
The Land Division Committee met in regular session on Monday, January 11, 2016 at 9:00 a.m. at the Lanark County Municipal Office, 99 Christie Lake Road, Perth, Ontario.

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

Staff Present: M. Kirkham, Secretary-Treasurer

Guest: Gail Code, Warden

LAND DIVISION COMMITTEE

Chair: R. Strachan

1. CALL TO ORDER

The meeting was called to order at 9:00 a.m.
A quorum was present.

2. DISCLOSURE OF PECUNIARY INTEREST

None

3. APPROVAL OF MINUTES

MOTION #LD-2016-1

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

"THAT, the minutes of the Land Division Committee meeting held on December 14, 2015, be approved as circulated."

ADOPTED

4. ADDITIONS AND APPROVAL OF AGENDA

MOTION #LD-2016-2

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

"**THAT**, the agenda be adopted as presented."

ADOPTED

5. DELEGATIONS & PRESENTATIONS

None

6. NEW APPLICATIONS

The Land Division Committee reviewed the reports for the following new applications to be considered at the 10:00 a.m. public hearing.

- 6.1 B15/100 – John Barry Turner – lot addition
Pt. Lot 12 and 13 Conc. 2 geographic Township of
South Sherbrooke, now in Tay Valley Township.
Hanna Road.
- 6.2 B15/122 - Theresa Bey and B15/123 – 1618242 Ont.
Ltd –
2 lot additions.
Lot 188 Plan 2707 Township of Montague. Rideau
Ave.
- 6.3 B15/128 – Brian and Catherine Steele – new lot
Pt. Lot 2 Conc. 9 geographic Township of Lanark,
now in the Township of Lanark Highlands. Upper
Perth Road.
- 6.4 B15/132 – Jill Boss and John Dugdale – new lot
Lot 100 Plan 6262 Town of Almonte, now in the
Municipality of
Mississippi Mills. Water Street.

- 6.5 B15/133 – Stephen Tudor – lot addition
Pt. Lot 9 Conc. 7 geographic Township of Darling,
now in the
Township of Lanark Highlands. Darling Road.
- 6.6 B14/038 – Patrick Cordick (formerly Rocky Licari) –
new lot

7. DEFERRED APPLICATIONS

- 7.1 B14/038 – Patrick Cordick (formerly Rocky Licari) –
new lot
Pt. Lot 23 and 24 Conc. 9 geographic Township of
Drummond, now in the Township of Drummond /
North Elmsley. First Ave.

8. CONFIDENTIAL REPORTS

None

9. COMMUNICATIONS/OTHER BUSINESS

- 9.1 Hydrogeological Investigations - deferred
- 9.2 Ontario Municipal Board – minutes of hearing for
B13/069 to B13/073 – Young.

10. PROVISIONAL CONSENT GRANTED

- 10.1 B14/038 – Patrick Cordick (formerly Rocky Licari) – 5 - 13
new lot
- 10.2 B15/100 – John Barry Turner – lot addition 14 - 22
- 10.3 B15/122 - Theresa Bey and B15/123 – 1618242 Ont. 23 - 30
Ltd. – 2 lot additions
- 10.4 B15/128 – Brian and Catherine Steele – new lot 31 - 39

10.5 B15/132 – Jill Boss and John Dugdale – new lot 40 - 53

10.6 B15/133 – Stephen Tudor – lot addition 54 - 60

11. PROVISIONAL CONSENT DEFERRED

None

12. PROVISIONAL CONSENT DENIED

None

13. UPCOMING MEETINGS AND NOTICES

Feb 22, 2016 at 9:00 a.m.

March 14, 2016 at 9:00 a.m.

April 11, 2016 at 9:00 a.m.

May 9, 2016 at 9:00 a.m.

May 29 to June 1, 2016 – City of London – OACA Conference

14. ADJOURNMENT

MOTION #LD-2016-3

MOVED BY: D. Murphy

SECONDED BY: W. Guthrie

"THAT, the meeting do now adjourn at 11:02 a.m."

ADOPTED



Mary Kirkham
Secretary-Treasurer



**LAND DIVISION STAFF REPORT –
SECOND ADDENDUM**

APPLICATION FOR CONSENT

Owner: Patrick Cordick (formerly Rocky R. Licari) **Hearing Date:** Oct. 14, 2014

Re-convened Date: June 8, 2015

Agent: ZanderPlan Inc.

Re-convened Date: Jan. 11, 2016

LDC File #: B14/038 - revised

Municipality: Drummond/North Elmsley

Geographic Township: Drummond

Lots: 23 & 24 **Conc.:** 9

Roll No.: 0919 919 025 40900

Consent Type: New Lot

Purpose and Effect:

- 1/ The original application was to sever a 2.44-ha residential building lot with an existing single family dwelling with frontage and access from Rothwell Park Road
- 2/ The revised application was to create a 2.8-ha residential lot with an existing single family dwelling with frontage and access to First Ave.
- 3/ The second revised application is to create a 2.4-ha residential lot with an existing single family dwelling with frontage of Rothwell Park Road, but having access via First Ave.

The retained lot is a 33.6-ha vacant landholding with access to Ebbs Bay Road.

DETAILS OF PROPOSAL	Severed B14/038	Revised B14/038	2 nd Revision B14/038	Lands Retained
Existing Use	Residential	Residential	Residential	Vacant
Proposed Use	Residential	Residential	Residential	Vacant
Area	2.44 ha	2.8-ha	2.4-ha	33.6 ha
Frontage	45.72 m	20 m	45.72 m	918 m
Depth	355.25 m	320 M	Irregular	Irregular
Road - Access to	Municipal Rd	Private	Municipal Rd	Municipal Rd
Water Supply	Private Well	Private well	Private well	Proposed Well
Sewage Disposal	Septic System	Septic System	Septic System	Proposed Septic
Zoning By-law Category	Rural	Rural	Rural	Rural
-Area (minimum)	0.4-ha	0.4-ha	0.4-ha	0.4-ha
-Compliance?	Yes	Yes	Yes	Yes
-Frontage (minimum)	45 m	45 m	45 m	45 m
-Compliance?	Yes	No	Yes	Yes

Official Plan Designation: Rural, Floodway, Significant Wooded Area

Compliant: Yes

(a) **BACKGROUND INFORMATION**

The LDC met on October 14, 2014 to hear applications B14/038 and B14/039 – Rocky Licari. Concerns were raised at that time as to the suitability of access to B14/038 from Rothwell Park Road. The Committee agreed that the prior to any decision on B14/038, they need to have a clear recommendation from the Township, to indicate that this lot, would access Rothwell Park Road only. Concerns were also raised regarding potential additional access to Cooke's Shore Road. At that time LDC recommended approval of B14/039 which accessed Drummond Con 9B.

Since October 2014 Mr. Licari worked with the Township to come to a mutually agreeable resolution to the access for the proposed lot submitted as B14/038. Various scenarios and discussions resulted in Mr. Licari revising his application to change to location of the access from Rothwell Park Road, an opened and maintained Township Road to First Ave, which is a subdivision road, not assumed by the Township. A one-foot reserve is located at the terminus of First Ave, which would be required to be lifted prior to this access being used.

The revised application was circulated to the Township and adjacent landowners.

The LDC met again on June 8, 2015 to review B14/038 with Mr. Licari.

The chair noted that he was not in attendance at the original hearing for B14/038 and now, due to the absence of member W Guthrie, the committee was unable to reconvene the hearing. The Committee did however, review with Mr. Licari, possible next steps to be considered prior to a subsequent re-convened hearing being scheduled.

The secretary-treasurer was instructed to convey the following possible next steps to Mr. Licari in writing:

- 1/ Meet with the Township of Drummond / North Elmsley to determine what works or changes to the application would be necessary to satisfy the requirements for safe access to the lot.
- 2/ Review alternative access e.g. right-of-way/easement from Ebb's Bay, OPA to permit frontage and access from private road (First Ave), entrance location from Rothwell Park Road.

The secretary-treasurer also to confirm to Mr. Licari that the application has not been denied, but rather it is being placed 'on hold' pending the outcome of discussions with the Township.

On August 14, 2015 the entire landholding was conveyed to Patrick S Cordick. And on November 15, 2015 a second revised application was submitted on behalf of Mr. Cordick by his agent, ZanderPlan Inc. The revised application eliminated all frontage on Cooke's Shore Road and proposed frontage on Rothwell Park Road, but with access over First Ave.

The 2nd revised application was re-circulated in accordance with the Land Division Procedures Manual.

(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 – dated January 5, 2016

Thank you for circulating the Township of Drummond/North Elmsley on this revised application. Township staff and Council have reviewed the proposal with respect to its conformity with the Township's Official Plan and Zoning By-law. The application seeks to create a 2.44 ha lot with frontage on Rothwell Park Road, although the lot would be accessed from an existing informal driveway at the end of First Avenue.

First Avenue is a subdivision road whose allowance is owned by the Township but the roadway is maintained by the local road association and so for planning purposes is considered as a private road. There is an existing dwelling on the proposed lot and the roughly 100 acre remainder is vacant. There was a recent severance (County File #B14/039) from this landholding off of Drummond Concession 9B and that was given final approval in 2015. B14/038 and B14/039 were submitted concurrently by Rocky Licari who owned the property however he has recently sold it to Pat Cordick who is looking to complete the process on the First Avenue Lot.

At the time B14/039 was provisionally approved in October 2014, the Land Division Committee deferred a decision on B14/038 so that the issue of access to the proposed lot could be more conclusively determined. Over the winter of 2014-2015, several possible accesses off of public roads were considered by the applicant and a revised application was ultimately submitted to the County whereby the proposed lot would be increased in size to about 2.8 ha, and extending southward to Cook Shore Road, which is another private road. Access to the lot would come from First Avenue; however, the issue of a one foot 'reserve' at the end of First Avenue would need to be conclusively resolved in order for a driveway to legally cross it. This revision was opposed by the local Road Association given concerns about potential private road linkages and not supported by the Township. The Land Division Committee deferred a decision on that lot once again pending resolution of the access issue.

The revised application re-affirms the desire to access the proposed lot from First Avenue however reduces the size of the proposed lot to the originally proposed 2.44 ha by removing the Cook's Shore frontage. The revision does not directly affect development potential on the severed or retained lands.

Review

All new lot creation must comply with the Township's and County's Official Plan and be consistent with the new Provincial Policy Statement. In support of the original applications, an environmental impact study and archeological assessment were provided which advised the proposals would not negatively impact significant wildlife or archeological features. These issues and others related to the Rural Designation and residential development were addressed in the Township's previous reports and those comments are still valid. This review addresses the remaining outstanding issues regarding the proposed access to the lot from a private road and across a 1-foot reserve.

1 foot reserve

It is understood that the one foot reserve at the end of First Avenue was put in place at the time of the approval and registration of the Rothwell Park Subdivision in 1959. While no record of an agreement or any other documentation rationalized the reserve (or contemplated its removal), the Plan identified it as a block to be transferred to the Township. According to Land Registry records however, the block remained in the hands of Oswald Rothwell, the original developer of the lands and was never actually transferred. This appears to have been an error however permission will need to be granted (or the reserve lifted) in order to allow third party access to the subject property.

