



**MINUTES
LAND DIVISION COMMITTEE**

The Land Division Committee met in regular session on Monday, February 10, 2014 at 9:00 a.m. at the Lanark County Administration Building, 99 Christie Lake Road, Perth, Ontario.

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

Staff Present: M. Kirkham, Secretary-Treasurer

LAND DIVISION COMMITTEE

Chair: R. Strachan

1. CALL TO ORDER

A quorum was present.

2. DISCLOSURE OF PECUNIARY INTEREST

None.

3. APPROVAL OF MINUTES

MOTION #LD-2014-003

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

“THAT, the minutes of the Land Division Committee meeting held on January 13, 2014 be approved as circulated.”

ADOPTED

4. ADDITIONS & APPROVAL OF AGENDA

MOTION #LD-2014-004

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

“THAT, the agenda be adopted as circulated.”

ADOPTED

5. DELEGATIONS & PRESENTATIONS

None.

6. COMMUNICATIONS

- 6.1 OACA – 2014 Membership Dues
- 6.2 OACA – 2014 Convention, Blue Mountain – May 27 – 28, 2014. All three members indicated that they would be attending.
- 6.3 OEMC – 2014 Conference, Kingston – Sept 11-14/14. W. Guthrie advised that he would be attending.

MOTION #LD-2014-005

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

“**THAT**, the communications be received and that OACA Membership be paid for 2014.”

ADOPTED

7. REPORTS

- 7.1 New Applications to be Heard. The Land Division Committee reviewed the reports for the following new applications to be considered at the 10:00 a.m. public hearings:
 - 7.1.1 **B13/088 – Barry Hayter & Tracy Nolan – new lot**
Pt. Lot 12 Conc. 4 Township of Beckwith. Richmond Road.
 - 7.1.2 **B13/107 – William and Mary Grace – new lot**
Pt. Lot 1 Conc. 9 geographic Township of Pakenham, now in the Town of Mississippi Mills. County Road 29.
 - 7.1.3 **B13/128 & B13/129 – Robert and Georgette Cameron – lot addition & new lot**
SW Pt Park Lot 9W Plan 320 Village of Lanark, now in the Township of Lanark Highlands. Foster Drive.
 - 7.1.4 **B13/130 – Len & Bonnie McQuat – new lot**
Pt. Lot 10 Conc. 12 geographic Township of Dalhousie, now in the Township of Lanark Highlands. Lavant Mill Road.
 - 7.1.5 **B13/133 – Georgie & Robert Martin – new lot**
Pt. Lot 11 Conc. 7 geographic Township of North Elmsley, now in the Township of Drummond / North Elmsley. Station Road.
 - 7.1.6 **B13/152 – Andrea Mary McCormick – Lot Addition**
Pt. Lot 11 Conc. 1 geographic Township of Lavant, now in the Township of Lanark Highlands. Lavant Darling Road.

7.1.7 B13/112, B13/113, B13/114 and B13/115 – Chris T Lake Inc. - lot addition, new lot & ROW, new lot, and lot addition.
Pt. Lot 20/21 Conc. 3 geographic Township of South Sherbrooke, now in Tay Valley Township. Christie Lake Lane 42A.

7.2 Applications Previously Heard and Awaiting a Decision

None

8. CONFIDENTIAL REPORTS

None

9. NEW/OTHER BUSINESS

9.1 Hydrogeological Investigations – deferred to next meeting.

10. PUBLIC HEARING:

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

10.1 PROVISIONAL CONSENT GRANTED

10.1.1 B13/088 – Barry Hayter & Tracy Nolan – new lot

10.1.2 B13/107 – William and Mary Grace – new lot

10.1.3 B13/130 – Len & Bonnie McQuat – new lot

10.1.4 B13/133 – Georgie & Robert Martin – new lot

10.1.5 B13/152 – Andrea Mary McCormick – Lot Addition

10.1.6 B13/112, B13/113, B13/114 and B13/115 – Chris T Lake Inc. - lot addition, new lot & ROW, new lot, and lot addition.

10.2 PROVISIONAL CONSENT DEFERRED

10.2.1 B13/128 & B13/129 – Robert and Georgette Cameron – lot addition & new lot

SW Pt Park Lot 9W Plan 320 Village of Lanark, now in the Township of Lanark Highlands. Foster Drive.

MOTION #LD-2014-05

MOVED BY: W. Guthrie

SECONDED BY: D. Murphy

“THAT, application B13/128 and B13/129 be deferred pending receipt of MDS information for B13/129.

AND THAT the Secretary-Treasurer follow-up with the adjacent landowner regarding the MDS information to be submitted to the municipality to enable them to calculate the separation distance required.”

ADOPTED

11. UPCOMING MEETINGS

Monday, March 10, 2014 @9:00 a.m. (R. Strachan advised that he would not be able to attend);

Monday, April 14, 2014 @9:00 a.m. (D. Murphy advised that he would not be able to attend);

Tuesday, May 13, 2014 @9:00 a.m.; and

Monday, June 9, 2014 @9:00 a.m.

12. ADJOURNMENT – 1:00 p.m.



Mary Kirkham,
Secretary-Treasurer

**PUBLIC
HEARING
REPORTS**



LAND DIVISION STAFF REPORT

APPLICATION FOR CONSENT

Owner: Barry Hayter & Tracy Nolan **Hearing Date:** February 10, 2014
Agent: N/A
LDC File #: B13/088
Municipality: Beckwith
Geographic Township: N/A **Lot:**12 **Conc.:** 4
Roll No. 0924 000 010 22300 **Consent Type:** New Lot

Purpose and Effect: To sever a 1.23-ha residential building lot and retain a 51-ha landholding with an existing dwelling and outbuildings at 1954 Richmond Road.

DETAILS OF PROPOSAL	Land to be Severed	Land to be Retained
Existing Use	Vacant	Residential
Proposed Use	Residential	Residential
Area	1.23 ha	51 ha
Frontage	110 m	147 m
Depth	112 m	1.6 km
Road - Access to	County Road	County Road
Water Supply	Proposed well	Private Well
Sewage Disposal	Proposed septic	Private Septic
Official Plan Designation	Rural	
-Conformity?	Yes	
Zoning By-law Category	Rural	Rural and Wetland
-Area Required (min.)	0.4-ha	0.4-ha
-Compliance?	Yes	Yes
-Frontage Required (min.)	45 m	45 m
-Compliance?	Yes	Yes

(a) APPLICATION REVIEW

Provincial Policy Statement - Provincial Interests were identified as follows:

1.1 Managing and Directing Land Use

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

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

1.6 Infrastructure and Public Service Facilities

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

2.1 Natural Heritage

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

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

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

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

2.3 Agriculture

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

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

3.1 Natural Hazards

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

County Official Plan – Section 3.0 Rural Policies, Section 4.3.2 County Roads, Section 4.4 Water and Wastewater, Section 8.2.2 Consents.

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

Local Official Plan – Section 4 General Development Policies, Section 6.6 Rural Areas, Section 7.2 County Roads, Section 9.10 Land Division Committee.

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

Zoning By-law - Section 3 General Provisions, Section 11 Rural Zone, and Section 13 Wetlands Zone.

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

(b) **AGENCY REVIEW**

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

Township Planner's Report

Severances are permitted within the Rural designation, subject to the land division policies of Section 4.5. Severances and development are not permitted within the Wetlands designation, however, the proposed severance does not affect the wetlands. A portion of the severance does encroach within the 120m adjacent lands; however a sufficient building envelope exists beyond the 120m buffer. The local conservation authority has reviewed the application and has no objections, provided development and site alteration occur beyond the 120m buffer.

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

1/ That the applicant provides the Township with a copy of the reference plan.

Advisory Note:

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

Conservation Authority – Rideau Valley Conservation Authority

We have undertaken our review within the context of Sections 2. 1 Natural heritage, 2.2 Water and 3.1 Natural Hazards of the Provincial Policy Statement issued under Section 3 of the Planning Act, and from the perspective of the Conservation Authority regulations. The following comments are offered for the Committee's consideration.

PROPOSAL

The proposal is to sever a 1 .23 hectare parcel from the existing 52.23 hectare parcel known municipally as 1954 Richmond Road.

PROPERTY CHARACTERISTICS

The severed parcel contains former agricultural fields. The retained parcel is contains several structures including a residence. The retained parcel is characterized by former agricultural fields on the southern portion of the property and is heavily treed further to the north. Portions of the retained parcel have been identified as being within the Goodwood Marsh Provincially Significant Wetland. A tributary to Goodwood Marsh bisects the property,

REVIEW

Natural Hazards

There have been no natural hazards identified on this property which would preclude this application.

Natural Heritage

Watercourses

A watercourse has been identified traversing the retained parcel. The watercourse does not impact the severed parcel.

Wetlands

A portion of the retained parcel has been identified as being within the Goodwood Marsh (Provincially Significant Wetland) and the 120 metre adjacent lands. The building

envelope has already been established on the retained parcel therefore there are no impacts anticipated on the wetland features.

Portions of the severed parcel have been identified as being within 120 metres of the Goodwood Marsh Provincially Significant Wetland. In addition a permanent wetland which extends beyond the Goodwood Marsh Provincially Significant Wetland has been identified at the northern property boundary of the severed parcel. While this wetland has not been identified as a Provincially Significant Wetland, it is within the 120 metre adjacent lands of the Goodwood Marsh Provincially Significant Wetland. Given the size of the proposed severed parcel, there is a sufficient building envelope entirely outside of the 120 metre adjacent lands.

Conservation Authority Regulations

For the applicant's information the Rideau Valley Conservation Authority administers Ontario Regulation 174/06 "*Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation*" under Section 28 of the Conservation Authorities Act. This regulation affects the retained lands in the following manner:

- Any alteration, straightening, changing, diverting or interfering in any way with any watercourse requires the prior written approval from the Conservation Authority.
- Any development within the 120 metre adjacent lands of the Goodwood Marsh Provincially Significant Wetland requires the prior written approval from the RVCA.

The applicant should be aware that should any development be proposed within the 120 metres adjacent lands of the Goodwood Marsh Provincially Significant Wetland then an appropriate setback from the unevaluated wetland within the 120 metre adjacent lands will need to be addressed.

CONCLUSION

In conclusion, the Conservation Authority has no objections or conditions to this consent application. Portions of the property are affected by the Conservation Authority's regulation and we have provided the above information in this regard for the applicants' awareness and consideration.

NOTE

Should any development be proposed within the 120 metre adjacent lands, an appropriate development setback from the unevaluated wetland will part of the consideration of any application under Ontario Regulation 174/06 "*Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation*" made pursuant to Section 28 of the Conservation Authorities Act.

Septic Office – Leeds, Grenville and Lanark District Health Unit

Severed - Poor drainage. 0.5 metres of silty loam with the water table near the surface. Wetland vegetation growing on parts of this flat, low lot. A significant amount of imported leaching bed fill would be required to construct a fully raised septic system on this lot.

Retained – Large property with house and outbuildings. Similar soil conditions and poor drainage. There were no obvious signs of failure for the existing septic system. The retained land would be large enough for a replacement system if required.

County Roads Department – Lands to be severed have an approved entrance location. Permit # 2341 applies. Lands to be retained have an approved existing entrance. Permit # 2342 applies. A full entrance application must be submitted and entrance installed prior to deed endorsement.

Sufficient lands shall be deeded to “The Corporation of the County of Lanark” along the frontage of the lot to be severed to meet the municipality’s road widening requirements, at no cost to the County. Sufficient lands may be required across the frontage of the retained lands to meet the municipality’s road widening requirements, and in these cases, the applicant will be requested to enter into a land purchase agreement with the County.

“In Preparation” Transfer documents are to be submitted to the Lanark County Public Works Department for review and approval prior to registration, accompanied by a solicitor's certificate indicating that the municipality’s title is free and clear of all encumbrances and the municipality has a good and marketable title.

The County of Lanark Construction Supervisor shall be consulted prior to commencing a survey to determine the amount of road widening required. The reference plan describing the road widening must be approved by the Lanark County Public Works Department prior to registration. Following registration one copy of the plan shall be forwarded to the County of Lanark Public Works Department.

Hydro One Networks – No comments were received.

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

We have no concerns or objection to the proposed severance.

(c) PUBLIC INPUT

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

From: Scott Pemberton <280rem721@gmail.com>
Sent: October 16, 2013 9:11 PM
To: Mary Kirkham
Subject: B13 / 088

Hello Mary,

Thank you for keeping us informed of our neighbours' application for consent. We have reviewed the documentation and consider this to be an example of good planning. We wish Mr. Hayter and Ms. Nolan success with their application.

If you could send us an email to this address with the Notice of Decision, we would appreciate it.

Thank you,

Scott Pemberton & Laura Johnstone
166 Franktown Cemetery Road

(d) **PLANNING REVIEW**

Background and Summary

The applicant proposes to sever 1.23-ha residential building lot and retain a 51-ha landholding with an existing dwelling and 2 outbuildings (barn not used) at 1954 Richmond Road.

The subject lands are located in an area characterized by large landholding intermixed with residential building lot along Richmond Road. The Village (Settlement Area) of Franktown is located to the south of the lot. A large PSW (locally known as "Goodwood Marsh" is located to the east and on the retained lands.

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

Agricultural Operations

Due to an agricultural operation being located on the retained lands, the applicant was required to submit information to calculate the Minimum Distance Separation for the proposed lots. The MDS indicated a minimum setback of 102 m, the actual distance from the barn to the closest proposed lot line is shown by the applicant as 125m. A condition should be included to advise future purchasers of the farming operation and potential for noise, odours etc.

Soils Inventory – Name: Innisville
- Stoniness: non-stony
- CLI: 4 – severe limitations
- Drainage: poor
- Hydrogeology: high run-off

North Section of land - Muck

Bedrock Inventory – Dolostone, sandstone

Official Plan Policies

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

Lot creation by consent shall be permitted where lot creation by plan of subdivision is deemed to be unnecessary. Consideration of 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/ Beckwith Official Plan Policies for the Division of Land are found in Section 4.5 of the OP. Generally, the consent process will be used for the purpose of creating a maximum of 3 consents, excluding the retained lot if the area of an original Township lot is 40-ha or greater; or 2 consents, excluding the retained lot, may be considered if the area of an original Township lot is from 20-ha up to but not including 40-ha. A number of 'general policies' also apply to the division of land, including: size (0.6-ha in Community Development Area and 0.8-ha in the Rural Lands designation) and setbacks appropriate to zoning designation, reserving, MDS separation, supporting studies as required, road access to maintained infrastructure, no development of land subject to flooding, quantity and quality of groundwater. The lot creation date for Beckwith is July 1973.

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

- 3/ Woodlands
The area has not been mapped as 'woodlands'.

Zoning

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

Conclusion

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

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

(e) **MINUTES – February 10, 2014**

No persons attended the hearing.

(f) **DECISION & CONDITIONS**

DECISION: PROVISIONAL CONSENT IS GRANTED

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

1. An acceptable reference plan or legal description of the severed lands and the deed or Instrument conveying the severed lands shall be submitted to the Secretary-Treasurer for review and consent endorsement **within a period of one year** after the "Notice of Decision" is given under Section 53 (17) or (24) of the Planning Act.
2. The applicant shall provide the Secretary-Treasurer of the Land Division Committee with a digital copy of the registered reference plan.
3. The Certificate of Consent "Schedule" attached to the deed / transfer required by Condition #1 above, shall include the following condition "The lot is adjacent to an agricultural area and may therefore be subject to noise, dust, odours and other nuisances associated with agricultural activities".
4. The balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to the Township of Beckwith.
5. The balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to the Township of Beckwith.
6. The applicant shall provide the Township of Beckwith with a copy of all reference plans associated with this application if a survey is required by the Land Titles Office.
7. The applicant shall submit a full entrance application to the County of Lanark Public Works Department and install the entrance as required in the permit.
8. Sufficient lands shall be deeded to "The Corporation of the County of Lanark", along the frontage of the lot to be severed, to meet the municipality's road widening requirements, at no cost to the County. Sufficient lands may be required across the frontage of the retained lands to meet the municipality's road widening requirements, and in these cases, the applicant will be requested to enter into a land purchase agreement with the County. "In Preparation" transfer documents are to be submitted to the Lanark County Public Works Department for review and approval, prior to registration, accompanied by a Solicitor's Certificate indicating that the municipality's title is free and clear of all encumbrances and

the municipality has a good and marketable title.

The County of Lanark Construction Supervisor shall be consulted, prior to commencing a survey, to determine the amount of road widening required. The reference plan, describing the road widening, must be approved by the Lanark County Public Works Department prior to registration. Following registration, one copy of the plan shall be forwarded to the County of Lanark Public Works Department.

9. A letter shall be received from the County of Lanark Public Works Department stating that condition #7 and #8 has been fulfilled to their satisfaction.
10. A letter shall be received from the Township of Beckwith stating that condition #4 through #6 has been fulfilled to their satisfaction.

NOTES

1. *The Rideau Valley Conservation Authority advises that the RVCA administers Ontario Regulation 174/06 "Development, Interference with Wetlands and Alterations to Shorelines and Watercourses Regulation" under Section 28 of the Conservation Authorities Act. This regulation affects the retained lands in the following manner:*
 - o *Any alteration, straightening, changing, diverting or interfering in any way with any watercourse requires the prior written approval from the Conservation Authority.*
 - o *Any development within the 120 metre adjacent lands of the Goodwood Marsh Provincially Significant Wetland requires the prior written approval from the RVCA.*
2. *The RVCA also advises that the applicant should be aware that should any development be proposed within the 120 metres adjacent lands of the Goodwood Marsh Provincially Significant Wetland then an appropriate setback from the unevaluated wetland within the 120 metre adjacent lands will need to be addressed.*
3. *The Leeds Grenville and Lanark District Health Unit advises that a significant amount of imported leaching bed fill would be required to construct a fully raised septic system on this lot.*
4. *It is recommended that the applicant review available water well records of adjacent lands to determine that there is adequate potable water for a residential dwelling.*
5. *The Township of Beckwith advises that all future structures are to be located under the guidance of the Chief Building Official in accordance with the Ontario Building Code and all municipal by-laws.*
6. *The County of Lanark advises that, prior to the issuance of a building permit, Development Charges must be paid in full.*
7. *Endangered Species Act, 2007, and Species at Risk in Ontario Background The ESA 2007 protects both species and habitat. Section 9 of the ESA "prohibits killing, harming, harassing, capturing, possessing, collecting, buying, selling, trading, leasing or transporting species that are listed as threatened, endangered*

or extirpated". Section 10 of the ESA, 2007 prohibits damaging or destroying habitat of endangered or threatened species. Protected habitat is either based on general definition in the Act or prescribed through a regulation. The ESA 2007 defines general habitat as an area on which the species depends, directly or indirectly, to carry on its life processes, including reproduction, rearing, hibernation, migration or feeding.

