

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

TO: Melissa Markham, Director of Planning Services
FROM: April Best-Sararas, Planner
DATE: October 23, 2020
RE: Consent Application B 12/20 LOB (ABCD-DADOC, LLC), Port
Cunnington Road (vacant), Roll No. 010-017-07301

REPORT HIGHLIGHTS:

- to provide an easement for a right-of-way for vehicular and pedestrian traffic over an existing driveway/private road (Montgomery Point Road) on the subject lands, being Part 2 on Plan 35R-9812, under Roll No. 010-017-07301, in favour of the following four properties:
 - Right-of-way #1: in favour of 010-017-08000, owned by Greene
 - Right-of-way #2: in favour of 010-017-07900 located at 1002-1 Montgomery Point Road, owned by Daniels
 - Right-of-way #3: in favour of 010-017-07800, owned by B. Montgomery Estate
 - Right-of-way #4: in favour of 010-017-07700, owned by C. Montgomery
- the applicant's agent (in discussion with the owners) advised that the proposed right-of-way over the existing driveway/private road (Montgomery Point Road) has been utilized by the benefitting lands for over 70 years to access the properties
- this application will provide for continuous legal access to the benefitting lots over an existing driveway/private road (being Montgomery Point Road) from Port Cunnington Road, a year-round maintained public road

RECOMMENDATION:

WHEREAS the Director of Planning Services hereby receives the staff report "Consent Application B 12/20 LOB (ABCD-DADOC, LLC), Port Cunnington Road (vacant), Roll No. 010-017-07301" dated October 23, 2020.

BE IT RESOLVED THAT Consent Application B 12/20 LOB (ABCD-DADOC, LLC), to provide a right-of-way for vehicular and pedestrian traffic to four abutting properties on Lake of Bays owned by Greene, Daniels, B. Montgomery Estate & C. Montgomery, under Roll Nos. 010-017-08000, 010-017-07900, 010-017-07800, and 010-017-07700, be **APPROVED** subject to the Provisional Decision attached to the staff report as Appendix "B".

ORIGIN:

This application was received from Lanny Dennis of Wayne Simpson & Associates, agent, on behalf of ABCD-DADOC, LLC, landowner.

APPLICATION:

The purpose of this application is to provide a right-of-way for vehicular and pedestrian traffic to four abutting properties on Lake of Bays owned by Greene, Daniels, B. Montgomery Estate & C. Montgomery, under Roll Nos. 010-017-08000, 010-017-07900, 010-017-07800,

and 010-017-07700.

This application will provide for continuous legal access to the benefitting lots over an existing driveway/private road (Montgomery Point Road) from Port Cunnington Road, a year-round maintained public road.

ANALYSIS:

Property Information		
	Subject Lands (010-017-07301)	Benefitting Lands (010-017-08000, 010-017-07900, 010-017-07800, & 010-017- 07700)
Official Plan Designation	Waterfront & Rural	Waterfront
Development Permit By-law 2004-180	<ul style="list-style-type: none"> • Waterfront Residential “(WR)” • Waterfront Environmental Protection (“WEP”) 	<ul style="list-style-type: none"> • Waterfront Residential “(WR)” with a portion of the shoreline abutting the property with roll no. 010-017-08000 zoned Waterfront Environmental Protection One “(WEP1)”
Comprehensive Zoning By-law 2004-181	<ul style="list-style-type: none"> • Rural “(Rural)” 	N/A
Waterbody	N/A	Lake of Bays
Access	Port Cunnington Road (<i>Township owned</i>)	Private road (Montgomery Point Road) off of Port Cunnington Road (<i>Township owned</i>)
Lot Area	36.8 hectares (90.88 acres) (<i>MPAC</i>)	<ul style="list-style-type: none"> • 010-017-08000: 0.78 ha (1.92 acres) (<i>Survey Plan</i>) • 010-017-07900: 0.67 ha (1.66 acres) (<i>Survey Plan</i>) • 010-017-07800: 0.51 ha (1.25 acres) (<i>Survey Plan</i>) • 010-017-07700: 0.66 ha (1.63 acres) (<i>Survey Plan</i>)
Water Frontage	N/A	<ul style="list-style-type: none"> • 010-017-08000: 126.5 metres (415 ft.) (<i>MPAC</i>) • 010-017-07900: 73.2 metres (240 ft.) (<i>MPAC</i>) • 010-017-07800: 82.3 metres (270 ft.) (<i>MPAC</i>) • 010-017-07700: 85.3 metres (280 ft.) (<i>MPAC</i>)
Road Frontage	125.12 metres (140.5 ft.) on Port Cunnington Road (<i>Survey Plan</i>)	<ul style="list-style-type: none"> • 010-017-08000: 86.4 metres (283.6 ft.) on Montgomery Point Road (<i>Survey Plan</i>) • 010-017-07900: 96.2 metres

