

LANARK COUNTY

MINUTES LAND DIVISION COMMITTEE

The Land Division Committee met in regular session on Monday, September 23, 2013 at 9:00 a.m. at the Lanark County Administration Building, 99 Christie Lake Road, Perth, Ontario.

Members Present: R. Strachan and W. Guthrie

Regrets: D. Murphy

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-2013-028

**MOVED BY:
SECONDED BY:**

“THAT, the minutes of the Land Division Committee meeting held on August 26, 2013 be approved as circulated.”

ADOPTED

4. ADDITIONS & APPROVAL OF AGENDA

MOTION #LD-2013-029

**MOVED BY:
SECONDED BY:**

“THAT, the agenda be adopted as circulated.”

ADOPTED

5. DELEGATIONS & PRESENTATIONS

None.

6. COMMUNICATIONS

- 6.1 Lake Links – Fall Workshop – Sat. Oct. 19, 2013 Civitan Hall, Perth. 9 a.m. to 3 p.m. – reg. fee \$15.00
- 6.2 RVCA – RVCA Watershed Brief, September 2013.

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 **B13/019 and B13/020 – Gene Borrowman – two new lots**

- Pt. Lot 22 Conc. 7 geographic Township of Darling, now in the Township of Lanark Highlands. Darling Road.

- 7.1.2 **B13/034 – Alan and Maureen Miller – new lot**

- Pt. Lot 25 Conc. 11 geographic Township of Ramsay, now in the Town of Mississippi Mills. Ramsay Con 11B.

- 7.1.3 **B13/035 and B13/036 – Bruce McTavish – two new lots**

- Pt. Lot 5 Conc. 7, geographic Township of Lanark, now in the Township of Lanark Highlands. Lanark Con 7A.

- 7.1.4 **B13/037 and B13/038 – Greg Drummond / Colleen Capello – two new lots**

- Pt. Lot 2 Conc. 9 geographic Township of Lanark, now in the Township of Lanark Highlands. Upper Perth Road.

- 7.1.5 **B13/039 – Rob McDiarmid – new lot**

- Pt. Lot 22/23 Conc. 7 Township of Beckwith. Glenashton Road.

- 7.1.6 **B13/046 and B13/047 – Ian Andrews – two new lots**

- Pt. Lot 22 Conc. 4 Township of Beckwith. Richmond Road.

- 7.1.7 **B13/048 – Grassmere Holdings Inc. – lot addition.**

- Pt. Lot 23/24 Conc. 6, geographic Township of North Elmsley, now in the Township of Drummond / North Elmsley. Grassmere Lane.

- 7.1.8 **B13/050 and B13/051 – Laurentian Camp Cherith – lot addition & R-O-W**

- Pt. Lot 8/9 Conc. 1 geographic Township of Darling, now in the Township

of Lanark highlands. River Farm Lane.

7.1.9 B13/057 – Hilda and Hector Cowan – lot addition

Pt. Lot 9 Conc. 5 geographic Township of North Burgess, now in Tay Valley Township. Tully's Way.

7.1.10 B13/065 – Jim and Jill Laramie – R-O-W

Pt. Lot 11 Conc. 6 geographic Township of North Burgess, now in Tay Valley Township. Hanley Lane.

7.1.11 B13/086 – Terrence Clements – R-O-W

Pt. Lot 15 Conc. 12 geographic Township of South Sherbrooke, now in Tay Valley Township. Bolton Creek Lane.

7.1.12 B13/087 – David and Sandra Barker – R-O-W

Pt. Lot 15 Conc. 12 geographic Township of South Sherbrooke, now in Tay Valley Township. Bolton Creek Lane.

8. CONFIDENTIAL REPORTS

None

9. NEW/OTHER BUSINESS

9.1 2014 Meeting calendar – was reviewed and approved for circulation.

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 B13/019 and B13/020 – Gene Borrowman – two new lots

10.1.2 B13/034 – Alan and Maureen Miller – new lot

10.1.3 B13/035 and B13/036 – Bruce McTavish – two new lots

10.1.4 B13/037 and B13/038 – Greg Drummond / Colleen Capello – two new lots

10.1.5 B13/039 – Rob McDiarmid – new lot

10.1.6 B13/046 and B13/047 – Ian Andrews – two new lots

10.1.7 B13/048 – Grassmere Holdings Inc. – lot addition.

10.1.8 B13/057 – Hilda and Hector Cowan – lot addition

10.1.9 B13/065 – Jim and Jill Laramie – R-O-W

10.1.10 B13/086 – Terrence Clements – R-O-W

10.1.11 B13/087 – David and Sandra Barker – R-O-W

10.2 PROVISIONAL CONSENT DEFERRED

10.2.1 B13/050 and B13/051 – Laurentian Camp Cherith

MOTION #LD-2013-030

MOVED BY: W. Guthrie

SECONDED BY: B. Strachan

“THAT, application B13/050 and B13/051 be deferred to provide the applicant / agent an opportunity to amend / revise the applications to include lands to the east in the r-o-w description.”

ADOPTED

11. UPCOMING MEETINGS

Monday, October 28, 2013 @ 9:00 a.m.

Monday, November 25, 2013 @ 9:00 a.m. – B Strachan will be absent;

Monday, December 16, 2013 @ 9:00 a.m.; and

Tuesday, January 28, 2013 @9:00 a.m. – W Guthrie will be absent.

12. ADJOURNMENT – 11:40 a.m.



Mary Kirkham,
Secretary-Treasurer

**PUBLIC
HEARING
REPORTS**



LAND DIVISION STAFF REPORT

APPLICATION FOR CONSENT

Owner: 883422 Ontario Inc.

Hearing Date: September 23, 2013

Agent: Gene Borrowman

LDC File #: B13/019 & B13/020

Municipality: Lanark Highlands

Geographic Township: Darling

Lot: 22 **Conc.:** 7

Roll No. 0940 934 015 18300

Consent Type: New Lots

Purpose and Effect: To sever two (2) residential building lots (1.61-ha and 2.83-ha) and retain a 5.68-ha vacant landholding. The lands are accessed via Darling Road.

DETAILS OF PROPOSAL	Land to be Severed		Land to be Retained
	B13/019	B13/020	
Existing Use	Bush	Bush	Bush
Proposed Use	Residential	Residential	Residential
Area	1.61-ha	2.83-ha	5.68 ha
Frontage	152.7 m	140.05 m	609.6 m
Depth	260.9 m	118.15 m	
Road - Access to	Municipal Road	Municipal Road	Municipal Road
Water Supply	Proposed well	Proposed well	N/A
Sewage Disposal	Proposed septic	Proposed septic	N/A
Official Plan Designation	Rural		
-Conformity?	Yes		
Zoning By-law Category	Rural	Rural	Rural
-Area Required (min.)	1.0-ha	1.0-ha	1.0-ha
-Compliance?	Yes	Yes	Yes
-Frontage Required (min.)	60 m	60 m	60 m
-Compliance?	Yes	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 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.

Local Official Plan – Section 3.3 Rural Communities, Section 7.4.3 Local Roads, Section 7.4.6 Water and Wastewater, Section 8.4.2 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 of Lanark Highlands – 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 lots. The property is legally described as Pt. Lot 22 Concession 7, geographic Township Darling, now in the Township of Lanark Highlands.

The applicant wishes to sever a 3.9 acre residential building lots (B13/019) and a 6.9 acre residential building lot (BI 3/020) and retain a 14 acre vacant parcel. Access for the two new lots is via Darling Road.

The property is designated as Rural Communities on Schedule 'A' 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 lots have access to a municipally maintained road.

1.2 OFFICIAL PLAN

Any application for consent must be evaluated with the policy directives of Section 8.4.2, 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.

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 is submitted to the township.
3. That the applicant pays any outstanding fees to the Township prior to final approval.
4. Sufficient lands shall be deeded to the Township of Lanark Highlands along the frontages of the lot to be severed 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 Superintendent of Public Works should be consulted prior to commencing a survey to determine the amount of road widening required.
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. That the applicant submits the 5% cash-in-lieu of parkland dedication fee to the Township.

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 two lots; Lot #1 measures 4 acres and Lot #2 is 7 acres. The precise size of the retained land has not been provided; however, it is estimated to be approximately 93 acres. The subject property is currently vacant.

PROPERTY CHARACTERISTICS

According to a review of available GIS mapping and aerial photography, the proposed retained and severed lands are entirely located within an area which has been classified by the Ministry of Natural Resources (MNR) as a significant deer wintering area. In addition, Bennys Creek travels through the proposed retained land. Also, the retained land is located in close proximity to Mackay Lake; however, we note that it does not have lake frontage). The subject property is largely forested with the exception of a hydro corridor which travels through the retained, and a lowland area just north of Lot #2 on the retained land. In the southwest corner of the severed lands (encompasses a portion of Lot #1 and #2), mapping shows the forest to be contiguous enough for portions to be classified as interior forest habitat. This is important habitat for birds and other wildlife that are sensitive to disruption.

No other significant natural heritage features or natural hazards were identified.

REVIEW -

Natural Heritage Features

Guidelines (Natural Heritage Reference Manual, 1999) prepared in support of the Provincial Policy Statement (PPS) indicate that new development, including lot creation, should not be permitted within 30 metres of fish habitat unless it has been determined that there will be no additional negative impacts to this natural heritage feature.

The aforementioned guidelines also require 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).

Fish Habitat

Bennys Creek travels through the proposed retained land. In addition, the retained land is located in close proximity to Mackay Lake. Both water features are considered to be fish habitat.

Sufficient area appears to remain on the retained lands to ensure that potential future development occurs in a manner that is consistent with the current standards for development adjacent to fish habitat. Therefore, we do not anticipate any further impacts to fish habitat as a result of these applications.

Deer Yard

The deer yard identified on the severed and retained land is considered significant

wildlife habitat. Therefore, in order to address the aforementioned guidelines, the landowners have completed a simplified EIS.

MVC's Biologist has reviewed the completed EIS. In summary, impacts to the deer yard from development is expected to be mitigated by keeping disturbance close to the road, and by limiting the amount of vegetation removal throughout the site.

Natural Hazards - Organic Soils

A lowland area was identified on the retained land. These areas often consist of organic soils which provide poor drainage and unstable characteristics, making them unsuitable for development. It is, therefore, recommended that development occur outside of these poorly drained areas.

RECOMMENDATIONS AND CONCLUSIONS

With all of the above in consideration, MVC does not have any objection to the subject applications provided the following mitigative measures are implemented:

Lot #1 and #2, and Retained:

- Removal of terrestrial vegetation and deer wintering habitat should be kept to the minimum required to develop the site, to a maximum of 10%. In order to help achieve this, future development should be directed towards Darling Road.

Septic Office – Leeds, Grenville and Lanark District Health Unit

Severed – B13/019 - A 4 acre parcel of wooded vacant land. There is 501 feet of road frontage. Additional sandy loam will be required in the area of the future tile bed.

Severed – B13/020 – A 459 foot frontage (7 acre) parcel of land that is a vacant bush property. Additional sandy loam fill is required in the area of the future tile bed.

Retained – A 609 meter parcel of land that is vacant bush. Land slope and drainage varies. Additional sandy loam fill is required in the area of the future tile bed.

Hydro One Networks – No comments were received.

Bell Canada R-O-W – Subsequent to review by our local Engineering Department of the above noted lands to be severed, it has been determined that Bell Canada has no installations over these lands and therefore no requirement for easement protection.

We have no concerns or objection to the proposed severance.

(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 residential building lots (1.61-ha and 2.83-ha) and retain a 5.68-ha building lot. All lots are currently vacant. These applications are the same as those applied for and approved in 2003, however where allowed to lapse.

The subject lands are located in an area characterized by rural on large lots intermixed with a limited number of smaller type residential lots. The HEPC Corridor runs through the lands to be retained. Minimum distance separation for this line is 150 ft. – the distance from the northeast boundary of N13/020 is approx. 135 m. A R-O-W corridor to access the lands at Lot 22 Conc 6 Lanark runs along the northerly boundary of Lot B13/020.

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

Soils Inventory – Name: Tweed

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

Bedrock Inventory – marble, calc-silicate

Deer Yard

The subject property is located within the locally known ‘Darling Deer Yard’. Winter deer yards provide suitable habitat for the White Tailed Deer, including natural browse, fresh running water and cover from the harsh winter weather. 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).

