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PLANNING REPORT

**Municipality of Sioux Lookout
Committee of Adjustment/Consent Granting Authority**

**Application for Consent C01-2023 (Jamb Developments)
Application for Minor Variance M01-2023 (Jamb Developments)**

March 14, 2023

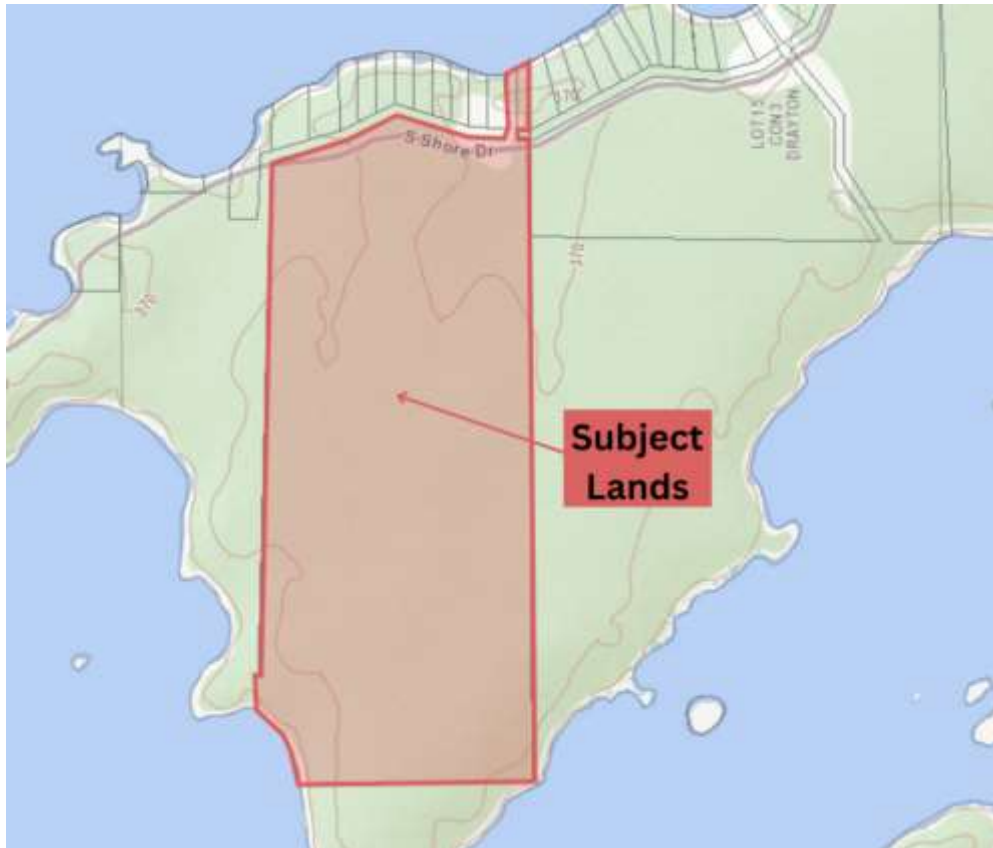
Introduction

Applications for a Consent and Minor Variance have been submitted by Darrell Morgan on behalf of Jamb Developments Inc., for the subject lands known locally as 1772 and 1820 South Shore Drive in the Municipality of Sioux Lookout.

The purpose of the Consent application is to create one new lot on the subject lands, for a total of two lots. Following the proposed Consent application, a Minor Variance application is required to ensure the proposed lots comply with Zoning By-law No. 85-18.

The subject lands are shown in Figure 1.

Figure 1: Subject Lands



Background/Proposal

The subject lands are located within the Residential Shoreline designation of the Official Plan and are located within the Residential Shoreline (RS) Zone of the Zoning By-law. South Shore Road is identified as a Private Road. Schedule B of the Official Plan identifies Fish Spawning & Nursery Area on Abram Lake on the southern portion of the shoreline on the subject lands.

The subject lands are generally surrounded by other shoreline residential lots with frontage on Abram Lake, as well as lands that are zoned Rural Residential, Open Space, and Natural Resource.

The subject lands are currently vacant. The subject lands have an approximate lot area of 59 hectares (146 acres), a lot frontage of approximately 47 metres on the northern portion of the subject lands on Abram Lake, and a shoreline frontage of 180 metres on the southern portion of the subject lands on Abram Lake.

