

PLANNING JUSTIFICATION **REPORT**

CONSENT APPLICATION

1457 Tay Point Road
Town of Penetanguishene

Date:

December 2023

Prepared for:

Kathryn Puddicombe

Prepared by:

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1.0 INTRODUCTION

MacNaughton Hermsen Britton Clarkson Planning Limited ("MHBC") has been retained by Kathryn Puddicombe (the "Owner") to review the planning merits of a proposed Consent application to create four new rural residential lots and one retained lot (for a total of five lots) on the subject lands located at 1457 Tay Point Road in the Town of Penetanguishene.

The subject lands are generally located in the south east portion of the Town, on the south west corner of Tay Point Road and Curry Road. The subject lands have a lot area of approximately 15.4 hectares (38 acres), with lot frontage on Tay Point Road and a frontage on Curry Road. The subject lands are currently vacant and have been used for agricultural purposes.

From a land use perspective, the following applies to the subject lands:

- Located within a Settlement Area in the context of the Provincial Policy Statement and the Growth Plan;
- Designated as a Settlement Area in the County of Simcoe Official Plan;
- Designated Rural Area and Environmental Protection Area (EP) on Schedule A of the Town of Penetanguishene Official Plan;
- Located within a Highly Vulnerable Aquifer as identified on Schedule B2 of the Town of Penetanguishene Official Plan;
- Has lot frontage and frontage on local roads as identified on Schedule C of the Town of Penetanguishene Official Plan;
- Zoned Rural (RU) and Environmental Protection (EP) in the Town of Penetanguishene Zoning By-law.

This report has been prepared to provide a summary and analysis of the applicable land use planning policies pertaining to the proposed Consent application.

2.0 SITE DESCRIPTION AND SURROUNDING LAND USES

The subject lands are generally located in the south east portion of the Town, on the south west corner of Tay Point Road and Curry Road. The subject lands have a lot area of approximately 15.4 hectares (38 acres), with lot frontage on Tay Point Road and a frontage on Curry Road. The subject lands are currently vacant and have been used for agricultural purposes.

The surrounding land uses generally include rural and rural residential properties, forested lands, and lands used for agricultural purposes. The majority of the subject lands are used for agricultural purposes and there is a forested area in the centre portion of the subject lands. There is a watercourse feature that dissects the subject lands in a west to east direction through the forested area.

A portion of the Sucker Creek Wetland (Provincially Significant Wetland) is located on the south west corner of the subject lands, and extends onto adjacent properties to the west and the south.

3.0 PROPOSAL

The Owner is proposing to create four new rural residential lots on the subject lands and one retained lot, for a total of five lots. A Consent application is required to create the new lots. A Consent Sketch has been prepared and is included as Appendix 1. Table 1 provides a summary of the proposed lot configuration.

Table 1: Proposed Lot Configuration

Proposed Lot	Approximate Lot Area	Approximate Lot Frontage
Severed Lot 1	0.72 ha	60 m on Tay Point Road
Severed Lot 2	0.72 ha	60 m on Tay Point Road
Severed Lot 3	0.81 ha	64.1 m on Curry Road
Severed Lot 4	1.07 ha	84.1 m on Curry Road
Retained Lot 5	12.08 ha	143.6 m on Tay Point Road (Access from Curry Road)

All the proposed lots are intended to be used for rural residential land uses, including the construction of future single detached dwellings.

The proposed lot boundaries and proposed building envelopes have been identified on the Consent Sketch.

4.0 PLANNING ANALYSIS

4.1 Provincial Policy Statement

The Provincial Policy Statement, 2020 (hereinafter referred to as the “PPS”) is applicable to the subject lands. Planning Authorities are to be consistent with the PPS when exercising any authority. The following is a summary of relevant policies within the PPS as they apply this to the proposal.

Section 1.1.3 of the PPS includes policies regarding Settlement Areas. Settlements Areas shall be the focus of growth and development, and their vitality and regeneration shall be promoted. They are also where a mix of land uses are permitted, including residential uses. The Town of Penetanguishene is identified as a Primary Settlement Area within the County of Simcoe Official Plan. Further, the subject lands are located within a Settlement Area, which in the case of the Town of Penetanguishene, encompasses the entire Town. New lot creation within a Settlement Area is consistent with the policy direction for Settlement Areas in the PPS.

