



**MINUTES
LAND DIVISION COMMITTEE**

The Land Division Committee met in regular session on Tuesday, October 16, 2012 at 9:00 a.m. at the Lanark County Administration Building, 99 Christie Lake Road, Perth, Ontario.

Members Present: R. Strachan, D. Murphy and W. Guthrie

Staff Present: M. Kirkham, Secretary-Treasurer

LAND DIVISION COMMITTEE

Chair: R. Strachan

1. CALL TO ORDER

A quorum was present.

2. DISCLOSURE OF PECUNIARY INTEREST

None.

3. APPROVAL OF MINUTES

MOTION #LD-2012-021

MOVED BY: W. Guthrie
SECONDED BY: D. Murphy

“THAT, the minutes of the Land Division Committee meeting held on Sept. 26, 2012 be approved as circulated.”

ADOPTED

4. ADDITIONS & APPROVAL OF AGENDA

MOTION #LD-2012-022

MOVED BY: D. Murphy
SECONDED BY: W. Guthrie

“THAT, the agenda be adopted as circulated.”

ADOPTED

5. DELEGATIONS & PRESENTATIONS

None.

6. COMMUNICATIONS

- 6.1 Township of Drummond / North Elmsley – notice of Public Meeting – Oct 23, 2012 at 6:00 p.m. Council Chambers, Port Elmsley. Purpose: to present the new comprehensive Zoning By-law.

7. REPORTS

- 7.1 New Applications to be Heard. The Land Division Committee reviewed the reports for the following new applications to be considered at the 10:00 a.m. public hearings:
- 7.1.1 **B05/055 – David and Doreen Scott – New Lot**
Pt. Lot 16 and 17 Conc. 9 Township of Beckwith (9th Line Beckwith)
- 7.1.2 **B12/045 – Brian Moore – new lot**
Pt. Lot 21 Conc. 7, geographic Township of North Elmsley, now in the Township of Drummond / North Elmsley. (Port Elmsley Road)
- 7.1.3 **B12/051 – Donald Gordon – lot addition**
Pt. Lot 21 Conc. 6, geographic Township of Bathurst, now in Tay Valley Township. (Bathurst Con 7).
- 7.1.4 **B12/055 and B12/056 Brian and Frances Craik – two new lots**
Pt. Lot 25 Conc. 3, geographic Township of Bathurst, now in Tay Valley Township. (Christie Lake Road).
- 7.1.5 **B12/057 and B12/058 – James Closs – two new lots**
Pt. Lot 11 Conc. 2, geographic Township of Dalhousie, now in the Township of Lanark Highlands. (2nd Con Dal)
- 7.1.6 **B12/061 – Terry and Joan Dutton – new lot**
Pt. Lot 4 Conc. 7 Township of Montague. (William Campbell Road)
- 7.1.7 **B12/075 – Deanne A Dowdall – new lot**
Pt. Lot 7 Conc. 12, Township of Beckwith. (Dowdall Shore Lane)
- 7.1.8 **B12/076, B12/077 and B12/078 - James and Elisabeth Neelin – new lot + ROW & 2 lot additions + ROW.**
Pt. Lot 14 Conc. 7, geographic Township of Dalhousie, now in the Township of Lanark Highlands. (Fair's Lane)
- 7.1.9 **B12/079 – Craig Angus & P Rowshan – new lot**
Pt. Lot 153, 154, 160 & 161 Plan 6115, Town of Carleton Place. (Napoleon Street)

7.1.10 B12/086 – Stacey Larocque – new lot

Pt. Lot 1 & 2 Conc. 10, geographic Township of Darling, now in the Township of Lanark Highlands. (Tatlock Road)

7.1.11 B12/087, B12/088 and B12/089 – Margaret Briscoe - three new lots

Pt. Lot 12 and 13 Conc. 6 Township of Beckwith. 7th Line Beckwith)

7.1.12 B12/093 – Leo Fox – new lot

Pt. Lot 19 Conc. B, Township of Montague (Rideau River Road)

7.1.13 B12/109 Malcolm Williams – R-O-W

Pt. Lot 2 Conc 4, geographic Township of Dalhousie, now in the Township of Lanark Highlands. (Iron Mine Road).

7.2 Applications Previously Heard and Awaiting a Decision

None

8. CONFIDENTIAL REPORTS

None

9. NEW/OTHER BUSINESS

None

10. PUBLIC HEARING:

The meeting recessed at 10:00 a.m. for the purpose of conducting the public hearings in the County Council Chambers.

10.1 PROVISIONAL CONSENT GRANTED

10.1.1 B05/055 – David and Doreen Scott – New Lot

10.1.2 B12/045 – Brian Moore – new lot

10.1.3 B12/051 – Donald Gordon – lot addition

10.1.4 B12/055 and B12/056 Brian and Frances Craik – two new lots

10.1.5 B12/057 and B12/058 – James Closs – two new lots

10.1.6 B12/076, B12/077 and B12/078 - James and Elisabeth Neelin – new lot + ROW & 2 lot additions + ROW.

10.1.7 B12/079 – Craig Angus & P Rowshan – new lot

10.1.8 B12/086 – Stacey Larocque – new lot

10.1.9 B12/087, B12/088 and B12/089 – Margaret Briscoe - three new lots

10.1.10 B12/093 – Leo Fox – new lot

10.1.11 B12/109 Malcolm Williams – R-O-W

10.2 PROVISIONAL CONSENT DEFERRED

10.2.1 B12/061 – Terry & Joan Dutton - new lot

MOTION #LD-2012-023

MOVED BY: D. Murphy

SECONDED BY: W. Guthrie

“THAT, application B12/061, Dutton be deferred to provide the applicant an opportunity to resolve the issues raised regarding the requirement for and Environmental Impact Statement.

ADOPTED

The hearing to be re-convened following either receipt of an EIS (followed by review) or the submission of a revised application to change from New Lot to Lot Addition.

10.2.2 B12/075 – Deanne Dowdall – new lot

MOTION #LD-2012-024

MOVED BY: W. Guthrie

SECONDED BY: D. Murphy

“THAT, application B12/075, Dowdall be deferred to provide the applicant an opportunity to resolve the issues raised regarding size of lot.

ADOPTED

The hearing to be re-convened following either October 29, 2012 or at a date suitable to Ms. Dowdall.

11. UPCOMING MEETINGS

Monday, October 29, 2012 @ 9:00 a.m.;

Monday, November 26, 2012, @ 9:00 a.m.; and

Monday, December 17, 2012 @ 9:00 a.m.

12. ADJOURNMENT – 12:35 p.m.

A handwritten signature in black ink, appearing to read "Mary Kirkham". The signature is fluid and cursive, with a long horizontal stroke at the end.

Mary Kirkham,
Secretary-Treasurer

**PUBLIC
HEARING
REPORTS**



LAND DIVISION STAFF REPORT

APPLICATION FOR CONSENT

Owner: David G Scott & Doreen M Scott

Hearing Date: Sept 28, 2009

Re-convened Hearing Date: Oct. 16, 2012

Agent: N/A

LDC File #: B05/055

Municipality: Beckwith

Geographic Township: Beckwith

Lot: 16 & 17

Concession: 9

Roll No. 09-24-000-035-25200
0924 000 035 25400

Consent Type: New Lot

Purpose and Effect: The lands are located at 1416 9th Line Beckwith and are comprised of two separately assessed but adjoining properties which were merged on title at some point prior to ownership by Mr. Scott. The purpose of the application is to divide the landholding along the township lot line between the east half Lot 16 and the west half Lot 17.

The application was put 'on hold' as the property lies with the groundwater contamination study area of Beckwith Township. These studies have now been completed.

DETAILS OF PROPOSAL	Land to be Severed	Land to be Retained
Existing Use Proposed Use	Agriculture/ Residential Agriculture/ Residential	Agriculture Agriculture
Area	48 ha	42 ha
Frontage	300 m	75 m
Depth	1560 m	1560 m
Road - Access to	Municipal Road	Municipal Road
Water Supply	Private well	n/a
Sewage Disposal	Private septic	n/a
Official Plan Designation -Conformity?	Rural See Beckwith response	
Zoning Category	Rural	Rural
-Area Required (min.)	0.4 ha	0.4 ha
-Compliance?	Yes	Yes
-Frontage Required (min.)	45 m	45 m
-Compliance?	Yes	Yes

a. **APPLICATION REVIEW**

Provincial Policy Statement - Provincial Interests were identified as follows:

1.1 Managing and Directing Land Use

Section 1.1.1.c) Healthy, liveable and safe communities are sustained by avoiding development and land use patterns which may cause environmental or public health and safety concerns.

Section 1.1.4.1 In rural areas located in municipalities permitted uses and activities shall relate to the management or use of resources, resource-based recreational activities, limited residential development and other rural land uses.

1.6 Infrastructure and Public Service Facilities

Section 1.6.4.4 Individual on-site sewage services and individual on-site water services shall be used for a new development of five or less lots or private residences where municipal sewage services and municipal water services or private communal sewage services and private communal water services are not provided and where site conditions are suitable for the long-term provisions of such services.

2.3 Agriculture

Section 2.3.1 Prime agricultural areas shall be protected for long-term use for agriculture.

Section 2.3.4.1 Lot creation in prime agricultural areas is discouraged and may only be permitted for a) agricultural uses, b) agricultural-related uses, c) residence surplus to a farming operation, d) infrastructure.

County Official Plan - Section 3.0 Rural Area Policies, Section 3.3.3 Lot Creation, Section 4.4 Water, Waste Water and Stormwater Services, Section 6.1 Agricultural Resources, Section 8.2.2 Consents.

The proposal conforms to the designations and policies of the Official Plan for the County of Lanark.

Official Plan – Section 4 General Development Policies, Section 6 Land Use Policies – Agricultural Areas and Rural Areas, Section 7, Roads, Section 9.6 Subdivision of Land. The Town of Beckwith advises that the application conforms to the designations and policies of the Official Plan.

Zoning By-law - Section 3 General Provisions, Section 10 Agriculture Zone, and Section 11 -Rural Zone. The Township of Beckwith advises that the proposal complies with the zoning by-law regulations.

b. **AGENCY REVIEW**

This application has been circulated to those agencies that were considered to have an interest in the proposal. The following comments were received:

Township of Beckwith – recommends approval of this application subject to the following conditions:

THAT the Planning Committee table the application until after the current Official Plan has been amended to address adjoining properties which have been inadvertently merged on title.

On-Site Services (Septics) – Leeds, Grenville & Lanark District Health Unit Severed – Existing farming operation serviced by a Class 4 septic system and private well. Sufficient land area to replace existing system. Clay loam soil 5ft deep.

Retained – Gently rolling mixture of treed and agricultural land with no soil drainage problem. Clay loam soil 5ft deep.

Hydro One Networks – No comments were received.

Bell Canada R-O-W – No comments were received.

c. PLANNING REVIEW

The applicant proposes to sever a 48.0-ha landholding with an existing dwelling and outbuildings and to retain a 42.0-ha vacant landholding. The two parcels of land were inadvertently merged when acquired separately by the current owner. Three previous severances were obtained on the parcel that is proposed to be retained.

The subject lands are located in an area characterized by Residential and Agricultural on a variety of lot sizes along the 9th Line of Beckwith.

These lands were within the Beckwith groundwater contamination study area, therefore the application was placed on hold in 2005. The study concluded that these lands were not within the implementation area; therefore the application has been brought forth at the request of the applicant.

The lands are accessed via 9th Line Beckwith, a municipally maintained road.

There were no objections raised by any of the agencies, however the Township of Beckwith requests that the application be deferred pending clarification and review of their Official Plan policies regarding number of consents per landholding and lots merging on title. In light of the foregoing, this office is NOT satisfied that the applicant's proposal maintains the general intent and purpose of the PPS and Official Plan for the Township of Beckwith and should be **DEFERRED**.

d. PUBLIC INPUT

Written submissions were received in response to the notice of application sent to every landowner pursuant to Clause 53(5) (a) of the Planning Act and Section 3(2) of O.Reg. 197/96 as amended, as follows:

Michael and Nancy Collie – July 14, 2009

“I received your notification of application for consent related to the Township of Beckwith Pt Lot 16 & 17 Concession 9. My wife and I are land owners on Lot 17 Pt 1(1354 9th Line Beckwith). We purchased this land from Dave Scott in 1980 and we had to go through significant work to have the zoning changed from quarry to rural so we could build our house in 1982. At the time, it was my understanding that only a certain amount of lots could be severed from his farm. I am quite concerned about the possibility of additional severances from this farm until we have further detail on the proposal. Beckwith township has instituted numerous severances of farmland around us in the past (park directly across from us - now a football field is going in and there is reduced

demand on the park from previous years - appears to be a waste of our tax dollars especially considering previous

issues with our water, building permits, etc) with little or no input from residents at the time. Many of us objected to these previous severances but little info was made available but yet we were just across the street from the proposed developments.

At this point I would object and not consent to further land severance in our area until there is an understanding of the purpose of the severance , ground water , use -sewage handling systems and how that may further affect the current volatile ground water and volatile eco-system in this area.

Based on this past history and lack of planning evident from Beckwith Township, I would like to make an appointment to get additional information regarding this application. Let me know when you could accommodate this. I would also like to be notified of the public meeting and of the notice of decision of the Land Division Committee.”

e. **MINUTES – September 28, 2009**

No persons attended the hearing.

The Committee agreed that due to the circumstances relating to the deferral, that the re-submission / recirculation fee be waived when the application is brought forth in the future.

f. **DECISION**

Defer - with reasons / matters to be addressed prior to reconsideration and date to which the matters/reasons must be completed.

That Application No. B05/055, Scott be deferred until such time as the Township of Beckwith has reviewed and amended its Consent Policies to address properties which have been merged inadvertently on title due to conversion from the Land Registry System to Land Titles.

g. **ADDITIONAL INFORMATION**

Aug 8, 2012 – the Township of Beckwith advised that the water monitoring program is now in place and that the Scott Consent Application B2005/055 can now proceed.

h. **RE-CIRCULATION**

Following receipt of the information from the Township of Beckwith, the application was re-circulated.

i. **MUNICIPAL COMMENTS following re-circulation**

Township Planner’s Report

The applicant pre-consulted with the Planning Committee back in 2005 to sever a 120 acre parcel from an adjacent landholding. Planning Committee supported the severance application and the applicant submitted severance application B05/055 to the County of Lanark. Ultimately the severance application was put on hold as severances were not permitted within the plume area until the water monitoring program had been implemented.

The applicant approached the Township in 2009 to finalize the severance. The Staff report to Planning Committee recommended that the application be tabled until after OPA 25 had developed policies with regards to parcels that had been inadvertently merged on title by the Land Registry Office.

The applicant indicated to Staff that the two parcels have already been in common ownership and have always been purchased/sold as a single parcel. The applicant did not purchase the two parcels separately and the two parcels do not appear to have been merged on title by the LRO during the conversion to the Land Titles system in the late-1900's.

DESCRIPTION OF SUBJECT LANDS

The subject lands formerly consisted of two original Township 'half-lots' being the east part of lot 16 and the west part of lot 17, concession 9. The west part of lot 17 had been severed five (5) times, with the first severance apparently occurring in 1974. The subject lands are located outside of a community development area and are partially used for agricultural operations, with the remaining land being treed and vacant.

The subject lands are located within the plume and the implementation area for the water monitoring program.

PROVINCIAL POLICY STATEMENT

Section 2.3 regards agricultural lands and indicates that lot creation within prime agricultural areas may only be permitted in certain instances. As the new lot would be of suitable size to permit agricultural operations, the proposed severance would appear to satisfy one of the instances outlined in Section 2.3.

OFFICIAL PLAN

The majority of the subject lands are designated as Agricultural with a small portion being considered rural lands. Section 6.1.6 permits severances within agricultural designations, provided that the severance is intended for agricultural uses and the new lot is of sufficient size. The new lot appears to contain sufficient area to permit the construction of a dwelling and/or agricultural buildings in accordance with MDS calculations.

Section 4.5 of the Plan regards land division. There are no policies with regards to properties that have been merged on title. OPA 25 does not contain any policies to this effect either, except that the proposed 3 severances per original Township lot clause. The applicant indicated to Staff that he did not purchase these parcels separately and they were not merged on title inadvertently by the LRO during his ownership. This does not appear to be a typical 'de-merge' application.

Section 4.5.2 (iii) requires new lots created within the special service area to enter into an agreement with the Township acknowledging participation within the Township's water monitoring program.

ZONING BY-LAW

The subject lands are primarily zoned agricultural, with a lesser portion being considered rural, by the Township's zoning by-law.

The severance application would create a 120 acre parcel with approximately 310m of frontage on 9th Line; this parcel contains a dwelling and an existing driveway/entrance onto 9th Line. These lot dimensions conform to the requirements of the zoning by-law.

The retained lands would have approximately 70m of frontage on 9th Line and would require a new entrance. Entrances are limited to one every 150m on the 9th Line where the speed limit is not reduced. Staff believes the speed limit to be reduced in this area, and have requested comments from the Public Works Superintendent on the potential for a new entrance in this area.

OPTIONS / ANALYSIS

As the two parcels were not purchased separately and inadvertently merged on title by the LRO during conversion to the Land Titles system, this does not appear to be a typical 'demerge' application. The applicant purchased the two parcels together, and as such, this should be considered as a typical severance application. Typically the OP limits severances to two (2) after 1973. The subject lands have been severed five (5) times since 1973.

This being said, the severance application appeared to be supported by Township back in 2005. The severance application was not approved due to the need to implement the water monitoring program. The Official Plan now has provisions in place to allow lot creation within the affected areas, provided the applicant enters into the appropriate agreements with the Township.

Township of Beckwith – recommends approval of this application subject to the following conditions:

1. That a paper copy of the registered reference plan be provided to the Township of Beckwith;
2. That the applicant enter into a development agreement with the Township of Beckwith confirming participation within the water monitoring program, as required by the Official Plan;
3. That an entrance permit be obtained from the Township of Beckwith.

Advisory Notes:

That all structures are located under the guidance of the Chief Building Official in accordance with the Ontario Building Code and all municipal by-laws

j. PUBLIC COMMENTS following re-circulation

Mike Collie

We received the notice of application for consent from Lanark County regarding File No.: B05/055 (Re-circulation) from the municipality of the township of Beckwith referencing owners David G. Scott and Doreen M. Scott.

If you recall, I was concerned about the original severance proposal that you notified me of a couple of years ago. I am quite concerned about this severance proposal due to the proximity of our lots and the various other lots from the original severances from 1980/81 (of which we purchased one of these lots in 1980/81). I would object to this severance for various reasons concerning further development, ground water quality / availability and the legitimacy of further severances from the original rural land where additional severances were not allowed according to our understanding from our real estate purchase agreement in 1980/81.

With the proposed severance from the recent notification of application for consent it appears these new lots would have access to both the 9th and 10th concession rural roads raising further concerns about Beckwith's controlled plan for further development which does not appear to exist. (additional land parcel severances would then be possible raising numerous concerns of which I would be willing to discuss these concerns in more detail on request)

I will speak to our neighbours about this proposed severance to raise further awareness and to jointly discuss our previous concerns from the original proposal.

There have been prior land developments in Beckwith that have raised numerous concerns about the validity of the awareness process which land owners in the area questioned the county/township original review process.

Please consider this as formal notification of my wish to be notified of a public meeting and any decisions of the Land Division Committee in respect to the proposed consent.

Peter Snyder

I received an application for consent for David and Doreen Scott. I'm their neighbor across the 9th line and have a few questions about their request.

On the map it shows a 48-ha agricultural landholding to be severed and that is the one I'm most interested in

- 1) Can you comment or know what this land is going to be used for?
 - severed into smaller building lots?
 - kept for farming?
 - Other?
- 2) Can "ha agricultural" be severed for building (now or in the future) and/or is there another process that would be required?
- 3) I noticed that this is a "recirculation" is this another attempt of the same request files a number of years ago? If so, why was it not granted then?

I appreciate any other information you can share and would also like to request that I be notified of the decision to this request.

(Response was provided to Mr. Snyder on Aug. 23, 2012)

k. PLANNING REVIEW

Background and Summary

The applicant proposes to sever 48-ha agricultural landholding with an existing dwelling, barns and outbuildings located at 1416 9th Line Beckwith and retain a 42-ha agricultural landholding. The effect of the application is to sever the East ½ Lot 16 from the West ½ Lot 17 Conc. 9. The West ½ Lot 17 had five previous consent applications – 1 prior to 1975, 3 in 1979 and 1 in 1985. No lots were created from the East ½ Lot 16 Conc. 9

The subject lands are located in an area characterized by Agricultural / Residential on large landholdings along 9th Line Beckwith interspersed by typical residential building lots.

The lands are accessed via 9th Line Beckwith, a municipally maintained road.

Soils Inventory – Name: Farmington	Balderson
- Stoniness: slightly stony	slightly
- CLI: 6 – natural grazing only	2 – moderate limitations
- Drainage: well	imperfectly
- Hydrogeology: moderate	moderate

Bedrock Inventory – Dolostone, sandstone

Official Plan Policies

1/ Lanark County Sustainable Communities Official Plan - Section 8.2.2 Consents.

Lanark County, through an appointed Land Division Committee is the approval authority for the issuance of consents.

Lot creation by consent shall be permitted where lot creation by plan of subdivision is deemed to be unnecessary.

Consideration of locational and development criteria by the approval authority shall be based on local Official Plans. In considering a consent, regard shall also be had to, among other matters, the criteria of Section 51 (24) of the *Planning Act, R.S.O. 1990* with necessary modifications.

2/ Beckwith Official Plan Policies for the Division of Land are found in Section 4.5 of the OP. Generally, the consent process will be used for the purpose of creating one or two new lots. A number of 'general policies' also apply to the division of land, including: size and setbacks appropriate to zoning designation, reserving, MDS separation, supporting studies as required, road access to maintained infrastructure, no development of land subject to flooding, quantity and quality of groundwater. The lot creation date for Beckwith is July 1973.

Section 4.5.2 (iii) requires new lots created within the special service area to enter into an agreement with the Township acknowledging participation within the Township's water monitoring program.

3/ Woodlands

The area has considerable areas mapped as 'woodlands', care should be taken in any development proposal to maintain the existing tree cover. Woodland Development Policies have not been established by the Township of Beckwith.

Zoning

The subject property is currently zoned Agriculture with a small portion of the lot located along the 10th Con Beckwith being zoned as Rural. The Agriculture Zone permits an accessory dwelling accessory to an agricultural use and a minimum lot size of 39-ha. The Rural Zone permits a number of uses, including single-detached dwellings. The proposed lots exceed the minimum lot size and frontage.

Conclusion

The Provincial Policy Statements encourages development to occur in designated *settlement areas*. The proposed lots are not located within a designated settlement area, and therefore fall under PPS Section 1.1.4. Section 1.1.4.1.d) provides that development that is compatible with the rural landscape and can be sustained by rural service levels should be promoted. Section 2.3 of the PPS indicates that lot creation within prime agricultural areas may only be permitted in certain instances. The new lot would be a

suitable size to permit agricultural operation. No new or additional infrastructure is required as a result of the proposal. The severed lands meet the minimum requirements of Township's Official Plan which is appropriate in the rural setting. The application can meet the consistent with test of the Provincial Policy Statement.

There were no objections raised by any of the agencies which were circulated regarding this proposal. In light of the foregoing, this office is satisfied that the applicant's proposal maintains the general intent and purpose of the PPS, the County Official Plan and Official Plan for the Township of Beckwith and could be given favourable consideration.

I. MINUTES – October 16, 2012

David Scott, owner attended the hearing and gave evidence by affirmation.

Mr. Scott confirmed that he has owned both lot 16 and 17 as one parcel for many years and that the 5 new lots that were created on lot 17 and none on lot 16. The water issue in Beckwith held up the application, and this has now been resolved.

Committee reviewed the staff report and draft conditions.

m. DECISION & CONDITIONS

DECISION: PROVISIONAL CONSENT IS GRANTED

REASONS: Having determined that a plan of subdivision is not necessary for the proper and orderly development of the municipality, and having determined that the proposal is consistent with the policy statements issued under subsection 3(1) of the Planning Act, and having had regard to the matters under subsection 51(24) of the Planning Act.

CONDITIONS:

1. An acceptable reference plan or legal description of the severed lands and the deed or Instrument conveying the severed lands shall be submitted to the Secretary-Treasurer for review and consent endorsement **within a period of one year** after the "Notice of Decision" is given under Section 53 (17) or (24) of the Planning Act.
2. The applicant shall provide the Secretary-Treasurer of the Land Division Committee with a digital copy of the registered reference plan.
3. The balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to the Township.
4. That the applicant enter into a Development Agreement with the Township of Beckwith. The wording of the agreement shall confirm participation in the "Water Monitoring Program" as set out in the Township's official Plan Section 4.5.2(iii).
5. The applicant shall confirm that a residential entrance to the subject lot is viable. The applicant shall consult directly with the Township in this regard.
6. A letter shall be received from the Township of Beckwith stating that condition

#3 through #5 has been fulfilled to their satisfaction.

NOTES

1. *It is recommended that the applicant review available water well records of adjacent lands to determine that there is adequate potable water for a residential dwelling.*
2. *The Township of Beckwith advises that all future structures are to be located under the guidance of the Chief Building Official in accordance with the Ontario Building Code and all municipal by-laws*
3. *The County of Lanark advises that, prior to the issuance of a building permit, Development Charges must be paid in full.*
4. *Endangered Species Act, 2007, and Species at Risk in Ontario Background
The ESA 2007 protects both species and habitat. Section 9 of the ESA “prohibits killing, harming, harassing, capturing, possessing, collecting, buying, selling, trading, leasing or transporting species that are listed as threatened, endangered or extirpated”. Section 10 of the ESA, 2007 prohibits damaging or destroying habitat of endangered or threatened species. Protected habitat is either based on general definition in the Act or prescribed through a regulation. The ESA 2007 defines general habitat as an area on which the species depends, directly or indirectly, to carry on its life processes, including reproduction, rearing, hibernation, migration or feeding.*

It is important to be aware that changes may occur in both species and habitat protection. The ESA applies to listed species on the Species at Risk in Ontario List (SARO). The Committee on the Status of Species in Ontario (COSSARO) meets regularly to evaluate species for listing and/or re-evaluate species already listed. As a result, species’ designations may change that could in turn change the level of protection they receive under the ESA 2007. Also, habitat protection provisions for a species may change e.g. if a species-specific habitat regulation comes into effect. The regulation would establish the area that is protected as habitat for the species.

