

THE MUNICIPALITY OF MAGNETAWAN

STAFF REPORT

TO: Nicole Gourlay, Deputy Clerk – Planning & Development
Municipality of Magnetawan

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

DATE: July 27, 2022

SUBJECT Consent Application – Main /Hutcheson – 1113 Miller Road,
Municipality of Magnetawan, Roll No. 494401000230600

Recommendation

Subject to the review and analysis of this report, it is recommended that Council support the proposed Consent Application (new lot and access easement) respecting 1113 Miller Road (Main/Hutcheson), 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 the severed lands be submitted to the Municipality.
3. Confirmation from the North Bay Mattawa Conservation Authority (NBMCA) that the proposed Severed Lot can be adequately serviced by an individual on-site septic system and an individual on-site water system.
4. That a draft survey of the proposed Severed Lot, Retained Lot and proposed Easement be provided to the Municipality for review and approval.
5. That the Applicant obtain an entrance permit from the Municipality for the proposed Severed Lot.
6. Confirmation that the proposed severed and retained lot comply with the Minimum Distance Separation (MDS) requirements.
7. That the Applicant transfer to the Municipality of Magnetawan, in fee simple, free and clear of all liens and encumbrances the right-of-ways known as the Schmeler Road and Miller allowance, to the satisfaction of the Municipality. The Applicant's solicitor shall prepare and submit a draft of the proposed transfer for review by the Municipality, together with his/her opinion letter stating that upon the registration of the Transfer, the

Municipality will have acquired a good and marketable title thereto, free and clear of all liens and encumbrances. All costs associated with the preparation and registration of the Transfer and Consolidation Application, including costs relating to surveying, legal fees, and disbursements, agreements, HST, etc. shall be fully borne by the Applicant.

Proposal / Background

An application for Consent has been submitted by the property owners Robert Main and Ron Hutcheson. The property is municipally known as 1113 Miller Road, Municipality of Magnetawan and is legally described as Concession 12, Pt Lot 19, PCL 9839 s/s and CON 12 Lot 18. The location of the subject property is shown in Figure 1.

The subject property is currently used as Rural use. The Consent Application seeks permission to create one new Rural lot which would re-establish the lot lines between the two 100 acre parcels (Lot 18 and Lot 19, Concession 12). The applicants are also proposing that the existing access to Con 12 Lot 18 off Miller Road, across Part Lot 19, to be considered a legal right of way (easement). The dimensions of the easement are to generally reflect that of the existing driveway and are to be confirmed by the surveyor during the preparation of the reference plan. The proposed severed lot is located in the western portion of the subject property and generally follows the boundary of Miller Road that traverses through the subject property (hatched area in Figure 1). The proposed consent application sketch submitted by the Applicant is shown in Figure 1.