Assuming the Township has no proprietary interest in the reserve, that would be a civil matter between the applicant and the reserve owner (or successor) however it should be completed prior to final approval of the consent.

While at this point there does not appear to be a municipal role in this process, it is useful to note that the Township's Official Plan does not include policies regarding the imposition or lifting of one foot reserves. It is however the municipal practice that requests to do so are only granted when there is a clear public interest and the understanding that there is no obligation to do so. As such, while not spelled out in policy, it is considered good practice to consult with the local road association in considering a request to lift the reserve given that the association is responsible for the maintenance of the road and would be directly impacted by any increase in traffic and liability. In this case, according to the most recent correspondence received by the Road Association, they do not object in principle to the removal of the reserve in order to provide access to a single lot and the Land Division Committee may wish to consider this.

Frontage and Access

The other matter for consideration is whether a severance fronting on a public road but accessed from a private road meets the Township's Official Plan. Section 3.8 of the Plan reads as follows:

3.8.1 No existing lot shall be developed and no new lot shall be created unless the lot has frontage on and direct access to an open public road which is maintained year round.

3.8.2 Notwithstanding the foregoing, the following uses may be exempted:

- 1. Limited Services Residential uses subject to the policies of Section 4.3.5 and the access provisions of Section 5;*
- 2. Certain Tourist Commercial uses such as campgrounds and marinas, provided the use is located on a waterfront lot subject to the policies of Section 4.3.7 and the access provisions of Section 5; and,*
- 3. Certain rural uses such as agriculture, forestry, hunting and fishing camps, except that a dwelling is not permitted.*

3.8.3 Access to other uses from a private road, right-at-way or unopened road allowance may be permitted, provided the lot on which the use is to be located is an existing lot and that it fronts on an open public road which is maintained year round, but to which direct access cannot safely be provided because of limited sight lines. The policies of Section 5.5 shall apply.

The policy intent is clear that new development (except in very limited circumstances) needs to be accessed from public roads and exceptions can only be made to allow development on existing lots whose existing public road frontage is constrained. In this case, the proposed severed lot has a house which has a legal access from Ebbs Bay, which would be split off by the severance. The Township does not need to and arguably should not support a consent application that creates a planning complication, particularly given that the house itself was placed very recently (around 2013) and that location should have been better considered if the intent was to sever.

These issues were considered by staff and Council and the Township agrees with the applicant's consultant planner that a Rothwell Park entrance is cleaner from a policy standpoint but impractical and disruptive from a land use perspective given the amount of site alteration and clearing necessary to push a driveway through.

While such a driveway (and a longer one) was built across the lot to access the house on Ebbs Bay Road, it is understood that the topography and sight lines on Rothwell Park Road are less desirable. The Land Division Committee may suggest the applicant revise the application to allow a greater road frontage on Rothwell Park Road and more options for access. Alternatively, as suggested in the planning report to the Township provided by Tracy Zander, the approval authority can also consider the lot with the house as the "existing" lot and allow the First Avenue access with the understanding that there is no 'ideal' access from the municipal road frontage. The Township accepts that the intent of the policy would contemplate a severance along these lines.

If approved by the County, the applicant understands that a Zoning Amendment would be required in order to administratively allow the creation of the lot with frontage but no public road access. A similar zoning is already in place for the landlocked properties in the Rothwell Park subdivision. Pursuant to Section 4.3.5.3 of the Plan, the condition of the private road and access to the lot should also be evaluated and, if necessary upgraded, in order to ensure emergency vehicle access. Both of these provisions would be conditions of a consent approval by the County

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

1. The balance of any outstanding taxes and fees owing shall be paid to the Township.
2. The Applicant shall provide the Township with a registered copy of all reference plans associated with this application if a survey is required by the Registry Office.
3. The Applicant shall obtain a Civic Address Number from the Township of Drummond/North Elmsley for the severed lot. The applicant shall consult directly with the Township in this regard.
4. The applicant shall demonstrate to the satisfaction of the Township that adequate access to the severed lot for emergency vehicles is or will be provided. The applicant shall consult directly with the Township in this regard.
5. Prior to final approval of the consent application, final approval of a zoning amendment application shall be granted to recognize the creation of a lot

with frontage on, but no direct access to a publicly owned and maintained road.

6. Sufficient land for Road Widening purposes shall be conveyed to the Township of Drummond/North Elmsley by registered deed, to meet the road widening requirements of the Township. Deeds are to be submitted to the Municipality for review accompanied by a solicitor's certificate indicating that the Municipality's title is free and clear of all encumbrances and the Municipality has a good and marketable title. The Township Roads Superintendent shall be consulted prior to commencing a survey to determine the amount, if any, of road widening required.
7. Prior to final approval of the consent the applicant shall, to the satisfaction of the Township, demonstrate legal and permanent access to the subject land across the one foot road allowance at the end of First Avenue.

(c) PUBLIC INPUT

No written submissions were received in response to the revised 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) MINUTES – January 11, 2016

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

D. Murphy questioned the 1-ft reserve. Ms. Zander advised that this block on the old subdivision plan is still in the name of "Rothwell" and was never transferred to the Township. However, Mr. Cordick has made an agreement with the Rothwell's to transfer the ownership.

The secretary-treasurer advised that the LDC is satisfied with either a purchase and sale agreement or undertaking, but would need this, prior to stamping of the transfer/deed for the newly created lot.

W. Guthrie questioned the on-going road maintenance. Mr. Cordick advised that he had discussions with the Rothwell Subdivision Road Association and they had made agreement for winter maintenance and upgrades to the First Ave road bed.

Ms. Zander also confirmed that there is no longer any road frontage or side yard frontage onto Cooke's Shore.

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.

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" dated October 28, 2015.
4. The balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to the Township of Drummond / North Elmsley.
5. 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.
6. The lot to be severed shall be zoned to recognize the creation of a lot with frontage on, but no direct access to a publicly owned and maintained road. The applicant shall consult directly with the Township of Drummond / North Elmsley in this regard.
7. The applicant shall obtain a Civic Address Number from the Township of Drummond / North Elmsley. The applicant shall consult directly with the Township in this regard.
8. The applicant shall demonstrate to the satisfaction of the Township of Drummond / North Elmsley that adequate access to the severed lot for an emergency vehicle is or will be provided. The applicant shall consult | directly with the Township in this regard.
9. Sufficient land for Road Widening purposes shall be conveyed to the Township of Drummond/North Elmsley by registered deed, to meet the road widening requirements of the Township. Deeds are to be submitted to the Municipality for review accompanied by a solicitor's certificate indicating that the Municipality's title is free and clear of all encumbrances and the Municipality has a good and marketable title. The Township Roads Superintendent shall be consulted prior to commencing a survey to determine the amount, if any, of road widening required.
10. The applicant shall, to the satisfaction of the Township of Drummond / North Elmsley, demonstrate legal and permanent access to the severed lands across the one foot road allowance at the end of First Avenue
11. A letter shall be received from the Township of Drummond / North Elmsley stating that condition #4 through #10 has been fulfilled to their satisfaction.

NOTES

1. *The Mississippi Valley Conservation Authority advises that with respect to the retained lands, we recommend the following mitigative measures for any future development:*

- a. *Future development, including a septic system shall be setback a minimum of 30 metres from the lake, unnamed watercourse and unclassified wetland.*
 - b. *The shoreline vegetation along the lake, wetland and unnamed watercourse shall be retained to a minimum depth of 15 metres.*
 - c. *Natural drainage patterns on the site shall not be substantially altered, such that additional run-off is directed into the lake, wetland, unnamed watercourse, or onto adjacent properties.*
 - d. *Future development shall be directed away from wetland areas consisting of organic soils, and outside of the 1:100 year flood plain.*
 - e. *The wetland shall remain undisturbed.*
2. *The property owner is advised that, pursuant to Ontario Regulation 153/06 - Development, Interference with Wetlands and Alterations to Shorelines and Watercourses”, a permit is required from MVCA prior to the initiation of any construction or filling activity (which includes excavations, stockpiling and site grading) within the flood plain or Regulation Limit of Mississippi Lake, or for alterations to the shoreline of the lake or unnamed watercourse.*
 3. *In addition, we advise consultation with Fisheries and Oceans Canada (DFO) fisheriesprotection@dfompo.gc.ca prior to conducting any work within the wetland or watercourse, in order to assess potential impacts to fish habitat. Authorization from DFO may be required for such work.*
 4. *The Leeds Grenville and Lanark District Health Unit advises that fill will be required to construct an OBC compliant replacement sewage system.*
 5. *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.*
 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 MNRF 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 MNRF to discuss the potential for application of certain permits or agreement.



LAND DIVISION STAFF REPORT

APPLICATION FOR CONSENT

Owner: John Barry Turner

Hearing Date: January 11, 2016

LDC File #: B15/100

Municipality: Tay Valley Township

Geographic Township: South Sherbrooke

Lot: 12/13

Conc.: 2

Roll No.: 0911 914 020 02900

Consent Type: Lot Addition

Purpose and Effect:

To sever a 646 sq.m. parcel of land as a lot addition to lands owned by David Ian Armstrong at 609 O'Brien Lake Lane and retain an 87.0-ha seasonal landholding.

DETAILS OF PROPOSAL	Lands to be Severed	Lands Retained
Existing Use	Vacant	Seasonal cabin
Proposed Use	Vacant	Seasonal cabin
Area	647 sq.m.	87.0-ha
Frontage - road	none	1,000 m
Frontage - water	18 m	300 m
Depth	29.5 m	1,000 m
Road - Access to	Private R-O-W	Municipal
Water Supply	n/a	Private well
Sewage Disposal	n/a	Septic System
Zoning By-law Category	Rural	Rural
-Area (minimum)	n/a – lot addition	1.0-ha
-Compliance?		Yes
-Frontage (minimum)		60 m
-Compliance?		Yes

Official Plan Designation: Rural, Organic Soils, Mineral Resource

Conformity: Yes

(a) APPLICATION REVIEW

Provincial Policy Statement - The following provides a summary of the Provincial Interests that were identified in reviewing the application:

1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns

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 Rural areas are important to the economic success of the Province and our quality of life. Rural Areas are a system of lands that may include rural settlement areas, rural lands, prime agricultural areas, natural heritage features and areas, and other resource areas.

Section 1.1.4.2 In rural areas, rural settlement areas shall be the focus of growth and development and their vitality and regeneration shall be promoted.

1.1.5 Rural Lands in Municipalities

Section 1.1.5.1 On rural lands located in municipalities, permitted uses are: the management or use of resources, resource-based recreational uses (including recreational dwellings), limited residential development, home occupations and home industries, cemeteries, and other rural land uses.

Section 1.1.5.4 Development that is compatible with the rural landscape and can be sustained by rural service levels should be promoted.

1.6 Infrastructure and Public Service Facilities

Section 1.6.6.4 Where municipal sewage services and municipal water services or private communal sewage services and private communal water services are not provided, individual on-site sewage services and individual on-site water services may be used provided that site conditions are suitable for the long-term provision of such services with no negative impacts. In settlement areas, these services may only be used for infilling and minor rounding out of existing development.

