



AGENDA ITEM REPORT

Meeting: Regular Meeting of Council, Planning - 04 Oct 2023
To: Members of Council
From: John Jardine, Planner
Department: Planning
Subject: Gibbons/Phillips and Gibbons Tentative Approval to Purchase Original Road Allowance between Lot 15, Concessions 6 and 7, in the Geographic Township of Herschel

Recommendation:

That Council accept this report "Gibbons Application to Purchase Original Road Allowance between Lot 15, Concessions 6 and 7, in the Geographic Township of Herschel" as submitted by Municipal Planner; and

That Council provide tentative approval for the closing and conveying of the Original Road Allowance between Lot 15, Concessions 6 and 7, in the Geographic Township of Herschel.

Origin:

An Application was received on August 16, 2023 for the Closing and Conveying of the Original Road Allowance.

Background information:

The Original Road Allowance that the applicants are looking to purchase is located between two of their parcels of land. These parcels of land are municipally known as 51A Sunrise Road and 58B Sunrise Road.

The Original Road Allowance the applicants are looking to purchase an Original Road Allowance leads to water.

Section 19 of the Municipality's Bylaw 2018-127 "Original Road Allowance Bylaw" states:

"ORA leading to water shall not be closed unless an exemption is granted where an alternate, suitable and sufficient access, with the same or better water frontage is demonstrated elsewhere by the Applicant(s) to the satisfaction of the Municipality in order that public access is maintained to the shoreline.

a. The Municipal Planner, or designate, will deem whether an exemption is permitted to close and convey an ORA that leads to water.

b. Notwithstanding Section 19 a. above, Council shall retain all powers and authority to deem an exemption under Section 19, where:

i. The Municipal Planner, or designate, at their discretion refers the matter to Council; or

ii. The applicant requests in writing that the matter be referred to Council."

The applicant directed the Application to be heard by Council for their review.

The Municipal Planner agrees the Application should be heard by Council.

The County of Hastings Official Plan contains policies on Original Road Allowances that lead to water.

Section 3.6.2.16 of the Official Plan states:

"Any unopened road allowances that provide public access to shoreline should not be closed and conveyed by a Member Municipality to private landowners unless provisions for alternative public access have been provided in order that public access is maintained to the shoreline."

Section 3.6.2.17 of the Official Plan states:

"Municipalities shall continue their practice of leasing or closing and selling shore road allowances, subject to the following:

a) Generally, Member Municipal Councils shall not consider the sale or lease of shore road allowances in the following circumstances:

i) Where any portion of an allowance on or leading to water is used or will be used for public waterfront recreational purposes, public access, emergency access, public travel, portage or other municipal purposes or there is no other public access available to the water body; or

ii) Where any portions of a road allowance contain, abut or provide access to an important fish spawning area, wildlife habitat or other environmentally sensitive feature, unless approved by the Ministry of Natural Resources and Forestry (MNR),

b) Closure of shore road allowances shall be implemented by a by-law passed under the Municipal Act."

The current Original Road Allowance abutting 51-A and 58-B Sunrise Road contains 2 cottages and a shed. These structures were built in circa 1950s. The existing development on the unopened municipal road allowance currently deters the public from accessing the water.

There is alternative access for the public to the water at Crown land located between 1727 and 1767 North Baptiste Lake Road and located north of 1727 North Baptiste Lake Road; and at a road allowance that leads to water located between 2109 and 2123 North Baptiste Lake Road. These locations are shown on the attachment "Alternative Public Access Points to Water."

The Planning Department reviewed with the Fire Department and the Fire Department said the unmaintained and unopened municipal road allowance is a steep slope down to the water that the Fire Department indicated would not be able to be used for pumping water for fire services.

The Municipal Planner conducted a site visit on September 25, 2023 with Mr. Gibbons and observed the steep slope and the existing development on the Original Road Allowance.

Based upon Section 19 of Bylaw 2018-127 and with guidance from the policies from the Official Plan, the Municipality may provide tentative approval for the closing and conveying of an Original Road Allowance leading to or abutting water because the public is able to access the water at other locations, the existing development on the Original Road Allowance deters public access on this Original Road Allowance, and there is a steep slope down to the water on the Original Road Allowance.