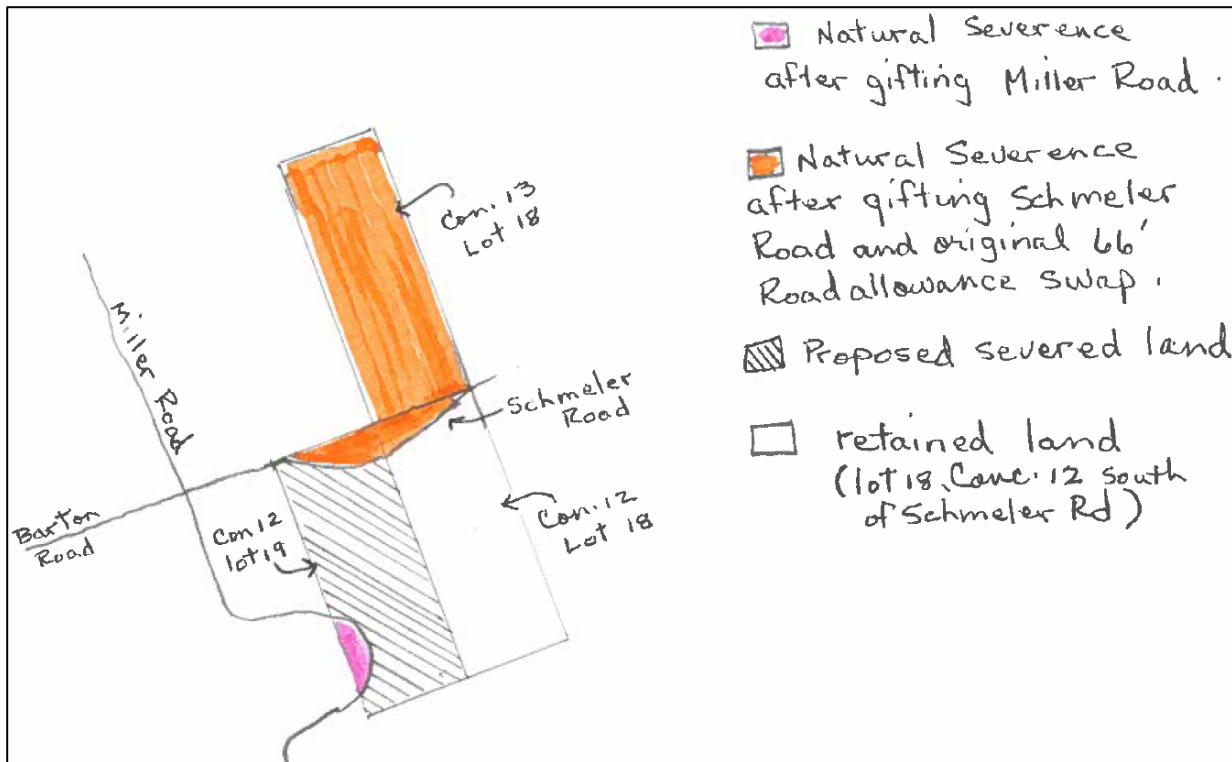
A summary of the proposed Severed Lot (hatched area in Figure 1) and Retained Lot are summarized in Table 1.

Table 1: proposed Lot Statistics

	Lot Area	Lot Frontage
Lot #1 – Severed	~36 hectares	400m
Lot #2 – Retained	~38 hectares	400m

The area shown in 'orange' in Figure 1 represents the area to be added to the remnants of the parcel on north side of Schmeler Road and the area shown in 'pink' represents the natural severance that would occur following the transfer of Miller Road to the Municipality. The parcel in pink, having an irregular frontage of approximately 367 metres along Miller Road and an area of 1.75 hectares, will become a separately conveyable parcel.

Figure 1 – Proposed Lot Configuration

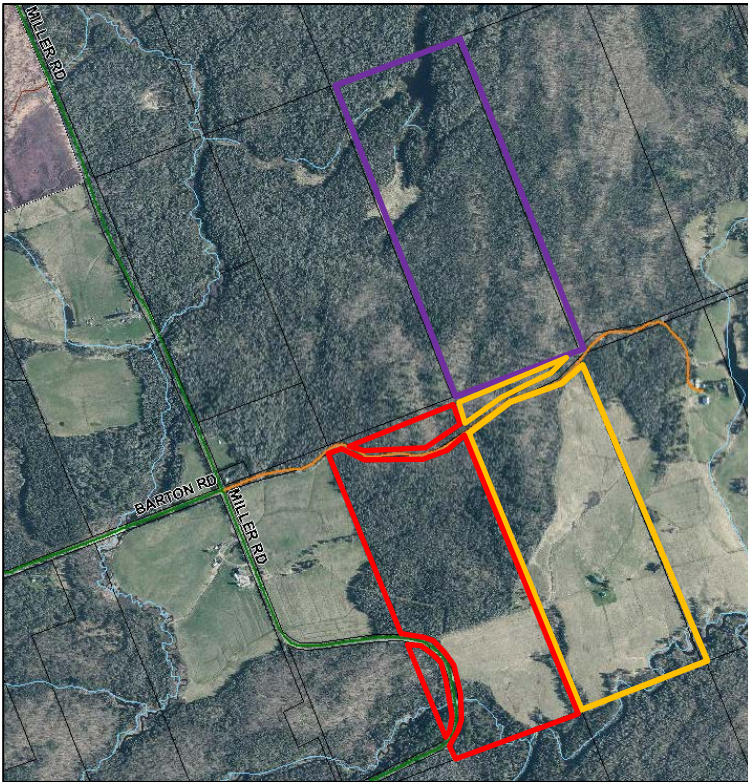


A portion of both Miller and Schmeler Roads are to be transferred to the Municipality and a portion of the unopened road allowance will be transferred to the remnant parcel created by the transfer of the roadway to the Municipality (being a land swap with the Municipality). All proposed lots will have frontage onto Schmeler Road and/or Miller Road. The Municipality will require the transfer of the 20 metre width lands supporting Schmeler Road and Miller Road as a condition of consent.

