

THE MUNICIPALITY OF MAGNETAWAN

STAFF REPORT

TO: Erica Kellog, Deputy Clerk – Planning & Development
Municipality of Magnetawan

FROM: Jonathan Pauk HBASc., MSc., MCIP, RPP & Jamie Robinson,
BES, MCIP, RPP
MHBC Planning Limited

DATE: November 15, 2023

SUBJECT Consent Application – Davison – 79 West Whalley Lake Road,
Municipality of Magnetawan, Roll No. 494403000218700

Recommendation

Subject to the review and analysis of this report, it is recommended that Council support the proposed Consent Application that seeks to create three new lots and an access easement respecting 79 West Whalley Lake Road, subject to the recommended conditions provided below:

1. That the applicant meet all the financial requirements of the Municipality;
2. That a registrable description of each of the Severed Lots be submitted to the Municipality;
3. Confirmation from the North Bay Mattawa Conservation Authority (NBMCA) that the proposed Severed Lots can be adequately serviced by their own individual on-site septic system and an individual on-site water system;
4. That one copy of a Registered Reference Plan of the proposed Severed Lots and proposed Easement prepared by an Ontario Land Surveyor be submitted to the Municipality of Magnetawan for review and approval which conforms substantially with the application as submitted;
5. That the proposed Severed Lots configure with the submitted plans and adhere to lot frontage and lot area requirements of the Shoreline Residential (RS) Zone;
6. That the applicant pay to the Municipality a parkland contribution fee for each residential lot to be created as cash-in-lieu of a parkland contribution pursuant to Section 53 (13) of the *Planning Act*, R.S.O. 1990 c. P. 13;

7. That the conditions of consent be fulfilled within two years from the date of the giving of the notice by the Central Almaguin Planning Board;
8. That the Applicant submit and obtain approval of a Zoning By-law Amendment application to implement the recommendations of the Scoped Environmental Impact Assessment prepared by FRi Ecological Services dated July 2023;
9. The entering into of a Site Plan Agreement between the Applicant and the Municipality to implement the recommended mitigation measures for the proposed Severed and Retained Lots that are contained in the Scoped Environmental Impact Assessment prepared by FRi Ecological Services dated July 2023;

Proposal / Background

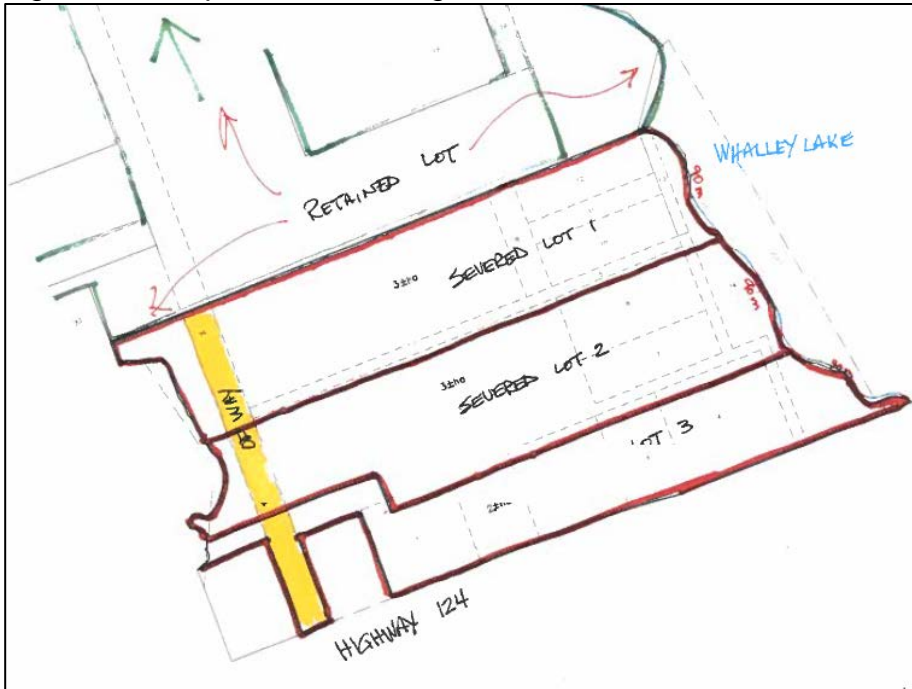
An application for Consent has been submitted by Wayne Simpson of Tulloch Engineering on behalf of the property owners Lee Daniel Davison, Karen Lee Davison, Daniel Davison, Jeanette Davidson, Omar Jafar Hanbali and Anita Jafar Hanbali. The property is municipally known as 79 West Whalley Lake Road, Municipality of Magnetawan. The location of the subject property is shown in Figure 1.

The subject property is currently vacant. The Consent Application seeks permission to create three (3) new shoreline residential lots and one (1) retained lot. The proposed consent application sketch, including the location of the access easement, submitted by the Applicant is shown in Figure 2.

Figure 1 – Location of Subject Property



Figure 2 – Proposed Lot Configuration



A summary of the proposed Severed Lots and Retained Lot are summarized in Table 1.

Table 1: proposed Lot Statistics

Proposed Lot	Lot Area	Lot Frontage
Retained Lot	>20 hectares	+/- 190 metres (Whalley Lake)
Severed Lot #1	3 hectares	+/- 90 metres
Severed Lot #2	3 hectares	+/- 90 metres
Severed Lot #3	2 hectares	+/- 90 metres

The subject lands are designated ‘Rural’ and ‘Shoreline.’ The entire of the property is located within the Aggregate Mineral Resources overlay on Schedule A of the Municipality’s Official Plan. The subject lands also contain mapped fish habitat along a portion of the shoreline in accordance with Schedule B (Environmental Features) of the Official Plan. The subject lands zoned Rural (RU), Shoreline Residential (RS) and Environmental Protection (EP) by the Municipality’s Zoning By-law.

The subject lands are accessed via West Whalley Lake Road which is identified as a private road in accordance with Schedule C (Transportation Plan) of the Official Plan.

Area Context

The subject property has frontage onto West Whalley Lake Road and abuts Highway 124 to the south. The surrounding land uses in the general area are the following:

North: Existing residential uses fronting onto Whalley Lake road accessed via West Whalley Lake Road;
East: Whalley Lake;
South: Highway 124;
West: Existing residential and rural uses accessed via West Whalley Lake Road.

