

THE MUNICIPALITY OF MAGNETAWAN

PLANNING REPORT

TO: Kerstin Vroom, CAO/Clerk,
Municipality of Magnetawan

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

DATE: July 15, 2020

SUBJECT: Consent Application – Noll and Roncadin
Con. 1, Lot 10, (Chapman), PIN 52079-0149LT; Minkler's Lane off of
South Horn Lake Road

Recommendations

That the Consent application to create one (1) retained and two (2) new water access shoreline residential lots be approved subject to the following conditions:

1. That the applicant meet all financial requirements of the Municipality;
2. That a registrable description of the severed lands be submitted to the Municipality;
3. The entering into of a Site Plan Agreement between the Applicant and the Municipality to:
 - i. implement the recommended measures contained in the Lakeshore Capacity and Fish Habitat Assessment for Horn Lake prepared by Hutchison Environmental Sciences Ltd. and dated May 1, 2018, including shoreline vegetation protection areas and dock locations; and,
 - ii. Establish the location of suitable building envelopes above the applicable flood elevation to the satisfaction of the Municipality and the North Bay Mattawa Conservation Authority.
4. Confirmation from the North Bay Mattawa Conservation Authority (NBMCA) that the proposed severed and retained lots can be adequately serviced by individual on-site septic systems and individual on-site water systems.
5. That a draft survey of the severed lot be provided to the Municipality for review and approval;
6. That the Applicant demonstrate there are sufficient facilities for mainland parking and docking available;

7. That the Applicant enter into a Limited Service Agreement with the Municipality; and,
8. That the foregoing conditions be fulfilled within one year of the date of the notice of the decision of the Planning Board.

Proposal / Background

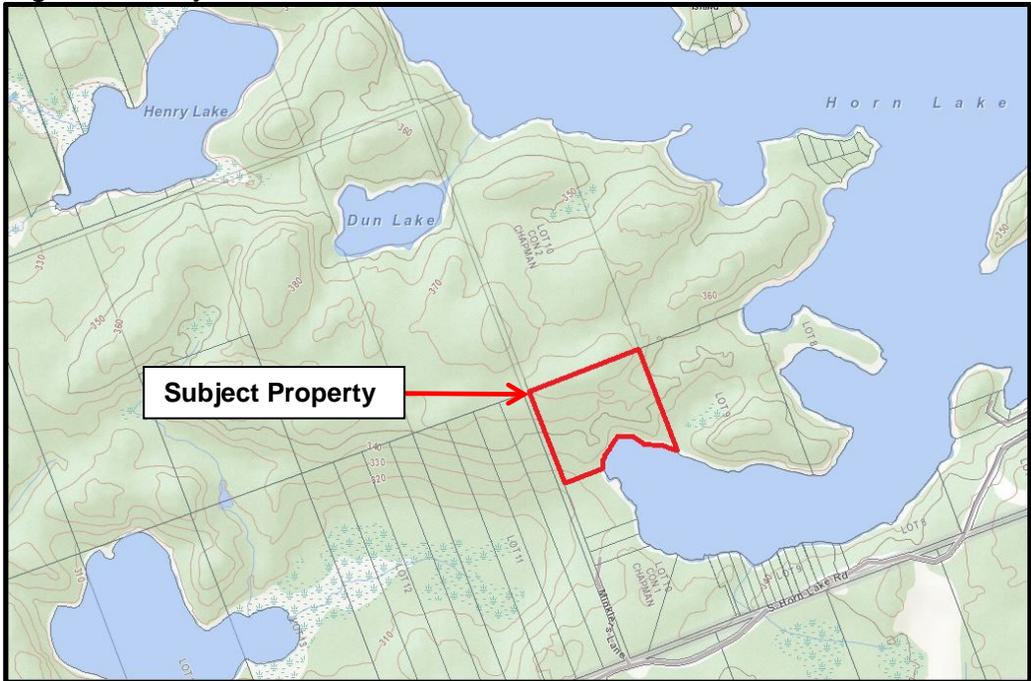
On February 28, 2018, Council passed By-law 2018-13 (Access Driveway License Agreement) which granted access to the subject property over the unopened road allowance on Minkler's Lane, to provide access to the property. As a result, Minkler's Lane is considered a private road for the purposes of the Official Plan.