The Ministry of Natural Resources continues to encourage ecological site assessments to determine the potential for SAR occurrences. When a SAR does occur on the site, it is recommended that the developer contact MNR for technical advice and to discuss what activities can occur without contravention of the Act. If an activity is proposed that will contravene the Act, the developer must contact the MNR to discuss the potential for application of certain permits or agreement.



LAND DIVISION STAFF REPORT

APPLICATION FOR CONSENT

Owner: Brian Moore **Hearing Date:** October 16, 2012
Agent: N/A
LDC File #: B12/045
Municipality: Drummond/North Elmsley
Geographic Township: North Elmsley **Lot:** 21 **Con** 7
Roll No. 0919 908 015 46202 **Consent Type:** New Lot

Purpose and Effect: To sever a 2.3-ha residential building lot and retain a 1.34-ha residential lot with an existing dwelling at 1077 Port Elmsley Road.

DETAILS OF PROPOSAL	Land to be Severed	Land to be Retained
Existing Use	Vacant	Residential
Proposed Use	Unknown	Residential
Area	2.3 ha	1.34 ha
Frontage	100 m	240 m
Depth	170 m	irregular
Road - Access to	County Road	County Road
Water Supply	Proposed well	Private well
Sewage Disposal	Proposed septic	Private septic
Official Plan Designation -Conformity?	Rural Yes	
Zoning Category	Rural	Rural
-Area Required (min.)	0.4-ha	0.4-ha
-Compliance?	Yes	Yes
-Frontage Required (min.)	45 m	45 m
-Compliance?	Yes	Yes

a. APPLICATION REVIEW

Provincial Policy Statement - Provincial Interests were identified as follows:

1.1 Managing and Directing Land Use

Section 1.1.1.c) Healthy, liveable and safe communities are sustained by avoiding development and land use patterns which may cause environmental or public health and safety concerns.

Section 1.1.4.1 In rural areas located in municipalities permitted uses and activities shall relate to the management or use of resources, resource-based recreational activities, limited residential development and other rural land uses.

1.6 Infrastructure and Public Service Facilities

Section 1.6.4.4 Individual on-site sewage services and individual on-site water services shall be used for a new development of five or less lots or private residences where municipal sewage services and municipal water services or private communal sewage services and private communal water services are not provided and where site conditions are suitable for the long-term provisions of such services.

County Official Plan - Section 3.0 Rural Area Policies, Section 3.3.3 Lot Creation, Section 4.3.2 & 3 County Roads, Section 4.4 Water, Waste Water and Stormwater Services, Section 8.2.2 Consents.

The proposal conforms to the designations and policies of the Official Plan for the County of Lanark.

Official Plan – Section 3 General Provisions, section 3.18 Water and Wastewater Services, Section 4.3 Rural Policies, Section 5.2 County Roads, Section 6.3 Division of Land.

The Township of Drummond / North Elmsley advises that the proposal conforms to the designations and policies of the Official Plan.

Zoning By-law - Section 4 General Provisions, Section 7 Rural Zone

The Township of Drummond / North Elmsley advises that the proposal complies with the zoning by-law regulations.

b. AGENCY REVIEW

This application has been circulated to those agencies that were considered to have an interest in the proposal. The following comments were received:

Township Planner's Report

I have reviewed the above noted severance application and it is my understanding that Brian Moore seeks to sever a 2.3 hectare (5.7 acre) parcel from his 3.64 hectare landholding. The retained lands contain a dwelling (located at 1077 Port Elmsley Road) and the severed lands are vacant, consisting of pasture and non-significant woodlands. The severed lot also fronts on Port Elmsley Road, which is owned and maintained by Lanark County. It is my understanding that the County has approved his request for an entrance on the lot. I note that the processing of this severance is based on the information provided by Mr. Moore that Lots 21 (currently owned by Mr. Moore) and 20 were under separate ownership in 1979 and as such, this severance is consistent with the Division of Land section of the Township's Official Plan.

The severed and retained lands are designated Rural in the Township's Official Plan, the intent of which, in general, is to support limited residential development that is consistent with the rural character of the area. The application was originally submitted in May 2012, before final ministerial approval of the Township's new Official Plan. In evaluating this application, I reviewed the provisions relating to Division of Land, Rural Character, the Rural Designation and Transportation (with respect to County Roads) and determined that the application was consistent with each of those policies. I also noted that according to Township mapping, there appears to be an abandoned mine located on property to the south of the Moore property, on the other side of the unopened concession road. Section 4.8.3.5 of the 2003 Official Plan requires that proposals for

development "in the vicinity" of these sites shall not be approved until a report outlining the hazards and mitigative measures required is undertaken. With regards to this requirement, I note that the

proposed lot is almost 300 m away from this site and there are four existing residential dwellings that are located a closer distance to the site than the proposed new lot. As such, I do not feel as though such a study is necessary in this case. One issue in relation to this proposed lot is the distance from the lot to John McLean's beef barn at 1115 Port Elmsley Road.

In accordance with Section 3.3 of the 2003 Official Plan, a Minimum Distance Separation calculation was prepared on April 30th. Based on the information provided to me by Mr. McLean, the minimum distance for development was calculated at 471 m (1545 feet). Based on a rough measurement from the McLean barn, the distance to the closest point of the proposed severed lot is about 300 m and the furthest part of the lot about 400 m.

There are currently 3 homes on other lots in between the barn and this proposed lot. It is my suggestion that these calculations be verified and if they are confirmed then this severance may not be able to be supported from that perspective.

The severed lands are zoned Rural according to the Township's Zoning By-Law and the proposal meets all provisions of the By-Law for both the severed and the retained lands.

Assuming a positive conclusion to the MDS issue, Drummond/North Elmsley Township would support the above severance provided that the conditions as indicated on the attached Municipal Reply Form are met. I trust this is satisfactory, if you require any further information please do not hesitate to contact me.

Township of Drummond/North Elmsley – recommends approval of this application subject to the following conditions:

- The balance of any outstanding taxes and fees owing shall be paid to the Township.
- The Applicant shall provide the Township with a registered copy of all reference plans associated with this application if a survey is required by the Registry Office.
- The Applicant shall obtain a Civic Address Number from the Township of Drummond/North Elmsley. The applicant shall consult directly with the Township in this regard.
- That a Minimum Distance Separation calculation confirm that an adequate separation distance exists between the severed parcel and the beef barn located to the north-west of the subject property (Cone. 7, Part Lot 21) that would allow an adequate building envelope for a single family residential use.

Conservation Authority – Rideau Valley Conservation Authority

These applications do not impact on matters relating to Section 2.1 Natural Heritage and 3.1 Natural Hazards of the Provincial Policy Statement under Section 3 of the Planning Act, or on the related Rideau Valley Conservation Authority's Ontario Regulation 174-06 under Section 28 of the Conservation Authorities Act.

The Rideau Valley Conservation Authority has no objection 01' condition of approval to impose on this severance application.

Thank you for the opportunity comment and please do not hesitate to contact the undersigned at 613-267-5353 x 131 should you have any questions.

On-Site Services (Septics) – Leeds, Grenville & Lanark District Health Unit
Severed – Partially cleared lot with no discernible slope. Thin topsoil less than 10 cm over bedrock. The severed land will be large enough to accommodate on-site sewage disposal but imported leaching bed fill will be required to construct a conforming system.

Retained – Home with existing septic system. Drainage appears to be good. Lot slopes away from Port Elmsley Road. Home with existing drilled well and septic system. No obvious signs of failure. This severance will not negatively affect sewage disposal on retained lands.

County Roads Department –

- 1/ Applicant has an approved existing entrance to the County Road for the retained lot – Permit No. 2116.
- 2/ Applicant has an approved entrance location to the County Road for the severed lot - permit 2378.
- 3/ A full entrance application must be submitted and entrance installed prior to deed endorsement.
- 4/ Sufficient lands shall be deeded to “The Corporation of the County of Lanark” along the frontage of the lot to be severed to meet the municipality’s road widening requirements, at no cost to the County. Sufficient lands may be required across the frontage of the retained lands to meet the municipality’s road widening requirements, and in these cases, the applicant will be requested to enter into a land purchase agreement with the County. “In Preparation” Transfer documents are to be submitted to the Lanark County Public Works Department for review and approval prior to registration, accompanied by a solicitor’s certificate indicating that the municipality’s title is free and clear of all encumbrances and the municipality has a good and marketable title. The County of Lanark Construction Supervisor shall be consulted prior to commencing a survey to determine the amount of road widening required. The reference plan describing the road widening must be approved by the Lanark County Public Works Department prior to registration. Following registration one copy of the plan shall be forwarded to the County of Lanark Public Works Department.

Hydro One Networks – HONI advises that they have poles and anchors on the property to be severed.

Bell Canada Bell Alliant – Advises that Bell Alliant has no objection to the proposed severance application.

c. PUBLIC INPUT

Written submissions were received in response to the notice of application sent to every landowner pursuant to Clause 53(5) (a) of the Planning Act and Section 3(2) of O.Reg. 197/96 as amended.

Kathleen Williamson

To Whom It May Concern:

As an adjacent land owner to the above mentioned Subject Land, I would like to voice my concerns regarding the proposed severing of a 2.3-ha residential building lot and the granting of a road entrance permit (no. 2378)

The lot in question offers an especially diverse growth area for native plant species that in turn attract a variety of birds and wildlife. It has a concentration of sugar maple trees which create a dramatic display of fall colors. Part of the County's goal is to "maintain a mosaic of healthy community forests that (the County says) are managed sustainably and (are here to) provide social, scientific, cultural and spiritual benefits to the people of Lanark". By consenting to yet another residential building lot in this area I feel, the County is negating its own goal. In order to build on this site, many, if not most of the trees will need to be removed.

As well, I believe the proposed entrance permit does not meet the road safety criteria, that is, a stopping sight distance in both directions of 140 meters. Also, I would question whether the distance between the proposed entrance (permit no. 2378) and the existing entrance at 1013 Port Elmsley Road is at the required distance. The County is required to protect the safety of all roadway users through the orderly control of traffic movements. I am concerned there continue to be too many entrances / accesses on this rural County road that ultimately may lead to further hazards to through traffic and existing residents.

In the New Official Plan ... The Sustainable Communities Official Plan (SCOP), the County has made a commitment to maintain and protect the distinct character and identity of rural areas. RURAL. .. is the key word! According to a site map created by McIntosh Perry the lands adjacent to this proposed site are "of natural and scientific interest" something I wish to keep for my community!

I am interested in receiving notification of both a public meeting (once you have completed your review of the proposal) and the decision of the Land Division Committee in respect to the proposed consent.

d. PLANNING REVIEW

Background and Summary

The applicant proposes to sever 2.3-ha residential building lot and retain a 1.34-ha residential lot with an existing dwelling located at 1077 Port Elmsley Road.

The subject lands are located in an area characterized by Residential on large landholdings interspersed with typical residential building lots. N existing farming operation is located to the west. One previous severance was created from the original parcel through application B1979/187

The lands are accessed via Port Elmsley Road, a county maintained road.

Due to the proximity of an active farming operation, the applicant prepared a MDS Calculation on the McLean Farm located to the west of the lands to be severed. The MDS calculation noted that a setback of 471m would be required for any new development. In accordance with the implementation guidelines No. 12 – existing uses – “Where there are four or more existing non-farm uses closer to the subject livestock facility and in immediate proximity of the current application, MDS 1 will not apply. As shown on the attached sketch, four existing dwelling and one vacant building lot are within the 471 m influence area. Four of these lots are closer than the proposed new lot. Therefore MDS 1 does not apply, however to ensure the greatest separation distance, a note should be included on the Conditions (if approved) to require that the building

envelope be located on the

easterly boundary of the proposed lot. The deed should also include a condition advising of the proximity to a livestock operation.

Bedrock Inventory – Dolostone, sandstone

Official Plan Policies

- 1/ Lanark County Sustainable Communities Official Plan - Section 8.2.2 Consents. Lanark County, through an appointed Land Division Committee is the approval authority for the issuance of consents. Lot creation by consent shall be permitted where lot creation by plan of subdivision is deemed to be unnecessary. Consideration of locational and development criteria by the approval authority shall be based on local Official Plans. In considering a consent, regard shall also be had to, among other matters, the criteria of Section 51 (24) of the *Planning Act, R.S.O. 1990* with necessary modifications.
- 2/ Drummond / North Elmsley Official Plan Policies for the Division of Land are found in Section 6.3 of the OP. Generally the consent process will be used for the purpose of creating a limited number of lots. Where more than three (3) lots are proposed, development shall occur by plan of subdivision. A number of “general policies” also apply to the division of land, including: hamlets are primary focus for development, no undue extension of major service required, supporting studies as required, must have existing public road frontage, size and setbacks appropriate to zoning designation, MDS separation, no development on lands subject to hazards, flooding etc. . The lot creation date for Drummond / North Elmsley is January 1, 1979
- 3/ Woodlands
The area has no areas mapped as ‘woodlands’. Woodland Development Policies have been established by the Township of Drummond / North Elmsley.

Zoning

The subject property is currently zoned Rural (RU) which permits a number of uses, including single-detached dwellings. The property to be created exceeds the minimum lot size and frontage requirements of the zoning by-law.

Conclusion

The Provincial Policy Statements encourages development to occur in designated *settlement areas*. The proposed lots are not located within a designated settlement area, and therefore fall under PPS Section 1.1.4. Section 1.1.4.1.d) provides that development that is compatible with the rural landscape and can be sustained by rural service levels should be promoted. No new or additional infrastructure is required as a result of the proposal. The severed lands meet the minimum requirements of Township’s Official Plan which is appropriate in the rural setting. The application can meet the consistent with test of the Provincial Policy Statement.

There were no objections raised by any of the agencies which were circulated regarding this proposal. In light of the foregoing, this office is satisfied that the applicant’s proposal maintains the general intent and purpose of the PPS, the County Official Plan and Official Plan for the Township of Drummond / North Elmsley and could be given

favourable consideration.

e. **MINUTES – October 16, 2012**

Brian Moore, owner attended the hearing and gave evidence under oath.

Committee reviewed the staff report and draft conditions.

f. **DECISION & CONDITIONS**

DECISION: PROVISIONAL CONSENT IS GRANTED

REASONS: Having determined that a plan of subdivision is not necessary for the proper and orderly development of the municipality, and having determined that the proposal is consistent with the policy statements issued under subsection 3(1) of the Planning Act, and having had regard to the matters under subsection 51(24) of the Planning Act.

CONDITIONS:

1. An acceptable reference plan or legal description of the severed lands and the deed or Instrument conveying the severed lands shall be submitted to the Secretary-Treasurer for review and consent endorsement **within a period of one year** after the "Notice of Decision" is given under Section 53 (17) or (24) of the Planning Act.
2. The applicant shall provide the Secretary-Treasurer of the Land Division Committee with a digital copy of the registered reference plan.
3. The Certificate of Consent "Schedule" attached to the deed / transfer required by Condition #1 above, shall include the following condition "The lot is adjacent to an agricultural area and may therefore be subject to noise, dust, odours and other nuisances associated with agricultural activities".
4. The deed of land required by condition #1 above shall recognize any easements that currently exist, specifically in relation to the poles and anchors owned by Hydro One Inc. The applicant shall consult directly with Hydro One Inc, Zone 4 – Perth in this regard.
5. The balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to the Township of Drummond / North Elmsley.
6. The applicants shall satisfy all the requirements of the Township of Drummond / North Elmsley, financial and otherwise, that may be required under established by-laws for consent applications.
7. The applicant shall provide the Township of Drummond / North Elmsley with a copy of all reference plans associated with this application if a survey is required by the Land Titles Office.
8. The applicant shall obtain a Civic Address Number from the Township of

Drummond / North Elmsley. The applicant shall consult directly with the Township in this regard.

9. The applicant shall submit a full entrance application to the County of Lanark Public Works Department and install the entrance as required in the permit.
10. The County Public Works Department shall confirm that the existing/proposed entrances to the lots to be severed and retained have been installed to the satisfaction of the County.
11. Sufficient lands shall be deeded to "The Corporation of the County of Lanark", along the frontage of the lot to be severed, to meet the municipality's road widening requirements, at no cost to the County. Sufficient lands may be required across the frontage of the retained lands to meet the municipality's road widening requirements, and in these cases, the applicant will be requested to enter into a land purchase agreement with the County. "In Preparation" transfer documents are to be submitted to the Lanark County Public Works Department for review and approval, prior to registration, accompanied by a Solicitor's Certificate indicating that the municipality's title is free and clear of all encumbrances and the municipality has a good and marketable title. The County of Lanark Construction Supervisor shall be consulted, prior to commencing a survey, to determine the amount of road widening required. The reference plan, describing the road widening, must be approved by the Lanark County Public Works Department prior to registration. Following registration, one copy of the plan shall be forwarded to the County of Lanark Public Works Department.
12. A letter shall be received from the County of Lanark Public Works Department stating that condition #9 through #10 has been fulfilled to their satisfaction.
13. A letter shall be received from Hydro One Inc. Zone 7 – Perth stating that condition #4 has been fulfilled to their satisfaction.
14. A letter shall be received from the Township of Drummond / North Elmsley stating that condition #5 through #8 has been fulfilled to their satisfaction.

NOTES

1. *It is recommended that the applicant review available water well records of adjacent lands to determine that there is adequate potable water for a residential dwelling.*
2. *The Leeds Grenville and Lanark District Health Unit advises that additional fill / imported fill may be required in the septic system area.*
3. *The lands to be severed and the retained lot may be subject to the Minimum Distance Separation requirements under the Agricultural Code of Practice. All future structures must respect MDS calculations. To ensure the greatest separation distance is maintained between the existing livestock operation and the proposed dwelling, the building envelope should be located along the easterly boundary of the severed lot.*
4. *The County of Lanark advises that, prior to the issuance of a building permit, Development Charges must be paid in full.*

5. *Endangered Species Act, 2007, and Species at Risk in Ontario Background*
The ESA 2007 protects both species and habitat. Section 9 of the ESA “prohibits killing, harming, harassing, capturing, possessing, collecting, buying, selling, trading, leasing or transporting species that are listed as threatened, endangered or extirpated”. Section 10 of the ESA, 2007 prohibits damaging or destroying habitat of endangered or threatened species. Protected habitat is either based on general definition in the Act or prescribed through a regulation. The ESA 2007 defines general habitat as an area on which the species depends, directly or indirectly, to carry on its life processes, including reproduction, rearing, hibernation, migration or feeding.

It is important to be aware that changes may occur in both species and habitat protection. The ESA applies to listed species on the Species at Risk in Ontario List (SARO). The Committee on the Status of Species in Ontario (COSSARO) meets regularly to evaluate species for listing and/or re-evaluate species already listed. As a result, species’ designations may change that could in turn change the level of protection they receive under the ESA 2007. Also, habitat protection provisions for a species may change e.g. if a species-specific habitat regulation comes into effect. The regulation would establish the area that is protected as habitat for the species.

The Ministry of Natural Resources continues to encourage ecological site assessments to determine the potential for SAR occurrences. When a SAR does occur on the site, it is recommended that the developer contact MNR for technical advice and to discuss what activities can occur without contravention of the Act. If an activity is proposed that will contravene the Act, the developer must contact the MNR to discuss the potential for application of certain permits or agreement.



LAND DIVISION STAFF REPORT

APPLICATION FOR CONSENT

Owner: Donald Gordon **Hearing Date:** October 16, 2012
Agent: N/A
LDC File #: B12/051
Municipality: Tay Valley Township
Geographic Township: Bathurst **Lot:** 21 **Con** 6
Roll No. 0911 916 025 05100 **Consent Type:** Lot addition

Purpose and Effect: To sever a 2,670 m2 parcel of land as a lot addition to lands owned by Donald Gordon at Pt. Lot 21 Conc. 6, geographic Township of Bathurst, being Pt. 1 on 27R-6715, now in Tay Valley Township.

DETAILS OF PROPOSAL	Land to be Severed	Land to be Retained
Existing Use	Vacant – residential	Residential
Proposed Use	Garage - residential	Residential
Area	2,670 m2	5,874m2
Frontage	30 m	66 m
Depth	89 m	89 m
Road - Access to	Municipal Road	Municipal Road
Water Supply	Private Well	Private Well
Sewage Disposal	N/A	Private Septic
Official Plan Designation -Conformity?	Agriculture Yes	
Zoning Category	Agriculture	Agriculture
-Area Required (min.)	n/a lot addition	n/a existing
-Compliance?		
-Frontage Required (min.)		
-Compliance?		

(a) APPLICATION REVIEW

Provincial Policy Statement - Provincial Interests were identified as follows:

1.1 Managing and Directing Land Use

Section 1.1.1.c) Healthy, liveable and safe communities are sustained by avoiding development and land use patterns which may cause environmental or public health and safety concerns.

Section 1.1.4.1 In rural areas located in municipalities permitted uses and activities shall relate to the management or use of resources, resource-based recreational activities, limited residential development and other rural land uses.

1.6 Infrastructure and Public Service Facilities

Section 1.6.4.4 Individual on-site sewage services and individual on-site water services shall be used for a new development of five or less lots or private residences where municipal sewage services and municipal water services or private communal sewage services and private communal water services are not provided and where site conditions are suitable for the long-term provisions of such services.

2.3 Agriculture

Section 2.3.4.1 Lot creation in prime agricultural areas is discouraged and may only be permitted for:

a) agricultural uses, provided that the lots are of a size appropriate for the type of agricultural use(s) common in the area and are sufficiently large to maintain flexibility for future changes in the type or size of agricultural operations.

County Official Plan - Section 3.0 Rural Area Policies, Section 3.3.3 Lot Creation, Section 4.3.4 Local Roads, Section 4.4 Water, Waste Water and Stormwater Services, Section 8.2.2 Consents. The proposal conforms to the designations and policies of the Official Plan for the County of Lanark.

Official Plan – Section 2 General Development Policies, Section 3.2 Agriculture Policies, Section 4.4 Township Roads, Section 5.2 Land Division.

Tay Valley Township advises that the proposal conforms to the designations and policies of the Official Plan.

Zoning By-law - Section 3 General Provisions, Section 11 Agriculture Zone
Tay Valley Township advises that the proposal complies with the zoning by-law regulations.

(b) AGENCY REVIEW

This application has been circulated to those agencies that were considered to have an interest in the proposal. The following comments were received:

Tay Valley Planner's Notes

The proposal is to sever a 0.267 ha parcel of land as a lot addition to lands owned by Donald Gordon at Pt. Lot 21 Conc. 7 Bathurst and retain a .59 ha landholding with a residence. The current Official Plan designation is Agricultural.

The retained land currently has a house and shed. The severed land is proposed to be added to 875 Bathurst 7th Con for building a garage. Proposed uses are permitted. The lot to be added to, plus the severed addition, will total 91m frontage, meeting the required 60 m minimum. The retained lot will have 66 m frontage on Bathurst 7th Con and 89 m on Harper Road. The minimum lot size of 40 ha is not a requirement for a lot addition in the Agricultural zone. The current zoning category is Agriculture. Mississippi Valley Conservation has no issues, screened out the application. MRSSO – no issues.

Tay Valley Township – recommends approval of this application subject to the following conditions:

- 1/ Payment of taxes owing.
- 2/ Payment of all cost incurred by the Township for review.
- 3/ Copy of Deed / transfer.

4/ 1 copy of the reference plan.

Conservation Authority Mississippi Valley Conservation

A cursory review of the above noted application revealed no issues with regard to Mississippi Valley Conservation's plan input and review program. We have therefore screened this application out of our formal review process.

On-Site Services (Septics) – MRSSO

A review of the Consent Application was conducted to ensure that the transferring of the subject lands will not impact the minimum requirements established in Part 8 of the Ontario Building Code (OBC). A site visit was conducted June 11, 2012.

The applicant proposes to sever a 0.267 hectare parcel, for the purpose of a lot addition to Lot 21, Concession 6, known municipally as 875 Bathurst 7th Concession. The proposed lot is currently vacant comprised of an open field with a tree line at the North and South ends. No test pits were provided.

The retained parcel is approximately 0.5874 hectares. The retained lot is developed with a dwelling and an outbuilding. The dwelling is serviced by a well and a sewage system. Although there is no permit record for the retained parcel, during the site inspections it was determined that the existing leaching field will possibly be 30m from the proposed lot line. No test pits were provided.

The severance will not interfere with the ability to operate, maintain, install or replace a sewage system in the future on either the proposed or retained lot. Our office has no objections to the severance as proposed. An approved septic permit is required prior to the issuance of most building permits.

If you have any questions, please do not hesitate to call.

(c) PUBLIC COMMENTS

Written submissions were received in response to the notice of application sent to every landowner pursuant to Clause 53(5) (a) of the Planning Act and Section 3(2) of O.Reg. 197/96 as amended, as follows:

D. France –

Thank you for informing me of the application for consent at point.

Attached is a copy of the decision made by the planning committee in 1996 regarding the subject property. Please note, in particular, the note# 1 "The Land Division Committee advises the applicant and future owners that no further divisions by consent resulting in a new lot creation will be permitted from the retained property". What is the point of decisions if they are ignored at convenience?

In 1996 Mr. Gordon was granted a severance which resulted in three houses, I have no doubt that another house is in mind for this application. I find this disruptive personally and inadvisable with regard to the preservation of a rural environment. I would draw your attention to numerous studies over decades which note the negative affect that strip development has on rural community. Strip developments with the resulting increase in rural population density, decline in agricultural capability, and environmental degradation are poor planning to say the least.