2.1 Natural Heritage

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

Section 2.1.2 The diversity and connectivity of natural features in an area, and the long-term ecological function and biodiversity of natural heritage systems, should be maintained, restored or, where possible, improved, recognizing linkages between and among natural heritage features and areas, surface water features and ground water features.

Section 2.1.4 through 2.1.8 addresses development constraints on natural features and areas.

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 (h)).

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.

2.5 Mineral Aggregate Resources

Section 2.5.2.1 As much of the mineral aggregate resources as is realistically possible shall be made available as close to markets as possible.

Section 2.5.2.4 Mineral aggregate operations shall be protected from development and activities that would preclude or hinder their expansion or continued use or which would be incompatible for reasons of public health, public safety or environmental impact.

Section 2.5.2.5 In known deposits or mineral aggregate resources or on adjacent lands, development and activities which would preclude or under 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.

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 unless significant archaeological resources have been conserved.

Section 2.6.3 Planning authorities shall not permit development and site alteration on adjacent lands to protected heritage property except where the proposed development and site alteration has been evaluate and it has been demonstrated that the heritage attributes of the protected heritage property will be conserved.

Section 2.6.5 Planning authorities shall consider the interests of Aboriginal communities in conserving cultural heritage and archaeological resources.

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, and
- c) hazardous sites.

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 General Development Policies, Section 2.18 Cultural Heritage and Archaeological Resources, Section 2.19 & 2.20 Natural Hazards, Section 2.21 Natural Heritage Features, section 2.22 Water Supply and Sewage Disposal, Section 3.3 Mineral Resource, Section 3.5 Natural Hazard, Section 4.4 Township Roads, 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 5.2 Seasonal Residential Zone, Section 10 Rural Zone.

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

(b) AGENCY REVIEW

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

Township Planner's Report - **BACKGROUND**

The proposal is to sever 646m² as a lot addition to lands owned by David Armstrong at 609 O'Brien Lake Lane 14. The retained lot is 84 ha with a seasonal

cabin.

DISCUSSION

Consistent with Provincial Policy Statement Yes

Conforms to Official Plan Yes

Complies with Zoning By-Law Yes

Recommend consent for this application Yes

Recommended Conditions

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

Advisory Notes

- No development is to occur within 30 metres of a waterbody. If development occurs within 100 metres of a waterbody, then a Site Plan Control Agreement will be required.

PROVINCIAL POLICY STATEMENT

No concerns.

OFFICIAL PLAN

Section 3.6 Rural, with Organic Soil, Mineral Resources, and abandoned mine buffer - All the hazards identified are on the retained parcel at some distance from the portion subject to the lot addition.

ZONING BY-LAW

Section 10.1 Rural and 5.2 Seasonal Residential: The lot addition and acquiring property are zoned Seasonal Residential and meet requirements. Frontage of the lot to be added to is currently 71 m while 60 m is required. Area is currently 3,804 m² but with the lot addition will be 4,450 m² (larger than the 4,050 m² required). The retained lot is primarily Rural and meets requirements at 84 ha and over 100 m of frontage.

CONSERVATION AUTHORITY

Rideau Valley Conservation Authority (RVCA) - no objection to the lot addition, but would not support any additional development on the land to be added (none is proposed).

SEPTIC AUTHORITY

Mississippi Rideau Septic System Office (MRSSO) - no objection.

CONCLUSION

The Planner recommends that consent be granted to this application subject to the conditions and advisory notes listed in the Staff Recommendation section above.

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, any 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/transfers(s) be submitted to the Township."

Conservation Authority – Rideau Valley Conservation Authority

The Rideau Valley Conservation Authority (RVCA) has completed a review of the above noted application and a site visit was conducted. The following comments are offered for your consideration as regards:

- 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 the related "Municipal Site Plan Evaluation Guidelines.

Proposal

The application will transfer a small portion of waterfront to the adjacent developed property. There is no additional development proposed in relation to the transfer of the lands.

Review Comments and Recommendations

We have no concerns as regards potential impacts to the natural heritage and natural hazards considerations noted above. As the lot addition consists of lands contained within the minimum water setback, the Rideau Valley Conservation Authority would not support any additional development on the lands proposed to be transferred.

It should be noted that prior written approval of the RVCA is required for any altering, straightening, changing, diverting or interfering with the shoreline of O'Brien Lake per our Ontario Regulation 174/06.

The owners of these lands may find our O'Brien Lake Catchment Report of interest: The Water Quality rating for O'Brien Lake is "Fair". This is largely because of nutrient results that exceed the PWQO, as well as elevated pH and reduced habitat conditions at the deep point. Results show that nutrient enrichment may be a concern in some near shore areas and could result in abundant plant or algal growth. Habitat for warm water fish exists. Suitable oxygen temperatures exist to an average depth of four metres and have remained fairly consistent through sampling years. Spring results typically have good conditions for fish habitat, but as temperatures warm and the deeper waters are depleted of oxygen there is more limited habitat available. The detailed catchment summary is part of the Tay River Subwatershed Report found on our website at www.rvca.ca .

Thank you for the opportunity to comment.

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). A site visit was conducted October 27, 2015. The applicant proposes to sever approximately 0.0647 ha for the purpose of a lot addition to 609 O'Brien Lake Lane. The lot is vacant, brush covered with pockets of trees and exposed bedrock. No test pits were provided.

The retained parcel is approximately 87 ha. The lot is developed with a log cabin, serviced by a Level IV treatment unit and several trailers approximately 500m from the cabin. The retained lot has areas of open field, wetlands, dense tree cover and

areas of exposed bedrock. No test pits were provided.

Given the above information, our office has no objections to the transfer as proposed.

(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 647 sq.m. parcel of land as a lot addition to lands owned by David Ian Armstrong at 609 O'Brien Lake Lane and to retain a n 87 –ha landholding with an existing cabin at 117 Hanna Road.

The additional lands will increase the lot to be enlarged from 0.38-ha to 0.445-ha, which is sufficient to comply with the Seasonal Residential minimum lot size of 0.405-ha.

The lands are accessed via O'Brien Lake Lane, a private road which adjoins Hanna Road, a municipally maintained road.

Bedrock Inventory – granodiorite, granite, syenite

Endangered Species

With the new Endangered Species Act (ESA 2007) in effect, it is important to understand which species and habitats exist in the area and the implications of legislation. A review of the Natural Heritage Information Centre (NHIC) records did not indicate that there is a potential for Threatened (THR) and/or Endangered (END) species on the site or in proximity to it.

Archaeological

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

O'Brien Lake

The Surface Water Quality Conditions of O'Brien Lake have been monitored under the RVCA's Watershed Watch Program since 2001. O'Brien Lake can be characterized as a lake with clean waters and moderate oxygen nutrient levels and an increasing chance of limited oxygen in the deep waters that may limit some fish populations. The lake should have good aesthetics for recreational use. Through abundant macrophyte growth and / or algal blooms many occur in some areas. Residential should inform themselves about the cumulative effect of their activities on the lake and what can be done about it.

Official Plan Policies

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

Lanark County, through an appointed Land Division Committee is the approval authority for the issuance of consents. Lot creation by consent shall be permitted where lot creation by plan of subdivision is deemed to be

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

2. Tay Valley Official Plan Policies for the Division of Land are found in Section 5.2 of the OP. The division of land by the consent process is intended for the creation of not more than three (3) new lots. A number of 'general policies' also apply to the division of land, including: size and setbacks appropriate to zoning designations, frontage on existing public roads (or existing private road for waterfront development), studies as required, MDS separation. The lot creation date for Tay Valley is January 1, 1991.
- 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 has been established by Tay 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. and Section 1.1.5 Rural areas are a system of lands that may include rural settlement areas, rural lands, prime agricultural areas, natural heritage features and areas, and other resource area. It is important to leverage rural assets and amenities and protect the environment as a foundation for a sustainable economy. When directing development on rural lands, a planning authority shall apply the relevant policies of the PPS Section: Building Strong Communities, Section 2: Wise Use and Management of Resources and Section 3: Protecting Public Health and Safety.

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 – January 11, 2016

Barry Turner, owner attended the hearing and gave evidence under oath.

Mr. Turner confirmed that the lot addition lands have frontage of the Lake.

D. Murphy noted that these additional lands will bring the lot into conformity with the Township's zoning by-law regulations.

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 (survey) or legal description of the severed lands and the deed or Instrument conveying the severed lands shall be submitted to the Secretary-Treasurer for review and consent endorsement within a period of one year after the "Notice of Decision" is given under Section 53 (17) or (24) of the Planning Act.
2. The applicant shall provide the Secretary-Treasurer of the Land Division Committee with a digital copy of the registered reference plan.
3. The Certificate of Consent "Schedule" attached to the deed / transfer required by Condition #1 above, shall include the following condition "The lands to be severed are for the purpose of a lot addition only to the adjacent lands owned by David Ian Armstrong described as Parts 1 to 3 Plan 27R-7304, being Part Lot 12 Concession 2 South Sherbrooke, 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 two (2) copies 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. *Tay Valley Township advises that no development is to occur within 30 metres of a waterbody. If development occurs within 100 metres of a waterbody, then a Site Plan Control Agreement will be required.*
2. *Residents and users of O'Brien Lake are encouraged to take precautions to avoid the spread of the invasive species (zebra mussels) from other lakes.*
3. *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.*
4. *The Rideau Valley Conservation Authority advises that that prior written approval of the RVCA is required for any altering, straightening, changing, diverting or interfering with the shoreline of O'Brien Lake per our Ontario Regulation 174/06.*
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 and Forestry 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 – CONCURRENT APPLICATIONS

Owner: Theresa Bey and
1618242 Ont. Ltd.

Hearing Date: Jan. 11, 2016

Agent: Paul Howard

LDC File #: B15/122 and B15/123

Municipality: Montague

Geographic Township: Montague

Lot: 187 & 188 **Plan 2707**

Roll No.: 0901 000 030 18200
0901 000 030 18220

Consent Type: Lot additions

Purpose and Effect:

B15/122 - To sever a 70.0 sq.m. parcel of land as a lot addition to lands owned by 1618242 Ont. Ltd. at 51 Rideau Ave S.

B15/125 – to sever a 68.2 sq.m. parcel of land as a lot addition to lands owned by Theresa Ann Bey at 53 Rideau Ave S.

The purpose of these two applications is to correct boundary lines to match the siting of structures.

Official Plan Designation: Settlement Area

Conformity: Yes

(a) APPLICATION REVIEW

Provincial Policy Statement – The following provides a summary of the Provincial Interests that were identified in reviewing the application:

1.1 Managing and Directing Land Use to Achieve efficient and Resilient Development and Land Use Patterns

Section 1.1.1.b) Accommodating an appropriate range and mix of residential (including second units, affordable housing and housing for older persons), employment (including industrial and commercial), recreational (including places of worship, cemeteries and long-term care homes), recreation, park and open space and other uses to meet long-term needs.

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

Section 1.1.3.3 Planning authorities shall identify appropriate locations and promote opportunities for intensification and redevelopment where this can be accommodated taking into account existing building stock or areas, including

brownfield sites, and the availability of suitable existing or planned infrastructure and public service facilities required to accommodate projected needs.