The Municipality previously passed By-law 75-21 which was a By-law to deem the subject lands not to be in a Plan of Subdivision, so that the adjacent property on the northern portion of the subject lands could be consolidated together as one. The result of the Deeming By-law was a greater lot frontage on Abram Lake on the north portion of the subject lands. As shown on Figure

2, the parcel outlined in purple and identified as “Block A” was a separate property however now has merged with the subject lands.

The purpose of the Consent application is to create one new shoreline residential lot, and to sever the lands between South Shore Drive. The proposed severance sketch submitted by the applicant is shown in Figure 2 and the proposed lot configuration is shown in Figure 3.

Figure 2: Severance Sketch Provided by Applicant

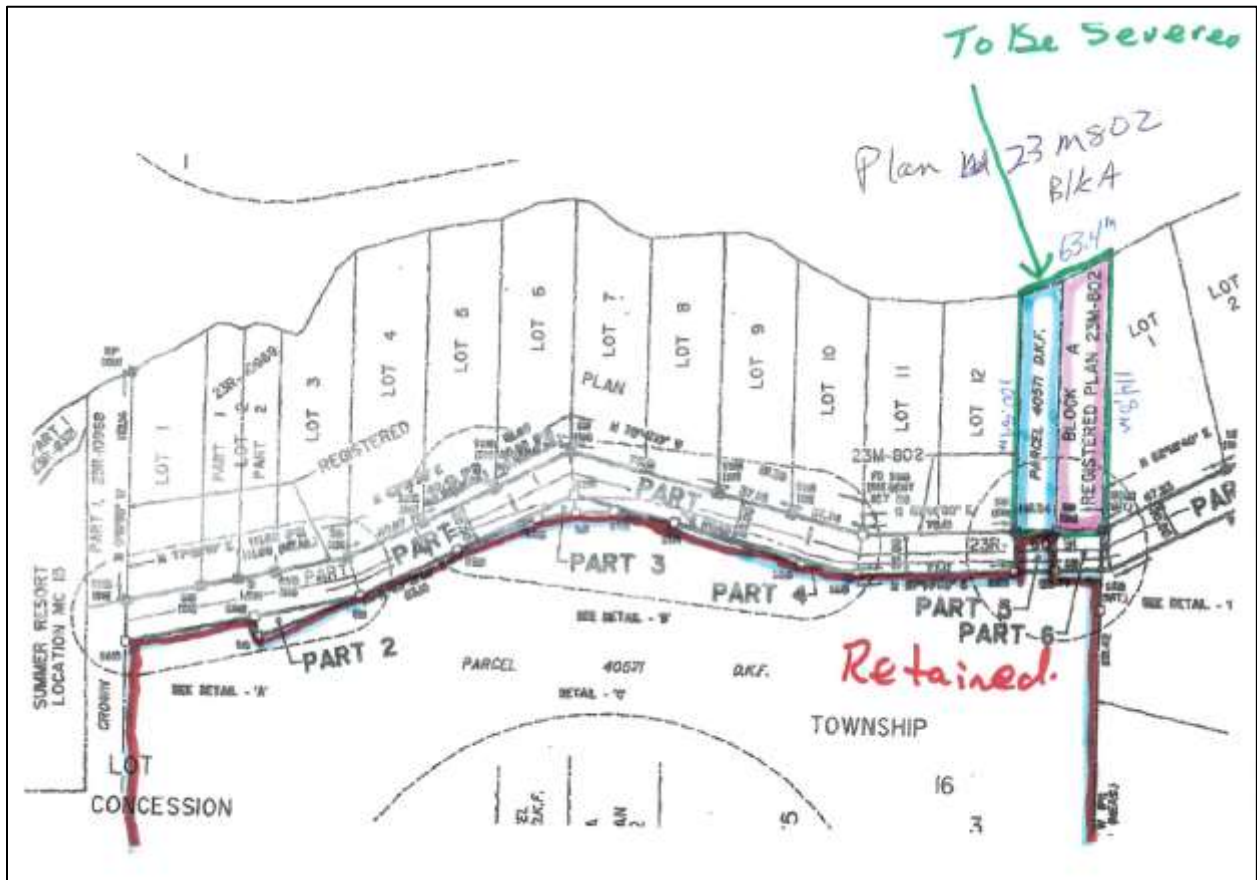


Figure 3: Proposed Lot Configuration



The subject lands do contain a portion of South Shore Drive and it is staff's understanding that there is an existing easement over this section of the subject lands. Nothing is proposed to change in regards to the existing easement or any matter pertaining to the Private Road.

