recreational uses are permitted and that some residential development is appropriate where conditions are suitable.

The proposed ZBA is consistent with these policies because it will facilitate the development of the property for a recreational residential use.

### **5.2.2 Sewage, Water and Stormwater**

Policies for the planning of sewage, water and stormwater systems are set out in section 3.6 of the Provincial Planning Statement. The policies are similar to those in section 1.6.6 of the PPS.

Section 3.6.4 of the Provincial Planning Statement provides for the use of individual private septic and water services where municipal services and communal services are not available. Therefore, the proposed servicing of the severed parcel will be consistent with this policy.

### **5.2.3 Natural Heritage**

Section 4.1 of the Provincial Planning Statement includes natural heritage policies which are which are virtually identical to Section 2.1 of the PPS. As noted earlier the Scoped EIS/Water Quality Impact Assessment Report has evaluated potential impact of the proposal on significant natural heritage

features and functions and has recommended measures to mitigate negative impacts. Provided that the mitigative measures are implemented in conjunction with the development of the property, the proposed ZBA will be consistent with these policies.

Section 5.2 contains policies on Natural Hazards which are similar to the policies in Section 3.1 of the PPS.

Based upon our review of the Provincial Planning Statement, the proposed ZBA will be consistent with it provided the recommendations of the Scoped EIS/Water Quality Assessment Report are implemented.

### **5.3 Growth Plan for Northern Ontario**

The area covered by the Growth Plan for Northern Ontario includes the subject property. The Growth Plan for Northern Ontario includes a number of policies which promote community development, economic growth and the protection of the environment.

The proposed development of the lot represents a modest amount of growth and economic activity. The measures recommended in the Scoped EIS/Water Quality Assessment Report will mitigate impacts on significant environmental features and functions and ensure that there is no negative impact.

Based upon these factors, the proposed ZBA conforms to the Growth Plan for Northern Ontario.

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

The subject property is designated as Shoreline in the Municipality of Magnetawan Official Plan (MMOP) which permits single detached dwellings as well as a number of tourism and recreation related uses.

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

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

As noted earlier, the proposed severed lot does not meet the size requirements in terms of water frontage and lot area. Through the consent the retained parcel will also be marginally below the requirement for lot area.

However, part of the rationale for approval of the consent was the history of the property which contained a number of lots in an old plan of subdivision. The severance of one lot will have less potential negative impact on the lake and natural heritage features than potentially recognizing additional severances because of the former subdivision. In consideration of this factor and with the mitigative measures recommended in the scoped EIS/Water Quality Impact Assessment Report, the proposed ZBA to recognize the reduced lot sizes and water frontage is appropriate.

Section 5.4.5 of the Official Plan states:

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

*Should development be proposed which may bring a lake near the estimated capacity, Council shall only consider such a proposal after the developer has submitted an impact report prepared by a qualified professional to satisfy the concerns of Council. In such instances approval of the development may be subject to additional requirements contained in the Zoning By-law, site plan approval or subdivision agreements.*

Furthermore in Section 5.4.5 it states

*In no case shall any development exceed the capacity of the waterbody to sustain additional development from either a biological and a recreational perspective. For the purpose of this Plan, development shall include new lot creation or additions to commercial operations. These policies shall not restrict residential development on existing lots of record.*

For Bells Lake, the recreational carrying capacity is based upon 1.6 hectares of lake surface area per residential unit. The biological carrying capacity is determined through use of the Lakeshore Capacity Assessment Handbook. Appendix 1 of the Official Plan lists the assimilative capacity of lakes. Bells Lake is identified as having Limited Capacity (10 to 20 seasonal lots).

The Scoped EIS/Water Quality Impact Assessment Report has been prepared to address the above-noted policies. As required the report has been undertaken by a qualified environmental professional with experience in completing Lakeshore Capacity Assessments and familiarity with the Lakeshore Capacity Assessment Handbook.

The report has concluded that the proposed development of a cottage, septic system and associated facilities can occur on the severed parcel without impacting the capacity of the lake. This is in part due to the assimilative capacity of soils in the area to absorb phosphorus. The report also recommends that appropriate soils be used in the construction of the septic system.

Based upon the analysis in the Scoped EIS/Water Quality Impact Assessment Report, there is sufficient capacity in the lake to accommodate the proposed development of the severed parcel if the report's recommendations are implemented. Therefore, the ZBA will conform to the above-noted policies of the Official Plan.