On January 9, 2019, the subject property was rezoned to the Shoreline Residential Exception Thirty Two (RS-32) Zone to implement site specific provisions relating to the Lakeshore Capacity and Fish Habitat Impact Assessment prepared by Hutchinson Environmental Sciences Ltd. dated May 2018. The purpose of the study was to evaluate the development capacity of the lake.

Rick Hunter (Planscape Inc.) has submitted a consent application on behalf of the property owners, Christopher Noll and Matthew Roncadin. The application proposes to create two new residential lots fronting onto Horn Lake. The proposed severed and retained lots are proposed to have water access. Each of the lots also has frontage on the unopened road allowance of the extension of Minkler's Lane. Minkler's Lane is a seasonally municipally maintained road.

The subject lands are currently vacant. The proposed retained and severed lots are intended to be used for seasonal residential purposes. The location of the subject lands are shown in Figure 1.

Figure 1: Subject Lands



The subject property has a lot area of 13.3 hectares with approximately 250 metres of frontage onto Horn Lake. The subject property is designated Shoreline and Rural in the Municipality’s Official Plan and Shoreline Exception Thirty Two (RS-32) by the Municipality’s Zoning By-law.

The proposal is to create two additional residential lots fronting onto Horn Lake. Table 1 identifies the proposed lot frontage, lot area and proposed uses of the severed and retained lands. These measurements are based on the drawing submitted with the Consent application.