As a result of the proposed Consent application, the resulting Severed Lands is deficient in terms of minimum lot area for a property located within the RS Zone. As a result, a Minor Variance application is required to permit a variance to Section 5.6.2 (i) of the Zoning By-law which requires a minimum lot area of 10,000 square metres for the RS Zone. The proposed Severed Lands is to have a proposed lot area of 5,240 square metres.

Policy Analysis - Consent Application

Provincial Policy Statement (PPS)

The PPS is a document that guides development in the Province. It provides policy direction on matters of Provincial interest and is intended to ensure that development in Ontario occurs in a manner that is sustainable from a financial, environmental, and social perspective.

The subject lands are located on Rural Lands within the Municipality. Section 1.1.5.2 of the PPS includes permitted uses on Rural Lands, and the permitted uses include resource-based recreational uses; and residential development, including lot creation, that is locally appropriate. The creation of a new lot for shoreline residential purposes is a permitted use on Rural Lands.

Section 1.1.5.4 of the PPS states that development that is compatible with the rural landscape and can be sustained by rural service levels shall be promoted. Any future development on the proposed lots would be accessed via South Shore Drive, which is an existing Private Road, and would require private sewage and private water systems. This is consistent with the existing rural landscape of the area and with existing service levels on nearby lots.

Private sewage and private water systems are proposed for the lots. This is consistent with Section 1.6.6.4 of the PPS which 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. The Northwestern Health Unit have been circulated on this application and they are the approval authority for private sewage systems in the Municipality. Prior to the issuance of building permits in the future, there approvals would be required.

The PPS includes policies regarding natural heritage. Schedule B of the Official Plan identifies Fish Spawning & Nursery Area on Abram Lake on the southern portion of the shoreline on the subject lands, on the shoreline of the proposed Retained Lands. Section 2.1.6 states that *“Development and site alteration shall not be permitted in fish habitat except in accordance with provincial and federal requirements”* and Section 2.1.8 states that development and site alteration shall not be permitted on adjacent lands of fish habitat unless the ecological function of the adjacent lands has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions.

It is understood that there is no development or site alteration proposed on the Retained Lands at present time. As such, it is recommended that a condition be applied to the approval of the proposed lot that requires the owner to demonstrate that future development within 120 metres of the shoreline on the Retained Lands demonstrate that the development is consistent with Section 2.1.6 and 2.1.8 of the PPS.

Subject to confirming that proposed development on the Retained Lands is consistent with Section 2.1.6 and 2.1.8 of the PPS in the future, the proposed Consent is consistent with the PPS. This is proposed to be confirmed through a condition of approval to evaluate the fish habitat if future development is proposed on the shoreline or within 120 metres of the shoreline of the Retained Lands.

Official Plan

The subject lands are located within the Residential Shoreline designation of the Official Plan. The Residential Shoreline designation is characterized by a single-tier of shoreline development

that consists of detached dwellings and existing backlot development. The proposed lots are to be used for future shoreline residential development, which is a permitted use under Section 4.11.1 of the Official Plan.

Section 3.18 of the Official Plan includes policies regarding development adjacent to watercourses and waterbodies. Section 3.18 includes the following:

“Where permitted by all other applicable policies of this Plan, development and site alteration may be permitted within and adjacent to fish habitat (within 120 metres), provided that it has first been demonstrated that there will be no negative impacts on the natural features or the ecological functions for which the area is identified.”

Similar to Section 3.18 of the Official Plan, Section 5.1.3 (c) states development and site alteration shall not be permitted within fish habitat and areas unless an Environmental Impact Statement demonstrates that there will be no negative impact on the Fish Spawning and Nursery Area or its ecological function.

Fish habitat is identified on the shoreline of the proposed Retained Lands. There are existing development permissions on the subject lands, based on the current RS Zoning. A fish Habitat Study would review the fish habitat on the shoreline and provide recommendations to ensure that any proposed development and site alteration is not located within fish habitat except in accordance with provincial and federal requirements, or it has been demonstrated that there will be no negative impacts on the natural features or on their ecological functions (within 120 metres of fish habitat).