Policy Analysis

Provincial Policy Statement

The Provincial Policy Statement (PPS) is a document that provides policy direction on matters of Provincial interest concerning land use planning. Ontario has a policy led planning system and the PPS sets the foundation for regulating the development and use of land in the Province. Policies are set out to provide for appropriate development while also protecting resources of provincial interest, public health and safety, and the quality of the natural and built environment. When making land use planning decisions, Planning Authorities must ensure that decisions are consistent with the PPS.

The subject lands are located outside of a settlement area and are considered by the PPS to be Rural Lands. The PPS, specifically Section 1.1.5.2, recognizes limited residential development, including lot creation that is locally appropriate, as permitted uses on Rural Lands. The retained lot is proposed Severed and Retained Lots are to host future seasonal residential uses. The uses of the Retained and Severed Lots are permitted uses in accordance with Section 1.1.5.2 of the PPS.

Section 1.1.5.4 of the PPS indicates that *development that is compatible with the rural landscape and can be sustained by rural service levels should be promoted*. The future rural residential use of the Severed and Retained Lots are compatible with the surrounding rural land uses and will not negatively impact the character of the area. The proposed Severed Lots would be serviced by individual on-site sewage and water services which is the typical servicing approach for this area of the Municipality.

Section 1.6.6.4 provides policies that apply to development serviced by individual on-site sewage and water services. It states that individual on-site sewage services and individual on-site water services may be used for a new development provided that site conditions are suitable for the long-term provision of such services with no negative impacts. The proposed Severed Lots would be serviced by private on-site sewage and water services. A condition of provisional consent should be included that requires confirmation from the North Bay Mattawa Conservation Authority (NBMCA) that a well and septic can be accommodated on the proposed Severed Lots.

Section 2.0 of the PPS contains policies related to the wise use and management of resources. Section 2.1 of the PPS includes policies for natural heritage features and areas. It states that natural features and areas shall be protected for the long term. Section 2.1 of the PPS includes policies related to natural heritage features. In accordance with Section 2.1.5 d. of the PPS, development and site alteration shall not be permitted in significant wildlife habitat unless it has been demonstrated that there will be no negative impacts on the associated natural features or their ecological functions.

Section 2.1.6 states that development and site alteration shall not be permitted in fish habitat except in accordance with provincial and federal requirements. Section 2.1.8 states that development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas (including fish habitat) unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological function. In accordance with Schedule B of the Municipality's Official Plan, there are areas of Fish Habitat mapped on the north and south portions of the subject lands. The Municipality's Official Plan defines adjacent lands to be 120 metres from the boundary of a significant fish habitat area. The area identified as fish habitat is currently zoned Environmental Protection (EP) in the Municipality's Zoning By-law.

In accordance with Sections 2.1.6 and 2.1.8 of the PPS, the Applicant has submitted a Scoped Environmental Impact Study (Attachment 1) prepared by FRi Ecological Services dated July 2023 to evaluate the natural heritage features, including the mapped fish habitat. The EIS concluded that development could proceed without any negative impacts to the natural heritage features subject to the implementation of the identified mitigation measures. It recommended that the mitigation measures be implemented through both a Zoning By-law Amendment and Site Plan Agreement, which have been included as conditions of provisional approval of the proposed consent application.

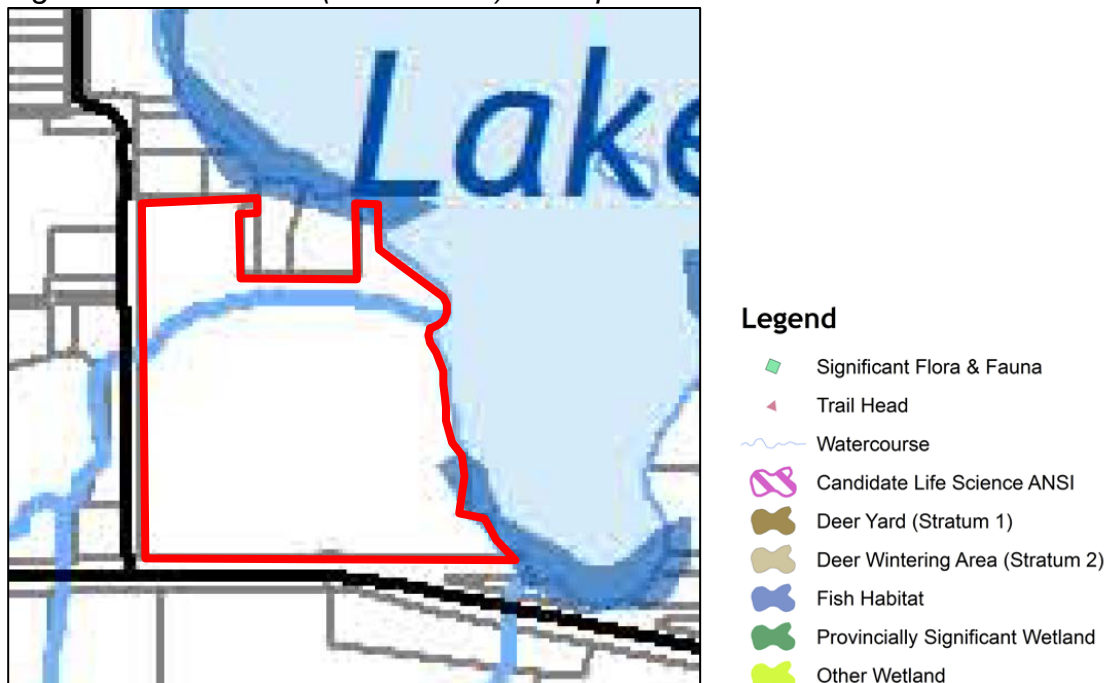
Section 3.0 of the PPS contains policies related to directing development away from natural or human made hazards. In accordance with Section 3.1 the subject property is located outside of hazardous lands and hazardous sites and not affected by a dynamic beach hazard, flooding hazard or erosion hazard.

Provided the recommended conditions of provisional consent are satisfied, the proposed Consent Application is consistent with the policies contained in the PPS.

Municipality of Magnetawan Official Plan

The Municipality's Official Plan provides direction pertaining to growth and development within Magnetawan. The policies in the Plan address the environment, cultural and built heritage, natural resources and servicing and transportation. Schedule A (Land Use Map) of the Official Plan identifies the subject lands as being designated Rural, Shoreline and Environmental Protection and within the Aggregate & Mineral Resources Overlay. A portion of the subject lands are also identified as being designated as Fish Habitat in accordance with Schedule B, as shown in Figure 3.