The landowners adjacent to the Original Road Allowance at 58A Sunrise Road have given a signed letter of agreement which was included as part of the Application.

Financial impact:

Not applicable

Link to strategic plan:

Not applicable

References:

Bylaw 2018-127 "Original Shore Road Allowance (OSRA) and Original Road Allowance (ORA) Closure and Sale"

Attachments:

[Letter to Council with site plan \(Redacted\)](#)

[Alternative Public Access Points to Water](#)

[Proposed Boundary Map](#)

Prepared By:

John Jardine, Planner

Reviewed By: Municipal Clerk September 25, 2023

Reviewed By: CAO/Deputy Treasurer September 27, 2023

August 16, 2023

Greg Gibbons and Hilary Phillips
51A Sunrise Road
Maynooth, ON K0L 2S0

owner/operators:
Sunrise Lodge on Baptiste Lake
58B Sunrise Rd

[REDACTED]
[REDACTED]

Municipality of Hastings Highlands
Planning Department
Maynooth, ON K0L 2S0

Subject: Application to Close and Convey Original Road Allowance (ORA) - Request for Exemption

Dear Councillors,

I am writing as the registered owner(s) of the properties described below to formally apply for the closure and conveyance of the Original Road Allowance (ORA) abutting our land:

Properties Description

51-A Sunrise Rd, Maynooth
CON 7, PT LOT 15, PLAN 21R5986, PART 4

and

58-B Sunrise Rd, Maynooth, ON K0L 2S0
CON 6, N PT LOT 15 RP, PLAN 21R22388, PARTS 4 and 5

We hereby request that the Original Road Allowance (ORA) adjacent to our properties be closed and conveyed to us. In this regard, we are formally requesting an exemption under Section 19 of the relevant Bylaw, which states "leads to or abuts a water body."

We firmly believe that the exemption is appropriate and necessary for the 21st century development and improvement of our resort on Baptiste Lake, Sunrise Lodge. The proposed development aims to enhance the overall experience for our guests and contribute positively to the local community and tourism industry.

Baptiste Lake holds immense ecological significance, and we are fully committed to safeguarding its environmental integrity. Our resort development plans have been meticulously designed to adhere to all environmental regulations and to minimize any potential impact on the water body and its surroundings.

Furthermore, we confirm that there is currently no foot or vehicular traffic passing through the road allowance to be closed. Additionally, the proposed closure will not result in the denial of access to any other property. Our intention is solely to utilize this space to benefit and enhance the functionality of our own property while guaranteeing that any potential impact on neighboring properties is mitigated. We assure you that the closure of the ORA will not infringe upon the rights or access of any neighboring property owners and will not cause any disruption to the community.

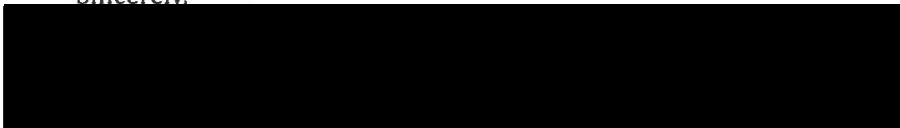
In support of the exemption to Section 19, we have attached all requested documents, including surveys, property plans, abutting neighbours' Attachment C, and any other required paperwork.

We are proposing to convey the Original Road Allowance (unopened between Concessions 6 and 7) to be split along the concession boundary, with the north portion to be assigned to our personal residence at 51-A Sunrise Rd; and the southern portion to be conveyed to our resort business, Sunrise Lodge at 58-B Sunrise Rd (see survey detail).

We kindly request that you review our application, taking into consideration the significance of our resort's development for the local economy and tourism sector, as well as our unwavering commitment to environmental stewardship.

Thank you for considering our request for exemption under Section 19. We look forward to a positive response and the opportunity to proceed with the closure and conveyance of the Original Road Allowance.

Sincerely,

A large black rectangular redaction box covering the names and titles of the signatories.

