

THE MUNICIPALITY OF MAGNETAWAN

STAFF REPORT

TO: Kerstin Vroom, CAO / Clerk
Municipality of Magnetawan

FROM: Jonathan Pauk HBASc, MSc, MCIP, RPP & Jamie Robinson, BES,
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DATE: June 9, 2021

SUBJECT Consent Application – Dunnett – 15 Poplar Lane, Municipality of
Magnetawan

Recommendation

That the applicant be instructed to complete a fish habitat impact assessment and that a subsequent recommendation report be brought back to Council for consideration, prior to Council making a recommendation to the Planning Board.

Background / Proposal

An application for Consent has been submitted by the property owners Samuel and Maria Dunnett, to create one new shoreline residential lot. The property is municipally known as 15 Poplar Lane, Municipality of Magnetawan and is legally described as Concession 2, Part Lot 26. The location of the subject property is shown in Figure 1.

The subject property is designated Rural and Environmental Protection as per Schedule A of the Municipality's Official Plan. The subject property is zoned Shoreline Residential (RS) and Environmental Protection (EP) by the Municipality's Zoning By-law.

Schedule B of the Official Plan identifies environmental features and constraints including a wetland area and an area of fish habitat.

The property is accessed via a driveway extending from Poplar Lane which is classified as a private road. Accessing to the dwelling on the subject property travels between both the subject lands and the property to the west. Currently, the subject property is developed with a seasonal residential cottage and a frame garage as shown in proposed lot configuration sketch. See Figure 2. The existing dwelling is serviced by an existing individual on-site water service and an existing privy. The property has lot frontage on Lake Cecebe. The lot almost entirely forested, with the exception of the area of existing development.

Figure 1: Subject Property Location



The Consent application proposes the creation of one new shoreline residential lot which would front onto Lake Cecebe. The severed lot will contain the existing seasonal residential cottage, frame garage and existing privy. A new septic is proposed service each of the proposed lots. No structures exist in the area of the retained lot. The retained lot is currently accessed by a legal right of way. The existing access via a driveway extending from Poplar Lane and a proposed right-of-way is to provide legal access over the severed lot.

The proposed lot configuration, as provided by the applicant, is shown in Figure 2.

Figure 2: Proposed Lot Configuration



The property is currently 3.72 hectares in lot area with approximately 339 metres of frontage on to Lake Cecebe.

The proposed severance would result in the following lot statistics:

Table 1: Proposed Lot Statistics

| | Lot Area | Lot Frontage |
|-------------------|--------------|---------------------------|
| Lot #1 – Severed | 1.2 hectares | 105 metres on Lake Cecebe |
| Lot #2 – Retained | 2.5 hectares | 245 metres on Lake Cecebe |

Area Context

The subject property has direct frontage onto Lake Cecebe and is surrounded by existing shoreline residential properties.

- North:** Lake Cecebe.
- East:** Shoreline residential properties fronting onto Lake Cecebe.
- South:** Poplar Lane, Roskopf Road, a rural property containing an existing ARA license.
- West:** Shoreline residential properties fronting onto Lake Cecebe.

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 seasonal residential dwellings, as a permitted use on Rural Lands. The severed lands are proposed to support the existing seasonal residential dwelling and the retained lands would, at the present time, be vacant. Future construction of a seasonal dwelling on the retained lands would be considered a permitted use on the subject property.

Section 1.6.6.4 contains policies that pertain to development on individual well and septic services. This policy 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 retained lot currently has an individual on-site water service and individual on-site sewage service (privy). Any future development on the severed lot would be required to be serviced with on-site services.

Section 1.6.6.6 states that planning authorities may allow for lot creation, based on confirmation that adequate servicing can be accommodated on site. It is recommended that a condition of provisional consent be included that requires approvals from the NBMCA to confirm that adequate individual on-site water and individual on-site sewage services can be accommodated on the proposed severed lot.

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. The majority of the subject property, specifically the entire shoreline of the proposed retained lot is identified as Fish Habitat. An evaluation of the mapped area of fish habitat has not been completed.