The PPS includes policies regarding Sewage, Water and Stormwater in Section 1.6.6 and identifies that the preferred form of servicing is municipal services (sewage and water), and where not available, communal services are permitted. In situations where these two methods of servicing are not available, private services (well and sewage system) may be permitted. Section 1.6.6.4 of the PPS states,

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

Future development on the proposed lots is to be serviced by individual on-site sewage services (septic systems) and individual on-site water services (well) and based on the lot areas of the proposed lots, there are no anticipated issues associated with providing these services.

Section 2.0 of the PPS contains policies related to the wise use and management of resources. Ontario’s long-term prosperity, environmental health, and social well-being are dependent on protecting water and natural heritage features. Section 2.1.1 of the PPS states that, “Natural features and areas shall be protected for the long term.” A portion of the subject lands are designated Environmental Protection Area (EP) on Schedule A of the Town of Penetanguishene Official Plan. These lands are located within the south west

corner of the subject lands. There is also a watercourse feature that dissects the subject lands in a west to east direction through the forested area.

An Environmental Impact Study (EIS) was prepared to review the natural heritage features and functions on the subject lands, to ensure that development can proceed in accordance with the applicable policy framework. The EIS concluded that the establishment of residential lots capable of supporting single detached dwellings and accessory buildings is appropriate, subject to the recommended mitigation measures and building envelopes. The proposed four Severed Lots are adequately setback from the natural heritage features.

Subject to the mitigation measures and recommendations contained within Section 9.0 of the EIS, the following is concluded:

- The proposed development is consistent with the applicable natural heritage policies of the PPS, Endangered Species Act, conforms to the County of Simcoe Official Plan and conforms to the Town of Penetanguishene Official Plan;
- The proposed lots and building envelopes will not result in a negative direct or indirect impact to the habitat of Species at Risk;
- The proposed lots and building envelopes are not expected to negatively impact the ecological form or function of the Provincially Significant Wetland, Candidate Significant Woodland (present or potential) or Significant Woodlands; and,
- No ephemeral, intermittent or permanent drainage features, open water units, fish or fish habitat are expected to be impacted negatively as a result of the proposed development and during future construction.

It is recommended that the findings of the EIS be included in a future Consent Agreement for the subject lands and proposed lots. It is recommended that the Owner or future purchasers of the proposed lots enter into a Consent Agreement with the Town.

Section 3.0 of the PPS contains policies related to directing development away from natural or human-made hazards. There are no hazards identified on the subject lands.

In accordance with the County of Simcoe's requirements, the Owner submitted an Archaeological Assessment for the subject lands which confirmed there were no concerns and no archaeological artifacts discovered.

Based on the analysis above, the proposed Consent application is consistent with the PPS.

4.2 Growth Plan

The Places to Grow - Growth Plan for the Greater Golden Horseshoe, 2020 (hereinafter referred to as the "Growth Plan") was created by the Province to guide the building of stronger more prosperous communities through the management of growth. The intent of the Growth Plan is to plan for growth and development in a way that supports economic prosperity, protects the environment, and helps communities achieve a high quality of life. The Growth Plan contains various policies that guide decisions on how land is developed.

The Growth Plan policies are consistent with the Provincial Policy Statement in that growth is generally directed to Settlement Areas. The guiding principles and vision of Section 1.2.1 for the Greater Golden Horseshoe (GGH) provides the basis for direction on land use planning. Generally, these principles support growth in compact and complete communities which protect environmental features, and optimize the use of existing and new infrastructure to support a strong economy. The subject lands are located within a Settlement Area.

Section 2.2.1 of the Growth Plan provides policies for Managing Growth. The vast majority of growth will be directed to Settlement Areas that have a delineated built boundary and Section 2.2.1.2 c) states that growth is to be focused in delineated built-up areas. The subject lands are located beyond the built-up area of the Town of Penetanguishene's Settlement Area, however the local Official Plan for the Town of Penetanguishene permits the creation of new lots in this area of the Town.