Greg Gibbons

Hilary Phillips

REASONS TO TRANSFER OWNERSHIP OF ROAD ALLOWANCE

- **Safer, More Direct Access:** Owning the abutting road allowance would provide improved unencumbered, safer access to the cottage resort, benefiting both guests and local trades (septic pump truck, tree maintenance workers, etc). Enhanced accessibility will attract more tourists to the resort, promoting local tourism and supporting other businesses in the region. The current access to Sunrise Lodge is by a deeded access, narrow lane that crossing the north end of our neighbour's property (58A Sunrise Rd).
- **Privacy:** Conveyance of the north half of the road allowance would allow for increased privacy for our private residence, the cottage resort and its visitors. With control over the access points, the resort can better manage the flow of traffic and ensure a more secluded and tranquil experience for guests.
- **Economic Contribution:** The cottage resort significantly contributes to the local economy through tourism. Owning the road allowance would enable the resort to improve (further expansion to a four season destination is being planned) to enhance its offerings, attracting more visitors, generating additional revenue, and boosting economic growth in the area all year long, further contributing to the local economy.
- **Environmental Stewardship:** As property owners and local residents, we are committed to environmental preservation and restoration, as seen by the ongoing efforts to restore the shoreline to its natural state since taking over the resort in 2003. Owning the abutting road allowance would extend our conservation efforts, allowing us to protect the natural state of the area and maintain its ecological integrity.
- **Conservation Efforts:** The resort has a successful track record of restoring habitats and promoting native vegetation. Acquiring the road allowance would facilitate the extension of these conservation efforts, safeguarding the region's natural beauty for future generations.
- **Collaboration:** The resort expresses its willingness to work collaboratively with the local municipality, addressing any concerns they may have and finding mutually beneficial solutions. This partnership would ensure that the acquisition of the road allowance aligns with the interests of both parties.
- **Modernization and 21st-century Upgrades:** The ownership of the abutting road allowance is crucial for the resort's modernization plans. To stay competitive and appeal to current generations' vacation destination requirements, the resort aims to undergo significant upgrades and renovations. This includes re-branding Sunrise Lodge by building a modern, 4-season destination accommodation that offers state-of-the-art facilities and amenities while remaining environmentally sustainable.
- **Diversification and Long-term Sustainability:** The transformation into a modern, 4-season destination will enable the resort to diversify its offerings, attracting visitors throughout the year. This long-term sustainability plan would reduce the resort's dependence on seasonal tourism and create a more stable and robust business model.

- **Job Creation:** The resort's expansion (revitalizing) plans would also lead to the creation of additional jobs in the area. With increased tourism and extended operating seasons, the demand for staff in various roles, such as cleaning, maintenance, and management, would arise, providing employment opportunities for local residents.
- **Sustainable Tourism Practices:** Our plans for the modernization of Sunrise Lodge would be guided by sustainable tourism practices. These practices would focus on minimizing environmental impacts, promoting responsible tourism, and supporting the conservation of the surrounding natural resources.
- **Community Engagement:** As part of its long-term vision, Sunrise Lodge intends to engage with the local community to ensure that the resort's expansion aligns with the community's interests and needs. This collaboration would foster a positive relationship between the resort and the residents, leading to more inclusive and sustainable development.
- **Enhanced Guest Experience:** The 4-season destination accommodation would significantly improve the overall guest experience. By providing modern amenities and diverse activities year-round, visitors would be more likely to choose Sunrise Lodge for vacations and retreats, leading to increased customer satisfaction and positive reviews.
- **Attracting New Markets:** The resort's modernization would enable it to attract new markets and demographics. With contemporary offerings and facilities, the resort can target a wider range of visitors, appealing to families, adventure seekers, business retreats, and those seeking leisure and relaxation. In recent years, we have listened to the concerns of potential guests from younger generations who seek more modern accommodation options than we currently offer.
- **Technological Advancements:** To meet the expectations of modern travelers, the resort plans to incorporate technological advancements. This includes high-speed internet connectivity, smart room features, and digital booking platforms, enhancing the overall guest experience and convenience.
- **Destination Competitiveness:** Ownership of the road allowance and subsequent modernization would strengthen Sunrise Lodge's competitiveness within the hospitality industry. By offering a cutting-edge experience and year-round attractions, the resort can stand out among other accommodations and position itself as a premier destination.

We sincerely request the municipality's valuable support in facilitating the transfer of the existing, municipality-owned road allowance. This crucial transfer will play a pivotal role in our endeavor to modernize and expand the potential for year-round tourism in the region, ultimately ensuring a seamless and efficient achievement of our objectives.

