

PLANNING JUSTIFICATION REPORT

Applications for a
Zoning By-law Amendment and
Consent to Sever Approvals

Margaret and Antonio Cerqueira

Lot 21, Concession 5

Township of Tiny

County of Simcoe

June 15, 2021
Revised October 10, 2022



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PLANNING JUSTIFICATION REPORT
CERQUEIRA LANDS
WENDAKE ROAD, TOWNSHIP OF TINY

Note to Reader: The Planning Justification Report for the Cerqueira lands was prepared and submitted in June 2021. The application was deemed complete in July 2021. Discussions with Township staff have resulted in a revised lot configuration, thereby requiring a revised Planning Justification Report, as provided below.

1. INTRODUCTION

Celeste Phillips Planning Inc. has been retained by Margaret and Antonio Cerqueira to provide professional planning advice regarding the proposed development of lands located in Lot 21, Concession 5, in the Township of Tiny.

In preparing this Planning Justification Report, a review has been undertaken of Provincial, County and Municipal planning policy documents.

2. EXISTING AND SURROUNDING USES

The lands owned by the Cerqueiras consist of approximately 7.7 hectares (19 acres) and are located at the north end of Wendake Road, within a shoreline residential area in the Township of Tiny. (Figure 1) The property is currently vegetated with a mixed forest community.

The eastern part of the property is relatively flat. The western half of the lands contains two large tree covered sand dunes. The property is currently vacant. There is driveway access to the property from Wendake Road.

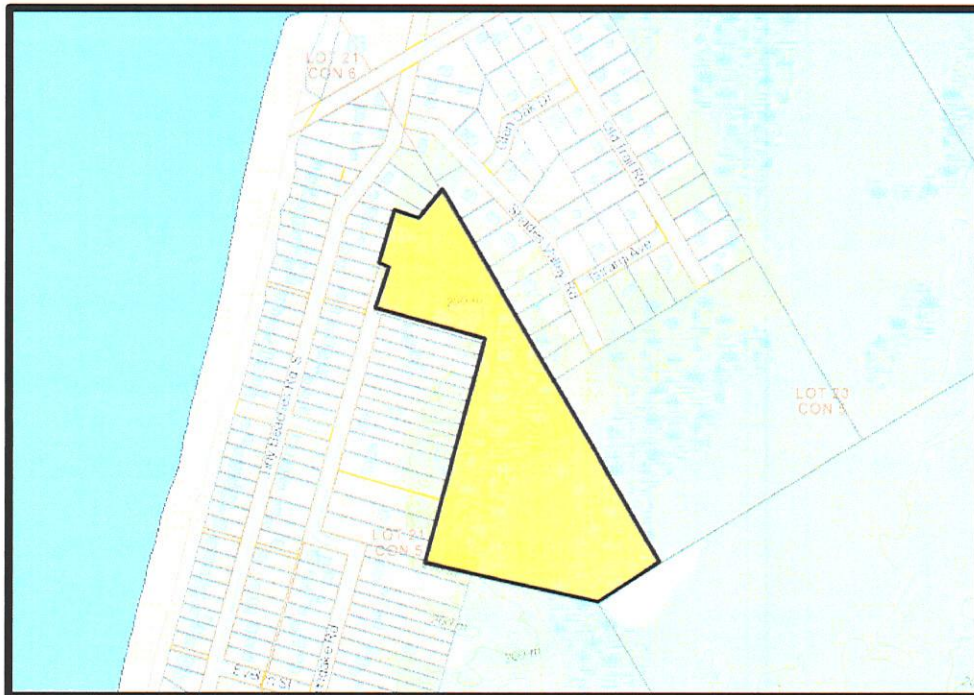
The surrounding lands consist of residential uses to the north and west along Tiny Beaches Road, and to the south along both sides of Wendake Road. Lands to the east/northeast are developed for residential use along Shades Valley Road. Lands to the southeast are undeveloped and tree covered.

3. OVERVIEW OF THE PLANNING APPLICATIONS

This Planning Justification Report has been prepared in support of an application for rezoning, and proposed applications for consent, to allow for the creation of two residential lots, plus one retained lot, for a total of three lots.

The planning process in the Township of Tiny requires that a rezoning application be processed by Township Council prior to consideration of consent to sever applications by the Committee of Adjustment. At this time an application for rezoning is being filed, to change the zoning of the property from Future Development (FD) to Shoreline Residential (SR) with exceptions, for the developable portion of the property and to Environmental Protection One (EPI) for the balance of the lands.