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 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 3.2.3 and 3.3.3.3 of the OP. Up to 3 consents, excluding the retained lot may be granted for a lot or landholding existing as of April 1, 2003. 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.
- 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 been established by the Township of Lanark Highlands.

Zoning

The subject property is currently within the rural section of the Zoning By-law, which permits a number of uses, including single-detached dwellings. The proposed lot meets the minimum lot frontage and size. Any new development will be required to meet the minimum setback 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.

(c) **MINUTES – Sept 23, 2013**

Gene Borrowman, agent attended the hearing and gave evidence under oath.

Committee reviewed the staff report and draft conditions.

(d) **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 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 the deed/transfer for the property.
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 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.
7. 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.
8. 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.
9. 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).
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 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.*
2. *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.*
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 will be required in the area of the future tile bed area on the severed and retained lands.*
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: Alan & Maureen Miller **Hearing Date:** August 26, 2013

Applicant: Alan Miller

Agent: Mulvihill & Murray

LDC File #: B13/034

Municipality: Mississippi Mills

Geographic Township: Ramsay **Lot:** 25 **Conc.:**11

Roll No. 0931 929 025 36000 **Consent Type:** New Lot

Purpose and Effect: To sever a 4.5-ha residential lot with an existing dwelling and outbuildings and retain a 108-ha agricultural landholding.

DETAILS OF PROPOSAL	Land to be Severed		Land to be Retained
Existing Use	Residential		Agriculture
Proposed Use	Residential		Agriculture
Area	4.5 ha		108 hectares
Frontage	45 m		610 m
Depth	712 m		1650 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 Yes		
Zoning By-law Category	Rural Non-Farm	Rural	Agricultural Use
-Area Required (min.)	1.0-ha	10.0-ha	40.0-ha
-Compliance?	Yes	No	Yes
-Frontage Required (min.)	45 m	150 m	150 m
-Compliance?	Yes	No	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 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.

Local Official Plan – Section 2 Basis of Plan, Section 3.3 Rural Policies, Section 4 General Policies, Section 4.6.4 Local Municipal Roads, Section 4.8.3 Sewage Disposal and Water Supply, Section 5.3.11 Consent to Sever Land.

The Town of Mississippi Mills advises that the proposals conform to the designations and policies of the Official Plan.

Zoning By-law - Section 6 General Provisions, Section 12 Rural Zone.

The Town of Mississippi Mills advises that the proposal can comply with the zoning by-law regulations, provided the dimensions of the lot are revised or alternatively that the agricultural outbuildings be removed.

(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

Alan Miller currently owns an 89.2ha (220.4ac) parcel of land with an existing non-farm residential dwelling and nine (9) agricultural accessory outbuildings in the former Township of Ramsay, now the Town of Mississippi Mills. The parcel has frontage onto two local roads, being Ramsay Concession 11B and Ramsay Concession 12, which are owned and maintained by the Town of Mississippi Mills.

The lands subject to the consent application are designated Rural in the Official Plan and zoned Rural in the Zoning By-law.

The intent of the application is to sever the existing non-farm residential dwelling and the nine (9) agricultural accessory outbuildings from the property onto a lot approximately 4.5ha (11.12 ac) in size with the retained lands being included into the Miller's cash crop farming operation.

SEVERANCE APPLICATION SUMMARY

Lot Severance

The application is to sever a parcel of land approximately 45ha (11.124ac) in area from the existing 89.2ha (220.4ac) parcel of land. The severance would remove the existing dwelling and the accessory farm buildings from the crop lands located at 3048 Ramsay Concession 11 b on Part of lot 25, Concession 11, Ramsay Ward. The proposed severed lot would have frontage of approximately 45m (147.6ft) onto Ramsay Concession 11b. The new parcel would accommodate the existing residential dwelling and all of the existing agricultural accessory outbuildings, while the retained lot would become a part of the Miller agricultural land holdings. The retained portion of land would maintain a lot area of 84.7ha (209.3ac) with approximately 409m (1,341 9ft) of frontage onto Ramsay Concession 11B and 610m (2,001.3ft) onto Ramsay Concession 12, which is owned and maintained by the municipality.

PROVINCIAL POLICY STATEMENT 2005

Consent applications in the rural portion of the community are subject to Provincial Policy Statement policies found in Section 1.1.4, entitled Rural Areas in Municipalities. These policies permit limited residential land uses that are compatible with the rural landscape and that do not impact the locally important agricultural lands. The intent of the application is not to create a new building lot, but rather sever the existing dwelling and existing agricultural accessory buildings that have been deemed surplus as a result of a farming consolidation. The parcel would result in the retained lands being included in the Miller agricultural holdings thereby promoting the greater flexibility to utilize these lands for agricultural purposes in the future. The intended use of the severed lot is for rural or agricultural which would not conflict with the existing agricultural operations and would reflect a lot fabric consistent with the rural area.

COMMUNITY OFFICIAL PLAN:

The subject property has an Official Plan designation of Rural. Section 3.3.6 of the Community Official Plan states that severances and lot creation are permitted on lands designated Rural, but are limited to two lots plus the retained lot per land holding, except where otherwise specifically provided in the plan. A land holding is defined as a parcel of land held in a conveyable ownership as of July 1, 1973 or an original Township lot. The subject property is a parcel of land held in conveyable ownership as of July 1, 1973. The parcel of land subject to the consent application consists of two original township lots, permitting a total of 4 severances on the land holding. Since July 1, 1973, a total of three severances have been granted from the land holding. Based on the rural policies in the Community Official Plan, the owner has the ability to acquire one severance on the property.

Section 3.3.6.5(i) states that the access point of the driveway onto the public road must be located so that no safety hazards are created. It also requires that a severance shall be permitted only where the centre of the driveway shall be 150 metres from immediate neighbouring driveways on the same side of the road. There is no new driveway requested to support the severance request. The applicant has indicated the existing entrances for the residential dwelling and agricultural fields will continue to be utilized.

Section 3.3.6.5 (iii) of the Community Official Plan requires that the retained lot and the severed lot have frontage on a maintained public road of acceptable standard to support year round maintenance and emergency vehicle access. The severed and retained lots have direct frontage onto either Ramsay Concession 11B or Ramsay Concession 12, both of which are currently owned and maintained by the Town of Mississippi Mills.

Section 3.3.6.5 (iv) of the Community Official Plan requires a minimum lot size of 1 hectare for a non- farm residential lot. The creation of a lot with agricultural accessory buildings indicates that the lot is not intended to be used as a non-farm residential use, but rather a rural use which requires a minimum 10 ha (24.7ac) size lot as determined by the zoning by-law. The proposed severed lot and retained lot exceed the minimum lot size requirement.

ZONING BY-LAW 11-83:

The subject properties are currently zoned Rural (RU). The Rural (RU). zone permits a range of rural and agricultural uses including a single detached residential dwelling. For lands intended to be used for non-farm residential, the by-law requires a minimum lot area of 1 ha (2.47ac) and a minimum lot frontage of 45m (147ft). Lands to be used for a Rural use, the by-law requires a minimum lot area of 10ha (24.7ac) with 150m (492ft) of frontage. Rural uses could include but are not limited to agricultural uses and or hobby farms. Agricultural uses, require a minimum parcel size of 40.0-ha (98.8 ac) in area and 150m (492ft) of frontage.

The proposed consent application B131034 is seeking to create a lot 4.5ha (11..0ac) in size with 45m (147.6ft) of frontage that will consist of the existing single family dwelling along with the nine (9) accessory agricultural buildings and a pen area. The proposed consent would create a retained parcel of land being 84.7ha (209.Ac) in area that will be used for cash crop farming purposes. It is clear that the severed portion of the lands will be used for rural purposes and will require a minimum lot size of 10ha (24.7ac) with 150m of frontage and as such the application will need to be revised accordingly. With the retained parcel having a lot area of 84.7ha (209ac), there is sufficient land area to accommodate the required increase in lot area and frontage for the proposed severance. If however, the applicant's intent is to use the property as a non-farm residential dwelling, 7 of the 9 agricultural accessory buildings will have to be decommissioned and removed from the property.

CONCLUSION

The proposed severance is consistent with the Community Official Plan policy regarding severances and lot creation and is consistent with the zoning by-law. With this in mind, staff's recommendation regarding the proposed severance is to support the application subject to the following conditions:

Town of Mississippi Mills - recommends approval of this application subject to the following conditions:

1. That the applicant provide a copy of the registered reference plan to the Town;
2. That the applicant provide a digital copy of the registered reference plan in a .DWG file format;
3. That the applicant pay any outstanding property taxes on the subject property.
4. That the applicant revise the dimensions of the proposed severed lot to meet the minimum lot area and frontage required under By-law #11-83 or that the applicant demolish the seven of the agricultural accessory outbuildings.

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

According to the information provided, the purpose of the subject applications is to sever (1) developed lot measuring 4.5 ha and retain a vacant parcel of land of approximately 108 ha.

PROPERTY CHARACTERISTICS

A review of available GIS mapping and aerial photography revealed that the proposed severed lands are located immediately adjacent to an Area of Natural and Scientific Interest (ANSI) referred to as the Burnt Lands Alvar. The proposed retained lands are located within the 50 m adjacent lands to this feature. Two branches of the Ramsay Municipal Drain travel through the proposed retained lands; one travels northwest across the center of these lands while the other crosses westerly until it connects to the northwest branch. This drain is also an unnamed tributary of the Mississippi River. A third branch of the tributary, which is not part of the municipal drain, also connects to the northwest branch of the drain. With the exception of a small forested area in the northwest portion of the retained lands, the subject property is open agricultural field. No Natural Hazards were identified.

REVIEW

ANSI

Guidelines prepared in support of the Provincial Policy Statement (PPS) require that new development and site alterations, including the creation of new lots, within 50 m of an ANSI only be permitted if it has been demonstrated that there will be no negative impacts on the natural features or ecological functions of the features identified. Potential impacts are typically assessed through the preparation of an Environmental Impact Statement (EIS). However, it is our opinion that there is limited value in conducting an EIS at this time for the following reasons:

- The proposed severed lands are already developed with no new development proposed as this time.
- Sufficient area appears to exist on the retained land for potential new development outside of the ANIS and the 50 m adjacent lands.

In the event that future development is proposed within the 50 m adjacent lands to the ANSI, an EIS may be required to evaluate such development.

Watercourse & Municipal Drain

Sufficient area appears to exist on the retained land for potential development that complies with the current standards for development adjacent to a watercourse or municipal drain. The severed lands are already developed with no new development proposed at this time. Therefore, additional impacts to the watercourse or drain are not

anticipated as a result of this application.

CONCLUSION & RECOMMENDATIONS

With all of the above in consideration, MVC does not have any objection to the subject applications provided the following mitigative measures are implemented on the proposed retained lands:

1. Future development, including a septic system shall be setback a minimum of 30 metres from the seasonal high water mark of the unnamed watercourse and municipal drain.
2. The shoreline vegetation surrounding the unnamed watercourse shall be retained to a minimum depth of 15 metres, and to the greatest extent feasible along the municipal drain.
3. Natural drainage patterns on the site shall not be substantially altered, such that additional run-off is directed into the unnamed watercourse, municipal drain, or onto adjacent properties.

NOTES

In the event that future development is proposed within the 50 m adjacent lands to the ANSI, an EIS may be required to evaluate such development.

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 may be required from MVC prior to any alterations to the shoreline of the unnamed watercourse or municipal drain.

Any proposed works in or near the unnamed watercourse or municipal drain 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.

Septic Office – Leeds, Grenville and Lanark District Health Unit

Severed – A 4.5 hectare parcel of land with existing dwelling, outbuildings and barn. Combination of bush, rock, grass (shrubs and grass). Existing septic system and well that services dwelling. Land slope and drainage can vary. Additional sandy loam will be required in the area of the replacement of the septic system (tile bed) in the future.

Retained - A 108 hectare parcel of land. Agricultural land. Gentle slope, drainage varying. No outbuildings. Additional sandy loam may be required in the area of septic system (tile bed).

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 4.5-ha residential lot with an existing dwelling and 8 outbuilding including a log barn at 3048 Ramsay Con 11B and to retain a 108-ha agricultural landholding.