ECONOMIC AND ENVIRONMENTAL CONTRIBUTIONS MADE BY SUNRISE LODGE

Sunrise Lodge has become a renowned destination, attracting visitors not only from across Canada but also from the United States. The idyllic location, serene surroundings, and the warm hospitality offered at and around Sunrise Lodge make it a sought-after retreat for travelers seeking a peaceful getaway. By collaborating and supporting our business, the municipal board can unlock significant economic growth and enhance the overall prosperity of our local community. Here are the key benefits we offer:

1. **Tourism and Business Boost:** Our cottage resort acts as a magnet for tourists, drawing visitors from far and wide. This influx of tourists directly benefits local businesses, including restaurants, shops, recreational providers, and service establishments. With an increase in visitor spending, our resort helps stimulate economic activity, generate employment opportunities, and bolster the local economy.
2. **Increased Revenue and Tax Base:** By attracting tourists and generating business activity, our cottage resort contributes to revenue streams for the municipality. The resulting boost in tax revenue can be utilized to fund public services, infrastructure development, and community programs that benefit all residents. By increasing our season, we will further increase our contribution to the local economy.
3. **Environmental Stewardship:** We take our responsibility towards environmental stewardship seriously. Our cottage resort follows sustainable practices, including energy conservation, waste management, and protection of local flora and fauna. An example of our environmental work: since purchasing Sunrise Lodge in 2003, we have ceased mowing the grass in over one half of what was previously cut. As a result, over half of our shoreline to a depth of 20+ metres has been restored to its natural state. In addition, we have planted upwards of fifty trees on the property. What was once a manicured, sun drenched lawned property with several mature trees, has become a forested paradise with many species of plants and animals flourishing. This helps promote Sunrise Lodge into the beloved tourist destination it has become. By supporting our business, the municipality endorses and encourages environmentally friendly practices, contributing to the preservation and beauty of our region.
4. **Showcasing the Local Area:** Our cottage resort serves as an ambassador for the local area, introducing visitors to the natural beauty and unique attractions it offers. By attracting guests from Canada and the United States, we are effectively showcasing the area's potential as a tourist destination, encouraging further exploration and future investment.

We understand the importance of maintaining a balanced approach to economic growth and sustainable development. Supporting our cottage resort and our future growth aligns with the municipal board's goals of fostering economic growth, attracting tourism, and prioritizing environmental sustainability. By working together, we can achieve mutual benefits and create a thriving local economy that balances economic prosperity with environmental stewardship.

Thank you for considering our request.

DANGEROUS TREES

There is the matter of significant concern regarding the responsibility of the Municipality of Hastings Highlands concerning dangerous trees located on the municipal-owned road allowance abutting our properties between 51A and 58B Sunrise Rd.

I would like to draw your attention to past instances where a tree growing on the road allowance has caused damage to our personal residence. In the 1990s, we experienced significant damage when, on two separate occasions, a tree from the road allowance fell on our property at 51A Sunrise Rd. Although insurance covered the cost of repairs both times, I was burdened with paying the \$1000 deductible each time. Regrettably, I did not seek reimbursement from the municipality at that time, as I was relocated for work out of province.