Figure 3: Official Plan (Schedule B) Excerpt



Section 4.4 of the Official Plan states that new development or site alterations shall have no negative impact on the natural features or ecological functions of significant habitat of endangered or threatened species, other significant wildlife habitat, fish habitat, a provincially significant wetland or other significant natural heritage feature or function. In accordance with this section, a Scoped Environmental Impact Study (EIS) including an evaluation of fish habitat has been submitted by the Applicant. The EIS prepared by FRI Ecological Services dated July 2023 concluded that development could proceed without any negative impacts to natural heritage features subject to the implementation of the following mitigation and protection measures:

- a) *A thirty (30) metre naturally vegetated setback from the high-water mark; excepting a permitted Shoreline Activity Area (SAA);*
- b) *Shoreline Activity Area – lands within the naturally vegetated setback used for recreation and lake access. This SAA will be contiguous with the area identified as ‘Development OK’ or ‘Type 2’ fish habitat in Figure 12.*
 - a. *The SAA maximum recommended width of 10 m, and contiguous (not split into separate sections);*
 - b. *The SAA maximum recommended area of 50 m², with a maximum 10m width as noted above;*
 - c. *The SAA is expected to include a floating dock and associated infrastructure, e.g. trail to the lake; but does not include buildings or other structures; and,*
- c) *Trail to access the lake through the 30 m vegetated setback to the SAA should not exceed 2.5m in width.*

A Site Plan Agreement under Section 41 of the *Planning Act* is recommended as a condition of provisional consent to ensure that the mitigation measures recommended by the Scoped Environmental Impact Study are addressed. In addition, a Zoning By-law Amendment (ZBA) has been recommended as a condition of provisional consent approval. The purpose of the ZBA application is to implement the zoning related recommendations of the Scoped Environmental Impact Study submitted in support of the proposed Severed and Retained Lots.

Section 5.4.1 establishes permitted uses and detached dwellings are a permitted use in the Shoreline designation. The Severed and Retained Lots are intended to be used for seasonal residential purposes and therefore conform to Section 5.4 of the Official Plan.

Section 5.4.8, states that new development in the Shoreline Area should be directed to lands that are physically suitable for development in their natural state in an effort to maintain the area's unique character. Future building envelope locations should be located in areas that require minimal removal of vegetation. This Official Plan policy should be implemented through the Site Plan Agreement by identifying building envelopes and shoreline activity areas on each lot and identifying areas of vegetation preservation in the front yard of each lot.

Section 5.4.2 of the Official Plan includes policies that permit residential uses within the Shoreline designation. New lots should have a minimum lot size of 1.0 hectare and minimum lot frontage of 90 metres. This policy is consistent with Section 5.2.2 of the Official Plan which states that new lots in the Shoreline designation should be a minimum of 1.0 hectare in size. The proposed Severed and Retained Lots conform to the minimum lot area and lot frontage requirements as set out in Sections 5.2.2 and 5.4.2.

Section 6.3 of the Official Plan contains policy direction regarding private roads and states:

Existing private roads may continue to be used but shall not be extended. Council will not permit the creation of new private roads in the Municipality unless those roads are created by plan of condominium. 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.

As proposed, West Whalley Lake Road would provide vehicular access to the severed and retained lots. An extension of the private road is not required.

The proposal is to create three new shoreline residential lots that are to be used for seasonal residential uses. It is noted that new seasonal residential uses are permitted if considered to be infilling on an existing private road. The proposed Severed Lots are located on an existing private road and the extension of West Whalley Lake Road is not required. The proposal would appear to conform to the access policies in the Municipality's Official Plan.

Section 7.1.1 of the Official Plan contains criteria that are applicable to consent applications. Table 2 below summarizes the consent policies.

Table 2: Official Plan Section 7.7.1 Summary

Policy 7.7.1 Severance Criteria	Does the Application Conform?
<p>a) A registered plan of subdivision is not necessary for the orderly development of the lands.</p>	<p>Section 7.2.1 of the Official Plan states that a Plan of Subdivision is generally required where 3 or more lots are proposed. However, Exceptions to this policy may be considered where there are no residual lands resulting from the development and there is no need to extend municipal services</p> <p>The proposed application is for the creation of three new lots and one retained lot. There are no residual lands resulting from the proposed development and there the extension of municipal services is not required. Therefore a Plan of Subdivision is not required to facilitate the proposed development and can be facilitated through a Consent Application.</p>
<p>b) The lot size and setback requirements will satisfy specific requirements of this Plan and meet the implementing zoning by-law requirements.</p>	<p>Section 5.4.2 of the Official Plan requires a minimum lot area of 1 hectare and a minimum water frontage of 90 metres for new residential lots. The proposed Severed and Retained lots conform to these requirements.</p>
<p>c) The proposed lot must front on a publicly maintained road or, within the Shoreline designation, between existing lots on an existing private road with a registered right-of-way to a municipally maintained road or be a condominium unit, which may be created on private roads having access to a municipal year round road.</p>	<p>The subject property designated Shoreline.</p> <p>See item g) of this Table. The lots are proposed to be accessed via West Whalley Lake Road (private road). The Applicant has proposed a right-of-way to be granted over West Whalley Lake Road.</p>
<p>d) Lots for hunt camps, fishing camps, wilderness tourist camps or similar uses may be permitted on unmaintained municipal road allowances or on private right of ways to publicly maintained roads provided that the appropriate agreements are in place to ensure that the Municipality has no liability with respect to the use of these roads.</p>	<p>Not applicable.</p>