The subject lands are located in an area characterized by rural residential on large lots along Ridge Road and large agricultural lots intermixed with rural residential lots along Ramsay Con 11B. The lands also contain a portion of an ANSI, a Provincially Significant land formation. An EIS was not conducted as the lands to be severed are already developed, however should the development be proposed on the retained lands an EIS will be required.

As noted in the Town Planer's Report the proposal does not meet the requirements of the Zoning By-law, without an amendment / revision to the application, as follows:

- a) Revise the application to increase the size and frontage to comply with the Rural Use provisions of the Zoning By-law; or
- b) Remove / demolish the agricultural accessory outbuildings to comply with the Non- farm Residential provisions of the Zoning By-law.

The applicant will be required to advise the Committee as to which option is their preferred.

The lands are accessed via Ramsay Con 11B, a municipally maintained road.

Soils Inventory – Name: Farmington
- Stoniness: slightly stony
- CLI: 6 – natural grazing only
- Drainage: well drained
- Hydrogeology: moderate

Bedrock Inventory – limestone, Dolostone, shale

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 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/ Mississippi Mills Official Plan Policies for the Division of Land are found in Section 5.3.11, with additional specific policies in Section 3.2.7 (Agricultural areas)

Section 3.3.6 (Rural areas) and 3.6.7 (Residential areas). Generally the consent process will be used for the purpose of creating two (2) new lots. 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, no development of lands unsuitable for development due to environmental concerns, suitable road access. The lot creation date for Mississippi Mills is July 1, 1973 within the rural designation.

3/ Woodlands

The lands contain areas mapped as 'woodlands', care should be taken in any development proposal to maintain the existing tree cover. Woodland Development Policies have been established by the Town of Mississippi Mills.

Zoning

The subject property is currently within the rural section of the Zoning By-law, which permits a number of uses, including single-detached dwellings. The proposed lot size will be required to be increased to meet the minimum lot frontage and size for the rural zone or alternatively the agricultural outbuildings be removed to meet the provisions of the non-farm residential rural zone. Any new development will be required to meet the minimum setback 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 Town of Mississippi Mills and could be given favourable consideration.

(e) **MINUTES – Sept 23, 2013**

Alan Miller, owner, attended the hearing and gave evidence under oath. Scott Murray, solicitor/agent, attended the hearing and gave evidence by virtue of his legal oath.

Mr. Miller advised that he had purchased the lands for farming purposes, and that the dwelling and outbuildings were surplus to his farming operation. Also noting that the lands do not 'abut' other farming lands held by the Miller's.

Mr. Miller understood that the retained lands would require re-zoning to prevent and development (dwellings) to be constructed.

Mr. Murray advised that his client was agreeable to increasing the size and frontage of the lot to be severed in order to comply with the Town's Zoning By-law for rural consent. It was also noted that Mr. Miller wished to retain a r-o-w across the severed lands to gain

access to the farm fields.

The hearing adjourned briefly to allow Mr. Miller and opportunity to revise the sketch to increase the lands to 10.0-ha and a frontage of 150m.

Mr. Miller presented a signed copy of the revised sketch for Committee's consideration.

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.

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 reference plan or legal description and the deed or instrument required by condition #1 above shall relate to the "revised Sketch" presented September 23, 2013.
3. An appropriate right-of-way shall be reserved over the lot to be severed in favour of the lot to be retained.
4. That the lot to be retained shall be re-zoned to prohibit the construction of any new residential dwelling. The applicant shall consult with the Town of Mississippi Mills 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 Town of Mississippi Mills.
6. The applicant to provide a digital copy of the registered reference plan in a .DWG file format to the Town of Mississippi Mills.
7. The applicant shall provide the Town of Mississippi Mills with a copy of all reference plans associated with this application if a survey is required by the Land Titles Office.
8. A letter shall be received from the Town of Mississippi Mills stating that condition #4 through #7 has been fulfilled to their satisfaction.

NOTES

1. *The Mississippi Valley Conservation Authority advises that subject applications provided the following mitigative measures are implemented on the proposed retained lands:*
 - a) *Future development, including a septic system shall be setback a minimum of 30 metres from the seasonal high water mark of the unnamed watercourse and municipal drain.*
 - b) *The shoreline vegetation surrounding the unnamed watercourse shall be retained to a minimum depth of 15 metres, and to the greatest extent feasible along the municipal drain.*
 - c) *Natural drainage patterns on the site shall not be substantially altered, such that additional run-off is directed into the unnamed watercourse, municipal drain, or onto adjacent properties.*
2. *Also, In the event that future development is proposed within the 50 m adjacent lands to the ANSI, an EIS may be required to evaluate such development.*
3. *The MVCA advises that, pursuant to Ontario Regulation 153/06 - "Development, Interference with Wetlands and Alterations to Shorelines and Watercourses", written permission may be required from MVC prior to any alterations to the shoreline of the unnamed watercourse or municipal drain.*
4. *Also, any proposed works in or near the unnamed watercourse or municipal drain 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.*
5. *The Leeds Grenville and Lanark District Health Unit advises that additional sandy loam will be required in the area of the replacement of the septic system (tile bed) on the severed lands in the future.*
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: Bruce McTavish **Hearing Date:** September 23, 2013
Agent: ZanderPlan Inc.
LDC File #: B13/035 & B13/036
Municipality: Lanark Highlands
Geographic Township: Lanark **Lot: 5 Conc.: 9**
Roll No. 0940 934 025 14003 **Consent Type:** 2 New lots

Purpose and Effect: To sever two residential building lots – 1.0-ha each and retain a 6.95-ha vacant landholding. The lands are accessed via Lanark Con 7A.

DETAILS OF PROPOSAL	Land to be Severed		Land to be Retained
	B13/035	B13/036	
Existing Use Proposed Use	Vacant Residential	Vacant Residential	Vacant Vacant
Area Frontage Depth Road - Access to	1 ha 81 m 125 m Municipal Road	1 ha 81 m 125 m Municipal Road	6.95 ha 111 m 330 m Municipal Road
Water Supply Sewage Disposal	Proposed Well Proposed Septic	Proposed Well Proposed Septic	N/A N/A
Official Plan Designation -Conformity?	Rural and within 500 metres of licenced quarry		
Zoning By-law Category -Area Required (min.) -Compliance? -Frontage Required (min.) -Compliance?	Rural 1.0-ha Yes 60 m Yes	Rural 1.0-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.

2.5 Mineral Aggregate Resources

Section 2.5.2.5 In areas adjacent to or in known deposits of mineral aggregate resources, development and activities which would preclude or hinder the establishment of new operations or access to the resources shall only be permitted if:

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

County Official Plan – Section 3.0 Rural Policies, Section 4.3.4 Local Roads, Section 4.4 Water and Wastewater, Section 6.2.2 Mineral Aggregates, Section 8.2.2 Consents. The proposal conforms to the designations and policies of the Official Plan for the County of Lanark.

Local Official Plan – Section 3.3 Rural Communities, Section 4.1 Mineral Aggregates, Section 4.1.5 Adjacent Lands, Section 7.4.3 Local Roads, Section 8.4.2 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 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 lots. The property is legally described as Pt. Lot 5 Concession 7, geographic Township Lanark, now in the Township of Lanark Highlands.

The applicant wishes to sever two 2.5 acre residential building lots (B13/035-036) and retain a 17 acre vacant parcel. Access for the two new lots is via the Lanark Concession 7A.

The property is designated as Rural Communities on Schedule 'A' of the Township's Official Plan and zoned Rural on Schedule 'A 4' by Zoning By-law 2003-451.

11 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 a municipally maintained road.

1.2 OFFICIAL PLAN

Any application for consent must be evaluated with the policy directives of Section 8.4.2, 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 is submitted to the township.
3. That the applicant pays any outstanding fees to the Township prior to final approval.
4. Sufficient lands shall be deeded to the Township of Lanark Highlands along the frontages of the lot to be severed 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 Superintendent of Public Works should be consulted prior to commencing a survey to determine the amount of road widening required.
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. That the applicant submits the 5% cash-in-lieu of parkland dedication fee to the Township.
8. That a hydrogeological investigation by a qualified professional be conducted to determine site suitability for well and septic.

Conservation Authority Mississippi Valley Conservation

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

Septic Office – Leeds, Grenville and Lanark District Health Unit

B13/035 – Severed - A 1 hectare vacant parcel of land. Land is agricultural land with very shallow soil depth. Additional sandy loam fill will be required in area of future tile bed.

B13/036 – Severed - A 1 hectare vacant parcel of land. Land is agricultural land with very shallow soil depth. Additional sandy loam fill will be required in area of future tile bed.

Retained – A 6.95 hectare parcel of land. Land is mainly open field & soil depths can vary – Land has no existing buildings. Additional sandy loam fill will be required in area of future tile bed.

Hydro One Networks – No comments were received.

Bell Canada R-O-W – Subsequent to review by our local Engineering Department of the above noted lands to be severed, it has been determined that Bell Canada has no installations over these lands and therefore no requirement for easement protection.

We have no concerns or objection to the proposed severance.

(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 residential building lots (1.0-ha each) and retain a 6.95-ha residential lot. All lots are currently vacant.

The subject lands are located in an area characterized by larger type residential lots. Pine Grove Pit and Quarry operation is located approximately 195 m from the proposed lot B13/036. In accordance with the Official Plan Policies Section 4.1.5 - a hydrogeological investigation is required for any proposed development with 500 metres from a licensed quarry operation. Section 6.2.2.4 of the County Official Plan also requires that studies be undertaken for development proposals within this adjacent land area. It is noted that existing residential development exists between the proposed new development and the existing Pit/Quarry operation. (see Buffer Mapping)

Aggregate Operations

An existing operational pit / quarry is located in proximity of the subject lands. If approved a condition should be included to advise future purchasers of the aggregate operation and the potential for noise, odours, etc.

The lands are accessed via Lanark Con 7A, a municipally maintained road.

Soils Inventory – Name: Tweed

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

Bedrock Inventory – flows, tuffs, breccias

Agricultural Operations

Due to an agricultural operation being located on adjacent 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 226m, the actual distance from the barn to the closest proposed lot line is shown by the applicant as 300m. 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 location and development criteria by the approval authority shall be based on local Official Plans. In considering 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.

Section 6.2.2.4 Adjacent Land sets out as follows:

In area located within 300 metres of an area intended or utilized for a licensed pit operation below the water table and 150 metres of an area intended or utilized for a licensed pit operation above the water table as well as area located and 500 metres from an area intended or utilized for a licensed quarry operation, incompatible development, including the creation of new lots shall only be permitted subject to the following criteria:

1. That it is demonstrated that the resource use would not be feasible or that the proposed use or development would service a greater long term public interest;
2. That the proposed non extractive development can be adequately serviced by water and waste water services in a manner which will not impede continued existing and proposed extraction operations;
3. Any other investigations as required by the development approval authority such as traffic studies, noise studies, vibration studies, slope stability studies, air quality impact studies, etc. are carried out and demonstrate that the proposed development can proceed without

impeding the continued operation of the existing licensed operations and future operations on reserves. Such studies are to be carried out by qualified professionals;

- 2/ Lanark Highlands Official Plan Policies for the Division of Land are found in Section 3.2.3 and 3.3.3.3 of the OP. Up to 3 consents, excluding the retained lot may be granted for a lot or landholding existing as of April 1, 2003. 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.

Section 4.1.5.1 In areas located within 300 metres (984 feet) of a Mineral Aggregate Resources Policy Area intended or utilized for a licensed pit operation of 500 metres (1,640 feet) from a licensed quarry operation, incompatible development, including the creation of lots shall only be permitted subject to the following criteria:

Hydrogeological investigations conducted by a qualified professional conclusively demonstrate that the proposed non extraction development can be adequately serviced by water and sewer services in a manner which will not impeded continued existing and proposed extractive operations.

- 3/ Woodlands
The area has not been mapped as 'woodlands'. Woodland Development Policies have been established by the Township of Lanark Highlands.

Zoning

The subject property is currently within the rural section of the Zoning By-law, which permits a number of uses, including single-detached dwellings. The proposed lot meets the minimum lot frontage and size. Any new development will be required to meet the minimum setback 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 lot size requirements of Township's Official Plan which is appropriate in the rural setting however will require additional studies in order to comply with Section 4.1.5.1 of the Official Plan. The application can meet the consistent with test of the Provincial Policy Statement provided appropriate studies are undertaken.

