

**THE CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS  
COMMITTEE OF ADJUSTMENT REPORT**



**TO: Members of the Committee of Adjustment**  
**FROM: Stefan Szczerbak, Planner**  
**DATE: January 27<sup>th</sup>, 2009**  
**RE: Consent**  
**Applications: B 16 & 17/08 LOB (Betula Forests Limited)**  
**Applicant: Betula Forests Limited**  
**Part Lot 25, Conc. 3, Sinclair Ward**  
**Roll No. 020-003-10200**  
**Harp Lake Road – vacant – no address assigned**  
**Agent: List Planning Ltd.**

**RECOMMENDATION:**

That application **B 16/08 LOB (Betula Forests Limited)** be **APPROVED**, subject to the following conditions:

- (1) A registrable description of the severed lot and all applicable rights-of-way be submitted to the Secretary-Treasurer, along with two registered copies of the reference plan.
- (2) That the severed lot be brought into conformity with the applicable Township by-law by rezoning it to a **Rural Residential with an Exception "(RR-Exx)"** zone in order to recognize an increased rear yard setback and any deficiencies that may be noted.
- (3) That the Applicant enter into an Agreement with the Township of Lake of Bays under Section 51(26) of the Planning Act and this Agreement be registered on the title of the severed lot. The Agreement shall state that a Site Plan Agreement, pursuant to Section 41 of the Planning Act, is required prior to development, site alteration, vegetation removal, or issuance of a building permit on the subject lands. Said site plan agreement is to address Section D.109 (Deer Wintering Habitat) of the Township Official Plan, as well as to ensure the retention of natural vegetation along the road frontage of Harp Lake Road, in accordance with Section I.18 of the Township Official Plan.
- (4) That final approval be subject to confirmation by the Township of Lake of Bays that the severed lands are satisfactory for on-site sewage disposal.
- (5) That the applicant apply for and receive an entrance permit from the Public Works Department.
- (6) That cash-in-lieu of parkland dedication be paid to the Township of Lake of Bays in the amount of \$1,600.00.

That application **B 17/08 LOB (Betula Forests Limited)** be **APPROVED**, subject to the following conditions:

- (1) A registrable description of the severed lot and all applicable rights-of-way be submitted to the Secretary-Treasurer, along with two registered copies of the reference plan.

- (2) That the severed lot be brought into conformity with the applicable Township by-law by rezoning it to a **Rural Residential with an Exception "(RR-Exx)"** zone in order to recognize an increased rear yard setback and any deficiencies that may be noted.
- (3) That the Applicant enter into an Agreement with the Township of Lake of Bays under Section 51(26) of the Planning Act and this Agreement be registered on the title of the severed lot. The Agreement shall state that a Site Plan Agreement, pursuant to Section 41 of the Planning Act, is required prior to development, site alteration, vegetation removal, or issuance of a building permit on the subject lands. Said site plan agreement is to address Section D.109 (Deer Wintering Habitat) of the Township Official Plan, as well as to ensure the retention of natural vegetation along the road frontage of Harp Lake Road, in accordance with Section I.18 of the Township Official Plan.
- (4) That final approval be subject to confirmation by the Township of Lake of Bays that the severed lands are satisfactory for on-site sewage disposal.
- (5) That the applicant apply for and receive an entrance permit from the Public Works Department.
- (6) That cash-in-lieu of parkland dedication be paid to the Township of Lake of Bays in the amount of \$1,600.00.

#### **ANALYSIS:**

At the June 24<sup>th</sup>, September 23<sup>rd</sup> and November 25<sup>th</sup>, 2008 meetings, the Committee of Adjustment decided to defer making a decision on these applications as they did not include the required study reports, and to allow sufficient time for the applicant to submit the following:

- (1) a site evaluation report in accordance with Section E.4 of the Township Official Plan, completed to the satisfaction of the Township; and
- (2) amend the proposal to ensure that each of the proposed lots achieves the required minimum road frontage of 152 metres (498.7 ft), in accordance with Section I.32 of the Township Official Plan.