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

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



LAND DIVISION STAFF REPORT

APPLICATION FOR CONSENT

Owner: William J. Grace & Mary Grace **Hearing Date:** February 10, 2014
Agent: Allan Earle
LDC File #: B13/107
Municipality: Town of Mississippi Mills
Geographic Township: Pakenham **Lot:** 1 **Conc.:** 9
Roll No. 0931 946 015 21600 **Consent Type:** New Lot

Purpose and Effect: To sever a 3.64-ha parcel of land with an existing dwelling and outbuildings at 4124 County Road 29 and retain a 38.47-ha agricultural landholding

DETAILS OF PROPOSAL	Land to be Severed	Land to be Retained
Existing Use	Agricultural	Agricultural
Proposed Use	Agricultural	Agricultural
Area	3.64 ha	38.47 ha
Frontage	141 m	486 m
Depth	237 m	655 m
Road - Access to	County Road	County Road
Water Supply	Private well	None
Sewage Disposal	Private Septic	None
Official Plan Designation	Agriculture	
-Conformity?	Yes	
Zoning By-law Category	Non-Farm Residential	Agricultural
-Area Required (min.)	0.4-ha	40-0-ha
-Compliance?	Yes	No
-Frontage Required (min.)	45 m	150 m
-Compliance?	Yes	Yes

(a) **APPLICATION REVIEW**

Provincial Policy Statement - Provincial Interests were identified as follows:

1.1 Managing and Directing Land Use

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

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

1.6 Infrastructure and Public Service Facilities

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

2.1 Natural Heritage

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

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

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

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

2.3 Agriculture

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

c) a residence surplus to a farming operation as a result of farm consolidation, provided that the planning authority ensures that new residential dwellings are prohibited on any vacant remnant parcel of farmland created by the severance.

3.1 Natural Hazards

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

County Official Plan – Section 6.1 Agricultural Resources, Section 4.3.2 & 4.3.3 County 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 3.2 Agricultural Policies, Section 4 General Policies, Section 4.6.3 County Roads, Section 4.8.3 Sewage Disposal and Water Supply, Section 5.3.11 Consent to Sever Land.

The Town of Mississippi Mills advises that the proposal conforms to the designations and policies of the Community Official Plan.

Zoning By-law – Section 6 General Provisions, Section 11 Agricultural Zone

The Town of Mississippi Mills 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:

Town Planner's Report
BACKGROUND & PROPOSAL

Mr. William J. Grace and Ms. Mary Margaret Grace (the "owners") currently own a 42ha (104ac) property which has a frontage of ±611m on County Road #29 and a frontage of ±680m on Snedden Road. The owners have requested to sever a 3.64ha (9ac) portion of land containing an existing single detached dwelling and four (4) outbuildings from the subject property, and to retain a 38.47ha (95ac) agricultural land holding.

The owners currently operate a custom hay business from the lands; however, have indicated that they are retiring for health reasons. It is their intention to have their son purchase the severed parcel in order for him to carry on the long-standing custom hay operation from the property. In addition, the agent for the owners has also indicated that a local farmer has entered into an agreement to purchase the retained parcel conditional on the consent being granted. The existing dwelling and outbuildings on the severed parcel are considered surplus to the cash cropping operation occurring on the retained parcel. These retained lands are not required for the ongoing operation of the custom hay business.

EXECUTIVE SUMMARY

The purpose of this report is to provide an analysis of the consent application against the relevant policies of the Town's Community Official Plan (COP), the Town's Zoning By-law #11-83, the Provincial Policy Statement (PPS) 2005, and the Planning Act, R.S.O. 1990, and to provide recommendations/suggested conditions to the County of Lanark's Land Division Committee.

DESCRIPTION OF SUBJECT LANDS

The subject property is located at the southern boundary of the Pakenham Ward, approximately 6km north of Almonte, at the north-east corner of County Road #29 and Snedden Road. The property is 42ha (104ac) in area with a frontage of ±611m on County Road #29 and a frontage of ±680m on Snedden Road. The property currently contains one (1) existing single detached dwelling, two (2) 446m² (4800ft²) 'megadome' structures, one (1) 372m² (4000ft²) 'coverall' structure, one (1) 255m² (2750ft²) shed, with the remainder of the lot being utilized for cash cropping. The outbuildings are currently being used to store hay and farm equipment in association with the custom hay business operating from the property. The agent has indicated that the owner's son intends to purchase the severed parcel and in order to continue this family business.

With the exception of a 1984 severance that created a 0.4ha (1ac) residential lot, the property resembles an original township lot. Surrounding land uses consist primarily of agricultural uses on relatively large lots, as well as some non-farm residential uses contained on smaller lots.

Access to the property is currently provided by way of an existing entrance from County Road #29. While this entrance would continue to provide access to the severed parcel, the proposal would result in the need for a new agricultural entrance in order to provide access to the retained parcel.

PROVINCIAL POLICY STATEMENT (PPS), 2005

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 review of the proposal against these policies.

2.3 Agriculture

2.3.1 *Prime agricultural areas* shall be protected for long-term use for agriculture. *Prime agricultural areas* are areas where *prime agricultural lands* predominate. *Specialty crop areas* shall be given the highest priority for protection, followed by Classes 1, 2 and 3 soils, in this order of priority.

2.3.3 Permitted Uses

2.3.3.1 In *prime agricultural areas*, permitted uses and activities are: *agricultural uses*, *secondary uses* and *agriculture-related uses*.

Proposed new *secondary uses* and *agriculture-related uses* shall be compatible with, and shall not hinder, surrounding agricultural operations. These uses shall be limited in scale, and criteria for these uses shall be included in municipal planning documents as recommended by the Province, or based on municipal approaches which achieve the same objective.

2.3.3.2 In *prime agricultural areas*, all types, sizes and intensities of agricultural uses and normal farm practices shall be promoted and protected in accordance with provincial standards.

2.3.3.3 New land uses, including the creation of lots, and new or expanding livestock facilities shall comply with the *minimum distance separation formulae*.

2.3.4 Lot Creation and Lot Adjustments

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

- a) *agricultural uses*, provided that the lots are of a size appropriate for the type of agricultural use(s) common in the area and are sufficiently large to maintain flexibility for future changes in the type or size of agricultural operations;
- b) *agriculture-related uses*, provided that any new lot will be limited to a minimum size needed to accommodate the use and appropriate sewage and water services;
- c) *a residence surplus to a farming operation* as a result of farm consolidation, provided that the planning authority ensures that new residential dwellings are prohibited on any vacant remnant parcel of farmland created by the severance. The approach used to ensure that no new residential dwellings are permitted on the remnant parcel may be recommended by the Province, or based on municipal approaches which achieve the same objective.

Staff note that the area of the severed lands has been kept to a minimum by only including the existing outbuildings and accessory dwelling required to continue operating the custom hay business. Staff view this business to be limited in scale, and believe it would not pose a threat to the surrounding agricultural operations. To be clear, the severed parcel does not contain any agricultural land currently in production. By requiring the retained parcel to be rezoned to prohibit a residential dwelling from being constructed on the parcel, the proposal would not result in the creation of a new building lot.

As the proposed application would allow for the surplus dwelling and outbuildings to be severed from the cash cropping operation, allow for an agriculturally-related use to continue operating from the severed lands, and not result in a new building lot, Staff believe the proposal is in keeping with the provisions of the PPS.

PLANNING ACT, R.S.O 1990

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

- (a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2;
- (b) whether the proposed subdivision is premature or in the public interest;
- (c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;
- (d) the suitability of the land for the purposes for which it is to be subdivided;
- (e) the number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy of them;
- (f) the dimensions and shapes of the proposed lots;
- (g) the restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;
- (h) conservation of natural resources and flood control;
- (i) the adequacy of utilities and municipal services;
- (j) the adequacy of school sites;
- (k) the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;
- (l) the extent to which the plan's design optimizes the available supply, means of supplying, efficient use and conservation of energy; and
- (m) the interrelationship between the design of the proposed plan of subdivision and site plan control matters relating to any development on the land, if the land is also located within a site plan control area designated under subsection 41 (2) of this Act or subsection 114 (2) of the *City of Toronto Act, 2006*, 1994, c. 23, s. 30; 2001, c. 32, s. 31 (2); 2006, c. 23, s. 22 (3, 4).

Staff view the proposed consent to be in keeping with the above noted criteria.

COMMUNITY OFFICIAL PLAN (COP)

The subject property is designated as Agriculture within the Town's COP. The following agricultural lot creations policies contained within the Plan are applicable to the proposal:

3.2.7 Severances and Lot Creation

Severances and the creation of lots within the Agricultural designation shall be limited to the following:

1. Farm-related severances may be considered for a farm dwelling, built prior to 1978, made surplus to a farming operation as a result of farm consolidation. Farm consolidation means the acquisition of additional farm parcels to be operated as one farm operation. Farm consolidation may include existing situations where a farm operation has two dwellings located on separate agricultural holdings. Only farmers who are expanding their farm holdings shall qualify for *surplus farm dwelling* severances. The Town shall impose a condition on the severance of the *surplus farm dwelling* which shall require a zoning by-law amendment prohibiting the construction of a new residential dwelling on the farm land parcel rendered vacant as a result of the severance. The Town may request a condition on the Land Division Committee decision to sever to require the registration of a covenant on the title of the property stating that the lot is adjacent to an agricultural area and may therefore be subjected to noise, dust, odours and other nuisances associated with agricultural activities. The lot area and frontage for *surplus farm dwelling* lots should be kept to a minimum in order to keep as much land in agricultural production as possible, but generally should not be less than 0.4 ha in size.

2. Farm-related severances may be considered for the creation of a new agricultural holding provided that:
 - i) Generally, the minimum lot area for agricultural parcels shall be approximately 100 acres. To this extent, this Plan encourages the creation of agricultural parcels in accordance with the *original township lot* fabric of the area.
 - ii) The size of the parcels to be severed and retained is appropriate for the type of agriculture being carried out in the area.
 - iii) The minimum lot area shall be sufficiently large to ensure the long-term flexibility of land to accommodate future *agricultural uses*.
3. Severance of a permitted agricultural commercial or industrial use may be considered provided the lot size is kept to a minimum in order to keep as much land in agricultural production as possible. Efforts should be made to locate the operation on land of low capability for agriculture. The creation of such lots must meet the *Minimum Distance Separation* calculations. The severance of a commercial or industrial property shall not result in a situation where there have been more than 2 severances for commercial, industrial or residential purposes from the holding since July 1973.

As Town records show the existing dwelling on the property being built in 1965, it would satisfy the requirement of being constructed prior to 1978. Also, while the 3.64ha (9ac) area of the severed parcel is larger than a typical surplus farm dwelling, Staff note that the area has been kept to a minimum based on the location of the active agricultural lands, existing dwelling, outbuildings, and stream/vegetation on the property. The configuration of this parcel would allow for the existing agricultural-commercial business to continue operating from the lands and not result in active agricultural land being taken out of production. Furthermore, as the consent would be the 2nd severance from the original township lot since July 1973, it satisfies section 3.2.7(4) of the Plan.

With regards to the retained parcel, Staff view the 38.47ha (95ac) area of this land to be sufficient to carry out traditional agricultural uses, and large enough to account for future changes in the type or size of agricultural operations. It should also be noted that the applicant has indicated a local farmer wishing to expand his agricultural land holdings has entered into an agreement to purchase this parcel conditional on the severance being granted.

As such, Staff view the proposal to meet the objectives of the COP.

ZONING BY-LAW #11-83

The subject property is currently zoned as Agricultural (A) Zone by the Town's Zoning By-law #11-83. Staff note that while the proposed severance would have little to no impact on the function of the property, it would result in the need for amendments to the Town's Zoning By-law.

As the proposal would result in the retained parcel being vacant of any dwelling or outbuildings, Staff recommend that the owner be required to amend the zoning of this parcel to prohibit any future residential development on the lands. Such a requirement is supported by policies of the Town's COP and the PPS, as it prohibits new residential building lots from being created on prime agricultural land.

In addition, based on the resulting frontage, lot size, and setbacks to existing structures, on the severed parcel, Staff note that these lands would also need to be rezoned. Such zoning could likely be in the form of a site specific Agricultural Exception (A-xx) zoning or Agricultural-Commercial zoning.

CONCLUSION

Staff view the proposal as being consistent with the policies of the Community Official Plan, in keeping with the PPS, and satisfying the development standards of the Zoning By-law.

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

1. That the owner provide a copy of the registered reference plan to the Town;
2. That the owner provide a digital copy of the registered reference plan in a .DWG file format to the Town;
3. That the owner be required to rezone the severed parcel to allow for the existing agricultural-commercial business to continue to operate on the lands;
4. That the owner be required to rezone the retained parcel to prohibit the construction of a residential dwelling on the lands;
5. That the owner be required to obtain a new agricultural entrance permit to access the retained parcel; and,
6. That the owner 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 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 (1) vacant lot measuring 3.64 ha and retain 38.47 ha of vacant land.

PROPERTY CHARACTERISTICS

According to a review of available GIS mapping and aerial photography, an unnamed tributary of the Mississippi River flows through the southern portion of the retained lands and along the southern lot line of the severed parcel. Two additional tributaries of the river flow into the northern section of the proposed retained land. Also, the most northern of the tributaries flows through two relatively small unclassified wetlands. No other natural heritage or natural hazards were identified.

REVIEW

Natural Heritage Values - Watercourse and Wetland

Sufficient area appears to exist on the severed and retained lands to accommodate future development that complies with the current standards for development adjacent to a watercourse and wetland.

Therefore, impacts to these natural features are not anticipated as result of the subject application.

Natural Hazards - Organic Soils

Wetlands inherently consist of organic soils. The poor drainage and unstable characteristics of these soils makes them unsuitable for development. Sufficient area appears to exist on the proposed retained lands to direct future development outside of these areas. Organic soils were not identified on the proposed severed lands.

RECOMMENDATIONS AND CONCLUSIONS

With all of the above in consideration, MVCA has no objection to the subject application provided the following mitigative measures are adhered to for any future development on the subject property:

Severed:

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

Retained

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

NOTES

The property owner should be advised that in the event shoreline work is proposed along the unnamed watercourses, written permission may be required from MVC pursuant to Ontario Regulation 15 3/06 - "Development, Interference with Wetlands and Alterations to Shorelines and Watercourses".

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

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

Septic Office – Leeds, Grenville and Lanark District Health Unit

Severed – A 3.64 hectare (8.9 acre) parcel of farm land that has an existing house serviced by a well and septic system. There are various farm buildings i.e., coverall etc. on the property. Additional sandy loam fill may be required in the area of future replacement septic system. There is sufficient area on the 8.9 acre parcel of land to locate a replacement sewage system in the future.

Retained – A 38.47 hectare parcel of farm land. Land slope and drainage can vary throughout parcel. There are no existing buildings. Land is used for crop land purposes. Additional sandy loam fill may be required in area of future tile bed location.

County Roads Department –

Lands to be severed have an approved entrance location. Permit # 2451 applies. Lands to be retained have an approved existing entrance. Permit # 2450 applies. A full entrance application must be submitted and entrance installed prior to deed endorsement (retained)

Sufficient lands shall be deeded to “The Corporation of the County of Lanark” along the frontage of the lot to be severed to meet the municipality’s road widening requirements, at no cost to the County. Sufficient lands may be required across the frontage of the retained lands to meet the municipality’s road widening requirements, and in these cases, the applicant will be requested to enter into a land purchase agreement with the County.

“In Preparation” Transfer documents are to be submitted to the Lanark County Public Works Department for review and approval prior to registration, accompanied by a solicitor's certificate indicating that the municipality’s title is free and clear of all encumbrances and the municipality has a good and marketable title.

The County of Lanark Construction Supervisor shall be consulted prior to commencing a survey to determine the amount of road widening required. The reference plan describing the road widening must be approved by the Lanark County Public Works Department prior to registration. Following registration one copy of the plan shall be forwarded to the County of Lanark Public Works Department.

Hydro One Networks – No comments were received.

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

We have no concerns or objection to the proposed severance.

(c) **PUBLIC INPUT**

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

(d) **PLANNING REVIEW**

Background and Summary

The applicant proposes to sever a 3.64-ha residential lot with an existing dwelling and hay barns (2) located at 4124 County Rd 29 and retain a 38.47-ha agricultural landholding.

The subject lands are located in an area characterized by large agricultural landholdings. The effect of the lot creation is to sever off the dwelling and buildings, with the buildings being used for a “Custom Hay Operation” (bale storage) and the retained lands will

continue to be used for crops. As noted by the Town Staff the effect of the severance is to maintain the long-standing custom hay operation as one unit while maintaining the remainder of the lands in agricultural production.

The lands are accessed via County Road 29, a county maintained road.

Soils Inventory – Name: Snedden

- Stoniness: non-stony
- CLI: 1 – no significant agricultural limitations
- Drainage: imperfectly
- Hydrogeology: high run-off

Bedrock Inventory – grandiorite, tonalite

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.

Section 3.2.7 of the COP provides that lot creation within the Agricultural designation is limited to: Farm-related severances may be considered for a farm dwelling, building prior to 1978, made surplus to a farming operation. The dwelling on this parcel of land was constructed in 1965.

Section 3.2.7.4 provides that a severance of a permitted agricultural commercial or industrial use may be considered, provided the lot size is kept to a minimum in order to keep as much land in agricultural production as possible.

- As shown on the DRAPE Imagery mapping the lands to be severed encompasses the existing dwelling and the large hay-storage facilities which are an integral part of the Custom Hay Operation.

- 3/ Woodlands

None of the severed lands have been mapped as 'woodlands', however, a portion of the retained lands has been mapped. Care should be taken in any development proposal to maintain the existing tree cover.

Zoning

The subject property is currently within the agricultural section of the Zoning By-law, which permits a limited number of uses, primarily based on agriculture. And provides for detached dwelling accessory to the agricultural use and non-farm detached dwellings (existing). The proposed lot meets the minimum lot frontage and size. Any new development will be required to meet the minimum setback requirements of the Zoning By-law.

Conclusion

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

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

(e) **MINUTES – February 10, 2014**

William and Mary Grace, owners and Allan Earle, agent, attended the hearing and gave evidence under oath.

The Committee questioned the irregular shape of the lot. Mr. Earle advised that this was done to ensure that the dwelling and all outbuildings had the required setbacks, but maintained as much of the agricultural lands as possible. Also, the area followed existing fence lines in some cases.

Committee reviewed the staff report and draft conditions.

