

THE MUNICIPALITY OF MAGNETAWAN

STAFF REPORT

TO: Kerstin Vroom, CAO / Clerk
Municipality of Magnetawan

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

DATE: June 30, 2021

SUBJECT Consent Application – Langford – 311 Rosskopf Road, Municipality
of Magnetawan

Recommendation

That Council recommend to the Planning Board the following:

1. That the proposed consent application for Severed Lot 2 and the right-of-way to Severed Lot 2 be denied on the basis that the proposal is not in conformity with the Official Plan.
2. That the proposed consent application for Severed Lot 1 be provisionally approved on the basis that it conforms to the Official Plan and subject to the following conditions:
 - a) That the applicant meet all financial requirements of the Municipality.
 - b) That a registrable description of the severed lands be submitted to the Municipality.
 - c) Confirmation from the North Bay Mattawa Conservation Authority (NBMCA) that the proposed Severed Lot can be adequately serviced by individual on-site septic systems and individual on-site water systems.
 - d) That a draft survey of the severed lot be provided to the Municipality for review and approval.
 - e) That the Applicant submit a Zoning By-law Amendment to rezone the proposed Severed Lot 1 to address the non-compliant minimum lot area requirement and to establish a building envelope on the severed lot that is appropriately setback from the adjacent aggregate operation.

- f) That the Applicant receive written acknowledgment from the Municipality that there is a suitable location for an entrance from Rosskopf Road for the Severed lot.
- g) That the foregoing conditions be fulfilled within one year of the date of the notice of the decision of the Planning Board.

Background / Proposal

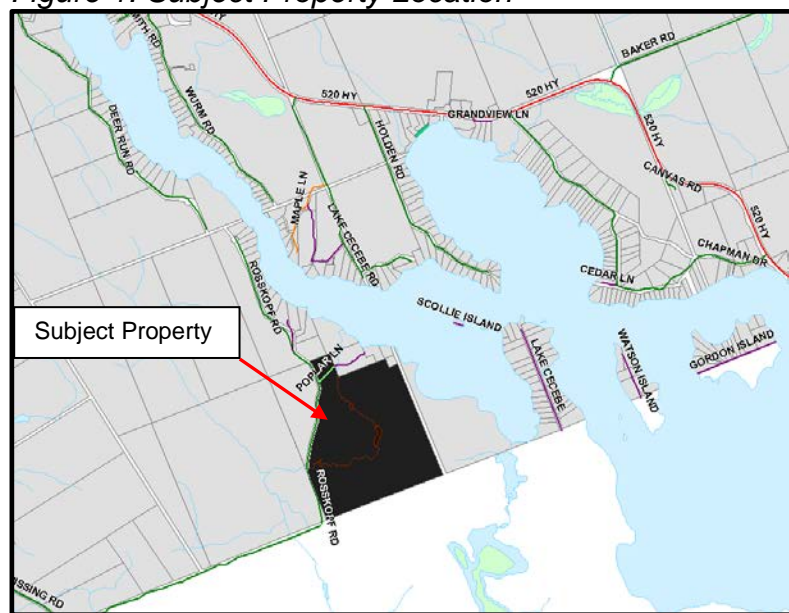
An application for Consent has been submitted by the property owners Mark Langford and Lila Langford, to create two new residential lots and an easement to Severed Lot 2. The property is municipally known as 311 Rosskopf Road, Municipality of Magnetawan and is legally described as Concession 1, Part of Lots 26 and 27. The location of the subject property is shown in Figure 1.

The subject property is designated Rural, Shoreline, Environmental Protection and a portion of the property is licensed under the Aggregate Resources Act as per Schedule A of the Municipality’s Official Plan (Figure 3). A portion of the property is identified as fish habitat in accordance with Schedule B of the Official Plan. The subject property is zoned Rural (RU), Shoreline Residential (RS), Extractive Industrial (MX) and Environmental Protection (EP) by the Municipality’s Zoning By-law (Figure 4).