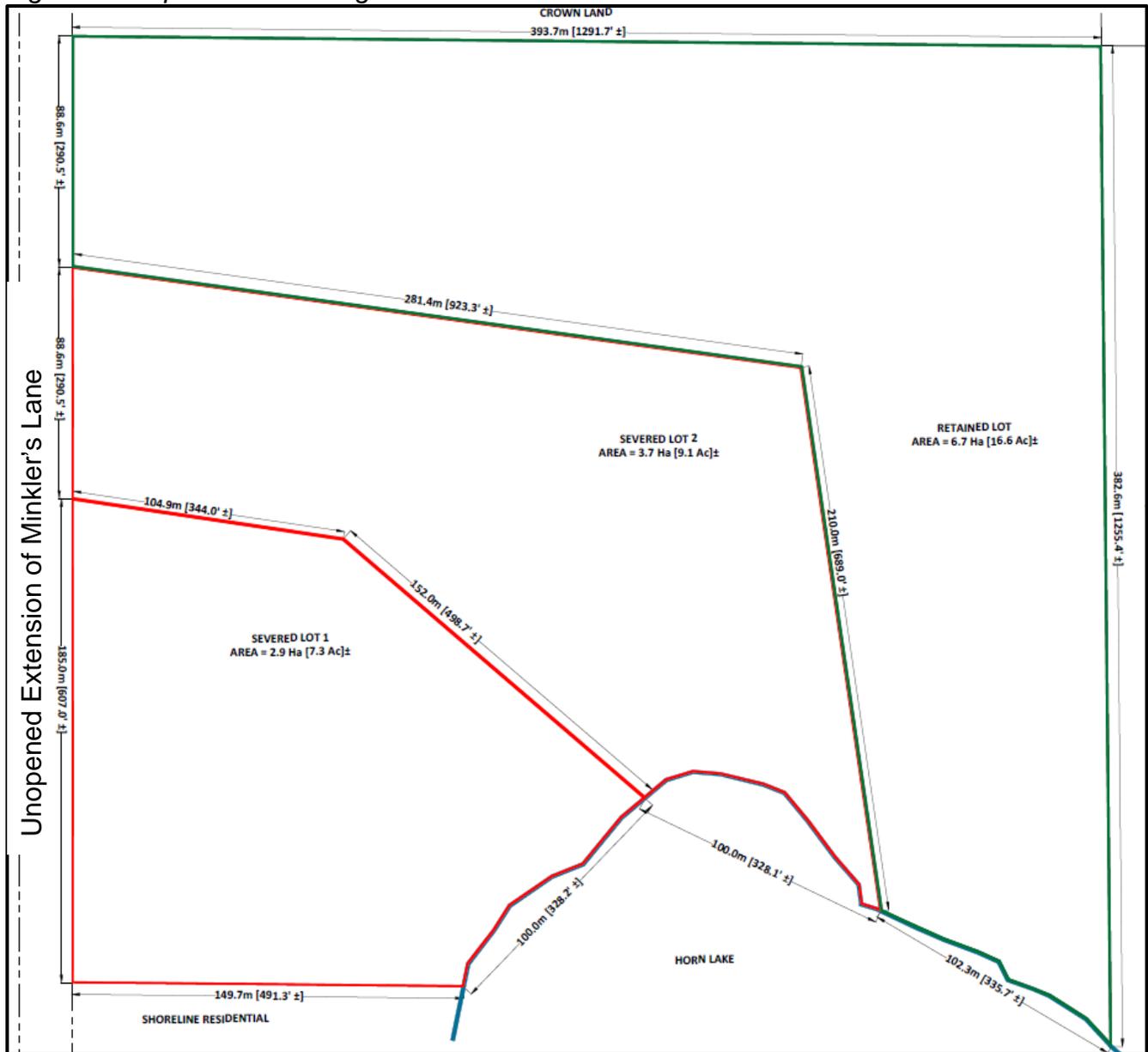
Table 1: Proposal Summary

Lot	Area	Lot Frontage	Proposed Use
Retained Lot	6.7 hectares	102.3 metres	Shoreline Residential
Severed Lot #1	2.9 hectares	100 metres	Shoreline Residential
Severed Lot #2	3.7 hectares	100 metres	Shoreline Residential

The severed and retained lots are to be water access lots with mainland parking and docking to be provided at Birch Crest Resort.

The severed and retained lots have been configured such that they also have frontage onto the unopened municipal road allowance, which is the extension of Minkler’s Lane. The proposed lot configuration shown in Figure 2.

Figure 2: Proposed Lot Configuration



The Owners have an Access Driveway Agreement with the Municipality of Magnetawan for access to the existing property. The Municipality passed By-law No. 2018-13 on February 28, 2018 which enabled the property owner to utilize the unopened road allowance to provide access to the subject property via the extension of a seasonally maintained road known as Minkler's Lane.

Area Context

- North:** Crown Land;
- East:** Shoreline Residential Properties fronting onto Horn Lake;
- South:** Horn Lake and Shoreline Residential Properties fronting onto Horn Lake; and,
- West:** Rural residential lots fronting on to Minkler's Lane and South Horn 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 the Magnetawan Village settlement area and are considered to be Rural Lands. The PPS, specifically Section 1.1.5.2, recognizes resource-based recreational development, including recreational dwellings, as a permitted use. The proposed new lots would be considered resource-based recreational development.

Section 1.6.6.4 provides policies that apply to development on individual well and septic. 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 lots are proposed to be serviced by individual sewage and water services.

Individual on-site sewage services are typical in the area and the proposed lot are a sufficient size to accommodate on-site services. It is appropriate to include a condition of provisional consent that the North Bay Mattawa Conservation Authority (NBMCA) provide confirmation that a sewage system can be located on each lot. Individual on-site water services can be provided by well through lake water.

Section 1.6.6.6 states that planning authorities may allow for lot creation, based on confirmation that adequate servicing can be accommodated. A condition of provisional consent should be included that requires confirmation from the NBMCA that adequate individual on-site sewage services can be accommodated on each of the proposed lots.