(f) **DECISION & CONDITIONS**

DECISION: PROVISIONAL CONSENT IS GRANTED

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

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

2. The applicant shall provide the Secretary-Treasurer of the Land Division Committee with a digital copy of the registered reference plan.
3. The balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to the Town of Mississippi Mills.
4. The applicants shall satisfy all the requirements of the Town of Mississippi Mills, financial and otherwise, that may be required under established by-laws for consent applications.
5. The applicant shall provide the Town of Mississippi Mills with a copy of all reference plans associated with this application if a survey is required by the Land Titles Office.
6. The applicant to provide a digital copy of the registered reference plan in a .DWG file format to the Town of Mississippi Mills
7. The lot to be severed and the lot to be retained shall be zoned to an appropriate zoning category for the intended use. The applicant shall consult directly with the Town of Mississippi Mills in this regard.
8. The applicant shall submit a full entrance application for the retained lands to the County of Lanark Public Works Department and install the entrance as required in the permit (No. 2450).
9. Sufficient lands shall be deeded to "The Corporation of the County of Lanark", along the frontage of the lot to be severed, to meet the municipality's road widening requirements, at no cost to the County. Sufficient lands may be required across the frontage of the retained lands to meet the municipality's road widening requirements, and in these cases, the applicant will be requested to enter into a land purchase agreement with the County. "In Preparation" transfer documents are to be submitted to the Lanark County Public Works Department for review and approval, prior to registration, accompanied by a Solicitor's Certificate indicating that the municipality's title is free and clear of all encumbrances and the municipality has a good and marketable title. The County of Lanark Construction Supervisor shall be consulted, prior to commencing a survey, to determine the amount of road widening required. The reference plan, describing the road widening, must be approved by the Lanark County Public Works Department prior to registration. Following registration, one copy of the plan shall be forwarded to the County of Lanark Public Works Department.
10. A letter shall be received from the County of Lanark Public Works Department stating that condition #8 and #9 has been fulfilled to their satisfaction.
11. A letter shall be received from the Town of Mississippi Mills stating that condition #3 through #7 has been fulfilled to their satisfaction.

NOTES

1. *The Mississippi Valley Conservation Authority advise that, development on the severed lot shall adhere to the following:*

- a. *Future development, including a septic system shall be setback a minimum of 30 metres from the seasonal high water mark of the unnamed watercourse.*
 - b. *The shoreline vegetation surrounding the 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 unnamed watercourse, or onto adjacent properties.*
2. *The MVCA also advise that any development on the retained lands shall adhere to the following:*
 - a. *Future development, including a septic system shall be setback a minimum of 30 metres from the seasonal high water mark of the unnamed watercourses and wetland.*
 - b. *The shoreline vegetation surrounding the unnamed watercourses and wetland shall be retained to a minimum depth of 15 metres.*
 - c. *Future development shall be directed away from areas consisting of organic soils.*
 - d. *Wetlands shall remain undisturbed.*
 - e. *Natural drainage patterns on the site shall not be substantially altered, such that additional run-off is directed into the unnamed watercourses, wetland or onto adjacent properties.*
3. *The MVCA advise that in the event shoreline work is proposed along the unnamed watercourses, written permission may be required from MVC pursuant to Ontario Regulation 15 3/06 - "Development, Interference with Wetlands and Alterations to Shorelines and Watercourses".*
 4. *In addition, any proposed works in or near the unnamed watercourses or wetlands should be reviewed by MVC to ensure there will be no harmful alteration, disruption or destruction of fish habitat. Authorization under Section 35 of the Fisheries Act may be required for such work.*
 5. *The Leeds Grenville and Lanark District Health Unit advises that additional sandy loam fill may be required in the area of future replacement septic system on the severed lands and any new septic system on the retained lands.*
 6. *The County of Lanark advises that, prior to the issuance of a building permit, Development Charges must be paid in full.*
 7. *Endangered Species Act, 2007, and Species at Risk in Ontario Background
The ESA 2007 protects both species and habitat. Section 9 of the ESA "prohibits killing, harming, harassing, capturing, possessing, collecting, buying, selling, trading, leasing or transporting species that are listed as threatened, endangered or extirpated". Section 10 of the ESA, 2007 prohibits damaging or destroying habitat of endangered or threatened species. Protected habitat is either based on general definition in the Act or prescribed through a regulation. The ESA 2007 defines general habitat as an area on which the species depends, directly or indirectly, to carry on its life processes, including reproduction, rearing, hibernation, migration or feeding.*

It is important to be aware that changes may occur in both species and habitat

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

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



LAND DIVISION STAFF REPORT

APPLICATION FOR CONSENT

Owner: Len & Bonnie McOuat **Hearing Date:** February 10, 2014
Applicant: Len McOuat
LDC File #: B13/130
Municipality: Lanark Highlands
Geographic Township: Dalhousie **Lot:** 10 **Conc.:** 12
Roll No. 0940 004 035 22200 **Consent Type:** New Lot

Purpose and Effect: To sever a 1.73-ha residential building lot and retain a 41.1-ha landholding with an existing dwelling and outbuildings at 116 Lavant Mill Road.

DETAILS OF PROPOSAL	Land to be Severed	Land to be Retained
Existing Use	Vacant	Residential
Proposed Use	Residential	Residential
Area	1.73 ha	1.73 ha
Frontage	90 m	Irregular
Depth	190 m	Irregular
Road - Access to	Municipal Road	Municipal Road
Water Supply	Proposed well	Private well
Sewage Disposal	Proposed Septic	Septic System
Official Plan Designation	Rural	
-Conformity?	Yes	
Zoning By-law Category	Rural	Rural
-Area Required (min.)	1.0-ha	1.0-ha
-Compliance?	Yes	Yes
-Frontage Required (min.)	60 m	60 m
-Compliance?	Yes	Yes

(a) **APPLICATION REVIEW**

Provincial Policy Statement - Provincial Interests were identified as follows:

1.1 Managing and Directing Land Use

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

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

1.6 Infrastructure and Public Service Facilities

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

2.1 Natural Heritage

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

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

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

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

3.1 Natural Hazards

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

County Official Plan – Section 3.0 Rural Policies, Section 4.3.2 County Roads, Section 4.3.4 Local Roads, Section 4.4 Water and Wastewater, Section 8.2.2 Consents.

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

Local Official Plan – Section 3.3 Rural Communities, Section 7.4.2 County Roads, Section 7.4.3 Local Roads, Section 8.4.2 Consents.

The Township of Lanark Highland 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 zoning by-law regulations.

(b) AGENCY REVIEW

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

Township Planning Report

1.0 Review of Proposal and Application

An application has been received from the County of Lanark Land Division Committee for the creation of a residential lot. The property is legally described as Pt Lot 10 Concession 12, geographic Township Dalhousie, now in the Township of Lanark Highlands.

The applicant wishes to sever a 4.27 acre residential building lot and retain a 101.5 acre developed parcel commonly known as 116 Lavant Mill Road. Access to the lands is via Lavant Mill Road.

The property is designated as Rural Communities on Schedule 'A' of the Township's Official Plan and zoned Rural on Schedule 'A 2' by Zoning By-law 2003-451.

1.1 PROVINCIAL POLICY

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

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

1.2 OFFICIAL PLAN

Any application for consent must be evaluated with the policy directives of Section 8.4.2, which provides direction when considering the division of lands within the Township. Proposals must be consistent with zoning, and enjoy sufficient frontage and depth to accommodate setbacks, within the proposed lot configuration. Abutting land uses must be evaluated for conflicts and natural heritage features.

The proposal as submitted can achieve those directives.

1.3 ZONING

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

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

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

1. The balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to the Township.
2. An acceptable reference plan or legal description of the severed lands and the deed be submitted to the Township.
3. That the applicant pays any outstanding fees to the Township prior to final approval.
4. Sufficient lands shall be deeded to the Township of Lanark Highlands along the frontages of the lot to be severed to meet the municipality's road widening requirements, at no cost to the Township. Deeds are to be submitted to the municipality for review accompanied by a solicitor's certificate indicating that the municipality's title is free and clear of all encumbrances and the municipality has a

good and marketable title. The Township Superintendent of Public Works should be consulted prior to commencing a survey to determine the amount of road widening required.

5. That the applicant provide to the Township the 5% cash in lieu of parkland dedication fee.
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 of Lanark.

Conservation Authority – Mississippi Valley Conservation

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

PROPOSAL

It is our understanding that the purpose of the subject application is to sever one lot measuring 1.73 ha and retain 41.1 ha. The retained land is currently developed while the severed land is vacant.

PROPERTY CHARACTERISTICS

According to a review of available GIS mapping and aerial photography, the proposed retained and severed lands are entirely located within an area which has been classified by the Ministry of Natural Resources (MNR) as a significant deer wintering area. In addition, a tributary of Paul's Creek flows through an unclassified wetland on the retained lands. The severed land is largely open field with a forested area along the northern lot line and an isolated pocket to the rear of the lot. No other significant natural heritage features or natural hazards were identified.

REVIEW

Natural Heritage Features

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

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

Watercourse

As previously mentioned, the retained lands consist of a watercourse, which may consist of fish habitat. However, given that this land is already developed with no new development proposed at this time, impacts to this feature are not anticipated as a result of the subject application.

Deer Yard

The deer yard identified on the severed and retained land is considered significant wildlife habitat. However, it is our opinion that there would be limited value in conducting an EIS at this time given that sufficient area appears to exist on the severed lands for future development to occur in the open field area, where there is inadequate winter cover and food resources for deer wintering. Concerning the retained land, it is already developed with no new development proposed at this time; therefore, no further impacts to the deer yard are anticipated. However, if development is proposed within the forested areas, an EIS may be required at that time.

Unclassified Wetland

An unclassified wetland was identified on the retained land. Wetlands provide numerous environmental benefits, which range from potential fish habitat to acting as a natural filtration system for clean groundwater; therefore, MVC strongly encourages their preservation.

Given that the retained land is already developed with no new development proposed at this time, impacts to this feature are not anticipated as a result of the subject application.

Natural Hazards - Organic Soils

Wetlands inherently consist of organic soils, which provide poor drainage and unstable characteristics, making them unsuitable for development. It is, therefore, recommended that development occur outside of these poorly drained areas.

Given that the retained land is already developed with no new development proposed at this time, organic soils are not considered a constraint to the subject application.

RECOMMENDATIONS AND CONCLUSIONS

With all of the above in consideration, MVC does not have any objection to the subject application provided the following mitigative measures are implemented for future development on the proposed severed lands:

- In order to limit the removal of terrestrial vegetation and deer wintering habitat, future development should be concentrated in the open field located on the severed lands.
- Removal of terrestrial vegetation, including trees, in the forested areas should be limited to a maximum of 10% of the existing cover.

NOTES

In the event that future development is proposed within the forested area of the subject property, an EIS may be required at that time.

The property owner should be advised that in the event shoreline work is proposed along the unnamed tributary of Paul's Creek, written permission may be required from MVCA pursuant to Ontario Regulation 153/06 - "Development, Interference with Wetlands and Alterations to Shorelines and Watercourses".

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

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

The unclassified wetland on the retained land should remain undisturbed.

Should any Species at Risk be discovered, and/or their habitat is potentially impacted by onsite activities, the Ministry of Natural Resources should be contacted immediately.

Septic Office – Leeds, Grenville and Lanark District Health Unit

Severed - A 4.28 acre parcel of vacant land that is mainly trees with some field. Land slope varies. Additional sandy loam fill will be required in the area of the future tile bed.

Retained - A 41.1 hectare parcel of land with an existing house serviced by a well and septic system. There are various out buildings on the property. Additional sandy loam fill may be required in the area of the future replacement tile bed.

County Roads Department –

Access to both the severed and retained is to be gained from local municipal road (Lavant Mill Road). No access permitted from McDonalds Corners Road (County Road 12).

Sufficient lands shall be deeded to “The Corporation of the County of Lanark” along the frontage of the lot to be severed to meet the municipality’s road widening requirements, at no cost to the County. Sufficient lands may be required across the frontage of the retained lands to meet the municipality’s road widening requirements, and in these cases, the applicant will be requested to enter into a land purchase agreement with the County.

“In Preparation” Transfer documents are to be submitted to the Lanark County Public Works Department for review and approval prior to registration, accompanied by a solicitor's certificate indicating that the municipality’s title is free and clear of all encumbrances and the municipality has a good and marketable title.

The County of Lanark Construction Supervisor shall be consulted prior to commencing a survey to determine the amount of road widening required. The reference plan describing the road widening must be approved by the Lanark County Public Works Department prior to registration. Following registration one copy of the plan shall be forwarded to the County of Lanark Public Works Department.

Hydro One Networks – No comments were received.

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

We have no concerns or objection to the proposed severance.

(c) PUBLIC INPUT

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

(d) PLANNING REVIEW

Background and Summary

The applicant proposes to sever a 1.73-ha residential building lot and retain a 41.1-ha

landholding with an existing dwelling and outbuildings.

The subject lands are located in an area characterized by rural residential on larger 'estate' type lots. A commercial sawmill is located to the north and a tourist campgrounds is located to the west.

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

Deer Yard

The subject property is located within the locally known 'Dalhousie Lake Deer Yard'. Winter deer yards provide suitable habitat for the White Tailed Deer, including natural browse, fresh running water and cover from the harsh winter weather. If approval is granted, the applicant should be advised that domestic animals (dogs) should be kept on a leash or in a pen and that tree removal should be kept to a minimum, particularly removal of natural browse (eastern white cedar).

Soils Inventory – Name: Monteagle

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

Bedrock Inventory – marble, calc-silicate

Official Plan Policies

- 1/ Lanark County Sustainable Communities Official Plan - Section 8.2.2 Consents. Lanark County, through an appointed Land Division Committee is the approval authority for the issuance of consents. Lot creation by consent shall be permitted where lot creation by plan of subdivision is deemed to be unnecessary. Consideration of 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. 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 severed area has not been mapped as 'woodlands', however the retained lands is approximately ½ woodlands. Any development proposal on the retained lands should maintain the existing tree cover. Woodland Development Policies have been established by the Township of Lanark Highlands.

Zoning

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

Conclusion

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

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

(e) **MINUTES – February 10, 2014**

No persons attended the hearing.

The Committee agreed that the road widening request by County Public Works should not be included as a condition as the severed land are accessed and abut only the local municipal road.

(f) **DECISION & CONDITIONS**

DECISION: PROVISIONAL CONSENT IS GRANTED

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

1. An acceptable reference plan or legal description of the severed lands and the deed or Instrument conveying the severed lands shall be submitted to the Secretary-Treasurer for review and consent endorsement **within a period of one year** after the "Notice of Decision" is given under Section 53 (17) or (24) of the Planning Act.
2. The applicant shall provide the Secretary-Treasurer of the Land Division Committee with a digital copy of the registered reference plan.
3. The 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 of up to 5% of the value of the land pursuant to Section 51.1(3) of the Planning Act (Cash-in-Lieu of Parklands).
8. The applicant shall obtain an entrance location permit from the Township of Lanark Highlands. The applicant shall consult directly with the Township 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 applicant is advised that the lands are within a recognized "Wintering Area – Deer Yard", the future building envelope should be positioned on open lands. Limited tree cover should be removed, particularly browse and cedar trees. In the event that future development is proposed within the forested area, an Environmental Impact Statement may be required.*
2. *The applicant is also advised that where lands are within a recognized "Wintering Area – Deer Yard" that landowners are encouraged to keep domestic pets (dogs) leashed or penned at all times.*
3. *The Mississippi Valley Conservation Authority advises that in the event shoreline work is proposed along the unnamed tributary of Paul's Creek, written permission may be required from MVCA pursuant to Ontario Regulation 153/06 - "Development, Interference with Wetlands and Alterations to Shorelines and Watercourses".*

4. *In addition, any proposed works in or near the tributary should be reviewed by MVCA to ensure there will be no harmful alteration, disruption or destruction of fish habitat. Authorization under Section 35 of the Fisheries Act may be required for such work.*
5. *The MVCA also advises that the unclassified wetland on the retained land should remain undisturbed.*
6. *It is recommended that the applicant review available water well records of adjacent lands to determine that there is adequate potable water for a residential dwelling.*
7. *The Leeds Grenville and Lanark District Health Unit advises that additional sandy loam fill may be required in the septic system area.*
8. *The applicant is advised that no access to the retained lands will be permitted from McDonald's Corners Road (County Road 12).*
9. *The County of Lanark advises that, prior to the issuance of a building permit, Development Charges must be paid in full.*
10. *Endangered Species Act, 2007, and Species at Risk in Ontario Background
The ESA 2007 protects both species and habitat. Section 9 of the ESA "prohibits killing, harming, harassing, capturing, possessing, collecting, buying, selling, trading, leasing or transporting species that are listed as threatened, endangered or extirpated". Section 10 of the ESA, 2007 prohibits damaging or destroying habitat of endangered or threatened species. Protected habitat is either based on general definition in the Act or prescribed through a regulation. The ESA 2007 defines general habitat as an area on which the species depends, directly or indirectly, to carry on its life processes, including reproduction, rearing, hibernation, migration or feeding.*

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

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



LAND DIVISION STAFF REPORT

APPLICATION FOR CONSENT

Owner: George & Robert Martin **Hearing Date:** February 10, 2014
Agent: Tracy Zander, ZanderPlan Inc.
LDC File #: B13/133
Municipality: Township of Drummond/North Elmsley
Geographic Township: North Elmsley **Lot:** 11 **Conc.:** 7
Roll No. 0919 908 010 41901 **Consent Type:** New Lot

Purpose and Effect: To sever a 1.62-ha residential building lot and retain a 14.13-ha landholding with an existing dwelling at 334 Station Road.

DETAILS OF PROPOSAL	Land to be Severed	Land to be Retained
Existing Use Proposed Use	Vacant Residential	Residential Residential
Area	1.62 ha	14.14-ha
Frontage	38.13 m	430 m
Depth	94.67 m	400 m
Road - Access to	Municipal Road	Municipal Road
Water Supply Sewage Disposal	Proposed well Proposed septic	Private Well Private septic system
Official Plan Designation -Conformity?	Rural, Wetland, Woodland overlay Yes	
Zoning By-law Category -Area Required (min.) -Compliance? -Frontage Required (min.) -Compliance?	Rural 0.4-ha Yes 45 m Yes	Rural & Wetlands 0.4-ha Yes 45 m Yes

(a) APPLICATION REVIEW

Provincial Policy Statement - Provincial Interests were identified as follows:

1.1 Managing and Directing Land Use

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

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

1.6 Infrastructure and Public Service Facilities

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

2.1 Natural Heritage

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

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

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

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

County Official Plan – Section 3.0 Rural Policies, Section 4.3.4 Local Roads, Section 4.4 Water and Wastewater, Section 8.2.2 Consents.