Policies regarding Designated Greenfield Areas are included in Section 2.2.7 of the Growth Plan. The subject lands would be considered a Designated Greenfield Area since its location is outside the built boundary of the Town. Section 2.2.7.1 of the Growth Plan states,

"New development taking place in designated greenfield areas will be planned, designated, zoned and designed in a manner that:

- a) supports the achievement of complete communities;*
- b) supports active transportation; and*
- c) encourages the integration and sustained viability of transit services. "*

The Town of Penetanguishene has established policies for new lot creation within this area and assists in providing a full range of housing which is an element under the definition of a complete community and could contribute to providing opportunities for active transportation, and potentially transit services if they were to become available in the future.

Section 4.2.2 of the Growth Plan references the Natural Heritage System. Section 4.2.2.1 states,

"The Province will map a Natural Heritage System for the GGH to support a comprehensive, integrated, and long-term approach to planning for the protection of the region's natural heritage and biodiversity. The Natural Heritage System mapping will exclude lands within settlement area boundaries that were approved and in effect as of July 1, 2017."

The subject lands are located within a Settlement Area that was approved and in effect prior to July 1, 2017 and therefore the natural heritage mapping is not applicable to the subject lands or the proposed applications.

The Simcoe Sub-area policies in the Growth Plan (Section 6) are applicable to the Town of Penetanguishene. The Town is identified as a Primary Settlement Area in Schedule 8 of the Growth Plan. The Simcoe Sub-area contains population and employment forecasts

for each municipality within the County of Simcoe. The proposed Consent application will contribute to the growth within the Town.

Based on the analysis above, the proposed Consent application conforms to the Growth Plan.

4.3 County of Simcoe Official Plan

The subject lands are designated as Settlement in the County of Simcoe Official Plan. In accordance with Table 5.1 of the County OP, the Town of Penetanguishene is identified as a Primary Settlement Area.

The County Official Plan through Section 3.1.1 identifies that most growth will be directed to the settlements throughout the County. This policy also clarifies that the term settlements will refer to both primary settlement areas and urban and rural settlement areas. Since the Town of Penetanguishene is recognized as a Settlement, the policy context is considered supportive for the proposed applications.

The County Official Plan permits land division by consent in accordance with Section 3.3.2 for uses that are permitted by the designation, or that maintain the intent of the Official Plan. The lands are designated by the Town to permit residential uses and lot creation; as such the use of the proposed applications if approved would maintain the intent of the Official Plan.

Regarding lot creation, Section 3.3.1 of the County Official Plan states,

“In the Settlement designation, in addition to lots for commercial, industrial, institutional, recreational, and other urban uses, zoning bylaws may make provision for detached dwelling units, garden suites, second units in residential dwellings and mixed use buildings, and multi dwelling residential buildings. Notwithstanding the above, areas identified in local municipal official plans as lands not for urban uses within settlements/settlement areas shall be subject to the applicable policies of the local municipal official plan.”

Policy direction regarding lot creation is included in the Town of Penetanguishene Official Plan and the proposed Consent conforms to those policies.

Natural Heritage policies are included in Section 3.3.15 of the County Official Plan. An Environmental Impact Study was prepared to review the natural heritage features and functions on the subject lands, and to provide mitigation measures to ensure there would be no negative impacts associated with the proposed development. The conclusions of the Environmental Impact Study demonstrate that the proposed development can be mitigated, as referenced in this discussion in the PPS section of this report.

Section 3.5 of the County Official Plan relates to Settlements. Section 3.5.1 identifies that one objective is to focus growth and development within settlements and Section 3.5.4 promotes development forms and patterns that minimize land consumption and servicing

costs. The proposed lots have been evaluated from a policy and environmental perspective, and makes use of existing services to the area.

Section 4.7 of the County Official Plan contains infrastructure policies and Section 4.7.6 further outlines the circumstances under which development can occur within settlements while using individual on-site water and sewage systems. Based on the existing development being serviced by individual on-site sewage (septic system) and individual on-site water (well) and the size of the proposed lots, there are no anticipated issues associated with providing these services.