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 Rosskopf Road which is classified as a municipally maintained road. Currently, the subject property is vacant and contains a mineral aggregate operation. The lot is generally forested with the exception of the area of that is licensed under the Aggregate Resources Act.

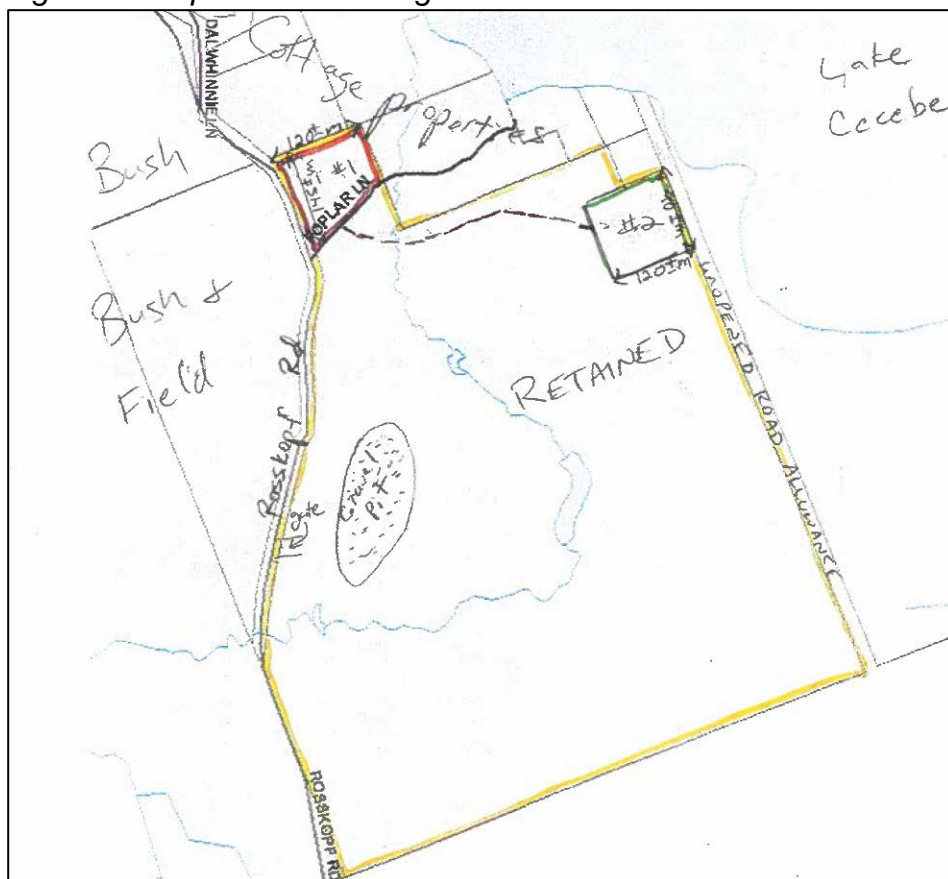
Figure 1: Subject Property Location



The Consent application proposes the creation of two new residential lots. Severed Lot 1 is to be accessed via Rosskopf Road. Severed Lot 2 is proposed to be access by private road that extends from Poplar Lane, over the retained lot. Both the severed lots are vacant and would be capable of accommodating a residential use. The Retained Lot is to contain the ARA license area and is currently accessed by Rosskopf Road. A portion of Poplar Lane also traverses through the subject property.

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

Figure 2: Proposed Lot Configuration



The property is approximately 60.8 hectares (150.2 acres) in lot area with approximately 1,074 metres of frontage on Rosskopf Road.

The proposed severance would result in the following lot statistics:

Table 1: Summary of Proposed Consent Application

Proposed Lot	Lot Area	Lot Frontage	Proposed Use
Severed Lot #1	1.2 hectares	145 metres (Rosskopf Road)	Residential
Severed Lot #2	1 hectare	90 metres (on an unopened road allowance)	Residential
Retained Lot	57 hectares	833 metres (Rosskopf Road)	Residential / Extractive Industrial

Area Context

The following is a summary of the surrounding land uses.