1.6 Infrastructure and Public Service Facilities

Section 1.6.3 Before consideration is given to development new infrastructure and public:

- a) the use of existing infrastructure and public service facilities should be optimized; and
- b) opportunities for adoptive re-use should be considered, wherever feasible.

Section 1.6.6.2 Municipal sewage services and municipal water services are the preferred form of servicing for settlement areas. Intensification and redevelopment within settlement areas on existing municipal sewage services and municipal water services should be promoted, wherever feasible.

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

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

Local Official Plan – Section 2 general development Policies, Section 2.15 Existing Undersized Lots, Section 3.7 Settlement Area, Section 4.4 Township Roads, section 5.2 Land Division.

The Township of Montague advises that the proposals comply with the designations and policies of the Official Plan.

Zoning By-law – Section 3 General Residential Special Exception 2, Section 5 General Residential.

The Township of Montague advises that zoning compliance will be required as a condition on consent.

(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 -

Thank you for circulating the Township of Montague on these applications. Township staff have reviewed the applications concurrently with respect to their conformity with the Township's Official Plan and Zoning By-law. As indicated, the first application (B15/122) seeks to sever a 70 sq.m. parcel of land owned by Theresa Bey (Lot 188 of Plan 3707) and attach it to an adjacent lot owned by 1618242 Ontario Ltd (Lot 187). At the same time, Application B15/123 seeks to sever a 68.2 sq.m. parcel of land from Lot 189 (owned by 1618242 Ontario Ltd) and add it to Theresa Bey's property. The effect of the applications would be that the side lot lines of the Bey property would shift south about 10 feet (over the course of the front half of the lot) with negligible impact on the overall size of the property.

Lot 189 would shrink slightly and Lot 187 would get bigger by roughly the same amount. The purpose of these lot line adjustments is to better fit the existing residential dwellings within their own property boundaries by correcting an existing building encroachment on the Bey property and to provide a usable side yard for Lot 187. All of these lots are part of an old village subdivision (Plan 3707) and over time, the existing residential development did not line up exactly with the

established Jot lines. This issue was identified when the Jots were more recently surveyed and these applications seek to correct it.

The affected properties are all within the Settlement Area Designation according to the Township's Official Plan and zoned General Residential Special Exception 2 in the Zoning By-law. Since this application does not seek to enable new development, nor create a new lot, the proposal does not impact on any of the applicable Official Plan policies related to hamlet development or lot creation. Likewise, the Township's constraints mapping does not identify any natural or man-made hazards that would affect the application. The application would result in the formation of three unconventionally shaped parcels however given the purpose and intent of the application to remove existing encroachments, the request is reasonable pursuant to Section 5.2.2.1 of the Plan.

With respect to the Zoning By-law, the established RG-2 Zone requires a minimum 3 metre interior side yard setback and minimum lot area of 665 sq.m, with a maximum structural lot coverage of 30%. Given the density of development in that location and the relatively small lot sizes, it is expected that the resultant lots may not fully meet all of these provisions and the applicants understand that relief may be required as a condition of consent approval. The survey would need to identify existing and proposed lot lines and also reference them to buildings on the lots which would clarify the extent and nature of any zoning relief that may be required.

Staff have also identified two other building related issues on the subject properties that should be addressed as a condition of severance approval: the location of an accessory building across Lots 188 and 189 and also the encroachment of the semi-detached dwelling (Lot 189) onto the Fourth Street road allowance. The Township recommends that final approval be conditional on achieving zoning compliance for the accessory building and also that the owner of Lot 189 enters into an encroachment agreement with the Township regarding the portion of the semi-detached dwelling within the road allowance.

In consideration of the above noted policies, staff are of the view that these applications generally comply with the Township's planning goals; however some matters will need to be addressed in more detail prior to final approval. As such, the Township recommends that the Land Division Committee consider approval of both applications, subject to the inclusion of development conditions.

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

1. The balance of any outstanding taxes and fees owing shall be paid to the Township.
2. The severed lands shall be for lot additions only to adjacent lands as identified in the Applications
3. 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.
4. The frame building identified on the application sketch be removed or relocated such that it complies with the applicable provisions of the Township's Zoning By-law (or any relief approved thereof).
5. The applicant shall demonstrate that all proposed lots meet all applicable

provisions of the Township's Zoning By-law, particularly provisions relating to side yard setbacks, lot coverage and lot size. To meet this condition, the applicant shall obtain relief, as required, from the applicable provisions of the Zoning By-law. The applicant shall consult directly with the Township in this regard.

6. [B15/123 Only] The applicant shall enter into an encroachment agreement with the Township in order to recognize and regularize the existing building on Lot 189 and its encroachment into the municipal road allowance (Fourth Street). The applicant shall consult directly with the Township in this regard.
7. Sufficient land for Road Widening purposes shall be conveyed to the Township of Montague by registered deed, to meet the road widening requirements of the Township. Deeds are to be submitted to the Municipality for review accompanied by a solicitor's certificate indicating that the Municipality's title is free and clear of all encumbrances and the Municipality has a good and marketable title. The Township Roads Superintendent shall be consulted prior to commencing a survey to determine the amount, if any, of road widening required.

Town of Smiths Falls – advised that they have no objection or concerns regarding either of the consent applications.

(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 two small portions of lots as lot additions to the adjacent lands in order to obtain the lands on which the buildings are situated. These lot line adjustments will correct an error that was made in 2010 when the structures were built.

The subject lands are located in an area characterized by typical urban residential. The effect of the applications is to correct lot lines to match the existing structures located thereon..

The lands are accessed via Rideau Ave S, a municipally maintained road.

Official Plan Policies

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

2. Montague Official Plan Policies for the Division of Land are found in Section 5.2 of the OP. The division of land by the consent process is intended for the creation of not more than three (3) new lots. A number of 'general policies' also apply to the division of land, including: no lot creation on lands subject to natural hazards, no lot creation on lands where there would be a negative effect on natural features, size and setbacks appropriate to zoning designation, supporting studies as required, MDS separation, frontage on existing public road (or existing private roads). The lot creation date for Montague is January 1, 2001 no maximum applies to lands within designated settlement areas.

3 Woodlands

The area has not been mapped as 'woodlands'.

Zoning

The subject property is currently within the residential section of the Zoning By-law, which permits a number of uses, including single-detached dwellings. The General Residential Zone is further defined as Special Exception 2 to recognize the smaller type lots in this area. Any future 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*. Zoning compliance will be required to ensure that the existing structure meet the minimum requirements. No new or additional infrastructure is required as a result of the proposal. The application can meet the consistent with test of the Provincial Policy Statement.

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

(e) MINUTES – January 11, 2016

Steven Morrison, president of 1618242 Ont. Ltd, Theresa Bey, owner and Neil Stewart, interested party attended the hearing and gave evidence under oath.

Mr. Stewart confirmed that the structure is being removed to the T. Bey property.

Mr. Morrison noted that he understands that this is the first step in the process to settle the lot lines for the two properties and that they would need to make application to the Township for additional permissions, e.g. re-zoning / minor variance, before the deeds could be finalized.

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.

B15/122

1. An acceptable reference plan (survey) 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 1618242 Ontario Ltd., described as Lot 187 Plan 2707, 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 the Township of Montague.
5. The applicant shall provide the Township of Montague with a copy of all reference plans associated with this application if a survey is required by the Land Titles Office.
6. The applicant shall remove the frame building on the retained lands identified on the application sketch or relocate the structure such that it will comply with the applicable provisions of the Township of Montague Zoning By-law, or any relief approved thereof. The applicant shall consult directly with the Township in this regard.
7. Satisfactory evidence shall be provided to the Township of Montague 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. The applicant shall consult directly with the Township in this regard.
8. Sufficient land for Road Widening purposes shall be deeded to the Township of Montague by registered deed, to meet the municipality's road widening requirements, at no cost to the Township. Deeds are to be submitted to the municipality for review accompanied by a solicitor's certificate indicating that the municipality's title is free and clear of all encumbrances and the municipality has a good and marketable title. The Township Roads Superintendent shall be consulted prior to commencing a survey to determine the amount, if any, of road widening required.

9. A letter shall be received from the Township of Montague stating that condition #4 through #8 has been fulfilled to their satisfaction.

B15/123

1. An acceptable reference plan (survey) 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 Theresa Ann Bey, described as Lot 188 Plan 2707, 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 the Township of Montague.
5. The applicant shall provide the Township of Montague with a copy of all reference plans associated with this application if a survey is required by the Land Titles Office.
6. The application shall remove the frame building on the retained lands identified on the application sketch or relocate the structure such that it will comply with the applicable provisions of the Township of Montague Zoning By-law, or any relief approved thereof. The applicant shall consult directly with the Township in this regard.
7. Satisfactory evidence shall be provided to the Township of Montague 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. The applicant shall consult directly with the Township in this regard.
8. The applicant shall enter into an encroachment agreement with the Township of Montague to recognize and regularize the existing structure on the lot to be retained and its encroachment onto the Township Road Allowance (Fourth Ave). The applicant shall consult directly with the Township in this regard.
9. Sufficient land for Road Widening purposes shall be deeded to the Township of Montague by registered deed, to meet the municipality's road widening requirements, at no cost to the Township. Deeds are to be submitted to the municipality for review accompanied by a solicitor's certificate indicating that the

municipality's title is free and clear of all encumbrances and the municipality has a good and marketable title. The Township Roads Superintendent shall be consulted prior to commencing a survey to determine the amount, if any, of road widening required.

- 10.A letter shall be received from the Township of Montague stating that condition #4 through #9 has been fulfilled to their satisfaction.



LAND DIVISION STAFF REPORT

APPLICATION FOR CONSENT

Owner: Brian T & Catherine L Steele

Hearing Date: Jan 11, 2016

Applicant: Brian Steele

LDC File #: B15/128

Municipality: Lanark Highlands

Geographic Township: Lanark

Lot: 2

Conc.: 9

Roll No.: 0940 934 035 01502

Consent Type: New lot

Purpose and Effect:

To sever a 1.3-ha residential building lot and retain a 5.26-ha residential lot with an existing dwelling located at 303 Upper Perth Road.

DETAILS OF PROPOSAL	Lands to be Severed	Lands Retained
Existing Use	Vacant	Residential
Proposed Use	Residential	Residential
Area	1.31-ha	5.26-ha
Frontage	128 m	85 m
Depth	113 m	300 m
Road - Access to	Municipal	Municipal
Water Supply	Proposed	Private Well
Sewage Disposal	Proposed	Septic System
Zoning By-law Category	Rural	Rural
-Area (minimum)	1.0-ha	1.0-ha
-Compliance?	Yes	Yes
-Frontage (minimum)	60 m	60 m
-Compliance?	Yes	Yes

Official Plan Designation: Rural and Organic Soils

Conformity: Yes

(a) APPLICATION REVIEW

Provincial Policy Statement – The following provides a summary of the Provincial Interests that were identified in reviewing the application:

Provincial Policy Statement - The following provides a summary of the Provincial Interests that were identified in reviewing the application:

1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns

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 Rural areas are important to the economic success of the Province and our quality of life. Rural Areas are a system of lands that may include rural settlement areas, rural lands, primate agricultural areas, natural heritage features and areas, and other resource areas.

