

THE MUNICIPALITY OF MAGNETAWAN

PLANNING REPORT

TO: Nicole Gourlay, Deputy Clerk, Municipality of Magnetawan

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

DATE: June 30, 2021

SUBJECT: Consent Application – Woodruff – 309 Miller Road, Municipality of
Magnetawan
Roll No. 4944010002233000000

Recommendation

That the Council for the Municipality of Magnetawan provide comments to the Planning Board in regards to the proposed Consent Application pertaining to 309 Miller Road by recommending that the Consent Application for one new rural lot and one retained lot be approved, subject to the following conditions of provisional consent:

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. 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.
4. That a draft survey of the severed lot be provided to the Municipality for review and approval.
5. That the Applicant submit a Zoning By-law Amendment to rezone the proposed Severed Lot 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.
6. That the Applicant obtain an entrance permit from the Municipality for the proposed Severed Lot.
7. Confirmation that there are no livestock in the surrounding area that would have an impact on the proposed severed and retained lot with respect to the Minimum Distance Separation (MDS) requirements.

8. That the Applicant transfer to the Municipality of Magnetawan, in fee simple, free and clear of all liens and encumbrances, PIN 52082-0229 (LT), known as the Miller Road 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.
9. That the foregoing conditions be fulfilled within one year of the date of the notice of the decision of the Central Almaguin Planning Board.

Proposal / Background

A Consent Application has been submitted by the property Owners, William and Nancy Woodruff, for the property located at 309 Miller Road which is legally described as Concession 10, Lot 24 & 25, in the Municipality of Magnetawan.

The subject property is currently used as a rural residential use. The Consent Application seeks permission to create one new lot and one retained lot. The proposed severed lot is located in the northeast corner of the subject property and generally follows the boundary of Miller Road that traverses through the subject property.

A portion of the road that encroaches on the subject property is 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 road to the Municipality (land swap with the Municipality). All proposed lots will have frontage onto Rocky Road and Miller Road, both of which are identified as municipally maintained roads.

As shown in Figure 2, Part 11, the unopened road allowance identified as (PIN 520882-0229 (LT)) and the portion of the traveled road (known as Rocky Rd) identified as Part 3 are not subject to this application.

The proposed Retained Lot is to host the existing residential use and individual onsite sewage and water services. The proposed Severed Lot is to be vacant and is proposed for a future rural use that has not been detailed by the Applicant. The Severed Lot does not contain any buildings or structures and is to be vacant. The proposed consent would result in the following lot statistics, which are to be verified by a surveyor:

Table 1: Lot Characteristics

Statistic	Retained Lot	Severed Lot
Lot Area	22 hectares	6.8 hectares
Lot Frontage	620 metres (Miller Road)	330 metres (Rocky Road)

Figure 1 identifies the subject lands.