A copy of our June 24<sup>th</sup>, 2008 staff report has been included for information purposes. With respect to the identified and confirmed slopes located on the subject lands, when assessing a particular lot in terms of steep slopes, the direction of the Township's Plan is to undertake a preliminary site inspection and evaluate the proposal based on the principles found in Subsection E.3 of the Plan. Staff attended the site with the applicant's agent and note that the proposed locations for building envelopes are located in areas away from the identified slopes and ridge lines. Given this, staff determined that a site evaluation report was not required. In order to ensure that the building envelopes are located off of the ridge and steep slopes located on the proposed lots, staff recommend that an increased rear yard setback of 360 ft be required through a by-law amendment, and that this be required as a condition of consent.

In addition, in order to ensure that any proposed driveway locations are favourable to the Director of Public Works, a condition has been included that specifies that an entrance permit must be applied for and received.


Staff note that a reference plan has been provided that reflects that each of the proposed lots has the required road frontage of 152 metres (498.7 ft), in accordance with Section I.32 of the Township Official Plan.

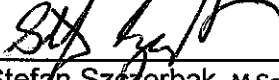
In view of the foregoing, provided the above noted conditions are incorporated as part of the

Committee's approval of this proposal, staff have no concerns with the approval of this proposal, as the consent applications generally conform to both the District and Township Official Plans.

Respectfully submitted by:

With the concurrence of:

  
\_\_\_\_\_  
Kelly Stronks, CPT  
Planning Technician

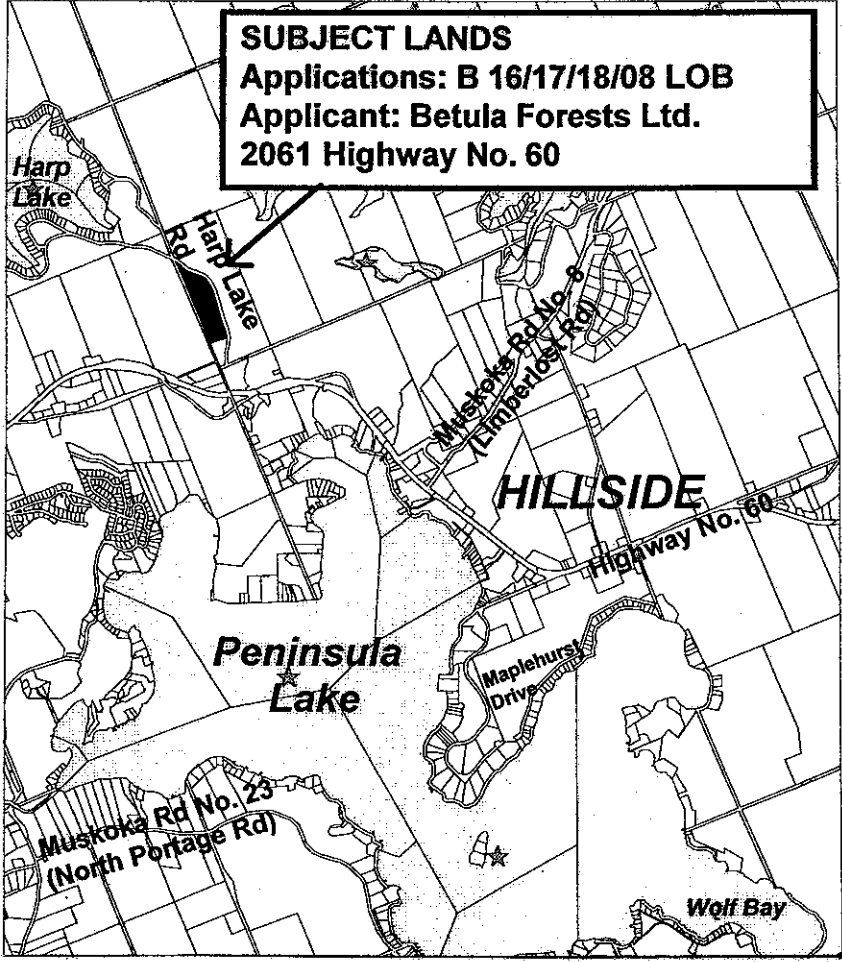
  
\_\_\_\_\_  
Stefan Szczerbak, M.Sc., RPP, MCIP  
Planner

**SUBJECT LANDS**

**Applications: B 16/17/18/08 LOB**

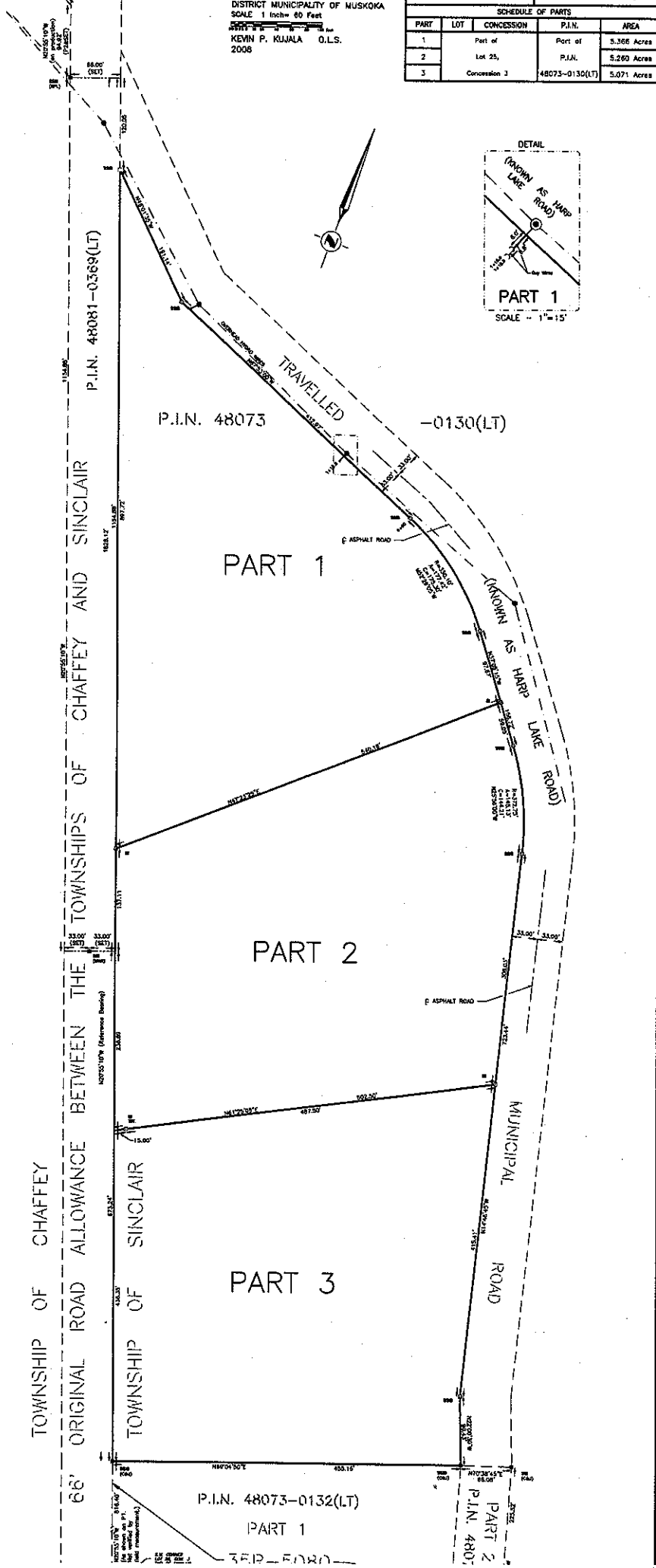
**Applicant: Betula Forests Ltd.**

**2061 Highway No. 60**



TOWNSHIP OF LAKE OF BAYS  
 DISTRICT MUNICIPALITY OF MUSKOKA  
 SCALE 1 Inch = 60 Feet  
 KEVIN P. KUJALA O.L.S.  
 2008

SCHEDULE OF PARTS				
PART	LOT	CONCESSION	P.I.N.	AREA
1		Part of	Part of	5.366 Acres
2		Lot 25,	P.I.A.	5.260 Acres
3		Concession 3	48073-0130(LT)	5.071 Acres