- North:** Shoreline residential properties fronting onto Lake Cecebe and Lake Cecebe.
East: Lake Cecebe and an unopened road allowance.
South: Township of Ryerson and a large tract of forest lands and a rural residential property fronting onto Rosskopf Road.
West: Rosskopf Road and large tracts of forested and rural lands.

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, as a permitted use on Rural Lands. The proposed Severed Lot 1 and Severed Lot 2 are to be used for a future residential dwelling. The proposed Severed Lots are limited residential development in the context of the PPS. The Proposed Retained Lot would host the existing mineral aggregate operation which is classified as an 'other rural land use.'

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. 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 lots.

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. 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. A portion of the proposed Retained Lot is identified as Fish Habitat and a wetland. An evaluation of the mapped area of fish habitat has not been completed. The proposed Severed Lot 1 is proposed to be outside of the area mapped as Fish Habitat.

Sections 3.1 and 3.2 of the PPS address policies concerning how development shall be directed away from areas of natural or human-made hazards where there is an unacceptable risk to public health or safety or of property damage, and not create new or aggravate existing hazards.

“Development on, abutting or adjacent to lands affected by mine hazards; oil, gas and salt hazards; or former mineral mining operations, mineral aggregate operations or petroleum resource operations may be permitted only if rehabilitation or other measures to address and mitigate known or suspected hazards are under way or have been completed.” (3.2.1)

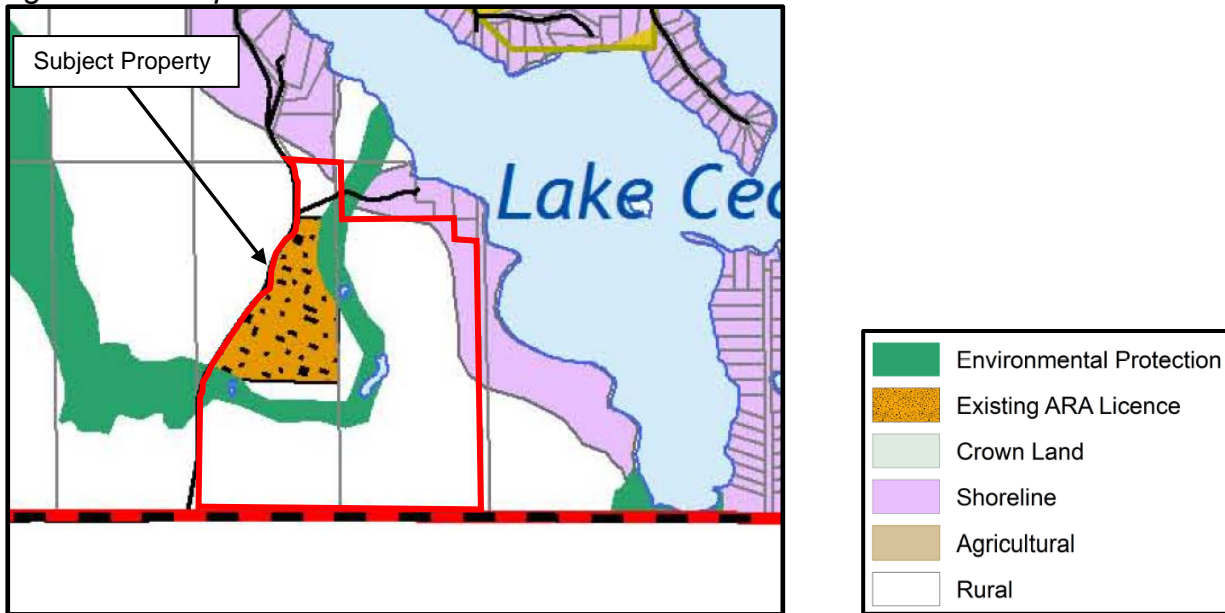
The proposed Severed Lot 1 is adjacent to an area of the mineral aggregate operation. It is recommended that a condition of provisional consent be included to require the Applicant submit a Zoning By-law Amendment to rezone the proposed Severed Lot 1 to establish a building envelope on the severed lot that is appropriately setback from the adjacent aggregate operation.