I recommend that consent in this application be denied. I wish to be notified of the decision by the Land Development Committee. Should there be a public meeting I wish to be notified.

NOTE: Mr. France was advised that this application is a "Lot Addition" and that no new lots were being created.

(d) **PLANNING REVIEW**

Background and Summary

The applicant proposes to sever 0.267-ha parcel of land as a lot addition to the adjacent lands owned by Donald Gordon and described as Pt. Lot 21 Conc. 6, geographic Township of Bathurst, being Pt. 1 on 27R-6715, now in Tay Valley Township. The intent of the additional land is to provide space to construct a new garage for storage

The subject lands are located in an area characterized by Residential on typical urban type lots within the hamlet of Harper. Harper has not been designated as a 'settlement area'.

The severed lands will be accessed via the existing entrance at 875 7th Con Bathurst and the retained lands are accessed via an existing entrance at 1112 Harper Road.

Official Plan Policies

- 1/ Lanark County Sustainable Communities Official Plan - Section 8.2.2 Consents. Lanark County, through an appointed Land Division Committee is the approval authority for the issuance of consents.
Lot creation by consent shall be permitted where lot creation by plan of subdivision is deemed to be unnecessary.
Consideration of location and development criteria by the approval authority shall be based on local Official Plans. In considering a consent, regard shall also be had to, among other matters, the criteria of Section 51 (24) of the *Planning Act, R.S.O. 1990* with necessary modifications.
- 2/ Tay Valley Official Plan Policies for the Division of Land are found in Section 5.2 of the OP. The division of land by the consent process is intended for the creation of not more than three (3) new lots. A number of 'general policies' also apply to the division of land, including: size and setbacks appropriate to zoning designations, frontage on existing public roads (or existing private road for waterfront development), studies as required, MDS separation. The lot creation date for Tay Valley is January 1, 1986. Lot additions do not 'count' in the lot creation criteria as set out in the Official Plan.
- 3/ Woodlands
The area has not been as 'woodlands'. Woodland Development Policies have not been established by Tay Valley Township.

Zoning

The subject property is currently zoned Agriculture (A). This zoning classification permits a limited amount of development, including accessory dwellings. The development on the lands are existing and are therefore classed as "legal non-conforming".

Conclusion

The Provincial Policy Statements encourages development to occur in designated *settlement areas*. The proposed lots are not located within a designated settlement area, and therefore fall under PPS Section 1.1.4. Section 1.1.4.1.d) provides that development that is compatible with the rural landscape and can be sustained by rural service levels

should be promoted. No new or additional infrastructure is required as a result of the proposal. The severed lands meet the minimum requirements of Township's Official Plan which is appropriate in the rural setting. The application can meet the consistent with test of the Provincial Policy Statement.

There were no objections raised by any of the agencies which were circulated regarding this proposal. In light of the foregoing, this office is satisfied that the applicant's proposal maintains the general intent and purpose of the PPS, the County Official Plan and Official Plan for Tay Valley Township and could be given favourable consideration.

(e) **MINUTES – October 16, 2012**

Donald Gordon, owner attended the hearing and gave evidence under oath. Doug France, adjacent landowner, attended the hearing and gave evidence by affirmation.

Mr. France advised that he is satisfied that the application is for a lot enlargement only and that no new lot will be created.

Committee reviewed the staff report and draft conditions.

(f) **DECISION & CONDITIONS**

DECISION: PROVISIONAL CONSENT IS GRANTED

REASONS: Having determined that a plan of subdivision is not necessary for the proper and orderly development of the municipality, and having determined that the proposal is consistent with the policy statements issued under subsection 3(1) of the Planning Act, and having had regard to the matters under subsection 51(24) of the Planning Act.

CONDITIONS:

7. An acceptable reference plan or legal description of the severed lands and the deed or Instrument conveying the severed lands shall be submitted to the Secretary-Treasurer for review and consent endorsement **within a period of one year** after the "Notice of Decision" is given under Section 53 (17) or (24) of the Planning Act.
8. The applicant shall provide the Secretary-Treasurer of the Land Division Committee with a digital copy of the registered reference plan.
9. The Certificate of Consent "Schedule" attached to the deed / transfer required by Condition #1 above, shall include the following condition "The lands to be severed are for the purpose of a lot addition only to the adjacent lands owned by Donald Gordon and described as Pt. Lot 21 Conc. 6, geographic Township of

Bathurst, being Pt. 1 on 27R-6715, now in Tay Valley Township, and any subsequent transfer, charge or other conveyance of the lands to be severed is subject to Section 50(3) (or subsection 50(5) if in a plan of subdivision) of the Planning Act. Neither the lands to be severed nor the adjacent lands are to be reconveyed without the other parcel unless a further consent is obtained. The owner shall cause the lands to be severed to be consolidated on title with the adjacent lands and for this condition to be entered into the parcel register as a restriction”.

10. The balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to Tay Valley Township.
11. The applicants shall satisfy all the requirements of Tay Valley Township, financial and otherwise, that may be required under established by-laws for consent applications.
12. The applicant shall provide Tay Valley Township with a copy of all reference plans associated with this application if a survey is required by the Land Titles Office.
13. The applicant shall provide Tay Valley Township with a copy of the deed/transfer for the property.
14. A letter shall be received from Tay Valley Township stating that condition #4 through #7 has been fulfilled to their satisfaction.

NOTES

1. *Endangered Species Act, 2007, and Species at Risk in Ontario Background*
The ESA 2007 protects both species and habitat. Section 9 of the ESA “prohibits killing, harming, harassing, capturing, possessing, collecting, buying, selling, trading, leasing or transporting species that are listed as threatened, endangered or extirpated”. Section 10 of the ESA, 2007 prohibits damaging or destroying habitat of endangered or threatened species. Protected habitat is either based on general definition in the Act or prescribed through a regulation. The ESA 2007 defines general habitat as an area on which the species depends, directly or indirectly, to carry on its life processes, including reproduction, rearing, hibernation, migration or feeding.

It is important to be aware that changes may occur in both species and habitat protection. The ESA applies to listed species on the Species at Risk in Ontario List (SARO). The Committee on the Status of Species in Ontario (COSSARO) meets regularly to evaluate species for listing and/or re-evaluate species already listed. As a result, species’ designations may change that could in turn change the level of protection they receive under the ESA 2007. Also, habitat protection provisions for a species may change e.g. if a species-specific habitat regulation comes into effect. The regulation would establish the area that is protected as habitat for the species.

The Ministry of Natural Resources continues to encourage ecological site assessments to determine the potential for SAR occurrences. When a SAR does occur on the site, it is recommended that the developer contact MNR for technical

advice and to discuss what activities can occur without contravention of the Act. If an activity is proposed that will contravene the Act, the developer must contact the MNR to discuss the potential for application of certain permits or agreement.



LAND DIVISION STAFF REPORT

APPLICATION FOR CONSENT

Owner: Brian Craik & Frances Craik **Hearing Date:** October 16, 2012
Agent: n/a
LDC File #: B12/055 and B12/056
Municipality: Tay Valley Township
Geographic Township: Bathurst **Lot:** 25 **Concession:** 3
Roll No. 0911 916 015 38000 **Consent Type:** Two New Lots

Purpose and Effect: To sever two (2) residential building lots (1.06-ha each) and retain a 3.22-ha residential lot with an existing dwelling located at 298 Christie Lake Road.

DETAILS OF PROPOSAL	Land to be Severed		Land to be Retained
	B12/055	B12/056	
Existing Use Proposed Use	Vacant Residential	Vacant Residential	Residential Residential
Area	1.06-ha	1.06-ha	3.22-ha
Frontage	70 m	70 m	280.98 m
Depth	151.24 m	151.24 m	151.24 m
Road - Access to	County Rd	County Rd	County Road
Water Supply	Proposed	Proposed	Private Well
Sewage Disposal	Proposed	Proposed	Septic System
Official Plan Designation -Conformity?	Rural Yes		
Zoning Category	Rural		Rural
-Area Required (min.)	0.405-ha		0.405-ha
-Compliance?	Yes		Yes
-Frontage Required (min.)	60 m		60 m
-Compliance?	Yes		Yes

a. **APPLICATION REVIEW**

Provincial Policy Statement - Provincial Interests were identified as follows:

1.1 Managing and Directing Land Use

Section 1.1.1.c) Healthy, liveable and safe communities are sustained by avoiding development and land use patterns which may cause environmental or public health and safety concerns.

Section 1.1.4.1 In rural areas located in municipalities permitted uses and activities shall relate to the management or use of resources, resource-based recreational activities,

limited residential development and other rural land uses.

1.6 Infrastructure and Public Service Facilities

Section 1.6.4.4 Individual on-site sewage services and individual on-site water services shall be used for a new development of five or less lots or private residences where municipal sewage services and municipal water services or private communal sewage services and private communal water services are not provided and where site conditions are suitable for the long-term provisions of such services.

2.1 Natural Heritage

Section 2.1.1 Natural features and areas shall be protected for the long term.

Section 2.1.3 Development and site alteration shall not be permitted in: (a) significant wetlands in Ecoregions 5E, 6E and 7E.

Section 2.1.4 Development and site alteration shall not be permitted in: (b) significant woodlands south and east of the Canadian Shield, unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions.

Section 2.1.6 Development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas identified in policies 2.1.3, 2.1.4 and 2.1.5 unless the ecological features function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features of on their ecological functions.

County Official Plan - Section 3.0 Rural Area Policies, Section 3.3.3 Lot Creation, Section 4.3.2 County Roads, Section 4.3.3 County Road Policies, Section 4.4 Water, Waste Water and Stormwater Services, Section 7.8 Noise and Vibration, Section 8.2.2 Consents. The proposal conforms to the designations and policies of the Official Plan for the County of Lanark.

Official Plan – Section 2 General Development Policies, Section 3.6 Rural Policies Section 4.3 County Roads, Section 5.2 Land Division.

Tay Valley Township advises that the proposal conforms to the designations and policies of the Official Plan.

Zoning By-law - Section 3 General Provisions, Section 10 Rural Zone.

Tay Valley Township advises that the proposal complies with the zoning by-law regulations.

b. AGENCY REVIEW

This application has been circulated to those agencies that were considered to have an interest in the proposal. The following comments were received:

Tay Valley Planners Notes

The proposal is to sever two residential building lots (1.06 ha each) and retain a 3.22 ha residential lot with an existing dwelling at 298 Christie Lake Road. The current Official Plan Designation is Rural and Natural Hazard.

The severed lands are currently vacant, proposed residential uses are permitted. The retained lot currently has a house, barn and outbuildings. Both severed and retained lands meet minimum requirements for lot size and frontage. The MDS (minimum

distance separation) from the barn to the new lots is satisfactory.

Rideau Valley Conservation Authority - has no objection to the subject lot addition provided mitigative measures are implemented on the proposed retained lands as outlined in their letter i.e., no changes in grade in the floodplain and setback of 30 m from the floodplain.

MRSSO - has no objection to the severance as proposed. The topography and area for both the severed and retained lots are adequate to support the installation or replacement of an OBC compliant sewage system greater than 30m from all water bodies and the Flood Plain/Regulation Limit. Tertiary treatment of the on-site waste water would reduce the amount of imported sand fill required.

Tay Valley Township - recommends approval of this application subject to the following conditions:

- 1/ Payment of all taxes owing
- 2/ Payment of all cost incurred by the Township for review
- 3/ Copy of Deed/transfer
- 4/ 1 copy of the reference plan
- 5/ Parkland contribution of \$100 for each application

Conservation Authority

The subject application has been reviewed by the Rideau Valley Conservation Authority. We offer the following comments within the context of Section 2.1- Natural Heritage and Section 3.1- Natural Hazards of the Provincial Policy Statement under Section 3 of the Planning Act. We have also considered planning applications from the perspective of the Rideau Valley Conservation Authority regulation 174-06 ("Development, Interference with Wetlands and Alterations to Shorelines and Watercourses") under Section 28 of the Conservation Authorities Act.

The above noted property is located outside of the 1:100 year floodplain of the Tay River. However *the access route (County Road 6) shows as a low area on our mapping and is situated within the 1:100 year flood plain of the Tay River (range along the frontage of 136.18 to 136.21 metres geodetic).* The Rideau Valley Conservation Authority's Floodplain Policies for safe access/egress considers safe vehicular access on municipal roadways and private right of way to be maintained if the depth of flood water at regulatory (1: 100 year) flood level is less than 0.3 metres.

Further to our conversations with the owner, we have now received the local site specific elevations of the County Road immediately along the frontage of the proposed lots from the applicant's surveyor (George Bracken). The survey confirms that the elevations range from 136.00 to 36.18 (.21 and .15 metres respectively, below flood elevation). *As the flood depth potential is therefore less than 0.3 metres in a 1:100 year event, the RVCA is satisfied that the lots call be created without impediment to safe access.*

Should approval be given, we request that notice be provided to the owner to recognize that that changes in grade within the flood and fill regulated area on the extreme south portion of the proposed lots will require a permit from the RVCA as this area extends on to the south portion of the property (see attached mapping).

We also note that the retained parcel has flood susceptible lands along the south boundary/county road and also in the area associated with the minor watercourse

traversing the southwest corner of the lot. Any proposed alteration to the watercourse or disturbance within the regulated area of the retained lot requires prior written approval from the Conservation Authority.

Trusting this is satisfactory; we thank you for the opportunity to comment. Please do not hesitate to contact the undersigned should there be any questions. We would appreciate being apprised of any changes to the form or nature of the application.

On-Site Services (Septics) – MRSSO

A site visit was conducted at the above mentioned property by our office on June 13, 2012, to ensure that the transferring of the subject lands will not impact the minimum requirements established in Part 8 of the Ontario Building Code (OBC).

The applicant proposes to sever approximately 1.06 hectare parcel to create a new lot, with the intended use as residential. The proposed lot is currently vacant open field with tree lines on the perimeter. The Rideau Valley Conservation Authority Floodplain / Regulation Limit Layer on CGIS, indicates a portion of the proposed lot is within the Floodplain and Regulation Limit. No test pits were present for inspection.

The retained parcel is approximately 4.28 hectares and is developed with a dwelling, barn and several outbuildings. The remainder of the retained parcel is open field, perimeter of trees and a small pond in the south west portion of the lot. The Rideau Valley Conservation Authority Floodplain/Regulation Limit Layer on CGIS, indicates a portion of the retained is within the Floodplain and Regulation Limit. The existing dwelling is serviced by a sewage system (Permit Number not available). No test pits were present for inspection.

The topography and area for both the severed and retained lots are adequate to support the installation or replacement of an OBC compliant sewage system greater than 30m from all water bodies and the Flood Plain/Regulation Limit. Tertiary treatment of the on-site waste water should be considered. They can reduce the amount of imported sand fill required and also provides higher quality effluent prior to entering the environment.

The Mississippi Rideau Septic System Office has no objections to the severance as proposed.

CPR – No comments were received.

County Public Works Department

- 1/ Applicant has an approved existing entrance to the County Road – retained lands No. 2397.
- 2/ Applicant has an approved entrance location to the Count Road – severed lands No. 2380.
- 3/ Entrance to be installed prior to deed endorsement for the severed lands.
- 4/ Land to be severed B12/055 and B12/056 has an approved entrance location which will service the severed lots as a Common Residential entrance. Lands to be retained have an existing residential entrance Permit No. 2397. A full entrance application must be submitted and entrance installed prior to deed endorsement.
- 5/ Sufficient lands shall be deeded to “The Corporation of the County of Lanark”, along the frontage of the lot to be severed, to meet the municipality’s road widening requirements, at no cost to the County. Sufficient lands may be required across the frontage of the retained lands to meet the municipality’s road widening

requirements, and in these cases, the applicant will be requested to enter into a land purchase agreement with the County. "In Preparation" transfer documents are to be submitted to the Lanark County Public Works Department for review and approval, prior to registration, accompanied by a Solicitor's Certificate indicating that the municipality's title is free and clear of all encumbrances and the municipality has a good and marketable title. The County of Lanark Construction Supervisor shall be consulted, prior to commencing a survey, to determine the amount of road widening required. The reference plan, describing the road widening, must be approved by the Lanark County Public Works Department prior to registration. Following registration, one copy of the plan shall be forwarded to the County of Lanark Public Works Department.

Hydro One Networks –

Conducted a field visit to 298 Christie Lake Road L25 Con 3 Bathurst now in Tay Valley Township. There seems to be a secondary service crossing "LANDS TO BE RETAINED" and "LANDS TO BE SEVERED B12/056". This service is feeding a customer on the "LANDS TO BE RETAINED" portion of the sketch provided. I would recommend an easement be established on the "LANDS TO BE SEVERED B12/056" from the proposed future lot line to the primary feeding the service. An alternative would be to alter the size of "LANDS TO BE SEVERED B12/056" to just past the secondary service, avoiding the crossing of properties by the secondary line.

NOTE: this issue was discussed with the applicants who agreed to revise the lot line accordingly.

Bell Canada R-O-W – No comments were received.

c. PUBLIC INPUT

No written submissions were received in response to the notice of application sent to every landowner pursuant to Clause 53(5) (a) of the Planning Act and Section 3(2) of O.Reg. 197/96 as amended.

d. PLANNING REVIEW

Background and Summary

The applicant proposes to sever two (2) 1.06-ha residential building lots and retain a 3.22-ha residential lot with an existing dwelling located at 298 Christie Lake Roads.

The subject lands are located in an area characterized by Residential on estate type lots along Christie Lake Road. The CPR tracks and Highway No. 7 abut the lands the north, the former 'cattle barn' is located to the south and the Lanark Lodge and PCC are located to the east.

Through discussion with Hydro One, the applicant has agreed to alter the boundary line for B12/056 slightly in order to maintain the hydro line on one property.

The lands are accessed via Christie Lake Road, a county maintained road.

Bedrock Inventory – granodiorite, granite, syenite

Official Plan Policies

- 1/ Lanark County Sustainable Communities Official Plan - Section 8.2.2 Consents. Lanark County, through an appointed Land Division Committee is the approval authority for the issuance of consents.

Lot creation by consent shall be permitted where lot creation by plan of subdivision is deemed to be unnecessary. Consideration of location and development criteria by the approval authority shall be based on local Official Plans. In considering a consent, regard shall also be had to, among other matters, the criteria of Section 51 (24) of the *Planning Act, R.S.O. 1990* with necessary modifications.

- 2/ Tay Valley Official Plan Policies for the Division of Land are found in Section 5.2 of the OP. The division of land by the consent process is intended for the creation of not more than three (3) new lots. A number of 'general policies' also apply to the division of land, including: size and setbacks appropriate to zoning designations, frontage on existing public roads (or existing private road for waterfront development), studies as required, MDS separation. The lot creation date for Tay Valley is January 1, 1986. No previous severances have been taken from the original parcel.

- 3/ Woodlands

The area has considerable land masses mapped as 'woodlands', care should be taken in any development proposal to maintain the existing tree cover. Woodland Development Policies have not been established by Tay Valley Township.

Zoning

The subject property is currently zoned Rural (RU) with Wetland along the southerly boundary (abutting the County Road). This zoning classification permits a number of uses, including single family dwellings. Both lot area and lot frontage exceed the required minimums as set out in the Zoning By-law.

Conclusion

The Provincial Policy Statements encourages development to occur in designated *settlement areas*. The proposed lots are not located within a designated settlement area, and therefore fall under PPS Section 1.1.4. Section 1.1.4.1.d) provides that development that is compatible with the rural landscape and can be sustained by rural service levels should be promoted. No new or additional infrastructure is required as a result of the proposal. The severed lands meet the minimum requirements of Township's Official Plan which is appropriate in the rural setting. The application can meet the consistent with test of the Provincial Policy Statement.

There were no objections raised by any of the agencies which were circulated regarding this proposal. In light of the foregoing, this office is satisfied that the applicant's proposal maintains the general intent and purpose of the PPS, the County Official Plan and Official Plan for Tay Valley Township and could be given favourable consideration.

(g) **MINUTES – October 16, 2012**

Brian Craik, owner, attended the hearing and gave evidence by affirmation.

Mr. Craik confirmed that there is an easement with Hydro One and that he has discussed this with them. The lot line will be adjusted as outlined by Hydro One.

Committee reviewed the staff report and draft conditions.

(h) **DECISION & CONDITIONS**

DECISION: PROVISIONAL CONSENT IS GRANTED

REASONS: Having determined that a plan of subdivision is not necessary for the proper and orderly development of the municipality, and having determined that the proposal is consistent with the policy statements issued under subsection 3(1) of the Planning Act, and having had regard to the matters under subsection 51(24) of the Planning Act.

CONDITIONS:

The same conditions apply to both lots:

1. An acceptable reference plan or legal description of the severed lands and the deed or Instrument conveying the severed lands shall be submitted to the Secretary-Treasurer for review and consent endorsement **within a period of one year** after the "Notice of Decision" is given under Section 53 (17) or (24) of the Planning Act.
2. The applicant shall provide the Secretary-Treasurer of the Land Division Committee with a digital copy of the registered reference plan.
3. The Certificate of Consent "Schedule" attached to the deed / transfer required by Condition #1 above, shall include the following condition "The lands are within proximity of an existing active railway line, and that the occupants of the lot may be susceptible to noise, dust, vibration and related impacts and other nuisances associated with the operation and maintenance activities".
4. The reference plan or legal description and the deed or instrument required by condition #1 above shall relate to the "revised Sketch" presented September 26, 2012.
5. An appropriate easement shall be granted to the HydroOne over the lands to be severed The applicant shall consult directly with HydroOne, Perth in this regard.
6. The applicant shall submit a full entrance application to the County of Lanark Public Works Department and install the entrance as required in the permit.
7. The County Public Works Department shall confirm that the existing/proposed entrances to the lots to be severed and retained have been installed to the satisfaction of the County.

8. Sufficient lands shall be deeded to "The Corporation of the County of Lanark", along the frontage of the lot to be severed, to meet the municipality's road widening requirements, at no cost to the County. Sufficient lands may be required across the frontage of the retained lands to meet the municipality's road widening requirements, and in these cases, the applicant will be requested to enter into a land purchase agreement with the County. "In Preparation" transfer documents are to be submitted to the Lanark County Public Works Department for review and approval, prior to registration, accompanied by a Solicitor's Certificate indicating that the municipality's title is free and clear of all encumbrances and the municipality has a good and marketable title. The County of Lanark Construction Supervisor shall be consulted, prior to commencing a survey, to determine the amount of road widening required. The reference plan, describing the road widening, must be approved by the Lanark County Public Works Department prior to registration. Following registration, one copy of the plan shall be forwarded to the County of Lanark Public Works Department.
9. The applicant shall obtain a Civic Address Number from Tay Valley Township. The applicant shall consult directly with the Township in this regard.
10. Payment of \$100.00 shall be made to Tay Valley Township representing the amount satisfactory to the Township of up to 5% of the value of the land pursuant to Section 51.1(3) of the Planning Act (Cash-in-Lieu of Parklands).
11. The balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to Tay Valley Township.
12. The applicants shall satisfy all the requirements of Tay Valley Township, financial and otherwise, that may be required under established by-laws for consent applications.
13. The applicant shall provide Tay Valley Township with a copy of all reference plans associated with this application if a survey is required by the Land Titles Office.
14. The applicant shall provide Tay Valley Township with a copy of the deed/transfer for the property
15. A letter shall be received from the County of Lanark Public Works Department stating that condition #6, #7, and #8 has been fulfilled to their satisfaction.
16. A letter shall be received from HydroOne, Perth stating that condition #5 has been fulfilled to their satisfaction.
17. A letter shall be received from Tay Valley Township stating that condition #9 through #14 has been fulfilled to their satisfaction.

NOTES

1. *The Rideau Valley Conservation Authority advises that the owner recognize that changes in grade within the flood and fill regulated area on the extreme south portion of the proposed lots will require a permit from the RVCA as this area extends on to the south portion of the property.*
2. *RVCA also advises that the retained parcel has flood susceptible lands along the*

south boundary/county road and also in the area associated with the minor watercourse traversing the southwest corner of the lot. Any proposed alteration to the watercourse or disturbance within the regulated area of the retained lot requires prior written approval from the Conservation Authority.

3. *The Mississippi-Rideau Septic System Office advises that the topography and area for both the severed and retained lots are adequate to support the installation or replacement of an OBC compliant sewage system greater than 30m from all water bodies and the Flood Plain/Regulation Limit. Tertiary treatment of the on-site waste water should be considered. They can reduce the amount of imported sand fill required and also provides higher quality effluent prior to entering the environment.*
4. *It is recommended that the applicant review available water well records of adjacent lands to determine that there is adequate potable water for a residential dwelling.*
5. *The County of Lanark advises that, prior to the issuance of a building permit, Development Charges must be paid in full.*
6. *Endangered Species Act, 2007, and Species at Risk in Ontario Background*
The ESA 2007 protects both species and habitat. Section 9 of the ESA “prohibits killing, harming, harassing, capturing, possessing, collecting, buying, selling, trading, leasing or transporting species that are listed as threatened, endangered or extirpated”. Section 10 of the ESA, 2007 prohibits damaging or destroying habitat of endangered or threatened species. Protected habitat is either based on general definition in the Act or prescribed through a regulation. The ESA 2007 defines general habitat as an area on which the species depends, directly or indirectly, to carry on its life processes, including reproduction, rearing, hibernation, migration or feeding.

It is important to be aware that changes may occur in both species and habitat protection. The ESA applies to listed species on the Species at Risk in Ontario List (SARO). The Committee on the Status of Species in Ontario (COSSARO) meets regularly to evaluate species for listing and/or re-evaluate species already listed. As a result, species’ designations may change that could in turn change the level of protection they receive under the ESA 2007. Also, habitat protection provisions for a species may change e.g. if a species-specific habitat regulation comes into effect. The regulation would establish the area that is protected as habitat for the species.