The subject lands are designated 'Rural' and a portion of the property is located within the Aggregate Mineral Resources overlay on Schedule A of the Municipality's Official Plan. A portion of the subject lands contain an area of Fish Habitat in accordance with Schedule B of the Official Plan. The subject lands zoned Rural (RU) and Environmental Protection (EP) by the Municipality's Zoning By-law.

The subject lands are accessed via Schmeler Road or Miller Road. The subject property is developed with a single detached dwelling, barn and accessory buildings. The existing dwelling is serviced by an existing private well and septic system.

Figure 2: Location of Subject Lands



Area Context

The subject property (proposed Severed Parcel) has direct frontage onto Miller Road, and is surrounded by

North: Large tract of forested and rural lands

East: Existing residential uses accessed via Schmeler Road

South: Large tract of forested lands

West: Existing residential and rural uses accessed via Miller 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, and other rural land uses, and agricultural uses as a permitted use on Rural Lands. The retained lot is proposed to contain the existing dwelling and accessory barn. The

residential use of the Retained Lot is a permitted use in accordance with Section 1.1.5.2 of the PPS. The proposed Severed Lot is to be used for rural residential purposes.

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 existing residential use on the Retained Lot and future rural residential use of the Severed Lot are compatible with the surrounding rural land uses and will not negatively impact the character of the area. The proposed severed lot 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 Lot would be serviced by private on-site sewage and water services. A condition of provisional consent should be included that requires confirmation from the NBMCA that a well and septic can be accommodated on the proposed Severed Lot.

Section 2.0 of the PPS contains policies related to the wise use and management of resources. Ontario's long-term prosperity, environmental health, and social well-being is dependent on protecting water and natural heritage features. In accordance with Schedule B of the Municipality's Official Plan, there is an area of Fish Habitat mapped on the southern portion of the Severed Lot. The Municipality's Official Plan defines adjacent lands to be 120 metres from the boundary of a significant fish habitat area. The required setback from watercourse identified as containing fish habitat is generally 30 metres in accordance with the Provincial Policy Statement Natural Heritage Reference Manual. The area identified as fish habitat is currently zoned Environmental Protection (EP) in the Municipality's Zoning By-law and appears to be a minimum of 30 metres from the watercourse, and in some instances is greater than 30 metres. Therefore, it is our opinion that an evaluation of the fish habitat area is not required and the existing zoning will provide protection and buffering from the area identified as fish habitat. Subject to the Applicant fulfilling the conditions of consent, the proposed application is considered to be consistent with the policy direction of the PPS.

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 and Environmental Protection and within the Aggregate & Mineral Resources Overlay as shown in Figure 3. A portion of the subject lands are also identified as being designated as Fish Habitat in accordance with Schedule B, as shown in Figure 4.

