

**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: March 24th, 2009
RE: Consent
Application: B 05/09 LOB (Estate of McCullagh)
Applicant: Estate of George McCullagh
Part Lot 22, Con. 7, Franklin Ward, Hemlock Ridge
Road vacant – no address assigned, on Lake of Bays
Roll No: 030-014-10500
Agent: Susan Rosen of Gowling Lafleur Henderson
LLP

RECOMMENDATION:

That application **B 05/09 LOB (Estate of McCullagh)** be **APPROVED**, and that the Committee of Adjustment direct staff to issue a validation certificate respecting this file.

ORIGIN:

Consent application **B 05/09 LOB** has been submitted by Susan Rosen of Gowling Lafleur Henderson LLP, on behalf of the Estate of George McCullagh, in order to clarify an incomplete reference to the reservation of rights-of-way in favour of Lot 10 on Plan 35R-18654 (Roll No. 010-014-10600).

The purpose of this application is to clarify, by way of a validation certificate, that it was the intent of consent application **B 11/00 LOB** to provide for a right-of-way over the retained lands (Part 5) of that application in favour of Part 10.

BACKGROUND:

Previous Files:	<ul style="list-style-type: none"> • Consent application B 11/00 LOB • By-law Amendment application Z 15/00 LOB (By-law No. 00-109) • By-law Amendment application Z 15/04 LOB (By-law No. 04-91)
Natural Constraints:	<ul style="list-style-type: none"> • Lake of Bays is classified as a Category 1 lake • "Type 2" fish habitat • Steep slopes
Lake Phosphorous Sensitivity	Low sensitivity to phosphorus.
LOB Official Plan:	Waterfront.
District Official Plan:	Waterfront.
LOB By-law 04-180:	<ul style="list-style-type: none"> • Waterfront Residential "(WR)" Development Permit Area
OSRA:	Closed
Built Heritage Information:	n/a.

Site Characteristics:

The lands are developed with a single family dwelling and associated shoreline structures. The lands slope north to south towards Lake of Bays. The slope ranges from less than 10% in the northern and northeastern portions of the lot, to between 15%-25% in the location of the dwelling. The slope becomes even steeper to the west of the dwelling. The lands are also well treed.

Surrounding Uses:

The surrounding lands contain low density residential uses and vacant lands.

ANALYSIS:

On June 20th, 2000, the Committee of Adjustment provisionally approved consent application **B 11/00 LOB** for the purpose of creating one new residential building lot together with a series of right-of-ways intended for the severed and retained lands as well as those lands located north of the subject lands identified as Part 10 on Plan 35R-18654 (see attached).

On March 6th, 2001, upon fulfillment of the conditions of the provisional decision, the Secretary-Treasurer endorsed the deed, which was subsequently registered onto the title of the property. The property was then sold to a third party. Upon review of the deed (as registered), it includes provisions for a right-of-way across the severed lands (identified as Part 8) to the lot located north of the subject land identified as Part 10 on Plan 35R-18654 (Roll No. 010-014-10600), which is also owned by the applicant. Inadvertently, there was no provision within the deed to provide legal access across Part 6 (the retained lands of **B 11/00 LOB**) for a right-of-way to access the northerly lot (Part 10). Currently, there is not a continuous right-of-way in place, and this validation certificate will serve to clarify the intent of providing the right-of-way across Part 5 on Plan 35R-18654 in order to legally access Part 10 as indicated in applications **B 11 & 12/00 LOB**.

Therefore, this severance application does not propose the creation of a new lot, it simply serves to clarify an incomplete reference to a right-of-way over the subject lands in favour of lands to the north. The applicant has applied to the Committee for a validation certificate under Section 57 of the Planning Act in order to resolve this omission. Section 57 of the Planning Act authorizes the Committee to validate the title of lands which have been conveyed in contravention of the subdivision (consent) control provisions of the Planning Act.

In addition, the certificate will also serve to correct an incorrect date endorsed by the Secretary-Treasurer. The date of endorsement as shown (2000) should actually read "2001". This will also apply to the concurrent severance application, **B 12/00 LOB**, as it too contained the incorrect year of endorsement.