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

Local Official Plan – Section 3 General Provisions, Section 4.3 Rural Policies, Section 5.3 Local Roads, Section 6.3 Division of Land.

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

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

The Township of Drummond / North Elmsley advises that the proposal does not comply with the zoning by-law regulations – re-zoning is 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:

Township Planner's Report

Thank you for circulating the Township of Drummond/North Elmsley on this application. Township staff have reviewed the application with respect to its conformity with the Township's Official Plan and Zoning By-law. As indicated, the Martins seek permission to sever a 4 acre residential building lot from their existing 35 acre lot. The severed lot will be accessed from a cul-de-sac at the end of Moore Place, which is a public road that was developed as part of the Pine Arbour Subdivision. The Martin property abuts this subdivision, but is not part of it. The retained lands front on Station Road and an unrelated lot addition application has also been submitted at the far northern end of the property. According to the Township's records, three lots have been taken off of the Station Road frontage since 1979 and as such no future severances would be possible

along that road. Since the Township's Official Plan contemplates additional lot creation through consent on lots fronting on more than one public road, an additional application fronting on Moore Place can be considered.

With the exception of some Provincially Significant Wetland at the northern end of the retained lands and far from the severed lands, the entire property is designated Rural in the Township's Official Plan, although the severed lands have been identified with a significant woodland overlay. To address this constraint, the applicants were directed to undertake an Environmental Impact Study, which was prepared by Ecological Services and suggested that there would be no impact on species at risk or ecological functions of the woodland if future development were limited to a roughly one acre building envelope near the road. To accommodate the natural features as per the Official Plan's requirements, the Township suggests a development agreement be implemented as a condition of consent approval whereby the 'no site alteration' envelope is formalized. Considering this application within the context of the general intent of the Rural Designation, it is noted that residential development is typically allowed on a limited basis, provided that it is protective of the Township's rural character. In this case, the creation of a lot at the end of a cul-de-sac adjacent to (but not part of) a subdivision is consistent that intent, provided that all other policies are addressed. The construction of a single dwelling on a large lot with a minimum of site disturbance is compatible with the general character of residential development in that area and it is not expected that this proposal will have adverse impacts on the natural or built character of the area or the provision of municipal services. ·

Prior to any final approval of this application however, there are access and frontage issues that will need to be addressed. While access to the lot would be provided off of Moore Place, a one foot reserve at the property line adjacent the cul-de-sac was identified. This reserve is identified as a block on the original subdivision plan that was transferred to the Township however not assumed as part of the road. It is assumed this reserve was originally put in place to control driveway access from the larger Martin property. Neither the Roads Manager nor the Planner object to the lifting of the reserve and note that an assumption by-law would need to be passed by Council and registered incorporating this block into the Township's road network. Furthermore, it is noted that the only public road access to the proposed lot is from the cul-de-sac and as such the total road frontage would only be 115 feet, which is short of the 146 feet required by the Zoning By-law. Relief from that provision of the Zoning By-law would be required and Staff suggest that a minor variance application to allow a reduced frontage could be contemplated.

Provided that the issues raised in the foregoing paragraphs are addressed, Staff are of the opinion that this application will be consistent with the policies of the Township's Official Plan. As such, Drummond/North Elmsley Township supports this application as submitted, provided that the conditions as indicated on the attached Municipal Reply Form are met.

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

- The balance of any outstanding taxes and fees owing shall be paid to the Township.

- The Applicant shall provide the Township with a registered copy of all reference plans associated with this application if a survey is required by the Registry Office.
- The Applicant shall obtain a Civic Address Number from the Township of Drummond/North Elmsley. The applicant shall consult directly with the Township in this regard.
- The Applicant shall confirm that a residential entrance to the subject lot is viable. The Applicant shall consult directly with the Township of Drummond/North Elmsley in this regard.
- 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. Furthermore, the area of land described as Block 59 in Registered Plan No. 5623 shall be incorporated into the Township's road network at no cost to the Township. The Township's Roads Superintendent shall be consulted prior to commencing a survey to determine the amount, if any, of road widening required.
- Prior to final approval, the severed lot shall be brought into compliance with the Township's zoning policies.
- The applicant shall enter into a Development Agreement with the Township to implement the recommendations of the Environmental Impact Statement submitted by Ecological Services for the purpose of minimizing disturbance on the forested area and natural features contained therein.

Conservation Authority - Rideau Valley Conservation Authority

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

The application seeks approval for the creation of a 1.62 hectare lot, retaining 14.13 hectares with frontage on Station Road. There is no new development proposed as a result of this application.

The Property

The new lot is not situated within the adjacent wetlands or its adjacent lands. Portions of the returned parcel are contained within the 120 metre adjacent lands of the provincially significant wetland (Port Elmsley #/2) and the wet land itself (see attached mapping).

Review Comments and Recommendations

We have reviewed the Environmental Impact Statement submitted with this application. This report (Ecological Services, October 8, 2013) has stated that the woodland is not considered to be significant considering the size, ecological function, water protection, linkages, diversity, unique character and economic/social values. The report further considers the relative location of the new lot and the restriction of development to a specific relatively small envelope close to the existing municipal road so as to minimize any impact to the forest area.

The RVCA agrees with the recommendations of the Ecological Services Report.

As the proposed lot is not in an area subject to our regulatory jurisdiction concerns, we have no objection to this lot creation.

To note, portions of the retained lands are subject to our Ontario Regulation 174-06 (Development, Interference with Wetlands and Alteration to Watercourses and Shorelines) for any site alteration. Should any works be proposed within 120 metres of the wetland boundary in the future, an EIS and prior written approval from the RVCA is required as per our Regulation 174/06. As per provincial planning policy, no development is permitted within the wetland.

Septic Office – Leeds, Grenville and Lanark District Health Unit
Severed – A 1.62 ha parcel of vacant land (4 acres) that is mainly wooded at the end of the existing cul-de-sac. Additional sandy loam fill will be required in the area of the future tile bed.

Retained Lands: A 14.13 hectare parcel of land with an existing house serviced by a raised sewage system. 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 – Subsequent to review by our local Engineering Department of the above noted lands to be severed, it has been determined that Bell Canada has no installations over these lands and therefore no requirement for easement protection.

We have no concerns or objection to the proposed severance.

(c) **PUBLIC INPUT**

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

(d) **PLANNING REVIEW**

Background and Summary

The applicant proposes to sever a 1.62-ha residential lot and retain a 14.13-ha landholding with an existing dwelling located at 334 Station Road.

The subject lands are located in an area characterized by typical urban type residential (Pine Arbour Subdivision) to the south and residential on larger type (estate Lots) along Station Road to the north west. Three (3) previous severance were taken off the original landholding – 1992, 1993 and 1996, however all three of these fronted on Station Road. A “Closed Waste Site” is located approximately 400 m to the north west. This site was closed in approximately 1980 which required subsequent testing to ensure no contamination to adjacent properties. The Township received notice in 2011, that no further testing would be required.

As requested by the municipality, an Environmental Site Evaluation was prepared by Ecological Services to address the significant woodland constrain overlay as outlined in

the Township's Official Plan mapping. The report concluded that, the site does not meet the criteria to be considered as a significant wildlife habitat and that the woodland is not significant, however a development enveloped (disturbance area) should be established.

The lands to be severed are accessed via Moores Place, a municipally maintained road.

Bedrock Inventory – Dolostone, sandstone

Official Plan Policies

- 1/ Lanark County Sustainable Communities Official Plan - Section 8.2.2 Consents. Lanark County, through an appointed Land Division Committee is the approval authority for the issuance of consents. Lot creation by consent shall be permitted where lot creation by plan of subdivision is deemed to be unnecessary. Consideration of 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/ Drummond / North Elmsley Official Plan Policies for the Division of Land are found in Section 6.3 of the OP. Generally the consent process will be used for the purpose of creating a limited number of lots. Where more than three (3) lots are proposed, development shall occur by plan of subdivision. A number of "general policies" also apply to the division of land, including: hamlets are primary focus for development, no undue extension of major service required, supporting studies as required, must have existing public road frontage, size and setbacks appropriate to zoning designation, MDS separation, no development on lands subject to hazards, flooding etc. . The lot creation date for Drummond / North Elmsley is January 1, 1979. Section 6.3.2.6.5 of the consent policies adds more than three lots may be created on large properties which front on two or more roads, such as through lots, where development, along each road frontage can be considered on its own merits because of the distance separating the respective areas to be developed.
- 3/ Woodlands
The area has considerable land masses mapped as 'woodlands', care should be taken in any development proposal to maintain the existing tree cover. Woodland Development Policies have been established by the Town of Mississippi Mills.

Zoning

The subject property is currently within the rural section of the Zoning By-law, which permits a number of uses, including single-detached dwellings. The proposed lot does not meet the minimum lot frontage and will require a re-zoning application.

Conclusion

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

which is appropriate in the rural setting. The application can meet the consistent with test of the Provincial Policy Statement.

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

(e) **MINUTES – February 10, 2014**

Tracy Zander (ZanderPlan Inc.) agent attended the hearing and gave evidence under oath.

Ms. Zander advised that there is no potential for future severance at this location, as all the road frontage on the cul-de-sac is to be taken by this proposal.

Committee reviewed the staff report and draft conditions.

(f) **DECISION & CONDITIONS**

DECISION: PROVISIONAL CONSENT IS GRANTED

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

1. An acceptable reference plan or legal description of the severed lands and the deed or Instrument conveying the severed lands shall be submitted to the Secretary-Treasurer for review and consent endorsement **within a period of one year** after the "Notice of Decision" is given under Section 53 (17) or (24) of the Planning Act.
2. The applicant shall provide the Secretary-Treasurer of the Land Division Committee with a digital copy of the registered reference plan.
3. The 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.
4. 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.
5. Satisfactory evidence shall be provided to the Township of Drummond / North Elmsley confirming that the lot to be severed and the lot to be retained comply with the pertinent provisions of the Zoning By-law. In the event of non-compliance, appropriate relief shall be obtained either by way of a minor variance or a zoning by-law amendment.

6. That the applicant enter into a Development Agreement and/or Site Plan Agreement with the Township of Drummond / North Elmsley. The wording of the agreement shall be acceptable to the Municipality to implement the recommendations of the Environmental Impact Statement prepared by Ecological Services, dated October 8, 2013.
7. The applicant shall confirm that a residential entrance to the subject lot is viable. The applicant shall consult directly with the Township of Drummond / North Elmsley in this regard.
8. The applicant shall obtain a Civic Address Number from the Township of Drummond / North Elmsley. The applicant shall consult directly with the Township in this regard.
9. Sufficient land for Road Widening purposes shall be deeded to the Township of Drummond / North Elmsley 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. Furthermore, the area of land described as Block 59 in Registered Plan No. 5623 shall be incorporated into the Township's road network at no cost to the Township. The Township's 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 Drummond / North Elmsley stating that condition #3 through #9 has been fulfilled to their satisfaction.

NOTES

1. *The Rideau Valley Conservation Authority advises that, portions of the retained lands are subject to our Ontario Regulation 174-06 (Development, Interference with Wetlands and Alteration to Watercourses and Shorelines) for any site alteration.
Should any works be proposed within 120 metres of the wetland boundary in the future, and EIS and prior written approval from the RVCA is required as per our Regulation 174/06. As per provincial planning policy, no development is permitted within the wetland.*
2. *The Leeds Grenville and Lanark District Health Unit advises that additional sandy loam fill will be required in the area of the future tile bed.*
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 County of Lanark advises that, prior to the issuance of a building permit, Development Charges must be paid in full.*
5. *Endangered Species Act, 2007, and Species at Risk in Ontario Background
The ESA 2007 protects both species and habitat. Section 9 of the ESA "prohibits killing, harming, harassing, capturing, possessing, collecting, buying, selling,*

trading, leasing or transporting species that are listed as threatened, endangered or extirpated". Section 10 of the ESA, 2007 prohibits damaging or destroying habitat of endangered or threatened species. Protected habitat is either based on general definition in the Act or prescribed through a regulation. The ESA 2007 defines general habitat as an area on which the species depends, directly or indirectly, to carry on its life processes, including reproduction, rearing, hibernation, migration or feeding.

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

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



LAND DIVISION STAFF REPORT

APPLICATION FOR CONSENT

Owner: Andrea Mary McCormick **Hearing Date:** February 10, 2014
Agent: ZanderPlan Inc. (John Lunney)
LDC File #: B13/152
Municipality: Township of Lanark Highlands
Geographic Township: Lavant **Lot:** 11 **Conc.:** 1
Roll No. 0940 001 010 01800 **Consent Type:** Lot Addition

Purpose and Effect: To sever a 1.46-ha parcel of land as a lot addition to lands owned by Kenneth Brian McCormick at 230 Lavant Darling Road.

DETAILS OF PROPOSAL	Land to be Severed	Land to be Retained
Existing Use	Vacant	Residential
Proposed Use	Lot Addition - Residential	Residential
Area	1.46 ha	2.2 ha
Frontage	N/A	181.4 m
Depth	152.4 m	170 m
Road - Access to	N/A	Municipal Road
Water Supply	n/a	Private Well
Sewage Disposal	n/a	Private Septic
Official Plan Designation -Conformity?	Rural Yes	
Zoning By-law Category -Area Required (min.) -Compliance? -Frontage Required (min.) -Compliance?	Rural n/a Lot Addition	Rural 1.0-ha Yes 60 m Yes

(a) **APPLICATION REVIEW**

Provincial Policy Statement - Provincial Interests were identified as follows:

1.1 Managing and Directing Land Use

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

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

1.6 Infrastructure and Public Service Facilities

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

2.1 Natural Heritage

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

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

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

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

3.1 Natural Hazards

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

County Official Plan – Section 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 5.3.6 Deer Yards, 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 zoning by-law regulations.

(b) AGENCY REVIEW

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

Township Planning Report

1.0 Review of Proposal and Application

An application has been received from the County of Lanark Land Division Committee for the a lot addition on the lands legally described as Part Lot 11, Concession 1, geographic Township of Lavant now in the Township of Lanark Highlands, municipally known as 230 Lavant Darling Road.

The applicant wishes to sever a 3.6 acre parcel of land and add it to lands located at the Part of Lot 11, Concession 1, Lavant. The property is designated as Rural, on Schedule 'A' of the Township's Official Plan and zoned Rural on Schedule 'A 1' in Zoning By-law 2003-451.

1.1 PROVINCIAL POLICY

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

The Provincial Policy directs that in rural areas limited residential development is permitted and that it should be appropriate to the infrastructure which is planned or available and in addition shall be compatible with the rural landscape.

Section 1.1.4, Rural areas in municipalities, outlines development policy for rural areas. The application is consistent with these policies.

1.2 OFFICIAL PLAN

The subject lands are designated Rural on Schedule 'A' of the Township of Lanark Highlands Official Plan. The designation allows for residential development.

Any application for consent must be evaluated with the policy directives of Section 10.11.13, which provides direction when considering the division of lands within the Township. The proposed lot addition is in conformity with the existing Official Plan's relevant policies.

1.3 ZONING

The lands are zoned as Rural on Schedule "A 1" by Zoning By-law 2003-451. The lot addition is a lot line adjustment between family members for land which was part of his mother's estate.

1.4 DISCUSSION

The application will not result in the creation of a new lot and is a lot line adjustment.

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.

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 and convey a 1.46 ha parcel as a lot addition to the adjacent lands. The retained parcel is approximately 2.2 ha, with an existing dwelling.

PROPERTY CHARACTERISTICS

According to a review of available GIS mapping and aerial photography, the subject property is entirely located within an area which has been classified by the Ministry of Natural Resources (MNR) as a significant deer wintering area. In addition, mapping indicates that an unclassified wetland exists on the northeastern half of the proposed severed lands. And, although not indicated on mapping, a wetland also appears to exist in the northeastern section of the proposed retained lands. No other significant natural heritage features or natural hazards were identified.

Natural Heritage Features

Deer Yard

Guidelines (Natural Heritage Reference Manual, 1999) prepared in support of the Provincial Policy Statement (PPS) indicate that new development, including lot creation, shall only be permitted within significant wildlife habitat if it has been demonstrated that there will be no negative impacts on the natural features or ecological functions of the feature identified. This is generally assessed through an Environmental Impact Statement (EIS).

The deer yard identified on the subject property is considered significant wildlife habitat. However, given that the subject application involves a lot addition, it does not result in the creation of a new lot or any enhanced potential for impacts to the deer yard. Therefore, it is our opinion that there would be limited value in conducting an EIS at this time. However, if development is proposed within the deer yard in the future, an EIS may be required at that time.

Unclassified Wetland

Unclassified wetlands were identified on the severed and retained lands. Wetlands provide numerous environmental benefits, which range from potential fish habitat to acting as a natural filtration system for clean groundwater; therefore, MVCA strongly encourages their preservation. We recommend that these wetlands remain undisturbed.

Natural Hazards - *Organic Soils*

Wetlands inherently consist of organic soils, which provide poor drainage and unstable characteristics, making them unsuitable for development. It is, therefore, recommended that potential future development occur outside of these poorly drained areas.

CONCLUSION

With the above in consideration, MVCA does not have any objection to the subject application.

NOTES

An EIS may be required for future proposals for development within the deer yard on the subject property.

Wetlands should remain undisturbed on the retained land severed lands.

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

(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 1.46-ha parcel of land as a lot addition to lands owned by Kenneth Brian McCormick – 230 Lavant Darling Road, and retain a 2.2-ha residential lot at 348 Lavant Darling Road..

The subject lands are located in an area characterized by limited residential on larger type (estate) lots. The lands are surrounded by Crown Lands.

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

Deer Yard

The subject property is located within the locally known ‘Lavant/Darling Deer Yard’. Winter deer yards provide suitable habitat for the White Tailed Deer, including natural browse, fresh running water and cover from the harsh winter weather. If approval is granted, the applicant should be advised that domestic animals (dogs) should be kept on a leash or in a pen and that tree removal should be kept to a minimum, particularly removal of natural browse (eastern white cedar).

Mining

The Lanark Highlands Official Plan and the AMIS (Abandoned Mines Information System) indicates that the lands in this area may have historical mining site, which has been described as a ‘trench’ type and is less than 2m in depth. The agent consulted with Northern Mines and Development who have advised that they have no issues with the site. A note may be included to warn the landowner to undertake his or her own independent investigation to validate the information.

Bedrock Inventory – diorite, gabbro, peridotite.