Figure 1: Location of Subject Property

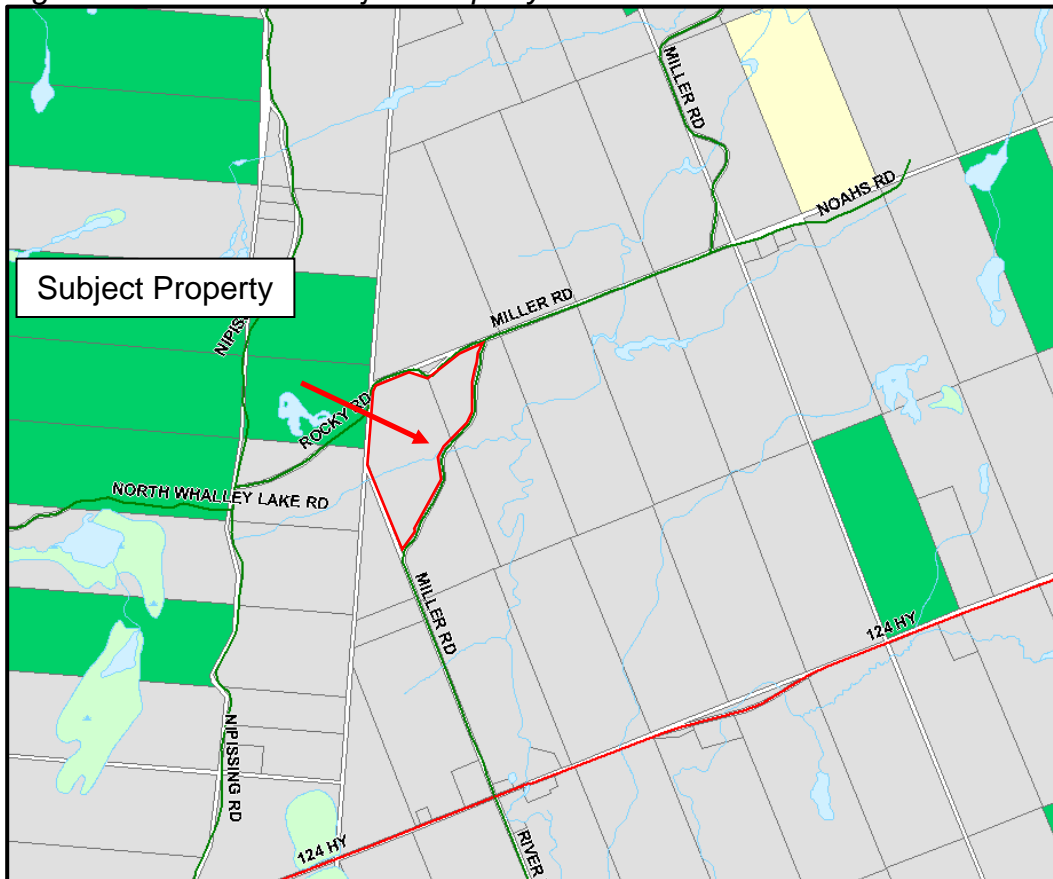


Figure 2 identifies the location of the severed and retained lands. The Retained Lot is shown in 'green', the Severed Lot is shown in 'purple', the lands in 'red' represent the Rocky Road and are proposed to be transferred to the Municipality and the lands identified in 'blue' that are part of the former road allowance are proposed to be transferred from the Municipality and added to the benefitting lot in blue (Part 11). The red and blue lands are not subject to this application. It is also noted that the green lands to the east of Miller Road are not subject to this application.

Area Context

The subject property is generally located in the central area of the Municipality to the north east of the Village of Magnetawan. The subject property is located at the intersection of Miller Road and Rocky Road, as shown in Figure 2.

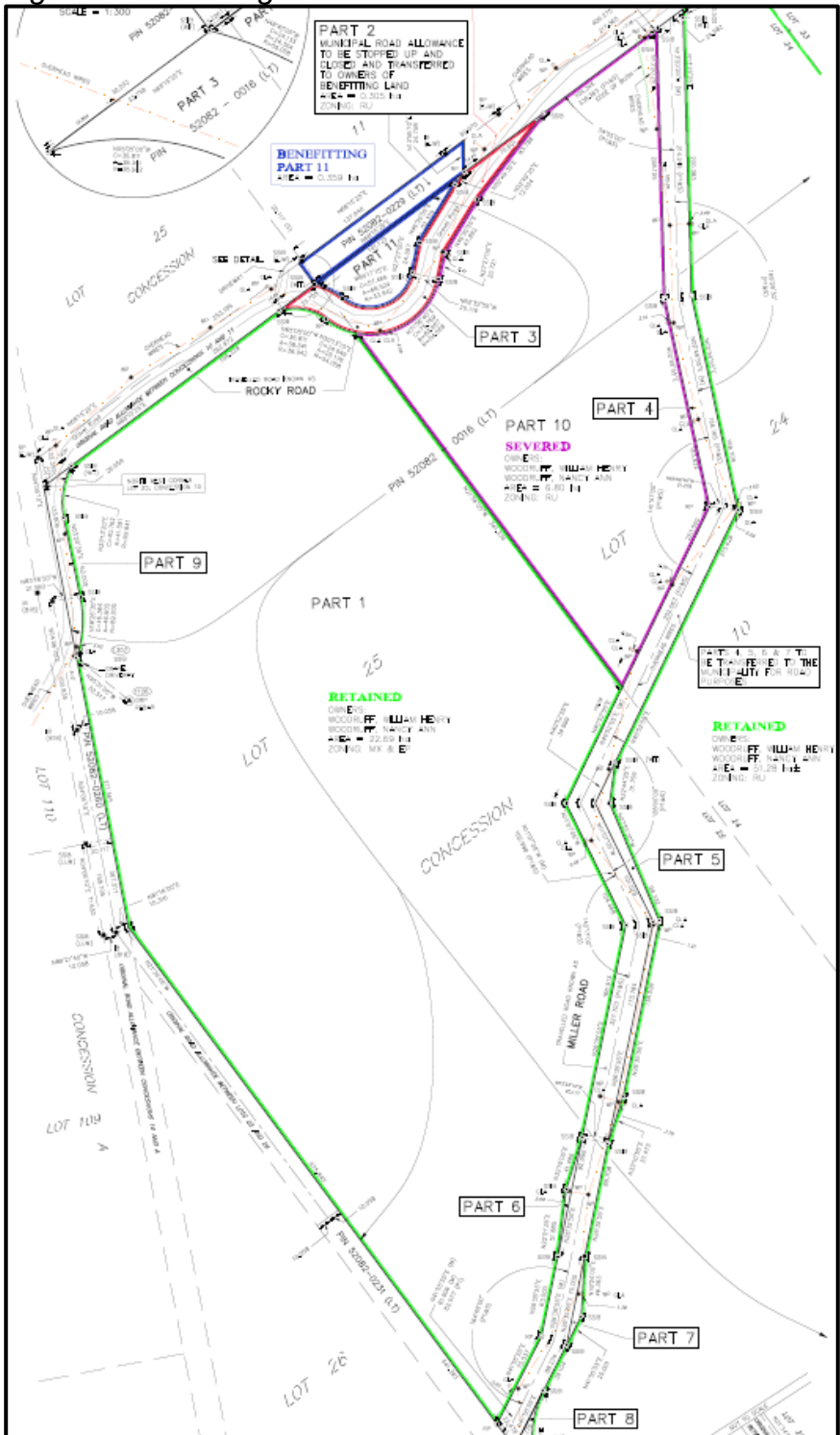
North: A large tract of forested lands and single detached dwellings fronting onto Rocky Road.