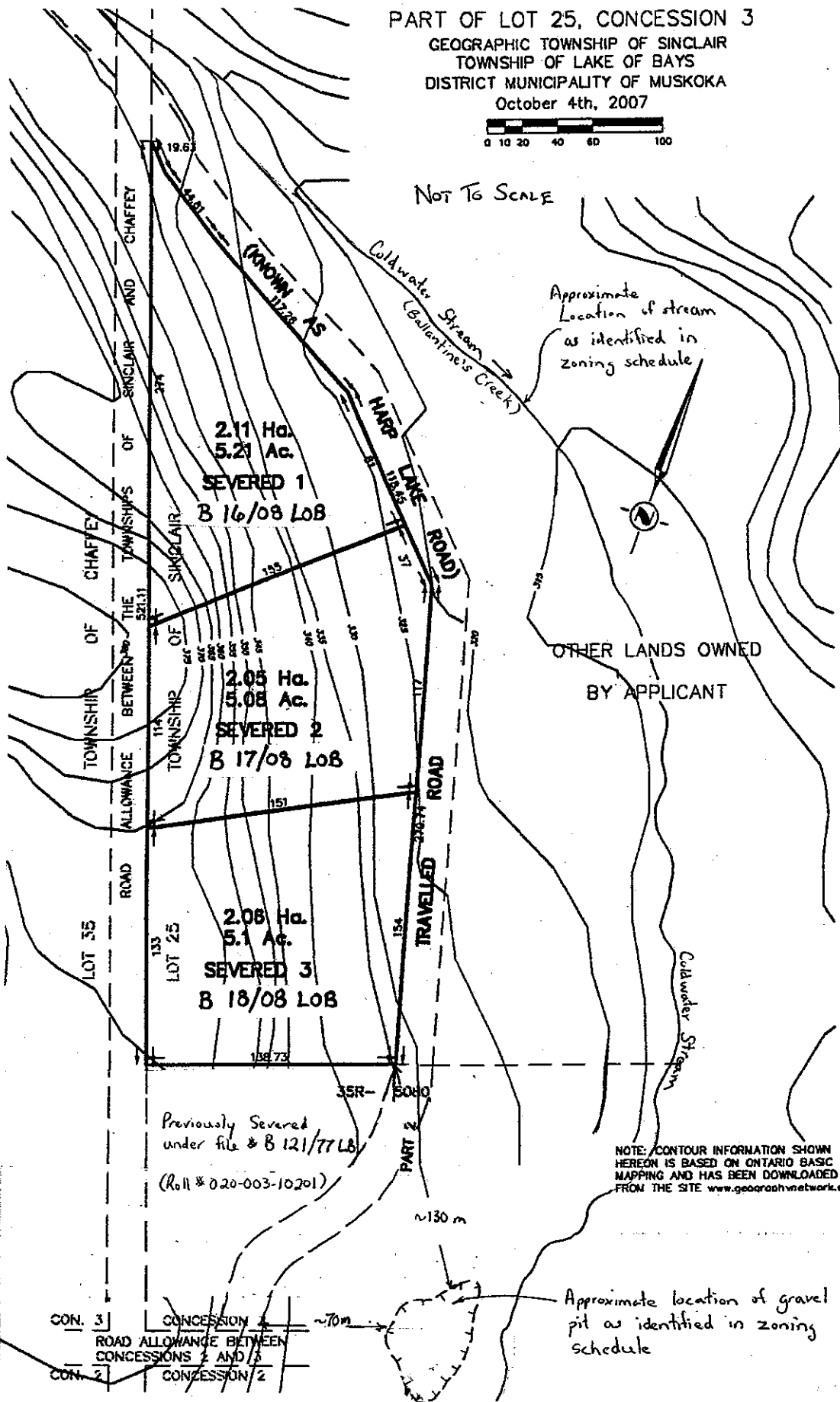
FINAL DRAFT  
 REFERENCE PLAN

SENT APPLICATIONS B 16, 17 & 18/08  
 Applicant: Betula Forests Limited  
 Part Lot 25, Concession 3, Sinclair Ward