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. A number of general policies also apply to the division of lands, including: size and setbacks appropriate to zoning designation, supporting studies as required, MDS separation, frontage on public road unless exempted, no development on lands subject to hazards, flooding, etc., extension of major services not required.
- 3/ Woodlands
The area has considerable land masses mapped as 'woodlands', care should be taken in any development proposal to maintain the existing tree cover. Woodland Development Policies have been established by the Township of Lanark Highlands.

Zoning

The subject property is currently within the rural section of the Zoning By-law, which permits a number of uses, including single-detached dwellings. The proposed lot addition provides additional lot area for site development. Any new development will be required to meet the minimum setback requirements of the Zoning By-law.

Conclusion

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

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

(e) **MINUTES – February 10, 2014**

John Lunney (ZanderPlan Inc.) agent attended the hearing and gave evidence under oath.

Mr. Lunney confirmed that the lot to be enlarged as access to the Township road over the unopened road allowance and an easement agreement with MNR.

Committee reviewed the staff report and draft conditions.

(f) **DECISION & CONDITIONS**

DECISION: PROVISIONAL CONSENT IS GRANTED

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

1. An acceptable reference plan or legal description of the severed lands and the deed or Instrument conveying the severed lands shall be submitted to the Secretary-Treasurer for review and consent endorsement **within a period of one year** after the "Notice of Decision" is given under Section 53 (17) or (24) of the Planning Act.
2. The applicant shall provide the Secretary-Treasurer of the Land Division Committee with a digital copy of the registered reference plan.
3. The 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 Kenneth Brian McCormick described as Part 6 Plan 26R-476, being Part of Lot 11 Conc. 1 geographic Township of Lavant, 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 #4 through #7 has been fulfilled to their satisfaction.

NOTES

1. *The applicant is advised that the lands are within a recognized "Wintering Area – Deer Yard", the future building envelope should be positioned on open lands. Limited tree cover should be removed, particularly browse and cedar trees.*
2. *The applicant is also advised that where lands are within a recognized "Wintering Area – Deer Yard" that landowners are encouraged to keep domestic pets (dogs) leashed or penned at all times.*

3. *An Environmental Impact Statement may be required for future proposals for development within the deer yard on the subject property.*
4. *The MVCA advise that the wetlands located on the severed and retained lands should remain undisturbed.*
5. *Endangered Species Act, 2007, and Species at Risk in Ontario Background
The ESA 2007 protects both species and habitat. Section 9 of the ESA “prohibits killing, harming, harassing, capturing, possessing, collecting, buying, selling, trading, leasing or transporting species that are listed as threatened, endangered or extirpated”. Section 10 of the ESA, 2007 prohibits damaging or destroying habitat of endangered or threatened species. Protected habitat is either based on general definition in the Act or prescribed through a regulation. The ESA 2007 defines general habitat as an area on which the species depends, directly or indirectly, to carry on its life processes, including reproduction, rearing, hibernation, migration or feeding.*

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

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



LAND DIVISION STAFF REPORT

APPLICATION FOR CONSENT

Owner: Chris T. Lake Inc. **Hearing Date:** February 10, 2014
Agent: Tracy Zander, ZanderPlan Inc.
LDC File #: B13/112, B13/113, B13/114 & B13/115
Municipality: Tay Valley Township
Geographic Township: South Sherbrooke **Lot:** 20 & 21 **Conc.:** 3
Roll No. 0911 914 020 51500
Consent Types: lot addition, new lot & ROW, new lot, and lot addition

Purpose and Effect:

B13/112 – to sever a lot a 0.51-ha parcel of land as a lot addition to lands owned by Nina David & Geoffrey Johnson t/w a r-o-w;
 B13/113 – to sever a 0.56-ha residential lot t/w a r-o-w;
 B13/114 – to sever a 0.35-ha parcel of land as a lot addition to lands owned by Jeff & Anne Bendig;
 B13/115 – to sever a 2.65-ha residential/tourist commercial building lot; and to retain a 1.48-ha residential lot. The lands are accessed via Christie Lake North Shore Road.

DETAILS OF PROPOSAL	Land to be Severed B13/112	Land to be Severed B13/113
Existing Use Proposed Use	Vacant Lot addition & R-O-W	Vacant Residential (New Lot)
Area Frontage Depth Road - Access to	0.51 ha 35.9 m Irregular Municipal Road	0.56 ha 70.9 m Irregular Registered R-O-W
Water Supply Sewage Disposal	N/A N/A	Proposed Well Proposed Septic
Official Plan Designation -Conformity?	Rural Yes	
Zoning By-law Category -Area Required (min.) -Compliance? -Frontage Required (min.) -Compliance?	Rural n/a – Lot addition	Rural 1.0-ha No 60 m Yes

DETAILS OF PROPOSAL	Land to be Severed		Land to be Retained
	B13/114	B13/115	
Existing Use Proposed Use	Vacant Lot Addition	Vacant Residential (New Lot)	Vacant Residential
Area Frontage Depth Road - Access to	0.35 ha 94.2 m Irregular Registered R-O-W	2.65 ha 39.6 m Irregular Municipal Road	1.48 ha 61.1 m on Lane 42A Irregular Registered R-O-W
Water Supply Sewage Disposal	Proposed Well Proposed Septic	Proposed Well Proposed Septic	Proposed Well Proposed Septic
Official Plan Designation -Conformity?	Rural		
Zoning By-law Category -Area Required (min.) -Compliance? -Frontage Required (min.) -Compliance?	Rural n/a – lot addition	Rural & Tourist Commercial 2.0-ha Yes 60 m No	Rural 1.0-ha Yes 60 m Yes

(a) **APPLICATION REVIEW**

Provincial Policy Statement - Provincial Interests were identified as follows:

1.1 Managing and Directing Land Use

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

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

1.6 Infrastructure and Public Service Facilities

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

Section 1.6.6 Planning authorities shall plan for and protect corridors and rights-of-way for transportation, transit and infrastructure facilities to meet current and projected needs.

2.1 Natural Heritage

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

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

Section 2.1.4 Development and site alteration shall not be permitted in: (b) significant woodlands south and east of the Canadian Shield, unless it has been demonstrated that

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

2.2 Water

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

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

2.6 Cultural Heritage and Archaeology

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

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

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

3.1 Natural Hazards

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

County Official Plan – Section 3.0 Rural Policies, Section 4.3.4 Local Roads, Section 4.4 Water and Wastewater, Section 5.0 Natural Heritage, section 7.0 Public Health and Safety, Section 8.2.2 Consents.

The proposals conform to the designations and policies of the Official Plan for the County of Lanark.

Local Official Plan – Section 2 General Development Policies, Section 3.4 Natural Heritage, Section 3.5 Natural Hazard, Section 3.6 Rural Policies, section 4.4 Township Roads, Section 4.5 Private Roads, Section 5.2 Land Division.

Tay Valley Township has advised that the proposal conform to the designations and policies of the Official Plan.

Zoning By-law - Section 3 General Provisions, section 6.3 Tourist Commercial, Section 10 Rural Zones

Tay Valley Township advises that:

B13/112 – The proposal complies with the zoning by-law regulations.

B13/113 – The proposal does not comply with the zoning by-law regulations. The lot will require rezoning to Residential Limited Services as it will be accessed by the private road 'Christie Lake Lane 41A'. The 0.56-ha proposed new lot meets the 0.45-ha minimum lot size for Residential Limited Services Zone.

B13/114 – The proposal complies with the zoning by-law regulations.

B13/115 – The proposal does not comply with the zoning by-law regulations. The lot would need to be rezoned to Rural Special Exception to reflect the reduced frontage and to remove the Tourist Commercial Zone and the Waste Disposal Zone.

Retained lands – Will require rezoning to Residential Limited Services Special Exception to reflect both the 40 m setback required on the west side of the property and the building envelopes identified by the geotechnical report.

(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
B13/112

The proposal is to sever a 0.51 ha parcel of land for a lot addition and retain a 5.04 ha vacant parcel. The lot addition would increase the lot at 220 Patterson Road from 0.97 ha to 1.48 ha to enable the land owner to undertake an organic gardening operation. A 6 m wide right of way is also proposed across the lot addition in favour of the retained parcel. Indicate the following:

Official Plan Designation: **Rural**

Applicable Sections:

- *5.2 Land Division* - allows for the creation of new lots by consent where frontage and area requirements are met. The lot addition does not have to meet area requirements as it is adding to an existing lot. The proposed right of way raises the question of whether the applicant intends to ask for a severance of the western part of the retained lands in the future. The applicant has stated that the purpose of the proposed right of way is to allow the landowner of the retained lot to access the western portion of the lot without the expense and difficulty of constructing a road from the east side of the lot. The right of way does not provide sufficient frontage on Patterson Road for a severed lot from the retained parcel. Therefore, if the right of way were to be granted, a stipulation in a Development Agreement would be required stating that there would be no severances in the future from the retained parcel that would use the right of way for access.
- *3.6 Rural* - allows for single family dwellings and agricultural use in the rural designation.
- *2.17.4.2 Land Use Compatibility* - states that where proposed development is likely to have a significant influence relating to an incompatible land use, a feasibility study must be undertaken. The location of the rail line in close proximity

necessitated a *Noise and Vibration Study* being initiated by the applicant. The study by HGC Engineering identified noise mitigation requirements that will have to be recorded on title should the severance be approved. Sound attenuating building construction will be required. Central air conditioning will also be required so that windows may remain closed. A sworn undertaking holding CP and the township harmless from complaints arising from operation of the railway and harmless from the lack of a berm will be required.

- *2.19.3 Natural Hazard Features Steep Slopes and Erosion Lands* - states that a geotechnical study is required for lot creation that cannot meet the 10m setback from the top of a steep slope. A geotechnical study was undertaken by Concord Engineering. No top of bank was identified on the land for the proposed lot addition.
 - *2.21.4.1.2 Endangered and Threatened Species Habitat and Adjacent Lands* - states that no development or site alteration shall be permitted in significant portions of the significant habitat. Development may be permitted on adjacent lands within 50 meters of the significant habitat subject to the completion of an environmental impact assessment (EIS) which identifies that there will not be any negative impact to the habitat. An EIS was undertaken by McIntosh Perry for the property and setbacks from whip-poor-will were identified for the proposed lot addition. Communication from Ministry of Natural Resources (MNR) received January 8, 2014 indicates there may be grey rat snake habitat in the area. **MNR** is to provide mapping of the habitat. If development is proposed on the lot addition its timing will be constrained by the breeding season for these endangered species.
 - *Section 2.23 Water Quality* - states that the intent of the 30 m water setback is to prevent the disturbance of shoreline area as a result of the placement of buildings and structures. A greater setback may be required to protect a water body where soil cover is thin or steep slopes are present. The RVCA has identified a need for a 40 m setback for any disturbance on this property based on the formula from the Rideau Lakes Basin Carrying Capacity model.
- Zoning By-law Category: **Rural (RU)**
- Applicable Sections: 10.2 Rural - Lot area of 1 ha is met for the retained lot at 5.04 ha while the 0.51 ha lot addition does not have to meet a minimum lot size.
 - **Rideau Valley Conservation Authority:** has no objection to this application provided that a 40 m setback is recognized for development through a Development Agreement. The RVCA questioned the purpose of the proposed right of way.
 - **MRSSO:** supports this application as it will enhance the ability to install or operate a septic system on the lot receiving the addition. Development on the retained land will be limited due to lot dimensions, topography, presumed shallow soils, and the required setback from the railway lands. Tertiary treatment and significant imported fill may be the only option. An engineered site plan and sewage system design is recommended.
 - **Public comments:** Eighteen members of the public commented in support of this lot addition. No objections were received to the lot addition.

B13/113

The proposal is to sever a 0.56 ha parcel of land for a residential lot and retain a 4.48 ha vacant parcel. A 2 m wide pedestrian right of way is proposed over this proposed lot to access the lake in favour of proposed severance B 13/115 (fronting on Christie Lake North Shore Rd).

Official Plan Designation: **Rural**

Applicable Sections:

- **5.2 Land Division** - allows for the creation of new lots by consent where frontage and area requirements are met.
The proposed 2m wide pedestrian access is significantly less than the 60 m frontage required for a waterfront lot and significantly less than the 50 m water frontage previously approved for an addition to an existing lot. In this case the access would be provided for a newly created lot which would set a precedent within the Township. The Township has expressed an interest in preventing back lot development through Issue Paper 21 for the Official Plan review.
- **3.6 Rural** - allows for single family dwellings and agricultural use in the rural designation
- **2.17.4.2 Land Use Compatibility** - states that where proposed development is likely to have a significant influence relating to an incompatible land use, a feasibility study must be undertaken. The location of the rail line in close proximity necessitated a *Noise and Vibration Study* being initiated by the applicant. The study by HGC Engineering identified noise mitigation requirements that will have to be recorded on title should the severance be approved.

Sound attenuating building construction will be required. Central air conditioning will also be required so that windows may remain closed. A sworn undertaking holding CP and the township harmless from complaints arising from operation of the railway and harmless from the lack of a berm will be required.

- **Section 2.23 - Water Quality** - states that the intent of the 30 m water setback is to prevent the disturbance of shoreline area as a result of the placement of buildings and structures. The water setback can be met for this lot.

Zoning By-law Category: **Rural (RU)**

- Applicable Sections: 10.2 - Lot area of 1 ha is met for the retained lot at 4.48 ha. The proposed lot would require rezoning to Residential Limited Services as it will be accessed by the private road Christie Lake Lane 41 A. The 0.56 ha proposed new lot meets the 0.45 ha minimum lot size for the Residential Limited Services Zone.

Rideau Valley Conservation Authority: has no objection to this proposed lot however, they are opposed to the 2m pedestrian right-of-way in favour of proposed lot B13/155. RVCA recommends a site plan control agreement be prepared at the time a building permit is applied for identifying the development envelope showing a 30 m setback from the lake, water access, and any issues to be addressed from the geotechnical report. They note there is some local drainage following the existing road access to the proposed lot which should be given attention when proposing development.

MRSSO: supports the proposed lot creation and strongly recommends having an engineered site plan and sewage design system using tertiary treatment to reflect the drainage patterns on the lot.

Public comments: Thirty-one members of the public objected to the proposed 2m wide easement over proposed lot B13/113 in favour of B13/115 to allow access to the lake. Objections were made on the basis that the easement would be creating a back lot without the 60 m sufficient frontage on the lake required by the Zoning By-law and that the potential for environmental impact on Christie Lake would be increased by the proposed access.

B13/114

The proposal is to sever a 0.35 ha parcel of land for a lot addition to allow more room for a septic system on the lot and retain a 4.13 ha vacant parcel.

Official Plan Designation: Rural

Applicable Sections:

- 5.2 Land Division - allows for the creation of new lots by consent where frontage and area requirements are met. The lot addition does not have to meet area requirements as it is adding to an existing lot.
- 3.6 Rural- allows for single family dwellings and agricultural use in the rural designation.
- Section 2.23 Water Quality - states that the intent of the 30 m water setback is to prevent the disturbance of shoreline area as a result of the placement of buildings and structures. The 30 m setback can be met on the existing property. The lot addition provides additional room for a septic system.

Zoning By-law Category: **Rural (RU)**

- Applicable Sections: 10.2 - Lot area of 1 ha is met for the retained lot at 4.13 ha while the 0.35 ha lot addition does not have to meet a minimum lot size. The proposed 16 m frontage on the water is sought to establish permanent title to water access that has been enjoyed by the family for over 60 years through a legal agreement that was not registered on their deed.
- **Rideau Valley Conservation Authority:** supports the lot addition and stated that no further expansion of water access is to occur.
- **MRSSO:** supports the lot addition as it will enhance the ability to install or operate a septic system on the lot receiving the addition. Development on the retained land will be limited due to lot dimensions, topography, presumed shallow soils, and the required setback from the railway lands. Tertiary treatment and significant imported fill may be the only option.
- **Public Comment:** Nineteen members of the public commented in support of this lot addition. No objections to the lot addition were received.

B13/115

The proposal is to sever a 2.65 ha parcel of land for a residential lot and retain a 1.48 ha vacant parcel.

Official Plan Designation: **Rural**

Applicable Sections:

- *5.2 Land Division* - allows for the creation of new lots by consent where frontage and area requirements are met.
- *3. 6 Rural*- allows for single family dwellings and agricultural use in the rural designation.
- *2.21.4.1.2 Endangered and Threatened Species Habitat and Adjacent Lands* - states that no development or site alteration shall be permitted in significant portions of the significant habitat. Development may be permitted on adjacent lands within 50 meters of the significant habitat subject to the completion of an environmental impact assessment (EIS) which identifies that there will not be any negative impact to the habitat. An EIS was undertaken by McIntosh Perry for the property and butternut were identified on the proposed lot and the retained lot. Communication from Ministry of Natural Resources (MNR) received January 8, 2014 indicates there may be grey rat snake habitat in the area. MNR is to provide mapping of the habitat. Development on the lot will be constrained by the breeding season for the snake and by setback from the butternut.
- *2.17.4.2 Land Use Compatibility* - states that where proposed development is likely to have a significant influence relating to an incompatible land use, a feasibility study must be undertaken. The location of the rail line in close proximity necessitated a *Noise and Vibration Study* being initiated by the applicant. The study by HGC Engineering identified noise mitigation requirements that will have to be recorded on title should the severance be approved.

Sound attenuating building construction will be required. Central air conditioning will also be required so that windows may remain closed. A sworn undertaking holding CP and the township harmless from complaints arising from operation of the railway and harmless from the lack of a berm will be required.

Zoning By-law Category: **Rural (RU). Tourist Commercial (TC). Waste Disposal (MD)**

- Applicable Sections: 10.2 - Lot area of 1 ha is met for the retained lot at 1.48 ha and for the proposed lot at 2.65 ha. The proposed lot does not meet minimum zoning provisions for frontage on Christie Lake North Shore Road and would require a special exception. The required frontage is 60 m. The applicant is proposing a frontage of 39.6m on the basis that this frontage has existed previously. (The new lot and retained parcel that are proposed will not reduce this road frontage as they will take access from the private road, Christie Lake Lane 42A.) The lot would need to be rezoned to Rural Special Exception to reflect the reduced frontage and to remove the Tourist Commercial TC Zone, and the Waste Disposal MD zone (which appears to be a mapping error). The special exception could further restrict the Rural uses to a single family dwelling and agricultural use as the place of public worship and kennel uses otherwise permitted may place an unacceptable increased burden on the traffic patterns in that area.

• **Rideau Valley Conservation Authority** does not object to the creation of the new lot. However, they do not support the proposed new 2m access to the water to accommodate this non-waterfront lot whether the use is tourist commercial or residential.

• **MRSSO** has no objection to this application. Development on the retained land will be limited due to lot dimensions, topography, presumed shallow soils, and the required setback from the railway lands. Tertiary treatment and significant imported fill may be the only option. An engineered site plan and sewage system design is recommended.