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

The above-noted requirements have been incorporated into the recommendations of the Scoped EIS/Water Quality Assessment Impact Report and the associated severance sketch. Provided the recommendations are implemented in conjunction with development of the severed parcel, the proposed ZBA will conform to the above policies.

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

The subject property is within an area identified as "Deer Yard" in Schedule B of the MMOP. The presence of potential deer wintering habitat and the potential impacts of the proposed development on the deer yard must be assessed.

The Scoped EIS/Water Quality Impact Assessment Report has determined that potential deer wintering habitat is adjacent to the shoreline of the property and has recommended a 25 metre as a natural buffer area in which most vegetation will be retained. Based upon the analysis and recommendations in the report, the proposed development should not have negative impact on deer habitat and should conform to the above-noted policies in the MMOP. The proposed ZBA which will facilitate the development will also conform.

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

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

The proposed development of the proposed severed parcel represents infilling and therefore, it conforms to this policy. The proposed ZBA which facilitates the development also conforms.

Section 7.1.1.(e) requires road access to be provided in a location where traffic hazards are avoided. It is not expected that the access to Silver Lake Road will be provided in an area where there are traffic hazards, but this matter should be addressed in the site plan for the property.

Section 7.1.1 (f) state the following:

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

These are matters that also should be addressed by providing an acceptable site plan to the Municipality.

Based upon the above analysis, my opinion is that the relevant policies of the MMOP have been satisfactorily addressed through the submission of the Scoped EIS/Water Quality Impact Assessment Report and the Planning Justification Report. Provided that the recommendations of the Scoped EIS/Water Quality Impact Assessment Report and this report are implemented in conjunction with the

proposal, the development of the property should conform to the MMOP. The ZBA which will facilitate the development will then also conform to the MMOP.

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

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

Section 4.2.2 of the By-law sets out the regulations of the RS zone. They include a minimum lot area of 1 hectare and a minimum lot frontage of 90 metres.

Relief is required from these provisions for the subject property which is the purpose of the ZBA. The proposed severed parcel will have frontage of approximately 80 metres and an area of approximately 0.47 hectares. The retained parcel will maintain the frontage requirement, but will have a lot area of 0.91 hectares instead of the required 1 hectare.

The intent of the above provisions is to ensure that shoreline lots are sufficiently large to accommodate required buildings, septic systems, and associated facilities. They also help to limit shoreline development which assists in retaining lake capacity.

However, in the current case, the retained parcel will only be marginally undersized in terms of lot area. The proposed severed parcel is more significantly undersized, but will still be large enough to accommodate a cottage, septic system and associated facilities, while maintaining all required and recommended setbacks.

Furthermore, from the analysis in the Scoped EIS/Water Quality Impact Assessment Report, it is apparent that the size of the lots is appropriate and there is capacity in Bell's Lake to accommodate the additional lot.

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

It is expected that these matters can be appropriately addressed in the site plan for the proposal which should also identify appropriate access to Silver Lake Road for the severed parcel.

In view of the above, my opinion is that the proposed ZBA is appropriate and will conform to the intent of the MMZB.

## 6.0 Conclusion

In view of the above, my opinion is that the proposed ZBA is consistent with the applicable policies of the PPS and Provincial Planning Statement, it conforms to the Growth Plan for Northern Ontario, and it conforms to all provisions of the MMOP subject implementation of the recommendations of the Scoped EIS/Water Quality Impact Assessment Report and the recommendations of this report. Furthermore, the proposed ZBA represents minor change from the standards of the MMZB for the severed and retained parcels. Given the conclusions of the Scoped EIS/Water Quality Impact Assessment Report, the changes in lot size and frontage are appropriate.

I recommend that the recommendations of the Scoped EIS/Water Quality Impact Assessment Report be adopted and implemented in conjunction with the development of the property.

Furthermore, I recommend that the ZBA application be approved and that prior to final adoption of the By-law that the applicant shall submit a site plan for the development of the site that reflects the recommendations of the Scoped EIS/Water Quality Impact Assessment Report and identifies appropriate locations of all buildings and structures, the proposed septic system, the proposed road entrance, and all associated facilities, to the satisfaction of the Municipality. The development of the property shall take place according to the approved site plan. Furthermore, the owners should enter into a site plan agreement with the Municipality for the development of the property and other agreements as may be required.

Respectfully submitted,

**ECOVUE CONSULTING SERVICES INC.**



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