Figure 1: Property Location



4. PROPOSED LOT CREATION

A total of three lots are proposed, two new lots and one retained lot, as depicted in Figure 2. The minimum lot size by Township zoning standards is 4,000 square metres. The proposed lot sizes are as follows:

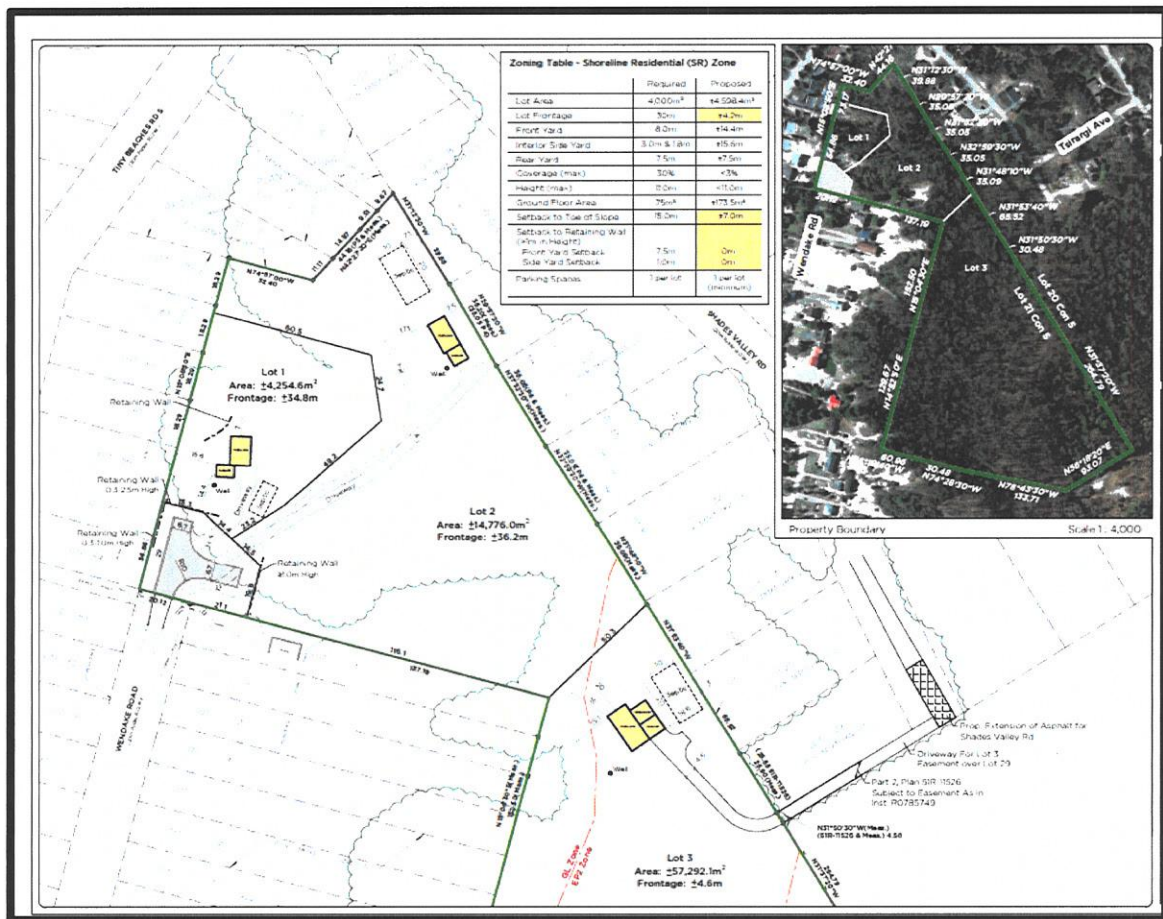
Lot 1	+/-	4,254 square metres
Lot 2	+/-	14,776 square metres
Lot 3	+/-	57,292 square metres

Access to Lots 1 and 2 would be provided through the creation of a newly created 'T' turnaround at the end of Wendake Road. Lot 3 would be accessed from Shades Valley Road through a driveway easement.

Each lot would be developed with a 2 storey single detached dwelling with an approximate 93 square metres building footprint.

Figure 2 is an extract of the Concept Plan which shows the proposed lot configuration with potential house locations.