Section 1.1.4.2 In rural areas, rural settlement areas shall be the focus of growth and development and their vitality and regeneration shall be promoted.

1.1.5 Rural Lands in Municipalities

Section 1.1.5.1 On rural lands located in municipalities, permitted uses are: the management or use of resources, resource-based recreational uses (including recreational dwellings), limited residential development, home occupations and home industries, cemeteries, and other rural land uses.

Section 1.1.5.4 Development that is compatible with the rural landscape and can be sustained by rural service levels should be promoted.

1.6 Infrastructure and Public Service Facilities

Section 1.6.6.4 Where municipal sewage services and municipal water services or private communal sewage services and private communal water services are not provided, individual on-site sewage services and individual on-site water services may be used provided that site conditions are suitable for the long-term provision of such services with no negative impacts. In settlement areas, these services may only be used for infilling and minor rounding out of existing development.

2.1 Natural Heritage

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

Section 2.1.2 The diversity and connectivity of natural features in an area, and the long-term ecological function and biodiversity of natural heritage systems, should be maintained, restored or, where possible, improved, recognizing linkages between and among natural heritage features and areas, surface water features and ground water features.

Section 2.1.4 through 2.1.8 addresses development constraints on natural features and areas.

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, and
- c) hazardous sites.

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 3.3 Rural Communities, Section 6.5 Organic Soils, section 7.4.3 Local Roads, section 8.3 Land Use Controls, 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 Planning Report -

An application has been received from the County of Lanark Land Division Committee to sever a 3.21 acre (1.3 hectare) residential building lot and retain a 12.9 acre (5.26 hectare) residential lot with an existing dwelling located at 303 Upper Perth Road. All lands are accessed via Upper Perth Road.

PROVINCIAL POLICY

The PPS provides policy direction on matters of provincial interest related to land use planning and development. Per Section 3(5)(a) of the Planning Act, R.S.O. 1990, all planning decisions must be consistent with the PPS. The following is a list of applicable sections of the PPS as well as a review of the proposal against these policies:

1.1.5 Rural Lands in Municipalities, 1.1.5.2 On rural lands located in municipalities, permitted uses are: c) limited residential development.

1.1.5.4 Development that is compatible with the rural landscape and can be sustained by rural service levels should be promoted. Staff notes that the addition of one (1) rural residential building lot could be considered "limited residential development", and this development would be compatible with the rural character of the surrounding area as there are a number of rural-residential properties located along Upper Perth Road. The proposed severed lot would be serviced by private well and septic services.

Based on the above analysis, Staff is of the opinion that the proposal is consistent with the policies of the PPS.

OFFICIAL PLAN

Consent applications must be evaluated with the policy directives of Section 8.4.2, which provides direction for the division of lands within the Township. This application meets the requirements of the Township's Official Plan. Schedule B of the Township's Official Plan shows a small area of organic soil across the area of the proposed severance. Because the area of organic soil is fairly small and to the rear of the proposed severance, there appears that there is sufficient area exists on the proposed lot to accommodate future development away from any organic soils.

ZONING

The subject property is zoned as Rural in the Township's zoning by-law. The proposed lot exceeds the minimum frontage and area requirements of the RU zone and meets all other provisions of the Zoning By-law.

INTERNAL STAFF REVIEW

Senior staff reviewed the application. It was noted that the application is in an agricultural area of the Township. No other comments were received.

DISCUSSION

A small watercourse known as Campbell's Creek runs within 30m of the retained lands. MVCA staff conducted a site visit and reported that no natural features or hazards were identified on the proposed severed lands.

Overall, this application, as submitted, is consistent with the PPS, and complies with the policies of the existing Official Plan and Zoning By-law.

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

1. The balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to the Township.
2. An acceptable reference plan or legal description of the severed lands and the deed be submitted to the township.
3. That the applicant pays any outstanding fees to the Township prior to final approval.
4. That the applicant provide to the Township the 5% cash in lieu of parkland dedication fee.
5. That sufficient lands be deeded to the Township of Lanark Highlands along the frontages of the lots 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 that 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.
6. 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.
7. The applicant shall obtain an entrance location permit from the Township.

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

PROPOSAL

It is our understanding that the purpose of the subject application is to sever one vacant lot measuring 1.31 ha, and to retain a developed lot measuring 5.26 ha.

PROPERTY CHARACTERISTICS

According to a review of available GIS mapping, aerial photography, and a site visit by MVCA staff, Campbell's Creek flows within 30 m of retained land, on the adjacent property to the north. No natural features or hazards were identified on the proposed severed lands.

REVIEW**Natural Heritage Values - Watercourse**

In accordance with the municipalities' planning documents, as well as guidelines prepared in support of the PPS, a minimum 30 m development setback is recommended from any waterbody and watercourse, including Campbell's Creek. The retained lands are already developed with no new development proposed at this time. Therefore, impacts to this natural feature are not anticipated as a result of the subject application.

Natural Hazards - None identified

RECOMMENDATIONS AND CONCLUSIONS

MVCA does not have any objection to the proposed severance.

NOTES

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

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

In addition, we advise consultation with the Department of Fisheries and Oceans Canada (DFO) fisheriesprotection@dfo-mpo.gc.ca prior to conducting any work within proximity of the watercourse, in order to assess potential impacts to fish habitat. Authorization from DFO may be required for such work.

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

Septic Office – Leeds Grenville and Lanark District Health Unit

Severed lands – A 128 m x 113 m parcel of vacant land. Land is a combination of treed/bush and open areas. Land slopes gently towards the south westerly direction. Recommendation – additional sandy loam fill will be required in the area of the future tile bed.

Retain lands – an 85 m x 300 m parcel of land with an existing house serviced by a septic system and drilled well. There is sufficient area to replace the existing septic system in the future. Recommendation – additional sandy loam fill will be required in the area of the future replacement 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 1.31-ha residential building lot and retain a 5.26-ha residential lot with an existing dwelling located at 303 Upper Perth Road. The original parcel of land was created through consent application B1988/398.

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

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

Soils Inventory – Name: Tennyson

Bedrock Inventory – diorite, gabbro, peridotite

Endangered Species

With the new Endangered Species Act (ESA 2007) in effect, it is important to understand which species and habitats exist in the area and the implications of legislation. A review of the Natural Heritage Information Centre (NHIC) records did not indicate that there is a potential for Threatened (THR) and/or Endangered (END) species on the site or in proximity to it

Official Plan Policies

1. Lanark County Sustainable Communities Official Plan - Section 8.2.2 Consents.
Lanark County, through an appointed Land Division Committee is the approval authority for the issuance of consents. Lot creation by consent shall be permitted where lot creation by plan of subdivision is deemed to be unnecessary. Consideration of location and development criteria by the approval authority shall be based on local Official Plans. In considering a consent, regard shall also be had to, among other matters, the criteria of Section 51 (24) of the *Planning Act, R.S.O. 1990* with necessary modifications.
2. Lanark Highlands Official Plan Policies for the Division of Land are found in Section 3.2.3 and 3.3.3 and 8.4.2 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. (This section is under appeal to the OMB – until such time as the appeal has been resolved the old policy remains in effect – 2 plus 1 retained). 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 some land areas mapped as 'woodlands', care should be taken in any development proposal to maintain the existing tree cover. Woodland Development Policies has 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. and Section 1.1.5 Rural areas are a system of lands that may include rural settlement areas, rural lands, prime agricultural areas, natural heritage features and areas, and other resource area. It is important to leverage rural assets and amenities and protect the environment as a foundation for a sustainable economy. When directing development on rural lands, a planning authority shall apply the relevant policies of the PPS Section: Building Strong Communities, Section 2: Wise Use and Management of Resources and Section 3: Protecting Public Health and Safety.

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

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

(e) MINUTES – January 11, 2016

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

Mr. Steele advised that there is no issue with water quality or quantity with his or his neighbors wells.

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

2. The applicant shall provide the Secretary-Treasurer of the Land Division Committee with a digital copy of the registered reference plan.
3. The balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to the Township of Lanark Highlands.
4. The applicants shall satisfy all the requirements of the Township of Lanark Highlands, financial and otherwise, that may be required under established by-laws for consent applications.
5. The applicant shall provide the Township of Lanark Highlands with a copy of all reference plans associated with this application if a survey is required by the Land Titles Office.
6. The applicant shall provide the Township of Lanark Highlands with a copy of the deed/transfer for the property.
7. Payment shall be made to the Township of Lanark Highlands representing the amount satisfactory to the Township in accordance with their Cash-in-Lieu of Parklands By-law pursuant to Section 42 of the Planning Act.
8. The applicant shall obtain a residential entrance permit to the subject lot. The applicant shall consult directly with the Township of Lanark Highlands in this regard.
9. 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.
10. 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.
11. A letter shall be received from the Township of Lanark Highlands stating that condition #3 through #10 has been fulfilled to their satisfaction.

NOTES

1. *The property owner should be advised that, pursuant to Ontario Regulation 153/06 - "Development, Interference with Wetlands and Alterations to Shorelines and Watercourses", written permission is required from MVCA prior to any alterations to the shoreline of Campbell's Creek.*
2. *In addition, we advise consultation with the Department of Fisheries and Oceans Canada (DFO) fisheriesprotection@dfo-mpo.gc.ca prior to conducting any work within proximity of the watercourse, in order to assess potential impacts to fish habitat. Authorization from DFO 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 will may be required in the septic system area.*
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 and Forestry 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: Jill Boss & John Dugdale

Hearing Date: Jan. 11, 2016

Applicant: Jill Boss / John Dugdale

LDC File #: B15/132

Municipality: Mississippi Mills

Geographic Township: Almonte

Lot: 100

Plan: 6262

Roll No.: 0931 030 035 08800

Consent Type: New Lot

0931 030 035 08900

Purpose and Effect:

To sever a 610 sq.m. residential lot at 163 Water Street and retain a 904 sq.m. residential lot at 165 Water Street.

DETAILS OF PROPOSAL	Lands to be Severed	Lands Retained
Existing Use	Residential	Residential
Proposed Use	Residential	Residential
Area	610 sq.m.	904 sq.m.
Frontage - road	8.3 m	11.8 m
Water Frontage	10.06	26.3 m
Depth	66.65 m	81.66
Road - Access to	Municipal	Municipal
Water Supply	Piped Water	Piped Water
Sewage Disposal	Sewage System	Sewage System
Zoning By-law Category	Residential 2	Residential 2
-Area (minimum)	450 sq.m.	450 sq.m.
-Compliance?	Does not comply with setbacks	Does not comply with setbacks
-Frontage (minimum)	18 m	18 m
-Compliance?	No	No

Official Plan Designation: Residential, Flood Plain

Conformity: Yes

(a) APPLICATION REVIEW

Provincial Policy Statement – The following provides a summary of the Provincial Interests that were identified in reviewing the application:

1.1 Managing and Directing Land Use to Achieve efficient and Resilient Development and Land Use Patterns

Section 1.1.1.b) Accommodating an appropriate range and mix of residential

(including second units, affordable housing and housing for older persons), employment (including industrial and commercial), recreational (including places of worship, cemeteries and long-term care homes), recreation, park and open space and other uses to meet long-term needs.