<p>e) The lot must have road access in a location where traffic hazards such as obstructions to sight lines, curves or grades are avoided;</p>	<p>The proposed Severed Lots do not appear to create a traffic hazard. The proposed Severed Lots are accessed by an existing private road onto a publicly maintained road, and the access to the Retained Lot is proposed to be via a right-of-way over the proposed Severed Lots in favor of the Retained Lot.</p>
<p>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.</p>	<p>The proposed Severed Lots appear to be of sufficient size to accommodate a septic and well. Approval from the North Bay Mattawa Conservation Authority (NBMCA) is required to confirm that the Severed Lot can be adequately serviced by on-site septic systems and on-site water services. It is recommended that this be included as a condition of consent.</p>
<p>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.</p>	<p>Access for the proposed Severed and Retained Lots would be via a private road (West Whalley Lake Road) as identified on Schedule C of the Official Plan.</p>
<p>h) Any lot for permanent residential use shall be located on a year round maintained municipal road or Provincial highway.</p>	<p>The proposed Severed and Retained Lots are to be for seasonal residential uses.</p>
<p>i) In the Rural designation, new lots created by consent shall be limited to the following:</p> <ul style="list-style-type: none"> i. The Township will permit the creation of up to eight new lots per year. The new lots must comply with the regulations as set out in the implementing Zoning By-law. ii. two lots per original hundred acre lot; iii. one lot for each 50 acre parcel which existed as of the date of approval of this Plan; and iv. infilling between existing residences within 300 metres of 	<p>The subject property is designated Rural and Shoreline. For the purposes of this report, we have focused our review in the context of the Shoreline designation policy given the location of the subject property and frontage onto Whalley Lake.</p>

each other on the same side of a municipal road or Provincial highway	
j) The creation of any lot will not have the effect of preventing access to or land locking any other parcel of land.	The proposal will not have the effect of preventing access to, or land locking any other parcel of land.
k) Any severance proposal on land adjacent to livestock operations shall meet the Minimum Distance Separation Formula I in accordance with the MDS Guidelines and shall demonstrate that the proposed water supply has not been contaminated from agricultural purposes.	The subject lands do not appear to be adjacent to livestock operations that would trigger an MDS calculation.

As summarized in Table 2, the proposed consent application conforms to the severance policies in Section 7.1.1 of the Official Plan, subject to the recommended conditions.

Section 8.4 of the Official Plan states that the Municipality may utilize Site Plan Control to ensure that development in the Municipality is attractive and compatible with adjacent uses and may be applied where special environmental features are required to mitigate impact of residential developments. It is recommended that a Site Plan Agreement be included as a condition of provisional consent to ensure that the mitigation measures recommended by the Scoped Environmental Impact Study are addressed. In addition, a Zoning By-law Amendment (ZBA) has been recommended as a condition of provisional consent approval. The purpose of the ZBA application is to implement the zoning related recommendations of the Scoped Environmental Impact Study (Attachment 1) submitted in support of the proposed Consent Application.

Provided the conditions are satisfied, the proposed consent application would be in conformity with the Municipality's Official Plan.

Municipality of Magnetawan Zoning By-law

The subject lands are zoned Rural (RU), Shoreline Residential (RS) and Environmental Protection (EP) in the Municipality's Zoning By-law. Table 3 provides a summary of the proposed lots in relation to the minimum requirements for the Shoreline Residential (RS) Zone.

Table 3: Shoreline Residential Zone Standard Summary

Zoning By-law Requirements		Proposed Lot			
Shoreline Residential (RS) Zone		Proposed Retained Lot	Proposed Severed Lot #1	Proposed Severed Lot #2	Proposed Severed Lot #3
Minimum Lot Area	1 ha	20 hectares	3 hectares	3 hectares	2 hectares
Minimum Lot Frontage	90 m	+/- 190 m	90 m	90 m	90 m

As shown in Table 3, the proposed Severed and Retained Lots exceed the minimum lot area and lot frontage requirement of 1 hectare and 90 metres respectively for the Shoreline Residential (RS) Zone. The proposed consent application complies to the Municipality's Zoning By-law.

Comments from Departments

Public Works

- None received at the time of writing this Report

Fire Chief

- Limited Services may be provided due to access via private road.

Building Department

- No issues or concerns.

By-law Department

- No issues or concerns.

Summary

The Consent Application proposes to create three new shoreline residential lots and one Retained Lot. The proposed Consent Application also includes an easement to provide access to Severed Lots 1 and 2 and the Retained Lot. The proposed consent application is consistent with the Provincial Policy Statement and conforms to the Municipality's Official Plan, subject to the recommended conditions. In addition, it is recommended that Council support the proposed application subject to the recommended conditions contained in this Report.

Respectively submitted,



Jonathan Pauk HBASc, MSc, MCIP, RPP
Planning Consultant
MHBC Planning



Jamie Robinson, BES, MCIP, RPP
Planning Consultant
MHBC Planning

Attachment 1 - Scoped Environmental Impact Assessment prepared by FRi Ecological Services dated July 2023.

Attachment **1**

Scoped Environmental Impact Assessment

79 West Whalley Lake Road
Municipality of Magnetawan

Part of Lots 2 & 3, Concession 9
Former Geographic Township of Croft

July 2023



Introduction

FRi Ecological Services (FRi) was retained to complete field investigations and reporting in support of a proposed consent to create three (3) new shoreline residential lots and one (1) retained lot for the property located at 79 West Whalley Lake Road. The subject property is shown in Figure 1.



Figure 1: 79 West Walley Lake Road; Highway 124 is visible along the south boundary of the property.

The following reporting is intended to meet the application submission requirements outlined in a pre-consultation memo dated December 14, 2022, from MHBC Planning, the municipality's planning consultant. The memo recommends an Environmental Impact Study (EIS) identify the limits of fish habitat on the property as well as mitigation measures for the protection of fish habitat. It refers to an "EIS to provide evidence that the proposed consent applications would conform to Section 2.7 and 4.10 of the Official Plan". The memo also recommends an EIS provide recommendations respecting retaining shoreline vegetation and defining suitable building envelopes and dock locations for each proposed lot.

The proposed lots include three severed and one retained, shown in Figure 2 below.



Figure 2: Proposed three-lot severance and retained portion. The entire parcel outlined in red is the subject of this report and associated field investigations.

Approach

Field Investigations – Fish Habitat Watercourse

FRi biologists completed two field investigations to assess the existing condition of the subject property respecting general environmental considerations, as well as targeted fish habitat and community assessment.

On July 10, 2023, under the authority of a License to Collect Fish issued by the Ministry of Natural Resources and Forestry, biologists deployed minnow traps in the unnamed watercourse which flows under West Whalley Lake Road, along the northern boundary of the subject property and into Whalley Lake. The watercourse and approximate location of the minnow traps are shown in Figure 3.



Figure 3: Unnamed watercourse, wholly within other lands to the west and the adjacent 'Retained Lot 1' to the north of the proposed severed lots. The approximate locations of the deployed minnow traps are shown as a blue dot. Fishes were captured, the watercourse is confirmed cool water fish habitat.

Three (3) traps were deployed in the watercourse, one upstream of the culvert under the road and the remaining two, downstream. The watercourse's physical characteristics were assessed including the riparian area vegetation and slope, water depths, temperature, and substrate.