Considering the subject lands are vacant, there is no proposed development at present time, and it is not known what the future owner of the Retained Lands is proposing, it is recommended that a condition be applied to the approval that requires the owner to complete a Fish Habitat Study prior to any development on the shoreline or within 120 metres of the shoreline in the future. It is reasonable in this case that the fish habitat may change in the future, so it is recommended that a study be completed at the time of development in order to provide recommendations or restraints depending on the nature of the fish habitat.

The Official Plan includes policies regarding lake trout lakes. In accordance with confirmation from the Ministry of Natural Resources and Forestry, Abram Lake is not considered a lake trout lake and these policies do not apply to the subject lands.

The proposed lots are to be serviced by private individual on-site sewage disposal and water services in the future. The Official Plan does not include a minimum lot area for the rural area of the Municipality, however the owner will have to obtain a permit from the Northwestern Health Unit to confirm that a well and septic system can be accommodated on the proposed lots.

Section 7.3 of the Official Plan includes policies regarding existing Private Roads. South Shore Road is considered an existing Private Road, and provides access to the proposed new lots. The proposed new lots would be considered infilling prior to the last dwelling located on the road and does not require an extension to the existing road.

Section 8.14 of the Official Plan includes policies regarding land division and Section 8.15 of the Official Plan includes policies regarding Consents. New lots must be suitable for the intended or permitted use, and all new lots shall have direct access on an open and maintained road. Section 7.3 of the Official Plan does permit new lots by infilling where a private road is not required to be

extended. The lots are suitable for residential shoreline uses and are located on South Shore Road which is an existing private road. The development of the lots is considered as infill on an existing private road.

Subject to confirming that proposed development on the Retained Lands conforms to the fish habitat policies contained within the Official Plan, the proposed Consent conforms to the Official Plan. This is proposed to be confirmed through a condition of approval to evaluate the fish habitat if future development is proposed on the shoreline or within 120 metres of the shoreline of the Retained Lands.

Zoning By-law

The subject lands are located within the Residential Shoreline (RS) Zone. The provisions for the RS Zone are included in Section 5.6.2 of the Zoning By-law. The zoning standards for lot area and lot frontage have been reviewed based on the proposed lot configuration. The proposed lot configuration is referenced in Table 1.

Table 1: Zoning Compliance Review

Address	Lot Area	Lot Frontage
Lot #1 – Severed Lands	5,240 square metres	47 metres (Abram Lake)
Lot #2 – Retained Lands	640,000 square metres	180 metres (Abram Lake)

Note: all measurements are approximate until confirmed by a surveyor.

The minimum lot area for the RS Zone is 1.0 hectare or 10,000 square metres and the minimum lot frontage is 40 metres. Following the proposed Consent, Lot #1 – Severed Lands will require relief from Section 5.6.2 (i) of the Zoning By-law to recognize a reduced minimum lot area. A variance is required and is discussed in the next section of this Report.

Minor Variance Application

The Four Tests of a Minor Variance

One variance is required to ensure the proposed lots comply with Zoning By-law No. 85-18. A variance to Section 5.6.2 (i) of the Zoning By-law is required:

1. Section 5.6.2 (i) - Minimum Lot Area

Section 5.6.2 (i) of the Zoning By-law requires a minimum lot area of 10,000 square metres. A variance is required to seek relief from Section 5.6.2 (i) of the Zoning By-law to permit the new Lot #1 – Severed Lands with a lot area of 5,240 square metres. In order to be conservative, a proposed lot area of 5,000 square metres or 0.5 hectares is recommended.

In considering the variance application, the Committee needs to be satisfied that the proposal is in-keeping with the “Four Tests” of a minor variance as is set out in the *Planning Act*. Based on

the information provided in the application package, a review of the four tests was conducted and summarized below.

Information pertaining to the four tests of a minor variance follows:

1. *Is the Variance In-Keeping with the Intent of the Official Plan?*

The subject lands are designated as Residential Shoreline in the Official Plan. The Residential Shoreline designation is described as consisting of a single-tier of shoreline development that consists of detached dwellings and existing backlot development. Lot sizes and frontages are to be sufficient to ensure that the natural character of the area is maintained. The required variance for Lot #1 – Retained Lands would permit a reduced lot area of approximately 5,000 square metres or 0.5 hectares, which is similar to other lots in the area.