PART OF LOT 25, CONCESSION 3  
 GEOGRAPHIC TOWNSHIP OF SINCLAIR  
 TOWNSHIP OF LAKE OF BAYS  
 DISTRICT MUNICIPALITY OF MUSKOKA  
 October 4th, 2007



NOT TO SCALE



OTHER LANDS OWNED BY APPLICANT

NOTE: CONTOUR INFORMATION SHOWN HEREON IS BASED ON ONTARIO BASIC MAPPING AND HAS BEEN DOWNLOADED FROM THE SITE [www.georashvnetwork.ca](http://www.georashvnetwork.ca)

ORIGINAL SKETCH

THE CORPORATION OF THE TOWNSHIP OF LAKE OF BAYS  
**COMMITTEE OF ADJUSTMENT REPORT**



**TO:** Members of the Committee of Adjustment  
**FROM:** Stefan Szczerbak, Planner  
**DATE:** June 24<sup>th</sup>, 2008  
**RE:** Consent  
Applications: B 16, 17 & 18/08 LOB (Betula Forests Limited)  
Applicant: Betula Forests Limited  
Part Lot 25, Conc. 3, Sinclair Ward  
Roll No. 020-003-10200  
Harp Lake Road – vacant – no address assigned  
Agent: List Planning Ltd.

**RECOMMENDATION:**

That application B 16/08 LOB (Betula Forests Limited) be DEFERRED until the September 23<sup>rd</sup>, 2008 meeting of the Committee in order to allow sufficient time for the applicant to submit a site evaluation report in accordance with Section E.4 of the Township Official Plan, completed to the satisfaction of the Township.

That application B 17/08 LOB (Betula Forests Limited) be DEFERRED until the September 23<sup>rd</sup>, 2008 meeting of the Committee in order to allow sufficient time for the applicant to submit a site evaluation report for consent application B 16/08 LOB in accordance with Section E.4 of the Township Official Plan, completed to the satisfaction of the Township. In addition, it will allow time for the proposal to be amended to ensure that each of the proposed lots achieves the required minimum road frontage of 152 metres (498.7 ft), in accordance with Section I.32 of the Township Official Plan.

That application B 18/08 LOB (Betula Forests Limited) be APPROVED, subject to the following conditions:

- (1) A registrable description of the severed lot and all applicable rights-of-way be submitted to the Secretary-Treasurer, along with two registered copies of the reference plan;
- (2) That the severed lot be brought into conformity with the applicable Township by-law by rezoning it to a Rural Residential "(RR)" zone;
- (3) That the Applicant enter into an Agreement with the Township of Lake of Bays under Section 51(26) of the Planning Act and this Agreement be registered on the title of the severed lot. The Agreement shall state that a Site Plan Agreement, pursuant to Section 41 of the Planning Act, is required prior to development, site alteration, vegetation removal, or issuance of a building permit on the subject lands. Said site plan agreement is to address Section D.109 (Deer Wintering Habitat) of the Township Official Plan, as well as to ensure the retention of natural vegetation along the road frontage of Harp Lake Road, in accordance with Section I.18 of the Township Official Plan;
- (4) That final approval be subject to confirmation by the Township of Lake of Bays that the severed lands are satisfactory for on-site sewage disposal; and
- (5) That cash-in-lieu of parkland dedication be paid to the Township of Lake of Bays in the amount of \$1,600.00.

**ORIGIN:**

Consent applications **B 16, 17 & 18/08 LOB** have been submitted by Betula Forests Limited for the purpose of creating two new residential building lots for a total of three lots on Harp Lake Road.

The current holding is vacant, and the owner wishes to sever the subject lands and create two new residential building lots as follows:

	Lot Area		Frontage on Harp Lake Road	
<b>Severed Lot 1 (B 16/08 LOB)</b>	2.11 ha	5.21 ac	255 m	836 ft
<b>Severed Lot 2 (B 17/08 LOB)</b>	2.05 ha	5.08 ac	150 m	492 ft
<b>Severed Lot 3 (B 18/08 LOB)</b>	2.06 ha	5.1 ac	154 m	505 ft
<b>Total Property</b>	6.22 ha	15.39 ac	559 m	1833 ft