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

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

1.6 Infrastructure and Public Service Facilities

Section 1.6.3 Before consideration is given to development new infrastructure and public

- a) the use of existing infrastructure and public service facilities should be optimized; and
- b) opportunities for adoptive re-use should be considered, wherever feasible.

Section 1.6.6.2 Municipal sewage services and municipal water services are the preferred form of servicing for settlement areas. Intensification and redevelopment within settlement areas on existing municipal sewage services and municipal water services should be promoted, wherever feasible.

2.1 Natural Heritage

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

Section 2.1.2 The diversity and connectivity of natural features in an area, and the long-term ecological function and biodiversity of natural heritage systems, should be maintained, restored or, where possible, improved, recognizing linkages between and among natural heritage features and areas, surface water features and ground water features.

Section 2.1.4 through 2.1.8 addresses development constraints on natural features and areas.

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 (h)).

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 unless significant archaeological resources have been conserved.

Section 2.6.3 Planning authorities shall not permit development and site alteration on adjacent lands to protected heritage property except where the proposed development and site alteration has been evaluate and it has been demonstrated

that the heritage attributes of the protected heritage property will be conserved.

Section 2.6.5 Planning authorities shall consider the interests of Aboriginal communities in conserving cultural heritage and archaeological resources.

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, and
- c) hazardous sites.

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 2 Basis of Plan, Section 3.6 Residential, Section 4 General Policies, Section 4.6.4.3 Local Municipal Roads, Section 5.3.11 Consent to Sever Land.

The Municipality of Mississippi Mills advises conforms to the designations and policies of the Official Plan.

Zoning By-law – Section 6 General Provisions, Section 8 Residential Provisions. The Municipality of Mississippi Mills advises that rezoning will be required.

(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:

Municipal Planner's Report -

BACKGROUND, PURPOSE AND EFFECT OF APPLICATION

The applicants have submitted a Consent application to the County of Lanark requesting to sever a $\pm 610\text{m}^2$ (0.15ac) parcel of land containing a 2-storey detached dwelling at 163 Water Street and retain a $\pm 904\text{m}^2$ (0.22ac) parcel containing a 2-storey detached dwelling at 165 Water Street, in order to re-establish parcels that were merged by the Land Registry Office. While Municipal records show the lands to be two parcels, the Municipality's solicitor has confirmed that it is in fact one legally conveyable parcel of land. 163 Water Street would have a new lot frontage of $\pm 8.3\text{m}$ (27.2ft) along Water Street and 165 Water Street would have a new lot frontage of $\pm 11.8\text{m}$ (38.7ft) along Water Street. Sketches of the proposed lots are contained within the Appendix to this report.

DESCRIPTION OF PROPERTY & SURROUNDING LAND USES

The subject property is located on the northeast side of Water Street, east of Albert Street and in the Ward of Almonte. The property is $\pm 1,514\text{m}^2$ (0.37ac) in lot area, with a frontage of $\pm 20.1\text{m}$ (65.9ft) along Water Street. The property is currently occupied by a small shed, an accessory shop (to be removed) and two, 2-storey detached dwellings (163 and 165 Water Street). The property is bounded by the Mississippi River to the rear (northeast) and is surrounded by the Almonte Fair Grounds to the east and low density residential properties to the south and west. According to the Municipal Property Assessment Corporation (MPAC) records, 163

Water Street was constructed circa 1900 while 165 Water Street was constructed circa 1920.

The property is in fact much narrower than it appears on the aerial photo, as the Municipality's solicitor has confirmed that the width of gravel driveway ($\pm 12.2\text{m}$) extending between the front and rear property lines along the east side of the property is actually owned by the Municipality as an old fire access lane to the Mississippi River. The property is currently designated "Flood Plain" and "Residential" in the Municipality's Community Official Plan (COP) and zoned "Environmental Hazard (EH)" and "Residential Second Density (R2)" by Comprehensive Zoning By-law #11-83.

SERVICING & INFRASTRUCTURE

Both 163 and 165 Water Street are serviced by municipal water and sewer services and front onto Water Street, a municipally owned and maintained road. The infrastructure and servicing demands will not change as a result of the application.

EVALUATION OF THE APPLICATION

PLANNING ACT, R.S.O 1990

Section 51(24) of the Act sets out the criteria to consider when reviewing an application to subdivide land.

Staff is of the opinion that the subject Consent proposal respects the above noted criteria.

PROVINCIAL POLICY STATEMENT (PPS), 2014

The PPS provides policy direction on matters of provincial interest related to land use planning and development. As per Section 3(5) (a) of the Planning Act, R.S.O. 1990, all planning decisions must be consistent with the PPS. The following is a list of applicable sections of the PPS as well as a review of the proposal against these policies: Section 1.1.2 and 1.1.3.3.

The subject property is designated "Residential" and "Flood Plain" in the Municipality's Community Official Plan (COP) and zoned "Residential Second Density (R2)" and "Environmental Hazard (EH)" by Zoning By-law #11-83. The COP identifies the Ward of Almonte as a "settlement area" suitable for residential development, and the municipal servicing and infrastructure demands have already been addressed for the proposal because the existing dwellings are already connected to municipal water and sewer services. As such, the subject Consent application is consistent with the settlement area policies of the PPS.

COMMUNITY OFFICIAL PLAN

The majority of the subject property is designated "Flood Plain" in the Municipality's COP, with a smaller portion designated "Residential". The Flood Plain designation does not permit any new development while the Residential designation permits low and medium density residential uses as well as associated accessory uses.

Residential Designation

Section 3.6.1 of the COP contains various objectives intended to implement a goal of a balanced supply of housing within the Municipality. The following provides an

analysis of the proposal against the relevant objectives:

- *Promote and support development which provides for affordable, rental and/or increased density of housing types;*

The form or tenure of housing will not change as a result of the proposal because the two detached dwellings legally exist on the property. The subject proposal would just allow for each dwelling to be legally conveyable.

- *Direct the majority of new residential development to areas where municipal sewer and water services are/will be available and which can support new development;*

As noted, both dwellings are currently serviced by municipal water and sewer services.

- *Ensure that residential intensification, infilling and redevelopment within existing neighbourhoods is compatible with surrounding uses in terms of design.*

As both dwellings legally exist on the property, there would be no impacts from the proposal on the surrounding neighbourhood with respect to land use compatibility or urban design.

Flood Plain Policies

Section 3.1.3.1 of the COP contains various policies regarding development within the Flood Plain designation. The following provides an analysis of the proposal against the relevant policies:

3.1.3.1.2 Permitted and Prohibited Uses

3.1.3.1.3 General Policies

3.1.3.1.4 Existing Development within the Flood Plain

As noted, no residential development is permitted within the Flood Plain land use designation. While “development” as defined in the Community Official Plan includes lot creation, the wording of the policies suggests that it is intended to be applied to physical land development (i.e. construction of buildings or structures) or the creation of a new lot where a new dwelling or other sensitive land use could be located. The wording of the policy regarding the creation of lots extending into the Flood Plain is that they shall be discouraged, and not outright prohibited. As the purpose of the subject Consent application is to recreate two lots containing legally non-conforming dwellings with no new dwelling units, buildings or additions being proposed, the proposal meets the intent of the above policies. In addition, both dwellings are located greater than 30 metres from the high water mark of the Mississippi River. As such, the proposal conforms to the intent of the Flood Plain policies of the COP.

General Consent Policies

The COP provides further direction regarding lot creation in Section 5.3.11.2 entitled “General Consent Policies”. This section states that the Municipality shall support the creation of new lots by consent when a number of criteria are satisfied. The following provides an analysis of the proposal against the applicable criteria:

- *The scale of development proposed or the total development potential of the property would not require a plan of subdivision;*
- *The application represents infilling in an existing built up area;*
- *The proposed lots are in keeping with the lot area, frontage and density pattern of the surrounding neighbourhood;*

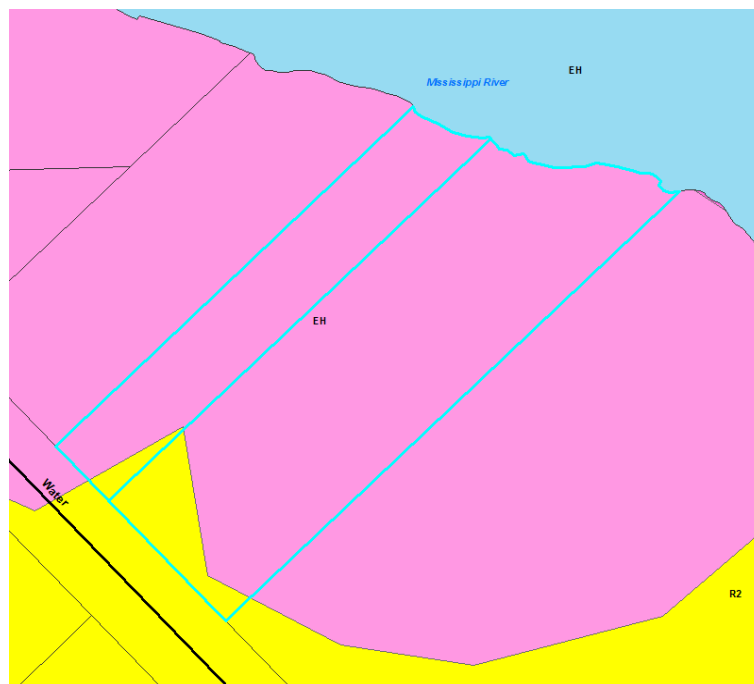
- *The creation of lots would not create or worsen traffic, access or servicing problems;*
- *The application represents an orderly and efficient use of land, and its approval would not hinder the development of the retained lands;*
- *The application does not represent strip development; and,*
- *The application meets all other policies of this Plan.*

As the proposal is for the re-establishment of two (2) residential lots located in an existing built up area within the settlement area of Almonte, the application would not create traffic, access or servicing problems and does not require a plan of subdivision or represent strip development. The proposed lots would be in keeping with the varied lot frontage and area pattern of the surrounding neighbourhood and would have no impact on its density. Therefore, the application represents an orderly and efficient use of land that would not hinder the development of the retained lands and satisfies all other relevant policies of the COP.

ZONING BY-LAW #11-83

The subject property is primarily zoned “Environmental Hazard (EH)”, with a smaller portion zoned “Residential Second Density (R2)” by the Municipality’s Comprehensive Zoning By-law #11-83 (see Figure 3 below). The “R2” Zone permits a range of dwelling types including detached, semi-detached, duplex, triplex and converted dwellings, as well as a type A group home, a bed and breakfast, home-based businesses and a park. The “EH” Zone does not permit any residential buildings or structures. As the majority of the footprints of the dwellings are located within the portion of the property zoned “EH”, their use is considered legal non-conforming.