Figure 2: Proposed Lot Configuration



5. TECHNICAL REPORTS

In support of the applications to rezone and sever the lands, the following documents are being submitted:

- Environmental Impact Study, Azimuth Environmental, Inc., May 2021.
- Addendum Environmental Impact Study, Azimuth Environmental Inc., June 2022.
- Nocturnal Bird Survey, Azimuth Environmental Inc., June 15, 2022
- Slope Stability Letter Report, GEI Consultants, April 2021.
- Geotechnical Review of Updated Concept Plan, GEI Consultants, June 6, 2022. Revised.
- Functional Servicing and Stormwater Management Report, WMI & Associates, 2021.
- Functional Servicing and Stormwater Management Report, WMI & Associates, June 18, 2022
- Construction Estimate for Wendake Road-Hammerhead Layout, WMI & Associates, June 13, 2022
- Response to 2021 Functional Servicing Report, WMI & Associates, June 2022.
- Development Concept Plan, Celeste Phillips Planning Inc., revised May 2022.
- Draft Rezoning By-law and Schedule, revised May 2022.

6. PLANNING POLICY CONTEXT

6.1 Simcoe County Official Plan

Part of the Cerqueira lands are designated Rural in the County of Simcoe Official Plan and part is designated Greenlands. As part of the pre-consultation discussions in 2013, Ms. R. Hamelin, Planner II of the County of Simcoe advised that the Rural designation allows lot creation by consent (subject to appropriate planning justification) with residential development that is not strip development. Additionally, at that time, the Greenlands designation permitted up to 20 lots with justification by way of an Environmental Impact Study. A planning application was filed for the lands but later withdrawn by the Cerqueiras.

In more recent discussions with County Planning staff (Calvin Dempster), the area proposed for lot creation is confirmed to be designated Rural, not Greenlands. More particularly, as outlined in the Environmental Impact Study for the lands, at Section 2.0:

It is our understanding that since the area where lot creation is being proposed (i.e. western end of the property) is designated Rural-not Greenlands- on Schedule 5.1 of the County Official Plan, the policies of Section 4.2.3 of the Growth Plan for the Greater Golden Horseshoe (Growth Plan) would not apply as Section 3.8.11 of the County Official Plan acknowledges that the natural heritage features that are listed in Section 3.8.11 (including a significant woodland) can exist outside of the boundaries of the Greenlands designation. However, the County has advised that the adjacent lands policies of the Growth Plan (Section 4.2.4) would apply from the northern extent of the Greenlands designation on the property and adjacent lands but not from the boundary of the significant woodland feature as mapped by the

Township which can extend beyond the Greenlands designation. Therefore the County advises that Section 3.3.15 and 3.3.16 of the County Official Plan, and by extension the natural heritage policies of the PPS, would apply. (J. Broadfoot)

My review of the policies of the County of Simcoe Official Plan confirms that the proposed rezoning conforms to the County Plan as follows:

Rural Policies

- Limited residential development is permitted in the Rural designation (3.7.4) but is subject to County of Simcoe Policy 3.7.11.
- Policy 3.7.11 permits new lots in rural areas *in site-specific locations with approved zoning or designation that permits this type of development in local municipal official plans, as of June 16, 2006*. As noted previously, the Cerqueira lands are zoned for Future Development.
- Policy 3.7.8 of the County Official Plan states that limited residential development may be permitted by consent provided the lots are:
 - a) restricted in size in order to conserve other lands in larger blocks for agricultural uses or environmental purposes. In this situation, a large portion of the Cerqueira lands will be zoned in an environmental protection category and,
 - b) avoiding a grid road system in order to maintain the rural character and to avoid strip development. The proposed lots are not in a regularized grid pattern and do not represent strip development.
- Policy 3.7.10 encourages the design of lots in a way that minimizes any negative impacts on significant natural heritage features and areas. The Environmental Impact Study (EIS) that accompanies the rezoning application addresses the environmental aspects associated with the Cerqueira lands and identifies an area that should be preserved through the implementation of an Environmental Protection zone category. The EIS concludes that subject to adherence to a Management Plan, there will be no negative impacts to significant woodlands, environmental features or functions, natural heritage features, dunes, regional ANSI or related ecological functions. Additionally, the proposed lotting of the Cerqueira lands has been carefully designed such that houses would be appropriately set back from the sand dunes, in accordance with recommendations from the Slope Stability work completed by GEI Consultants.
- The County Official Plan refers to shoreline development and an impending study by the County. In the interim, the County permits local municipalities to consider application for shoreline development (3.7.12).