The Ministry of Natural Resources continues to encourage ecological site assessments to determine the potential for SAR occurrences. When a SAR does occur on the site, it is recommended that the developer contact MNR for technical advice and to discuss what activities can occur without contravention of the Act. If an activity is proposed that will contravene the Act, the developer must contact the MNR to discuss the potential for application of certain permits or agreement.



LAND DIVISION STAFF REPORT

APPLICATION FOR CONSENT

Owner: James Edward Closs **Hearing Date:** October 16, 2012
Agent: ZanderPlan Inc. (Tracy Zander)
LDC File #: B12/057 and B12/058
Municipality: Township of Lanark Highlands
Geographic Township: Dalhousie **Lot:** 11 **Concession:** 2
Roll No. 0940 002 025 06300 **Consent Type:** two (2) new lots

Purpose and Effect: To sever two (2) residential building lot (1.0-ha each) and retain a 37-ha landholding with an existing dwelling located at 1155 2nd Con Dal.

DETAILS OF PROPOSAL	Land to be Severed		Land to be Retained
	B12/057	B12/058	
Existing Use	Vacant	Vacant	Rural Residential
Proposed Use	Residential	Residential	Rural residential
Area	1.0-ha	1.0-ha	37.0-ha
Frontage	71.6 m	71.6 m	460.3 m
Depth	143 m	143 m	670.5 m
Road - Access to	Municipal Rd	Municipal Rd	Municipal Road
Water Supply	Proposed	Proposed	Private Well
Sewage Disposal	Proposed	Proposed	Septic System
Official Plan Designation -Conformity?	Rural Yes		
Zoning Category	Rural		Rural
-Area Required (min.)	1.0-ha		1.0-ha
-Compliance?	Yes		Yes
-Frontage Required (min.)	60 m		60 m
-Compliance?	Yes		Yes

a. **APPLICATION REVIEW**

Provincial Policy Statement - Provincial Interests were identified as follows:

1.1 Managing and Directing Land Use

Section 1.1.1.c) Healthy, liveable and safe communities are sustained by avoiding development and land use patterns which may cause environmental or public health and safety concerns.

Section 1.1.4.1 In rural areas located in municipalities permitted uses and activities shall relate to the management or use of resources, resource-based recreational activities,

limited residential development and other rural land uses.

1.6 Infrastructure and Public Service Facilities

Section 1.6.4.4 Individual on-site sewage services and individual on-site water services shall be used for a new development of five or less lots or private residences where municipal sewage services and municipal water services or private communal sewage services and private communal water services are not provided and where site conditions are suitable for the long-term provisions of such services.

County Official Plan - Section 3.0 Rural Area Policies, Section 3.3.3 Lot Creation, Section 4.3.4 Local Roads, Section 4.4 Water, Waste Water and Stormwater Services, Section 8.2.2 Consents.

The proposal conforms to the designations and policies of the Official Plan for the County of Lanark.

Official Plan – Section 3 Growth and settlement, Section 3.6 Rural Area, Section 4.2 Water Supply and Sewage Disposal, Section 4.5.3 Township Roads, Section 7.4 Forestry, Section 10.11.13 Subdivisions, Consents. The Township of Lanark Highlands advises that the proposal conforms to the designations and policies of the Official Plan.

Zoning By-law - Section 4.0 General Provisions, Section 6.0 Rural Zone

The Township of Lanark Highlands advises that the proposal complies with the zoning by-law regulations.

b. AGENCY REVIEW

This application has been circulated to those agencies that were considered to have an interest in the proposal. The following comments were received:

Township Planner's Report

1.0 Review of Proposal and Application

Two applications have been received from the County of Lanark Land Division Committee for the creation of two new lots. The property is legally described as Pt. Lot 11 Concession 2, geographic Township Dalhousie, now in the Township of Lanark Highlands.

The applicant wishes to sever two 2.5 acre residential building lots and retain a 91.5 acre landholding with an existing dwelling located at 1155 2nd, Con Dalhousie. The property is designated as Rural on Schedule 'A 2' of the Township's Official Plan and zoned Rural on Schedule 'A 2' by Zoning By-law 2003-451.

1.1 PROVINCIAL POLICY

As part of the province's long term commitment to economic prosperity and social well-being all planning applications must be consistent with the Provincial Policy Statement 2005 (PPS). As such a review of applicable policies must be undertaken and evaluated under the "consistent with" test.

New development must be evaluated to determine if unplanned extensions to existing infrastructure will result if the application is approved. The proposal will be privately serviced and it appears that the lands are of sufficient area to support a private well and septic system. Permits from the Health Unit will be required prior to any new development. The proposed lots have access to municipally maintained road.

1.2 OFFICIAL PLAN

Any application for consent must be evaluated with the policy directives of Section 10.11.13, which provides direction when considering the division of lands within the

Township. Proposals must be consistent with zoning, and enjoy sufficient frontage and depth to accommodate setbacks, within the proposed lot configuration. Abutting land uses must be evaluated for conflicts and natural heritage features.

The proposal as submitted can achieve those directives.

1.3 ZONING

The proposal will if approved result in the creation of two new lots that will comply with Official Plan policies and is consistent with Provincial Policy. The sketch accompanying the application illustrates that the lands have sufficient frontage and area to meet the requirements of the zoning By-law and no relief of the zoning provisions, standards or requirements will be required if this application moves forward to approval.

The application as proposed can be considered appropriate and as such represents good planning.

Township of Lanark Highlands - recommends approval of this application subject to the following conditions:

1. The balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to the Township.
2. An acceptable reference plan or legal description of the severed lands and the deed be submitted to the township.
3. That the applicant pays any outstanding fees to the Township prior to final approval.
4. That the applicant submits the 5% cash-in-lieu of parkland dedication fee to the Township.
5. The applicant shall obtain a Civic Address Number from the Township of Lanark Highlands. The applicant shall consult directly with the Township in this regard.
6. The applicant shall obtain an entrance location permit from the Township of Lanark Highlands. The applicant shall consult directly with the Township in this matter.
7. Sufficient land for Road Widening purposes shall be deeded to the Township of Lanark Highlands by registered deed, to meet the municipality's road widening requirements, at no cost to the Township. Deeds are to be submitted to the municipality for review accompanied by a solicitor's certificate indicating that the municipality's title is free and clear of all encumbrances and the municipality has a good and marketable title. The Township Roads Superintendent shall be consulted prior to commencing a survey to determine the amount, if any, of road widening required.

Conservation Authority – Mississippi Valley Conservation

Mississippi Valley Conservation (MVC) has been circulated the above noted application to conduct a review in terms of MVC Regulations and Provincial Planning Policy for Natural Heritage and Natural Hazard issues. Specifically, the purpose of this review is to assess potential impacts of the proposed development on known natural heritage features on and adjacent to the subject property. These features could include wetlands, wildlife habitat and areas of natural and scientific interest. This review also includes an evaluation of the subject property for natural hazards such as unstable slopes and areas prone to flooding and erosion.

PROPOSAL

It is our understanding that the purpose of the subject applications is to sever (2) vacant building lots, each measuring 1 ha. The retained land is 37 ha with an existing dwelling.

PROPERTY CHARACTERISTICS

According to a review of available GIS mapping and aerial photography, a tributary of Hopetown Creek travels through the retained land. In addition, the tributary appears to drain a small wetland located on the western portion. No natural heritage features or natural hazards were identified on either of the proposed severed lands.

REVIEW

No natural heritage features or natural hazards were identified on either of the proposed severed lands. The proposed retained lands are already developed with no new development proposed at this time.

RECOMMENDATIONS AND CONCLUSIONS

With all of the above in consideration, MVC has no objection to the subject applications. We recommend that the shoreline vegetation surrounding the tributary be maintained to a minimum depth of 15 metres, and the wetland remain undisturbed, on the retained lands.

NOTES

The property owner should be advised that in the event shoreline work is proposed along the watercourse, written permission may be required from MVC pursuant to Ontario Regulation 153/06 - "Development, Interference with Wetlands and Alterations to Shorelines and Watercourses".

In addition, any proposed works in or near the watercourse or wetland should be reviewed by MVC to ensure there will be no harmful alteration, disruption or destruction of fish habitat. Authorization under Section 35 of the Fisheries Act may be required for such work.

A review for Species at Risk was not conducted. We suggest contacting the Ministry of Natural Resources should you require a review in this regard.

On-Site Services (Septics) – Leeds, Grenville & Lanark District Health Unit

Severed – B12/057 & B12/058 (same report for both lots to be severed) – A bush lot with 0 - 0.5 metres of silty sand over bedrock. No obvious slope. Some visible rock outcrops. Depending on the location chosen for on-site sewage disposal, imported leaching bed fill may be required to construct a conforming system.

Retained – Large bush lot partially cleared with a dwelling and outbuildings. 0 – 0.5 metres of silty sand over bedrock. Existing filter bed in use. No obvious signs of failure. Retained lot is large enough for a replacement system if required in the future.

Hydro One Networks – No comments were received.

Bell Canada R-O-W – No comments were received.

c. **PUBLIC INPUT**

Written submissions were received in response to the notice of application sent to every landowner pursuant to Clause 53(5) (a) of the Planning Act and Section 3(2) of O.Reg. 197/96 as amended, as follows:

Don McNicol

I have received your “Notice of Application for Consent” regarding the possible severance of two residential building lots in the Pt. Lot 11 conc. 2 of Dalhousie Twshp currently owned by Jim Closs. I would appreciate receiving notification of the decision of the Land Division Committee with respect to the proposed consent.

d. **PLANNING REVIEW**

Background and Summary

The applicant proposes to sever two (2) residential building lots (1.0-ha each) and retain a 37-ha landholding with an existing dwelling located at 1155 2nd Con Dal.

The subject lands are located in an area characterized by large landholdings. A cluster development is located south of Watson’s Corners Road (locally known as Granny Cummins Corners) and the settlement area of Watson’s Corners is located to the west.

The lands are accessed via 2nd Con Dal, a municipally maintained road.

Soils Inventory – Name: Tweed

- Stoniness: very stony
- CLI: 7 – no capability for agriculture
- Drainage: well
- Hydrogeology: moderate

Bedrock Inventory – marble, calc-silicate, starn

Official Plan Policies

- 1/ Lanark County Sustainable Communities Official Plan - Section 8.2.2 Consents. Lanark County, through an appointed Land Division Committee is the approval authority for the issuance of consents. Lot creation by consent shall be permitted where lot creation by plan of subdivision is deemed to be unnecessary. Consideration of locational and development criteria by the approval authority shall be based on local Official Plans. In considering a consent, regard shall also be had to, among other matters, the criteria of Section 51 (24) of the *Planning Act, R.S.O. 1990* with necessary modifications.
- 2/ Lanark Highlands Official Plan Policies for the Division of Land are found in Section 10.11.13 of the OP. Generally, the consent process will be used for the purpose of creating up to two (2) parcel of land. A number of ‘general policies also apply to the division of lands, including: size and setbacks appropriate to zoning designation, supporting studies as required, MDS separation, frontage on public road unless exempted, no development on lands subject to hazards, flooding, etc., extension of major services not required. The lot creation date for

Lanark Highlands in March 2003.

One previous consent was created from the original parcel in 1992, however this is prior to the 'lot creation date' established by the current Official Plan.

3/ Woodlands

The area has considerable land masses mapped as 'woodlands', care should be taken in any development proposal to maintain the existing tree cover. Woodland Development Policies have not been established by the Township of Lanark Highlands.

Zoning

The subject property is currently zoned Rural (RU) which permits a number of uses, including single-detached dwellings. The property to be created meets the minimum lot size and frontage requirements of the zoning by-law.

Conclusion

The Provincial Policy Statements encourages development to occur in designated *settlement areas*. The proposed lots are not located within a designated settlement area, and therefore fall under PPS Section 1.1.4. Section 1.1.4.1.d) provides that development that is compatible with the rural landscape and can be sustained by rural service levels should be promoted. No new or additional infrastructure is required as a result of the proposal. The severed lands meet the minimum requirements of Township's Official Plan which is appropriate in the rural setting. The application can meet the consistent with test of the Provincial Policy Statement.

There were no objections raised by any of the agencies which were circulated regarding this proposal. In light of the foregoing, this office is satisfied that the applicant's proposal maintains the general intent and purpose of the PPS, the County Official Plan and Official Plan for the Township of Lanark Highlands and could be given favourable consideration.

e. **MINUTES – October 16, 2012**

Tracy Zander, agent, attended the hearing and gave evidence under oath.

Committee reviewed the staff report and draft conditions.

f. **DECISION & CONDITIONS**

DECISION: PROVISIONAL CONSENT IS GRANTED

REASONS: Having determined that a plan of subdivision is not necessary for the proper and orderly development of the municipality, and having determined that the proposal is consistent with the policy statements issued under subsection 3(1) of the Planning Act, and having had regard to the matters under subsection 51(24) of the Planning Act.

Same conditions apply to both applications.

1. An acceptable reference plan or legal description of the severed lands and the deed or Instrument conveying the severed lands shall be submitted to the Secretary-Treasurer for review and consent endorsement **within a period of one**

year after the "Notice of Decision" is given under Section 53 (17) or (24) of the Planning Act.

2. The applicant shall provide the Secretary-Treasurer of the Land Division Committee with a digital copy of the registered reference plan.
3. The balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to the Township of Lanark Highlands.
4. The applicant shall provide the Township of Lanark Highlands with a copy of all reference plans associated with this application if a survey is required by the Land Titles Office.
5. The applicants shall satisfy all the requirements of the Township of Lanark Highlands, financial and otherwise, that may be required under established by-laws for consent applications.
6. Payment shall be made to the Township of Lanark Highlands representing the amount satisfactory to the Township of up to 5% of the value of the land pursuant to Section 51.1(3) of the Planning Act (Cash-in-Lieu of Parklands).
7. The applicant shall confirm that a residential entrance to the subject lot is viable. The applicant shall consult directly with the Township of Lanark Highlands in this regard.
8. The applicant shall obtain a Civic Address Number from the Township of Lanark Highlands. The applicant shall consult directly with the Township in this regard.
9. Sufficient land for Road Widening purposes shall be deeded to the Township of Lanark Highlands by registered deed, to meet the municipality's road widening requirements, at no cost to the Township. Deeds are to be submitted to the municipality for review accompanied by a solicitor's certificate indicating that the municipality's title is free and clear of all encumbrances and the municipality has a good and marketable title. The Township Roads Superintendent shall be consulted prior to commencing a survey to determine the amount, if any, of road widening required.
10. A letter shall be received from the Township of Lanark Highlands stating that condition #3 through #9 has been fulfilled to their satisfaction.

NOTES

1. *The Mississippi Valley Conservation recommend that the shoreline vegetation surrounding the tributary of Hopetown Creek be maintained to a minimum depth of 15 metres, and the wetland remain undisturbed, on the retained lands.*
2. *The MVC also advises that in the event shoreline work is proposed along the watercourse, written permission may be required from MVC pursuant to Ontario Regulation 153/06 - "Development, Interference with Wetlands and Alterations to Shorelines and Watercourses".*

3. *In addition, any proposed works in or near the watercourse or wetland should be reviewed by MVC to ensure there will be no harmful alteration, disruption or destruction of fish habitat. Authorization under Section 35 of the Fisheries Act may be required for such work.*
4. *It is recommended that the applicant review available water well records of adjacent lands to determine that there is adequate potable water for a residential dwelling.*
5. *The Leeds Grenville and Lanark District Health Unit advises that additional fill / imported fill may be required in the septic system area*
6. *The County of Lanark advises that, prior to the issuance of a building permit, Development Charges must be paid in full.*
7. *Endangered Species Act, 2007, and Species at Risk in Ontario Background*
The ESA 2007 protects both species and habitat. Section 9 of the ESA “prohibits killing, harming, harassing, capturing, possessing, collecting, buying, selling, trading, leasing or transporting species that are listed as threatened, endangered or extirpated”. Section 10 of the ESA, 2007 prohibits damaging or destroying habitat of endangered or threatened species. Protected habitat is either based on general definition in the Act or prescribed through a regulation. The ESA 2007 defines general habitat as an area on which the species depends, directly or indirectly, to carry on its life processes, including reproduction, rearing, hibernation, migration or feeding.

It is important to be aware that changes may occur in both species and habitat protection. The ESA applies to listed species on the Species at Risk in Ontario List (SARO). The Committee on the Status of Species in Ontario (COSSARO) meets regularly to evaluate species for listing and/or re-evaluate species already listed. As a result, species’ designations may change that could in turn change the level of protection they receive under the ESA 2007. Also, habitat protection provisions for a species may change e.g. if a species-specific habitat regulation comes into effect. The regulation would establish the area that is protected as habitat for the species.

The Ministry of Natural Resources continues to encourage ecological site assessments to determine the potential for SAR occurrences. When a SAR does occur on the site, it is recommended that the developer contact MNR for technical advice and to discuss what activities can occur without contravention of the Act. If an activity is proposed that will contravene the Act, the developer must contact the MNR to discuss the potential for application of certain permits or agreement.

Additional Note for B12/058

8. *The current Official Plan provides that up to two consents may be granted for a lot or landholding. No further consents will be permitted on the retained lands or the severed lands through the consent process without an amendment to the Official Plan.*



LAND DIVISION STAFF REPORT

APPLICATION FOR CONSENT

Owner: James Neelin & Elisabeth Neelin

Hearing Date: October 16, 2012

Agent: N/A

LDC File #: B12-076

Municipality: Lanark Highlands

Geographic Township: Dalhousie

Lot: 14 **Con** 7

Roll No. 0940 003 030 02100

Consent Type: New Lot & R-O-W

Purpose and Effect: To sever:

- (1) a 2.25-ha residential lot t/w a r-o-w;
 - (2) a 0.3-ha parcel of land as a lot addition to lands described as Pt. 1 Plan 26R-2082 & 26R-2520 owned by David, Peter, James & Elisabeth Neelin t/w a r-o-w; and
 - (3) a 1.8-ha parcel of land as a lot addition to lands described as Pt. 2 Plan 26R-8082 owned by Michael, James & Elisabeth Neelin t/w a r-o-w
- and to retain a 1.4-ha seasonal residential lot. The lands are accessed via Fair's Lane.

DETAILS OF PROPOSAL	Land to be Severed			Land to be Retained
	B12/076	B12/077	B12/078	
Existing Use	Residential	Vacant	Vacant	Vacant
Proposed Use	Residential	Vacant	Vacant	Residential
Area	2.25 ha	0.3 ha	1.8 ha	1.4 ha
Frontage	54 m on R-O-W	71 m on R-O-W	148m on R-O-W	54 m on R-O-W
Depth	149 m	85 m	123 m	92 m
Road - Access to	Reg.R-O-W	Reg.R-O-W	Reg.R-O-W	Registered R-O-W
Water Supply	Lake	None	None	Lake
Sewage Disposal	Private septic	None	None	Private Septic
Official Plan Designation -Conformity?	Rural and Lakefront Development Yes			
Zoning Category	Lake Development & Limited Service Residential		Lake Development & Limited Service Residential	
-Area Required (min.)	1.0-ha		1.0-ha	
-Compliance?	Yes		Yes	
-Frontage Required (min.)	50 m		50 m	
-Compliance?	Yes		Yes	

(a) **APPLICATION REVIEW**

Provincial Policy Statement - Provincial Interests were identified as follows:

1.1 Managing and Directing Land Use

Section 1.1.1.c) Healthy, liveable and safe communities are sustained by avoiding development and land use patterns which may cause environmental or public health and safety concerns.

Section 1.1.4.1 In rural areas located in municipalities permitted uses and activities shall relate to the management or use of resources, resource-based recreational activities, limited residential development and other rural land uses.

1.6 Infrastructure and Public Service Facilities

Section 1.6.4.4 Individual on-site sewage services and individual on-site water services shall be used for a new development of five or less lots or private residences where municipal sewage services and municipal water services or private communal sewage services and private communal water services are not provided and where site conditions are suitable for the long-term provisions of such services.

2.1 Natural Heritage

Section 2.1.1 Natural features and areas shall be protected for the long term.

Section 2.1.3 Development and site alteration shall not be permitted in: (a) significant wetlands in Ecoregions 5E, 6E and 7E.

Section 2.1.4 Development and site alteration shall not be permitted in: (b) significant woodlands south and east of the Canadian Shield, unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions.

Section 2.1.6 Development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas identified in policies 2.1.3, 2.1.4 and 2.1.5 unless the ecological features function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features of on their ecological functions.

2.2 Water

Section 2.2.1 Planning authorities shall protect, improve or restore the quality and quantity of water (set out in subsections a through g).

Section 2.2.2 Development and site alteration shall be restricted in or near sensitive surface water features and sensitive ground water features such that these features and their related hydrologic functions will be protected, improved or restored.

2.6 Cultural Heritage and Archaeology

Section 2.6.2 Development and site alteration shall only be permitted on lands containing archaeological resources or areas of archaeological potential if the significant archaeological resources have been conserved by removal and documentation, or by preservation o site. Where significant archaeological resources must be preserved on site, only development and site alteration which maintain the heritage integrity of the site may be permitted.

Section 2.6.3 Development site alteration may be permitted on adjacent lands to protected heritage property where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected property will be conserved.

Mitigative measures and/or alternative development approaches may be required in order to conserve the heritage attributes of the protected heritage property affected by the adjacent development or site alterations.

3.1 Natural Hazards

Section 3.1.1 Development shall generally be directed to areas outside of: (b) hazardous lands adjacent to river, stream and small inland lake systems which are impacted by flooding hazards and/or erosion hazards.

County Official Plan - Section 3.0 Rural Area Policies, Section 3.3.3 Lot Creation, Section 4.3.4 Local Roads, Section 4.4 Water, Waste Water and Stormwater Services Section 5.0 Natural Heritage, Section 7.3 Flooding and Erosion, Section 8.2.2 Consents. The proposal conforms to the designations and policies of the Official Plan for the County of Lanark.

Official Plan – Section 3.0 Growth and Settlement, Section 4.2 Water Supply and Sewage Disposal, section 4.5.3 Township Roads, Section 4.5.4 Private Roads, Section 7.5 Natural Heritage Features, Section 10.11.13 Subdivisions, Consents. The Township of Lanark Highlands advises that the proposal conforms to the designations and policies of the Official Plan.

Zoning By-law - Section 4.0 General Provisions, Section 10.0 Limited Service Rural, Section 11.0 Lakefront Development. The Township of Lanark Highlands advises that the proposal complies with the zoning by-law regulations.

(b) AGENCY REVIEW

This application has been circulated to those agencies that were considered to have an interest in the proposal. The following comments were received:

Township Planning Report

1.0 Review of Proposal and Application

Three applications have been received from the County of Lanark Land Division Committee for the creation of a new lot and two lot additions. The property is legally described as Pt. Lot 14, Concession 7, Geographic Township of Dalhousie, now in the Township of Lanark Highlands.

The applicant wishes to sever a 5.5 acre residential lot with an existing cottage known as 611 Fairs Way. The applicant has also applied for a 0.74 acre lot addition to lands described as Part 1 of Plan 26R-2082 an 2520. The second lot addition is for a 4.4 acre parcel to lands described as Part 2 of 26R-8082. The retained parcel will be 3.5 acres. The property is designated as Lake Development on Schedule 'A 2' of the Township's Official Plan and zoned Lakefront Development on Schedule 'A 3' by Zoning By-law

2003-451.

1.1 PROVINCIAL POLICY

As part of the province's long term commitment to economic prosperity and social well-being all planning applications must be consistent with the Provincial Policy Statement

2005 (PPS). As such a review of applicable policies must be undertaken and evaluated under the "consistent with" test.

New development must be evaluated to determine if unplanned extensions to existing infrastructure will result if the application is approved. The proposal will be privately serviced and it appears that the lands are of sufficient area to support a private well and septic system.

Permits from the Health Unit will be required prior to any new development. Access to the subject properties is via a registered right of way.

1.2 OFFICIAL PLAN

Any application for consent must be evaluated with the policy directives of Section 10.11.13, which provides direction when considering the division of lands within the Township. Proposals must be consistent with zoning, and enjoy sufficient frontage and depth to accommodate setbacks, within the proposed lot configuration. Abutting land uses must be evaluated for conflicts and natural heritage features.

The proposal as submitted can achieve those directives.

1.3 ZONING

The proposal will if approved result in the creation of a lot that will comply with Official Plan policies and is consistent with Provincial Policy. The sketch accompanying the application illustrates that the lands have sufficient frontage and area to meet the requirements of the zoning By-law and no relief of the zoning provisions, standards or requirements will be required if this application moves forward to approval.

The application as proposed can be considered appropriate and as such represents good planning.

Township of Lanark Highlands - recommends approval of this application subject to the following conditions:

B12/076

1. The balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to the Township.
2. An acceptable reference plan or legal description of the severed lands and the deed be submitted to the township.
3. That the applicant pays any outstanding fees to the Township prior to final approval.
4. That the applicant submits the 5% cash-in-lieu of parkland dedication fee to the Township.
5. The applicant shall obtain a Civic Address Number from the Township of Lanark Highlands. The applicant shall consult directly with the Township in this regard.

B12/077

1. The balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to the Township.
2. An acceptable reference plan or legal description of the severed lands and the deed be submitted to the township.
3. That the applicant pays any outstanding fees to the Township prior to final approval.

B12/078

1. The balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to the Township.
2. An acceptable reference plan or legal description of the severed lands and the deed be submitted to the township.
3. That the applicant pays any outstanding fees to the Township prior to final approval.

Conservation Authority – Mississippi Valley Conservation

Mississippi Valley Conservation (MVC) has been circulated the above noted application to conduct a review in terms of MVC Regulations and Provincial Planning Policy for Natural Heritage and Natural Hazard issues. Specifically, the purpose of this review is to assess potential impacts of the proposed development on known natural heritage features on and adjacent to the subject property. These features could include wetlands, wildlife habitat and areas of natural and scientific interest. This review also includes an evaluation of the subject property for natural hazards such as unstable slopes and areas prone to flooding and erosion.