Subject to the recommended conditions, proposal is consistent with the policies of the PPS, the proposed application would be consistent with the PPS.

Municipality of Magnetawan Official Plan

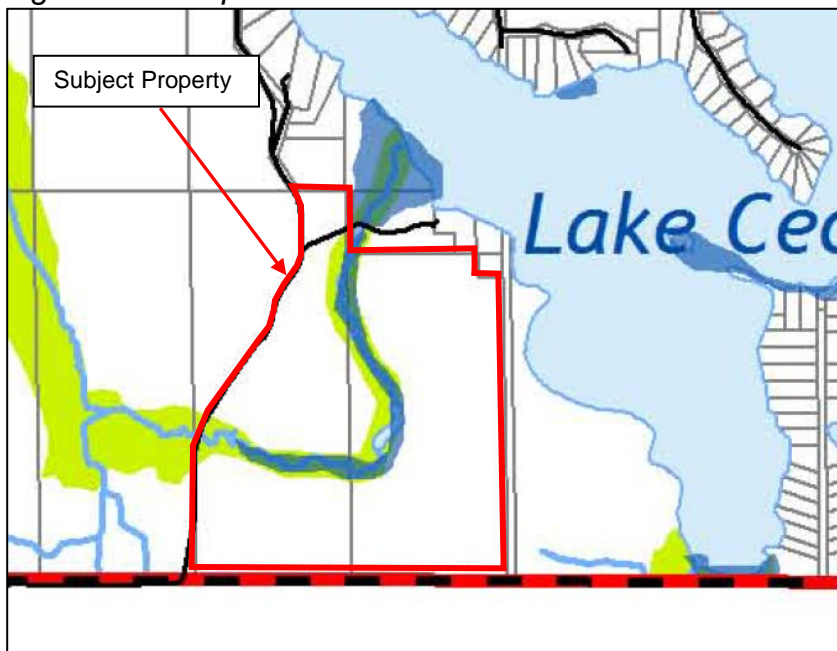
The Municipality’s Official Plan provides direction and policies pertaining to growth within Magnetawan. The policies in the Plan address the environment, cultural and built heritage, natural resources and servicing and transportation. In accordance with Schedule A – Land Use of the Official Plan, the subject lands are designated Rural, Shoreline, Environmental Protection and contain an Existing ARA License, 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 that traverses through 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 and in the creek that traverses the property.

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. Based on a review of the proposed lot configuration, the proposed Severed Lot 1 and Severed Lot 2 are located outside of the area designated Fish Habitat.

Section 4.14 of the Official Plan provides policy direction for mineral aggregate resources Resource Areas. Specifically, Policy 4.14.1 states “*Where development is proposed in or adjacent to an area of known mineral or aggregate resources, the development shall be set back and buffered sufficiently to ensure that it would not preclude or hinder the establishment of new operations, expansion of existing operations or access to the resources, except where the following conditions are met:*

- 1) the resource use would not be feasible;*
- 2) the proposed land used or development serves a greater long term public interest; and,*
- 3) issues of public health, public safety and environmental impact are addressed.*

As noted in this Report, the proposed severed lots are adjacent to a mineral aggregate operation that is licensed under the Aggregate Resources Act (See Figure 3). In order to implement section 4.14 of the Official Plan, a condition of provisional approval of the proposed consent application has been included to require the Applicant to submit a Zoning By-law Amendment application to demonstrate a suitable building envelope exists that is appropriately setback from the adjacent aggregate operation.