Based on the analysis above, the proposed Consent application conforms to the County of Simcoe Official Plan.

4.4 Town of Penetanguishene Official Plan

In regards to the Town of Penetanguishene Official Plan, the following applies to the subject lands:

- Designated Rural Area and Environmental Protection Area on Schedule A of the Town of Penetanguishene Official Plan;
- Located within a Highly Vulnerable Aquifer as identified on Schedule B2 of the Town of Penetanguishene Official Plan; and,
- Has lot frontage and frontage on local roads as identified on Schedule C of the Town of Penetanguishene Official Plan.

Low density residential uses are permitted within the Rural Area designation in accordance with Section 4.9.1.8 of the Town Official Plan. Lands within the Rural Area are typically unserviced or partially serviced and predominantly contain rural residential uses, including single detached dwellings. Limited residential development shall occur in the Rural Area in accordance with the land division policies on Section 6.3.5 of the Town Official Plan. Development will be subject to policies of Section 3.10 and boundaries of Schedule B1 to determine any natural resources, Natural Heritage Features and Functions, which may be a constraint to development.

It is MHBC's opinion that the proposed new lots to be created by Consent are limited residential development. The Town has seen a number of residential subdivisions and multi-unit residential developments in recent years and in this context the four additional lots proposed are limited and locally appropriate.

Section 3.10 of the Town Official Plan contains policies regarding natural heritage features and areas. An EIS was prepared to review the natural heritage features and functions on the subject lands, and to provide mitigation measures to ensure there would be no negative impacts associated with the proposed development. The conclusions of the EIS demonstrate that the proposed development can be mitigated, as referenced in this discussion in the PPS section of this report.

The subject lands are located within a Highly Vulnerable Aquifer. This is an aquifer that can be easily changed or affected by contamination from both human activities and natural

processes as a result of (a) its intrinsic susceptibility, as a function of the thickness and permeability of overlaying layers, or (b) by preferential pathways to the aquifer. Residential uses are not a threat to a Highly Vulnerable Aquifer in accordance with the local Source Protection Plan.

Section 6.3.5.2 of the Town Official Plan includes policies regarding Consents. A Consent shall not result in the creation of more than five new lots in a single application. Where feasible and applicable, the Town should limit strip development (linear development along a road) and require the clustering of lots to minimize the use of land. The proposed lot creation does not result in strip development and identifies lands for future building locations that do not contain environmental features and areas. Proposed Severed Lot 1 and 2 are clustered together on Tay Point Road and Severed Lot 3 and 4 are clustered on Curry Road, to avoid the creation of strip development which is defined by the County of Simcoe as an arrangement in linear configurations of more than three non farm lots within 200 metres of the proposed lot line as measured along the frontage of one side of the road. There are not four lots located within 200 metres of any of the proposed lot lines for the new lots.

Table 2 provides a summary of the policies that are used to evaluate Consent applications in all designations of the Town Official Plan, included in Section 6.3.5.2.3.

Table 2 – Consent Application Policies

Section Number	Policy	Official Plan Conformity
6.3.5.2.3	a) Road Access	
	i. The lot to be retained and the lot to be severed shall have frontage on and access to an open, improved public road which is maintained on a year-round basis.	The proposed lots have frontage on and access to an open, improved public road which is maintained on a year-round basis, being Tay Point Road and Curry Road.
	ii. Lots shall not be created which would create a traffic hazard due to limited sight lines on curves or grades.	The proposed lots are located on Tay Point Road and Curry Road. There are no anticipated sight line issues as a result of curves and grades on these two public roads.
	iii. Any required road widenings, improvements or extensions to existing rights-of-way may be required as a condition of severance approval.	Noted.
	iv. Notwithstanding subsection i., the lot to be retained and the lot to be severed may have frontage on and access to a Private Road where the consent is to separate two existing dwellings on a lot of record.	Not applicable.
b) Lot Size		