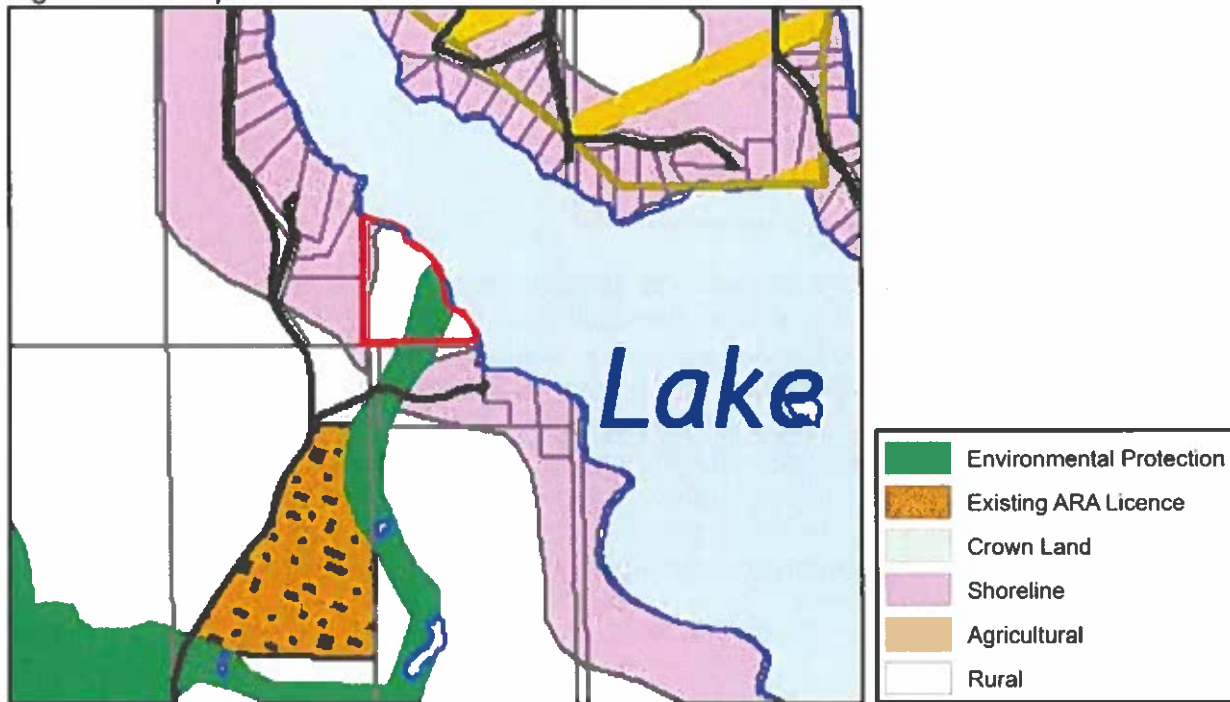
Section 3.1 provides policies pertaining to natural hazards, including flooding. It is recommended that a condition of provisional consent be included to ensure that it is demonstrated by the proponent, and confirmed by Municipal staff, that a suitable building envelope location exists on the proposed severed lot above the applicable flood elevation.

Subject to the recommended conditions, and demonstration through a fish habitat assessment that the proposed new lot is consistent with the fish habitat policies of the PPS, the proposed application would be consistent with the PPS.

Municipality of Magnetawan Official Plan

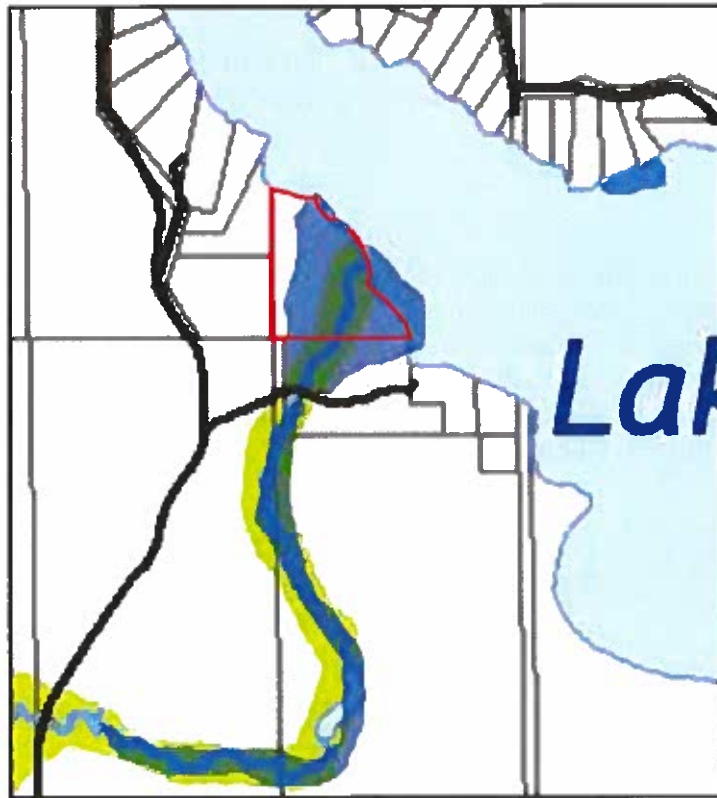
The Municipality's Official Plan provides direction and policies pertaining to growth within Magnetawan. The policies in the Plan address the environment, cultural and built heritage, natural resources and servicing and transportation. In accordance with Schedule A – Land Use of the Official Plan, the subject lands are designated Shoreline (although shown as “Rural” based on the policies of the Plan, the majority of the lands are in the Shoreline designation), and Environmental Protection and are located within the Aggregate & Mineral Resource overlay, as shown in Figure 3.