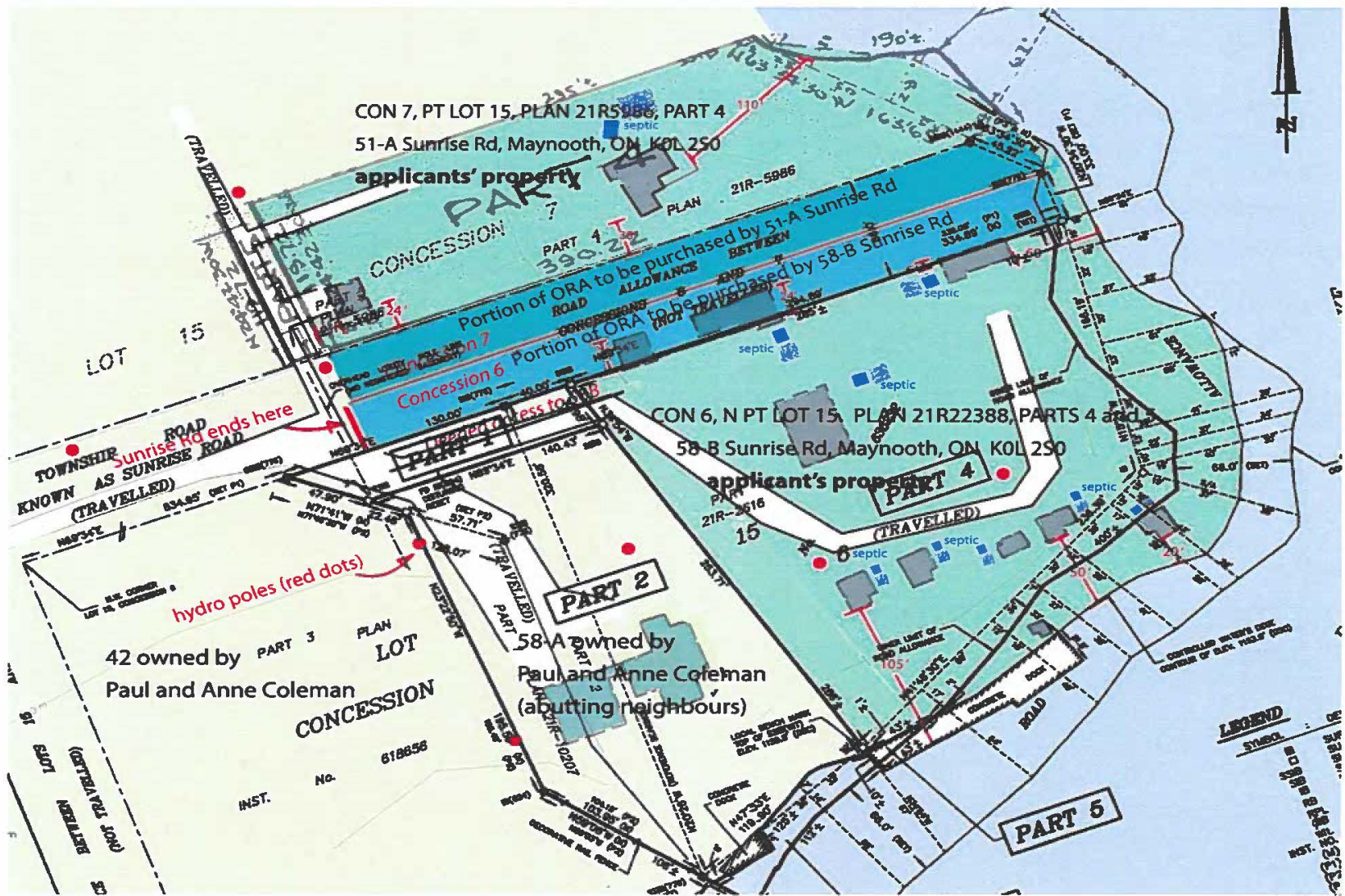
In the early 2000s, we identified another potential hazard with an old maple tree riddled with woodpecker holes, posing a threat of falling onto our property, leaning towards our residence. Recognizing the potential danger, I approached the roadworks department and my local councilor. The municipality took prompt responsibility by arranging the preemptive felling of the tree, which was carried out successfully.

Recently, in June, our commercial insurer conducted a forensic auditing of the resort property, during which two large poplar trees with evident beaver damage were noted – one has already died. Both of these trees are situated on the municipal road allowance and currently pose significant dangers of falling, potentially causing property damage and endangering the safety of individuals in the vicinity, namely guests of Sunrise Lodge. Our insurer has insisted that they be removed.

Considering the previous instances and the potential risks involved with the current situation, I strongly urge the Municipality of Hastings Highlands to take immediate action to address these hazardous trees. As the trees are located on the municipal-owned road allowance, it is the responsibility of the municipality to ensure the safe removal of the two trees.