There were no objections raised by any of the agencies which were circulated regarding this proposal. In light of the foregoing, additional information is required in order to ensure 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 – Sept 23, 2013**

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

Ms. Zander advised that they were prepared to undertake the required HydroG and Planning Rationale in order to comply with the local and County Official Plans. Also noting that the work could be undertaken within the one-year time frame.

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 - 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 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 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 aggregate operation, and that the occupants of the lot may be susceptible to noise, dust, vibration and related impacts from time to time".
5. The applicant submit to the Lanark County Land Division Committee a Planning Rationale prepared by a qualified professional, that demonstrates that the proposed development can proceed without impeding the continued operation of the existing adjacent licensed pit/quarry option and future operations on the reserves, if any.
6. 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.

7. 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.
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 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.
10. 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.
11. 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.
12. 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).
13. The applicant to submit a hydrogeological investigation prepared by a qualified professional be conducted to determine site suitability for well and septic.
14. A letter shall be received from the Township of Lanark Highlands stating that condition #6 through #13 has been fulfilled to their satisfaction.

NOTES

1. *The Leeds Grenville and Lanark District Health Unit advises that additional sandy loam fill will be required in the septic system are on the severed and retained lands.*
2. *The County of Lanark advises that, prior to the issuance of a building permit, Development Charges must be paid in full.*
3. *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: Greg Drummond & Colleen Capello **Hearing Date:** September 23, 2013
Agent: Tracy Zander, ZanderPlan Inc.
LDC File #: B13/037 & B13/038
Municipality: Lanark Highlands
Geographic Township: Lanark **Lot:** 2 **Conc.:** 9
Roll No. 0940 934 035 01300 **Consent Type:** New Lot

Purpose and Effect: To sever two (2) residential building lots – 1.0-ha and 1.26-ha and retain a 2.52-ha residential lot with an existing dwelling at 111 Upper Perth Road.

DETAILS OF PROPOSAL	Land to be Severed		Land to be Retained
	B13/037	B13/038	
Existing Use	Vacant	Vacant	Residential
Proposed Use	Residential	Residential	Residential
Area	1 ha	1.26 ha	2.52 ha
Frontage	64 m	60 m	183 m
Depth	200 m	229 m	Irregular
Road - Access to	Municipal Road	Municipal Road	Municipal Road
Water Supply	Proposed well	Proposed well	Private well
Sewage Disposal	Proposed Septic	Proposed Septic	Private Septic
Official Plan Designation	Rural		
-Conformity?	Yes		
Zoning By-law Category	Rural	Rural	Rural
-Area Required (min.)	1.0-ha	1.0-ha	1.0-ha
-Compliance?	Yes	Yes	Yes
-Frontage Required (min.)	60 m	60 m	60 m
-Compliance?	Yes	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 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.

Local Official Plan – Section 3.3 Rural Communities, Section 7.4.3 Local Roads, Section 8.4.2 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 General Policies, 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 lots. The property is legally described as Pt. Lot 2 Concession 9, geographic Township Lanark, now in the Township of Lanark Highlands.

The applicant wishes to sever a 2.5 acre residential building lot (B13/037) and a 3.1 acre residential lot (B13/038) and retain a 6.2 acre developed parcel commonly known as 111 Upper Perth Road. Access for the two new lots is via Upper Perth Road.

The property is designated as Rural Communities on Schedule 'A' of the Township's Official Plan and zoned Rural on Schedule 'A 4' 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 a municipally maintained road.

1.2 OFFICIAL PLAN

Any application for consent must be evaluated with the policy directives of Section 8.4.2, 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 is submitted to the township.
3. That the applicant pays any outstanding fees to the Township prior to final approval.
4. Sufficient lands shall be deeded to the Township of Lanark Highlands along the frontages of the lot to be severed 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 Superintendent of Public Works should be consulted prior to commencing a survey to determine the amount of road widening required.
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. That the applicant submits the 5% cash-in-lieu of parkland dedication fee to the Township.

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 (2) vacant lots, one measuring 1 ha and the other 1.26 ha. The retained land is already developed and measures 3.78 ha.

PROPERTY CHARACTERISTICS

According to a review of available GIS mapping and aerial photography, an unnamed tributary of Lacey's Creek travels through the northwest corner of the subject property, through both severed lands and the retained. In addition, lowland borders this creek and has been identified as organic soil in the township's zoning schedule. This area is likely susceptible to seasonal flooding.

REVIEW

Natural Heritage Values - Watercourse

Sufficient area appears to exist on the both severed lands to accommodate future development that complies with the current standards for development adjacent to a watercourse. The retained lands are already developed with no new development proposed at this time. Therefore, impacts to the watercourse are not anticipated as result of the subject application.

Natural Hazards - Organic Soils

The poor drainage and unstable characteristics of organic soil makes it unsuitable for development. Therefore, development should be directed outside of areas containing organic soils. Sufficient area appears to exist on the proposed severed lands to accommodate future development outside of these areas. The 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 application provided the following mitigative measures are adhered to for any future development on the proposed severed lands:

1. Future development, including a septic system shall be setback a minimum of 30 metres from the seasonal high water mark of the unnamed watercourse.
2. The shoreline vegetation surrounding the unnamed watercourse shall be retained to a minimum depth of 15 metres.
3. Future development shall be directed away from areas consisting of organic soils.
4. Natural drainage patterns on the site shall not be substantially altered, such that additional run-off is directed into the unnamed watercourse, or onto adjacent properties.

NOTES - The above mitigative measures should also apply to the proposed retained lands, as relevant.

The property owner should be advised that in the event shoreline work is proposed along the unnamed 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 unnamed watercourse 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.

Septic Office – Leeds, Grenville and Lanark District Health Unit

Severed – B13/037 - A 1 hectare parcel of land. No existing buildings. Combination of open farm land and bush. Gentle slope. Additional sandy loam may be required in tile bed area.

Severed – B13/038 – A 1.26 hectare parcel of land. No existing buildings. Combination of open farm land and bush. Gentle slope. Additional sandy loam may be required in tile bed area.

Retained – A 3.78 hectare parcel of land with an existing house, outbuilding and barn. Existing septic system and well that services dwelling. Additional sandy loam may be required for replacement of septic system (tile bed) in future.

Hydro One Networks – No comments were received.

Bell Canada R-O-W – Subsequent to review by our local Engineering Department of the above noted lands to be severed, it has been determined that Bell Canada has no installations over these lands and therefore no requirement for easement protection.

We have no concerns or objection to the proposed severance.

(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:

Barbara Keery – June 26, 2013

I live at 191 Upper Perth Road and did not receive a notice regarding the above severance. I believe I am within 60m of the subject property.

I have the following concerns regarding these severance applications:

1. There is an animal barn on the subject property. The barn in recent years has been used for boarding horses. I have seen at times as many as 12 horses and one heifer in the field. I have not seen any horses there for the last year or so, just the one heifer. My question is: what is going to be the allowed use of that barn in the future and what is the the MDS calculation from our current wells and septic systems and also the proposed new wells and septic systems?
2. There was one severance off that parcel within the last 7 years or so.
3. I have lived at my present location since 1999 and since that date at least 30 new homes have been built within approximately 10 km of my property.
4. I do not understand why this number of severances has been granted. New homes seem to be popping up in my area and sometimes 3 to 4 in a row.
In summary, I moved to this location to be in the country and it is starting to resemble a strip subdivision. I am concerned with water quality and the potential of contamination

from animal manure along with many septic systems. I object to two additional severances being granted off the subject parcel of land.

Note: The Secretary Treasurer provided a written response to the above questions.

(d) **PLANNING REVIEW**

Background and Summary

The applicant proposes to sever two residential building lots - 1.0-ha and 1.26-ha, and retain 2.52-ha residential lot (111 Upper Perth Road). One previous severance was taken from the original parcel of land in 2001. However this is prior to the consent granting date for Lanark Highlands (March 2003).

The subject lands are located in an area characterized by rural residential lots along Upper Perth Road and Ferguson Falls Road and mixed large and small residential lots along Pine Grove Road.

The lands are accessed via Upper Perth Road, a municipally maintained road.

Bedrock Inventory – diorite

Agricultural Operations

Two agricultural operations are located in proximity of the development; therefore the applicant was required to submit information to calculate the Minimum Distance Separation for the proposed lots. The MDS calculations indicated a minimum setback of 153m and 81m, the actual distance from the barns to the closest proposed lot line is shown by the applicant as slightly less than 153m to the south east and 81 m to the south west. A condition should be included to advise future purchasers of the farming operation and potential for noise, odours etc. As well an MDS will need to be recalculated at the time of application for building permit.

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 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 3.2.3 and 3.3.3.3 of the OP. Up to 3 consents, excluding the retained lot may be granted for a lot or landholding existing as of April 1, 2003. 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.

- 3/ Woodlands
The mapping shows a small area of 'woodlands', care should be taken in any development proposal to maintain the existing tree cover. Woodland Development Policies have been established by the Township of Lanark Highlands.

Zoning

The subject property is currently within the rural section of the Zoning By-law, which permits a number of uses, including single-detached dwellings. The proposed lot meets the minimum lot frontage and size. Any new development will be required to meet the minimum setback 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.

(g) MINUTES – Sept 23, 2013

Tracy Zander, agent, Anitha Pritchard, adjacent landowner and Meghan Ladoucer, adjacent landowner, attended the hearing and gave evidence under oath.

Ms. Zander provided background information on the proposal.

Ms. Pritchard and Ms, Ladoucer expressed concerns that when a building is constructed on B13/037 that they will elevate the lands and cause additional water / drainage onto their lands. They also would like to see that the existing fence between the two properties be maintained at its present location.

Ms. Zander advised that she would indicate to the land surveyor that the fence should be shown on the R-Plan. She also indicated that they would agree to require a 'site grading and drainage plan' at the building permit stage through a Development Agreement.

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 ""A tributary of Lacey's Creek traverses these lands. No building or septic systems shall occur within 30 metres of the seasonal high water mark of the tributary and the vegetation along the shoreline shall be maintained to a minimum depth of 15 metres".
4. 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".
5. That the applicant enter into a Development Agreement or Subdivision Agreement with the Township of Lanark Highlands, the wording of which shall include the requirement to undertake a "site grading and drainage plan" prior to the issuance of a building permit on the lands.
6. 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.
7. 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.
8. 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.
9. The applicant shall provide the Township of Lanark Highlands with a copy of the deed/transfer for the property.
10. 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.
11. 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.

12. 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.
13. 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).
14. A letter shall be received from the Township of Lanark Highlands stating that condition #5 through #13 has been fulfilled to their satisfaction.

NOTES

1. *The Mississippi Valley Conservation Authority advises that in the event shoreline work is proposed along the unnamed watercourse, written permission may be required from MVC pursuant to Ontario Regulation 153/06 - "Development, Interference with Wetlands and Alterations to Shorelines and Watercourses".*
2. *In addition, any proposed works in or near the unnamed watercourse 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. *The lands to be severed may be subject to the Minimum Distance Separation requirements under the Agricultural Code of Practice. All future structures must respect MDS calculations.*
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.



LAND DIVISION STAFF REPORT

APPLICATION FOR CONSENT

Owner: Rob McDiarmid **Hearing Date:** September 23, 2013
Agent: N/A
LDC File #: B13/039
Municipality: Beckwith
Geographic Township: N/A **Lot:** 22 & 23 **Conc.:** 7
Roll No. 0924 000 030 00600 **Consent Type:** New Lot

Purpose and Effect: To sever a 0.8-ha residential building lot and retain a 78.5-ha landholding with an existing dwelling and barns at 621 Glen Ashton Road.

DETAILS OF PROPOSAL	Land to be Severed	Land to be Retained	
Existing Use	Vacant	Agriculture / residential	
Proposed Use	Residential	Agriculture / residential	
Area	0.8-ha	78.5-ha	
Frontage	60 m	484 m	
Depth	135 m	1390 m	
Road - Access to	Municipal	Municipal	
Water Supply	Proposed	Private Well	
Sewage Disposal	Proposed	Septic System	
Official Plan Designation -Conformity?	Rural and PSW & Special Service Area Yes		
Zoning By-law Category	Rural and Wetland	Rural / wetland/ agriculture	
-Area Required (min.)	0.4-ha	0.4-ha	39.0-ha
-Compliance?	Yes	Yes	Yes
-Frontage Required (min.)	45 m	45 m	60 m
-Compliance?	Yes	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.