PROPOSAL

It is our understanding that the purpose of the subject applications is the following:

1. B12/076: Sever 1.21 ha with 68.9 metres of water frontage and retain 0.45 ha with 85.47 metres of water frontage
2. B12/077: Sever 0.3 ha as a lot addition to the severed lands created under ~12/076
3. B12/078: Sever 1.8 ha as a lot addition to the retained lands created under B12/076. Retain 1.84 ha with 69.4 meters of water frontage, following the two lot additions under B12/077 and B12/078.

PROPERTY CHARACTERISTICS

According to a review of aerial photograph and GIS mapping, the entire property is located within a Significant Deer Wintering Area. In addition, the retained lands under all applications and the severed lands under B12/076, have frontage on Patterson Lake. A hydro corridor travels through the subject property perpendicular to the shoreline. This corridor runs along the height of the land and slopes down towards Fair's Way on the south side and down towards the lake on the north side. On the south slope, the plant material is mostly a mix of wood shrubs while on the north slope; there is a more mature mix of trees dominated by evergreens. No other natural hazards or natural heritage features were identified.

REVIEW**Natural Heritage Features - *Deer Yard***

The Provincial Policy Statement (PPS) requires that new development and site alterations, including the creation of new lots within significant wildlife habitat, only be permitted if it has been demonstrated that there will be no negative impacts on the

natural features or ecological functions of the feature identified.

This is generally assessed through an Environmental Impact Statement (EIS). The deer yard identified on the subject land is considered significant wildlife habitat. Therefore, in order to address the aforementioned policy, the landowners have completed a simplified Environmental Impact Statement (EIS). MVC's Biologist has reviewed the completed EIS, conducted a site visit, and provided several recommendations intended to minimize any potential impacts (outlined below).

Waterbody

Sufficient area appears to exist, on all resulting lots, to accommodate potential future development that complies with the current standards for development adjacent to a waterbody.

Natural Hazards - None identified.

RECOMMENDATIONS AND CONCLUSIONS

With all of the above in consideration, MVC does not have any objection to the subject applications provided the following is implemented on all resulting lots created under B12/077 and B12/078:

- No buildings or septic systems shall occur within 30 metres of the seasonal high water mark of the lake.
- Natural drainage patterns on the site shall not be substantially altered such that additional run-off is directed into the lake, or onto adjacent properties.
- The vegetation along the shoreline of the lake shall be maintained to a minimum depth of 15 metres. This effort will help mitigate erosion and the effects of surface runoff on the lake. Removal of hazard trees and selective "limbing" of trees is considered acceptable.
- Removal of terrestrial vegetation on the remainder of the site should be kept to the minimum required to develop the site. No additional removal of vegetation from within the deer yard should be allowed. The maintenance of vegetation identified on the north side of the subject property is particularly important as it provides good winter cover and forage habitat for deer.
- No removal of vegetation should occur between May 15th and July 15th to protect breeding birds.
- If any species at risk be observed during construction the MNR should be contacted immediately.

NOTES

Pet dogs should not be allowed to roam freely and harass deer.

Although the lot is already developed, the recommendations above should also be followed on the severed lands created under B12/076.

The property owner should be advised that, pursuant to Ontario Regulation 153/06 - "Development, Interference with Wetlands and Alterations to Shorelines and Watercourses", written permission is required from MVC prior to any alterations to the shoreline of Patterson Lake.

Any proposed works in or near the lake should be reviewed by MVC to ensure there will be no harmful alteration, disruption or destruction of fish habitat. Authorization under Section 35 of the Fisheries Act may be required for such work.

A review for Species at Risk was not conducted. We suggest contacting the Ministry of Natural Resources should you require a review in this regard.

Should any questions arise, please do not hesitate to call. Please advise us of the Committee's decision in this matter.

On-Site Services (Septics) – Leeds, Grenville & Lanark District Health Unit
Severed – Land is sloped primarily toward lake. There is an existing cottage serviced with septic system. There is a hydro easement that intersects the property. Additional sandy loam fill may be required in future tile bed area. The attached site diagram provided by Mr. Neelin depicts areas that conceptually are suitable for future tile bed construction but not limited only to these areas.

Retained – Vacant wooded land has been added to re-aligned properties to create three individual parcels all with lake frontage. See Mr. Neelin's concept diagram (site plan proposal July 14, 2012). Additional sandy loam fill may be required in area of future replacement tile bed for existing cottage.

Hydro One Networks – No comments were received.

Bell Canada R-O-W – No comments were received.

(c) PUBLIC INPUT

No written submissions were received in response to the notice of application sent to every landowner pursuant to Clause 53(5) (a) of the Planning Act and Section 3(2) of O.Reg. 197/96 as amended.

(d) PLANNING REVIEW

Background and Summary

The applicant proposes to sever one new residential lot and two lot additions. The two existing properties are to be re-divided which will result in three lots. The resulting lots will range in size from 1.9-ha to 2.4-ha.

The subject lands are located in an area characterized by typical 'cottage' type development along the private road known as Fair's Lane and Fair's Way.

The lands are accessed via Fair's Lane, a private road which adjoins the 8th Con Dal, a municipally maintained road.

The lands are located within the locally known 'Patterson Lake Deer Yard'. As such, the applicant was required to prepare a simplified Environmental Impact Assessment which was reviewed by the Conservation Authority. If approval is granted, the applicant should be advised that domestic animals (dogs) should be kept on a leash or in a pen and that tree removal should be kept to a minimum, particularly removal of natural browse (eastern white cedar).

Archaeological

The lands are located within 300 m of Primary Water Source (Patterson Lake) and therefore are subject to archaeological potential.

A "State of the Lake Environment Report" was undertaken on Patterson Lake Dalhousie Lake in 2001 and 2006. The reports were able to conduct a comparison between water quality conditions as they existed in 2001 and 2006, and the results obtained through the years since 1977. In general the water quality in Patterson Lake is good. The Total Phosphorus for the Lake is 20 ug/L. The mean for euphoric zone in 2006 was 11.3 ug/L indicating a moderately enriched lake and the mean for the bottom of the lake was 15.0 ug/L also indicating a moderately enriched or mesotrophic lake.

The dissolved oxygen and temperature data at the deepest point in the main basin indicate oxygen concentrations in the deep water portion are poor by late summer. Warm water fish species, such as pike and bass are squeezed into the upper 7 metres of the lake by late summer. Every effort should be made to reduce nutrient loading into the land from land use activities.

The Lake was also tested for invasive species, in particular, zebra mussels and spiny water flea. Patterson Lake did not have any zebra mussel veliger's (larvae) or spiny water flea present. Residents, property owners and occasional visitors need to take a stewardship approach and make sure that they minimize their impact on the lake environment. There is a need to ensure that all access points to the lake have been posted, indicating the precautions they can take to avoid the spread of invasive species into Patterson Lake.

Bedrock Inventory – marble, calc-silicate

Official Plan Policies

- 1/ Lanark County Sustainable Communities Official Plan - Section 8.2.2 Consents. Lanark County, through an appointed Land Division Committee is the approval authority for the issuance of consents. Lot creation by consent shall be permitted where lot creation by plan of subdivision is deemed to be unnecessary. Consideration of locational and development criteria by the approval authority shall be based on local Official Plans. In considering a consent, regard shall also be had to, among other matters, the criteria of Section 51 (24) of the *Planning Act, R.S.O. 1990* with necessary modifications.
- 2/ Lanark Highlands Official Plan Policies for the Division of Land are found in Section 10.11.13 of the OP. Generally, the consent process will be used for the purpose of creating up to two (2) parcel of land. A number of 'general policies also apply to the division of lands, including: size and setbacks appropriate to zoning designation, supporting studies as required, MDS separation, frontage on public road unless exempted, no development on lands subject to hazards, flooding, etc., extension of major services not required. The lot creation date for Lanark Highlands in March 2003.

The Lanark Highlands Official Plan (Section 3.6.3.14) limits the number of new residential lots on Patterson Lake to 11 as of Sept 10, 1996. This application is within the limits stipulated.

3/ Woodlands

The area has considerable land masses mapped as 'woodlands', care should be taken in any development proposal to maintain the existing tree cover. Woodland Development Policies have not been established by the Township of Lanark Highlands.

Zoning

The subject property is currently zoned Lakefront Development (LD) and Limited Service Rural (LSR) which permits a number of uses, including single-detached dwellings. The property that will be created and enlarged with these severance applications exceeds the minimum lot size and frontage requirements.

Conclusion

The Provincial Policy Statements encourages development to occur in designated *settlement areas*. The proposed lots are not located within a designated settlement area, and therefore fall under PPS Section 1.1.4. Section 1.1.4.1.d) provides that development that is compatible with the rural landscape and can be sustained by rural service levels should be promoted. No new or additional infrastructure is required as a result of the proposal. The severed lands meet the minimum requirements of Township's Official Plan which is appropriate in the rural setting. The application can meet the consistent with test of the Provincial Policy Statement.

There were no objections raised by any of the agencies which were circulated regarding this proposal. In light of the foregoing, this office is satisfied that the applicant's proposal maintains the general intent and purpose of the PPS, the County Official Plan and Official Plan for the Township of Lanark Highlands and could be given favourable consideration.

(e) **MINUTES – October 16, 2012**

James Neelin and Elisabeth Neelin, owners and Michael Neelin, adjacent landowner, attended the hearing and gave evidence under oath.

Committee reviewed the staff report and draft conditions.

(f) **DECISION & CONDITIONS**

DECISION: PROVISIONAL CONSENT IS GRANTED

REASONS: Having determined that a plan of subdivision is not necessary for the proper and orderly development of the municipality, and having determined that the proposal is consistent with the policy statements issued under subsection 3(1) of the Planning Act, and having had regard to the matters under subsection 51(24) of the Planning Act.

Application B12/076

1. An acceptable reference plan or legal description of the severed lands and the deed or Instrument conveying the severed lands shall be submitted to the Secretary-Treasurer for review and consent endorsement **within a period of one year** after the "Notice of Decision" is given under Section 53 (17) or (24) of the Planning Act.

2. The applicant shall provide the Secretary-Treasurer of the Land Division Committee with a digital copy of the registered reference plan.
3. The balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to the Township of Lanark Highlands.
4. An appropriate right-of-way shall be granted to the owners of the lot to be severed over the lot to be retained.
5. The deed of land required by condition #1 above shall recognize any rights-of-way that currently exist.
6. The deed of land required by condition #1 above shall recognize any easements that currently exist.
7. The balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to the Township of Lanark Highlands.
8. The applicants shall satisfy all the requirements of the Township of Lanark Highlands, financial and otherwise, that may be required under established by-laws for consent applications.
9. The applicant shall provide the Township of Lanark Highlands with a copy of all reference plans associated with this application if a survey is required by the Land Titles Office.
10. The applicant shall provide the Township of Lanark Highlands with a copy of the deed/transfer for the property.
11. Payment shall be made to the Township of Lanark Highlands representing the amount satisfactory to the Township of up to 5% of the value of the land pursuant to Section 51.1(3) of the Planning Act (Cash-in-Lieu of Parklands).
12. The applicant shall obtain a Civic Address Number from the Township of Lanark Highlands. The applicant shall consult directly with the Township in this regard.
13. That the applicant enter into a Development Agreement and/or Site Plan Agreement with the Township of Lanark Highlands. The wording of the agreement shall be acceptable to the Municipality and shall address the concerns of the Conservation Authority as outlined in their report of September 25, 2012, provided that in the event the Conservation Authority is not satisfied with the wording of the agreement, the Committee shall change the condition under Section 53 (23) of the Planning Act, to delete the reference to the Conservation Authority.
14. A letter shall be received from Mississippi Valley Conservation stating that condition #12 has been fulfilled to their satisfaction.

15. A letter shall be received from the Township of Lanark Highlands stating that condition #7 through #13 has been fulfilled to their satisfaction.

NOTES

1. *The Mississippi Valley Conservation advises that, pursuant to Ontario Regulation 153/06 - "Development, Interference with Wetlands and Alterations to Shorelines and Watercourses", written permission is required from MVC prior to any alterations to the shoreline of Patterson Lake.*
2. *Also, any proposed works in or near the lake should be reviewed by MVC to ensure there will be no harmful alteration, disruption or destruction of fish habitat. Authorization under Section 35 of the Fisheries Act may be required for such work.*
3. *It is recommended that the applicant review available water well records of adjacent lands to determine that there is adequate potable water for a residential dwelling.*
4. *The Leeds Grenville and Lanark District Health Unit advises that additional sandy loam fill may be required in the septic system area.*
5. *Residents and users of Patterson Lake are encouraged to take precautions to avoid the spread of the invasive species (zebra mussels) from other lakes.*
6. *The applicant is advised that the lands are within a recognized "Wintering Area – Deer Yard", the future building envelope should be positioned on open lands. Limited tree cover should be removed, particularly browse and cedar trees.*
7. *The applicant is also advised that where lands are within a recognized "Wintering Area – Deer Yard" that landowners are encouraged to keep domestic pets (dogs) leashed or penned at all times.*
8. *The applicant / purchaser is advised that if during the process of development archeological remains be uncovered, the developer or their agents should immediately notify the Archaeology Section of the Ontario Ministry of Culture. That in the event that human remains are encountered during construction, the developer should immediately contact both the Ministry of Culture and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Consumer and Commercial Relations.*
9. *The applicant is advised that a fee of \$135.00 is payable to the Conservation Authority for a "Clearance of Conditions" letter*
10. *The County of Lanark advises that, prior to the issuance of a building permit, Development Charges must be paid in full.*
11. *Endangered Species Act, 2007, and Species at Risk in Ontario Background
The ESA 2007 protects both species and habitat. Section 9 of the ESA "prohibits killing, harming, harassing, capturing, possessing, collecting, buying, selling, trading, leasing or transporting species that are listed as threatened, endangered or extirpated". Section 10 of the ESA, 2007 prohibits damaging or destroying habitat of endangered or threatened species. Protected habitat is either based on general definition in the Act or prescribed through a regulation. The ESA 2007 defines general habitat as an area on which the species depends, directly or*

indirectly, to carry on its life processes, including reproduction, rearing, hibernation, migration or feeding.

It is important to be aware that changes may occur in both species and habitat protection. The ESA applies to listed species on the Species at Risk in Ontario List (SARO). The Committee on the Status of Species in Ontario (COSSARO) meets regularly to evaluate species for listing and/or re-evaluate species already listed. As a result, species' designations may change that could in turn change the level of protection they receive under the ESA 2007. Also, habitat protection provisions for a species may change e.g. if a species-specific habitat regulation comes into effect. The regulation would establish the area that is protected as habitat for the species.

The Ministry of Natural Resources continues to encourage ecological site assessments to determine the potential for SAR occurrences. When a SAR does occur on the site, it is recommended that the developer contact MNR for technical

advice and to discuss what activities can occur without contravention of the Act. If an activity is proposed that will contravene the Act, the developer must contact the MNR to discuss the potential for application of certain permits or agreement.

Application B12/077

1. An acceptable reference plan or legal description of the severed lands and the deed or Instrument conveying the severed lands shall be submitted to the Secretary-Treasurer for review and consent endorsement **within a period of one year** after the "Notice of Decision" is given under Section 53 (17) or (24) of the Planning Act.
2. The applicant shall provide the Secretary-Treasurer of the Land Division Committee with a digital copy of the registered reference plan.
3. The Certificate of Consent "Schedule" attached to the deed / transfer required by Condition #1 above, shall include the following condition "The lands to be severed are for the purpose of a lot addition only to the adjacent lands owned by David Neelin, Peter Neelin, James Neelin and Elisabeth Neelin described as Part 2, Plan 26R-2082 & 26R-2520 Pt. Lot 14 Conc. 7 Dalhousie, and any subsequent transfer, charge or other conveyance of the lands to be severed is subject to Section 50(3) (or subsection 50(5) if in a plan of subdivision) of the Planning Act. Neither the lands to be severed nor the adjacent lands are to be reconveyed without the other parcel unless a further consent is obtained. The owner shall cause the lands to be severed to be consolidated on title with the adjacent lands and for this condition to be entered into the parcel register as a restriction".
4. An appropriate right-of-way shall be granted to the owners of the lot to be severed over the lot to be retained.
5. The deed of land required by condition #1 above shall recognize any rights-of-way that currently exist.
6. The deed of land required by condition #1 above shall recognize any easements

that currently exist.

7. The balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to the Township of Lanark Highlands.
8. The applicants shall satisfy all the requirements of the Township of Lanark Highlands, financial and otherwise, that may be required under established by-laws for consent applications.
9. The applicant shall provide the Township of Lanark Highlands with a copy of all reference plans associated with this application if a survey is required by the Land Titles Office.
10. The applicant shall provide the Township of Lanark Highlands with a copy of the deed/transfer for the property.
11. That the applicant enter into a Development Agreement and/or Site Plan Agreement with the Township of Lanark Highlands. The wording of the agreement shall be acceptable to the Municipality and shall address the concerns of the Conservation Authority as outlined in their report of September 25, 2012, provided that in the event the Conservation Authority is not satisfied with the wording of the agreement, the Committee shall change the condition under Section 53 (23) of the Planning Act, to delete the reference to the Conservation Authority.
12. A letter shall be received from Mississippi Valley Conservation stating that condition #11 has been fulfilled to their satisfaction.
13. A letter shall be received from the Township of Lanark Highlands stating that condition #7 through #11 has been fulfilled to their satisfaction.

NOTES

1. *The Mississippi Valley Conservation advises that, pursuant to Ontario Regulation 153/06 - "Development, Interference with Wetlands and Alterations to Shorelines and Watercourses", written permission is required from MVC prior to any alterations to the shoreline of Patterson Lake.*
2. *Also, any proposed works in or near the lake should be reviewed by MVC to ensure there will be no harmful alteration, disruption or destruction of fish habitat. Authorization under Section 35 of the Fisheries Act may be required for such work.*
3. *The Leeds Grenville and Lanark District Health Unit advises that additional sandy loam fill may be required in the septic system area.*
4. *Residents and users of Patterson Lake are encouraged to take precautions to avoid the spread of the invasive species (zebra mussels) from other lakes.*
5. *The applicant is advised that the lands are within a recognized "Wintering Area – Deer Yard", the future building envelope should be positioned on open lands. Limited tree cover should be removed, particularly browse and cedar trees.*

6. *The applicant is also advised that where lands are within a recognized "Wintering Area – Deer Yard" that landowners are encouraged to keep domestic pets (dogs) leashed or penned at all times.*
7. *The applicant / purchaser is advised that if during the process of development archeological remains be uncovered, the developer or their agents should immediately notify the Archaeology Section of the Ontario Ministry of Culture. That in the event that human remains are encountered during construction, the developer should immediately contact both the Ministry of Culture and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Consumer and Commercial Relations.*
8. *The applicant is advised that a fee of \$135.00 is payable to the Conservation Authority for a "Clearance of Conditions" letter.*
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10. *Endangered Species Act, 2007, and Species at Risk in Ontario Background*
The ESA 2007 protects both species and habitat. Section 9 of the ESA "prohibits killing, harming, harassing, capturing, possessing, collecting, buying, selling, trading, leasing or transporting species that are listed as threatened, endangered or extirpated". Section 10 of the ESA, 2007 prohibits damaging or destroying habitat of endangered or threatened species. Protected habitat is either based on general definition in the Act or prescribed through a regulation. The ESA 2007 defines general habitat as an area on which the species depends, directly or indirectly, to carry on its life processes, including reproduction, rearing, hibernation, migration or feeding.

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The Ministry of Natural Resources continues to encourage ecological site assessments to determine the potential for SAR occurrences. When a SAR does occur on the site, it is recommended that the developer contact MNR for technical advice and to discuss what activities can occur without contravention of the Act. If an activity is proposed that will contravene the Act, the developer must contact the MNR to discuss the potential for application of certain permits or agreement.

Application B12/078

1. An acceptable reference plan or legal description of the severed lands and the deed or Instrument conveying the severed lands shall be submitted to the Secretary-Treasurer for review and consent endorsement **within a period of one year** after the "Notice of Decision" is given under Section 53 (17) or (24) of the

Planning Act.

2. The applicant shall provide the Secretary-Treasurer of the Land Division Committee with a digital copy of the registered reference plan.
3. The Certificate of Consent "Schedule" attached to the deed / transfer required by Condition #1 above, shall include the following condition "The lands to be severed are for the purpose of a lot addition only to the adjacent lands owned by Michael R Neelin, James Neelin and Elisabeth Neelin described as Part 2, Plan 26R-2082 Pt. Lot 14 Conc. 7 Dalhousie, and any subsequent transfer, charge or other conveyance of the lands to be severed is subject to Section 50(3) (or subsection 50(5) if in a plan of subdivision) of the Planning Act. Neither the lands to be severed nor the adjacent lands are to be reconveyed without the other parcel unless a further consent is obtained. The owner shall cause the lands to be severed to be consolidated on title with the adjacent lands and for this condition to be entered into the parcel register as a restriction".
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defines general habitat as an area on which the species depends, directly or indirectly, to carry on its life processes, including reproduction, rearing, hibernation, migration or feeding.

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LAND DIVISION STAFF REPORT

APPLICATION FOR CONSENT

Owner: Craig Angus & Parvanah Rowshan

Hearing Date: October 16, 2012

Agent:

LDC File #: B12/079

Municipality: Town of Carleton Place

Geographic Township: Carleton Place

Lot: 153, 154, 160 & 161 **Plan:** 6115

Roll No. 0928 030 065 17600

Consent Type: New Lot

Purpose and Effect: To sever an 819.47 sq.m. residential building lot and retain an 819.47 sq.m. residential building lot.

DETAILS OF PROPOSAL	Land to be Severed	Land to be Retained
Existing Use Proposed Use	Vacant Residential	Vacant Residential
Area	819.47 sq. m.	819.47 sq.m.
Frontage	12.2 m	12.2 m
Depth	67.17 m	67.17 m
Road - Access to	Municipal	Municipal
Water Supply	Proposed	Proposed
Sewage Disposal	Proposed	Proposed
Official Plan Designation -Conformity?	Residential Yes	
Development Permit Category	Primary Residential	Primary Residential
-Area Required (min.)	60% lot coverage	60% lot coverage
-Compliance?	Yes	Yes
-Frontage Required (min.)	10.6 m	10.6 m
-Compliance?	Yes	Yes

a. APPLICATION REVIEW

Provincial Policy Statement - Provincial Interests were identified as follows:

1.1 Managing and Directing Land Use

Section 1.1.1.b) Accommodating an appropriate range and mix of residential, employment, recreational and open space uses to meet long-term needs:

Section 1.1.3.1 Settlement areas shall be the focus of growth and their vitality and regeneration shall be promoted.

Section 1.1.3.3 Planning authorities shall identify and promoted opportunities for intensification and redevelopment where this can be accommodated taking into account existing building stock or areas, including brownfield sites, and the availability of suitable existing or planned infrastructure and public services facilities required to accommodate projected needs.

1.6 Infrastructure and Public Service Facilities

Section 1.6.2 The use of existing infrastructure and public service facilities should be optimized, wherever feasible before consideration is given to developing new infrastructure and public service facilities.

Section 1.6.4.2 Municipal sewage services and municipal water services are the preferred form of servicing for settlement areas. Intensification and redevelopment within settlement areas of existing municipal sewage services and municipal water services should be promoted, wherever feasible.

County Official Plan – Section 2.0 Settlement Policies, Section 4.3.4 Local Roads, Section 4.4 Water and Wastewater, Section 8.2.2 Consents.

The proposal conforms to the designations and policies of the Official Plan for the County of Lanark.

Official Plan – Section 3 – General Provisions, Section 4.2 Residential Policies, Section 5 Transportation, Section 7.4 Subdivision and Part-lot control.

The Town of Carleton Place advises that the proposal conforms to the designations and policies of the Official Plan.

Development Permit By-law - Section 2.17 Development Review Process, Section 3.0 General Provisions, Section 5.0 Residential designations.

The Town of Carleton Place advises that the proposal complies with the Development Permit By-law requirements.

b. AGENCY REVIEW

This application has been circulated to those agencies that were considered to have an interest in the proposal. The following comments were received:

Town Planner's Report

A consent application has been received for the property known municipally as 195 Napoleon Street as shown on the attached key map. The lot is located on the east side of Napoleon Street.

The severed lot would be approximately 12 metres wide and 819.47 m². The retained parcel would be approximately 12 metres wide and 819.47 m². There is a single family house under construction on the severed portion of land.

COMMENT

The Official Plan designation is Residential (R). This designation allows for a mix of housing types which complement the existing small town character. This includes single detached, semi-detached and townhouse style dwellings and apartment units. The Development Permit designation of the property is Residential. The effect of the severance will be to create an infill building lot. The retained and severed lot will both have the minimum lot frontage required under the Development Permit By-law. The

applicant will be required to provide building elevations and a plan that demonstrates how a house will be able to be accommodated on the retained lot. The design of the residential unit will be required to retain the character of the community as inventoried in the Development Permit Bylaw.

Town of Carleton Place - recommends approval of this application subject to the following conditions:

1. That the balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to the Town.
2. That the applicant provides a digital copy of the reference plan (in NAD83 datum).
3. That the applicant provides the Town with a Building Location Surveyor Surveyor's Certificate demonstrating that the lands severed and the lands retained are in compliance with all Development Permit provisions. The surveyor's information shall include confirmation of adequate frontage and area for both the severed and retained parcels along the main road.
4. That the applicant provides a Site Grading and Drainage Plan for the retained and severed parcels to the satisfaction of the Town of Carleton Place.
5. Satisfactory evidence shall be provided to the Town of Carleton Place by way of a surveyor's report to confirm the setback for the existing building to the new property lines and existing property lines meet the Ontario Building Code and Development Permit By-Law.
6. That the building elevations for the severed lot be provided that demonstrates that the existing character of the neighbourhood is maintained.-.

Hydro One Networks – No comments were received.