On July 21, 2023, FRi completed fish habitat investigations along the entirety of the shoreline fronting the proposed lots. The extent and type of wetlands were delineated and noted; suitable dock locations were similarly noted outside of the wetland areas.

Results – Fish Habitat Watercourse

The unnamed watercourse is confirmed direct fish habitat. Fishes captured included brook stickleback, mudminnow and creek chub. Water temperatures at the time of the fish community assessment were 14°C.



Figure 4 & Figure 5: Creek chub and brook stickleback; representative photos of fish captured during fish community assessment in July 2023.

The watercourse is best described as a permanent cool water stream, with coarse mineral substrate. The stream is within a steep-sided valley, with a wide floodplain which accommodates the meandering channel. The average wetted depth was 50 cm with occasional deeper pools along the outside of stream bends and undercut banks, with shallower flats and riffles in areas where the stream gradient was minimal. The average wetted width was 100 cm.



Figure 6: View from top of valley bank looking west toward Whalley Lake. Unnamed watercourse meanders through the valley in centre of photo.

The stream banks were occasionally undercut, and instream aquatic vegetation was present in the lower reach, downstream of the culvert near where the watercourse exits to Whalley Lake. The riparian area is generally heavily vegetated with both shrubs and herbaceous vegetation. These provide shade and a food source for the fish and fish habitat in the stream.



Figure 7 & Figure 8: Watercourse meanders through heavily vegetated floodplain (left); overview of herbaceous vegetation and structure which accommodate the stream channel (right).

Consistent with the Municipality's Official Plan, a 30-metre setback is recommended for the permanent stream, while a 15-metre setback is recommended for the ephemeral watercourse. Figure 9 shows the recommended watercourse setbacks. No development should occur in the setback areas; if development is necessary, FRi recommends a Request for Review be submitted to Fisheries and Oceans (DFO) for review and approval.

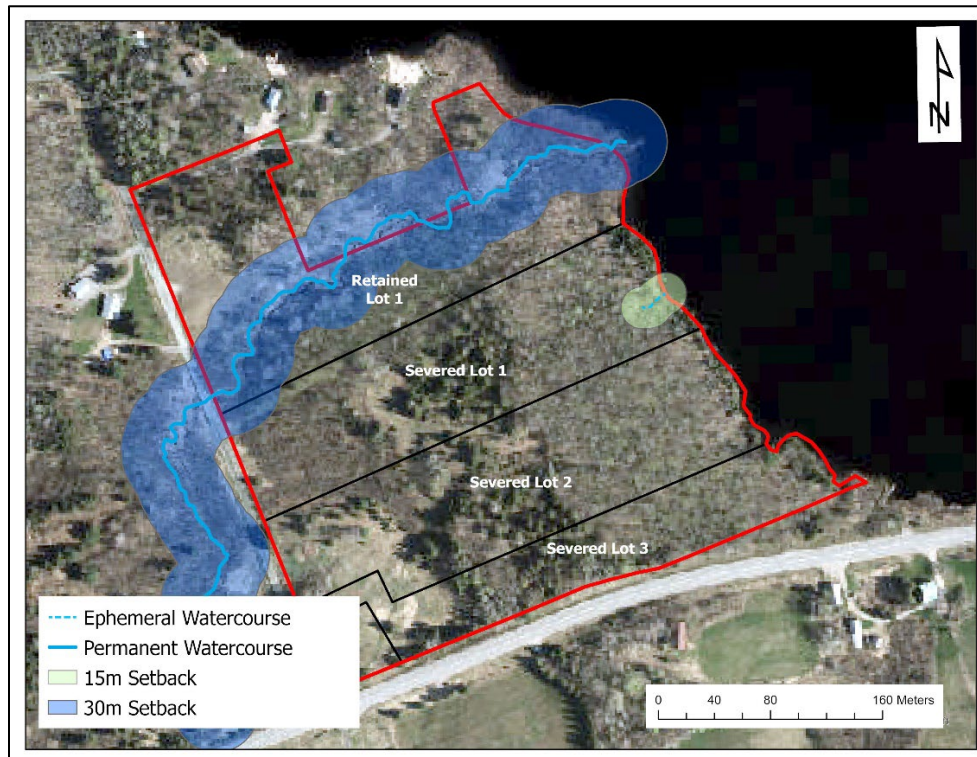


Figure 9: Recommended 15m and 30m no-development setbacks on ephemeral and permanent watercourses.

Field Investigations – Fish Habitat Whalley Lake

According to Fish Online¹, Whalley Lake is home to the following fish species:

- Black Crappie
- Brown Bullhead
- Largemouth Bass
- Pumpkinseed
- Smallmouth Bass
- White Sucker
- Yellow Perch

The Parry Sound Ministry of Natural Resources and Forestry (MNR) Fisheries Habitat Management database indicates the presence of both specialized and non-specialized fish habitat fronting the subject property. Figure 10 shows the MNR fish habitat mapping and the descriptions accompanying each fish habitat polygon in Table 1. The information source is listed as 'OMNR, 1993 aerial video tape interpretation'. Note that aerial video tape interpretation results should be considered appropriate for a landscape scale approach to fish habitat delineation, but less appropriate for small sections of shoreline. It's also important to note that the data from 1993 is thirty (30) years old, and lakes and their lacustrine areas are dynamic, so changes to fish habitat at the lot-level are highly likely.