Figure 3. – Current Zoning Map



The subject Consent application would allow for each of the existing legal non-conforming detached dwellings to be located on its own separate lot in accordance with Section 8.13 of Zoning By-law #11-83. As such, Staff is generally in support of the Consent application because it would comply with the municipal-wide standard of one (1) dwelling per lot. Staff however does have concerns regarding the extent of relief required from Zoning By-law #11-83 and the number of development standards requiring relief in order to proceed with the proposal. These items will be evaluated individually under separate application(s) and are discussed in further detail below.

The following table outlines the minimum lot and siting standards of the R2 Zone for detached dwellings serviced by municipal water and sewer against the proposed specifications of the severed and retained lots:

Table 1: R2 Zone Development Standards vs. Proposed Lot Specifications

ZONING BY-LAW #11-83 PROVISIONS	BY-LAW REQUIREMENT	163 WATER STREET	165 WATER STREET
Minimum Lot Area (m ²)	450	<450	<450
Minimum Lot Frontage (m)	18	±8.3	±11.8
Minimum Front Yard (m)	6	±1 (existing)	±1 (existing)
Minimum Side Yard (m)	1.2 (a), (b)	±0	±0
Minimum Exterior Side Yard (m)	4.5	N/A	N/A
Minimum Rear Yard (m)	7.5	±50 (existing)	±52 (existing)
Maximum Lot Coverage (%)	40 (e)	±13	±14

Footnotes:

a) *The minimum interior side yard width shall be 1.2 metres, except where a garage or carport is located in the rear yard and accessed by a driveway, the minimum shall be 4.5 metres.*

b) *On lots abutting a non-residential use the minimum interior side yard requirement is 3.5 metres.*

e) *If the dwelling type is a bungalow, maximum lot coverage is 45%.*

As noted in the table above, the proposal complies with the maximum lot coverage requirement of Zoning By-law #11-83, but would now be deficient in the minimum lot frontage and minimum interior side yard setback requirements for the proposed severed and retained parcels. As such, relief respecting the minimum lot frontage and minimum interior side yard setback requirements for the severed and retained parcels is required as a condition of Consent approval. Due to the property being split between the "EH" and "R2" Zones and the zoning provisions for each Zone applying to each part as if said part was a separate lot, both properties would be deficient with respect to the minimum lot area requirement within the "R2" Zone and relief from Zoning By-law #11-83 will be required as a condition of Consent approval. As the location of the existing dwellings would not change, no variance is needed to address the minimum front yard setbacks. A small shed meets exists behind 163 Water Street in the portion of the property zoned "EH". Therefore, as a

condition of Consent approval, the shed will either be relocated to a portion of the severed or retained lands that are zoned "R2" or be removed from the subject lands.

With respect to parking requirements, Zoning By-law #11-83 requires a minimum of one (1) on-site motor vehicle parking space for a detached dwelling. With the existing dwellings being located so close to the front property line and the area of the existing gravel driveway along the east side of the property being owned by the Municipality, it is unclear if each of the proposed parcels would be able to provide the required parking. There appears to be an existing entrance along the interior side yard of 163 Water Street with potentially enough room to accommodate a parking space. It is however unclear whether the driveway/parking space would meet the minimum required setback to a habitable room window located on the abutting property in accordance with Subsection 9.3.7(d)(ii) and the minimum driveway setback to a side property line in accordance with Subsection 9.3.9(h). Therefore as a condition of Consent approval, the applicants will either be required to demonstrate that the severed and retained parcels can meet these parking and setback requirements or obtain relief from Zoning By-law #11-83 respecting these requirements by way of a Zoning By-law Amendment or a Minor Variance. Should the applicants successfully obtain relief from these requirements, the driveways/parking spaces shall be surfaced with a hard and stable surface in accordance with Subsection 9.1(4)(a) (i.e. asphalt, concrete or interlocking pavers).

CONCLUSION

Overall, Staff generally has no objection to the proposed Consent application. As the proposal is for the re-establishment of two (2) lots that were merged by the Land Registry Office with no physical land development proposed, the proposal represents a logical and orderly form of development that would have no impact on the surrounding neighbourhood with respect to land use compatibility or urban design. Staff is of the opinion that the proposal conforms the residential and Consent policies of the Community Official Plan, is consistent with the PPS and would allow for the development to comply with the municipal-wide standard of one (1) dwelling per lot.

As noted, Staff does have concerns regarding the extent of relief required from the Municipality's Zoning By-law #11-83 and the number of development standards potentially requiring relief, including: minimum lot areas, minimum lot frontages, minimum interior side yard setbacks, minimum number of motor vehicle parking spaces, minimum size of motor vehicle parking spaces, minimum setback from a parking space/driveway to a habitable room window, minimum setback from a driveway to a side property line and driveway/parking space surfacing requirements. With this in mind, Staff provides the following recommendation:

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

1. That the applicants provide two (2) copies of the registered reference plan to the Municipality;
2. That the applicants provide digital copies of the registered reference plan in .DWG and .PDF file formats to the Municipality;

3. That the accessory building (shop) be removed from the subject lands;
4. That the small shed be relocated to a portion of the severed or retained lands zoned "Residential Second Density (R2)" or be removed from the subject lands;
5. That the interior lot line between the severed and retained parcels be amended to ensure that there is no encroachment of any building over the lot line;
6. That the applicants obtain relief from Zoning By-law #11-83 respecting the minimum lot area, minimum lot frontage and minimum interior side yard setback requirements for the severed and retained parcels by way of a Zoning By-law Amendment or a Minor Variance;
7. That the applicants obtain relief from Zoning By-law #11-83 respecting the minimum required driveway setback to a side lot line by way of a Zoning By-law Amendment or a Minor Variance and surfaces the parking space/driveway with a hard and stable surface for the severed and retained parcels in accordance with Subsection 9.1(4)(a) of Zoning By-law #11-83 (i.e. asphalt, concrete or interlocking pavers);
8. That the applicants demonstrate that the severed and retained parcels will meet the minimum parking space requirements and the minimum required setback between a parking space/driveway and a habitable room window, or obtain relief respecting the these requirements by way of a Zoning By-law Amendment or a Minor Variance;
9. That cash-in-lieu of parkland be paid in accordance with the Municipality's Cash-In-Lieu of Parkland/Parkland Conveyance By-law No. 15-78;
10. That a joint use and maintenance easement be registered over the severed and retained parcels along the shared interior lot line in order to provide legal access to the eaves and outside walls of the dwellings for maintenance purposes; and,
11. That the owners pay any outstanding property taxes on the subject property.

Conservation Authority – Mississippi Valley Conservation Authority
Mississippi Valley Conservation Authority (MVCA) has been circulated the above noted application to conduct a review in terms of the MVCA 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 proposed severance is to sever a 0.067 ha parcel of land with 8.3 m of water frontage and retain a 0.169 ha lot with 11.8 m of water frontage. Both lots are already developed. It is our understanding that the proposed severed and retained lots were acquired as separate lots by the same land owner and they inadvertently merged when the

Registry System was converted to the Land Titles System.

PROPERTY CHARACTERISTICS

The property has frontage on the Mississippi River and is almost entirely located within the regulatory (1 :100 year) flood plain of the river.

REVIEW

As indicated in the Municipalities' Planning Report, dated January 7,2016, for the subject application, the proposed resulting lots are very deficient in several zoning provisions, i.e. lot area, lot frontage, front yard, and side yard.

In general, MVCA is not in favour of the creation of substandard lots with deficient size and frontage. In addition, MVCA does not support the creation of new lots that do not have suitable area to build beyond the flood plain. However, in this particular case, their re-establishment as two separate parcels seems reasonable:

- both resulting parcels previously held status as separate lots that involuntarily merged;
- both lots are already developed;
- both lots are serviced by municipal water and sewer

CONCLUSION

With the above in consideration, MVCA has no objection to the proposed severance. However, given that the resulting lots do not comply with the zoning provisions, it is particularly important that any future development meet all other provisions of the Town's Official Plan and Zoning By-law.

NOTES

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

The applicant should be advised that, pursuant to Ontario Regulation 153/06 - "Development, Interference with Wetlands and Alterations to Shorelines and Watercourses", a permit is required from MVCA prior to the initiation of any future construction or filling activity (which includes excavations, stockpiling and site grading) within the flood plain or Regulation Limit of the Mississippi River, or for alterations to the shoreline of the river. In addition, we advise consultation with the Department of Fisheries and Oceans Canada (DFO) fisheriesprotection@dfo-mpo.gc.ca prior to conducting any work within proximity of the river, in order to assess potential impacts to fish habitat. Authorization from DFO may be required for such work.

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

Mississippi Mills Hydro – 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 610 sq.m. residential lot with an existing dwelling located at 163 Water Street and retain a 904 sq.m. residential lot at 165 Water Street. The two lots were inadvertently merged on title. The structure at 165 Water Street was constructed in 1900 and the structure at 163 Water Street was constructed in 1920. The two lots have separate property roll numbers and tax bills. The effect of the application is to legally separate the two properties that were historically separate.

The subject lands are located in an area characterized by typical urban residential. The lands to the south east are occupied by the Almonte Agricultural Society.

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

Archaeological

The lands are located within 300 m of Primary Water Source (Mississippi River) 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 a consent, regard shall also be had to, among other matters, the criteria of Section 51 (24) of the *Planning Act, R.S.O. 1990* with necessary modifications.
2. 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
Tree Conservation Plans are utilized within the Town's limits.

Zoning

The subject property is currently within the residential/floodplain section of the Zoning By-law, which permits a number of uses, including single-detached dwellings. Re-zoning will be required to address minimum side yards, entrances, parking.

Conclusion

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

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

(e) MINUTES – January 11, 2016

Jill Boss and John Dugdale, owners attended the hearing and gave evidence under oath.

Mr. Dugdale advised that the property has been separate for twenty years, separate tax bills, assessment notices, water bill, etc. And that they discovered that the property was merged on title when they attempted to sale the property at 163 Water Street.

W. Guthrie advised that there are sheds to be removed or moved. And Mr. Dugdale notice that one shed has already been removed and they are working on moving the other one.

The Chair noted that there are a number of conditions that need to be addressed, particularly the re-zoning and that they should not delay the process once the 20-day appeal period have ended.

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 (survey) 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. That the reference plan or legal description and the deed or instrument required by condition #1 above, establish the interior lot line for the severed and retained lands between the exterior walls of the two residential dwellings and that no part of either structure encroach upon the other lot.

4. The balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to the Township.
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 to provide a digital copy of the registered reference plan in a .DWG file format to the Town of Mississippi Mills.
7. Payment shall be made to the Municipality of Mississippi Mills representing the amount satisfactory to the Township in accordance with their Cash-in-Lieu of Parklands By-law pursuant to Section 42 of the Planning Act.
8. The applicant shall remove the frame building (shop) identified on the application sketch. The applicant shall obtain any permits required to remove the structure as required by the Municipality of Mississippi Mills. The applicant shall consult directly with the Municipality in this regard.
9. The applicant shall remove the small shed frame building identified on the application or relocate the structure such that it will comply with the applicable provisions of the Municipality of Mississippi Mills Zoning By-law, or any relief approved thereof. The applicant shall consult directly with the Municipality in this regard.
10. The applicant shall obtain appropriate relief from the minimum requirements of the Zoning By-law for the Municipality of Mississippi Mills (lot area, lot frontage, side yard setbacks, minimum driveway setbacks, parking space/driveway, habitable room window, etc.) either by way of an amendment to the Zoning By-law or a minor variance. The applicant shall consult directly with the Municipality in this regard.
11. The applicant shall surface the parking space / driveway of the severed and retained lands with a hard and stable surface (eg. asphalt, concrete or interlocking pavers). The applicant shall consult directly with the Municipality in this regard.
12. A letter shall be received from the Municipality of Mississippi Mills stating that condition #3 through #11 has been fulfilled to their satisfaction.