Bell Canada R-O-W – No comments were received.

c. PUBLIC INPUT

No written submissions were received in response to the notice of application sent to every landowner pursuant to Clause 53(5) (a) of the Planning Act and Section 3(2) of O.Reg. 197/96 as amended.

d. PLANNING REVIEW

Background and Summary

The applicant proposes to sever an 819.47 sq.m. residential building lot and retain an 819.47 sq.m. residential building lot. Both lots are currently vacant.

The subject lands are located in an area characterized by typical urban residential. The effect of the lot creation is 'infill', a process recommended by the PPS.

The lands are accessed via Napoleon Street, a municipally maintained road.

Official Plan Policies

- 1/ Lanark County Sustainable Communities Official Plan - Section 8.2.2 Consents. Lanark County, through an appointed Land Division Committee is the approval authority for the issuance of consents.

Lot creation by consent shall be permitted where lot creation by plan of subdivision is deemed to be unnecessary.

Consideration of locational and development criteria by the approval authority shall be based on local Official Plans. In considering a consent, regard shall also be had to, among other matters, the criteria of Section 51 (24) of the *Planning Act, R.S.O. 1990* with necessary modifications.

- 2/ Carleton Place Official Plan Policies for the Division of Land are found in Section 7.4 of the OP. The intent of the OP is to develop land through the subdivision process, however, consent may be granted in accordance with specific applicable consent policies. These include: no extension of major service required, must have frontage on existing public road, infilling, conforms to Development Permit By-law. There is no lot creation date for the Town of Carleton Place.

Zoning

The subject property is currently within the Primary residential section of the development Permit By-law, which permits a number of uses, including single-detached dwellings. The proposed lots meets the minimum frontage and any dwelling constructed on the lands will be required to meet the 60% lot coverage requirement of the Development Permit By-law.

Conclusion

The Provincial Policy Statements encourages development to occur in designated *settlement areas*. No new or additional infrastructure is required as a result of the proposal. The severed lands meet the minimum requirements of Town Development Permit By-law. The application can meet the consistent with test of the Provincial Policy Statement.

There were no objections raised by any of the agencies which were circulated regarding this proposal. In light of the foregoing, this office is satisfied that the applicant's proposal maintains the general intent and purpose of the PPS, the County Official Plan and Official Plan for the Town of Carleton Place and could be given favourable consideration.

e. **MINUTES – October 16, 2012**

Angus Craig, owner attended the hearing and gave evidence by affirmation.

Committee reviewed the staff report and draft conditions.

f. **DECISION & CONDITIONS**

DECISION: PROVISIONAL CONSENT IS GRANTED

REASONS: Having determined that a plan of subdivision is not necessary for the proper and orderly development of the municipality, and having determined that the proposal is consistent with the policy statements issued under subsection 3(1) of the Planning Act, and having had regard to the matters under subsection 51(24) of the Planning Act.

CONDITIONS:

1. An acceptable reference plan or legal description of the severed lands and the deed or Instrument conveying the severed lands shall be submitted to the Secretary-Treasurer for review and consent endorsement **within a period of one year** after the "Notice of Decision" is given under Section 53 (17) or (24) of the Planning Act.
2. The applicant shall provide the Secretary-Treasurer of the Land Division Committee with a digital copy of the registered reference plan.
3. The balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to the Town of Carleton Place.
4. That the applicant provides the Town of Carleton Place with a digital copy of the reference plan (in NAD83 datum)
5. That the applicant provides the Town of Carleton Place with a Building Location Surveyor Surveyor's Certificate demonstrating that the lands severed and the lands retained are in compliance with all Development Permit provisions. The surveyor's information shall include confirmation of adequate frontage and area for both the severed and retained parcels along the main road.
6. That the applicant provides a Site Grading and Drainage Plan for the retained and severed parcels to the satisfaction of the Town of Carleton Place.
7. Satisfactory evidence shall be provided to the Town of Carleton Place by way of a surveyor's report to confirm the setback for the existing building to the new property lines and existing property lines meet the Ontario Building Code and Development Permit By-Law.
8. That the building elevations for the severed lot be provided to the Town of Carleton Place that demonstrates that the existing character of the neighbourhood is maintained.
9. The applicant shall obtain a Civic Address Number from the Town of Carleton Place. The applicant shall consult directly with the Town in this regard.
10. A letter shall be received from the Town of Carleton Place stating that condition #3 through #9 has been fulfilled to their satisfaction.



LAND DIVISION STAFF REPORT

APPLICATION FOR CONSENT

Owner: Annette Larocque & Stacey Larocque **Hearing Date:** October 16, 2012
Agent: Clarence Gemmill
LDC File #: B12/086
Municipality: Lanark Highlands
Geographic Township: Darling **Lot:** 1&2 **Con** 10
Roll No. 0940 944 015 31000 **Consent Type:** New Lot

Purpose and Effect: To sever a 1.0-ha residential building lot and retain a 48.0-ha landholding with an existing dwelling at 4140 Tatlock Road.

DETAILS OF PROPOSAL	Land to be Severed	Land to be Retained
Existing Use	Vacant	Residential
Proposed Use	Residential	Residential
Area	1.0 ha	48 ha
Frontage	60 m	240 m
Depth	150 m	900 m
Road - Access to	County Road	County Road
Water Supply	Proposed Well	Private Well
Sewage Disposal	Proposed Septic	Private Septic
Official Plan Designation -Conformity?	Rural, constrain overlays – Deer Yard, Fish Habitat Yes	
Zoning Category	Rural	Rural
-Area Required (min.)	1.0-ha	1.0-Ha
-Compliance?	Yes	Yes
-Frontage Required (min.)	60 m	60 m
-Compliance?	Yes	Yes

a. APPLICATION REVIEW

Provincial Policy Statement - Provincial Interests were identified as follows:

1.1 Managing and Directing Land Use

Section 1.1.1.c) Healthy, liveable and safe communities are sustained by avoiding development and land use patterns which may cause environmental or public health and safety concerns. Section 1.1.4.1 In rural areas located in municipalities permitted uses and activities shall relate to the management or use of resources, resource-based recreational activities, limited residential development and other rural land uses.

1.6 Infrastructure and Public Service Facilities

Section 1.6.4.4 Individual on-site sewage services and individual on-site water services shall be used for a new development of five or less lots or private residences where municipal sewage services and municipal water services or private communal sewage services and private communal water services are not provided and where site conditions are suitable for the long-term provisions of such services.

2.1 Natural Heritage

Section 2.1.1 Natural features and areas shall be protected for the long term.

Section 2.1.3 Development and site alteration shall not be permitted in: (a) significant wetlands in Ecoregions 5E, 6E and 7E.

Section 2.1.4 Development and site alteration shall not be permitted in: (b) significant woodlands south and east of the Canadian Shield, unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions.

Section 2.1.6 Development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas identified in policies 2.1.3, 2.1.4 and 2.1.5 unless the ecological features function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features of on their ecological functions.

2.2 Water

Section 2.2.1 Planning authorities shall protect, improve or restore the quality and quantity of water (set out in subsections a through g).

Section 2.2.2 Development and site alteration shall be restricted in or near sensitive surface water features and sensitive ground water features such that these features and their related hydrologic functions will be protected, improved or restored.

2.6 Cultural Heritage and Archaeology

Section 2.6.2 Development and site alteration shall only be permitted on lands containing archaeological resources or areas of archaeological potential if the significant archaeological resources have been conserved by removal and documentation, or by preservation o site. Where significant archaeological resources must be preserved on site, only development and site alteration which maintain the heritage integrity of the site may be permitted.

Section 2.6.3 Development site alteration may be permitted on adjacent lands to protected heritage property where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected property will be conserved.

Mitigative measures and/or alternative development approaches may be required in order to conserve the heritage attributes of the protected heritage property affected by the adjacent development or site alterations.

3.1 Natural Hazards

Section 3.1.1 Development shall generally be directed to areas outside of: (b) hazardous lands adjacent to river, stream and small inland lake systems which are impacted by flooding hazards and/or erosion hazards.

County Official Plan - Section 3.0 Rural Policies, Section 4.2 County Roads, Section 4.4. Water, Wastewater and Stormwater Services, Section 5.0 Natural Heritage, Section 7.3 Flooding and Erosion, Section 6 General Polices, Section 8.2.2 Consents.

The proposal conforms to the designations and policies of the Official Plan for the County of Lanark.

Official Plan – – Section 3.0 Growth and Settlement, Section 4.2 Water Supply and Sewage Disposal, section 4.5.2 County Roads, Section 7.5 Natural Heritage Features, Section 10.11.13 Subdivisions, Consents. The Township of Lanark Highlands advises that the proposal conforms to the designations and policies of the Official Plan.

Zoning By-law - Section 4.0 General Provisions, Section 6.0 Rural Zone

The Township of Lanark Highlands advises that proposal complies with the zoning by-law regulations.

b. AGENCY REVIEW

This application has been circulated to those agencies that were considered to have an interest in the proposal. The following comments were received:

Township Planning Report

1.0 Review of Proposal and Application

An application has been received from the County of Lanark Land Division Committee for the creation of a new lot. The property is legally described as Pt. Lot 1, 2, Concession 10, Geographic Township of Darling, now in the Township of Lanark Highlands.

The applicant wishes to sever a 2.5 acre building lot and retain a 118 acre landholding with an existing dwelling at 4140 Tatlock Road.

The property is designated as Rural on Schedule 'A 3' of the Township's Official Plan and zoned Rural on Schedule 'A 3' by Zoning By-law 2003-451.

1.1 PROVINCIAL POLICY

As part of the province's long term commitment to economic prosperity and social well-being all planning applications must be consistent with the Provincial Policy Statement 2005 (PPS). As such a review of applicable policies must be undertaken and evaluated under the "consistent with" test.

New development must be evaluated to determine if unplanned extensions to existing infrastructure will result if the application is approved. The proposal will be privately serviced and it appears that the lands are of sufficient area to support a private well and septic system. Permits from the Health Unit will be required prior to any new development. The proposed lot has access to a County maintained road.

1.2 OFFICIAL PLAN

Any application for consent must be evaluated with the policy directives of Section 10.11.13, which provides direction when considering the division of lands within the Township. Proposals must be consistent with zoning, and enjoy sufficient frontage and depth to accommodate setbacks, within the proposed lot configuration. Abutting land uses must be evaluated for conflicts and natural heritage features. The proposal as

submitted can achieve those directives.

1.3 ZONING

The proposal will if approved result in the creation of a lot that will comply with Official Plan policies and is consistent with Provincial Policy. The sketch accompanying the application illustrates that the lands have sufficient frontage and area to meet the requirements of the zoning By-law and no relief of the zoning provisions, standards or requirements will be required if this application moves forward to approval.

The application as proposed can be considered appropriate and as such represents good planning.

Township of Lanark Highlands – recommends approval of this application subject to the following conditions:

1. The balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to the Township.
2. An acceptable reference plan or legal description of the severed lands and the deed be submitted to the township.
3. That the applicant pays any outstanding fees to the Township prior to final approval.
4. That the applicant submits the 5% cash-in-lieu of parkland dedication fee to the Township.
5. The applicant shall obtain a Civic Address Number from the Township of Lanark Highlands. The applicant shall consult directly with the Township in this regard.

Conservation Authority – Mississippi Valley Conservation

Mississippi Valley Conservation (MVC) has been circulated the above noted application to conduct a review in terms of MVC Regulations and Provincial Planning Policy for Natural Heritage and Natural Hazard issues. Specifically, the purpose of this review is to assess potential impacts of the proposed development on known natural heritage features on and adjacent to the subject property. These features could include wetlands, wildlife habitat and areas of natural and scientific interest. This review also includes an evaluation of the subject property for natural hazards such as unstable slopes and areas prone to flooding and erosion.

PROPOSAL

It is our understanding that the purpose of the subject application is to sever one lot measuring 1 ha and retain 48 ha with a large amount of water frontage (amount not provided). The retained land is currently developed while the severed land is vacant.

PROPERTY CHARACTERISTICS

According to a review of available GIS mapping and aerial photography, the proposed retained lands have frontage on the Indian River. A portion of this frontage consists of unclassified wetland on both sides of the shoreline. A portion of the wetland extends into the western side of the proposed severed lands. In addition, the entire severed parcel and approximately half of the retained parcel have been classified by the Ministry of Natural Resources as a significant deer wintering area. No other significant natural heritage features or natural hazards were identified.

REVIEW

Natural Heritage Features

Deer Yard

The Provincial Policy Statement (PPS) requires that new development and site alterations, including the creation of new lots within significant wildlife habitat, only be permitted if it has been demonstrated that there will be no negative impacts on the natural features or ecological functions of the feature identified. This is generally assessed through an Environmental Impact Statement (EIS).

The deer yard identified on the subject land is considered significant wildlife habitat. Therefore, in order to address the aforementioned policy, the landowners have completed a simplified Environmental Impact Statement (EIS). MVCs Biologist has reviewed the completed EIS and concludes that the subject application will not significantly impact upon the ecological functions of the deer yard provided that various mitigation measures are followed (outlined below).

Unclassified Wetland

Unclassified wetland was observed on the retained lands and a portion of the proposed severed lands. Due to the fact that the retained lands are already developed with no new development proposed at this time, MVC does not anticipate any impacts to the wetlands as a result of this application. With respect to the severed lands, sufficient area appears to exist to accommodate future development in compliance with a recommended 30 meter setback from the wetland.

Fish Habitat

The proposed retained lands have frontage on the Clyde River, which is considered fish habitat. Given that the retained lands are already developed with no new development proposed, we do not anticipate any impacts to fish habitat as a result of this application.

Natural Hazards

Organic Soils

Wetlands inherently consist of organic soils; the poor drainage and unstable characteristics of which, makes them unsuitable for development. It is, therefore, recommended that development occur outside of these poorly drained areas. Sufficient area exists on the severed lands to achieve this and the retained lands are already developed.

RECOMMENDATIONS AND CONCLUSIONS

With all of the above in consideration, MVC does not have any objection to the subject application provided the following is implemented on the proposed severed lands, in the form of a development agreement:

1. Removal of terrestrial vegetation should be kept to the minimum required to develop the site. No additional removal of vegetation from within the deer yard should be allowed.
2. No removal of vegetation should occur between May 15th and July 15th to protect breeding birds.
3. If any species at risk be observed during construction the MNR should be contacted immediately.

4. No buildings or septic systems shall occur within 30-metres of the unclassified wetland.
5. The wetland shall remain undisturbed.

Please be aware that pet dogs should not be allowed to roam freely and harass deer.

Although the lot is already developed, the recommendations above should also be followed on the retained lands.

NOTES

The property owner should be advised that, pursuant to Ontario Regulation 153/06 - "Development, Interference with Wetlands and Alterations to Shorelines and Watercourses ", written permission is required from MVC prior to any alterations to the shoreline of the Clyde River.

Any proposed works in or near the river or wetland should be reviewed by MVC to ensure there will be no harmful alteration, disruption or destruction of fish habitat. Authorization under Section 35 of the Fisheries Act may be required for such work.

A review for Species at Risk was not conducted. We suggest contacting the Ministry of Natural Resources should you require a review in this regard.

On-Site Services (Septics) – Leeds, Grenville & Lanark District Health Unit

Severed – A vacant wooded parcel of land with a 60m frontage. Land slopes upward from Tatlock Road. 1 hectare parcel. Additional sandy loam fill will be required in area of future tile bed.

Retained – A large parcel of land – mainly wooded, 48 hectares in size. There is an existing house serviced by a well and septic system. Land slope and drainage can vary throughout the parcel. Additional sandy loam fill may be required in area of future replacement tile bed.

County Roads Department –

1. Applicant has an approved existing entrance to the County road – retained Lands Permit #2395
2. Applicant has an approved entrance location to the County Road – severed lands permit # 2392.
3. Full entrance application must be submitted and entrance installed prior to deed endorsement.
4. Sufficient lands shall be deeded to “The Corporation of the County of Lanark” along the frontage of the lot to be severed to meet the municipality’s road widening requirements, at no cost to the County. Sufficient lands may be required across the frontage of the retained lands to meet the municipality’s road widening requirements, and in these cases, the applicant will be requested to enter into a land purchase agreement with the County.
“In Preparation” Transfer documents are to be submitted to the Lanark County Public Works Department for review and approval prior to registration, accompanied by a solicitor’s certificate indicating that the municipality’s title is free and clear of all encumbrances and the municipality has a good and marketable title.
The County of Lanark Construction Supervisor shall be consulted prior to commencing a survey to determine the amount of road widening required. The

reference plan describing the road widening must be approved by the Lanark County Public Works Department prior to registration. Following registration one copy of the plan shall be forwarded to the County of Lanark Public Works Department.

Hydro One Networks – No comments were received.

Bell Canada R-O-W – No comments were received.

c. PUBLIC INPUT

Written submissions were received in response to the notice of application sent to every landowner pursuant to Clause 53(5) (a) of the Planning Act and Section 3(2) of O.Reg. 197/96 as amended, as follows:

Boyd Cameron

Further to your letter of Notice of Application for Consent dated August 22, 2012. I wish to **decline** consent for the above said property to be severed from 4140 Tatlock Road.

The property for which the severance is being made encompasses the majority of my property on the North East side of Indian River. This will also devalue my property as it is already surrounded by 4140 Tatlock Road, the only access I have currently is a small lane way from the Tatlock Road.

I wish to be notified in writing of a date for the public meeting. However, due to health reasons I may require sending someone to act on my behalf. Please send all further correspondence to the address below concerning this matter until further notice.

d. PLANNING REVIEW

Background and Summary

The applicant proposes to sever a 1.0-ha residential building lot and retain a 48=ha landholding with an existing dwelling, barn and garage at 4140 Tatlock Road.

The subject lands are located in an area characterized by Residential on larger type lots along Tatlock Road and 10th Con Darling. .

The lands are located within the locally known ‘Tatlock Lake Deer Yard’. As such, the applicant was required to prepare a simplified Environmental Impact Assessment which was reviewed by the Conservation Authority. If approval is granted, the applicant should be advised that domestic animals (dogs) should be kept on a leash or in a pen and that tree removal should be kept to a minimum, particularly removal of natural browse (eastern white cedar).

Archaeological

The lands are located within 200 m of Primary Water Source (Indian River) and therefore are subject to archaeological potential.

The lands are accessed via Tatlock Road, a county maintained road.

Soils Inventory – Name: Tweed

- Stoniness: very stony
- CLI: 4 – severe limitations
- Drainage: well drained
- Hydrogeology: moderate

Bedrock Inventory – marble, calc-silicate

Official Plan Policies

- 1/ Lanark County Sustainable Communities Official Plan - Section 8.2.2 Consents. Lanark County, through an appointed Land Division Committee is the approval authority for the issuance of consents.

Lot creation by consent shall be permitted where lot creation by plan of subdivision is deemed to be unnecessary. Consideration of locational and development criteria by the approval authority shall be based on local Official Plans. In considering a consent, regard shall also be had to, among other matters, the criteria of Section 51 (24) of the *Planning Act, R.S.O. 1990* with necessary modifications.

- 2/ Lanark Highlands Official Plan Policies for the Division of Land are found in Section 10.11.13 of the OP. Generally, the consent process will be used for the purpose of creating up to two (2) parcel of land. A number of ‘general policies also apply to the division of lands, including: size and setbacks appropriate to zoning designation, supporting studies as required, MDS separation, frontage on public road unless exempted, no development on lands subject to hazards, flooding, etc., extension of major services not required. The lot creation date for Lanark Highlands in March 2003.
- 3/ Woodlands
The area has considerable land masses mapped as ‘woodlands’, care should be taken in any development proposal to maintain the existing tree cover. Woodland Development Policies have not been established by the Township of Lanark Highlands.

Zoning

The subject property is currently zoned Rural (RU) which permits a number of uses, including single-detached dwellings. The property that will be created meets the minimum lot size and frontage requirements.

Conclusion

The Provincial Policy Statements encourages development to occur in designated *settlement areas*. The proposed lots are not located within a designated settlement area, and therefore fall under PPS Section 1.1.4. Section 1.1.4.1.d) provides that development that is compatible with the rural landscape and can be sustained by rural service levels should be promoted. No new or additional infrastructure is required as a result of the proposal. The severed lands meet the minimum requirements of Township’s Official Plan which is appropriate in the rural setting. The application can meet the consistent with test of the Provincial Policy Statement.

There were no objections raised by any of the agencies which were circulated regarding this proposal. In light of the foregoing, this office is satisfied that the applicant’s proposal

maintains the general intent and purpose of the PPS, the County Official Plan and Official Plan for the Township of Lanark Highlands and could be given favourable consideration.

e. **MINUTES – October 16, 2012**

Stacey Larocque, owner, Clarence Gemmill, agent, Boyd Cameron, adjacent landowner and Jennifer Riopelle, daughter of Mr. Cameron, attended the hearing and gave evidence by affirmation.

Mr. Cameron advised that he felt that the creation of the lot would cut off his access to his lands on the east side of Indian River. Mr. Cameron advised that he currently has a field entrance onto this lot in the area between the bridge and Mr. Larocque's land which is only about 75 feet in width.

Mr. Gemmill explained that the new entrance approved by County Public Works was on the westerly side of the proposed lot and abutting Mr. Cameron's land

The Committee advised that the new entrance would not affect Mr. Cameron's right to use his existing field entrance and that should he wish to upgrade this entrance to 'residential' he would have to apply to the County Public Works.

Committee reviewed the staff report and draft conditions.

f. **DECISION & CONDITIONS**

DECISION: PROVISIONAL CONSENT IS GRANTED

REASONS: Having determined that a plan of subdivision is not necessary for the proper and orderly development of the municipality, and having determined that the proposal is consistent with the policy statements issued under subsection 3(1) of the Planning Act, and having had regard to the matters under subsection 51(24) of the Planning Act.

CONDITIONS:

1. An acceptable reference plan or legal description of the severed lands and the deed or Instrument conveying the severed lands shall be submitted to the Secretary-Treasurer for review and consent endorsement **within a period of one year** after the "Notice of Decision" is given under Section 53 (17) or (24) of the Planning Act.
2. The applicant shall provide the Secretary-Treasurer of the Land Division Committee with a digital copy of the registered reference plan.
3. Payment shall be made to the Township of Lanark Highlands representing the amount satisfactory to the Township of up to 5% of the value of the land pursuant to Section 51.1(3) of the Planning Act (Cash-in-Lieu of Parklands).
4. The balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to the Township of Lanark

Highlands.

5. The applicants shall satisfy all the requirements of the Township of Lanark Highlands, financial and otherwise, that may be required under established by-laws for consent applications.
6. The applicant shall provide the Township of Lanark Highlands with a copy of all reference plans associated with this application if a survey is required by the Land Titles Office.
7. The applicant shall provide the Township of Lanark highlands with a copy of the deed/transfer for the property.
8. The applicant shall obtain a Civic Address Number from the Township of Lanark Highlands. The applicant shall consult directly with the Township in this regard.
9. That the applicant enter into a Development Agreement and/or Site Plan Agreement with the Township of Lanark Highlands. The wording of the agreement shall be acceptable to the Municipality and shall address the concerns of the Conservation Authority as outlined in their report of August 9, 2012, provided that in the event the Conservation Authority is not satisfied with the wording of the agreement, the Committee shall change the condition under Section 53 (23) of the Planning Act, to delete the reference to the Conservation Authority.
10. The applicant shall submit a full entrance application to the County of Lanark Public Works Department and install the entrance as required in the permit.
11. The County Public Works Department shall confirm that the existing/proposed entrances to the lots to be severed and retained have been installed to the satisfaction of the County.
12. Sufficient lands shall be deeded to "The Corporation of the County of Lanark", along the frontage of the lot to be severed, to meet the municipality's road widening requirements, at no cost to the County. Sufficient lands may be required across the frontage of the retained lands to meet the municipality's road widening requirements, and in these cases, the applicant will be requested to enter into a land purchase agreement with the County. "In Preparation" transfer documents are to be submitted to the Lanark County Public Works Department for review and approval, prior to registration, accompanied by a Solicitor's Certificate indicating that the municipality's title is free and clear of all encumbrances and the municipality has a good and marketable title. The County of Lanark Construction Supervisor shall be consulted, prior to commencing a survey, to determine the amount of road widening required. The reference plan, describing the road widening, must be approved by the Lanark County Public Works Department prior to registration. Following registration, one copy of the plan shall be forwarded to the County of Lanark Public Works Department.
13. A letter shall be received from the County of Lanark Public Works Department stating that condition #10 through #12 has been fulfilled to their satisfaction.

14. A letter shall be received from Mississippi Valley Conservation stating that condition #9 has been fulfilled to their satisfaction.
15. A letter shall be received from the Township of Lanark Highlands stating that condition #3 through #9 has been fulfilled to their satisfaction.

NOTES

1. *It is recommended that the applicant review available water well records of adjacent lands to determine that there is adequate potable water for a residential dwelling.*
2. *The applicant / purchaser is advised that if during the process of development archeological remains be uncovered, the developer or their agents should immediately notify the Archaeology Section of the Ontario Ministry of Culture. That in the event that human remains are encountered during construction, the developer should immediately contact both the Ministry of Culture and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Consumer and Commercial Relations.*
3. *The Leeds Grenville and Lanark District Health Unit advises that additional sandy loam fill may be required in the septic system area on the severed lands and in the future replacement area on the retained lands.*
4. *The Mississippi Valley Conservation advises that, pursuant to Ontario Regulation 153/06 - "Development, Interference with Wetlands and Alterations to Shorelines and Watercourses ", written permission is required from MVC prior to any alterations to the shoreline of the Clyde River.*
5. *The MVC also advise that any proposed works in or near the river or wetland should be reviewed by MVC to ensure there will be no harmful alteration, disruption or destruction of fish habitat. Authorization under Section 35 of the Fisheries Act may be required for such work.*
6. *Also, the MVC advises that the any future development on the retained lands should consider the following:*
 - *Removal of terrestrial vegetation should be kept to the minimum required to develop the site. No additional removal of vegetation from within the deer yard should be allowed.*
 - *No removal of vegetation should occur between May 15th and July 15th to protect breeding birds.*
 - *If any species at risk be observed during construction the MNR should be contacted immediately.*
 - *No buildings or septic systems shall occur within 30-metres of the unclassified wetland.*
 - *The wetland shall remain undisturbed.*
7. *The applicant is advised that the lands are within a recognized "Wintering Area – Deer Yard", the future building envelope should be positioned on open lands. Limited tree cover should be removed, particularly browse and cedar trees.*
8. *The applicant is also advised that where lands are within a recognized "Wintering Area – Deer Yard" that landowners are encouraged to keep domestic pets (dogs)*

leashed or penned at all times.