• **Public Comments:** Objections were made to the Tourist Commercial Designation of the proposed lot by 22 members of the public in the vicinity. The objections included:

- Lack of notification to the public of the tourist commercial zoning. The zoning for the property in 1978 under the Township of South Sherbrooke was Environmental Protection. In 1997 the South Sherbrooke Zoning By-law designated the property as split zoned between Rural and Tourist Commercial.
- The length of time since the property was actually used for Tourist Commercial purposes is almost 50 years (in 1965 the property was sold for residential purposes and in 1979 the Arliedale Lodge burnt down).
- Frontage on Christie Lake North Shore Road is insufficient for the Tourist Commercial use and the area zoned tourist Commercial is smaller than the required 2 ha.
- Sightlines for the road into the property are impeded so an increase in traffic should not be considered.
- Sections 3.6.5.2(2) (3) Commercial Policies of the Official Plan states Tourist Commercial uses must be appropriate for the proposed location. Uses shall be located so that they are readily accessible to tourist traffic with a minimum of disruption to adjacent residential uses. In addition vehicular access to tourist commercial uses shall be carefully controlled in order to ensure public safety.
- The character of the surrounding land uses are residential cottages. The public is of the opinion that tourist commercial use in this area would be incompatible with the existing residential uses because of the added noise, loss of privacy and increase in traffic.
- The proposed increase in Tourist Commercial intensity of use on a lake will be detrimental as the lake currently has 4 commercial establishments including 2 youth camps and the Walleye fishery in the lake has declined, the lake is within 1 mg/l of capacity for phosphorus based on the MOE Lake Capacity Handbook, development pressure on the lake will continue to increase as at least 6 severed but vacant lots exist, and a high use property owned by the Bathurst Homesteads exists in Station Bay.
- The requirement for setbacks or screening which are not clearly identified in the ZBL has not been met by the applicant so a proposed 150 m setback is proposed based on a kennel.
- The EIS is worthless for CT zone as it was conducted for residential impacts.

Other public comments included a concern that the area has traditionally been used as an access for ice fishing and this public access to the lake would be lost. Two public comments did not think any new lots should be created as Christie Lake Lane 42A was not in sufficient shape to support additional traffic.

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

Application #B13/112, (Part Lot 20, Concession 3, Geographic Township of South Sherbrooke) for a lot addition:

1. That, the balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to the Township.
2. That, the applicant pay any outstanding fees to the Township prior to final approval.
3. That, two (2) copies of an acceptable reference plan or legal description of the severed lands and the deed/transfers(s) be submitted to the Township.
4. That, the applicants enter into a Development Agreement with the Township requiring a 40 metre setback from water based on the RVCA report; identification of the building envelope from the geotechnical report; a railway warning clause as specified by the Canadian Pacific Railway for the railway and the Township; acoustic construction materials as indicated by the Noise and Vibration Study by HGC; whip poor will and grey rat snake protection measures as outlined by McIntosh Perry and the MNR; and no further severance of the retained parcel using the proposed right of way over the lot addition.
5. That, the retained lands be rezoned to Residential Limited Services with Special Exception to reflect the 40 metre setback required on the west side of the property and the building envelope identified by the geotechnical report be included in a development agreement for the retained lands."

Advisory Notes: The retained lands will have to be rezoned to Residential Limited Services Special Exception to reflect both the 40 m setback required on the west side of the property and the building envelopes identified by the geotechnical report.

Application #B13/113, (Part Lot 20, Concession 3, Geographic Township of South Sherbrooke) for a lot together with a right-of-way be approved:

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

4. That, the new lot be rezoned to Residential Limited Services.
5. That, a note be placed on title for the warning clause as specified by the Canadian Pacific Railway for the Railway and the Township.
6. That, the retained lands be rezoned to Residential Limited Services with Special Exception to reflect the 40 metre setback required on the west side of the property and the building envelope identified by the geotechnical report be included in a development agreement for the retained lands.
7. That, the applicant submit to the Township the \$200 cash-in-lieu of parkland requirement.
8. That, the new lot be created together with a Right-of-Way over the proposed lot #115 and either over the retained lands or proposed parcel #114."

Advisory Notes: The retained lands will have to be rezoned to Residential Limited Services Special Exception to reflect both the 40 m setback required on the west side of the property and the building envelopes identified by the geotechnical report.

Application #B13/114, (Part Lot 20, Concession 3, Geographic Township of South Sherbrooke) for a lot addition:

1. That, the balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to the Township.
2. That, the applicant pay any outstanding fees to the Township prior to final approval.
3. That, two (2) copies of an acceptable reference plan or legal description of the severed lands and the deed/transfers(s) be submitted to the Township.
4. That, the retained lands be rezoned to Residential Limited Services with Special Exception to reflect the 40 metre setback required on the west side of the property and the building envelope identified by the geotechnical report be included in a development agreement for the retained lands.
5. That, the proposed lot addition be subject to a Right-of-Way for proposed Lot #113 and the retained lot, if required."

Advisory Notes: The retained lands will have to be rezoned to Residential Limited Services Special Exception to reflect both the 40 m setback required on the west side of the property and the building envelopes identified by the geotechnical report.

Application #B13/115, (Part Lot 20, Concession 3, Geographic Township of South Sherbrooke):

1. That, the balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to the Township.

2. That, the applicant pay any outstanding fees to the Township prior to final approval.
2. 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.
4. That, the new lot be rezoned to Rural Special Exception to recognize the existing undersized frontage and the Tourist Commercial zone be removed as part of the rezoning.
5. That, a note be placed on title for the warning clause as specified by the Canadian Pacific Railway for the Railway and the Township and construction materials requirements as indicated by the Noise and Vibration Study by HGC.
6. That, the applicants enters into a Development Agreement with the Township requiring Butternut Protection Measures as outlined by McIntosh Perry and any rat snake protection measures required by MNR.
7. That, the retained lands be rezoned to Residential Limited Services with Special Exception to reflect the 40 metre setback required on the west side of the property and the building envelope identified by the geotechnical report be included in a development agreement for the retained lands.
8. That, the applicant submit to the Township the \$200 cash-in-lieu of parkland requirement.
9. That, sufficient land for Road Widening purposes, shall be deeded to Tay Valley Township 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 Public Works Manager shall be consulted prior to commencing a survey to determine the amount, if any, of road widening required.
10. That, existing Right-of-Way's on Christie Lake Lane 42 and Christie Lake Lane 42A be continued.
11. That, the proposed Lot #115 be subject to Right-of-Ways permitting access to the retained parcel and proposed Lot #113

Advisory Notes: The retained lands will have to be rezoned to Residential Limited Services Special Exception to reflect both the 40 m setback required on the west side of the property and the building envelopes identified by the geotechnical report.

Conservation Authority – Rideau Valley Conservation Authority – Nov 12, 2013
 The Rideau Valley Conservation Authority (RVCA) has reviewed these applications considering; Section 2.1 Natural Heritage and 3 .I 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 Basin Carrying Capacity and

Proposed Shoreland Development Policies (Rideau Lakes Study) and the related "Municipal Site Plan Evaluation Guidelines", Fish habitat concerns as per Section 35(1) of the Federal Fisheries Act review delegation on behalf of the federal Department of Fisheries and Oceans.

The Property

Generally this holding "arcs" along Christie Lake north shore, with an area of approximately 13.25 acres and waterfront of 375 metres. The site is bordered to the north by an active rail line with varying depths.

Shoreline slope conditions on the east end of the property (B 113, 114) are gentle within 50 metres of the lake. Moving west, the slope to water site becomes more pronounced. This slope increase and corresponding reduced soil cover and sensitive vegetation cover lead our office to recommend for varied setbacks for disturbance as per Rideau Lakes Study (see below for each lot).

Given the habitat and water quality conditions for the lake (Christie Lake Catchment summary, 2011- RVC/\) we have no concerns as regards lake capacity limits which would prevent new severances to be approved at this location. Christie Lake continues to have suitable habitat for warm water species and good recreational water quality and resilience so as to accommodate additional development, provided appropriate site management practices are adopted.

The Proposals

There are 2 lot additions and 2 proposed new lots to be created in this proposal. The applications have triggered the following reports/assessments relative to considerations:

- a. Geotechnical Assessment (Concord Engineering- June 18, 20 13)
- b. Environmental Impact Statement (McIntosh Perry- May 6, 20 13)

We also understand that a noise and vibration study related to the rail line has been undertaken.

The applications are as follows;

B13/112 (also noted as "Lot 1 ") - 0.51 ha lot addition to be attached to the adjacent property to the west of the holding. No additional development is proposed. There is also a proposed 6 metre wide right-of-way (R.O.W) which is to be granted to the retained lands from Patterson Road, across B13/112 lands to the west boundary of the retained lot.

B13/112 Comments and Recommendations

We concur generally with the findings and statements of noted EIS and slope stability as regards site conditions.

We note however, that the retained lot R.O.W. access from the west would be difficult given the municipal minimum road frontage restrictions. The east end of the retained lands appears to be suitable for development; the west end of the retained lands i.e. the narrow central portion may not allow for an appropriate setback for disturbance (including residence site and services and creation of a driveway). In this respect, our opinion versus that of the Concord Report would stipulate that a setback for development/disturbance should be in the order of a 40 metre setback (consider disturbance for a new access and possible development to the west portion of the

retained parcel). This setback of course relates to recreational water quality protection per the Rideau Lakes Study and Municipal Site Evaluation Guidelines as opposed to slope stability addressed in the Concord Geotechnical Report. In any event, the practical access and development envelope potential appears to be on the east end of the lot. This area would also appear to restrict development away from most of the sensitive habitat for Whip-poor-will birds and to a large extent, any butternut trees identified in the McIntosh Perry EIS.

*We do not object to this lot addition. We note that, should **any additional development** be proposed, we would support the preparation and implementation of a site plan to address our recommendation for a minimum 40 metre setback from the lake (or to the rear of the existing residence), whichever is greater. Should the Township wish to implement a zoning amendment to address the 40 metre setback, we would support.*

The RVCA acknowledges the municipal position/hat a new right-of way from the west end of the lot would not be allowable under the Township's current planning provisions. As there is insufficient public road frontage to allow offer access for a new lot creation at this location, there appears to be questionable purpose in a new right-of-way as shown on the site diagrams.

B13/113 (also noted as "Lot 2") amended- 0.56 ha new waterfront lot to be severed from the larger parcel, 4.13 ha (amended October 31, 2013) retained lands.

This proposed lot to be severed is level at the shore of Christie Lake, with a gradual incline from the shore on the east side of the lot to approximately 50 metres upland of the shore. At this point, the site rises rapidly, similar to the majority remaining land on this property to the west which has considerable slope to the lake. The rear portion of this proposed lot is dominated by this feature, as a ridge (see Concord report regarding geotechnical statement). There appears to be sufficient suitable area on the lower portion of the proposed lot to accommodate development considering a 30 metre setback from the lake (there may be an area atop the ridge on table land to the rear of the lot which would suffice as an alternate development site).

There is local drainage originating from the upper portion of the lot which follows alongside the existing access road/driveway of the proposed lot to the lake. While a watercourse is not defined, there is clearly a drainage outlet to the lake at the east lot line. Particularly given that the area for development on this lot appears to be restricted to the lower portion, attention should be given to the drainage on this area of the property. Servicing, water access/proposed clock placement should also be considered so as not to interfere with high water and increased now at the south east sector of the proposed lot.

There are no Species at Risk (Whip-poor-will or butternut) identified in the Environmental Impact Statement) which are located specifically on the proposed lot.

We have no objection to this application however we recommend that a site plan be prepared identifying the development envelope addressing a 30 metre water setback, water access path and access facility and addressing the geotechnical considerations of the Concord report.

B13/114 (also noted as Lot 3) amended- 0.35 ha lot addition to adjacent owner (Bendig) to add back lands and formalize an historical water access and frontage use with a 16 metre waterfront strip (variable width progressing to the rear of the lot).

The shoreline at this location has been occupied by a dock owned and used over the years by the adjacent land owner and proposed recipient of the lot addition. This appears to be a historic situation and no new development is proposed. The shoreline immediately west of the dock has a cattail band which appears to extend on to the proposed (amended) B13/113 frontage.

We have no objection to this addition to the existing lot, provided the Township is satisfied. We would not support expansion or alteration of the existing water access on this frontage such that the side lot line clearance for navigation are encroached upon (4.5 metre distance from each side lot line or so as to impact the wetland character of this section of water frontage. We recommend a condition of approval address restrictions on the water frontage by means of an agreement or an easement registered on-title.

B13/115 Creation of a new lot (not waterfront) amended from the existing larger holding, together with a 2 metre wide pedestrian right-of-way to the water, west of the Bendig lot addition (B13/114).

As per the EIS, Whip-poor-will, a provincially significant species has been identified as being present on the property. We reference the August 12, 2012 notification from the Ministry of Natural Resources (C. Heffernan). We have no comment in this regard, other than a support statement to protect the one butternut through protective measures required by the Ministry of Natural Resources within the site plan process.

The RVCA does not object to the creation of this new lot. However, as the frontage is already congested, we would not support a new 2 metre access to the water to accommodate a non-waterfront or "back" lot, whether the use is commercial or residential.

RCVA - Additional information – Jan 22, 2014

At our meeting with Noelle, Tracy Zander and Brooke Briggs on January 8, 2014, two questions/concerns arose:

- 1- Water access for the Bendigs via the adjacent Garner property- The RVCA has confirmed verbally with Anne Bendig that the Bendigs will be simply formalizing the current water access over the Garner property and that no change is proposed. This was part of the discussions when the lot addition to their small lot was first proposed as it became evident that the current water access agreement was not registered on-title.
- 2- Our reference to whip-or-will on B13/115 on the RVCA November 12, 2013 letter is incorrect. The reference on page 3 of our letter *should reference butternut, not whip or will*. As we also indicated, this is an MNR concern.

On a more general note, in our comment letter of November 12, 2013 to Lanark County Land Division Committee, we neglected to recommend for notice that "*Any alteration to the watercourse and wetland area* is subject to Ontario Regulation 174/06, regulating Development, Interference with Wetlands and Alterations to Shorelines and

Watercourses. Prior written approval from the RVCA will be for any alteration of the shoreline of Christie Lake. We have spoken to Mary Kirkham in order that this statement be included in consideration of the applications B13/112, B13/113 and B13/114.

Along with the note yesterday confirming that the RVCA would persist with a 40 metre setback on the retained lands, I believe this brings us up to date on the comments/considerations of the RVCA.

Septic Office – Mississippi Rideau Septic System Office – Nov 13/2013

B13-112 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 September 30, 2013.

The applicant proposes to sever 0.51 hectare parcel, for the purpose of a lot addition to 220 Patterson Road. The proposed area to be severed is currently vacant, treed, has exposed bedrock and is generally sloping towards the lake. No test pits were provided.

The retained parcel is 1.48 hectares. The property is currently vacant with areas of exposed bedrock, steep slopes and mixed forest. No test pits were provided.

The severance as proposed will enhance the ability to install, operate or maintain an OBC compliant sewage system on the lot receiving the addition. Development on the retained parcel will be limited due to lot dimensions, topography, presumed shallow soils and the required setback from the Railway Lands. Tertiary treatment of the effluent and significant amounts of imported fill may be the only option to service any proposed development. An engineered site plan and sewage system design is recommended.

The MRSSO is supportive of this Consent application as proposed, given the requirements of the OBC and any applicable laws are met.

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

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

B13/113 - 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 September 30, 2013 and November 13, 2013.

The applicant proposes to sever 0.56 hectare parcel, for the purpose of creating a new lot. The proposed area to be severed is currently vacant, treed, has exposed bedrock and is bordered by moderate to steep slopes on the north and west property boundaries. The drainage from the slopes and the right of way, follows the base of the slope from the right of way across the proposed lot towards the south/west. No test pits were provided.

The retained parcel is 1.48 hectares. The property is currently vacant with areas of exposed bedrock, steep slopes and mixed forest. No test pits were provided.

The topography and area of the proposed lot is adequate to support the installation of an OBC compliant sewage system **greater than 30m from all surface water bodies**. Given the slopes and drainage through the proposed lot, special attention should be

taken when siting the proposed development so not to impact existing drainage patterns or neighbouring lots. The MRSSO strongly recommends having an engineered site plan and sewage system design, which utilizes tertiary treatment to reduce the amount of fill material required to construct a sewage system.

Development on the retained parcel will be limited due to lot dimensions, topography, presumed shallow soils and the required setback from the Railway Lands. Tertiary treatment of the effluent and significant amounts of imported fill may be the only option to service any proposed development. An engineered site plan and sewage system design is recommended.

The MRSSO is supportive of this Consent application as proposed, given the requirements of the OBC and any applicable laws are met.

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

B13/114 - 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 September 30, 2013 and November 13, 2013.

The applicant proposes to sever 0.35 hectare parcel, for the purpose of a lot addition to 549 Christie Lake Lane 42A. The proposed area to be severed is currently vacant, treed, has exposed bedrock and is generally sloping towards the lake. The western portion of the lot is bordered by the right of way, which is cut down through the slope. No test pits were provided.

The retained parcel is 1.48 hectares. The property is currently vacant with areas of exposed bedrock, steep slopes and mixed forest. No test pits were provided.

The severance as proposed will enhance the ability to install, operate or maintain an OBC compliant sewage system on the lot receiving the addition. Development on the retained parcel will be limited due to lot dimensions, topography, presumed shallow soils and the required setback from the Railway Lands. Tertiary treatment of the effluent and significant amounts of imported fill may be the only option to service any proposed development. An engineered site plan and sewage system design is recommended.

The MRSSO is supportive of this Consent application as proposed, given the requirements of the OBC and any applicable laws are met.

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

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

B13/115 - 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 September 30, 2013 and November 13, 2013.

The applicant proposes to sever 2.65 hectare parcel, for the purpose of creating a new lot. The proposed area to be severed has several old structures is well treed with open

areas and exposed bedrock. Several existing right of ways are running through the proposed lot. No test pits were provided.

The retained parcel is 1.48 hectares. The property is currently vacant with areas of exposed bedrock, steep slopes and mixed forest. No test pits were provided.

The topography and area of the proposed lot is adequate to support the installation of an OBC compliant sewage system **greater than 30m from all surface water bodies**. Due to exposed bedrock and shallow soils, a clay seal and significant amounts of imported sand fill maybe required to construct a conventional septic system. Tertiary treatment of the on-site waste water would reduce the amount of imported sand fill required and also provides higher quality effluent prior to entering the environment.