General Development Policies

- Only one detached dwelling will be located on each lot per Policy 3.3.1.
- Lots may be created where they have access to and frontage on a public highway (Policy 3.3.4). In this case, each lot will have frontage on Wendake Road.
- The proposed lot creation will not preclude the efficient expansion of settlement areas such as Wyevale (Policy 3.3.7).
- The subject lands are not prime agricultural lands, are not near to livestock facilities, and are not identified as being subject to the Niagara Escarpment, Oak Ridges Moraine Conservation Plan, Greenbelt Plan or Lake Simcoe Protection Plan (Policies 3.3.10, 3.3.11, 3.3.12, 3.3.13, 3.3.14).
- The Environmental Impact Study (Azimuth) addresses natural heritage features as well as Policies 3.3.15 and 3.3.16 of the County of Simcoe Official Plan.
- Policy 3.3.17 of the County Official Plan encourages areas of environmental constraint to be maintained as a single ownership, where appropriate. As shown in Figure 2, Lot 3, the larger lot, incorporates the environmentally sensitive part of the property into one ownership.

The rezoning of the lands to Shoreline Residential and the two new lots plus the one existing lot, conforms to these County of Simcoe land use policies and in my opinion, will not adversely impact Georgian Bay or the character of the area. Additionally, based on the environmental work undertaken, it is recommended that the southern part of the property remain undeveloped and rezoned to Environmental Protection.

6.2 Township of Tiny Official Plan (2000)

At the time of submission of the rezoning application, Township Planning Director, Mr. Shawn Persaud confirmed that the lands were designated Shoreline in the Township's Official Plan and no Amendment to the Township's Official Plan was required (**Figure 3**). The Notice of Complete Application was issued on July 23, 2021.

The shoreline of Georgian Bay in Tiny Township is designated as Environmental Protection II, as an overlay designation. The intent of the overlay designation is firstly, to allow the uses that are permitted in the underlying designation, but also to ensure the character, natural beauty and ecological integrity of the shoreline are maintained.

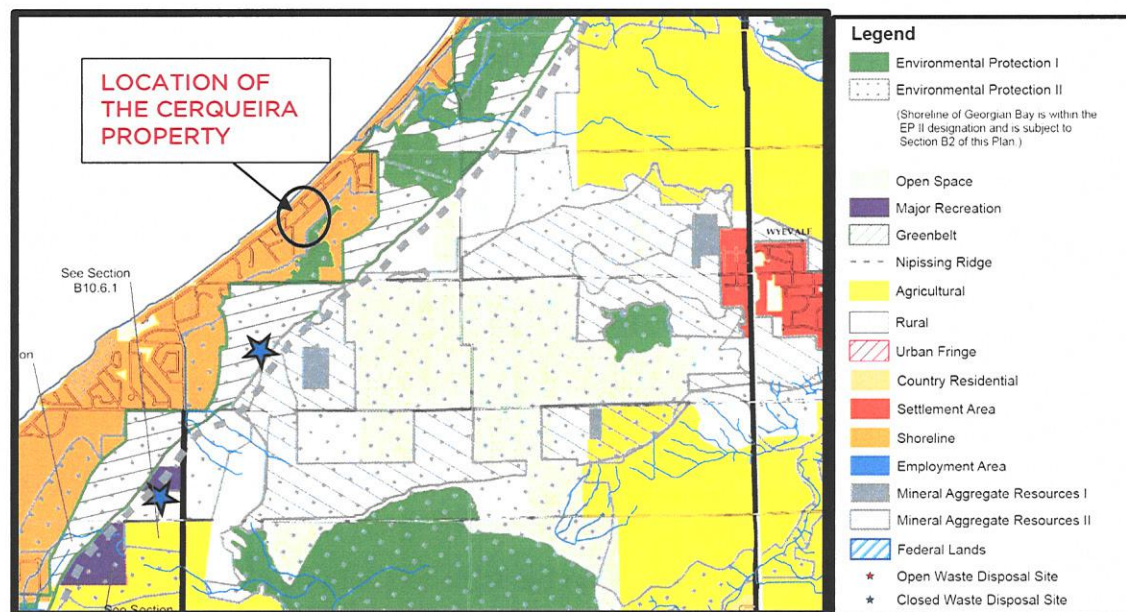
Development is permitted in the Environmental Protection II overlay area but subject to the preparation of an environmental report. As indicated previously, an Environmental Impact Study has been prepared by Azimuth Environmental, Inc.