9. *The applicant is advised that a fee of \$135.00 is payable to the Conservation Authority for a "Clearance of Conditions" letter.*
10. *The County of Lanark advises that, prior to the issuance of a building permit, Development Charges must be paid in full.*
11. *Endangered Species Act, 2007, and Species at Risk in Ontario Background
The ESA 2007 protects both species and habitat. Section 9 of the ESA "prohibits killing, harming, harassing, capturing, possessing, collecting, buying, selling, trading, leasing or transporting species that are listed as threatened, endangered or extirpated". Section 10 of the ESA, 2007 prohibits damaging or destroying habitat of endangered or threatened species. Protected habitat is either based on general definition in the Act or prescribed through a regulation. The ESA 2007 defines general habitat as an area on which the species depends, directly or indirectly, to carry on its life processes, including reproduction, rearing, hibernation, migration or feeding.*

It is important to be aware that changes may occur in both species and habitat protection. The ESA applies to listed species on the Species at Risk in Ontario List (SARO). The Committee on the Status of Species in Ontario (COSSARO) meets regularly to evaluate species for listing and/or re-evaluate species already listed. As a result, species' designations may change that could in turn change the level of protection they receive under the ESA 2007. Also, habitat protection provisions for a species may change e.g. if a species-specific habitat regulation comes into effect. The regulation would establish the area that is protected as habitat for the species.

The Ministry of Natural Resources continues to encourage ecological site assessments to determine the potential for SAR occurrences. When a SAR does occur on the site, it is recommended that the developer contact MNR for technical advice and to discuss what activities can occur without contravention of the Act. If an activity is proposed that will contravene the Act, the developer must contact the MNR to discuss the potential for application of certain permits or agreement.



LAND DIVISION STAFF REPORT

APPLICATION FOR CONSENT

Owner: Margaret Brisoe **Hearing Date:** October 16, 2012
Agent: ZanderPlan Inc. (John Lunney)
LDC File #: B12/087, B12/088 and B12/089
Municipality: Township of Beckwith
Geographic Township: Beckwith **Lot:** 12 & 13 **Conc.:** 6
Roll No. 0924 000 020 03600 **Consent Type:** three (3) new lots
0924 000 020 03500 and
0924 000 020 03400

Purpose and Effect: The applications are being taken in a two-step process:

Firstly

- 1/ To sever a 40.43-ha landholding with an existing cabin;
- 2/ To sever a 40.4-ha vacant landholding; and retain an 80.9 residential/farm landholding.

Secondly – on the lands to be created by B12/087

- 1/ To sever a 2.43-ha residential lot with an existing cabin; and
- 2/ To retain a 38.0-ha vacant landholding.

DETAILS OF PROPOSAL	Land to be Severed		Land to be Retained
	B12/087	B12/088	
Existing Use	Residential	Vacant	Residential / Farm
Proposed Use	Residential	Residential	Residential / Farm
Area	40.43-ha	40.4-ha	80.9-ha
Frontage	313 m	304 m	460 m
Depth	1371 m	1371 m	1371 m
Road - Access to	Municipal	Municipal	Municipal
Water Supply	Well	Proposed	Well
Sewage Disposal	Septic	Proposed	Septic
Official Plan Designation -Conformity?	Rural, Wetland, Floodplain Yes		
Zoning By-law Category	Rural, Wetland & Flood Plain		Rural, Wetland & Flood Plain
-Area Required (min.)	0.4-ha		0.4-ha
-Compliance?	Yes		Yes
-Frontage Required (min.)	60 m		60 m
-Compliance?	Yes		Yes

DETAILS OF PROPOSAL	Land to be Severed	Land to be Retained
Existing Use Proposed Use	Residential Residential	Vacant Residential
Area Frontage Depth Road - Access to	2.43-ha 122 m 200 m Municipal	38.0-ha 191 m 1371 m Municipal
Water Supply Sewage Disposal	Well Septic	Proposed Proposed
Official Plan Designation -Conformity?	Rural, Wetland, Floodplain Yes	
Zoning By-law Category -Area Required (min.) -Compliance? -Frontage Required (min.) -Compliance?	Rural, Wetland & Flood Plain 0.4-ha Yes 60 m Yes	Rural, Wetland & Flood Plain 0.4-ha Yes 60 m Yes

a. **APPLICATION REVIEW**

Provincial Policy Statement - Provincial Interests were identified as follows:

1.1 Managing and Directing Land Use

Section 1.1.1.c) Healthy, liveable and safe communities are sustained by avoiding development and land use patterns which may cause environmental or public health and safety concerns.

Section 1.1.4.1 In rural areas located in municipalities permitted uses and activities shall relate to the management or use of resources, resource-based recreational activities, limited residential development and other rural land uses.

1.6 Infrastructure and Public Service Facilities

Section 1.6.4.4 Individual on-site sewage services and individual on-site water services shall be used for a new development of five or less lots or private residences where municipal sewage services and municipal water services or private communal sewage services and private communal water services are not provided and where site conditions are suitable for the long-term provisions of such services.

2.1 Natural Heritage

Section 2.1.1 Natural features and areas shall be protected for the long term.

Section 2.1.3 Development and site alteration shall not be permitted in: (a) significant wetlands in Ecoregions 5E, 6E and 7E.

Section 2.1.4 Development and site alteration shall not be permitted in: (b) significant woodlands south and east of the Canadian Shield, unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions.

Section 2.1.6 Development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas identified in policies 2.1.3, 2.1.4 and 2.1.5 unless the ecological features function of the adjacent lands has been evaluated and it has

been demonstrated that there will be no negative impacts on the natural features of on their ecological functions.

3.1 Natural Hazards

Section 3.1.1 Development shall generally be directed to areas outside of: (b) hazardous lands adjacent to river, stream and small inland lake systems which are impacted by flooding hazards and/or erosion hazards.

County Official Plan – Section 2.0 Settlement Policies, Section 4.3.4 Local Roads, Section 4.4 Water and Wastewater, Section 8.2.2 Consents.

The proposal conforms to the designations and policies of the Official Plan for the County of Lanark.

Official Plan – Section 5 general Development Policies, Section 6.4 Flood Plain Policies, Section 6.5 Wetlands Policies, Section 6.6 Rural Land Policies, Section 7.3 Local Roads, Section 9.6 Subdivision of Land.

The Township of Beckwith advises that the proposal conforms to the designations and policies of the Official Plan.

Zoning By-law - Section 3 general Provisions, Section 11 Rural Zone, Section 13 Wetland Zone.

The Township of Beckwith advises that the proposal complies with the zoning by-law regulations.

b. AGENCY REVIEW

This application has been circulated to those agencies that were considered to have an interest in the proposal. The following comments were received:

Township Planner's Notes

Official Plan – Section 6.5 of the Official Plan regards Rural Lands. These areas permit a variety of uses, including residential dwellings and agricultural uses.

Section 4.5 of the Official Plan regards land division policies. The plan permits technical severances to clarify title. The severance application that will create a new parcel with the Township is located on a parcel that has not been severed in the past.

Township of Beckwith - recommends approval of this application subject to the following conditions:

- 1/ The balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to the Township of Beckwith.
- 2/ The applicant shall provide the Township of Beckwith with a copy of all reference plans associated with this application.

Advisory Notes:

- 1/ That all structures are located under the guidance of the Chief Building Official in accordance with the Ontario Building Code and all municipal by-laws.

Conservation Authority – Rideau Valley Conservation

T Rideau Valley Conservation Authority has completed a review of the above noted applications which would ultimately create 3 new residential lots and 1 retained lot.

We have undertaken our review within the context of Sections 2.1 Natural Heritage, 2.2 Water and 3.1 Natural Hazards of the Provincial Policy Statement issued under Section 3 of the Planning Act, and from the perspective of the Conservation Authority regulations. The following comments are offered for the Committee's consideration.

Natural Heritage

For the applicant's information the southern portion (rear of property) of the severed parcels 1 and 2 (B12/087 and B12/088) and the retained parcel have been identified as being within the Goodwood Marsh (Provincially Significant Wetland) and the 120 metre adjacent lands. The Rideau Valley Conservation Authority administers Ontario Regulation 174/06 "Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation" under Section 28 of the Conservation Authorities Act. This regulation affects the severed and retained lands in the following manner:

- Any alteration, straightening, changing, diverting or interfering in any way with any watercourse requires the prior written approval from the Conservation Authority.
- Any development within a PSW and the 120 metre adjacent lands requires the written approval of the Conservation Authority. Development within a PSW is not permitted.

For the purpose of this application the severed parcels 1 and 2 and the retained parcel have more than adequate building envelopes entirely outside of the Goodwood Marsh and the 120 metre adjacent lands. The severed parcel for severance 3 (B12/089) is entirely outside of the Goodwood Marsh and the 120 metre adjacent lands.

Natural Hazards

In addition a permanent wetland has been identified on the north-west portion of the retained parcel. The Conservation Authority has consulted the Surficial Geology mapping for this particular area. A small area coinciding with the approximate boundaries of the wetland has been identified (illustrated as grey on the attached mapping) as having organic deposits (soil). Under Section 3.1 Natural Hazards in the Provincial Policy Statement 2005, it states:

Development shall generally be directed to areas outside of:

- a) Hazardous sites

Hazardous sites is defined in the PPS as property or lands that could be un-safe for development and site alteration due to naturally occurring hazards. These may include unstable soils (sensitive marine clays [leda], organic soils or unstable bedrock (karst topography)).

It is our understanding that a barn and residence already exists on the retained parcel and no new development is proposed. However, should any new development be proposed on the retained parcel, it should be directed outside of the portions of the property which have been identified as having organic deposits. Section 3.1.6 of the Provincial Policy Statement also states:

"Further to Policy 3.1.5, and except where as prohibited in Policies 3.1.2 and 3.1.4, development and site alteration may be permitted in those portions of hazardous lands and hazardous sites where effects and risk to public safety are minor so as to be managed or mitigated in accordance with provincial standards, as determined by the demonstration of the following:

- a) Development and site alteration is carried out in accordance with flood-proofing standards, protection works standards, and access standards;
- b) Vehicles and people have a way of safely entering and exiting the area during times of flooding, erosion and other emergencies;
- c) New hazards are not created and existing hazards are not aggravated; and

d) No adverse environmental impacts will result"

Therefore should the applicant or any subsequent purchaser of the retained parcel wish to construct on any portion of the property identified as organic soils, then a geotechnical study which addresses the above noted points would be required.

The applicant should advise any future purchaser of the property of the existence of organic soils on the property and the implications it may have on the placement of structures.

For the applicant's information, in the early 90's some floodplain estimates were done for the Goodwood Marsh during the approval process of a subdivision to the east of the subject property. A flood elevation estimate of 131.7 metres geodetic was made at that time and is the best available information to date that can be used for this property. Therefore this elevation should be taken into consideration when constructing and placing any structures on the severed and retained parcels.

Conclusion

In conclusion, the Conservation Authority has no objections or conditions to this application for consent as there would appear to be a sufficient building envelope outside of the natural hazard (organic soils) and outside of the required water setbacks. We have provided recommendations to the applicant regarding the natural hazard and the wetland. Please forward notice of the Committee's decision on this application to the office of the Rideau Valley Conservation Authority at the address noted below. Please contact me at ext. 1191 if you have any questions.

Septic Office – LGL Health Unit

FIRST STEP

B12/087 – The property is 40.43 hectares and contains a cabin with fields and wooded area. Elevations vary. Rock on the property, some areas within 0.3 metres of grade.

Recommendation – The raised septic system is located in front of the cabin. The severance would not impact future replacement.

B12/088 – The land to be severed is 40.4 hectares. The elevation varies but drainage appears to be toward the rear of the property. The property has fields and wooded areas. Recommendation – should a septic system be constructed on the property, it may need to be partly or fully raised using imported sandy loam fill.

Retained – The property to be retained is 80.9 hectares. There is a house and farm buildings on the property. The property consists of fields and treed areas. Elevations and soil conditions vary on the property. Recommendation – the septic system is on the road side of the house. The severance will not impact future replacement of the septic system.

SECOND STEP

B12/089 – The land to be severed is 2.43 hectares and contains a cottage. The well is to the rear of the cabin. The elevation varies on the property but main drainage appears to be northwest. Recommendation – The raised septic system is located in front of the cabin. There will still be sufficient land for future replacement of the septic system.

Retained - The land to be retained is 38 hectares. Elevations vary on the property as do soil conditions. The property consists of fields and some treed areas. Recommendation – the land could accommodate a conventional Class 4 septic system that conforms to Ontario Building Code Part 8. Depending on the exact location, it may need to be raised

using imported sandy loam fill.

Hydro One Networks – HONI requests an easement for the existing line crossing these severances.

Bell Canada R-O-W – No comments were received.

c. **PUBLIC INPUT**

No written submissions were received in response to the notice of application sent to every landowner pursuant to Clause 53(5) (a) of the Planning Act and Section 3(2) of O.Reg. 197/96 as amended.

d. **PLANNING REVIEW**

Background and Summary

The applicant proposes to sever three residential lots in a two-step process. The first step is to separate lot 12 from the east and west halves of lot 13 which merged on title. All three maintain a separate roll number and tax bill. The second step is to create a new lot on the easterly portion of the east half of Lot 13.

The separate (or de-merging) of the lots can be deemed as a ‘technical’ severance”. Lot 12 has had three previous severances in 1988; however lot 13 has not had any severances. An existing Consumer Gas easement crosses the retained lands.

The subject lands are located in an area characterized by rural and marginal farming on large lots along the 7th Line Beckwith.

The lands are accessed via 7th Line Beckwith, a municipally maintained road.

Due to an agricultural operation being located on the retained lands, the applicant was required to submit information to calculate the Minimum Distance Separation for the proposed lots. The MDS indicated a minimum setback of 250m from the operation location on the Briscoe Farm and 215m from the Prachter Farm. A condition should be included to advise future purchasers of the farming operation and potential for noise, odours etc.

Official Plan Policies

- 1/ Lanark County Sustainable Communities Official Plan - Section 8.2.2 Consents. Lanark County, through an appointed Land Division Committee is the approval authority for the issuance of consents. Lot creation by consent shall be permitted where lot creation by plan of subdivision is deemed to be unnecessary. Consideration of locational and development criteria by the approval authority shall be based on local Official Plans. In considering a consent, regard shall also be had to, among other matters, the criteria of Section 51 (24) of the *Planning Act, R.S.O. 1990* with necessary modifications.
- 2/ Beckwith Official Plan Policies for the Division of Land are found in Section 4.5 of

the OP. Generally, the consent process will be used for the purpose of creating one or two new lots. A number of 'general policies' also apply to the division of land, including: size and setbacks appropriate to zoning designation, reserving, MDS separation, supporting studies as required, road access to maintained infrastructure, no development of land subject to flooding, quantity and quality of groundwater. The lot creation date for Beckwith is July 1973.

Section 4.5.2 (iii) requires new lots created within the special service area to enter into an agreement with the Township acknowledging participation within the Township's water monitoring program.

3/ Woodlands

The area has considerable land masses located on the southern portion of the lands mapped as 'woodlands', care should be taken in any development proposal to maintain the existing tree cover. Woodland Development Policies have not been established by the Township of Beckwith.

Zoning

The subject property is currently within the Rural (RU) Zone, which permits a number of uses, including single-detached dwellings. Applications B12/087 and B12/088 also contain areas Zoned as Flood-Plain and Wetland, which do not permit any development. The proposed lots meets the minimum frontage and lot size requirements of the Zoning, however as noted by the Conservation Authority, any development within the area shown as organic soils will require a geotechnical investigation to support any structural development.

Conclusion

The Provincial Policy Statements encourages development to occur in designated *settlement areas*. The proposed lots are not located within a designated settlement area, and therefore fall under PPS Section 1.1.4. Section 1.1.4.1.d) provides that development that is compatible with the rural landscape and can be sustained by rural service levels should be promoted. No new or additional infrastructure is required as a result of the proposal. The severed lands meet the minimum requirements of Township's Official Plan which is appropriate in the rural setting. The application can meet the consistent with test of the Provincial Policy Statement.

There were no objections raised by any of the agencies which were circulated regarding this proposal. In light of the foregoing, this office is satisfied that the applicant's proposal maintains the general intent and purpose of the PPS, the County Official Plan and Official Plan for the Township of Beckwith and could be given favourable consideration.

e. **MINUTES – October 16, 2012**

Tracy Zander, agent, attended the hearing and gave evidence under oath.

Committee reviewed the staff report and draft conditions.

f. **DECISION & CONDITIONS**

DECISION: PROVISIONAL CONSENT IS GRANTED

REASONS: Having determined that a plan of subdivision is not necessary for the proper and orderly development of the municipality, and having determined that the proposal is consistent with the policy statements issued under subsection 3(1) of the Planning Act, and having had regard to the matters under subsection 51(24) of the Planning Act.

CONDITIONS:

All three applications have the same conditions:

1. An acceptable reference plan or legal description of the severed lands and the deed or Instrument conveying the severed lands shall be submitted to the Secretary-Treasurer for review and consent endorsement **within a period of one year** after the "Notice of Decision" is given under Section 53 (17) or (24) of the Planning Act.
2. The applicant shall provide the Secretary-Treasurer of the Land Division Committee with a digital copy of the registered reference plan.
3. The Certificate of Consent "Schedule" attached to the deed / transfer required by Condition #1 above, shall include the following condition "The lot is adjacent to an agricultural area and may therefore be subject to noise, dust, odours and other nuisances associated with agricultural activities".
4. The applicant shall grant an appropriate easement to Hydro One Inc. for the existing line. The applicant shall consult directly with Hydro One Inc. – Perth Zone.
5. The balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to the Township of Beckwith.
6. The applicant shall provide the Township of Beckwith with a copy of all reference plans associated with this application if a survey is required by the Land Titles Office.
7. A letter shall be received from the Township of Beckwith stating that condition #5 and #6 has been fulfilled to their satisfaction.
8. A letter shall be received from Hydro One – Perth stating that condition #4 has been fulfilled to their satisfaction.

NOTES

1. *It is recommended that the applicant review available water well records of adjacent lands to determine that there is adequate potable water for a residential dwelling.*

2. *The Township of Beckwith advises that all future structures are to be located under the guidance of the Chief Building Official in accordance with the Ontario Building Code and all municipal by-laws.*
3. *The LGL Health Unit advises that any future septic system be constructed on the property, it may need to be partly or fully raised using imported sandy loam fill.*
4. *The Applicant shall include in all Agreements of Purchase and Sale the following wording:
“TAKE NOTICE that a portion of this lot has been identified by the Canada Land Inventory for Agricultural Capability as having organic soils and that a geotechnical study will be required for any placement of structures within this area. Prior to undertaking development on the lot, the property owner should confirm that the subject area is suitable or can be made suitable for development.”*
5. *The County of Lanark advises that, prior to the issuance of a building permit, Development Charges must be paid in full.*
6. *Endangered Species Act, 2007, and Species at Risk in Ontario Background
The ESA 2007 protects both species and habitat. Section 9 of the ESA “prohibits killing, harming, harassing, capturing, possessing, collecting, buying, selling, trading, leasing or transporting species that are listed as threatened, endangered or extirpated”. Section 10 of the ESA, 2007 prohibits damaging or destroying habitat of endangered or threatened species. Protected habitat is either based on general definition in the Act or prescribed through a regulation. The ESA 2007 defines general habitat as an area on which the species depends, directly or indirectly, to carry on its life processes, including reproduction, rearing, hibernation, migration or feeding.*

It is important to be aware that changes may occur in both species and habitat protection. The ESA applies to listed species on the Species at Risk in Ontario List (SARO). The Committee on the Status of Species in Ontario (COSSARO) meets regularly to evaluate species for listing and/or re-evaluate species already listed. As a result, species’ designations may change that could in turn change the level of protection they receive under the ESA 2007. Also, habitat protection provisions for a species may change e.g. if a species-specific habitat regulation comes into effect. The regulation would establish the area that is protected as habitat for the species.

The Ministry of Natural Resources continues to encourage ecological site assessments to determine the potential for SAR occurrences. When a SAR does occur on the site, it is recommended that the developer contact MNR for technical advice and to discuss what activities can occur without contravention of the Act. If an activity is proposed that will contravene the Act, the developer must contact the MNR to discuss the potential for application of certain permits or agreement.



LAND DIVISION STAFF REPORT

APPLICATION FOR CONSENT

Owner: Leo E Fox and Beverly Fox (deceased) **Hearing Date:** October 16, 2012
Agent: Leo E Fox
LDC File #: B12/093
Municipality: Township of Montague
Geographic Township: Montague **Lot:** 19 **Conc.:** 13
Roll No. 0901 000 020 03603 **Consent Type:** new lot

Purpose and Effect: To sever a 3.1-ha residential building lot and retain a 4.9-ha residential lot with an existing dwelling located at 947 Rideau River Road.

DETAILS OF PROPOSAL	Land to be Severed	Land to be Retained
Existing Use	Vacant	Residential
Proposed Use	Residential	Residential
Area	3.1718-ha	4.8841-ha
Frontage – road	86.9 m	121 m
Frontage - water	86.9 m	121 m
Depth	365 m	403.7 m
Road - Access to	Municipal Road	Municipal Road
Water Supply	Proposed	Private Well
Sewage Disposal	Proposed	Septic System
Official Plan Designation -Conformity?	Rural with constrain overlays – organic soils, PSW & Woodlands Yes	
Development Permit Category	Rural and EP	Rural & EP
-Area Required (min.)	0.4-ha	0.4-ha
-Compliance?	Yes	Yes
-Frontage Required (min.)	46 m	46 m
-Compliance?	Yes	Yes

(a) APPLICATION REVIEW

Provincial Policy Statement - Provincial Interests were identified as follows:

1.1 Managing and Directing Land Use

Section 1.1.1.c) Healthy, liveable and safe communities are sustained by avoiding development and land use patterns which may cause environmental or public health and safety concerns.

Section 1.1.4.1 In rural areas located in municipalities permitted uses and activities shall relate to the management or use of resources, resource-based recreational activities,

limited residential development and other rural land uses.

1.6 Infrastructure and Public Service Facilities

Section 1.6.4.4 Individual on-site sewage services and individual on-site water services shall be used for a new development of five or less lots or private residences where municipal sewage services and municipal water services or private communal sewage services and private communal water services are not provided and where site conditions are suitable for the long-term provisions of such services.

2.1 Natural Heritage

Section 2.1.1 Natural features and areas shall be protected for the long term.

Section 2.1.3 Development and site alteration shall not be permitted in: (a) significant wetlands in Ecoregions 5E, 6E and 7E.

Section 2.1.4 Development and site alteration shall not be permitted in: (b) significant woodlands south and east of the Canadian Shield, unless it has been demonstrated that there will be no negative impacts on the natural features or their ecological functions.

Section 2.1.6 Development and site alteration shall not be permitted on adjacent lands to the natural heritage features and areas identified in policies 2.1.3, 2.1.4 and 2.1.5 unless the ecological features function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features of on their ecological functions.

2.2 Water

Section 2.2.1 Planning authorities shall protect, improve or restore the quality and quantity of water (set out in subsections a through g).

Section 2.2.2 Development and site alteration shall be restricted in or near sensitive surface water features and sensitive ground water features such that these features and their related hydrologic functions will be protected, improved or restored.

2.6 Cultural Heritage and Archaeology

Section 2.6.2 Development and site alteration shall only be permitted on lands containing archaeological resources or areas of archaeological potential if the significant archaeological resources have been conserved by removal and documentation, or by preservation o site. Where significant archaeological resources must be preserved on site, only development and site alteration which maintain the heritage integrity of the site may be permitted.

Section 2.6.3 Development site alteration may be permitted on adjacent lands to protected heritage property where the proposed development and site alteration has been evaluated and it has been demonstrated that the heritage attributes of the protected property will be conserved.

Mitigative measures and/or alternative development approaches may be required in order to conserve the heritage attributes of the protected heritage property affected by the adjacent development or site alterations.

3.1 Natural Hazards

Section 3.1.1 Development shall generally be directed to areas outside of: (b) hazardous lands adjacent to river, stream and small inland lake systems which are impacted by flooding hazards and/or erosion hazards.

County Official Plan – Section 2.0 Settlement Policies, Section 4.3.4 Local Roads, Section 4.4 Water and Wastewater, Section 8.2.2 Consents.

The proposal conforms to the designations and policies of the Official Plan for the County of Lanark.

Official Plan – Section 2 General Development Policies, Section 3.3 and 3.4 Natural Heritage, section 3.5 Natural Hazard, Section 3.6 Rural Policies, Section 4.4 Township Roads section 5.2 Land Division.

The Township of Montague advises that the proposal conforms to the designations and policies of the Official Plan.

Zoning By-law - Section 3 General Provisions, Section 17 Environmental Protection Zone, Section 178 Rural Zone.

The Township of Montague advises that the proposal complies with the zoning by-law regulations.

(b) AGENCY REVIEW

This application has been circulated to those agencies that were considered to have an interest in the proposal. The following comments were received:

Township Planner's Report

Please be advised that I have reviewed the above noted consent application and have determined that it is generally consistent with the Township of Montague's Official Plan and Zoning By-law. As I understand it, the applicant is intending to sever a 3.18 hectare (7.9 acre) residential building lot from his existing landholding and retain a 4.88 hectare (12 acre) parcel (Civic Address 947 Rideau River Road). Both parcels would front on Rideau River Road, which is a Township owned road servicing a variety of residential and recreational land uses along the river.