	i. The lot area and frontage of both the lot to be retained and the lot to be severed shall be adequate for existing and proposed uses and shall allow for the development of a use which is compatible with adjacent uses by providing for sufficient setbacks from neighbouring uses and, where required, the provision of appropriate buffering.	The proposed lots are to comply with the minimum standards of the applicable zone in the Zoning By-law, and are of adequate size to accommodate residential uses.
	ii. The proposed lots shall comply with the provisions of the Zoning By-law. Where it is not possible to meet the standards in the by-law or a minor variance may be granted as a condition of approval, where that action is considered appropriate.	The proposed lots are to comply with the minimum standards of the applicable zone in the Zoning By-law.
c) Proper Development of Adjacent Lands		
	i. The proposed lot(s) shall not restrict the development of parcels of land, particularly the provision of access to allow the development of remnant parcels in the interior of a block of land.	The proposed lots do not restrict access to any adjacent lands, including the retained lot.
d) Parkland Dedication		
	i. Where a consent is approved, the parkland dedication policies of Section 6.3.11.2 shall apply.	Noted.
e) Municipal Services		
	i. Connection shall be made to municipal services provided they are available. Where they are not, individual water and sewage services may be permitted provided that site conditions are suitable for the long-term provision of such services with no negative impacts.	There are no municipal services available on the subject lands. Future development on the proposed lots is to be serviced by individual on-site sewage (septic system) and individual on-site water (well) and based on the lot areas of the proposed lots, there are no anticipated issues associated with providing these services.
	f) The Town may require the following conditions of approval of a consent application for the severed lot and/or retained lot where such a condition is appropriate: <ul style="list-style-type: none"> i. Payment of taxes; ii. Payment of development charges; 	Noted. It is understood that Town staff will consider a provisional approval of the Consent application, subject to the completion of conditions.

	<ul style="list-style-type: none"> iii. Payment of drainage and local improvement charges; iv. Provisions for connection to the municipal water or sanitary sewage systems v. Provisions for Stormwater Management vi. Road dedications and improvements; vii. Parkland dedications or payment-in-lieu; viii. Approval of a Zoning By-law amendment or minor variance; ix. Approval of a Site Plan; <p>Other technical matters deemed appropriate by the Town under the specific circumstances of the Consent.</p>	
	<p>g) Consents for building purposes shall not be permitted under the following circumstances:</p> <ul style="list-style-type: none"> i. The land is located within any Natural Heritage Features and Areas, and a suitable building site cannot be found through the evaluation completed in an Environmental Impact Study; ii. The land is located in a floodway iii. The land is located on or within 300 metres of an area, as identified by the Province; iv. Provincial or Town transportation objectives, standards or policies cannot be maintained; or v. The created and retained parcels cannot be provided with an adequate level of service. 	<p>The conclusions of the Environmental Impact Study demonstrate that the proposed development can be mitigated, as referenced in this discussion in the PPS section of this report.</p> <p>There is adequate level of services available in this area of the Town, and the area is developed with other rural and rural residential development.</p>

Based on the analysis above, the proposed Consent application conforms to the Town of Penetanguishene Official Plan.

4.5 Town of Penetanguishene Zoning By-law

The subject lands are located within the Rural (RU) and Environmental Protection (EP) Zones in the Town of Penetanguishene Zoning By-law. The subject lands are predominantly zoned RU and the lands that are designated as Environmental Protection Area in the Town of Penetanguishene Official Plan are zoned EP.

As a result of the EIS, additional areas on the subject lands were identified to contain natural heritage features and functions. It is recommended that these features identified in the Environmental Impact Study be zoned EP to protect these areas from development in the future. A Zoning By-law Amendment to expand the EP Zone on the subject lands is recommended to be a condition of provisional Consent.

The proposed Retained Lot also requires site specific zoning to establish a building envelope, to implement the recommendations of the EIS.

Further, the proposed Severed Lots are smaller than a typical "rural" lot. If recommended by Town staff, the proposed Severed Lots could be rezoned to the Rural Residential (RR) Zone to reflect the smaller lot size (although the zone standards for the RU and RR Zone are the same for uses such as single detached dwelling units). The minimum lot area for the RU and RR Zone for a single detached dwelling is 0.2 hectares (0.5 acres) and the minimum lot frontage for the RU and RR Zone for a single detached dwelling is 35 metres.