As this proposal conforms to both the District and Township Official Plans, staff have no concerns with the approval of this file.

Respectfully submitted by:



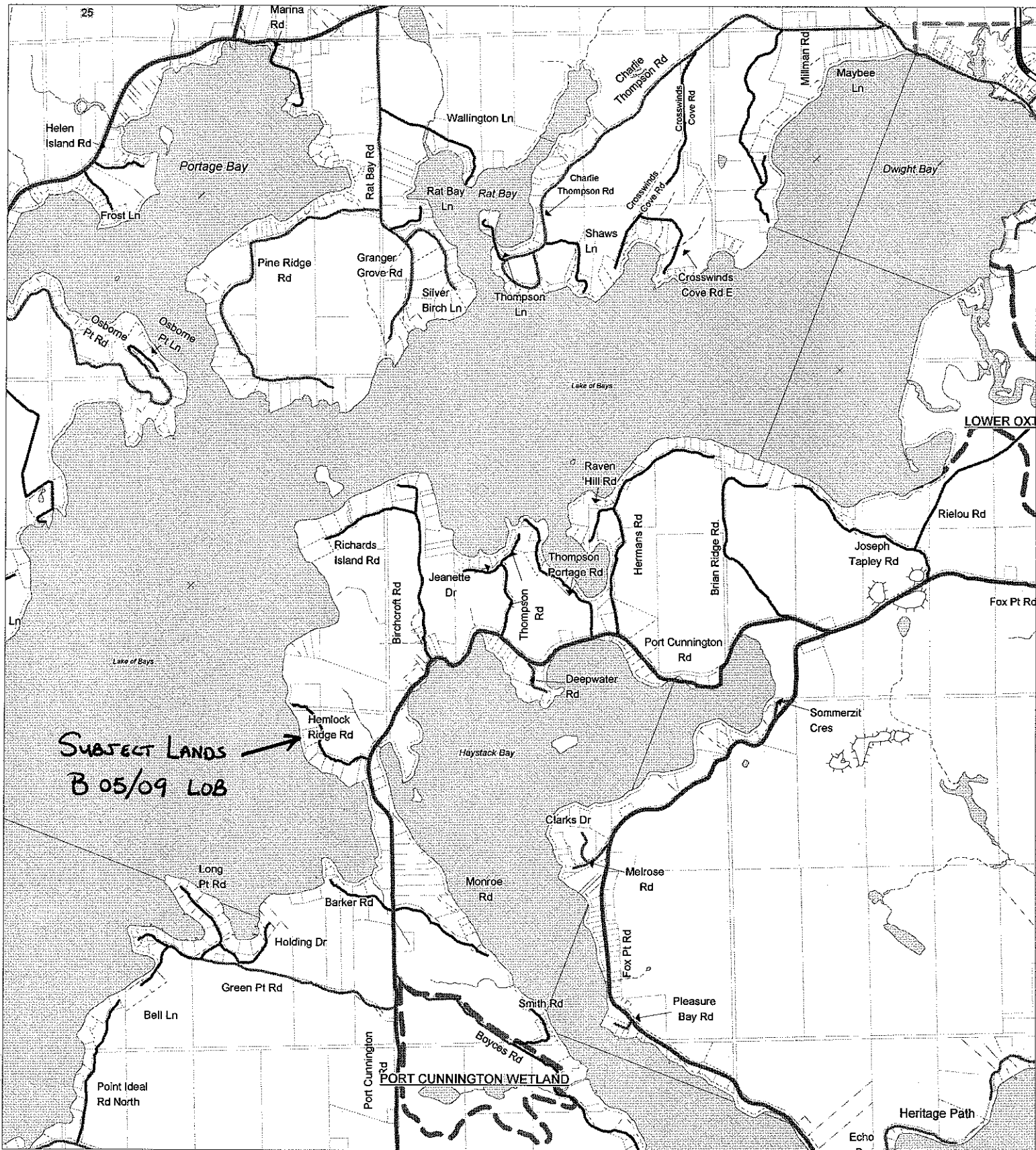
Kelly Stronks, CPT
Planning Technician

With the concurrence of:



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

pr



SUBJECT LANDS
B 05/09 LOB

PORT CUNNINGTON WETLAND

PLAN OF SURVEY OF
 PART 22, CONCESSIONS 6&7 AND
 PART OF ORIGINAL SHORE ROAD ALLOWANCE
 IN FRONT THEREOF
 TOWNSHIP OF FRANKLIN
 NOW IN THE TOWNSHIP OF LAKE OF BAYS
 DISTRICT MUNICIPALITY OF MUSKOKA
 G. BRET MAGEE, O.L.S.
 SCALE 1"=50'
 2000

SHOWN ON THIS PLAN
 SHEET AND CAN BE CONVERTED TO
 METRES BY MULTIPLYING BY 0.3048.

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OFFICE COPY
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 FROM REGISTRY OFFICE FILES

PLAN 35R-18654

RECEIVED AND DEPOSITED
 DATE 11th DECEMBER 2000

LAND REGISTRY FOR THE LAND TITLES
 DIVISION OF REGISTRY
 I REQUIRE THIS PLAN TO BE REPORTED UNDER
 THE LAND TITLES ACT.
 DATE 12 DECEMBER 2000

B.M.
 G. BRET MAGEE
 ONSHORE LAND SURVEYOR

SCHEDULE		
PARCEL	LOT	DESCRIPTION
2, 3, 4, 5, 6, 7, 8, 9	1	PART OF PARCEL 6833
10	2	PART OF PARCEL 6833
11, 12	3	PART OF ORIGINAL SHORE ROAD ALLOWANCE IN FRONT OF LOT 22, CON. 7
13, 14	4	PART OF ORIGINAL SHORE ROAD ALLOWANCE IN FRONT OF LOT 22, CON. 6
15, 16	5	PART OF ORIGINAL SHORE ROAD ALLOWANCE IN FRONT OF LOT 22, CON. 6

NOTE 1 - SUBJECT TO NOTES OF THIS SURVEY AND THE REGULATIONS MADE UNDER THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THE LAND TITLES ACT.

NOTE 2 - SUBJECT TO NOTES OF THIS SURVEY AND THE REGULATIONS MADE UNDER THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THE LAND TITLES ACT.

PART 2, 35R-3088
 (PARCEL 27160)

PART 10
 PARCEL 6833 (Znoly)

BENEFITTING LANDS OF VALIDATION CERTIFICATE

(Roll No. 010-014-10600)