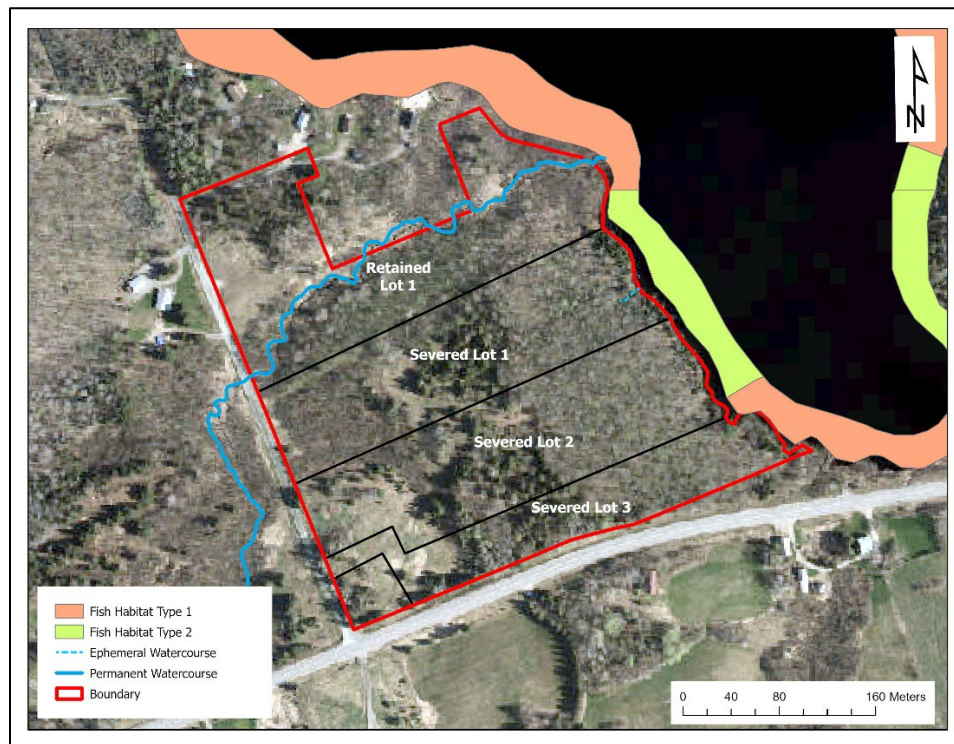


Figure 10: Fish habitat type mapping from MNR fish habitat management. Note the mapped fish habitat reflects data from 1990's aerial video tape interpretation, not the existing fish habitat condition in 2023.

¹ Fish Online. Accessed May & July 2023.

<https://www.lioapplications.lrc.gov.on.ca/fishonline/Index.html?viewer=FishONLine.FishONLine&locale=en-CA>

TYPE	LAKE NAME	HABITAT	DESCRIPTION
1	Whalley Lake	Specialized spawning, nursery and feeding habitat	Significant areas of emergent and/or submergent aquatic vegetation
2	Whalley Lake	Variable; non-specialized spawning areas for centrarchids (bass), cyprinids (minnows), y. perch etc.; nursery area for minnows and bass; feeding areas for pike, bass, minnows, etc.	Highly variable ; ranging from detritus substrate to small aquatic vegetation beds to rocky bedrock substrate. Generally abundant non-specific habitat utilized by a wide variety of inhabiting fish species at various life stages.
1	Whalley Lake	Specialized spawning, nursery and feeding habitat	Significant areas of emergent and/or submergent aquatic vegetation

Table 1: Description of mapped fish habitat from MNRF 1990's database. See Figure 10 above for habitat polygon locations.

Results – Fish Habitat Whalley Lake

FRi did not complete a fish community assessment for Whalley Lake. The Fish Online database includes a comprehensive list of species present. In addition, the unnamed watercourse outlets directly to Whalley Lake so those species are also assumed present in the lake.

FRi completed an in-person shoreline fish habitat assessment for the entire frontage along the retained and proposed lots in July 2023. The shoreline is fully vegetated and the terrestrial upland area rises from the lake on moderate slopes for the majority of the proposed severed lots. The areas of 'type 1' and 'type 2' fish habitat as identified and delineated in the field, are shown in Figure 11 and are not entirely consistent with the Parry Sound fish habitat mapping shown in Figure 10 above.

The near shore substrates include a mix of larger cobble, usually a single or incomplete layer over coarse to fine sand. None of this constitutes significant Type 1 habitat; a search of the Land Information Ontario 'Spawning Areas' database, shows there are no spawning areas overlapping the frontages of the proposed (or retained) lots. The fishes present in the lake include large and smallmouth bass, black crappie, yellow perch and white sucker. There were no areas of specialized spawning habitat identified for any of the fish species present in Whalley Lake.

There are three small wetland inlets, where patches of aquatic vegetation were present; these areas are shown in Figure 11 and are considered to represent suitable Type 1 fish habitat. The remainder of the lacustrine shoreline area was largely free of aquatic vegetation, with occasional small, scattered patches of watershield (*Brasenia schreberi*) and pickerelweed (*Pontederia*

cordata). The absence of abundant aquatic vegetation appears to be related to water depths of >2 metres almost immediately offshore.

The areas identified as green stippled polygons represent the assessed aquatic vegetation patches, which could support spawning and nursery or other Type 1 habitat functions for fish. There are no docks or other activities (e.g. dredging) recommended for these areas. The areas of aquatic vegetation should be avoided and similarly, the shoreline activity areas/access, should avoid these areas.