The Severed Lots and the Retained Lot meet the minimum zone standards for the RU Zone and the RR Zone, for uses such as a single detached dwelling. Future development on the proposed lots is to comply to the other zone standards, such as minimum yards and maximum lot coverage.

A future Zoning By-law Amendment is required to implement site specific zoning on the subject lands and the proposed lots, where applicable. It is recommended that the requirement for a Zoning By-law Amendment be included as a condition of provisional Consent.

5.0 TECHNICAL REPORTS

5.1 Environmental Impact Study

An Environmental Impact Study (EIS) was prepared to review the natural heritage features and functions on the subject lands to ensure that development can proceed in accordance with the applicable policy framework. The EIS concluded that the establishment of residential lots capable of supporting single detached dwellings and accessory buildings is appropriate, subject to the recommended mitigation measures and building envelopes. The proposed four Severed Lots are adequately setback from the natural heritage features.

Subject to the mitigation measures and recommendations contained within Section 9.0 of the EIS, the following is concluded:

- The proposed development is consistent with the applicable natural heritage policies of the PPS, Endangered Species Act, conforms to the County of Simcoe Official Plan and conforms to the Town of Penetanguishene Official Plan;
- The proposed lots and building envelopes will not result in a negative direct or indirect impact to the habitat of Species at Risk;
- The proposed lots and building envelopes are not expected to negatively impact the ecological form or function of the Provincially Significant Wetland, Candidate Significant Woodland (present or potential) or Significant Woodlands; and,
- No ephemeral, intermittent or permanent drainage features, open water units, fish or fish habitat are expected to be impacted negatively as a result of the proposed development and during future construction.

It is recommended that the findings of the EIS be included in a future Consent Agreement for the subject lands and proposed lots. It is recommended that the Owner or future purchasers of the proposed lots enter into a Consent Agreement with the Town.

5.2 Archaeological Assessment

In accordance with the County of Simcoe's requirements, the Owner submitted an Archaeological Assessment for the subject lands which confirmed there were no concerns and no archaeological artifacts discovered. The Assessment has been submitted to the Province for review and has been entered into the Ontario Public Register of Archaeological Reports.

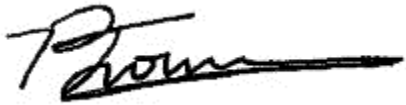
6.0 SUMMARY AND FINDINGS

Following a review of the applicable policies in the Provincial Policy Statement, the Growth Plan, the County of Simcoe Official Plan, the Town of Penetanguishene Official Plan, and Town of Penetanguishene Zoning By-law, the proposed Consent application to create four new lots, plus one retained lot, for a total of five lots on the subject lands is consistent or in conformity with the applicable land use planning policies and documents and represents good land use planning.

It is recommended that the Owner obtain approvals of a Zoning By-law Amendment to apply site specific zoning on the subject lands where applicable; and enter into a Consent Agreement with the Town in order to implement the findings of the Environmental Impact Study.