		<p>(315.5 ft.) on Montgomery Point Road (<i>Survey Plan</i>)</p> <ul style="list-style-type: none"> • 010-017-07800: 51.3 metres (168.3 ft.) on Montgomery Point Road (<i>Survey Plan</i>) • 010-017-07700: 73.7 metres (241.9 ft.) on Montgomery Point Road (<i>Survey Plan</i>)
Existing Buildings and Structures	Vacant	<ul style="list-style-type: none"> • 010-017-08000: vacant • 010-017-07900: dwelling, cabin and dock • 010-017-07800: vacant • 010-017-07700: vacant
Site Characteristics	<ul style="list-style-type: none"> • contains a wetland area and series of watercourse/waterbodies through the central portion of the property • well vegetated with a mix of mature deciduous and coniferous trees 	<ul style="list-style-type: none"> • well vegetated along the existing driveway (proposed right-of-way) and shorelines of the properties • the lands adjacent to the existing driveway (proposed right-of-way) appear fairly level
Natural Constraints: <i>Values obtained from Official Plan Schedules & District of Muskoka Web Map</i>	<ul style="list-style-type: none"> • Locally significant wetland with watercourses/waterbodies associated with it • Steep slopes ranging from 20% to >40% • Deer Wintering Habitat (Stratum 2) • Small portion of property located within 500 metres of non-operating, non-municipal waste disposal site influence area 	<ul style="list-style-type: none"> • Lake of Bays is classified as a Category 3 lake (>350 ha.) • Lake Trout Lake • Watercourse running through central portion of the property with roll no. 010-017-08000, along with "Type 1" fish habitat along a portion of the shoreline where the watercourse meets Lake of Bays • Remainder of shorelines contain "Type 2" fish habitat • 20% to 30% slopes on portions of the shorelines • Deer Wintering Habitat (Stratum 2) along rear portion of the properties
Previous/Current Files	N/A	N/A
Original Shore Road Allowance	<ul style="list-style-type: none"> • N/A – no OSRA associated with property 	<ul style="list-style-type: none"> • OSRA abutting subject properties closed

Appropriateness of the Application

- this application does not propose the creation of a new lot, but rather will serve to provide an easement for a right-of-way for vehicular and pedestrian traffic over an existing driveway/private road (Montgomery Point Road) on the subject lands, being Part 2 on

Plan 35R-9812, under Roll No. 010-017-07301, in favour of the following four properties:

- Right-of-way #1: in favour of 010-017-08000, owned by Greene (being Parts 35, 41, and 42 on Plan 35R-9812, PIN 48063-0391)
 - Right-of-way #2: in favour of 010-017-07900 located at 1002-1 Montgomery Point Road, owned by Daniels (being Parts 34, 36, 37 & 38 on Plan 35R-9812, PIN 48063-0142)
 - Right-of-way #3: in favour of 010-017-07800, owned by B. Montgomery Estate (being Parts 31, 32, & 33 on Plan 35R-9812, PIN 48063-0193)
 - Right-of-way #4: in favour of 010-017-07700, owned by C. Montgomery (being Parts 26, 27 & 28 on Plan 35R-9812, PIN 48063-0393)
- the applicant's agent (in discussion with the owners) provided a transfer document (LT129353) registered in 1986 by way of consent applications B/151/85/LB and B/151a/85/LB which provides legal right-of-way over Part 2 on Plan 35R-9812 in favour of 2 abutting properties (being Parcel 29710, designated as Parts 48 & 49 on Plan 35R-9812; and Parcel 18972, designated as Parts 43 & 44 on Plan 35R-9812) further down the private road from the benefitting lands of the current consent application
 - it appears that the private road/driveway (Montgomery Point Road) was designated as Part 2 on Plan 35R-9812 in 1984 as part of the above applications; however, the above transfer document did not provide legal right-of-way to 4 of the 6 properties that utilize this private road, one of which has had a cottage on it since the 1950s (being the Daniels cottage on the property located at 1002-1 Montgomery Point Road, roll no. 010-017-07900)
 - furthermore, the applicant's agent (in discussion with the owners) advised that the proposed right-of-way over the existing driveway/road has been utilized by the benefitting lands for over 70 years, with this private road constructed by Andrew Harp Montgomery in the late 1940s/early 1950s
 - with 3 of the 4 benefitting lots being vacant shoreline lots, the vacant lots appear to meet the minimum lot area and frontage requirements for WR lots; however, the vacant lot owned by Greene with roll no. 010-017-08000 appears to contain a watercourse running through the central portion of the property from an identified locally significant wetland on the subject lot with roll no. 010-017-07301 to Lake of Bays, along with Type 1 fish habitat identified on the portion of the shoreline where the watercourse converges with the lake
 - although no development on the benefitting lots is proposed as part of the subject application, any future development of the Greene benefitting lot with roll no. 010-017-08000 will likely require an assessment to address the watercourse and Type 1 Fish Habitat along the shoreline
 - Section H.26 states that in order of preference, development of shoreline lots may be permitted with the following access: a) seasonally maintained, public road; b) a private road, with a legal right of way
 - this application will provide for continuous legal access to the benefitting lots over an existing driveway/private road (Montgomery Point Road) from Port Cunnington Road, a year-round maintained public road