Development on the retained parcel will be limited due to lot dimensions, topography, presumed shallow soils and the required setback from the Railway Lands. Tertiary treatment of the effluent and significant amounts of imported fill may be the only option to service any proposed development. An engineered site plan and sewage system design is recommended.

The MRSSO is supportive of this Consent application as proposed, given the requirements of the OBC and any applicable laws are met.

An approved septic permit is required prior to the issuance of most building permits. MNR has reviewed the EIS

Ministry of Natural Resources – Jan 3, 2014

MNR has reviewed the EIS for the Christie Lake Severance, located at Part of Lots 20 and 21, Concession 3, South Sherbrooke, Township of Tay Valley. MNR would like to provide the following species at risk (SAR) related comments:

Whip-poor-will:

The surveying conducted for Whip-poor-will and the results obtained appear to be appropriate and well documented. The mapping provided was helpful for MNR technical staff and similar mapping should be prepared for all EIS reports moving forward.

MNR would like to provide additional information. The general habitat description (GHD) for Whip-poor-will (attached above) specifies distances from suspected nest locations as category 1, 2 and 3 habitat (20m, 170m and 500m respectively). MNR suggests that an updated map be provided with these distances clearly identified and that these habitat categories be addressed in an addendum to the EIS as it appears that category 1, 2 and 3 habitat likely exists on site based on survey results. MNR technical staff are happy to review this updated mapping exercise.

Gray Ratsnake:

The survey methodology section of the EIS (page 5) indicates field surveys were conducted on May 30, June 4 and 7, July 4, and Aug 21. Information regarding Whip-poor-will surveys were documented in the report, but for Gray Ratsnake, this information is not provided. This includes time, weather conditions and, methods for searching. Thus, it is unclear to MNR how Gray Ratsnake was surveyed for and under what conditions. Further clarification is thus required. In addition, MNR internal records indicate several observations of Gray Ratsnake in proximity to the subject lands (including a known hibernaculum). As this data is not typically made available to external

parties, MNR will review the locations of these observations and map the habitat in accordance with the regulated habitat description. The result of this exercise may require some adjustments to the potential impacts to the species and recommendations provided in the EIS. If further work is required, this can be done as an addendum to the current EIS as mentioned above and be submitted for review.

Additional Information:

Page 25 of the EIS report states that “the severance application associated with the subject property will not have any negative effect on the habitats present on the subject property due to the fact that no physical alterations will be required at this time.” Please note that for planning purposes, the PPS states that development “means the creation of a new lot, a change in land use, or the construction of buildings and structures, requiring approval under the Planning Act.”

Canadian Pacific Railway (sent to Sheeba Paul) Nov 20/2012

Although Canadian Pacific Railway is not in favour of any new residential developments adjacent to our right-of-way, we will not be objecting to the proposed seasonal dwelling next to our Parry Sound Subdivision, however, we do request that you provide Canadian Pacific Railway with a sworn undertaking as follows:

I (we) as owner(s) for myself (ourselves), my (our) heirs, executors, administrators, successors and assigns, acknowledge:

- a) *that Canadian Pacific Railway Company or its assigns or successors in interest has or have a railway right-of-way adjacent to the land subject hereof and that there may be alterations to or expansions of the railway facilities and/or operations in the future, which alterations or expansions may affect the living environment of the resident(s) in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwellings and further acknowledge that Canadian Pacific Railway will not be responsible for complaints or claims arising from the use of its facilities and/or its operations on, over or under the aforesaid right-of-way.*
- b) *the absence of the standard containment berm as recommended by the Canadian Pacific Railway Company (CPR) and further acknowledge that the set-back from the CPR right-of-way to the rear building line does not comply with CPR's recommended safety set-back of 30 metres and further covenant and agree that I (we) shall save harmless the Canadian Pacific Railway Company, its affiliates, successors or assigns, from and against any and all actions, causes of action, claims, reasonable costs, expenses and other losses whatsoever incurred in any way resulting from or arising out of the said absence of the containment berm and the said reduction to the recommended safety set-back.*
- c) *that an undertaking of the like be included in all future offers to purchase, agreements of purchase and sale or lease and in the title deed or lease of the lands subject hereof.*

For your health and welfare, Canadian Pacific Railway strongly suggests that the proposed dwelling incorporates appropriate design elements to meet the applicable MOE indoor and outdoor noise standards.

Hydro One Networks – No comments were received.

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

We have no concerns or objection to the proposed severance.

(c) **PUBLIC INPUT**

Written submissions were received in response to the notice of application sent to every landowner pursuant to Clause 53(5) (a) of the Planning Act and Section 3(2) of O.Reg. 197/96 as amended. This correspondence was circulated in advance on January 27, 2014 by e-mail.

Submissions were received from the following:

Sept. 23, 2013	Anne & Jeff Bendig
Nov. 23, 2013	Barry Cleveland
Nov. 23, 2013	R.H. Tys? (illegible signature)
Nov. 23, 2013	John Wright
Nov. 23, 2013	K.N??? (illegible signature)
Nov. 23, 2013	R??? (illegible signature)
Nov. 28, 2013	Margaret Gardiner
Dec. 5, 2013	Margaret Gardiner
Dec. 7, 2013	Diane MacInnes
Dec. 9, 2013	Therese Henderson & Richard Bowen
Dec. 9, 2013	Anne & Jeff Bendig
Dec. 12, 2013	Laura Judson
Dec. 12, 2013	Jane Olson
Dec. 12, 2013	David Palmer
Dec. 12, 2013	Hans Sinn
Dec. 12, 2013	Marian Sinn
Dec. 12, 2013	Ormond Lee
Dec. 12, 2013	Judith Lee
Dec. 12, 2013	Jim King
Dec. 12, 2013	Ian Moffatt
Dec. 12, 2013	Steve Shrybman
Dec. 12, 2013	Holly Solomon
Dec. 12, 2013	Bruce Moffatt
Dec. 12, 2013	Sandy Moffatt
Jan. 6, 2014	Bruce & Mary McIntyre

(d) **PLANNING REVIEW**

Background and Summary

The applicant proposes to sever four lots:

B13/112 – to sever a lot a 0.51-ha parcel of land as a lot addition to lands owned by Nina David & Geoffrey Johnson t/w a r-o-w;
B13/113 – to sever a 0.56-ha residential lot t/w a r-o-w;
B13/114 – to sever a 0.35-ha parcel of land as a lot addition to lands owned by Jeff & Anne Bendig; and

B13/115 – to sever a 2.65-ha residential building lot, t/w a 2m wide pedestrian access to Christie Lake; and to retain a 1.48-ha residential/tourist commercial lot. The lands are accessed via Christie Lake North Shore Road.

The subject lands are located in an area characterized by seasonal residential on smaller type lots. The lands front on Christie Lake to the south and the CPR Rail Line to the north.

The B13/112 is access via Patterson Road, a municipally maintained road. B13/113, B13/114 and the retained lands are accessed via Christie Lake Lane 42A an existing private road, and B13/115 is accessed via Christie Lake North Shore Road, a municipally maintained road. It is unknown if private road maintenance / repair agreement is in place for either Patterson Road or Christie Lake Lane 42A. The applicant and/or owners should be encouraged to either join in the use agreement if one is in place or develop an agreement if none exists.

In support of the applications the following reports were submitted:

- a. Environmental Impact Statement, prepared by McIntosh Perry, dated May 6, 2013.

Mitigation measures outlined in the report included:

- retain vegetation
- No vegetation removal between May 20 and Aug 1
- Retain Butternut that was identified
- Construction mitigation measures to provide protection to retained butternut
- Is SAR observed MNR to be contacted

- b. Rail Traffic Noise and Vibration Feasibility Study, prepared by HGC Engineering, dated January 14, 2013. Report was submitted in accordance with MOE Guidelines LU-131 due to proximity to CPR Rail Line.

- Predictions indicate future traffic sound levels will exceed MOE guidelines
- Recommend safety berm and acoustic barrier
- CP rail personal to be contacted to clarify berm/barrier requirement
- Setback requirement
- No attached garages
- Central AC Units required
- Sound attenuating building construction method and facades
- Window acoustical insulation design
- Warning clauses in purchase and sale agreements and on deed.

- c. Slope and Erosion Assessment, prepared by Concord Engineering, dated June 18, 2013 to address natural hazards:

- Property is limited in extent and by sloping ground.
- Shallow Precambrian bedrock.
- Prior to construction and until stable ground cover established silt control measures to be installed.
- Any disturbed area to be restored.

Due to the proximity to the rail line it is suggested that each of the deeds contain a clause acknowledging that the lands may be subject to noise, odour, etc. associated with the rail line.

Each of the agencies and the municipality have acknowledged that there are development constraints on these lands, both the new lots, retain lot and the lands to be

enlarged. These include items such as construction methods and details, mitigation measures, land restoration, sound berms./barriers, purchase and sale agreements, vegetation removal. In order to ensure that future development is undertaken as recommended by the various agencies and the municipality, it is recommended that the applicant enter into a "Development Agreement (similar to a Subdivision Agreement) to be registered on the title of all the lots, new and lands to be enlarged.

Archaeological

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

Christie Lake

A "State of the Lake Environment Report" was undertaken on Christie Lake in 2005. The report was able to conduct a comparison between water quality conditions as they existed in 2005 to results obtained from 1970 to 2005. The historical data and the results of the 2002 to 2005 sampling indicate that Christie Lake is in early mesotrophic stage. On average, nutrient concentrations are relatively low, however, there is sufficient for weed growth in bays and shallow areas and algae blooms have occurred and will continue to occur. The lake was also tested for invasive species. It does appear that Zebra mussels have become established in the lake so precautions should be taken by all residents, landowners and recreational users of the lake to control the spread from other lakes in the region. No spiny water fleas have been found in any of the samples since 2003. The amount of phosphorous reaching any lake is the main cause of aging. The process of lake aging can be slowed by all users taking a stewardship approach and making sure that they minimize their impact on the lake environment.

Bedrock Inventory – Marble, Calc-silicate

Official Plan Policies

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

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

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

- 2/ Tay Valley Official Plan Policies for the Division of Land are found in Section 5.2 of the OP. The division of land by the consent process is intended for the creation of not more than three (3) new lots. A number of 'general policies' also apply to the division of land, including: size and setbacks appropriate to zoning designations, frontage on existing public roads (or existing private road for waterfront development), studies as required, MDS separation. The lot creation date for Tay Valley is January 1, 1986.
- 3/ Woodlands
The area has considerable land masses mapped as 'woodlands', care should be taken in any development proposal to maintain the existing tree cover. Woodland Development Policies have not been established by Tay Valley Township.

Zoning

The subject property is currently within the rural and tourist commercial section of the Zoning By-law, which permits a number of uses, but does not permit development on a private road. Re-zoning will be required to address rural to residential limited service, setbacks, frontage, removal of tourist commercial, etc.

Conclusion

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

There were no objections raised by any of the agencies which were circulated regarding this proposal, however concerns were raised that can be mitigated through re-zoning, site plan and a development agreement. 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 – February 10, 2014

Tracy Zander, agent, Brook Briggs, representative for Chris T Lake Inc., Jane Olson, representing the Bathurst Homesteads Ltd and John Wright, adjacent landowner, attended the hearing and gave evidence by affirmation.

Ms. Zander provided an overview of the applications, noting the reports/submissions that were provided in to support the applications.

The Committee noted that there is a 6m wide r-o-w along the northern boundary of the proposed lot addition B13/112 and questioned the purpose of this r-o-w.

Mr. Briggs advised that due to the topography of the retained lands, it is difficult the traverse from the eastern portion of the lot to the western portion.

Ms. Olson asked if the 6 m r-o-w would be built as a road. Mr. Briggs advised that the new owner was intending to re-locate their dwelling onto the lot addition portion of the lot and they would be using this area as their access. As well, he would use the r-o-w to gain access to the western portion of the retained lands.

Mr. Wright also questioned the use of this 6 m r-o-w and would it be used for residential access. Mr. Briggs advised that two building envelopes had been identified on the retained lands; therefore it could be used for access.

The Committee noted however, that the retained lot could only have one residential dwelling.

The Committee questioned the purpose on the 2m r-o-w across B13/113 for the owner of

B13/115, noting that this appeared to be back-lot development. Ms. Olson and Mr. Wright also expressed concerns on the use of this small strip of land.

Mr. Briggs submitted a letter outlining his reasons for requesting the pathway.

Moved by D Murphy,

THAT a 2 metre strip of land as a non-motorized pedestrian access be permitted over B13/113 In favour of B13/115.

Receiving no seconder, the motion was lost.

Moved by W Guthrie and seconded by R Strachan

THAT the 2 metre strip of land noted as 'pedestrian access' over B13/114 to benefit B13/115 not be permitted. Cd.

Mr. Briggs advised that the Bendiggs, who will be purchasing the lot addition being created by B13/114. They currently have access and a dock in this area. RVCA has advised that the docks will be moved or relocated to the new lands being created by B13/114.

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.

B13/112 – Lot Addition

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 and legal description shall include a 6 metre wide right-of-way over the lot to be severed in favour of the lot to be retained along the northerly boundary of the lot.
4. The Certificate of Consent "Schedule" attached to the deed / transfer required by Condition #1 above, shall include the following condition "The lands to be severed are for the purpose of a lot addition only to the adjacent lands owned by Nina Grace Davis and Geoffrey Arthur Johnson described as Part Lot 20 Con 3, geographic Township of South Sherbrooke, now in Tay Valley Township being Pts. 3 to 8 on RP 27R-4650, and any subsequent transfer, charge or other conveyance of the lands to be severed is subject to Section 50(3) (or subsection 50(5) if in a plan of subdivision) of the Planning Act. Neither the lands to be

severed nor the adjacent lands are to be reconveyed without the other parcel unless a further consent is obtained. The owner shall cause the lands to be severed to be consolidated on title with the adjacent lands and for this condition to be entered into the parcel register as a restriction”.

5. The balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to Tay Valley Township.
6. 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.
7. The applicant shall provide Tay Valley Township with two copies of all reference plans associated with this application if a survey is required by the Land Titles Office.
8. The applicant shall provide Tay Valley Township with two copies of the deed/transfer for the property.
9. Offer of Purchase and Sale Agreements
That the development agreement between the Owner and the municipality and the Offers of Purchase and Sale Agreements and Deeds contain the following provisions, with wording acceptable to Canadian Pacific Railway, wherein the Owner agrees:
I (we) as owner(s) for myself (ourselves), my (our) heirs, executors, administrators, successors and assigns, acknowledge:
 - a) *that Canadian Pacific Railway Company or its assigns or successors in interest has or have a railway right-of-way adjacent to the land subject hereof and that there may be alterations to or expansions of the railway facilities and/or operations in the future, which alterations or expansions may affect the living environment of the resident(s) in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwellings and further acknowledge that Canadian Pacific Railway will not be responsible for complaints or claims arising from the use of its facilities and/or its operations on, over or under the aforesaid right-of-way.*
 - b) *the absence of the standard containment berm as recommended by the Canadian Pacific Railway Company (CPR) and further acknowledge that the set-back from the CPR right-of-way to the rear building line does not comply with CPR's recommended safety set-back of 30 metres and further covenant and agree that I(we) shall save harmless the Canadian Pacific Railway Company, its affiliates, successors or assigns, from and against any and all actions, causes of action, claims, reasonable costs, expenses and other losses whatsoever incurred in any way resulting from or arising out of the said absence of the containment berm and the said reduction to the recommended safety set-back.*
 - c) *that an undertaking of the like be included in all future offers to purchase, agreements of purchase and sale or lease and in the title deed or lease of the lands subject hereof.*
10. That the applicant enter into a Development Agreement with the Township. The wording of the agreement shall be acceptable to the Municipality and shall address: setback from water, identification of building envelope, railway warning clause, acoustic construction materials, species at risk protection

measures and future use of the right-of-way traversing the lands. The Development Agreement shall include a clause to acknowledge that no further severance of the retained parcel of land using the 6m right-of-way shall be permitted. The applicant shall consult directly with Tay Valley Township in this regard.

11. That the Development Agreement between the Owner and the Township require that an engineered site plan and sewage system design be prepared. The applicant shall consult directly with the Mississippi Rideau Septic System Office in this regard.
12. That the Ministry of Natural Resources be provided with updated mapping and an addendum to the EIS as outlined in their letter of January 3, 2014. Mitigation or protection measures to be incorporated in the Development Agreement between the applicant/owner and municipality.
13. That the Development Agreement as outlined in Conditions #9 to #12 above be registered on title.
14. That the retained lands be rezoned to Residential Limited Services with a Special Exemption as required. The applicant shall consult directly with Tay Valley Township in this regard.
15. A letter shall be received from Canadian Pacific Railway stating that condition #9 has been fulfilled to their satisfaction.
16. A letter shall be received from the Mississippi Rideau Septic System Office stating that condition #11 has been fulfilled to their satisfaction.
17. A letter shall be received from the Ministry of Natural Resources stating that condition #12 has been fulfilled to their satisfaction.
18. A letter shall be received from Tay Valley Township stating that condition #5 through #14 has been fulfilled to their satisfaction.

NOTES

1. *The Mississippi Rideau Septic System Office advises that development on the retained parcel will be limited due to lot dimensions, topography, presumed shallow soils and the required setback from the Railway Lands. Tertiary treatment of the effluent and significant amounts of imported fill may be the only option to service any proposed development. An engineered site plan and sewage system design is recommended.*
2. *The applicant / purchaser is advised that if during the process of development archeological remains be uncovered, the developer or their agents should immediately notify the Archaeology Section of the Ontario Ministry of Culture. That in the event that human remains are encountered during construction, the developer should immediately contact both the Ministry of Culture and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Consumer and Commercial Relations.*

3. *Residents and users of Christie Lake are encouraged to take precautions to avoid the spread of the invasive species (zebra mussels) from other lakes.*
4. *The applicant and/or owner be encouraged to develop a "Joint Use and Maintenance Agreement" for the construction and on-going maintenance of the private road.*
5. *The Rideau Valley Conservation Authority advises that any watercourse on the subject property is subject to the Authority's "Development, Interference with Wetlands and Alterations to Shorelines and Watercourses" (Ontario Regulation 174/06). Written approval of the Conservation Authority must be obtained prior to straightening, changing, diverting or interfering in any way with the existing channel of a watercourse.*
6. *Endangered Species Act, 2007, and Species at Risk in Ontario Background*
The ESA 2007 protects both species and habitat. Section 9 of the ESA "prohibits killing, harming, harassing, capturing, possessing, collecting, buying, selling, trading, leasing or transporting species that are listed as threatened, endangered or extirpated". Section 10 of the ESA, 2007 prohibits damaging or destroying habitat of endangered or threatened species. Protected habitat is either based on general definition in the Act or prescribed through a regulation. The ESA 2007 defines general habitat as an area on which the species depends, directly or indirectly, to carry on its life processes, including reproduction, rearing, hibernation, migration or feeding.