The intent of the proposed rezoning and lot creation, is to allow for a total of 3 lots, each of a size that is in character with surrounding residential uses, while maintaining the majority of the property in its natural state.

Section B.6 of the Official Plan contains Shoreline policies of note as follows:

- Single detached dwellings are permitted in the Shoreline designation (B6.3).
- The Township Official Plan contemplates that the majority of future residential development will occur in the shoreline area. (B.6.4).
- Given the request is for a limited number of new lots, the minimum lot area is 0.4 ha. Each of the three lots complies with the minimum lot area requirement. (B6.4.3).

Figure 3: Extract from the Township of Tiny Official Plan 2000 - Schedule A



Section D4 of the Tiny Official Plan contains General Consent Policies. Of note:

- The proposed lots will front onto a public road that is maintained on a year round basis. (D4.1a)
- The proposed lots do not front on a Provincial Highway or County Road. (D.4.1b)
- The proposed lots do not front on a Township arterial road, nor cause a traffic hazard as a result of its location on a curve or hill. (D4.1c, D4.1d)

- The proposed lots can be adequately serviced with individual wells and septic systems. (D4.1e)
- Drainage patterns will not be negatively impacted. (D4.1f)
- No further development of the Cerqueira property is contemplated. (D4.1g)
- As demonstrated in the Azimuth environmental report, the proposed lots will not have a negative impact on the features and functions of any environmentally sensitive feature in the area. (D.4.1h)

Having reviewed the Shoreline and Consent policies of the Official Plan for the Township of Tiny, it is my planning opinion that the proposed rezoning and lot creation conformed to the applicable policies at the time the application was submitted.

6.3 New Township of Tiny Official Plan

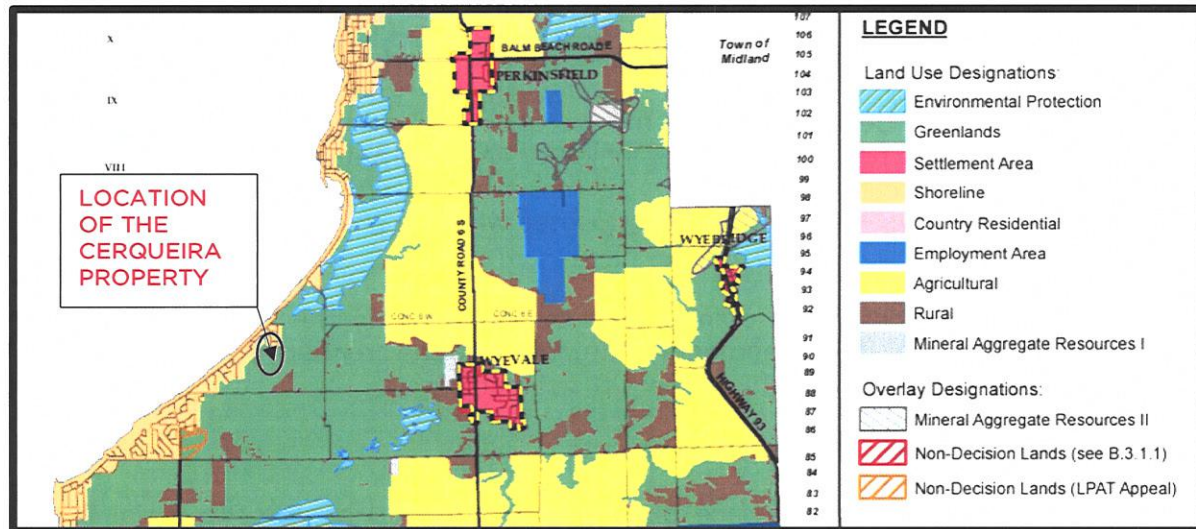
The Township of Tiny has prepared a new Official Plan which has now been approved by the Ontario Lands Tribunal. The subject lands are designated Greenlands on Schedule A – Land Use per **Figure 4** below. However, policies in the new Official Plan indicate that the limits of the Greenlands designation are considered to be approximate (B2.3.2). Further, lands can be removed from the Greenlands designation, without the requirement for an Official Plan Amendment if an Environmental Impact Study has been undertaken and development can occur in accordance with Official Plan policies (B2.17.9). It is my opinion that the environmental work completed by Azimuth Environmental clearly defines the limits of the developable portions of the Cerqueira property and refines the mapping that was proposed in the new Official Plan.