Conclusion

- as the subject consent application will recognize an existing situation with no disturbance required for the driveway/road currently existing, and as the driveway/road was already designated as Part 2 on Plan 35R-9812 for legal right-of-way to 2 abutting properties further down Montgomery Point Road, staff have no concerns with the application
- as this application is consistent with the 2020 Provincial Policy Statement and generally conforms to both the District and Township Official Plans, staff has no concerns with the approval of this application, subject to the recommendations outlined in this report

PUBLIC/AGENCY CONCERNS:

Clerk's Department	• No concerns as right-of-way is not associated with the OSRA.
Building Department	• No concerns.
Public Works Department	• No concerns – sections of Montgomery Point Road are on Township Road Allowance, but it is a private road.
Fire Department	• No concerns.
District of Muskoka Planning and Economic Development Dept.	• No concerns.
Hydro One	• No comments or concerns at this time.

ALTERNATIVES:

Upon review of the proposal Council may choose one of the following options:

- Deny the application;
- Defer the application; or
- Approve the application (refer to recommendation).

LINKAGE TO THE COMMUNITY-BASED STRATEGIC PLAN:

- Engage and communicate openly with the community;
- Develop long-term land and community plans that are balanced and adaptive;
- Protect, preserve and promote our healthy natural environment.

Date of report: October 23, 2020

Prepared by,

April Best-Sararas, MCIP, RPP
Planner

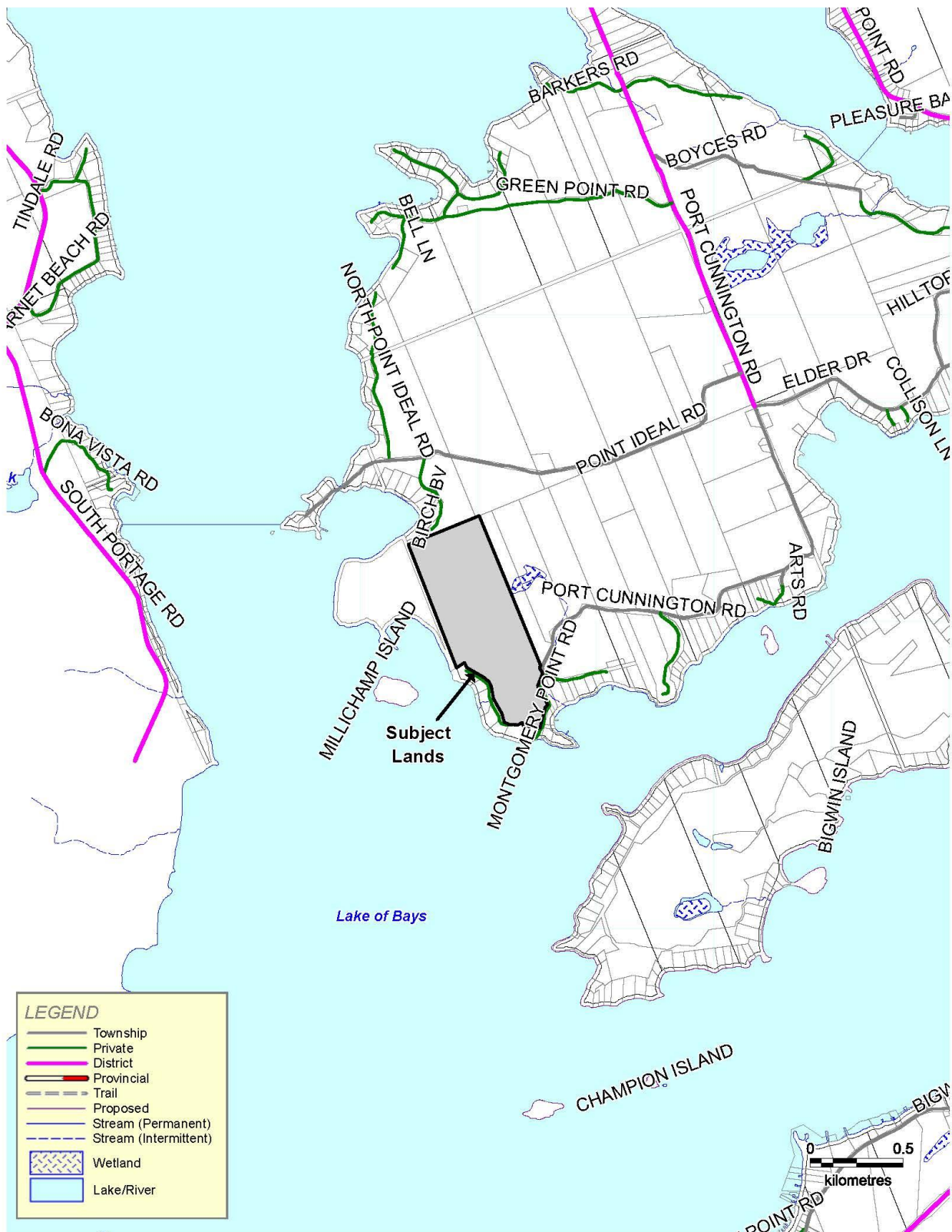
Attachments: Appendix "A" - Location Map
Appendix "B" - Draft Provisional Decision & Schedules for B 12/20 LOB

