

Pre-consultation Memo

To: Erica Kellog, Acting Deputy Clerk - Planning and Development, Municipality of Magnetawan

Subject: Proposed Consent, 695 Nelson Lake Road, , Municipality of Magnetawan

**Municipal
File No.:**

**EcoVue
File No.:** 23-2125-01

Date: March 29, 2023

1.0 Introduction

The purpose of this pre-consultation memo is to provide a brief summary of planning requirements for a proposed consent at 695 Nelson Lake Road, Magnetawan (subject property).

The analysis in this memo is in part based upon the information provided by the Tomasz and Barbara Muszynski (Applicants) in the form they submitted for approval of the consent.

The Applicants intend sever a lot with approximately 400 metres of frontage on Nelson Lake Road, a depth of 700 metres, and an area of approximately 27 hectares from a larger property, leaving a retained parcel with no road frontage, a depth of 300 metres and an area of approximately 13 hectares. The property is heavily wooded and contains portions of a wetland and watercourse.

According to the Applicants' submissions, the subject property is a vacant bush lots that contains no structures. The Applicants have not indicated an intent to build structures on either the retained or subject parcel.

2.0 Planning Analysis

2.1 The Planning Act

The authority for municipalities to grant severances emanates from the Planning Act, R.S.O., 1990, c.P 13, (Act) states in Section 53 (1):

(1) An owner, chargee or purchaser of land, or such owner's, chargee's or purchaser's agent duly authorized in writing, may apply for a consent as defined in subsection 50 (1) and the council or the Minister, as the case may be, may, subject to this section, give a consent if satisfied that a plan of subdivision of the land is not necessary for the proper and orderly development of the municipality. 2021, c. 25, Sched. 24, s. 4 (1).

Severances are required to have regard for matters in Section 51 (24) of the Act through reference in Section 53 (12). Section 51 (24) states the following:

(24) In considering a draft plan of subdivision, regard shall be had, among other matters, to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality and to,

(a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2;

(b) whether the proposed subdivision is premature or in the public interest;

(c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;

(d) the suitability of the land for the purposes for which it is to be subdivided;

(d.1) if any affordable housing units are being proposed, the suitability of the proposed units for affordable housing;

(e) *the number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy of them;*

(f) *the dimensions and shapes of the proposed lots;*

(g) *the restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;*

(h) *conservation of natural resources and flood control;*

(i) *the adequacy of utilities and municipal services;*

(j) *the adequacy of school sites;*

(k) *the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;*

(l) *the extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy; and*

(m) *the interrelationship between the design of the proposed plan of subdivision and site plan control matters relating to any development on the land, if the land is also located within a site plan control area designated under subsection 41 (2) of this Act or subsection 114 (2) of the City of Toronto Act, 2006. 1994, c. 23, s. 30; 2001, c. 32, s. 31 (2); 2006, c. 23, s. 22 (3, 4); 2016, c. 25, Sched. 4, s. 8 (2).*

Through Sections 51 (24) (c) and (g) severances must conform to the applicable Official Plan and Zoning By-law.

Regard for the above matters is discussed later in this report.

2.2 Official Plan

The subject property is designated as Rural and Environmental Protection in the Official Plan. As noted in Section 5.2.1 the Rural designation permits a wide range of uses including agriculture, forest management, conservation, residential dwellings, and others. The Applicants have not indicated an intent to change the existing use of the property.

The Environmental Protection designation identifies lands which possess physical characteristics which restrict development and may also include important natural heritage features. Uses in areas designated as Environmental Protection as stated in Section 5.3.1 are limited to conservation, forestry, wildlife areas, fishery resource management, public or private parks, and outdoor recreational activities which can be developed without adverse environmental impacts.

The retained and severed parcels contain portions of a wetland and watercourse. Schedule B of the Official Plan identifies environmental features and it distinguishes between provincially significant wetlands and other wetlands. The wetland that is partially contained on the subject property is identified as ‘Other Wetland’ and therefore is not subject to requirements under the Provincial Policy Statement (PPS) for wetlands that are provincially significant.

Schedule B also identifies a large area as “Deer Yard” which includes the entire subject property. Section 4.6 states that the Ministry of Natural Resources has identified large portions of the Municipality as significant deer habitat. Development in these areas must be sensitive to impacts on deer wintering areas and vegetation removal in these areas must be minimized. Furthermore, it states:

Within the significant deer habitat areas shown on Schedule B new lots should avoid areas of dense conifer cover or be of a sufficient size to provide a suitable development area including access and services, outside the most significant deer wintering habitat areas described above. The minimum lot size shall be 90 metres frontage and 90 metres depth.

It appears from Schedule B to the Official Plan that the subject property does not contain deer wintering habitat. The severed and retained parcels appear to meet the size and frontage criteria stated above.

Section 4.2.2 includes policies for flood hazards. There may be a floodplain associated with the watercourse that runs through the property. However, we have no information about a flood calculation for the watercourse and since no change in land use or construction is proposed, there should be no

need to determine a floodline at this time. Given the size of the retained and severed parcels it is not expected that the floodplain from the watercourse would affect their entire area.