2.3 Agriculture

Section 2.3.4.1 Lot creation in primate 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 Policies, Section 4.3.4 Local Roads, Section 4.4 Water and Wastewater, Section 5.5.1 PSW Policies, Section 6.1 Agricultural Policies, Section 8.2.2 Consents.

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

Local Official Plan – Section 4 General Development Policies, Section 6.6 Rural Areas, Section 6.1 Agricultural Policies, Section 7.3 Local Roads, Section 9.10 Land Division Committee.

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 10 Agriculture Zone, Section 11 Rural Zone, and Section 13 Wetlands 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 Report
EXECUTIVE SUMMARY

The applicant has submitted a severance application to create a 2 acre rural building parcel in the Township. The proposed lot is located within the implementation area for the water monitoring program and as such, the new lot would be required to participate in the water monitoring program.

DESCRIPTION OF PROPOSAL

The applicant proposes to submit a severance application to create a new 2.0 acre building lot within the Township. The proposed lot would meet the minimum frontage and area requirements of the zoning by-law and would satisfy the MDS distances of the nearby livestock facility.

DESCRIPTION OF SUBJECT LANDS

The subject lands consist of partially cleared agricultural land and forested bush lands. The lands in proximity to the proposed severance, and a small portion of the proposed severance, are considered to be 120m adjacent lands to Provincially Significant Wetlands. The subject lands consist of the east half of Lot 22 and the west half of Lot 23. The proposed severance would be located on the east half of Lot 22, which has only been severed once in the past (B442/86).

PROVINCIAL POLICY STATEMENT

Section 1.1.4 regards development in Rural areas. These policies are intended to ensure that rural development is appropriate to the services available in the area. The proposed severance is located in an area that receives all available services within the Township.

Section 1.6 regards Infrastructure. Within rural areas, these policies intend to ensure that development is appropriate for private services for the long-term. As the proposed severance is located within the Special Service Area of the Township, it is appropriate to require on-going participation within the water monitoring program.

Section 2.1 regards Natural Heritage features. The small portion of the proposed severance is located within the 12Cm land adjacent to PSW. The PPS requires development (including lot creation) within these areas to be supported by an EIS. Staff feels that as it is clear the proposed severance contains a suitable building envelope beyond the 12Cm adjacent lands, it is not appropriate to request an EIS. Staff has spoken with RVCA and they concur with this position.

Section 2.3 regards prime agricultural areas. These policies aim to protect agricultural uses and land for long-term use. The proposed severance complies with the preliminary MDS calculation that was completed and is not expected to have any adverse affect on the present agricultural operation.

OFFICIAL PLAN

The subject property is designated Rural, Agriculture and Wetlands by the Township's Official Plan. The proposed severance is located within the Rural designation, where severances and residential uses are permitted.

Section 4.5 of the plan regards land division. In accordance with the severance interpretation policy approved by Council, the subject lands qualify for up to two (2) additional severances from the east half of Lot 22. The proposed severance satisfies the

minimum frontage requirements of 45m and the minimum lot size for a severance of 2 acres. Staff completed a preliminary MDS calculation for the adjacent livestock facility and the proposed severance is located beyond the required setback distance.

The proposed severance is located within the Special Service Area. As such, the proposed severance can only proceed if the applicant agrees to participate within the water monitoring program with no ability to opt out. This will be a condition of the severance and the applicant will be required to sign a registered agreement.

Section 4.6 of the plan regards natural heritage features. Section 4.6.8 indicates that the Township will require an Environmental Impact Assessment or Scoped Study where development or site alteration is proposed within 120m of a natural heritage feature. Where development or alteration is minor in nature, the assessment can be reduced to a study. Technically, as the proposed severance extends approximately 2Cm into the 12Cm adjacent lands, the applicant should be submitting a scoped study to the Township in support of the proposed severance. However Staff feels that requesting this study is not appropriate, as it is clear that the proposed lot would have a sufficient building envelope well beyond the 120m adjacent area. The Township should require that the applicant not develop or alter the vegetation within this area.

Section 4.18 regards the Special Service Area. This section reiterates the requirement of new lots to participate within the monitoring program. This would be a condition of severance.

ZONING BY-LAW

The proposed severance is zoned Rural — Special Service Area and Wetlands. As noted above, the proposed severance would be required to participate within the water monitoring program with no ability to opt out. Within the rural zone, lots are required to have a minimum of 45m of frontage and be at least 4,000m² in area. The proposed severance would be 60m of frontage and 8,100m² in area.

A portion of the proposed severance is currently zoned Wetlands. As the municipal zoning does not accurately reflect the mapping provided by the Ministry of Natural Resources for Provincially Significant Wetlands, Staff believes that the municipal zoning is inaccurate. A general zoning by-law update is proposed within the 2013 Planning budget, and updating the Wetlands zoning will be part of this update. Staff does not recommend that the applicant submit a zoning by-law amendment to correct the mapping, as it will be updated through the general amendment later in the year.

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

- That the applicant enter into a development agreement with the Township of Beckwith for participation in the water monitoring program and that the development agreement be registered on title immediately following the severance;
- That a paper copy of the Reference Plan be provided to the Township of Beckwith;
- That the applicant confirms with the Public Works Superintendent that an entrance on the subject property is viable;

Advisory Note:

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

Conservation Authority – Rideau Valley Conservation Authority

The Rideau Valley Conservation Authority has completed a review of the above noted application for the creation of one new 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.

Proposal

The purpose of this application is to sever one currently vacant lot (0.8 ha) on which it is proposed to construct a residential dwelling. The retained parcel has an area of approximately 75.5 ha and is used for agricultural purposes. The retained parcel is occupied by a residential dwelling and barns. Please refer to the attached map which shows the location of the severed and retained parcels.

Site Characteristics

The lot to be severed is characterized by a mixed forest cover. Observations at the site indicate a high groundwater table. The retained lot is characterized by agricultural fields and forest cover. Tile forest cover is particularly dominant along the east and west property boundaries. The west side of the retained parcel includes a section of the Provincially Significant Goodwood Marsh (PSW) and the 120 metre adjacent lands. An unnamed tributary to the Goodwood Marsh (ultimately the Jock River) flows through the west portion of the retained lot. A second unnamed tributary flows through a permanent wetland in the southwest corner of the retained parcel and discharges into the Goodwood Marsh. All of these features are also shown on the attached map. The lot to be severed does not include any mapped permanent wetland, PSW or defined watercourses.

Conservation Authorities Act Regulations

The west lot line of the lot to be severed is generally coincidental with the 120 m adjacent lands boundary to the PSW. This boundary line also defines the area which is subject to the "Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation" (Ontario Regulation 174/06 under Section 28 of the Conservation Authorities Act). The proposed lot is at the outer limit of the regulated area and therefore we do not require an environmental impact assessment for the purpose of the severance application. We also note that the watercourses as described above are also subject to the regulation.

Assessment

The lot to be severed, although not identified as part of a wetland area, does exhibit a high groundwater table that likely fluctuates on a seasonal basis. The high groundwater table should be taken into consideration for the design and construction of the foundation and its drainage system, as well as for the sewage disposal system. The lot to be retained has some natural heritage features (watercourses, PSW and the 120 in adjacent lands, non-PSW permanent wetland and forested areas) that would have to be taken into consideration if this lot was to be further developed in the future.

Conclusion

The Rideau Valley Conservation Authority has no objection to this severance application. Should the Committee approve the application, we request that the following note be appended to the Committee's decision:

1. The Goodwood Marsh, the 120 m adjacent lands and the unnamed tributaries to the Goodwood Marsh (Jock River) that flow through the retained land are subject to the "Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation" (Ontario Regulation 174/06 under Section 28 of the Conservation Authorities Act). The owner requires the written approval of the Conservation Authority prior to undertaking any works or interfering in any way with the existing channel of these watercourses or for changing or interfering in any way with the wetland and the 120 m adjacent lands, Any applications received in this regard would be assessed within the context of approved policies for the administration of the regulation, including those for the protection of fish habitat.
2. Vegetation removal on the severed lot shall be limited to that only that which is necessary for the building and sewage system envelopes and for reasonably sized front and back yards.
3. The final grading of the site shall maintain natural drainage patterns as much as possible.
4. The severed lot exhibits a permanent or seasonally high groundwater table. Precautions should be taken during the design and construction of the foundation and its drainage system to account for the high groundwater table.

Septic Office – Leeds, Grenville and Lanark District Health Unit

Severed – Lot is on cleared pasture sloping toward the west. 0.6 to 1.0 metres of sandy loam topsoil. Good drainage. The severed lot is large enough to accommodate on-site sewage disposal. Depending on the location of the proposed septic system, imported leaching bed fill may be required.

Retained – Large property with existing home and farm buildings. Good drainage. Varying depths of sandy loam topsoil. Cleared fields and bush. Severing this lot will not negatively impact on-site sewage disposal on retained land. There were no obvious signs of failure for the existing system.

Hydro One Networks – No comments were received.

Bell Canada R-O-W – Subsequent to review by our local Engineering Department of the above noted lands to be severed, it has been determined that Bell Canada has no installations over these lands and therefore no requirement for easement protection.

We have no concerns or objection to the proposed severance.

(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 0.8-ha residential building lot and retain a 78.5-ha landholding with an existing dwelling, barn and outbuildings located at 621 Glenashton Road.

The subject lands are located in an area characterized by large agricultural landholdings intermixed with rural residential lots along Glenashton Road. Goodwood Marsh is located to the east. A portion of the landholding is designated as "Agriculture" and the balance is rural. The proposed lot is located outside the 120 buffer area of the PSW.

The landholding is comprised of the west one half Lot 23 and East one half Lot 22. Three previous consents were approved in 1978 on the East ½ Lot 23 and one previous consent was approved in 1986 on the East ½ Lot 22. The new consent policies for Beckwith Township define a 'landholding' as an original township lot, therefore the east ½ lot 22 would be eligible to obtain 2 additional consents, provided all other criteria have been met.

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

Soils Inventory – Name: Grenville

- Stoniness: non-stony
- CLI: 3 – moderately severe limitations
- Drainage: well
- Hydrogeology: moderate

Bedrock Inventory – limestone, Dolostone, shale

Agricultural Operations

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 250 m, the actual distance from the barn to the closest proposed lot line is shown by DRAPE mapping is 330m. 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 location and development criteria by the approval authority shall be based on local Official Plans. In considering 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 a

maximum of 3 consents, excluding the retained lot if the area of an original Township lot is 40-ha or greater; or 2 consents, excluding the retained lot, may be considered if the area of an original Township lot is from 20-ha up to but not including 40-ha. A number of 'general policies' also apply to the division of land, including: size (0.6-ha in Community Development Area and 0.8-ha in the Rural Lands designation) 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 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 section of the Zoning By-law, which permits a number of uses, including single-detached dwellings. The proposed lot meets the minimum lot frontage and size. Any new development will be required to meet the minimum setback 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 Beckwith and could be given favourable consideration.

(e) **MINUTES – Sept 23, 2013**

Rob McDiarmid, 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 "Vegetation removal on the severed lot shall be limited to that only which is necessary for the building and sewage system envelopes and for reasonably sized front and back yards".
4. 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".
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. That the applicant enter into a development agreement with the Township of Beckwith for participation in the water monitoring program and that the development agreement be registered on title immediately following the registration of the transfer/deed. The applicant shall consult directly with the Township in this regard.
7. 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
8. The applicant shall confirm that a residential entrance to the subject lot is viable. The applicant shall consult directly with the Township of Beckwith in this regard.
9. A letter shall be received from the Township of Beckwith stating that condition #5 through #8 has been fulfilled to their satisfaction.