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

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

B13/113 – New Lot

1. An acceptable reference plan or legal description of the severed lands and the deed or Instrument conveying the severed lands shall be submitted to the Secretary-Treasurer for review and consent endorsement **within a period of one year** after the "Notice of Decision" is given under Section 53 (17) or (24) of the Planning Act.
2. The applicant shall provide the Secretary-Treasurer of the Land Division Committee with a digital copy of the registered reference plan.
3. The lands described in Condition #1 shall include a right-of-way over the existing

private road over the lot to be retained and those lands being severed by Consent Application B13/114 and B13/115.

4. An appropriate right-of-way shall be reserved over the lot to be severed in favour of the lot to be created by B13/114 and all those who are currently entitled.
5. That Application B13/113 exclude any reference to a 2 metre wide pedestrian R-O-W.
6. The Certificate of Consent "Schedule" attached to the deed / transfer required by Condition #1 above, shall include the following condition "The lands are within proximity of an existing rail line, and that the occupants of the lot may be susceptible to noise, odours, vibration and related impacts from time to time".
7. The balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to Tay Valley Township.
8. 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.
9. The applicant shall provide Tay Valley Township with two copies of all reference plans associated with this application if a survey is required by the Land Titles Office.
10. The applicant shall provide Tay Valley Township with two copies of the deed/transfer for the property.

11. Offer of Purchase and Sale Agreements

That the development agreement between the Owner and the municipality and the Offers of Purchase and Sale Agreements and Deeds contain the following provisions, with wording acceptable to Canadian Pacific Railway, wherein the Owner agrees:

I (we) as owner(s) for myself (ourselves), my (our) heirs, executors, administrators, successors and assigns, acknowledge:

- a) *that Canadian Pacific Railway Company or its assigns or successors in interest has or have a railway right-of-way adjacent to the land subject hereof and that there may be alterations to or expansions of the railway facilities and/or operations in the future, which alterations or expansions may affect the living environment of the resident(s) in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwellings and further acknowledge that Canadian Pacific Railway will not be responsible for complaints or claims arising from the use of its facilities and/or its operations on, over or under the aforesaid right-of-way.*
- b) *the absence of the standard containment berm as recommended by the Canadian Pacific Railway Company (CPR) and further acknowledge that the set-back from the CPR right-of-way to the rear building line does not comply with CPR's recommended safety set-back of 30 metres and further covenant and agree that I(we) shall save harmless the Canadian Pacific Railway Company, its affiliates, successors or assigns, from and against any and all actions, causes of action, claims, reasonable costs, expenses and other losses whatsoever incurred*

in any way resulting from or arising out of the said absence of the containment berm and the said reduction to the recommended safety set-back.

- c) *that an undertaking of the like be included in all future offers to purchase, agreements of purchase and sale or lease and in the title deed or lease of the lands subject hereof.*
12. That the applicant enter into a Development Agreement with the Township. The wording of the agreement shall be acceptable to the Municipality and shall address: setback from water, identification of building envelope, railway warning clause, acoustic construction materials and species at risk protection measures. The applicant shall consult directly with Tay Valley Township in this regard.
 13. That the Development Agreement between the Owner and the Township require that an engineered site plan and sewage system design be prepared. The applicant shall consult directly with the Mississippi Rideau Septic System Office in this regard.
 14. That the Ministry of Natural Resources be provided with updated mapping and an addendum to the EIS as outlined in their letter of January 3, 2014. Mitigation or protection measures to be incorporated in the Development Agreement between the applicant/owner and municipality.
 15. That the Development Agreement as outlined in Conditions #11 to #14 above be registered on title.
 16. The lot to be severed shall be zoned to Residential Limited Services with a Special Exemption as required. The applicant shall consult directly with Tay Valley Township in this regard.
 17. That the retained lands be rezoned to Residential Limited Services with a Special Exemption as required. The applicant shall consult directly with Tay Valley Township in this regard.
 18. Payment of \$200.00 shall be made to Tay Valley Township representing the amount satisfactory to the Township of up to 5% of the value of the land pursuant to Section 51.1(3) of the Planning Act (Cash-in-Lieu of Parklands).
 19. The applicant shall obtain a Civic Address Number from Tay Valley Township. The applicant shall consult directly with the Township in this regard.
 20. A letter shall be received from Canadian Pacific Railway stating that condition #11 has been fulfilled to their satisfaction.
 21. A letter shall be received from the Mississippi Rideau Septic System Office stating that condition #13 has been fulfilled to their satisfaction.
 22. A letter shall be received from the Ministry of Natural Resources stating that condition #14 has been fulfilled to their satisfaction.
 23. A letter shall be received from Tay Valley Township stating that condition #7

through #19 has been fulfilled to their satisfaction.

NOTES

1. *The Mississippi Rideau Septic System Office advises that the topography and area of the proposed lot is adequate to support the installation of an OBC compliant sewage system **greater than 30m from all surface water bodies**. Given the slopes and drainage through the proposed lot, special attention should be taken when siting the proposed development so not to impact existing drainage patterns or neighbouring lots. The MRSSO strongly recommends having an engineered site plan and sewage system design, which utilizes tertiary treatment to reduce the amount of fill material required to construct a sewage system.*
2. *The MRSSO also advises that development on the retained parcel will be limited due to lot dimensions, topography, presumed shallow soils and the required setback from the Railway Lands. Tertiary treatment of the effluent and significant amounts of imported fill may be the only option to service any proposed development. An engineered site plan and sewage system design is recommended.*
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. *It is recommended that the applicant review available water well records of adjacent lands to determine that there is adequate potable water for a residential dwelling.*
5. *The applicant and/or owner be encouraged to develop a “Joint Use and Maintenance Agreement” for the construction and on-going maintenance of the private road.*
6. *The Rideau Valley Conservation Authority advises that any watercourse on the subject property is subject to the Authority’s “Development, Interference with Wetlands and Alterations to Shorelines and Watercourses” (Ontario Regulation 174/06). Written approval of the Conservation Authority must be obtained prior to straightening changing, diverting or interfering in any way with the existing channel of a watercourse.*
7. *Residents and users of Christie Lake are encouraged to take precautions to avoid the spread of the invasive species (zebra mussels) from other lakes.*
8. *Endangered Species Act, 2007, and Species at Risk in Ontario Background The ESA 2007 protects both species and habitat. Section 9 of the ESA “prohibits killing, harming, harassing, capturing, possessing, collecting, buying, selling, trading, leasing or transporting species that are listed as threatened, endangered or extirpated”. Section 10 of the ESA, 2007 prohibits damaging or destroying*

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

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

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

B13/114 – Lot Addition

1. An acceptable reference plan or legal description of the severed lands and the deed or Instrument conveying the severed lands shall be submitted to the Secretary-Treasurer for review and consent endorsement **within a period of one year** after the "Notice of Decision" is given under Section 53 (17) or (24) of the Planning Act.
2. The applicant shall provide the Secretary-Treasurer of the Land Division Committee with a digital copy of the registered reference plan.
3. The lands described in Condition #1 shall include a right-of-way over the existing private road across the lot to be retained and those lands being severed by Consent Application B13/113 and B13/115.
4. An appropriate right-of-way shall be reserved over the lot to be severed in favour of all those who are currently entitled.
5. 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 Anne L Bendig described as Part Lot 20 Con 3, geographic Township of South Sherbrooke, now in Tay Valley Township, and any subsequent transfer, charge or other conveyance of the lands to be severed is subject to Section 50(3) (or subsection 50(5) if in a plan of subdivision) of the Planning Act. Neither the lands to be severed nor the adjacent lands are to be reconveyed without the other parcel unless a further consent is obtained. The owner shall cause the lands to be severed to be consolidated on title with the adjacent lands and for this condition to be entered into the parcel register as a restriction".

6. The balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to Tay Valley Township.
7. The applicants shall satisfy all the requirements of Tay Valley Township, financial and otherwise, that may be required under established by-laws for consent applications.
8. The applicant shall provide Tay Valley Township with two copies of all reference plans associated with this application if a survey is required by the Land Titles Office.
9. The applicant shall provide Tay Valley Township with two copies of the deed/transfer for the property.

10. Offer of Purchase and Sale Agreements

That the development agreement between the Owner and the municipality and the Offers of Purchase and Sale Agreements and Deeds contain the following provisions, with wording acceptable to Canadian Pacific Railway, wherein the Owner agrees:

I (we) as owner(s) for myself (ourselves), my (our) heirs, executors, administrators, successors and assigns, acknowledge:

- a) *that Canadian Pacific Railway Company or its assigns or successors in interest has or have a railway right-of-way adjacent to the land subject hereof and that there may be alterations to or expansions of the railway facilities and/or operations in the future, which alterations or expansions may affect the living environment of the resident(s) in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwellings and further acknowledge that Canadian Pacific Railway will not be responsible for complaints or claims arising from the use of its facilities and/or its operations on, over or under the aforesaid right-of-way.*
 - b) *the absence of the standard containment berm as recommended by the Canadian Pacific Railway Company (CPR) and further acknowledge that the set-back from the CPR right-of-way to the rear building line does not comply with CPR's recommended safety set-back of 30 metres and further covenant and agree that I{we} shall save harmless the Canadian Pacific Railway Company, its affiliates, successors or assigns, from and against any and all actions, causes of action, claims, reasonable costs, expenses and other losses whatsoever incurred in any way resulting from or arising out of the said absence of the containment berm and the said reduction to the recommended safety set-back.*
 - c) *that an undertaking of the like be included in all future offers to purchase, agreements of purchase and sale or lease and in the title deed or lease of the lands subject hereof.*
11. That the Ministry of Natural Resources be provided with updated mapping and an addendum to the EIS as outlined in their letter of January 3, 2014. Mitigation or protection measures to be incorporated in the Development Agreement between the applicant/owner and municipality.
 12. That the Development Agreement between the Owner and the Township require that an engineered site plan and sewage system design be prepared. The applicant shall consult directly with the Mississippi Rideau Septic System Office in this regard.

13. That the applicant enter into a Development Agreement with the Township. The wording of the agreement shall be acceptable to the Municipality and shall address: setback from water, identification of building envelope, railway warning clause, acoustic construction materials and species at risk protection measures. The applicant shall consult directly with Tay Valley Township in this regard.
14. That the Development Agreement as outlined in Conditions #10 to #13 above be registered on title.
15. That the retained lands be rezoned to Residential Limited Services with a Special Exemption as required. The applicant shall consult directly with Tay Valley Township in this regard.
16. A letter shall be received from Canadian Pacific Railway stating that condition #10 has been fulfilled to their satisfaction.
17. A letter shall be received from the Mississippi Rideau Septic System Office stating that condition #12 has been fulfilled to their satisfaction.
18. A letter shall be received from the Ministry of Natural Resources stating that condition #11 has been fulfilled to their satisfaction.
19. A letter shall be received from Tay Valley Township stating that condition #6 through #15 has been fulfilled to their satisfaction.

NOTES

1. *The Mississippi Rideau Septic System Office advises that development on the retained parcel will be limited due to lot dimensions, topography, presumed shallow soils and the required setback from the Railway Lands. Tertiary treatment of the effluent and significant amounts of imported fill may be the only option to service any proposed development. An engineered site plan and sewage system design is recommended.*
2. *The applicant / purchaser is advised that if during the process of development archeological remains be uncovered, the developer or their agents should immediately notify the Archaeology Section of the Ontario Ministry of Culture. That in the event that human remains are encountered during construction, the developer should immediately contact both the Ministry of Culture and the Registrar or Deputy Registrar of the Cemeteries Regulation Unit of the Ministry of Consumer and Commercial Relations.*
3. *Residents and users of Christie Lake are encouraged to take precautions to avoid the spread of the invasive species (zebra mussels) from other lakes.*
4. *The applicant and/or owner be encouraged to develop a "Joint Use and Maintenance Agreement" for the construction and on-going maintenance of the private road.*
5. *The Rideau Valley Conservation Authority advises that any watercourse on the*

subject property is subject to the Authority's "Development, Interference with Wetlands and Alterations to Shorelines and Watercourses" (Ontario Regulation 174/06). Written approval of the Conservation Authority must be obtained prior to straightening, changing, diverting or interfering in any way with the existing channel of a watercourse.

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

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

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

B13/115 – New Lot

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. That Application B13/115 exclude/remove the 2 metre wide proposed pedestrian R-O-W across Consent Application B13/113.
4. The lands described in Condition #1 shall include a right-of-way over the existing private road over the lot to be severed in favour of the retained lot and the lands being created by B13/113 and B13/114.
5. An appropriate right-of-way shall be reserved over the lot to be severed in favour of all those who are currently entitled.

6. That Application B13/113 exclude any reference to a 2 metre wide pedestrian R-O-W.
7. The Certificate of Consent "Schedule" attached to the deed / transfer required by Condition #1 above shall include the following condition "The lands are within proximity of an existing rail line, and that the occupants of the lot may be susceptible to noise, odours, vibration and related impacts from time to time".
8. The balance of any outstanding taxes, including penalties and interest, (and any local improvement charges, if applicable) shall be paid to Tay Valley Township.
9. 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.
10. The applicant shall provide Tay Valley Township with two copies of all reference plans associated with this application if a survey is required by the Land Titles Office.
11. The applicant shall provide Tay Valley Township with two copies of the deed/transfer for the property.
12. The lot to be severed shall be zoned to Residential Limited Services with a Special Exemption as required. The applicant shall consult directly with Tay Valley Township in this regard.
13. That the retained lands be rezoned to Residential Limited Services with a Special Exemption as required. The applicant shall consult directly with Tay Valley Township in this regard.
14. Payment of \$200.00 shall be made to Tay Valley Township representing the amount satisfactory to the Township of up to 5% of the value of the land pursuant to Section 51.1(3) of the Planning Act (Cash-in-Lieu of Parklands).

15. Offer of Purchase and Sale Agreements

That the development agreement between the Owner and the municipality and the Offers of Purchase and Sale Agreements and Deeds contain the following provisions, with wording acceptable to Canadian Pacific Railway, wherein the Owner agrees:

I (we) as owner(s) for myself (ourselves), my (our) heirs, executors, administrators, successors and assigns, acknowledge:

- a) *that Canadian Pacific Railway Company or its assigns or successors in interest has or have a railway right-of-way adjacent to the land subject hereof and that there may be alterations to or expansions of the railway facilities and/or operations in the future, which alterations or expansions may affect the living environment of the resident(s) in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwellings and further acknowledge that Canadian Pacific Railway will not be responsible for complaints or claims arising from the use of its facilities and/or its operations on, over or under the aforesaid right-of-way.*

- b) *the absence of the standard containment berm as recommended by the Canadian Pacific Railway Company (CPR) and further acknowledge that the set-back from the CPR right-of-way to the rear building line does not comply with CPR's recommended safety set-back of 30 metres and further covenant and agree that I(we) shall save harmless the Canadian Pacific Railway Company, its affiliates, successors or assigns, from and against any and all actions, causes of action, claims, reasonable costs, expenses and other losses whatsoever incurred in any way resulting from or arising out of the said absence of the containment berm and the said reduction to the recommended safety set-back.*
- c) *that an undertaking of the like be included in all future offers to purchase, agreements of purchase and sale or lease and in the title deed or lease of the lands subject hereof.*
16. That the Ministry of Natural Resources be provided with updated mapping and an addendum to the EIS as outlined in their letter of January 3, 2014. Mitigation or protection measures to be incorporated in the Development Agreement between the applicant/owner and municipality.
17. That the Development Agreement between the Owner and the Township require that an engineered site plan and sewage system design be prepared. The applicant shall consult directly with the Mississippi Rideau Septic System Office in this regard.
18. That the applicant enter into a Development Agreement with the Township. The wording of the agreement shall be acceptable to the Municipality and shall address: setback from water, identification of building envelope, railway warning clause, acoustic construction materials and species at risk protection measures. The applicant shall consult directly with Tay Valley Township in this regard.
19. That the Development Agreement as outlined in Conditions #15 and #18 above be registered on title.
20. The applicant shall obtain a Civic Address Number from Tay Valley Township. The applicant shall consult directly with the Township in this regard.
21. Sufficient land for Road Widening purposes shall be deeded to Tay Valley Township 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.
22. A letter shall be received from Canadian Pacific Railway stating that condition #15 has been fulfilled to their satisfaction.
23. A letter shall be received from the Mississippi Rideau Septic System Office stating that condition #17 has been fulfilled to their satisfaction.
24. A letter shall be received from the Ministry of Natural Resources stating that condition #16 has been fulfilled to their satisfaction.

25. A letter shall be received from Tay Valley Township stating that condition #8 through #21 has been fulfilled to their satisfaction.

NOTES

1. *The Mississippi Rideau Septic System Office advises that the topography and area of the proposed lot is adequate to support the installation of an OBC compliant sewage system **greater than 30m from all surface water bodies**. Due to exposed bedrock and shallow soils, a clay seal and significant amounts of imported sand fill maybe required to construct a conventional septic system. Tertiary treatment of the on-site waste water would reduce the amount of imported sand fill required and also provides higher quality effluent prior to entering the environment.*
2. *The MRSSO also advise that development on the retained parcel will be limited due to lot dimensions, topography, presumed shallow soils and the required setback from the Railway Lands. Tertiary treatment of the effluent and significant amounts of imported fill may be the only option to service any proposed development. An engineered site plan and sewage system design is recommended.*
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. *It is recommended that the applicant review available water well records of adjacent lands to determine that there is adequate potable water for a residential dwelling.*
5. *The applicant and/or owner be encouraged to develop a “Joint Use and Maintenance Agreement” for the construction and on-going maintenance of the private road.*
6. *Residents and users of Christie Lake are encouraged to take precautions to avoid the spread of the invasive species (zebra mussels) from other lakes.*
7. *Endangered Species Act, 2007, and Species at Risk in Ontario Background
The ESA 2007 protects both species and habitat. Section 9 of the ESA “prohibits killing, harming, harassing, capturing, possessing, collecting, buying, selling, trading, leasing or transporting species that are listed as threatened, endangered or extirpated”. Section 10 of the ESA, 2007 prohibits damaging or destroying habitat of endangered or threatened species. Protected habitat is either based on general definition in the Act or prescribed through a regulation. The ESA 2007 defines general habitat as an area on which the species depends, directly or indirectly, to carry on its life processes, including reproduction, rearing, hibernation, migration or feeding.*

It is important to be aware that changes may occur in both species and habitat protection. The ESA applies to listed species on the Species at Risk in Ontario List (SARO). The Committee on the Status of Species in Ontario (COSSARO)

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

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