East: Miller Road and the eastern Municipality of Magnetawan boundary.

South: Forested land and Highway 124 further to south.

West: Crown Land and Municipal Landfill Site

Figure 2: Lot Configuration



Policy Analysis

The following is a review of the land use policy framework related to the subject lands and the consent proposal.

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 lands are proposed to contain the existing residential dwelling and detached garage. The residential use of the Retained Lot is permitted in accordance with Section 1.1.5.2 of the PPS. The proposed Severed Lot is to be used for rural 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 and future rural 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 is to be serviced individual on-site sewage and water systems which is an anticipated type of servicing 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 is proposed to utilize 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. Upon review of Municipality's Environmental Features mapping the subject property does not contain any mapped natural heritage features.

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. Section 3.2 of the PPS provides policy direction regarding development on, abutting or adjacent to lands affected by a mineral aggregate operation. It is

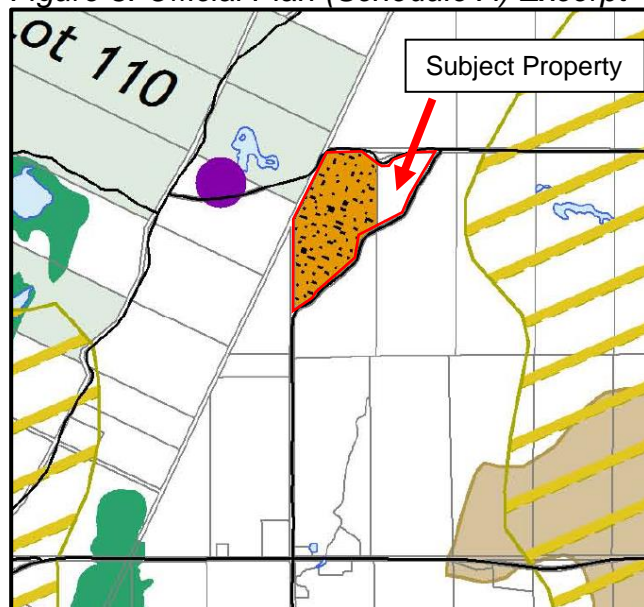
noted that the proposed severed lot is adjacent to a mineral aggregate operation that is licensed under the Aggregate Resources Act. A condition of provisional approval of the proposed consent application has been included to require the Applicant to submit a Zoning By-law Amendment application to establish a suitable building envelope that implements the aggregate policies of the PPS and Official Plan.

Provided that 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 a portion of the subject property contains an area of an Aggregate Resources Act (ARA) license area, as shown in Figure 3.

Figure 3: Official Plan (Schedule A) Excerpt



The Municipality's waste disposal site is identified as being approximately 650 metres west of the proposed severed lot (see 'purple' circle in Figure 3). There are no anticipated land use compatibility issues due to the large separation distance from the waste disposal site.

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 lot is adjacent to a mineral aggregate operation that is licensed under the Aggregate Resources Act (See Figure 3). A recommended 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 implement the aggregate policies of the Official Plan.

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

Section 5.2.2 contains policy direction regard 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 6.8 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.

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.

	<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>To ensure Zoning By-law compliance, 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 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 and the retained lot front onto Miller Road and Rocky Road which both are identified as municipal roads (year-round maintained) in accordance with Schedule C 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 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 lots and the retained lots front onto a publicly maintained road. An entrance permit should be obtained for the proposed severed lot, 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 appears to be of sufficient size. 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 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 lots are accessed by a year round 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 severed lot 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 one new lot from an existing 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 property is zoned Rural (RU) in the Municipality’s Zoning By-law.

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/ Rural Residential Zone (RR)		Proposed Retained Lot	Proposed Severed Lot
Minimum Lot Area	10 ha / 1.0 ha	22 ha	6.8 ha
Minimum Lot Frontage	134 m / 60 m	620 m	341 m (as a result of the land transfer between the owner and the Municipality)

As shown in Table 3, the proposed Severed Lot 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. It is recommended that the Severed Lot be rezoned to the Rural Exception (RU) Zone or Rural Residential (RR) Zone, depending on the anticipated use of the Severed Lot.

Comments From Departments

Public Works

- It is recommend an entrance permit be a condition of the severance.

Fire Chief

- No concerns.

Building 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 is consistent with the Provincial Policy Statement and conforms to the consent criteria in 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,



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