NOTES

1. *The Township of Beckwith advises that all 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.*
2. *The Rideau Valley Conservation Authority advises that the Goodwood Marsh, the 120 m adjacent lands and the unnamed tributaries to the Goodwood Marsh (Jock River) that flow through the retained land are subject to the "Development,*

Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation” (Ontario Regulation 174/06 under Section 28 of the Conservation Authorities Act). The owner requires the written approval of the Conservation Authority prior to undertaking any works or interfering in any way with the existing channel of these watercourses or’ for changing or’ interfering in any way with the wetland and the 120 m adjacent lands, Any applications received in this regard would be assessed within the context of approved policies for the administration of the regulation, including those for’ the protection of fish habitat.

3. *The RVCA also advise that the final grading of the site shall main natural drainage patterns as much as possible.*
4. *Also, the severed lot exhibits a permanent or’ seasonally high groundwater table. Precautions should be taken during the design and construction of the foundation and it drainage system to account for the high groundwater table.*
5. *The Leeds Grenville and Lanark District Health Unit advises that depending on the location of the proposed septic system, imported leaching bed fill may be required.*
6. *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.*
7. *The County of Lanark advises that, prior to the issuance of a building permit, Development Charges must be paid in full.*
8. *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: Ian Andrews **Hearing Date:** September 23, 2013
Agent: N/A
LDC File #: B13/046 & B13/047
Municipality: Beckwith
Geographic Township: N/A **Lot:** 22 East ½ **Conc.:** 4
Roll No. 092400001506600 **Consent Type:** New Lots

Purpose and Effect: To sever two residential building lots (0.8-ha each) and retain a 52.6-ha vacant landholding. The lands are accessed via Richmond Road.

DETAILS OF PROPOSAL	Land to be Severed		Land to be Retained
	B13/046	B13/047	
Existing Use Proposed Use	Vacant Residential	Vacant Residential	Vacant Vacant
Area Frontage Depth Road - Access to	0.8 ha 64 m 128 m County Road	0.8 ha 64 m 128 m County Road	52.6 ha 126 m 1,667 m County Road
Water Supply Sewage Disposal	Private well Private septic	Private well Private septic	N/A
Official Plan Designation -Conformity?	Rural Yes		
Zoning By-law Category -Area Required (min.) -Compliance? -Frontage Required (min.) -Compliance?	Rural 0.4-ha Yes 45 m Yes	Rural and Aggregate 0.4-ha Yes 45 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.

2.5 Mineral Aggregate Resources

Section 2.5.2.5 In areas adjacent to or in known deposits of mineral aggregate resources, development and activities which would preclude or hinder the establishment of new operations or access to the resources shall only be permitted if:

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

County Official Plan – Section 3.0 Rural 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.

Local Official Plan – Section 4 General Development Polices, section 6.6 Rural Lands, Section 7.2 County Roads, Section 9.10 Land Division.

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 14 Mineral Aggregate 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 Report

EXECUTIVE SUMMARY

The applicant has submitted two severances application for an original Township parcel that has not previously been severed. The two severances meet or exceed the minimum frontage and area requirements of the Rural zone. The proposed parcels front onto County Road 10 and will share an entrance onto this road. Staff recommends support for the severances.

DESCRIPTION OF APPLICATION

The applicant proposes to create two severances with frontage along County Road 10, west of the Prospect Community Development Area. Each of the two proposed severances are approximately 2 acres in size and would share a common entrance on County Road 10.

DESCRIPTION OF SUBJECT LANDS

The subject lands are currently vacant and largely covered in natural vegetation as the property is used in conjunction with the adjacent lands as a Christmas tree farm. The

subject property has not previously been severed and therefore qualifies for up to three severances. There are no known significant natural features on the property.

PROVINCIAL POLICY STATEMENT

Section 1.1.4 regards development in Rural areas of municipalities. These policies promote development that is scaled to the level of services available in the rural portions of municipalities. All services offered by the Township are available for the subject property.

Section 1.6.4.4 of the PPS regards private on-site services. This policy discusses the requirement for suitable site conditions to support the long-term operation of these services. The Health Unit has commented on the application that the site appears to provide a suitable envelope for a septic system.

Section 2.3 regards natural heritage features. The lands to be severed appear to be naturally vegetated, but are not recognized as a significant feature. The proposed severance does not appear to generate any adverse effects for the natural environment.

OFFICIAL PLAN

The subject property is designated as Rural land by the Township's Official Plan. Severances are permitted within this designation, provided that they are at least 2 acres in size.

There do not appear to be any significant natural features or agricultural operations that would be impacted by the proposed severances.

ZONING BY-LAW

The subject property is zoned Rural and Mineral Aggregate Reserve; the area of the proposed severances is zoned Rural. The proposed severances exceed the minimum lot size and frontage requirements of this zone. The proposed severances would be within approximately 175m of the Mineral Aggregate Reserve zone. This zone is anticipated to be removed with the forthcoming zoning by-law amendment as it was removed from the Official Plan mapping with the approval of OPA 25.

OPTIONS / ANALYSIS

The applicant pre-consulted with the Planning Committee during the winter of 2013. Initially the applicant wished to obtain three severances from the north end of the adjacent property. The Planning Committee indicated a road extension would be required and the proposed severances would need to be provided by a parcel that qualified for severances. The applicant switched the proposed severances to the south end of the parcel to take advantage of the County Road 10 frontage. The Planning Committee initially supported the location.

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

- That a paper copy of the reference plan be provided to the Township;
- 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.

Advisory note:

- 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

The Rideau Valley Conservation Authority has completed a review of the above noted applications for the creation of two new lots. 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.

Proposal

The purpose of these applications is to sever two vacant lots. Both lots will have 64 m of frontage on County Road 10 (Richmond Road) and a lot area of 2 ac (0.8 ha). It is intended that the severed lots be used for residential purposes. The vacant retained parcel has an area of approximately 130 ac (52.6 ha). Please refer to the attached map which shows the location of the severed parcel in red and the retained parcel in white.

Site Characteristics

Both lots to be severed are characterized by a mix of regenerating vegetation (grasses, shrubs and trees). The retained lot is characterized by a mix of regenerating fields interspersed with forested areas. Forest becomes more predominant on the central and northern sections of the retained lands. Two tributaries to Kings Creek flow through the retained lot (one through the central section and one through the north section. There is also a permanent wetland in the central portion of the retained lot. The lots to be severed do not include any mapped permanent wetland or Provincially Significant Wetland. There are no defined watercourses on the lots to be severed.

Conservation Authorities Act Regulations

The severed lots do not include any areas or watercourses that are subject to regulation by the Conservation Authority. The tributaries to Kings Creek that flow through the retained lot are subject to the "Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation" (Ontario Regulation 174/06 under Section 28 of the Conservation Authorities Act).

Assessment

The lots to be severed do not exhibit any natural heritage features (wetland, fish habitat) or natural hazards that would otherwise be a constraint to development. The lot to be retained has some natural heritage features (watercourses, permanent wetland and forested areas) that would have to be taken into consideration if this lot was to be developed in the future.

Conclusion

The Rideau Valley Conservation Authority has no objection to these severance applications. Should the Committee approve the applications, we request that the following note be appended to the Committee's decision:

The tributaries to Kings Creek that flows through the retained land are subject to the "Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation" (Ontario Regulation 174/06 under Section 28 of the Conservation Authorities Act). The owner requires the written approval of the

Conservation Authority prior to undertaking any works that would result in an alteration to the watercourse, Any applications received in this regard would be assessed within the context of approved policies for the administration of the regulation, including those for the protection of fish habitat.

Septic Office – Leeds, Grenville and Lanark District Health Unit

B13/046

Poor drainage on this flat, wooded lot, 0-20cm of clay and loam topsoil over bedrock. There was standing water on the property as a result of heavy rains and poor drainage. Recommendation – due to poor drainage and thin soil over bedrock, imported leaching bed fill will be required to construct a conforming septic system on the site.

B13/047

Poor drainage on this flat, wooded lot, 0-20cm of clay and loam topsoil over bedrock. There was standing water on the property as a result of heavy rains and poor drainage. Recommendation – due to poor drainage and thin soil over bedrock, imported leaching bed fill will be required to construct a conforming septic system on the site.

Retained

Large property with varying drainage and soil conditions. Existing residence with septic system and drilled well. Recommendation – severing this lot will not negatively impact on-site sewage disposal for the retained land. There were no obvious signs of failure for the existing system.

NOTE: Dwelling is located on the West ½ Lot 22.

Hydro One Networks – No comments were received.

Bell Canada R-O-W – Subsequent to review by our local Engineering Department of the above noted lands to be severed, it has been determined that Bell Canada has no installations over these lands and therefore no requirement for easement protection.

We have no concerns or objection to the proposed severance.

County Roads Department – Land to be severed by B13/046 and B13/047 has an approved entrance location which will service the severed lots as a Common Residential entrance. Permit application #2427 applies. A full entrance application for the severed lands must be submitted and entrance installed prior to deed endorsement.

Lands to be retained have an approved entrance location to service a future subdivision. Entrance application # 2438 applies. Applicant must complete and submit a full entrance application together with proposed subdivision entrance at the time of development. Application 2438 will remain valid for a period of 2 years at which time the file must be renewed.

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.

(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 0.8-ha residential building lots and retain a 52.6-ha Vacant landholding.

The subject lands are located in an area characterized by rural residential along Richmond Road. A Christmas Tree Farm is located on the adjacent land. As noted by the Township, the aggregate operation / designation has been removed from the Official Plan by OPA 25 and will be removed from the zoning by-law schedule during the next omnibus amendment. The settlement area of Prospect is located to the east.

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

Soils Inventory – Name: Farmington

- Stoniness: slightly stony
- CLI: 6 – natural grazing only
- Drainage: well
- Hydrogeology: moderate

Bedrock Inventory – sandstone, dolostone

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 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 a maximum of 3 consents, excluding the retained lot if the area of an original Township lot is 40-ha or greater; or 2 consents, excluding the retained lot, may be considered if the area of an original Township lot is from 20-ha up to but not including 40-ha. A number of 'general policies' also apply to the division of land, including: size (0.6-ha in Community Development Area and 0.8-ha in the Rural Lands designation) 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 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 section of the Zoning By-law, which permits a number of uses, including single-detached dwellings. The proposed lot meets the minimum lot frontage and size. Any new development will be required to meet the minimum setback 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 Beckwith and could be given favourable consideration.

(e) **MINUTES – Sept 23, 2013**

Ian Andrews and Linda Andrews, owners, attended the hearing and gave evidence under oath.

Mr. Andrews advised that they are proposing a plan of subdivision on the adjacent lands to the east and to the retained lands, however these are in the preliminary stage and no application has been submitted.

Mr. Andrews confirmed that the entrance to the County Road would be 'shared' entrance.

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 - 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 balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to the Township of Beckwith.
4. 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.
5. 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.
6. 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.
7. 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.

8. A letter shall be received from the County of Lanark Public Works Department stating that condition #5 through #7 has been fulfilled to their satisfaction.
9. A letter shall be received from the Township of Beckwith stating that condition #3 through #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 Rideau Valley Conservation Authority advises that the tributaries to Kings Creek that flows through the retained land are subject to the "Development, Interference with Wetlands and Alteration to Shorelines and Watercourses Regulation" (Ontario Regulation 174/06 under Section 28 of the Conservation Authorities Act). The owner requires the written approval of the Conservation Authority prior to undertaking any works that would result in an alteration to the watercourse, any applications received in this regard would be assessed within the context of approved policies for the administration of the regulation, including those for the protection of fish habitat.*
4. *The Leeds Grenville and Lanark District Health Unit advises that imported leaching bed fill will be required to construct a conforming septic system on the site.*
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: Grassmere Holdings Inc. **Hearing Date:** September 23, 2013
Agent: Stephen C. Halpenny
LDC File #: B13/048
Municipality: Drummond/North Elmsley
Geographic Township: North Elmsley **Lot:** 23 & 24 **Conc.:** 6
Roll No. 0919 908 015 26005 **Consent Type:** Lot Addition

Purpose and Effect: To sever a 2.0-ha parcel of land as a lot addition to lands owned by Joseph Michael Grass and Dorothy Gayle Grass at 285 Grassmere Lane and retain a 5.0-ha vacant landholding.