The application complies with the Township's Consent Policies (Sec. 5.2.3), as well as the underlying policies of the Rural Designation. Section 3.6.4.2 of the Plan provides for "low density residential development that complements the character of the rural environment" and the creation of this additional lot, given its size, topography and surroundings would not negatively impact the rural character. One issue in this case is that the Fox property fronts on the Rideau River, which is part of the UNESCO World Heritage Site and any development and alteration on the lot should be compatible with the character of the canal landscape. As such, the Township will work with the Rideau Valley Conservation Authority and Parks Canada to implement any development conditions they may request, including development agreements or site plan control.

Additionally, when reviewing the Official Plan's Constraints mapping, I do note that portions of the Fox property are identified as containing significant woodland, containing organic soils and being provincially significant wetland. All three of these features are also present on the proposed severed lot (see OP map). While Policies 2.21.1 and 2.21.6 of the Plan would require an Environmental Impact Assessment to accommodate

any development within 120 metres of these features, there is a large enough building envelope outside this buffer that development can safely occur and as such I do not think an EIA should be required at this stage. The presence of these features close to the water would also direct development further from the water, thus limiting any visual impacts on the canal landscape. With respect to the organic soils, Section 2.19.2 stipulates that development, where possible, should occur outside the areas identified as containing organic soils. While the approval authority may ask for a geotechnical study to review the suitability of

these lands for development, in my view there is a significant building envelope outside the organic soils portions to feasibly permit development. It should be understood however that any development within those areas should be evaluated with this section in mind.

The severed and retained lots are both within the Rural (A) Zone as indicated in the Township's Zoning By-Law, and both lots meet the requirements of the zone in terms of lot area, frontage and use.

There is also a section along the river that is zoned Environmental Protection (EP), accommodating the wetland and floodplain, however the developable portion of the lot extends far beyond that area.

Given the foregoing, the Township of Montague supports the above consent application, provided that the conditions as indicated on the attached Municipal Reply Form are met. I trust this is satisfactory, if you require any further information please do not hesitate to contact me.

Township of Montague - recommends approval of this application subject to the following conditions:

- 1/ The balance of any outstanding taxes and fees owing shall be paid to the Township.
- 2/ The Applicant shall provide the Township with a registered copy of all reference plans associated with this application if a survey is required by the Registry Office.
- 3/ Sufficient land for Road Widening purposes shall be conveyed as required to the Township of Montague by registered deed, to meet the road widening requirements of the Township. Deeds are to be submitted to the Municipality for review accompanied by a solicitor's certificate indicating that the Municipality's title is free and clear of all encumbrances and the Municipality has a good and marketable title. The Township Roads Superintendent shall be consulted prior to commencing a survey to determine the amount, if any, of road widening required.
- 4/ The Applicant shall confirm that a residential entrance to the subject lot is viable. The Applicant shall consult directly with the Township of Montague in this regard.
- 5/ The Applicant shall obtain a Civic Address Number from the Township of Montague for the severed lot. The applicant shall consult directly with the Township in this regard.
- 6/ The Applicant shall demonstrate to the satisfaction of the Township that adequate ground water supply exists on both lots to service the intended single family residential use.
- 7/ The Applicant shall register Notice on Title and in all Agreements of Purchase and Sale the following wording:

TAKE NOTICE that a portion of this lot has been identified by the Canada Land Inventory for Agricultural Capability as having organic soils. Prior to undertaking development on the lot, the property owner should confirm that the subject area is suitable or can be made suitable for development.

- 8/ The Applicant shall meet the Township's requirements regarding the dedication of parkland or cash-in-lieu thereof.

Conservation Authority – Rideau Waterway Development Review Team

The Rideau Waterway Development Review Team has completed a review of the above noted application which would allow the creation of a new residential lot. We have undertaken our review within the context of Sections 2.1 Natural Heritage, 2.2 Water and 3.1 Natural Hazards of the Provincial Policy Statement issued under Section 3 of the

Planning Act, Historic Canal Regulations, and from the perspective of the Conservation Authority regulations. The following comments are offered for the Committee's consideration.

Natural Heritage and Natural Hazards

A small portion of the property has been identified as being within the 1:100 year floodplain of the Rideau River identified as 103.5 metres geodetic. In addition a portion of the severed and retained lands have been identified as being within the Rideau River Part 4 Provincially Significant Wetland and the 120 metre adjacent lands. The Rideau Valley Conservation Authority administers Ontario Regulation 174/06 "*Development Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation* under Section 28 of the Conservation Authorities Act. This regulation affects the retained lands in the following manner:

- Any alteration, straightening, changing, diverting or interfering in any way with any watercourse requires the prior written approval from the Conservation Authority.
- Any development within the regulated limit area and the floodplain requires the prior written approval of the Conservation Authority.
- Any development within a PSW and the 120 metre adjacent lands requires the written approval of the Conservation Authority. Development within a PSW is not permitted.

We note that there has been no EIS provided in accordance with Official Plan and Provincial Policy Statement requirements to support this application. However, given the large size of the retained and severed parcels, there is a sufficient building envelope entirely outside of the Rideau River Part 4 Provincially Significant Wetland and the 120 metre adjacent lands. Therefore in lieu of an EIS being provided, the Conservation Authority will be requesting a condition to prevent any future development from occurring with the PSW and the 120 metre adjacent lands. This condition would ultimately make the development envelope somewhat limited.

However should the applicant desire to have more options in terms of building locations on the property including the potential of development within the 120 metre adjacent lands, then an EIS is required in accordance with the Township's Official Plan and the Provincial Policy Statement to determine whether suitable development envelopes are available within the 120 metre adjacent lands. This would be required prior to the consent moving forward in order to ensure any potential recommendations in an approved EIS can be carried forward as a condition of the consent.

For the applicant's information any shoreline work or dock installation must receive approval from Parks Canada. It should be noted that Parks Canada does not typically approve applications for shoreline work or docks in Provincially Significant Wetlands.

Conclusion

In conclusion the RWDRT has no objection to this severance application subject to the following conditions:

1. That the applicant enters into a development agreement with the Township to the satisfaction of the RWDRT with the following wording:
 - a. That the Owner acknowledges and agrees that there shall be no development within the Rideau River Part 4 Provincially Significant Wetland and the 120 metre adjacent lands.
 - b. That the Owner acknowledges and agrees that the portions of the property are within the 1:100-year floodplain of the Rideau River, the Rideau River Part 4 Provincially Significant Wetland (PSW) and the 120 metre adjacent lands. The Rideau Valley Conservation Authority administers Ontario Regulation 174/06 *"Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulations"* under Section 28 of the Conservation Authorities Act. This regulation affects the retained lands in the following manner:
 - Any alteration, straightening, changing, diverting or interfering in any way with any watercourse requires the prior written approval from the Conservation Authority.
 - Any development within the regulated limit area and the floodplain requires the prior written approval of the Conservation Authority.
 - Any development within a PSW and the 120 metre adjacent lands requires the written approval of the Conservation Authority. Development within a PSW is not permitted.
 - c. That the Owner acknowledges and agrees that any shoreline work or dock installation must receive approval from Parks Canada. It should be noted that Parks Canada does not typically approve applications for shoreline work or docks in Provincially Significant Wetlands.

However, should the applicant desire to have more options in terms of building locations on the property including the potential of development within the 120 metre adjacent lands of the PSW, then the RWDRT recommends that this application be adjourned until such time as an EIS has been submitted and reviewed in accordance with the Township's Official Plan and the Provincial Policy Statement. Please forward notice of the Committee's decision on this application to the office of the Rideau Valley Conservation Authority at the address noted below. Please contact me at ext. 1191 if you have any questions.

Septic Office – Leeds Grenville and Lanark District Health Unit

Severed Lands – The land to be severed is approximately 8 acres. The lot contains a grass field and trees. It is currently vacant. The property slopes toward the river. Soil conditions vary: e.g. rock within 0.3 metres and in other areas sand / topsoil to more than 0.6 metres. Recommendation – a conventional Class 4 septic system could be accommodated as per Ontario Building Code Part 8.

Retained lands – The land to be retained is approximately 12 acres. It contains a residence. It is primarily grass fields with some treed areas. Drainage is toward the river.

Soil conditions vary. Recommendations – The septic system is fully raised. The end of

the pipe is approximately 1 metre from proposed property line. Mantle area 15 metres to the south.

Hydro One Networks – No comments were received.

Bell Canada R-O-W – No comments were received.

(c) **PUBLIC INPUT**

No written submissions were received in response to the notice of application sent to every landowner pursuant to Clause 53(5) (a) of the Planning Act and Section 3(2) of O.Reg. 197/96 as amended.

(d) **PLANNING REVIEW**

Background and Summary

The applicant proposes to sever a 3.17-ha residential building lot and retain a 4.88-ha residential lot with an existing dwelling located at 947 Rideau River Road.

The subject lands are located in an area characterized by a mixture of lot sizes along the Rideau River. A livestock operation (horses) is located to the north and the lands front on the Rideau River and Canal, a UNESCO World Heritage Site, and any development and alteration on the lot should be compatible with the character of the canal landscape.

The lands are accessed via Rideau River Road, a municipally maintained road.

The lands are located within 300 m of Primary Water Source (Rideau River) and therefore are subject to archaeological potential.

Due to the proximity of an agricultural operation, located to the north of the proposed lot (Jeffrey Moffat) an MDS calculation was prepared which concluded that the minimum separation setback should be 250 m. GIS indicates that the 250m line is approximately ½ of the distance between the facility and the river, therefore sufficient area is available for a building envelope outside the MDS area. However a caution should be included on the deed to advice of the proximity of the agricultural operation.

Official Plan Policies

- 1/ Lanark County Sustainable Communities Official Plan - Section 8.2.2 Consents. Lanark County, through an appointed Land Division Committee is the approval authority for the issuance of consents. Lot creation by consent shall be permitted where lot creation by plan of subdivision is deemed to be unnecessary. Consideration of locational and development criteria by the approval authority shall be based on local Official Plans. In considering a consent, regard shall also be had to, among other matters, the criteria of Section 51 (24) of the *Planning Act, R.S.O. 1990* with necessary modifications.
- 2/ Montague Official Plan Policies for the Division of Land are found in Section 5.2 of the OP. The division of land by the consent process is intended for the creation of not more than three (3) new lots. A number of 'general policies' also apply to

the division of land, including: no lot creation on lands subject to natural hazards, no lot creation on lands where there would be a negative effect on natural features, size and setbacks appropriate to zoning designation, supporting studies as required, MDS separation, frontage on existing public road (or existing private roads). The lot creation date for Montague is January 1, 2001 no maximum applies to lands within designated settlement areas.

3/ Woodlands

The area has a small designated woodland along the water frontage of the lot to be retained and severed, this area is also within the significant wetland area. Care should be taken in any development proposal to maintain the existing tree cover. Woodland Development Policies have been established by the Township of Montague.

Zoning

The subject property is currently within the Rural (RU) which permits a number of uses, including single-detached dwellings, and Environmental Protection (EP) Zones, which does not permit any development, The proposed lot meets the minimum frontage and any dwelling constructed on the lands will be required to meet the setback requirements for the wetland.

Conclusion

The Provincial Policy Statements encourages development to occur in designated *settlement areas*. The proposed lots are not located within a designated settlement area, and therefore fall under PPS Section 1.1.4. Section 1.1.4.1.d) provides that development that is compatible with the rural landscape and can be sustained by rural service levels should be promoted. No new or additional infrastructure is required as a result of the proposal. The severed lands meet the minimum requirements of Township's Official Plan which is appropriate in the rural setting. The application can meet the consistent with test of the Provincial Policy Statement.

There were no objections raised by any of the agencies which were circulated regarding this proposal. In light of the foregoing, this office is satisfied that the applicant's proposal maintains the general intent and purpose of the PPS, the County Official Plan and Official Plan for the Township of Montague and could be given favourable consideration.

(e) **MINUTES – October 16, 2012**

Leo Fox, owner attended the hearing and gave evidence under oath.

Committee reviewed the staff report and draft conditions.

(f) **DECISION & CONDITIONS**

DECISION: PROVISIONAL CONSENT IS GRANTED

REASONS: Having determined that a plan of subdivision is not necessary for the proper and orderly development of the municipality, and having determined that the proposal is consistent with the policy statements issued under subsection 3(1) of the Planning Act, and

having had regard to the matters under subsection 51(24) of the Planning Act.

CONDITIONS:

1. An acceptable reference plan or legal description of the severed lands and the deed or Instrument conveying the severed lands shall be submitted to the Secretary-Treasurer for review and consent endorsement **within a period of one year** after the "Notice of Decision" is given under Section 53 (17) or (24) of the Planning Act.
2. The applicant shall provide the Secretary-Treasurer of the Land Division Committee with a digital copy of the registered reference plan.
3. The Certificate of Consent "Schedule" attached to the deed / transfer required by Condition #1 above, shall include the following condition "The lot is adjacent to an agricultural area and may therefore be subject to noise, dust, odours and other nuisances associated with agricultural activities".
4. The balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to the Township of Montague.
5. The applicant shall provide the Township of Montague with a copy of all reference plans associated with this application if a survey is required by the Land Titles Office.
6. The applicant shall confirm that a residential entrance to the subject lot is viable. The applicant shall consult directly with the Township of Montague in this regard.
7. The applicant shall obtain a Civic Address Number from the Township of Montague. The applicant shall consult directly with the Township in this regard.
8. Sufficient land for Road Widening purposes shall be deeded to the Township of Montague by registered deed, to meet the municipality's road widening requirements, at no cost to the Township. Deeds are to be submitted to the municipality for review accompanied by a solicitor's certificate indicating that the municipality's title is free and clear of all encumbrances and the municipality has a good and marketable title. The Township Roads Superintendent shall be consulted prior to commencing a survey to determine the amount, if any, of road widening required.
9. The applicant shall demonstrate to the satisfaction of the Township of Montague that adequate ground water supply exists on both lots to service the intended single family residential use.
10. Payment shall be made to the Township of Montague representing the amount satisfactory to the Township of up to 5% of the value of the land pursuant to Section 51.1(3) of the Planning Act (Cash-in-Lieu of Parklands).
11. That the applicant enter into a Development Agreement and/or Site Plan Agreement with the Township of Montague. The Development Agreement / Site

Plan Control to apply to both the severed and retained lands. The wording of the agreement shall be acceptable to the Municipality and shall address the concerns of the Rideau Waterway Development Review Team as outlined in their report of August 31, 2012, provided that in the event the RWDRT is not satisfied with the wording of the agreement, the Committee shall change the condition under Section 53 (23) of the Planning Act, to delete the reference to the Conservation Authority.

12. A letter shall be received from the Rideau Waterway Review Team stating that condition #11 has been fulfilled to their satisfaction.
13. A letter shall be received from the Township of Montague stating that condition #4 through #11 has been fulfilled to their satisfaction.

NOTES

1. *The Applicant shall include in all Agreements of Purchase and Sale the following wording:
"TAKE NOTICE that a portion of this lot has been identified by the Canada Land Inventory for Agricultural Capability as having organic soils. Prior to undertaking development on the lot, the property owner should confirm that the subject area is suitable or can be made suitable for development."*
2. *The applicant / purchaser is advised that if during the process of development archeological remains be uncovered, the developer or their agents should immediately notify the Archaeology Section of the Ontario Ministry of Culture. That in the event that human remains are encountered during construction, the developer should immediately contact both the Ministry of Culture and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Consumer and Commercial Relations.*
3. *The Township of Montague will require a completed MDS prior to the issuance of a Building Permit in accordance with the Ontario Building Code.*
4. *The County of Lanark advises that, prior to the issuance of a building permit, Development Charges must be paid in full.*
5. *Endangered Species Act, 2007, and Species at Risk in Ontario Background
The ESA 2007 protects both species and habitat. Section 9 of the ESA "prohibits killing, harming, harassing, capturing, possessing, collecting, buying, selling, trading, leasing or transporting species that are listed as threatened, endangered or extirpated". Section 10 of the ESA, 2007 prohibits damaging or destroying habitat of endangered or threatened species. Protected habitat is either based on general definition in the Act or prescribed through a regulation. The ESA 2007 defines general habitat as an area on which the species depends, directly or indirectly, to carry on its life processes, including reproduction, rearing, hibernation, migration or feeding.*

It is important to be aware that changes may occur in both species and habitat protection. The ESA applies to listed species on the Species at Risk in Ontario List (SARO). The Committee on the Status of Species in Ontario (COSSARO) meets regularly to evaluate species for listing and/or re-evaluate species already

listed. As a result, species' designations may change that could in turn change the level of protection they receive under the ESA 2007. Also, habitat protection provisions for a species may change e.g. if a species-specific habitat regulation comes into effect. The regulation would establish the area that is protected as habitat for the species.

The Ministry of Natural Resources continues to encourage ecological site assessments to determine the potential for SAR occurrences. When a SAR does occur on the site, it is recommended that the developer contact MNR for technical advice and to discuss what activities can occur without contravention of the Act. If an activity is proposed that will contravene the Act, the developer must contact the MNR to discuss the potential for application of certain permits or agreement.



LAND DIVISION STAFF REPORT

APPLICATION FOR CONSENT

Owner: Malcolm Williams **Hearing Date:** October 16, 2012
Agent: N/A
LDC File #: B12/109
Municipality: Lanark Highlands
Geographic Township: Dalhousie **Lot:** 2 **Con** 4
Roll No. 0940 002 025 16020 **Consent Type:** Right-of-way

Purpose and Effect:

To sever an existing R-O-W in favour of Jeremy J.A. Steeves at E Pt. Lot 2 Conc. 5, Dalhousie.

a. **APPLICATION REVIEW**

Provincial Policy Statement - Provincial Interests were identified as follows:

1.6 Infrastructure and Public Service Facilities

Section 1.6.1 Infrastructure and public service facilities shall be provided in a coordinated, efficient and cost-effective manner to accommodate projected needs

County Official Plan - Section 3.0 Rural Area Policies, Section 4.3 Transportation, Section 5.0 Natural Heritage, Section 8.2.2 Consents.

The proposal conforms to the designations and policies of the Official Plan for the County of Lanark.

Official Plan – Section 3.0 Growth and Settlement, Section 4.5.4 Private Roads, Section 10.11.13 Subdivisions Consents and Part-Lot Control.

The Township of Lanark Highlands advises that the proposal conforms to the designations and policies of the Official Plan.

Zoning By-law - Section 4.0 General Provisions, Section 10.0 Limited Service Rural.

The Township of Lanark Highlands advises that the proposal complies with the zoning by-law regulations.

b. **AGENCY REVIEW**

This application has been circulated to those agencies that were considered to have an interest in the proposal. The following comments were received:

Township Planning Report

1.0 Introduction

An application has been received from the County of Lanark Land Division Committee to legally recognize the existing right of way located on lands legally described as Part of Lot 2, Concession 4, Geographic Township of Dalhousie now in the Township of Lanark

Highlands.

The ROW provides access to the adjacent property located Part of Lot 2, Concession 5, which is currently water access only.

1.1 OFFICIAL PLAN

The lands are designated Rural on Schedule 'A-2' of the Township's Official Plan. In section 4.5.4 Private Roads of the Official Plan, provides for development to occur along a private roadway as long as the right of way is registered on title and provision has been made for individual or private maintenance solutions.

The property owners should be aware that the Township is under no obligation to service or maintain the right of way.

1.2 ZONING

The lands are zoned Limited Services Rural on Schedule 'A 2' of Zoning By-law 2003-451 .

2.0 Discussion

The application will provide legal land access to the adjacent property. For this reason, staff supports the application.

Township of Lanark Highlands – recommends approval of this application subject to the following conditions:

- 1/ The balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to the Township.
2. An acceptable reference plan or legal description of the severed lands and the deed be submitted to the township.
3. That the applicant pays any outstanding fees to the Township prior to final approval.

c. **PUBLIC INPUT**

No written submissions were received in response to the notice of application sent to every landowner pursuant to Clause 53(5) (a) of the Planning Act and Section 3(2) of O.Reg. 197/96 as amended.

d. **PLANNING REVIEW**

Background and Summary

The applicant proposes to sever an existing right-of-way to provide access to lands which currently have 'water access' only. An agreement with the Township will be required to cross the unopened road allowance between Concessions 2 and 3.

The r-o-w adjoins Iron Mine Road, a municipally maintained road.

Official Plan Policies

- 1/ Lanark County Sustainable Communities Official Plan - Section 8.2.2 Consents. Lanark County, through an appointed Land Division Committee is the approval authority for the issuance of consents. Lot creation by consent shall be permitted where lot creation by plan of subdivision is deemed to be unnecessary.

Consideration of location and development criteria by the approval authority shall be based on local Official Plans. In considering a consent, regard shall also be had to, among other matters, the criteria of Section 51 (24) of the *Planning Act, R.S.O. 1990* with necessary modifications.

- 2/ Lanark Highlands Official Plan Policies for the Division of Land are found in Section 10.11.13 of the OP. Generally, the consent process will be used for the purpose of creating up to two (2) parcel of land. A number of 'general policies also apply to the division of lands, including: size and setbacks appropriate to zoning designation, supporting studies as required, MDS separation, frontage on public road unless exempted, no development on lands subject to hazards, flooding, etc., extension of major services not required. The lot creation date for Lanark Highlands in March 2003.

Section 4.5.4 of the Official Plan defines a private road as a road under private ownership which serves two or more legally conveyable lots and may include a right-of-way registered on title. New private roads are not permitted. In this instance the Township has recognized that the r-o-w is existing and meets the Official Plan Policies.

- 3/ Woodlands
The area has considerable land masses mapped as 'woodlands', care should be taken in any development proposal to maintain the existing tree cover. Woodland Development Policies have not been established by the Township of Lanark Highlands.

Conclusion

The Provincial Policy Statements, under Section 1.6.5 and 1.6.6 advises that efficient use shall be made of existing and planned infrastructure and that planning authorities shall plan for and protect corridors and rights-of-way for transportation, transit and infrastructure facilities to meet current and projected needs. No new or additional infrastructure is required as a result of the proposal. The severed lands meet the requirements of Township's Official Plan which is appropriate in the rural setting. The application can meet the consistent with test of the Provincial Policy Statement.

There were no objections raised by any of the agencies which were circulated regarding this proposal. In light of the foregoing, this office is satisfied that the applicant's proposal maintains the general intent and purpose of the PPS, the County Official Plan and Official Plan for the Township of Lanark Highlands and could be given favourable consideration.

e. MINUTES – October 16, 2012

Malcolm Williams, owner attended the hearing and gave evidence under oath.

Mr. Williams questioned the future use of the R-O-W and if severance could be obtained from it. The Committee suggested that Mr. Williams consult directly with the municipality in regards to development on private roads.

Committee reviewed the staff report and draft conditions.

f. **DECISION & CONDITIONS**

DECISION: PROVISIONAL CONSENT IS GRANTED

REASONS: Having determined that a plan of subdivision is not necessary for the proper and orderly development of the municipality, and having determined that the proposal is consistent with the policy statements issued under subsection 3(1) of the Planning Act, and having had regard to the matters under subsection 51(24) of the Planning Act.

CONDITIONS:

1. An acceptable reference plan or legal description of the severed lands and the deed or Instrument conveying the severed lands shall be submitted to the Secretary-Treasurer for review and consent endorsement **within a period of one year** after the "Notice of Decision" is given under Section 53 (17) or (24) of the Planning Act.
2. The applicant shall provide the Secretary-Treasurer of the Land Division Committee with a digital copy of the registered reference plan.
3. The balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to the Township of Lanark Highlands.
4. The applicants shall satisfy all the requirements of the Township of Lanark Highlands, financial and otherwise, that may be required under established by-laws for consent applications.
5. The applicant shall provide the Township of Lanark Highlands with a copy of all reference plans associated with this application if a survey is required by the Land Titles Office.
6. The applicant shall provide the Township of Lanark highlands with a copy of the deed/transfer for the property.
7. That the applicant enter into a "Development Agreement" with the Township of Lanark Highlands to address the use, construction and maintenance of the unopened road allowance between Concessions 4 and 5 at Lot 2 geographic Township of Dalhousie.
8. A letter shall be received from the Township of Lanark Highlands stating that condition #3 through #7 has been fulfilled to their satisfaction.

NOTES

1. *The applicant is encouraged to develop a 'Road Agreement' in partnership with others using the right-of-way to address ongoing maintenance and repair.*
2. *Endangered Species Act, 2007, and Species at Risk in Ontario Background
The ESA 2007 protects both species and habitat. Section 9 of the ESA "prohibits killing, harming, harassing, capturing, possessing, collecting, buying, selling, trading, leasing or transporting species that are listed as threatened, endangered or extirpated". Section 10 of the ESA, 2007 prohibits damaging or destroying*

habitat of endangered or threatened species. Protected habitat is either based on general definition in the Act or prescribed through a regulation. The ESA 2007 defines general habitat as an area on which the species depends, directly or indirectly, to carry on its life processes, including reproduction, rearing, hibernation, migration or feeding.

It is important to be aware that changes may occur in both species and habitat protection. The ESA applies to listed species on the Species at Risk in Ontario List (SARO). The Committee on the Status of Species in Ontario (COSSARO) meets regularly to evaluate species for listing and/or re-evaluate species already listed. As a result, species' designations may change that could in turn change the level of

protection they receive under the ESA 2007. Also, habitat protection provisions for a species may change e.g. if a species-specific habitat regulation comes into effect. The regulation would establish the area that is protected as habitat for the species.

The Ministry of Natural Resources continues to encourage ecological site assessments to determine the potential for SAR occurrences. When a SAR does occur on the site, it is recommended that the developer contact MNR for technical advice and to discuss what activities can occur without contravention of the Act. If an activity is proposed that will contravene the Act, the developer must contact the MNR to discuss the potential for application of certain permits or agreement.