**BACKGROUND:**

<b>Previous Files:</b>	<ul style="list-style-type: none"> <li>• Consent Application B 121/77 LOB (created lot under roll no. 020-003-10201)</li> <li>• Rezoning Application Z 02/89 LOB (By-law 89-11) – affected the portion of the applicant’s lands east of Harp Lake Road</li> <li>• Pits &amp; Quarries Agreement with Township (signing authority by way of By-law 89-91) for private land pit located on applicant’s lands east of Harp Lake Road</li> </ul>
<b>Natural Constraints:</b>	<ul style="list-style-type: none"> <li>• Slopes ranging from 20% to over 40% in some locations</li> <li>• Deer wintering habitat</li> <li>• Private land pit located on applicant’s lands east of Harp Lake Road – approx. 130 metres southeast of closest proposed severed lot</li> <li>• Tertiary aggregate deposit</li> </ul>
<b>LOB Official Plan:</b>	<ul style="list-style-type: none"> <li>• Rural</li> </ul>
<b>District Official Plan:</b>	<ul style="list-style-type: none"> <li>• Rural</li> </ul>
<b>LOB By-law 04-181</b>	<ul style="list-style-type: none"> <li>• Rural “(RU)” Zone</li> </ul>

**Site Characteristics:**

The subject lands are vacant and are well vegetated with primarily mature deciduous forest. The property slopes moderately up from Harp Lake Road, with steeper slopes being present at the westerly (rear) portion of the property.

**Surrounding Uses:**

The surrounding lands contain low density residential uses.

## **ANALYSIS:**

The subject property is located within the **Rural** designation. The proposed severed lots front onto Harp Lake Road which is a year round maintained public road, in accordance with Section I.20 of the Official Plan. Section I.32 of the Plan also states that minimum requirements for new rural residential lots will be 2 hectares (5 acres) in lot area with 152 metres (499 feet) of road frontage. Upon review of the proposal, the lot proposed by application **B 17/08 LOB** (severed lot 2) is comprised of 150 metres (492 ft) of road frontage with a lot area of 2.05 hectares. As the proposed lot is deficient in road frontage, it does not conform to the Township Official Plan and staff cannot support the application as submitted.

However, when reviewing the entire proposal, given that the property has sufficient frontage to accommodate a total of three lots with the required amount of road frontage, it is recommended that the applications be amended such that severed lot 2 would achieve the minimum required road frontage of 152 metres (499 ft).

With respect to applications **B 16/08** and **B 18/08 LOB**, they both exceed the minimum criteria for road frontage and lot area.

### **Terrain**

A review of Schedule D1 "Terrain" of the Township's Official Plan has revealed that the westerly (rear) portions of all three proposed lots contain steep slopes in excess of 40%, and that portions of the lots adjacent to Harp Lake Road contain steep slopes of 20% to 40%. Therefore, the steep slope policies of the Township (Sections E.4 – E.7) and Muskoka (Section F.54 – F.59) Official Plans would apply. When creating lots in areas containing steep slopes, the direction of both Official Plans is that the development of the lot be carefully undertaken, such that there is no substantial alteration of the landscape and that issues such as visual intrusion of the development, slope stability, erosion, the protection of identified fish and wildlife habitat, and stormwater run-off are all addressed. In addition, the location of buildings and structures on parcels with steep slopes must also address the potential for negative visual impacts in accordance with the design principles found in Section I.18 of the Official Plan.

As part of the submission with the application, the applicant included a report from Pinestone Engineering Ltd., dated April 30, 2008, that ascertained whether suitable areas existed on each lot for the construction of an on-site sewage system. The report stated that each of the proposed severed lots could accommodate a system, and a sketch was included that identified the proposed locations of these systems. This report and sketch is attached for Committee's information.

The sewage system locations for severed Lots 2 and 3 are located in plateau areas a short distance from the front lot line, thereby avoiding the steep slopes contained towards the rear of the lots. Staff have attended the site and note that there appears to be a building envelope located in the lower area of each of these lots.