REFERENCES:

- 2020 Provincial Policy Statement
- Township of Lake of Bays Official Plan, as adopted on January 12, 2016 by By-laws 2016-005 & 2016-049
- By-law 04-180, being the Development Permit Zoning By-law
- By-law 04-181, being the Comprehensive Zoning By-law
- Muskoka Web Map
- Archived documents in Laserfiche

Appendix "A"

Location Map



APPENDIX "B"

PROVISIONAL DECISION

[The Planning Act, R.S.O. 1990, Chapter 13, Section 45(8)]

File: **B 12/20 LOB**
Applicant(s): **ABCD-DADOC, LLC**
Application for Consent for: **Easement for Right-of-way**
Location: **Lot 25, Con. 3, Franklin Ward**
Parent Roll No.: **010-017-07301**
Date of Decision: **October 21, 2020**

Upon application for consent for the lands described in the above noted file, the decision of the Corporation of the Township of Lake of Bays is as follows:

THAT Consent will be GRANTED provided:

- (1) A draft reference plan of survey or legal description describing the proposed right-of-way is to be submitted to the Secretary-Treasurer for approval prior to registration. The reference plan must identify the dimensions and lot area of the proposed parts for the right of access for which this consent approval has been granted, as shown in Schedule "A". An electronic version (i.e. "pdf" format) is also to be provided.
- (2) Following the above condition, submit two copies of a deposited reference plan of survey that confirms the dimensions and lot areas of the proposed right of access, to which this consent approval has been granted. An electronic version (i.e. "pdf" format) is also to be provided.
- (3) That a "Transfer in Preparation" and a "Long Form Certificate" for the easement be provided to the Secretary-Treasurer.
- (4) That any outstanding balances related to the subject application be paid to the Township of Lake of Bays in accordance with the Cost Acknowledgement Agreement.

REASONS:

1. The Director of Planning Services is satisfied that the consent application generally conforms to the intent of the Township Official Plan and will serve to provide a right-of-way for vehicular and pedestrian traffic to four abutting properties on Lake of Bays owned by Greene, Daniels, B. Montgomery Estate & C. Montgomery, under Roll Nos. 010-017-08000, 010-017-07900, 010-017-07800, and 010-017-07700. This application will provide for continuous legal access to the benefitting lots over an existing driveway/private road (being Montgomery Point Road) from Port Cunnington Road, a year-round maintained public road.

SCHEDULE "A"
CONSENT APPLICATION B 12/20 LOB
(ABCD-DADOC, LLC)
Lot 25, Con. 3, Franklin Ward
Port Cunnington Road (vacant), Property Roll No. 010-017-07301