Respectfully submitted,

MHBC



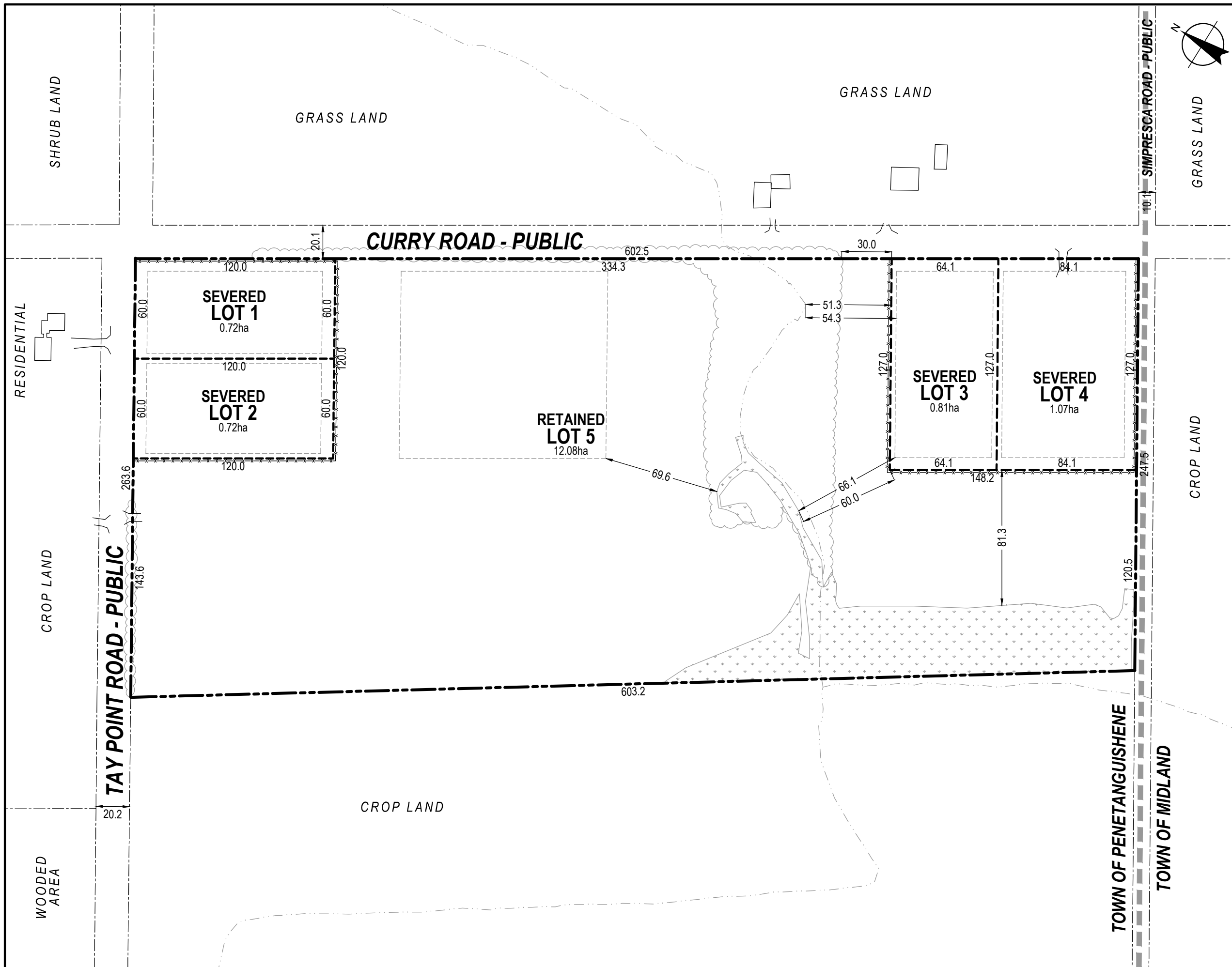
Patrick Townes, BA, BEd
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Appendices

Appendix 1



CONSENT SKETCH

Puddicombe Consent

1457 Tay Point Road
 Lot 58 Military Reserve
 Geographic Township of Tay
 Town of Penetanguishene
 County of Simcoe

LEGEND

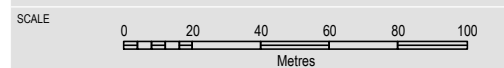
- Site Boundary Line
- Parcel Fabric
- Proposed Severance Line
- Proposed Building Envelope
- Proposed Wildlife Exclusion Fence
- Municipal Boundary
- Wooded Area (Azimuth)
- Watercourse (Land Information Ontario)
- Provincially Significant Wetland (Azimuth)
- Building
- Entrance

NOTES
 All dimensions are in metres and areas are approximate.

Exclusion fence to provide complete barrier to movement onto developed areas. Fencing to be constructed and installed as per provincial requirements (e.g. 0.25" diameter mesh size, minimum burial depth 10-20cm, minimum height 60cm). E.g. Galvanized Farm Fence with galvanized mesh cloth up to the specified height, attached to wood posts. To be installed prior to emergence from hibernation (before April 1 of a given year).

DATE
 November 29, 2023

SOURCES
 ESRI
 County of Simcoe
 Land Information Ontario



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