DETAILS OF PROPOSAL	Land to be Severed	Land to be Retained
Existing Use Proposed Use	Vacant Vacant	Vacant Residential
Area Frontage Depth Road - Access to	2 ha 117.75 344.65 Registered R-O-W	5 ha 163.93 426.72 Registered R-O-W
Water Supply Sewage Disposal	Private Well Private Septic	Proposed Well Proposed Septic
Official Plan Designation -Conformity?	Rural and PSW Yes	
Zoning By-law Category -Area Required (min.) -Compliance? -Frontage Required (min.) -Compliance?	Limited Service Rural n/a Lot Addition	Limited Service Rural 0.4-ha Yes 50 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.

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 on 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.

Local Official Plan – Section 3 General Provisions, Section 4.4 Rural Policies, Section 4.6 Wetland Policies, Section 5.5 Private 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 10 Limited Services Residential Special Exception.

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

Please be advised that I have reviewed the above noted consent application and have determined that the proposed consent is generally consistent with the Township's Official Plan and intent of the Zoning Bylaw. It is my understanding that this application seeks to sever a 2 ha (5 acre parcel) off of the larger property owned .by Grassmere Holdings Inc. and transfer it as an addition to abutting land owned by Michael and Gayle Grass. Both properties are accessed by Grassmere Lane, which is a private road. There are no buildings on the severed parcel and it is mostly open field. As this has the effect of being a boundary adjustment, this application does not enable or facilitate any additional development and no new lot is being created. The Grass property, which is to be enlarged, is about 4.6 hectares in size and the remaining Grassmere Holdings property will be about 5 hectares.

The severed, retained and recipient lands are designated Rural in the Township's Official Plan, although a portion of the McLean's Bay Provincially Significant Wetland extends a portion onto all three parcels. This property does come with some history, with a site specific zoning amendment and development agreement having been applied to the two existing landholdings, which were imposed as a condition of the creation of those lots in 2005. The purpose of the rezoning and the development agreement was to establish development and no-touch setbacks from the edge of the PSW and to prevent the lots from being further divided in the future. The development agreement also established, through an EIS provided by Hans von Rosen in 2005, building envelopes on the two new lots. I reviewed this application with the Rideau Valley Conservation Authority and we are both satisfied that a sufficient building envelope will still exist on the retained lot after the northern portion is removed. Additionally, this application does not appear to be inconsistent with the development agreement or the recommendations expressed by the EIS. The special exception zoning that applies to the affected lots is worded to establish the minimum lot sizes as they existed subsequent to the last severance. As such, the zoning will need to change to recognize the proposed lot addition, however in my view this change is consistent with the intent of the original zoning since no new lots are proposed and the effect of the change is minor. In my review I have identified no other planning constraints that would preclude approval of this application.

Given the foregoing, Drummond/North Elmsley Township supports this 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 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 severed and enlarged lands shall be rezoned in a manner that recognizes the proposed lot sizes
- The development agreement dated March 14, 2006 and registered against the said lands shall continue in full force and effect for the severed, retained and enlarged lands. No development or site alteration shall occur on these lands unless in full conformity with the development agreement.

Conservation Authority – Rideau Waterway Development Review Team

The Rideau Waterway Development Review Team has now reviewed this application on behalf of the Rideau Canal Office and the RVCA.

We offer the following comments within the context of

1) Conservation Authority concerns:

- Section 2.1 Natural Heritage and 3.1 Natural Hazards of the Provincial Policy Statement under Section 3 of the Planning Act.
- The Rideau Valley Conservation Authority regulations under Section 28 of the Conservation Authorities Act,
- the considerations for waterfront setbacks and best management practices derived from the "Rideau Lakes Study",

And

2) Parks Canada-Rideau Canal Office concerns:

- Historic Canal Regulations,
- Rideau Canal National Historic Site and UNESCO World Heritage Site,
- crown ownership,
- fish habitat.

The Property

This property was described in the 2003 consent application. Site conditions have not changed. Portions of the property are, however, now formally recognized as being contained within the provincially significant wetland (2006) and the recent flood regulated area (2011) administered by the RVCA.

The proposal will result in some reduction of developable area available outside the regulated area on the retained lands, though it appears there is still opportunity for development well upland of the wetland and flood plain associated with Big Rideau Lake. We recognize that this lot addition represents an adjustment to the lot lines and not new lot creation.

Discussion and Recommendations

An Environmental Impact Statement was produced in response to the original 2003 consent application (Pinegrove Biotechnical EIS-December 2005) addressing impact mitigation and wetland protection. The EIS recommendations were entrenched in the Development Agreement dated March 14, 2006. We support the retention of the mitigative requirements of the EIS as the statements and findings remain valid. With the lot line adjustment we recommend that the Development Agreement be amended such that a new development envelope be identified outside the regulation area on the proposed retained parcel.

We support the site specific rezoning to recognize the lot area change and the environmentally sensitive area (and considering the setbacks described in the 2005 EIS).

In addition, we note for the owner's information, that the RVCA has recently determined a 1:100 year regulatory flood elevation of **124.51 metres geodetic for Big Rideau Lake**. We take the opportunity to advise that any other new development and site alterations must have regard for this elevation. Likewise, a permit from the Conservation Authority is required for any new or additional development within the regulated flood and wetland +120 metre adjacent lands and the new 124.51 metre regulatory flood elevation. As per provincial planning policy, the RVCA does not generally support site alterations within a provincially significant wetland (see attached mapping).

Rideau Canal staff have no objection to the lot line adjustment but caution that any development of the retained parcel be respectful of the federal Crown's ownership of the adjoining lands, specifically Parts 1, 2 and 3 on Plan 27R-8781, as well as the sensitive near shore area. It is also noted that no permits have been issued for any shoreline development i.e. docks for either of these parcels. Parks Canada- Rideau Canal Office does not generally support any form of shoreline development in environmental sensitive areas such as this. No work is permitted without the written approval of the Rideau Canal Office of the Parks Canada Agency.

Provided the above considerations are addressed, we have no objection to this lot addition.

(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:

From David and Mary Wilson – July 31, 2013

Mary Kirkham

From: David and Mary Wilson <dmwilson@xplornet.com>
Sent: July 31, 2013 9:00 AM
To: Mary Kirkham
Subject: B13/048
Attachments: CCE00000.jpg; CCE00001.jpg

Good Morning Mary,

I just got back yesterday from vacation and realized I did not respond to the Application for Consent.

I would like to point out to you the previous decisions on the subject lands. It is clear from the past decisions that no further severance or subdivision of these lands is to be considered in the future. Copies attached. The lands in particular are Parts 7 and 8 on Plan 27R-8781.

I bring this to your attention in order that the Land Division Committee is fully appraised of the previous decision of the Committee or the Ontario Municipal Board.

David Wilson
1545 Rideau Ferry Rd
RR# 5
Perth, Ont
K7H 3C7

DOMINANT LANDS: PART OF PIN 05230-0019, PT NW 1/2 LT 23 CON 6 NORTH ELMSLEY; PT LT 24 CON 6 NORTH ELMSLEY; PT 8, 27R8781; DRUMMOND-N ELMSLEY

The Transferees are hereby granted permission to improve an existing road, being Parts 3, 6 and 9 on Plan 27R-8781, to the level that will permit access to emergency vehicles and granted a right-of-way over the said Parts 3, 6 and 9 on Plan 27R-8781 for the purpose of gaining access to Part 8 on Plan 27R-8781. No further severance or subdivision of Part 8 on Plan 27R-8781 will be permitted in the future and the use of the said lands shall be limited to single family residential only.

TO HAVE AND TO HOLD the said lands unto the Transferees and their heirs forever; saving, excepting and reserving unto us, our heirs and successors, the free use, passage and enjoyment of, in, over and upon all navigable waters that now are or may be hereafter found on or under or flowing through or upon any part of the said lands and reserving onto us, our heirs and successors, the right to flood at any time and from time to time, to flood the lands.

NOTE: The Secretary Treasurer advised Mr. Wilson that the application was for a 'lot addition' and that no new lot was being created.

From Barker Willson – September 17, 2013

This letter is further to your memo addressed to the undersigned and dated September 4, 2013.

The Applicant acknowledges receipt of the e-mail from David Wilson dated July 31, 2013. The covenants referenced by Mr. Wilson were acknowledged by the Applicant in its Application to the County.

With all due respect given to Mr. Wilson, the Applicant does not propose to further subdivide or sever the properties. The Applicant proposes only a lot addition with the purpose of adjusting the boundaries of existing lots. The Applicant is agreeable with the covenants referenced - i.e. no further subdivision and limited to single family residential - remaining on the title to the lots.

(d) PLANNING REVIEW

Background and Summary

The applicant proposes to sever a 2.0-ha vacant parcel of land as a lot addition to lands owned by Joseph Michael Grass and Dorothy Gayle Grass and retain a 5.0-ha vacant residential building lot. These lands were previously created in 2003 (applications B03/069 and B03/070) and are subject to special exception zoning and a development agreement.

An Environmental Impact Statement was prepared by Pinegrove Biotechnical in December 2005 which outlined the location of building envelopes on the site.

The subject lands are located in an area characterized by typical seasonal and permanent residential along the shore of Rideau Lake.

The lands are accessed via Grassmere Lane, a private road which adjoins West Point Drive, a municipally maintained road.

The Rideau Lakes Watershed Plan notes that Rideau Lakes subwatershed is good based on a review of the available water quality records and the absence of any major water quality crisis. Total phosphorus concentrations are declining on average in recent years and the clarity of the lakes using Secchi disk, is reasonable. Forest cover is increasing over the last fifty years as the original farms are abandoned and the land reverts to trees.

Invasive species, in particular, zebra mussels, both larvae and adults have been detected in Rideau Lake. 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 presence of zebra mussels and the precautions they can take to avoid the spread of invasive species to other lakes.

Archaeological

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

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 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.
Section 6.3.2.6.5 of the consent policies adds more than three lots may be created on large properties which front on two or more roads, such as through lots, where development, along each road frontage can be considered on its own merits because of the distance separating the respective areas to be developed.
- 3/ Woodlands
The area has not been mapped as 'woodlands'. Woodland Development Policies have been established by the Township of Drummond / North Elmsley.

Zoning

The subject property is currently within the Limited Services Rural section of the Zoning By-law, which permits a number of uses, including single-detached dwellings. The proposed lot meets the minimum lot frontage and size. Any new development will be required to meet the minimum setback requirements of the Zoning By-law and the Township has requested confirmation that the setbacks meet the zoning by-law provisions.

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 – Sept 23, 2013**

Craig Halpenny, solicitor for the applicant, attended the hearing and gave evidence by virtue of his legal profession.

Mr. Halpenny confirmed that the application was only a lot line adjustment to provide addition buffer between the dwelling and the adjacent lot. And that he and his client were aware of the site specific zoning on the property that would prevent any 'new' lot being created. The terms for development will continue to apply.

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 deed of land required by condition #1 above shall recognize any rights-of-way that currently exist
4. 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 Joseph Michael Grass and Dorothy Gayle Grass described as Part 8, Plan 27R-8771 Pt. Lot 23/24 Conc. 6 Township of North Elmsley, 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".
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 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.
7. Satisfactory evidence shall be provided to the Township of Drummond / North Elmsley confirming that the lot to be severed and the lot to be retained comply with the pertinent provisions of the Zoning By-law. In the event of non-compliance, appropriate relief shall be obtained either by way of a minor variance or a zoning by-law amendment.
8. That the Development Agreement dated March 14, 2006 and registered against the said lands shall continue in full force and effect for the severed, retained and enlarged lands. No development or site alteration shall occur on these lands unless in full conformity with the development agreement.
9. 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. *The Rideau Valley Conservation Authority advises that a permit from the Conservation Authority is required for any new or additional development within the regulated flood and wetland +120 metre adjacent lands and the new 124.51 metre regulatory flood elevation. As per provincial planning policy, the RVCA does not generally support site alterations within a provincially significant wetland*
2. *Parks Canada caution that any development of the retained parcel be respectful of the federal Crown's ownership of the adjoining lands, specifically Parts 1, 2 and 3 on Plan 27R-8781, as well as the sensitive near shore area. It is also noted that no permits have been issued for any shoreline development i.e. docks for either of these parcels. Parks Canada- Rideau Canal Office does not generally support any form of shoreline development in environmental sensitive areas such as this. No work is permitted without the written approval of the Rideau Canal Office of the Parks Canada Agency.*
3. *Residents and users of Rideau Lake are encouraged to take precautions to avoid the spread of the invasive species (zebra mussels) to other lakes.*
4. *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.*
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: Hilda M. Cowan & Hector L. Cowan **Hearing Date:** September 23, 2013

Agent: Brian Kerr, McIntosh Perry Surveying

LDC File #: B13/057

Municipality: Tay Valley Township

Geographic Township: North Burgess **Lot:** 9 **Conc.:** 5

Roll No. To be assigned by MPAC **Consent Type:** Lot Addition

Purpose and Effect: To sever a 0.31-ha parcel of land as a lot addition to lands owned by Hector L Cowan at Pts. 1 & 7 Plan 27R-10190 and retain a 2.942-ha residential building lot on Tully's Way.