NOTES

1. *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.*
2. *The Mississippi Valley Conservation Authority advises that, pursuant to Ontario Regulation 153/06 - "Development, Interference with Wetlands and Alterations to Shorelines and Watercourses", a permit is required from MVCA prior to the initiation of any future construction or filling activity (which includes excavations, stockpiling and site grading) within the flood plain or Regulation Limit of the Mississippi River, or for alterations to the shoreline of the river.*

3. *In addition, the MVCA advise consultation with the Department of Fisheries and Oceans Canada (DFO) fisheriesprotection@dfo-mpo.gc.ca prior to conducting any work within proximity of the river, in order to assess potential impacts to fish habitat. Authorization from DFO may be required for such work.*
4. *Endangered Species Act, 2007, and Species at Risk in Ontario Background*
The ESA 2007 protects both species and habitat. Section 9 of the ESA “prohibits killing, harming, harassing, capturing, possessing, collecting, buying, selling, trading, leasing or transporting species that are listed as threatened, endangered or extirpated”. Section 10 of the ESA, 2007 prohibits damaging or destroying habitat of endangered or threatened species. Protected habitat is either based on general definition in the Act or prescribed through a regulation. The ESA 2007 defines general habitat as an area on which the species depends, directly or indirectly, to carry on its life processes, including reproduction, rearing, hibernation, migration or feeding.

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

The Ministry of Natural Resources and Forestry 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: Stephen Tudor

Hearing Date: Jan. 11, 2016

Applicant: Michael McCooye

LDC File #: B15/133

Municipality: Lanark Highlands

Geographic Township: Darling

Lot: 9

Conc.: 7

Roll No.: 0940 944 015 22700

Consent Type: Lot addition

Purpose and Effect:

To sever a 0.186-ha parcel of land as a lot addition to lands owned by Michael D McCooye at 2729 Darling Road and to retain a 13.0-ha landholding at 2765 Darling Road.

DETAILS OF PROPOSAL	Lands to be Severed	Lands Retained
Existing Use	Vacant	Residential
Proposed Use	Lot addition	Residential
Area	0.186-ha	13.68-ha
Frontage	24.38 m	288 m
Depth	76.2 m	475 m
Road - Access to	Municipal	Municipal
Water Supply	n/a	Private Well
Sewage Disposal	n/a	Septic System
Zoning By-law Category	Rural	Rural
-Area (minimum)	n/a – lot addition	1.0-ha
-Compliance?		Yes
-Frontage (minimum)		60 m
-Compliance?		Yes

Official Plan Designation: Rural

Conformity: Yes

(a) APPLICATION REVIEW

Provincial Policy Statement - The following provides a summary of the Provincial Interests that were identified in reviewing the application:

1.1 Managing and Directing Land Use to Achieve Efficient and Resilient Development and Land Use Patterns

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 Rural areas are important to the economic success of the Province and our quality of life. Rural Areas are a system of lands that may include rural settlement areas, rural lands, primate agricultural areas, natural heritage features and areas, and other resource areas.

Section 1.1.4.2 In rural areas, rural settlement areas shall be the focus of growth and development and their vitality and regeneration shall be promoted.

1.1.5 Rural Lands in Municipalities

Section 1.1.5.1 On rural lands located in municipalities, permitted uses are: the management or use of resources, resource-based recreational uses (including recreational dwellings), limited residential development, home occupations and home industries, cemeteries, and other rural land uses.

Section 1.1.5.4 Development that is compatible with the rural landscape and can be sustained by rural service levels should be promoted.

1.6 Infrastructure and Public Service Facilities

Section 1.6.6.4 Where municipal sewage services and municipal water services or private communal sewage services and private communal water services are not provided, individual on-site sewage services and individual on-site water services may be used provided that site conditions are suitable for the long-term provision of such services with no negative impacts. In settlement areas, these services may only be used for infilling and minor rounding out of existing development.

2.1 Natural Heritage

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

Section 2.1.2 The diversity and connectivity of natural features in an area, and the long-term ecological function and biodiversity of natural heritage systems, should be maintained, restored or, where possible, improved, recognizing linkages between and among natural heritage features and areas, surface water features and ground water features.

Section 2.1.4 through 2.1.8 addresses development constraints on natural features and areas.

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, and
- c) hazardous sites.

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 3.3 Rural Communities, section 4.1 Mineral Aggregates, 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 by-law regulations.

(b) AGENCY REVIEW

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

Township Planning Report -

An application has been received from the County of Lanark Land Division Committee to sever a 0.45 acre (0.186 hectare) parcel of land as a lot addition to lands owned by Michael McCooye at 2729 Darling Road and retain a 32 acre (13.0 hectare) landholding at 2765 Darling Road owned by Stephen Tudor. All lands are accessed via Darling Road.

OFFICIAL PLAN

The proposed lot addition is in conformity with the relevant policies of the Township's Official Plan. The subject lands are designated as Rural Communities on Schedule 'A' of the Township of Lanark Highlands Official Plan. The lot to be enlarged is approximately 1.58 acres (0.68 ha.) which is an undersized lot. Once enlarged, the lot at 2765 Darling Rd. will be approximately 2.13 acres which exceeds the minimum lot size as identified by the Official Plan which is 1.9 acres (0.8 ha) (Section 3.3.6 Minimum Lot Requirements).

ZONING

The lot being added to is zoned as Rural (RU). This application is seeking to move a lot line by way of a lot addition in order to enlarge a developed undersized lot. The lot will be brought closer to conformity with the Zoning by-law which identifies 2.47ac (1 ha) as the minimum lot area per dwelling unit or such lot area as may be determined by the land division process, but in no case shall the lot area be less than 1 ac (0.5 ha). It should be noted that this lot is previously developed with a single family dwelling built in 1997.

INTERNAL STAFF REVIEW

No comments were received as a result of reviewing this application to senior staff.

DISCUSSION

If successful, this application will result in 1 lot addition through an adjustment of the existing lot lines. No new lots are being created.

In conclusion, the application, as submitted, is consistent with the PPS, and complies with the policies of the existing Official Plan and Zoning By-law.

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

1. An acceptable reference plan or legal description of the severed lands and the deed be submitted to the township.
2. That the applicant pays any outstanding fees to the Township prior to final approval.
3. The balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid 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 a 0.186-ha parcel of land as a lot addition to lands owned by Michael David McCooeye at 2729 Darling Road and retain a 13.6-ha residential landholding at 2765 Darling Road.

The effect of the lot addition will be to enlarge an existing lot which was created in 1997 under previous zoning requirements, but now is classed as undersized with regards to the newer Official Plan and Zoning provisions. The lot addition will increase the lot size from 0.58-ha to 0.8-ha, which meets the minimum Official Plan requirements.

The subject lands are located in an area characterized by typical rural development on large lots, intermixed with smaller type lots.

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

Soils Inventory – Name: Tweed

Bedrock Inventory – diorite, gabbro, peridotite

Endangered Species

With the new Endangered Species Act (ESA 2007) in effect, it is important to understand which species and habitats exist in the area and the implications of legislation. A review of the Natural Heritage Information Centre (NHIC) records indicate that there is a potential for the following Threatened (THR) and/or Endangered (END) species on the site or in proximity to it:

Flooded Jellyskin (THR)

Official Plan Policies

1. Lanark County Sustainable Communities Official Plan - Section 8.2.2 Consents.
Lanark County, through an appointed Land Division Committee is the approval authority for the issuance of consents. Lot creation by consent shall be permitted where lot creation by plan of subdivision is deemed to be unnecessary. Consideration of location and development criteria by the approval authority shall be based on local Official Plans. In considering a consent, regard shall also be had to, among other matters, the criteria of Section 51 (24) of the *Planning Act, R.S.O. 1990* with necessary modifications.
2. Lanark Highlands Official Plan Policies for the Division of Land are found in Section 3.2.3 and 3.3.3 and 8.4.2 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. (This section is under appeal to the OMB – until such time as the appeal has been resolved the old policy remains in effect – 2 plus 1 retained). 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 has 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. and Section 1.1.5 Rural areas are a system of lands that may include rural settlement areas, rural lands, prime agricultural areas, natural heritage features and areas, and other resource area. It is important to leverage rural assets and amenities and protect the environment as a foundation for a sustainable economy. When directing development on rural lands, a planning authority shall apply the relevant policies of the PPS Section: Building Strong Communities, Section 2: Wise Use and Management of Resources and Section 3: Protecting Public Health and Safety.

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

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

(e) **MINUTES – January 11, 2016**

Stephen Tudor, owner attended the hearing and gave evidence under oath.

Mr. Tudor confirmed that the lot addition does not encompass the small creek, but stops just short of the embankment.

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 (survey) or legal description of the severed lands and the deed or Instrument conveying the severed lands shall be submitted to the Secretary-Treasurer for review and consent endorsement within a period of one year after the "Notice of Decision" is given under Section 53 (17) or (24) of the Planning Act.
2. The applicant shall provide the Secretary-Treasurer of the Land Division Committee with a digital copy of the registered reference plan.
3. The Certificate of Consent "Schedule" attached to the deed / transfer required by Condition #1 above, shall include the following condition "The lands to be severed are for the purpose of a lot addition only to the adjacent lands owned by Michael David McCooye described as Part 2 Plan 27R-6908, Part Lot 9 Conc. 7 Darling, 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 the Township of Lanark Highlands.
5. The applicants shall satisfy all the requirements of the Township of Lanark Highlands, financial and otherwise, that may be required under established by-laws for consent applications.
6. The applicant shall provide the Township of Lanark Highlands with a copy of all reference plans associated with this application if a survey is required by the Land Titles Office.
7. The applicant shall provide the Township of Lanark Highlands with a copy of the deed/transfer for the property.
8. A letter shall be received from the Township of Lanark Highlands stating that condition #3 through #7 has been fulfilled to their satisfaction.

NOTES

1. *The County of Lanark advises that, prior to the issuance of a building permit, Development Charges must be paid in full.*
2. *Endangered Species Act, 2007, and Species at Risk in Ontario Background*
The ESA 2007 protects both species and habitat. Section 9 of the ESA "prohibits killing, harming, harassing, capturing, possessing, collecting, buying, selling, trading, leasing or transporting species that are listed as threatened, endangered or extirpated". Section 10 of the ESA, 2007 prohibits damaging or destroying habitat of endangered or threatened species. Protected habitat is either based on general definition in the Act or prescribed through a regulation. The ESA 2007

defines general habitat as an area on which the species depends, directly or indirectly, to carry on its life processes, including reproduction, rearing, hibernation, migration or feeding.

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

The Ministry of Natural Resources and Forestry 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.