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 use on Severed Lot 1 and Severed Lot 2, and the mineral aggregate operation on the Retained 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 proposed Severed Lot 1 and Severed Lot 2 exceed the minimum required lot area.

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 1 is located on a municipally maintained road, in proximity to other residential uses and does not require the extension of municipal services. However, Severed Lot 2 is proposed to be accessed by a driveway extending from Poplar Lane (Private Road) and is not in located in an area of existing residential development, nor is it considered to be be infilling. On this basis, it is determined that Severed 2 does not conform to Section 5.2.2 of the 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 and evaluates the Consent application in relation to such policies.

Table 2: Official Plan Section 7.1.1 Summary

<p align="center">Policy 7.7.1 Severance Criteria</p>	<p align="center">Does the Application Conform?</p>
<p>a) A registered plan of subdivision is not necessary for the orderly development of the lands.</p>	<p>A Plan of Subdivision is required where three or more lots are proposed. The application proposes the creation of two new lots and one retained lot. A Plan of Subdivision is not required.</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 5.2.2 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.</p> <p>The subject property is Zoned Rural (RU). The minimum required lot area for the Rural Zone is 10 hectares. The proposed Severed Lot 1 does not comply with the minimum lot area standard.</p> <p>It is recommended that the proposed severed lot be rezoned to the Rural Residential (RR) Zone or a Rural Exception Zone to recognize the proposed lot area and the proposed use of the proposed lot.</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 proposed Severed Lot 1 and the Retained Lot front onto Roskopf Road which is identified as municipal road (year round maintained) in accordance with Schedule C of the Official Plan.</p> <p>Severed Lot 2 is proposed to be accessed by a new driveway 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> <p>Severed Lot 2 does not conform to the access policies of the Official Plan.</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</p>	<p>The proposed lots are not for hunt camps. This policy is not applicable.</p>

<p>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>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 Severed Lot 1, if required by the Municipality</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 1 appears to be of sufficient size to accommodate servicing. Approval from the NBMCA is required to confirm that Severed Lot 1 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>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>Not applicable. Access for the proposed severed lot is not to be water access.</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 Lot is to be used for residential uses and is to be access via a 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 proposed Severed Lot 1 is 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 two new lot from an existing 100 acre parcel. The subject property has not been subject to a previous severance. The proposal would conform to Section 7.7.1 i) and ii).</p>

j) The creation of any lot will not have the effect of preventing access to or land locking any other parcel of land.	Severed lot 2, would be a land locked parcel of land. Severed Lot 1 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.
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.

As summarized in Table 2, the proposal for the creation of Severed Lot 1 conforms to the severance policies in Section 7.1.1 of the Official Plan, subject to the recommended conditions. However, Severed Lot 2 does not conform to the severance criteria, specifically Section 7.1.1 (c) and j).

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 have access to a navigable waterbody provided that Council is satisfied that there are sufficient facilities for mainland parking and docking.