As a result of discussions with Township staff, the concept plan was revised to show one new lot created from Wendake Road (plus a retained lot), and a new lot that would be accessed via Shades Valley Road. This new concept has been reviewed by, and is supported by Azimuth Environmental. In responding to initial comments from the Severn Sound Environmental Association, Azimuth concludes that:

- The revised development concept can be achieved with no negative impacts to significant woodlands considering the scale of impact and given that there will be no negative impacts to related significant habitat functions attributable to the woodlands.
- There will be no impacts to the habitat of threatened or endangered species. Although there is a small patch of the provincially hoary puccoon plant, it is relatively minor compared to two other patches on that property that will not be affected. Further, 48 seeds were collected and translocated.
- The revised development concept places development outside of areas of environmental sensitivity and in proximity to residential lots of adjacent lands.
- The revised development concept maintains/protects an area of woodland cover on the southern part of proposed Lot 3.

Additionally, Azimuth has conducted a Nocturnal Bird survey (June 9, 2022 and June 13, 2022) to evaluate the use of the property and adjacent lands by Eastern Whip-poor-will and Common Nighthawk. Neither species was present on or adjacent to the Cerqueira property.

Figure 4: Extract of the New Tiny Township Official Plan



Sections D6 and D7 of the Township's new Official Plan set out the Land Division and Consent policies.

A plan of subdivision is generally required where more than five new lots are being created, there is an extension of an existing road, the extension of municipal or communal water or sewage services are required, or the area proposed to be developed is not considered to be infilling (D 6.2.1). Only two new lots are being requested for the Cerqueira lands and can be considered as infill lots. An extension to Wendake Road is proposed, but only to provide a turnaround which is advantageous to the municipality as no such turnaround currently exists. The lots will be serviced by individual wells and septic systems.

In considering applications for lot creation, the Township must consider and/or be satisfied with a list of criteria set out in section D 7.2.1 of the Official Plan. In reviewing the criteria along with the various supporting technical reports, I can advise as follows:

- The extension of Wendake Road to include a T-turnaround will result in two lots having frontage on a municipal roadway. The lot to be accessed from Shades Valley Road will have a driveway that is located within an existing easement.
- The lots would not front onto a Provincial Highway or County Road.
- Traffic hazards are not anticipated.
- Each lot would have its own individual well and wastewater system.

- e) Negative impacts to the drainage patterns are not anticipated.
- f) The balance of the lands will not be developed.
- g) There are a number of existing residential homes along Wendake Road and Shades Valley Road and the size of the proposed Cerqueira lots is compatible with existing development.
- h) Similarly, the proposed lot sizes and frontages are appropriate given the topography of the area.
- i) Natural Heritage policies of both the County of Simcoe and Township of Tiny Official Plans have been addressed in the work completed by Azimuth Environmental.
- j) As no further development of the Cerqueira property is contemplated, the creation of two new lots does not inhibit or limit the potential for future planned development in the area.
- k) The lands are not identified as being located within or near to a mineral aggregate operation.

It is my professional planning opinion that the rezoning of the Cerqueira lands to Shoreline Residential and Environmental Protection and the creation of two lots (3 total) is in conformity with the Township's new Official Plan.

6.4 Provincial Land Use Policy Documents

Land use decisions in the Province of Ontario are guided by the Provincial Policy Statement (2020) and the Growth Plan for the Greater Golden Horseshoe (2020).

In reviewing the proposed rezoning and lot creation in the context of the Provincial documents, I have concluded that the applications are in conformity and consistent with the direction provided by the Province of Ontario, as noted below.

6.4.1 Provincial Policy Statement, 2020

The Provincial Policy Statement defines rural areas as including rural settlement areas, rural lands, prime agricultural areas, natural heritage features and resource areas. 'Rural lands' are those lands which are located outside settlement areas and which are outside prime agricultural areas. The Cerqueira lands are considered as rural lands under the Provincial Policy Statement.

While the focus of growth set out in the Provincial Policy Statement is toward development in settlement areas, the Provincial policies do recognize the importance of rural areas in municipalities.