Figure 3: Excerpt of Official Plan – Schedule A



In accordance with Schedule B – Environmental Features, there is an area of Fish Habitat along the shoreline of the subject lands as well as a wetland area, as shown in Figure 4. The Fish Habitat area is shown in 'blue' along the shoreline.

Figure 4: Excerpt from Official Plan – Schedule B



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. The majority of the shoreline of the severed and retained lots is identified as Fish Habitat. Additional information pertaining to the evaluation of the mapped fish habitat is required to confirm that the proposed development conforms to the objectives and requirements of the Municipality's Official Plan. In order to ensure conformity with the Municipality's Official Plan, it is recommended that a fish habitat impact assessment be prepared in accordance with Policy 4.7 of the Official Plan.

Section 4.7 states,

"New lots fronting onto Type 1 fish habitat areas shown on Schedule B shall be sufficiently large to provide an area of at least 10 metres of frontage that is outside of the significant habitat area. Larger scale Fish Habitat Classification mapping is available at the Municipal Offices for all properties within or adjacent to a shoreline and shall be consulted when development applications are being considered. Where the Ministry of Natural Resources has not evaluated the shoreline in terms of fish habitat, it shall be treated as Type 1 Fish Habitat, pending further assessment. Setbacks of 30 metres from cool or cold-water streams and 15 metres from other streams are required. Where there is no reasonable alternative to locating waterfront activity areas outside of the identified fish habitat areas or areas of unknown fish habitat or where setbacks cannot be met, development may only be permitted where it is demonstrated to the satisfaction of the approval authority that there will be no negative impact on significant fish habitat. The only exception would be where the Department of Fisheries and Oceans has previously authorized a "Harmful

Alteration, Disruption or Destruction” of fish habitat as provided for under the federal Fisheries Act. Proponents of development in these areas shall be required to submit an Environmental Impact Assessment report from a qualified professional identifying the nature of the fish habitat and limits of the fish habitat areas and providing recommendations regarding preservation of the habitat.”

In accordance with this section, and fish habitat assessment is required to consider whether the proposed Retained Lot has an appropriate location for a future docking location and a building envelope that will not negatively impact the fish habitat.

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 existing residential use on the Retained Lot and future residential development on the Severed Lot are permitted uses within the Rural designation.

Section 5.2.2 requires that new lots have a minimum lot area of 1 hectare (2.47 acres). The proposed Retained Lot is to be 2.4 hectares in lot area and exceeds the minimum requirement for new lots within the Rural designation. The severed lot is proposed to be 1 hectare in lot area.

Section 5.4 in the Municipality's Official Plan includes policies that permit residential uses within the Shoreline designation. The existing and future uses on the proposed severed and retained lots conform to the permitted uses in the Shoreline designation.

Although the subject property is not entirely designated Shoreline, consideration should be given to the Shoreline designation policies given the context and shoreline residential nature of the subject property. 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. Should the application be provisionally approved, future building envelope locations should be located in areas that require minimal removal of vegetation.

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. In addition, Section 5.2.2 states that new lots in the Shoreline designation should be a minimum of 1.0 hectare in size. The proposed retained and severed lots would exceed these values.

Section 7.1.1 of the Official Plan contains criteria that are applicable to consent applications. Table 2 below summarizes the consent policies and evaluates the Consent application in relation to such policies.

Table 2: Official Plan Section 7.1.1 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 application proposes the creation of one new lot. 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 of the Shoreline Residential (RS) Zone. |
| 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>A portion of the subject lands are located in the Shoreline Designation.</p> <p>The proposed retained lot is located between existing residences on an existing private road.</p> <p>The retained lot is proposed to utilize the existing access drive extending from Poplar Lane. The applicant has proposed a lot configuration whereby the severed lot would have access via a right of way over the proposed retained lot.</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. | The proposed lots are not for hunt camps. |
| e) The lot must have road access in a location where traffic hazards such as obstructions to sight lines, curves or grades are avoided; | The proposed severed lot does not appear to create a traffic hazard. The proposed retained lot is to be accessed via an existing driveway and is to be legalized through the proposed right of way over the severed lot. An entrance permit should be obtained for the proposed lots, if required by the Municipality. |
| f) The lot size, soil and drainage conditions must allow for an adequate building site and to allow for the provision of an adequate | The retained and severed lots appear to be of sufficient size to accommodate servicing. Approval from the NBMCA is required to |

| | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>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>confirm that the severed and retained lots can be adequately serviced by on-site septic systems and on-site water services. It is recommended that NBMCA approval be included as a condition of consent.</p> <p>There appears to be a drainage course that traverses the property. As part of the site plan process the NBMCA should be consulted on the details with respect to the drainage course crossing.</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 is to be via a right of way over the proposed retained lot.</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 used 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 each other on the same side of a municipal road or Provincial highway | <p>A portion of the subject lands are designated Rural and Shoreline. The proposed severed and retained lots are shoreline residential lots and have been considered in the context of the Shoreline designation.</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 severed and retained lots will not prevent access to, or land lock, any other parcel of land. The right of way will facilitate continued access to the retained lot.</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</p> | <p>The subject lands are not adjacent to livestock operations.</p> |

supply has not been contaminated from agricultural purposes.

Section 6.3 includes policies for Private Roads and permits the creation of new seasonal residences on private roads where it is considered infilling between existing residential units. Official Plan policies also permit the creation of lots for seasonal or recreational purposes which access to a navigable waterbody provided that Council is satisfied that there are sufficient facilities for mainland parking and docking. The proposed severed lot is located between existing residences and the extension of a private road is not required to gain access to the proposed severed or retained lots.

Based on a review of the policies contained in the Official Plan, it is recommended that Council not provide a recommendation to the Planning Board. Staff is of the opinion that additional information is required to address the fish habitat policies in Section 4. and Section 4.7 of the Official Plan. Provided it can be demonstrated through the supporting study that an appropriate dock and building location exist that do not negatively impact the fish habitat, the proposed consent application would conform to the Official Plan.

Municipality of Magnetawan Zoning By-law

The subject property is zoned Shoreline Residential (RS) and Environmental Protection (EP) as shown in Figure 5.

Figure 5: Excerpt of Zoning By-law – Schedule A-2

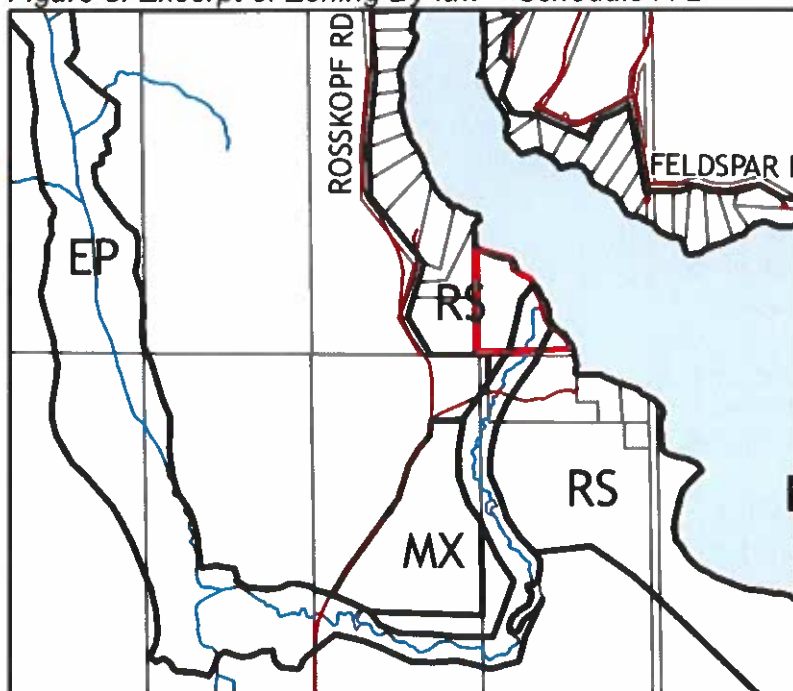


Table 3 provides a summary of the proposed retained and severed lots in relation to the minimum requirements for the Shoreline Residential (RS) Zone.

Table 3: Shoreline Zone Standards

| Zoning By-law Requirements | | Lot Configuration | |
|----------------------------|---------------------------------|-----------------------------|-----------------------------|
| | Shoreline Residential (RS) Zone | Proposed Severed Lot | Proposed Retained Lot |
| Minimum Lot Area | 1 hectare | 1.2 hectare | 2.5 hectares |
| Minimum Lot Frontage | 90 metres | 105 metres onto Lake Cecebe | 245 metres onto Lake Cecebe |

As detailed in Table 3, the proposed lots comply with the minimum lot standards for the Shoreline Residential Zone.

Comments From Departments

Public Works

- No concerns.

Fire Chief

- The property appears to be is accessed off a private road, all emergency service responses may be limited due to road conditions/maintenance.

Building Department

- No concerns.

Summary

Based on a review of the Application and the applicable planning policies, a fish habitat assessment is required in order to ensure consistency and conformity with the applicable policy documents.

Respectively submitted,



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