DETAILS OF PROPOSAL	Land to be Severed	Land to be Retained
Existing Use	Vacant	Vacant
Proposed Use	Lot Addition	Residential
Area	0.31 ha	2.942 ha
Frontage	N/A	/A
Depth	153.35 m	Irregular
Road - Access to	Registered R-O-W	Registered R-O-W
Water Supply	N/A	N/A
Sewage Disposal	N/A	N/A
Official Plan Designation -Conformity?	Rural Yes	
Zoning By-law Category	Rural	Rural
-Area Required (min.)	n/a – lot addition	1.0-ha
-Compliance?		Yes
-Frontage Required (min.)		60 m
-Compliance?		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.

2.4 Minerals and Petroleum

Section 2.4.3 Rehabilitation to accommodate subsequent land uses shall be required after extraction and other related activities have ceased.

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 on 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 4.3 Transportation, Section 4.4 Water, Waste Water and Stormwater Services, Section 5.0 Natural Heritage, Section 7.0 Public Health and Safety, 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 2.18 Cultural Heritage and Archaeological Resources, Section 2.20 Natural Hazard Features, Section 2.21 Natural Heritage Features, Section 2.2 Water Supply, Sewage Disposal and other services, Section 3.6 Rural Policies , Section 4.5 Private 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 10.1 Rural Zone

Tay Valley Township advises that the proposal does not comply with the zoning by-law regulations. A re-zoning will be required for the new lot to Residential Limited Service.

(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

The proposal is to sever a 0.31-ha parcel of land as a lot addition and retain a 2.942 ha residential building lot. The lot addition is proposed in order to facilitate road / right of way access as a correction to the lot lines established in the 2012 severances.

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

- Payment of all taxes owing
- Payment of all costs incurred by the Township for review
- 2 copies of Deed/transfer
- 2 copies of reference plan

Conservation Authority – Rideau Valley Conservation Authority

The Rideau Valley Conservation Authority has undertaken our review of this application within the context of Section 2.1 Natural Heritage and 3.1 Natural Hazards of the Provincial Policy Statement under Section 3 of the Planning Act. We have also considered the application from the perspective of the Conservation Authority regulations under Section 28 of the Conservation Authorities Act and as regards Section 35-1 of the federal Fisheries Act.

The Rideau Valley Conservation Authority has no concerns with this amendment. Our comments regarding the 2012 severance activity related to the wetlands and waterfront on these lands remain as originally submitted (October 15, 2012).

Septic Office – Mississippi Rideau Septic System Office

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).

The applicant proposes to sever a 0.31 hectare parcel, irregular in area, for the purposes of a lot addition to Lots 8, 9 Concession 5. The proposed lot is currently vacant. There are areas of exposed rock and heavy tree cover. No test pits were provided.

The retained parcel is irregular in dimensions and is 2.942 hectares. The retained lot is very similar in topography as the proposed severed lot. It is currently vacant with a proposed residential use. No test pits were provided.

The topography and area for both the severed and retained lots are adequate to support the installation or replacement of a OBC compliant septic system greater than 30m from all water bodies, Due to exposed bedrock and shallow soils, a clay seal and significant amounts of imported sand fill maybe required to construct a conventional septic system. Tertiary treatment of the on-site waste water would reduce the amount of imported sand fill required and also provides higher quality effluent prior to entering the environment.

The lot addition as proposed will not interfere with the ability to operate, maintain or replace a septic system in the future. Given the above information, our office has no objections to the severance as proposed.

An approved septic permit is required prior to the issuance of most building permits.

(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 0.31-ha parcel of land as a lot addition to lands that were created by Consent B12/062 and to retain a 2.942 residential building lot. The lot line adjustment is required to proceed with the private lane / r-o-w.

The subject lands are located in an area characterized by residential and seasonal residential along Tully's Way.

The lands are accessed via Tully's Way, a private road which adjoins Elm Grove Road, a county maintained road.

An EIS was undertaken as a condition of Consent Application B12/062. The recommendations of the report were addressed through a Development or Site Plan Agreement and will continue to apply to the lands that are the subject of this application.

The lands are located within a Wildlife Habitat Area (Deer Yard). 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).

Due to the proximity of water (Long Lake) and Wildlife Habitat, on the Township's Official Plan, the applicant undertook an Environmental Impact Statement (EIS) which was reviewed by the Conservation Authority. Recommendations are found in their report and should be addressed through the implementation of either "Site Plan Control" or a "Development Agreement".

Archaeological

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

The "Watershed Watch Report" was undertaken on Long Lake in 2002. The report was able to conduct a comparison between water quality conditions as they existed in 2002, and the results obtained through the years since 1980. The sampling indicates that Long Lake has a moderate concentration of nutrients. Some algae blooms and minor weed growth in sheltered bays and shallow areas were noted. Best management practices are very important in existing and new development of properties around the lake to avoid accelerating the aging process.

The lake report does not indicate testing for invasive species, in particular, zebra mussels and spiny water flea. However, as these invasive species have been detected in adjacent lakes, residents, property owners and occasional visitors need to take a stewardship approach and make sure that they minimize their impact on the lake environment. Precautions need to be taken to avoid the spread of invasive species from other lakes.

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 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.

- 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 Ta Valley Township.

Zoning

The subject property is currently within the rural section of the Zoning By-law, which permits a number of uses, including single-detached dwellings. The proposed lot meets the minimum lot frontage and size. Any new development will be required to meet the minimum setback 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 Tay Valley Township and could be given favourable consideration.

(e) **MINUTES – Sept 23, 2013**

Hector Cowan, owner, attended the hearing and gave evidence under oath.

Mr. Cowan explained that due to a misunderstanding between him and the surveyor the lot line location was drawn along the top of the ridge, rather than at the bottom of the valley, Therefore they need to undertake a lot line adjustment.

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 lands to be severed are for the purpose of a lot addition only to the adjacent lands owned by Hector Llewellyn Cowan described as Part 1 & 7, Plan 27R-10190 (PIN 05221-0152), 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. The balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to Tay Valley Township.
5. 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.
6. 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.
7. The applicant shall provide Tay Valley Township with a copy of the deed/transfer for the property.
8. A letter shall be received from Tay Valley Township stating that condition #4 through #7 has been fulfilled to their satisfaction.

NOTES

1. *The Rideau Valley Conservation Authority advises that prior written approval under Ontario Regulation 174/06 is required from the RVCA for alterations to the shoreline of Long Lake.*
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 applicant is advised that if during the process of development an abandoned mine excavation and/or shaft is discovered, the developer or their agents should immediately contact the Ministry of Northern Development and Mines to determine the rehabilitation measures to address and/or mitigate the hazard that may be required.*
4. *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.*

5. *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.*
6. *Residents and users of Long Lake are encouraged to take precautions to avoid the spread of the invasive species (zebra mussels) from other lakes.*
7. *The Mississippi Rideau Septic System Office advises that due to exposed bedrock and presumed shallow soils, a clay seal and significant amounts of imported sand fill maybe required to construct a conventional septic system. Tertiary treatment of the on-site waste water would reduce the amount of imported sand fill required and also provides higher quality effluent prior to entering the environment.*
8. *The applicant is advised that a fee of \$135.00 is payable to the Conservation Authority for a "Clearance of Conditions" letter.*
9. *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: Jim & Jill Laramie **Hearing Date:** September 23, 2013
Agent: N/A
LDC File #: B13/065
Municipality: Tay Valley Township
Geographic Township: North Burgess **Lot:** 11 **Conc.:** 6
Roll No. 0911 911 010 05606 **Consent Type:** R-O-W

Purpose and Effect: To sever an existing right-of-way in favour of a realigned right-of-way for Malcolm K Penfold and Catherine J Penfold.

(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.

County Official Plan – Section 3.0 Rural Policies, Section 4.3.4 Local Roads, Section 8.2.2 Consents.

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

Local Official Plan – Section 2 General Development Policies, Section 3.6 Rural policies, section 4.5 Private Roads, Section 5.2.3 Consent Policies.

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 5.3 Limited Services Residential.

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 Township - 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 Township.
2. That, the applicant pay any outstanding fees to the Township prior to final approval.
3. That, two (2) copies of an acceptable reference plan or legal description of the severed lands and the deed/transfer(s) be submitted to the Township.

(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 r-o-w in favour of a more satisfactory route that has been used for 4 years. No new lot is being created.

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 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.
- 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 within the limited services residential. The relocation of the r-o-w is not affected by the zoning.

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 – Sept 23, 2013**

No persons attended the hearing.

(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 lands being severed are for r-o-w purposes only in favour of Malcolm Kurt Penfold and Catherine Jane Penfold, Pt. Lot 11 Conc. 6 North Burgess.
4. Satisfactory evidence shall be provided to the Land Division Secretary Treasurer that the existing right-of-way described as on Plan 27-R-9860 and 27R-2786 have been relinquished.
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 applicants shall satisfy all the requirements of Tay Valley Township, financial and otherwise, that may be required under established by-laws for consent applications.
8. The applicant shall provide Tay Valley Township with 2 copies of all reference plans associated with this application if a survey is required by the Land Titles Office.
9. The applicant shall provide Tay Valley Township with a copy of the deed/transfer for the property.
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. A letter shall be received from Tay Valley Township stating that condition #7 through #9 has been fulfilled to their satisfaction.

Zoning By-law - Section 3 General Provisions section 5.3 Limited Services Residential. 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 Township - recommends approval of these applications subject to the following conditions:

- Payment of all taxes owing
- Payment of all costs incurred by the Township for review
- 2 copies of Deed/transfer
- 2 copies of reference plan

(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.

PLANNING REVIEW

Background and Summary

The applicant proposes to sever through **B13/086** – to sever an existing R-O-W in favour of David and Sandra Barker – Pts. 8, 9 & 10 Plan 27R-3782; and **B13/087** – to sever an existing R-O-W in favour of Terrence Arnold Clements – Pt. 11, 12 & 13 Plan 27R-3782.

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 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.

- 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 within the Seasonal Residential section of the Zoning By-law, which permits a number of uses, including single-detached dwellings. The legal establishment of an existing r-o-w is not affected by 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.

(d) MINUTES – Sept 23, 2013

The hearing for B13/086 and B13/087 was held concurrently due to the nature of the applications.

Craig Halpenny, solicitor for the applicant, attended the hearing and gave evidence by virtue of his legal profession.

Mr. Halpenny provided background information on the concurrent applications, advising that when the lots were transferred to new owners, the r-o-w was inadvertently missed being conveyed.

Committee reviewed the staff report and draft conditions.

(e) 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

B13/086

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 lands being severed are for r-o-w purposes only in favour of David Barker and Sandra Barker, Pt. Lot 15 Conc. 12 South Sherbrooke – Plan 27R-3782 Pts 8, 9 and 10.
4. 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.
5. The applicant shall provide Tay Valley Township with 2 copies of all reference plans associated with this application if a survey is required by the Land Titles Office.
6. The applicant shall provide Tay Valley Township with a copy of the deed/transfer for the property.
7. The balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to Tay Valley Township.
8. A letter shall be received from Tay Valley Township stating that condition #4 through #7 has been fulfilled to their satisfaction.

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2. The applicant shall provide the Secretary-Treasurer of the Land Division Committee with a digital copy of the registered reference plan.
3. The lands being severed are for r-o-w purposes only in favour of Terrence Arnold Clements, Pt. Lot 15 Conc. 12 South Sherbrooke – Plan 27R-3782 Pts 11, 12 and 13.
4. 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.
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