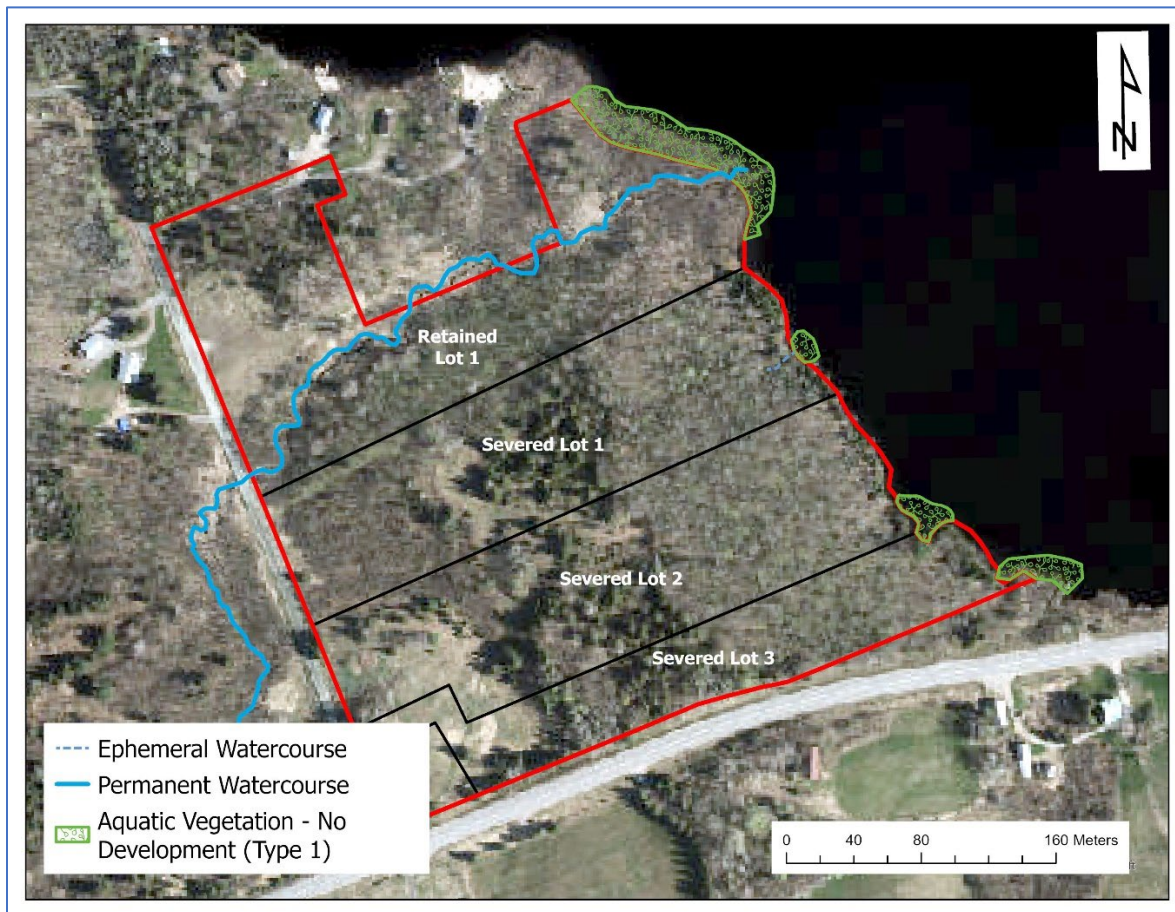


Figure 11: Fish habitat fronting proposed and retained lots. Note the green stippled polygons represent assessed Type 1 fish habitat.

The remaining frontage is considered 'Type 2' habitat, which is best described as non-specific, general fish habitat. Shoreline activities, including access and floating docks are appropriate in these areas and there are no negative impacts to fish or fish habitat are anticipated. The areas where floating docks and shoreline access are permitted are shown in Figure 12.

Proposed severed lot 1 has approximately 45 and 20 metres of frontage outside of Type 1 habitat. Proposed severed lot 2 has approximately 70 metres of frontage outside of Type 1 habitat and

Proposed severed lot 3 has approximately 40 metres of frontage outside of Type 1 habitat. All distances were measured 'straight-line' from edge to edge.



Figure 12: Pink hatched polygons represent the 'Type 2' or general fish habitat areas as assessed and delineated during field investigations in July 2023. Note that all three of the proposed severed lots have more than 10 metres of frontage on non-Type 1 fish habitat. Floating docks can be situated anywhere within the pink hatched areas fronting each proposed (and retained) lot.

Proposed Severed Lot 1

Proposed severed lot 1 includes mature hardwood forest for the portion fronting Whalley Lake. It has a moderate slope from the lake shoreline and is naturally vegetated. There is an old (since grown up) flat area along the south boundary with proposed severed lot 2 which may have been the site of an old building. The lot reaches a height of land and includes some conifer which is visible in the leaf-off aerial imagery above. The backlot slopes gently toward West Whally Lake Road and includes a shrubby old field area.



Photo: 1 – View from Lot 1 looking southeast Photo: 2 – Hardwood forest and ATV trail Lot 1

Proposed Severed Lot 2

Proposed severed lot 2 is similar to proposed severed lot 1 with mature hardwood forest and moderate slopes on the east side and old field on the backlot roadside. The hardwood bush includes sugar maple and beech, with occasional inclusions of basswood and yellow birch. Soils are mineral in nature and generally considered shallow as bedrock is visible at the surface or <15cm below the soil layer. The old field area on proposed severed lot 2 includes fewer shrubs and is almost entirely grasses and other herbaceous vegetation.



Photo: 3 & Photo: 4 – View from Lot 2 looking northeast



Photo: 5 – Interior upland hardwood forest on 'lake side' of lot; note large boulders at surface and moderate slopes

Proposed Severed Lot 3

Similar to proposed severed lots 1 and 2, Lot 3 has a moderately sloped hardwood forest on the east (lake) side with a mixedwood – conifer height of land, after which it slopes gently to the west where it meets West Whalley Lake Road. The old field area is like proposed severed Lot 2 and includes mostly grasses and herbaceous vegetation, the absence of shrubs suggests it was more recently subject to activities. A small network of existing ATV trails run throughout all three proposed and the retained lot.



Photo: 6 View of proposed Lot 3 frontage; note aquatic vegetation in foreground (identified Type 1 fish habitat) Photo: 7 Hardwood forested area, large boulders at surface, moderately sloping uphill from Whalley Lake on proposed Lot 3



Photo: 8 Typical old field habitat at back of all three proposed severed lots.

Conformity to Magnetawan Official Plan & Zoning By-Law

Section 4.7 and 4.10 'Significant Fish Habitat' and 'Adjacent Lands'

Section 4.7 of the Official Plan requires that new waterfront lots have a minimum of 10 metres of shoreline frontage that is outside of Type 1 fish habitat. FRi delineated the fish habitat along the entire shoreline frontage of the subject property to provide field-supported conclusions that there is at least 10 metres of non-Type 1 fish habitat fronting each of the three proposed severed lots. There is similarly, at least 10 metres of frontage on non-type 1 fish habitat fronting the retained lot. The methods and rationale for the updated fish habitat associated with the proposed severed and retained lots is detailed in the following section of this report.

Based on the fish habitat assessment of both the watercourse and the shoreline within and adjacent the subject property, there is at least 10 metres of 'non-Type 1' fish habitat fronting each of the proposed severed and retained lots.

Further, floating dock structures often provide excellent cover for spawning fish like large and smallmouth bass. It is our opinion that there are suitable locations for floating docks for each of the proposed (and retained) lot which would be situated outside of Type 1 fish habitat, and which would similarly have no negative impact on fish or fish habitat.

Section 4.10 defines 'adjacent lands' as those within 30 metres of a watercourse and within 120 metres of Type 1 fish habitat. To meet the Municipality's Official Plan and zoning by-law requirements respecting the lot creation and anticipated development, the following recommendations apply to the proposed lots and associated development:

- a) A thirty (30) metre naturally vegetated setback from the high-water mark; excepting a permitted Shoreline Activity Area (SAA);
- b) Shoreline Activity Area – lands within the naturally vegetated setback used for recreation and lake access. This SAA will be contiguous with the area identified as 'Development OK' or 'Type 2' fish habitat in Figure 12.
 - a. The SAA maximum recommended width of 10 m, and contiguous (not split into separate sections);
 - b. The SAA maximum recommended area of 50m² with a maximum 10m width as noted above;
 - c. The SAA is expected to include a floating dock and associated infrastructure, e.g. trail to the lake; but does not include buildings or other structures; and,
- c) Trail to access the lake through the 30 m vegetated setback to the SAA should not exceed 2.5m in width.