- Locally appropriate residential development is permitted on rural lands in municipalities. (1.1.5.2 c)
- The new lots will be close to Georgian Bay, a recreational attribute of the area. Recreational and tourism opportunities are promoted on Rural lands within municipalities. (1.1.5.3)

- The location of the new lots, and the proposed sizes are compatible with the rural landscape. (1.1.5.4)
- There is no requirement to extend municipal infrastructure as the new lots can be appropriately developed with private services. (1.1.5.5)
- There will be no impact to agricultural uses, as the proposed lots are not proximate to any agricultural uses. (1.1.5.7, 1.1.5.8, 2.3.1)
- Individual wells and an on-site septic systems are permitted, and the proposed lots are of sufficient sizes to accommodate such private services. (1.6.6.4)
- Natural heritage features have been assessed as well as a screening for Species at Risk. There will be no negligible impacts to the natural features and there are no concerns relative to species at risk. (2.1)

6.4.2 Growth Plan for the Greater Golden Horseshoe, 2020

Similar to the Provincial Policy Statement, the Growth Plan for the Greater Golden Horseshoe directs the majority of growth to settlement areas but rural residential uses are permitted.

The proposed creation of two lots (plus the retained lot) on the Cerqueira property:

- is compatible with the rural landscape and surrounding local land uses. (2.2.9.3.c.i)
- can be sustained by rural service levels. (2.2.9.3.c.ii)
- will not adversely affect agricultural or mineral aggregate operations. (2.2.9.3.c.iii)

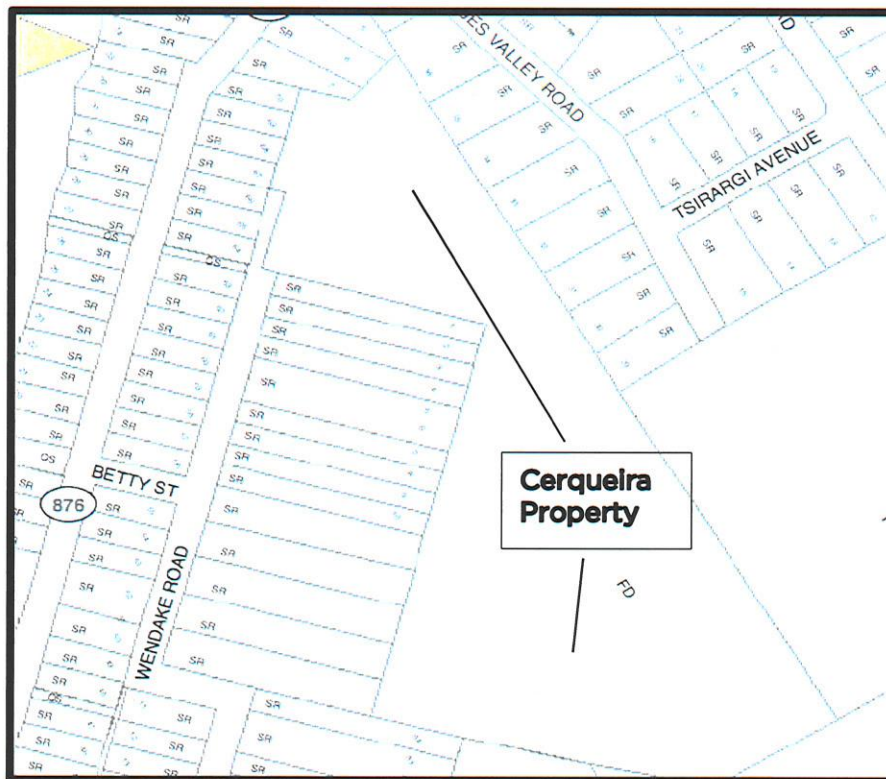
Section 4.2.2. of the Growth Plan contains policies related to the natural heritage system and associated mapping. The Environmental Impact Study, which forms part of the documents submitted in support of the rezoning and lot creation, concludes that there will not be any adverse impacts to the natural system on, or adjacent to the subject property.

Based on my review of Provincial land use policy documents, it is my opinion that the proposed rezoning and proposed consents to sever are consistent with the policies therein.

7. PROPOSED ZONING BY-LAW AMENDMENT

The current Future Development (FD) zoning of the subject lands is illustrated in **Figure 5**. Figure 5 also illustrates that the predominant zone category in the area is Shoreline Residential (SR) which applies to all lands that surround the subject property.