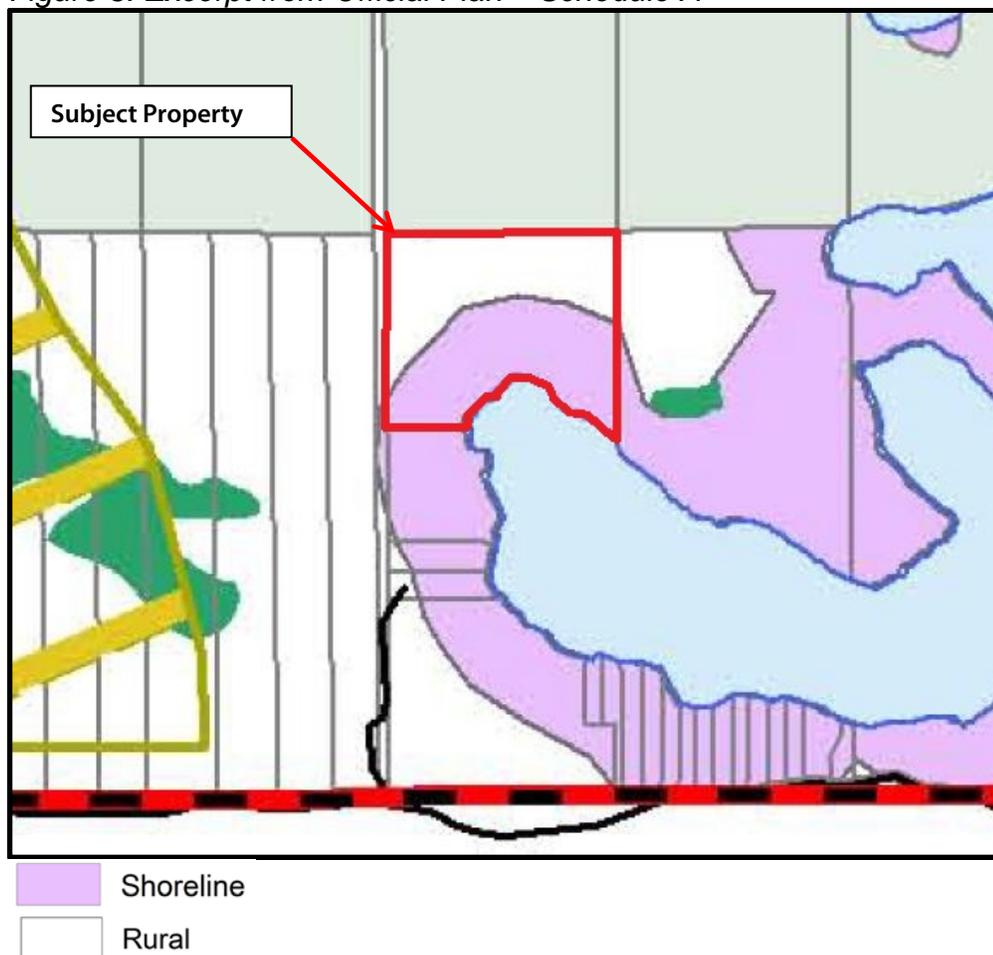
Section 2.2 contains policies that require the quality and quantity of water to be protected, improved or restored. As part of the rezoning of the subject property, a Lakeshore Capacity and Fish Habitat Assessment for Horn Lake was completed. This Study recommended site specific mitigation measures to minimize short and long-term impacts associated with future residential development on the water quality of Horn Lake. Provided that the mitigation measures are implemented through Site Plan Control, development of the site would be consistent with Section 2.2 of the PPS. It is recommended that the entering of a Site Plan Control Agreement be included as a condition of provisional consent.

Subject to the Applicant fulfilling the conditions of consent, the proposed application is considered to be consistent with the PPS.

Municipality of Magnetawan Official Plan

Schedule A (Land Use Map) to the Official Plan identifies the subject lands as being designated Rural and Shoreline as shown in Figure 3.

Figure 3: Excerpt from Official Plan – Schedule A



Based on Schedule B (Natural Heritage Features) of the Official Plan, there appears to be no mapped natural heritage constraints on the subject property.

Section 5.4.2 of the Official Plan states that Horn Lake has been identified as a lake trout lake that is at capacity. In order to evaluate the capacity issue, a Lakeshore Capacity and Fish Habitat Impact Assessment for Horn Lake has been prepared by Hutchison Environmental Sciences Ltd. dated May 1, 2018. The Lakeshore Capacity and Fish Habitat Impact Assessment concluded that Horn Lake is not over capacity in terms of total phosphorus, recreational capacity or average Mean Volume-Weighted Hypolimnetic Dissolved Oxygen (MVWHDO) concentrations.

Based on the results of this lake capacity study, the policies that restrict development on Horn Lake would not apply. Council and/or the Planning Board may require a peer review of the Hutchison Study, if desired.

Section 5.4.1 establishes permitted uses and detached dwellings are a permitted use in the Shoreline designation. The severed 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. Based on a review of the site and a site visit, development of each of the proposed lots could occur with limited vegetation removal. This Official Plan policy should be implemented through the Site Plan Control 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 exceed these values and conform to Sections 5.2.2 and 5.4.2.