Section 7.1 of the Official Plan contains policies that govern severance applications. It states that consents shall only be considered if they are minor and do not require the extension of municipal services.

The criteria for the creation of new lots in section 7.1.1 include the requirement in section 7.1.1 (c) that proposed lots must front on a municipally maintained public road except for certain lots in the shoreline designation. Section 7.1.1 (d) states that lots for hunt camps, fishing camps or similar uses may be permitted on unmaintained municipal road allowances or on private rights of way to publicly maintained roads provided agreements are in place to alleviate the municipality of liability.

Section 7.1.1. (h) requires that lots for permanent residential use shall be located on a year round maintained municipal road or provincial highway. In addition, Section 7.1.1 (j) states, "*the creation of any lot will not have the effect of preventing access to or land locking any other parcel of land.*"

The Applicants have not specifically identified the purpose in seeking the consent. The severed parcel will have frontage on Nelson Lake Road, but it appears that the retained parcel will not have road frontage, and it is not clear from the submissions that the proposed lot will have access to a private road.

From the property index map included with the application, it appears that the applicant may own property to the east which abuts the retained parcel. The property to the east has frontage on Nelson Lake Road which may facilitate road access to the retained parcel which could resolve the access issue. However, the access/frontage issues should be resolved prior to the submission of a formal consent application.

2.3 Zoning By-law

The subject property is zoned Rural (RU) and Environmental Protection (EP) in Magnetawan Zoning By-law 2001-26.

The By-law permit a wide range of uses in the RU zone including detached dwellings, farms, hunt camps, logging activities, and resource management activities. The regulations in section 4.6.2 require a minimum lot size of 10 hectares and minimum lot frontage of 134 metres.

In the EP Zone, the only permitted uses are conservation, resource management activities and passive public parks. In Section 4.16.2 the By-law states that no buildings or structures are permitted in the EP zone except for pump houses and those required for flood and erosion control.

Both retained and severed parcels appear to meet the lot size requirement for the RU zone. The size of the retained parcel is identified as 13 hectares. In Section 3.7 the By-law indicates that lands zoned EP may be included in the calculation of lot area and yard requirements except for the area for the area below the normal or maintained high water mark. A portion of the watercourse runs through the retained parcel and eliminating the area below the high water mark will reduce the lot area. We are not in receipt of information about the location of the high water mark of the watercourse. From our review, it appears that removing this area will not reduce the lot area to the extent that the lot size will be less than 10 hectares. However, the Municipality could request further information if there are concerns about this matter.

Both lots also meet the lot frontage requirements which the By-law defines as the horizontal distance between the side lot lines.

Based upon the submissions, the Applicants are not proposing to build any structures on either the retained or severed parcels. It appears that the intent is to maintain the recreational use of the lands which would appear to meet the requirements of the RU and EP zones.

3.0 Summary and Conclusions

Based upon the submitted documents, the Applicants are proposing to sever a 27 hectare lot from a 40 hectare parcel in order to create a lot for recreational purposes. The property is forested and contains an area of wetland. Also a watercourse runs through both the retained and severed parcels.

However, the wetland is not provincially significant and therefore is not subject to possible development prohibitions in the PPS. The watercourse only affects portions of the retained and severed parcels and there appear to be significant portions on each parcel that are a significant distance from the watercourse and wetland.

Given the above purpose of the application, proposed use of the property and size of the parcels, it appears that the consent will comply with most requirements of the Official Plan and Zoning By-law. However, there are some inconsistencies in the application.

The drawings submitted by the applicant and the sizes of the parcels in the application form indicate that the size of the retained parcel is 13 hectares and the severed parcel in 27 hectares. However, the property index map attached to the application seems to identify the size of the severed parcel as 87 hectares. This matter should be clarified.

Also, Section 7.1.1 (c) and (d) and of the Official Plan require new lots to have some form of access to municipal roads. For hunt camps and fishing camps this can be achieved via unmaintained municipal road allowances or on rights-of-way to publicly maintained roads. Also, Section 7.1.1 (j) requires that the creation of a new lot will not have the effect of landlocking another parcel.

The severed parcel will have frontage on Nelson Lake Road. However, it appears that the retained parcel will have not road frontage, and it is not clear if it will have a form of access to a municipal road, as required by the Official Plan. It maybe that the retained parcel will have access to Nelson Lake Road through the parcel to the east. However, this matter should be clarified.

In summary, based upon the submitted information the proposed consent appears to meet most applicable requirements of the Official Plan and By-law.


If the consent complies with the Official Plan and Zoning By-law it should also have appropriate regard for the applicable provisions off Section 51 (24) of the Act.

However, before making a decision the Municipality should be satisfied about the following:

1. That the proposed use of the retained parcel is for recreation,
2. That no buildings or structures area being proposed,
3. That the size of the parcels are accurately identified in the application,
4. That the retained parcel will have appropriate access and will not be “landlocked”.

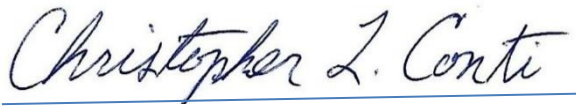
Respectfully Submitted,

ECOVUE CONSULTING SERVICES INC.



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