Figure 5 - Existing Zoning



The requested rezoning is from the Future Development (FD) zone to the Shoreline Residential (SR) zone with exceptions for a portion of the property. Permitted uses in the Shoreline Residential zone category include single detached dwellings. An exception is being requested to the proposed Shoreline Residential zoning to recognize the deficient lot frontage for Lot 3. The deficiency in lot frontages arises from the configuration of the lot with access from an easement adjacent to Shades Valley Road. However, the proposed lot sizes exceed the minimum lot standard for the Shoreline Residential zone. On this basis, it is my opinion that the site specific exception to recognize frontage is a reasonable request.

Two additional exceptions are being requested, relating to the setback to toe of slope and setback to the proposed retaining wall. Both of these zone variations are supported by the slope stability work undertaken by GEI Consultants. The Township's Zoning By-law requires a minimum 15 metre setback to the toe of slope. Proposed lots 2 and 3 meet this requirement. Lot 1 is proposed to be +/- 7 metres from the toe of slope, and as noted, this setback is supported by the GEI slope stability work wherein their reporting recommends at least a 5 metre setback. In an abundance of caution and to allow some flexibility in house siting, a 6.5 metre setback is specified in the draft zoning by-law amendment. Reference will also be made to the front and side yard setbacks to retaining walls over 1 m in height as retaining walls over 1 metre in height require a specific setback.

The balance of the lands, i.e. the lands south of the driveway to Lot 3, would be rezoned from Future Development to an Environmental Protection category. No development is proposed for this part of the Cerqueira lands.

8. SUMMARY

The Cerqueira lands are currently vacant but are surrounded by existing residential development. In consideration of this, it is appropriate to allow for further residential development of the subject lands, as infill residential development. In fact, the current zoning, Future Development, contemplates that residential use of the lands will occur.

The proposed lot sizes are compatible with existing development in the area. Due to the configuration of the lots, site specific zoning is being requested to recognize the lot frontage for Lot 3 and specific standards for the proposed setback of future houses from the existing slope, and the proposed retaining wall where it exceeds 1 metre.

No Amendment is required to either the County of Simcoe Official Plan or the Township of Tiny Official Plan.

The Township's Official Plan anticipates that the majority of new development will be in the Shoreline designation, hence the requirement to rezone the lands from Future Development to Shoreline. The lands are proposed to be divided to create two new lots and one retained lot. No plan of subdivision or more intense development is proposed or contemplated for the subject lands and the owners support the rezoning of the balance of the lands to an Environmental Protection category.

In support of the application, and in accordance with Township staff's request, an Environmental Impact Study has been prepared, and an addendum has been completed which addresses comments from the Severn Sound Environmental Association. The Environmental Impact Study concludes that the development of a total of three lots on these lands is supportable. Updated reporting from Azimuth Environmental also supports the revised lot configuration.

In consideration of proposed house construction close to the two existing dunes, a Slope Stability Letter Report has been prepared, recommending a minimum setback of 5 metres. Updated correspondence from GEI confirms that the proposed situation of houses approximately 7 metres from the toe of slope is supportable.

A Functional Servicing and Stormwater Management Report has also been prepared in support of the applications for rezoning and lot creation, and to detail the road construction at the end of Wendake Road. This reporting has been updated to June 2022.

In summary, the applications for rezoning and lot creation are supportable for the following reasons:

- The subject lands are located within the corporate boundaries of the Township of Tiny.
- The proposed rezoning and lot creation conform to both County and Township Official Plans. No amendments are required to either document.
- The property is currently zoned Future Development and is surrounded by Shoreline residential development.
- The subject lands are located on a year round municipally maintained road.
- The applications are required to permit the development of an existing underused site, representing infill development.
- Future development of these lands will not impact areas of environmental sensitivity.
- The subject lands can be serviced by individual wells on-site waste disposal systems.
- The planning applications are consistent with Provincial land use policies and conform to the County of Simcoe and Township of Tiny Official Plans.

It is my considered opinion that the approval of the rezoning of the lands from Future Development (FD) to site specific Shoreline Residential zones (SR-XXX and SR-YYY) and to Environmental Protection 1 (EP1), and the creation of 2 new lots is entirely appropriate for this property and represents good land use planning.

Respectfully submitted,

A handwritten signature in blue ink, reading "C Phillips".

Celeste Phillips, MCIP, RPP