These recommendations for shoreline naturally vegetated setbacks and Shoreline Activity Areas are consistent with other shoreline properties in the municipality. The recommended 30 metre shoreline setback meets or exceeds the Zoning By-law requirements for building setbacks on watercourses (Section 3.25).

Figure 13 shows all of the recommendations for setbacks on the watercourses (permanent and ephemeral), shoreline and identified Type 1 fish habitat areas. With the exceptions already noted e.g. permitted Shoreline Activity Area, the natural vegetation should not be disturbed in these areas, and no development activities should occur.

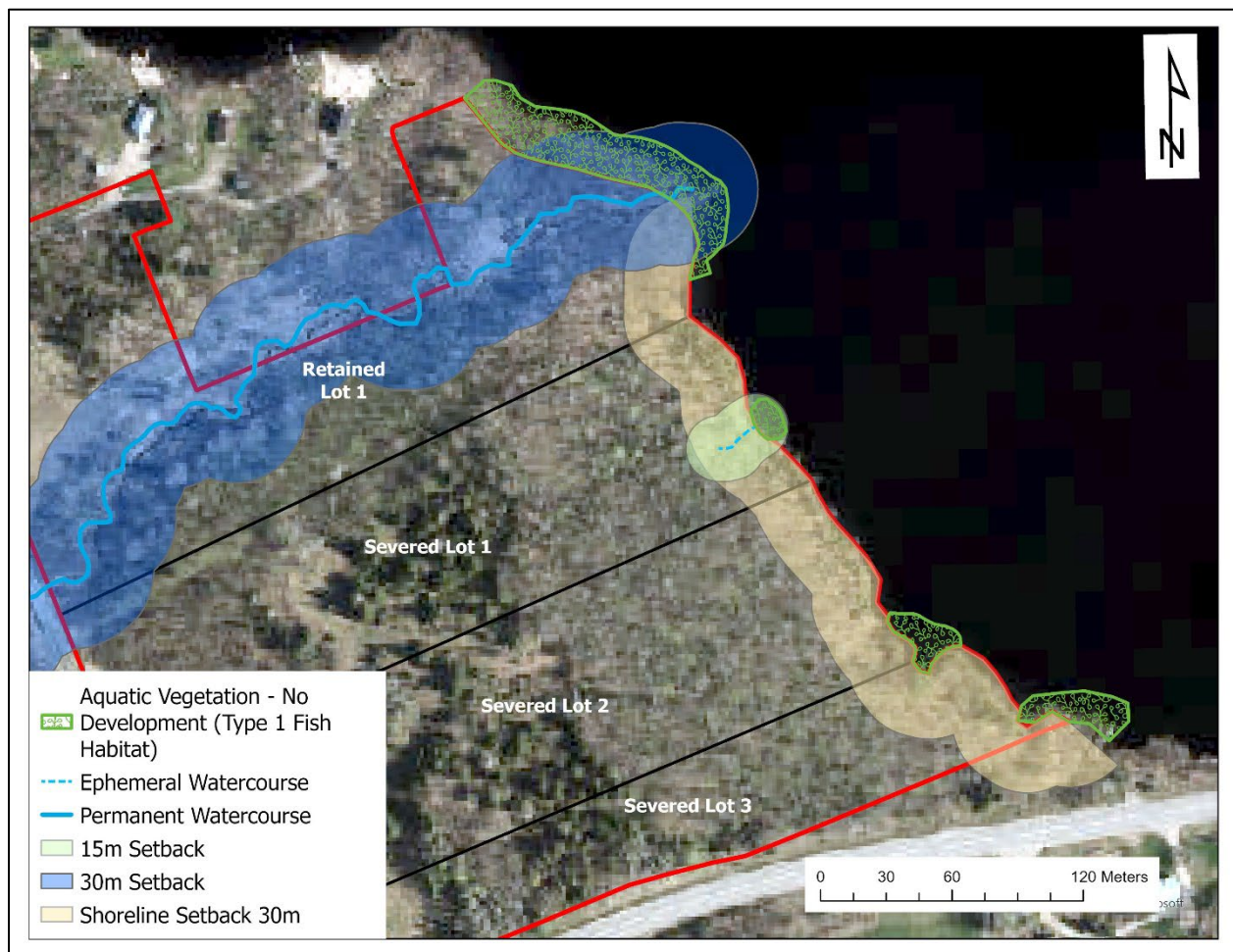


Figure 13: The recommended 15m, 30m and 'no development areas' for all three proposed severed lots.

The areas outside of the recommended setbacks and delineated habitat areas can accommodate anticipated shoreline residential development with no negative impacts to any identified natural heritage features and areas including fish and fish habitat.

General recommendations for protecting natural heritage features are as follows:

- To protect breeding birds and other wildlife during their active seasons, vegetation and tree clearing including site preparation activities in the field and forested areas of the lots should occur from October 1st through March 31st of any given year.
 - This recommended timing window for site preparation and construction activities applies to work in natural areas only. For example, the installation of a driveway/access, well and septic and site preparation for buildings.
 - Once an area is cleared and prepared for construction, erosion and sediment controls should be in place to ensure loose materials and substrate do not enter either the watercourses or the lake. Suggested controls include appropriately installed and maintained light-duty silt fencing. This will protect the identified nearby Type 1 fish habitat.
- Minimum lot coverage setbacks will be adhered to; and
- Septic systems will be a minimum 30 metres from the high-water mark and situated and installed in accordance with the applicable regulations.
- If new culverts are needed for access or construction, they may require a Request for Review by Fisheries and Oceans. A self-assessment can be completed following instructions online.

Summary

The property at 79 West Whalley Lake Road includes frontage on Whalley Lake. There are three proposed severed lots for which a scoped environmental impact assessment was completed based on the pre-consultation memo dated December 2022.

We trust this report addresses the pre-consultation comments fish and fish habitat considerations and provides recommendations to avoid negative impacts to the same. Provided the areas identified as fish habitat and the associated setbacks are avoided, the proposed lots can accommodate shoreline residential development and avoid negative impacts to fish and fish habitat as well as the adjacent areas. If the recommendations are appropriately implemented, it is FRi's opinion that the proposed consent to create three lots is consistent with the Municipality of Magnetawan's planning framework.

Respectfully submitted,



Rebecca Geauvreau, FRi Ecological Services