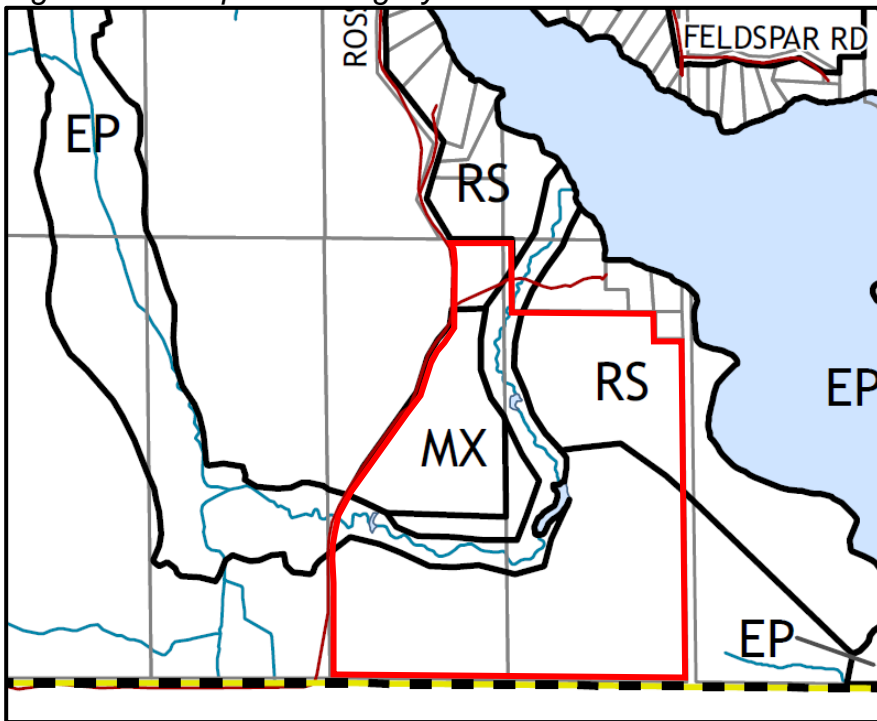
The purpose of the Official Plan policy is to ensure that appropriate access is provided for new lots. It is understood that Severed Lot 2 is to be accessed via an easement/right of way over the Retained Lot extending from Poplar Lane (private road). With respect to Severed Lot 2, the lot is not located between existing residences. A driveway and an easement is to gain access to the proposed severed or retained lots. The proposed Severed Lot 2 does not conform to Policy 6.3 of the Official Plan and therefore Staff is recommending that portion of the consent application pertaining to Severed Lot to be denied.

Based on a review of the policies contained in the Official Plan, it is recommended that Council provide a recommendation to the Planning Board for the support of Severed Lot 1, only. Staff is of the opinion that Severed Lot 2 does not conform to the Official Plan.

Municipality of Magnetawan Zoning By-law

The subject property is zoned Rural (RU), Extractive Industrial (MX), Shoreline Residential (RS) and Environmental Protection (EP) as shown in Figure 5.

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



The majority of Severed Lot 1 is proposed to be located within the Rural and a small portion of the Environmental Protection (EP) Zone and the Retained Lot is located within the Rural, Extractive Industrial and Environment Protection Zones.

Table 3: Rural Zone Standard Summary

Zoning By-law Requirements		Lot Configuration	
Rural (RU) Zone		Proposed Retained Lot	Proposed Severed Lot 1
Minimum Lot Area	10 hectares	57 hectares	1.2 hectares
Minimum Lot Frontage	134 metres	833 metres	145 metres

Severed Lot 2 is to be located within the Shoreline Residential Zone and complies with the minimum lot frontage and complies with the minimum required lot area of 1 hectare and minimum lot frontage of 90 metres.

As shown in Table 3, the proposed Severed Lot 1 does not comply with the minimum lot area requirement of 10 hectares for the Rural (RU) Zone and as a result would be required to be rezoned as a condition of provisional consent to recognize this deficiency. Severed Lot 2 does not comply with the minimum required lot area or lot frontage.

It is recommended that the Severed Lot 1 be rezoned to the Rural Residential (RR) Zone.

Comments From Departments

Public Works

- No concerns.

Fire Chief

- No concerns.

Building Department

- None received at the time of writing this Report.

Summary

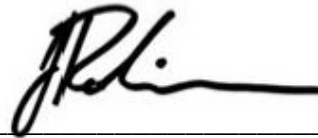
The Consent Application proposes to create two new residential lots and one retained lot. Based on Staff's review and as discussed in this Report, Severed Lot 1 conforms to the Municipality's Official Plan, while Severed Lot 2 does not.

The proposed consent application as it pertains to Severed Lot 1, is consistent with the Provincial Policy Statement and conforms to the consent criteria in the Municipality's Official Plan, subject to the recommended conditions. It is also recommended that Council not support the proposal with respect to Severed Lot 2 on the basis that it does not conform to the access policies in the Official Plan.

Respectively submitted,



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