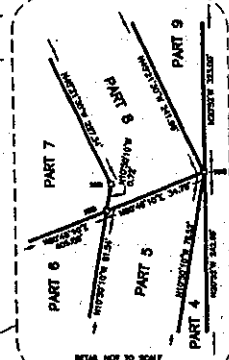
CONCESSION 7

66' ORIGINAL ROAD ALLOWANCE
 BETWEEN CONCESSIONS 6 & 7

CONCESSION 6

PART 7

SUBJECT LANDS



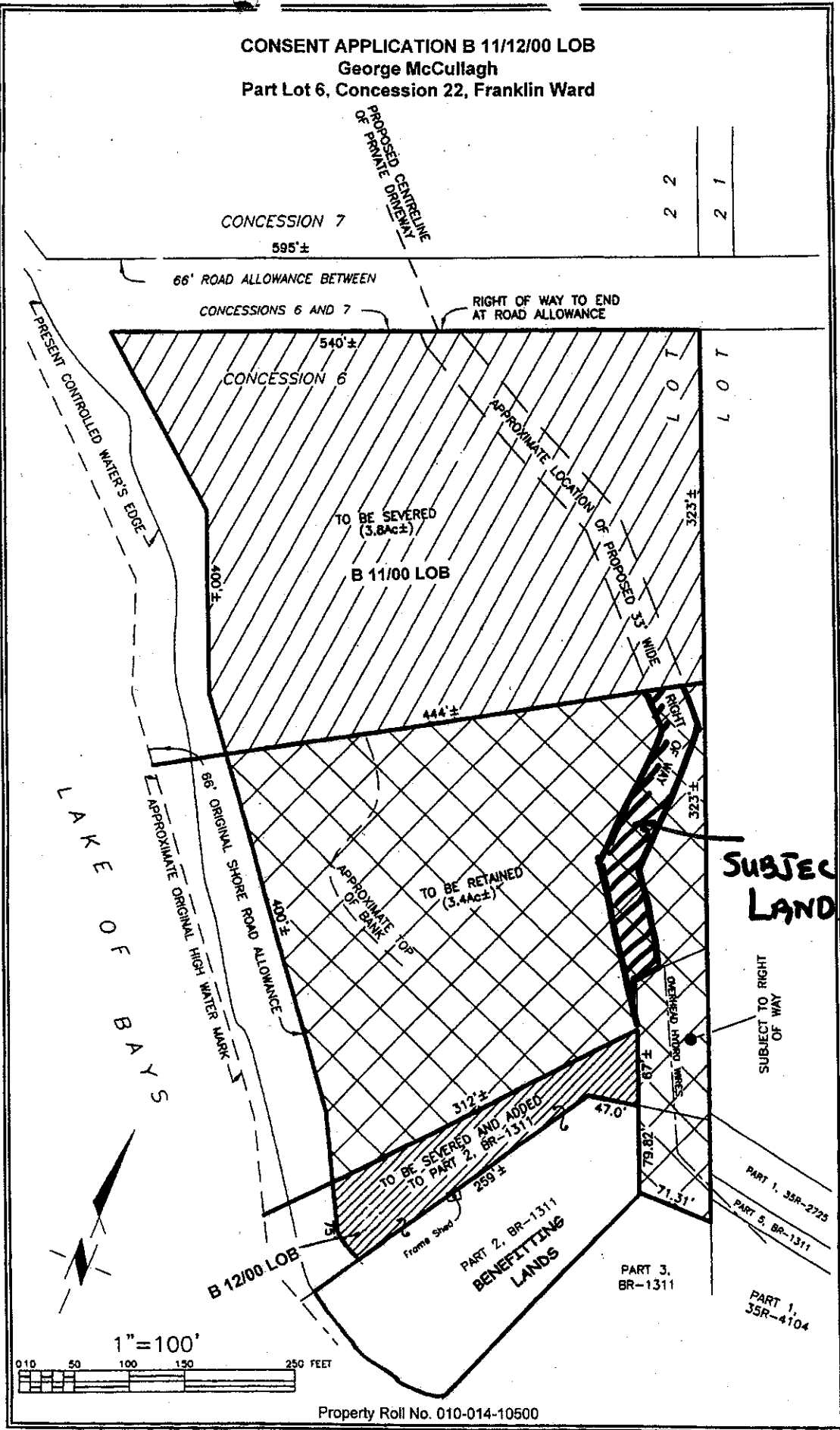
- LEGEND**
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 - 6833 (49thly)
 - 6833 (50thly)

SURVEYOR'S CERTIFICATE
 I CERTIFY THAT
 (1) THE SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEY ACT AND THE REGULATIONS MADE UNDER THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THE LAND TITLES ACT;
 (2) THE SURVEY WAS COMPLETED ON THE 27th DAY OF NOVEMBER, 2000.

B.M.
 G. BRET MAGEE
 ONSHORE LAND SURVEYOR

NOTES:
 1. THE ORIGINAL SURVEY WAS MADE BY JOHN MAGEE OF THE DISTRICT MUNICIPALITY OF MUSKOKA IN 1978.
 2. THE ORIGINAL SURVEY WAS MADE BY JOHN MAGEE OF THE DISTRICT MUNICIPALITY OF MUSKOKA IN 1978.
 3. THE ORIGINAL SURVEY WAS MADE BY JOHN MAGEE OF THE DISTRICT MUNICIPALITY OF MUSKOKA IN 1978.

CONSENT APPLICATION B 11/12/00 LOB
 George McCullagh
 Part Lot 6, Concession 22, Franklin Ward



Property Roll No. 010-014-10500