Figure 3: Official Plan (Schedule A) Excerpt

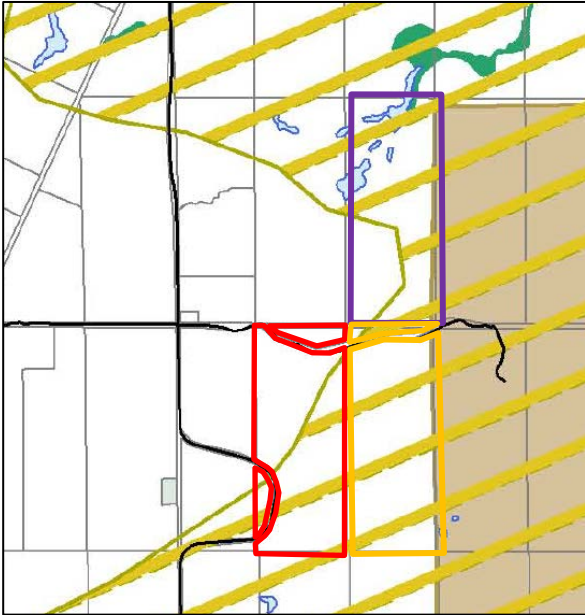
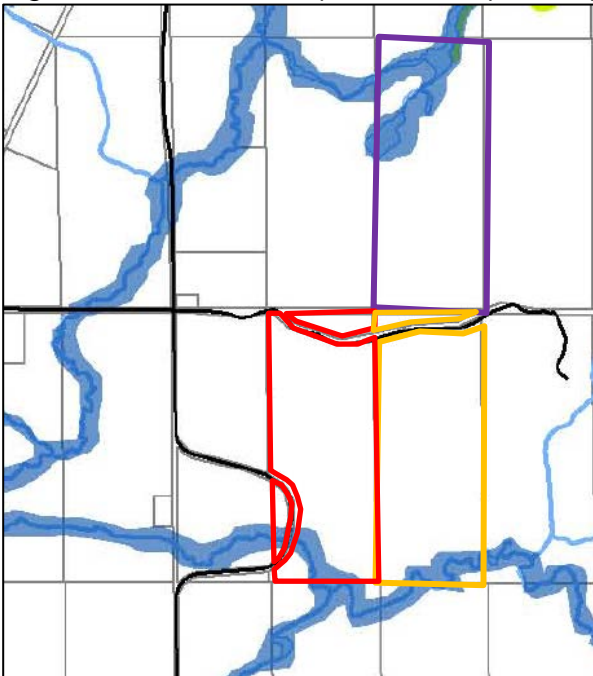


Figure 4: Official Plan (Schedule B) Excerpt



Section 5.2.1 of the Official Plan contains policies for Rural Areas in the Municipality and states that the permitted uses include agriculture and residential dwellings, among other uses. The future residential development on the Severed Lot and the existing residential use on the Retained are permitted uses within the Rural designation.

Section 5.2.2 contains policy direction regarding residential development and states that limited new permanent residential development shall be permitted in the Rural Area, preferably in close proximity to other residential uses as infilling on existing roadways where school busing and municipal winter maintenance is presently being provided. The proposed Severed Lot is located on a municipally maintained road, in proximity to other residential uses and does not require the extension of municipal services.

Section 5.2.2 also requires that new lots have a minimum lot area of 1 hectare (2.47 acres) within the Rural designation. The proposed Severed Lot is to be approximately 36 hectares in lot area and exceeds the minimum requirement for new lots within the Rural designation. It is noted that the minimum required lot area for the Rural Zone is 10 hectares and both the Severed and Retained Lot exceed this requirement.

Section 7.1.1 of the Official Plan contains criteria that are applicable to consent applications. Table 2 summarizes the consent policies and the relevance to the proposed consent application for one new lot and one retained lot.

Table 2: Official Plan Section 7.7.1 Summary

Policy 7.7.1 Severance Criteria	Does the Application Conform?
a) A registered plan of subdivision is not necessary for the orderly development of the lands.	A Plan of Subdivision is required where 3 or more lots are proposed. The proposed application is for the creation of one new lot and one retained lot. A Plan of Subdivision is not required to facilitate the proposed development.
b) The lot size and setback requirements will satisfy specific requirements of this Plan and meet the implementing zoning by-law requirements.	Section 5.2.2 of the Official Plan requires a minimum lot area of 1 hectare for new residential lots. The proposed severed and retained lots exceed this requirement. The subject property is Zoned Rural (RU). The minimum required lot area for the Rural Zone is 10 hectares. The proposed Severed and Retained Lots both comply with this requirement.
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	The proposed Severed Lot is to be accessed via Miller Road which is identified as municipal road (year round maintained) in accordance with Schedule C of the Official Plan. The proposed Retained Lot is to be accessed via the existing driveway