With respect to the slopes identified and confirmed upon attending the site, Severed Lot 1 (**B 16/08 LOB**), the proposed sewage system is situated towards the westerly (top) property boundary, in an elevated area of the property containing steep slopes. Of particular concern, is the location of an applicable building envelope and how the rural design principles and site evaluation requirements found Section I.18 and E.4 of the Plan have will be addressed. In addition, it is unclear how a proposed building envelope could be accessed when considering the severity of the slopes located directly adjacent to Harp Lake Road.

Accordingly, staff recommend that a site evaluation report be prepared in accordance with Section E.4 to ensure that proposed Lot 1 is suitable for development. This report should also identify necessary

mitigation measures and include applicable setbacks and appropriate access routes and pathways. The proposed building envelope and entrance location should also be flagged on the site.

With respect to Severed Lot 2 (application **B 17/08 LOB**), it would appear that this lot can safely accommodate the proposed development due to the identification of an applicable building envelope located next to Harp Lake road, however, it is recommended that a decision on this application be deferred until the results of a site evaluation report are received respecting Severed Lot 1, as the approval of application **B 17/08 LOB** would in fact, create the lot considered in application **B 16/08 LOB** (severed lot 1).

### **Deer Wintering Habitat**

A review of Schedule C2 of the Township Official Plan has revealed that the lands contain deer wintering habitat. Section D.109 states that development within a deer wintering area will be located and occur in such a way that coniferous vegetation required for shelter and food is substantially preserved. It is therefore recommended that the lands be subject to a site plan agreement, in accordance with Section 41 of the Planning Act, in order to ensure this habitat will generally remain. Accordingly, a condition has been included that requires the applicant to enter into a consent [51(26)] agreement with the Township that will require a site plan agreement to be entered into at the time of development of each of the lots.

### **Character**

To ensure that the rural character in this area is maintained, it is important that a vegetative buffer be maintained between any proposed buildings and the road corridor on each of the severed lots. In order to ensure that development of the lots is undertaken in accordance with Section I.18 of the Official Plan, the site plan agreement as discussed above should also include provisions to maintain the rural character of these proposed lots.

### **Tertiary Aggregate Deposit**

A review of Schedule E1 of the Township Official Plan has revealed that the lands east of Harp Lake Road, also owned by the applicant, contain a tertiary aggregate deposit as well as a private land pit. The Aggregate Resources Act (ARA), provincial legislation to govern pits and quarries within Ontario, is now in place within the District of Muskoka. In order for existing pits to be recognized and permit the continued operation of these existing pits, the owners must possess a License issued under ARA. As the Township does not have record of the applicable permit, the continued extraction of this pit would contravene the ARA.

### **Zoning Designation**

When reviewing the applicable zoning of the subject lands, the property is currently located within the Rural "(RU)" Zone of Comprehensive Zoning By-law 04-181. In order to appropriately designate the proposed lots, a condition has been included to rezone the severed lands to the Rural Residential "(RR)" Zone, as the resulting lots meet the requirements of this zone but not the provisions of the current Rural "(RU)" Zone.

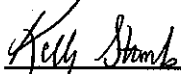
### **Summary**

In view of the foregoing concerns, it is the direction of the Official Plan that a site evaluation be conducted to the satisfaction of the Township to ensure that Severed Lot 1 (application **B 16/08 LOB**) is appropriate for development while considering the existing steep elopes. Therefore, in accordance with Section E.4 and E.5, staff would recommend a decision on this application and on application **B 17/08 LOB**, be deferred, pending receipt of a site evaluation and a site visit to ensure that

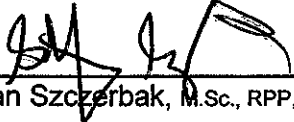
development of the proposed lot can be carefully undertaken such that there is no substantial alteration of the landscape. In addition, it will provide additional time for application B 17/08 LOB to be amended such that this lot has a road frontage of 152 metres (499 ft).

With respect to application B 18/08 LOB, as the consent generally conforms to both the District and Township Official Plans, staff would have no concerns with the approval of this application, subject to the conditions outlined earlier in this report.

Respectfully submitted by:

  
\_\_\_\_\_  
Kelly Stronks, CPT  
Planning Technician

Concurred with by:

  
\_\_\_\_\_  
Stefan Szczerbak, M.Sc., RPP, MCIP  
Planner