The Official Plan stipulates that new lots must be suitable for the intended or permitted use. The proposed lots appear to be suitable for residential shoreline uses, and has been increased in lot area as a result of the previous Deeming By-law. Permits at the building permit stage are required from the Northwestern Health Unit for the proposed septic system, but it is anticipated that a septic system can be accommodated on a lot this size.

The proposed variance is in-keeping with the intent of the Official Plan.

2. *Is the Variance In-Keeping with the Intent of the Zoning By-law?*

The subject lands are zoned Residential Shoreline (RS) in the Zoning By-law.

The minimum lot area of the RS Zone is intended to ensure the character of the shoreline areas is maintained, and to ensure a lot is sufficient enough in area for the provision of private services. The proposed lot size is similar to existing lots in the area that are currently developed with single-detached dwellings and private sewage systems. If new development is proposed on the lots in the future, all provisions of the RS Zone will apply including setbacks and yard requirements, lot coverage, etc.

The proposed variances are in-keeping with the intent of the Zoning By-law.

3. *Will the Variance Provide for the Desirable Development of the Land?*

The subject lands are designated and zoned for shoreline residential use. Surrounding lots on South Shore Drive are also designated and zoned for shoreline residential use and many are currently developed in that manner. The proposal to reduce the minimum required lot size is desirable in this case and would not result in development that is out of character within the area and surrounding land uses.

The proposed variance will provide for the desirable development of the land.

4. *Is the Variance Minor?*

The proposed variance to reduce the minimum required lot area appears to be minor based on a review of the three previous tests of a minor variance. In the context of

minimum lot area, the proposed Lot #1 – Severed Lands is consistent with the lot sizes in the area.

Comments Summary

As of the writing of this report, no comments were received from municipal staff, members of the public, or other bodies and agencies.

Recommendation – Consent

It is recommended that Consent Application C01-2023 (Jamb Developments Inc.), being an application for Consent to create a new lot be provisionally approved subject to the following conditions:

1. The following documents must be provided for the transaction:
 - a. The original executed Transfer/Deed form, a duplicate original and one photocopy for our records.
 - b. A Schedule to the Transfer/Deed form on which is set out the entire legal description of the parcel in question; and,
 - c. A reference plan of survey which bears the Land Titles Office registration number and signature as evidence of its deposit therein, illustrating the parcel to which the consent approval relates.
2. The Transfer/Deed form noted shall not identify the Transferor and Transferee as the same person.
3. Payment of Cash in Lieu of Parkland (\$750.00) prior to final approval.
4. That the Owner demonstrate that existing access permissions are maintained via an easement or alternative method over Southshore Drive so that access is not affected to property owners to the west of the subject lands.
5. That the Owner enter into a Consent Agreement (or similar agreement) to require a Fish Habitat Study be completed prior to any development on the shoreline of proposed Lot #2 – Retained Lands or within 120 metres of the shoreline in the future.

Notes:

1. It is the applicant/and or agent's responsibility to fulfill the conditions of consent approval within two years from the date of this letter pursuant to Section 53 of the Planning Act. No further notice or warning of the expiration of the two-year period will be issued.

2. If the conditions to consent approval are not fulfilled within two years from the date of this letter and the applicant is still interested in pursuing the proposal, a new Consent application will be required.

Recommendation – Minor Variance

Based on a review of the four tests of a Minor Variance, Committee should be confident that the proposed variance is minor in nature, is in keeping with the general intent and purpose of the Municipality's Official Plan and Zoning By-law, and is desirable for the appropriate development and use of the land. Based on our review of Minor Variance Application, it would appear that the four tests of a variance have been met. It is recommended that a variance be approved to permit:

- A reduction in the minimum lot area of the Residential Shoreline (RS) Zone from 1.0 hectare to 0.5 hectares for Lot #1 – Severed Lands.

Respectfully Submitted,

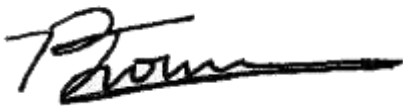


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