<p>created on private roads having access to a municipal year round road.</p>	<p>extending from Miller Road. The Applicant has applied for an easement to recognize the existing access and to provide legal access to the proposed Retained Lot.</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 lot does not appear to create a traffic hazard. The proposed Severed Lot fronts onto a publicly maintained road, and the access to the Retained Lot is proposed to be via a right-of-way over the Severed Lot 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 Lot appears 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 Lot would be via publicly maintained road (Miller 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 applicants are proposing that the existing access to Concession 12 Part Lot 18 off Miller Road to be considered a legal right of way (easement).The existing residential use on the Retained Lot is to be accessed by an existing driveway connected to Miller Road which is a year round municipal maintained road.</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 each other on the same side of a municipal road or Provincial highway 	<p>The subject lands are located within the Rural designation. Based on a review of the previous consents within the Municipality the proposed lots would not exceed eight new lots within the Rural designation at the time of writing this Report.</p> <p>The proposal would result in the creation of one new lot from an existing approximately 200 acre parcel. The subject property has not been subject to a previous severance. The proposal would conform to Section 7.7.1 i) iii).</p>
<p>j) The creation of any lot will not have the effect of preventing access to or land locking any other parcel of land.</p>	<p>The proposal will not have the effect of preventing access to, or land locking any other parcel of land.</p>
<p>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.</p>	<p>The subject lands do not appear to be adjacent to livestock operations that would trigger an MDS calculation.</p> <p>Council shall be satisfied that there are no livestock facilities in the area. If there are, an MDS calculation shall be completed prior to consideration of the application by the Planning Board.</p>

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.

Municipality of Magnetawan Zoning By-law

The subject lands are zoned Rural (RU) and Environmental Protection (EP) in the Municipality's Zoning By-law as shown in Figure 4.

Table 3 provides a summary of the proposed lots in relation to the minimum requirements for the Rural (RU) Zone

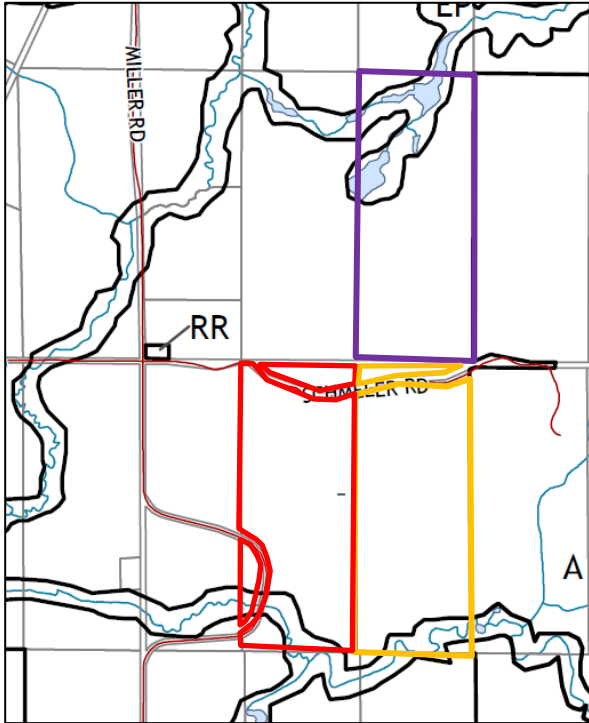
Table 3: Rural Zone Standard Summary

Zoning By-law Requirements		Lot Configuration	
Rural (RU) Zone		Proposed Retained Lot	Proposed Severed Lot
Minimum Lot Area	10 ha	38 ha	36 ha
Minimum Lot Frontage	134 m	+/- 400m	+/- 400m

As shown in Table 3, the proposed Severed and Retained Lots exceed the minimum lot area and lot frontage requirement of 10 hectares and 134 metres respectively for the Rural (RU) Zone.

The proposed consent application complies to the Municipality's Zoning By-law.

Figure 5: Zoning By-law (Schedule A-2) Excerpt



Comments from Departments

Public Works

- None received at the time of writing this Report

Fire Chief

- None received at the time of writing this Report

Building Department

- None received at the time of writing this Report

By-law Department

- None received at the time of writing this Report

Summary

The Consent Application proposes to create one new rural lot and one Retained Lot. The proposed Consent Application also includes an easement to facilitate the existing driveway to provide access to the existing single detached dwelling on 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