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?
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 1 retained lot and 2 severed lots. Therefore, a Plan of Subdivision is not required.
b) The lot size and setback requirements will satisfy specific requirements of this Plan and meet the implementing zoning by-law requirements.	The proposed retained and severed lots meet the minimum lot frontage and area requirements.
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.	The subject lands are in the Shoreline Designation. See item g) of this Table. The lots are proposed on the basis of water access.
d) Lots for hunt camps, fishing camps, wilderness tourist camps or similar uses may be permitted on unmaintained	This policy is not applicable as the proposed lots are not for hunt camps, fish camps etc.

<p>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>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>See item g) of this Table. The lots are proposed on the basis of water access.</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 lots appear to be of sufficient size to accommodate a building site and on-site sewage and water services.</p> <p>Approval from the North Bay Mattawa Conservation Authority (NBMCA) is required to confirm that the retained and severed lots can be adequately serviced by on-site septic systems. The lots can be serviced with wells, or lake water.</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 lots are proposed to be accessed via a navigable waterway.</p> <p>It is noted that lot creation in the Shoreline designation is permitted based on water access. A condition of consent has been included where the Applicant will be required to demonstrate there are sufficient facilities for mainland parking and docking.</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 lots represent a seasonal residential use and are not for permanent residential uses. A clause to this effect should be included in the Site Plan Control Agreement.</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 	<p>The subject lands are 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 Horn Lake.</p>

within 300 metres of 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 severed and retained lots will not prevent access to, or land lock, 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 are not adjacent to livestock operations. MDS calculations are not applicable for the consent application.

The new lots are being proposed on the basis of water access, in accordance with Section 7.7.1 g) of the Official Plan as referenced in Table 2. The application form indicates that the applicant intends to obtain mainland parking and boat docking at Birch Crest Resort. As noted, the proposed lots do not have frontage onto a municipally maintained road. It is recommended that the Applicant enter into a Limited Service Agreement with the Municipality.

It is noted that an agreement exists with the Town for the retained lot to be accessed over Minkler's Lane. Should this agreement be terminated in the future, the lots could be accessed via the water.

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 Site Plan Control be applied to implement the mitigation measures of the Lakeshore Capacity and Fish Habitat Impact Assessment for Horn Lake has been prepared by Hutchison Environmental Sciences. The requirement for Site Plan Control has been included as a condition of consent

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 Shoreline Residential Exception 32 (SR-32). A site specific Zoning By-law Amendment was passed on January 9, 2019 which implemented the following site specific provisions:

1. *Notwithstanding Section 3.8 (Frontage on Improved Public Road, Private Road or Navigable Waterway) in the Zoning By-law, a permitted use and permitted accessory buildings and structures shall be permitted with access via a private road;*
2. *The minimum setback requirement for a septic system shall be 30 metres from a watercourse or waterbody;*
3. *A minimum 20 metre natural shoreline vegetation buffer shall be provided along all watercourses and waterbodies. Natural vegetation shall be maintained in the shoreline*

- buffer area. Tree and vegetation removal shall only be permitted for hazardous trees and for an area 10 metres in width in order to access the shoreline;*
4. *Permitted docks shall be a floating dock, pole dock, or cantilevered dock. Crib docks are not permitted.*
 5. *A minimum 10 metre setback from the groundwater seepage area identified on Schedule "A-1" attached to this By-law shall be maintained for all buildings and structures, inclusive of docks.*

Table 3 provides a summary of the proposed lots in relation to the minimum requirements for the Shoreline Residential (RS) Zone.

Table 3: Zone Standards

Zoning By-law Requirements		Lot Configuration		
	Shoreline Residential (RS) Zone	Proposed Retained Lot	Proposed Severed Lot #1	Proposed Severed Lot #2
Minimum Lot Area	1 ha	6.7 ha	2.9 ha	3.7 ha
Minimum Lot Frontage	90 m	102.3 m (onto Horn Lake)	100 m (onto Horn Lake)	100 m (onto Horn Lake)

The proposed lot configuration complies with the minimum lot area and lot frontage requirements of the Shoreline Residential Zone.

Summary

Based on a review of the Application and subject to satisfaction of all of the recommended conditions identified in this Report, the proposed Consent application to permit the creation of two new shoreline lots, based on water access, would be consistent with the Provincial Policy Statement and would conform to the policies of the Municipality of Magnetawan Official Plan.

It is our opinion, subject to the recommended conditions, that the Consent Application represents good land use planning and, should be provisionally approved based on the conditions outlined in the recommendations Section of this Report.

Respectively submitted,



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