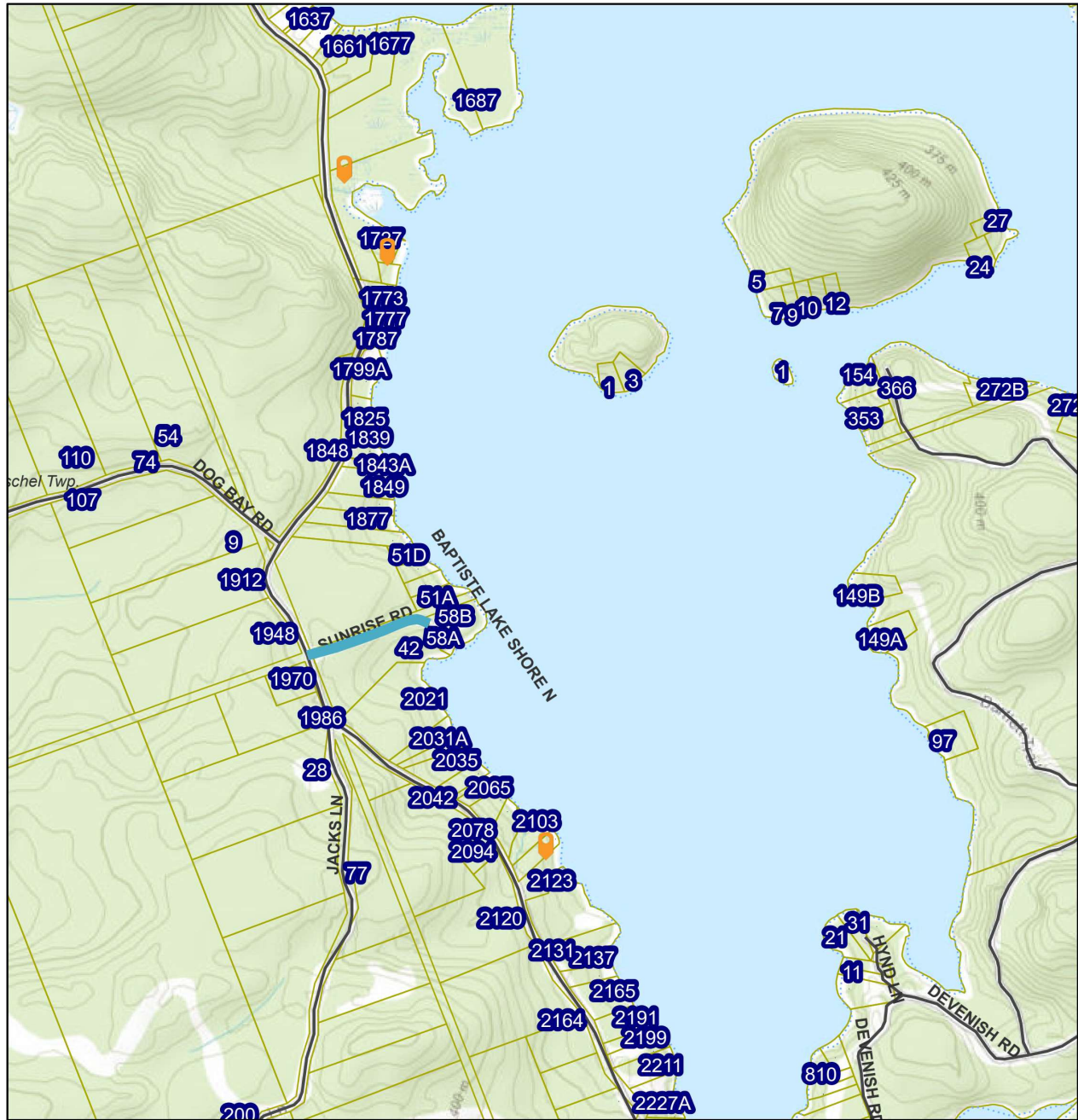
However, if the municipality decides to grant an exemption to Section 19, allowing us to purchase the road allowance abutting our properties, I understand that the responsibility for the removal of dangerous trees would then be transferred to me as the property owner. In such a scenario, I assure you that I will promptly take all necessary precautions to ensure the safety of our property and guests of Sunrise Lodge. I would be more than willing to engage in further dialogue with the municipality to establish a clear plan for the removal of hazardous trees and the subsequent maintenance of the area.

Thank you.







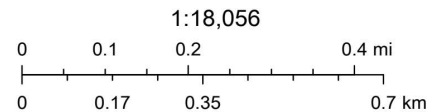
Detailed Map/Survey of Properties 51A and 58B Sunrise Rd (plus abutting owners at 58A)

Alternative Public Access Points to Water



9/25/2023, 10:25:09 AM

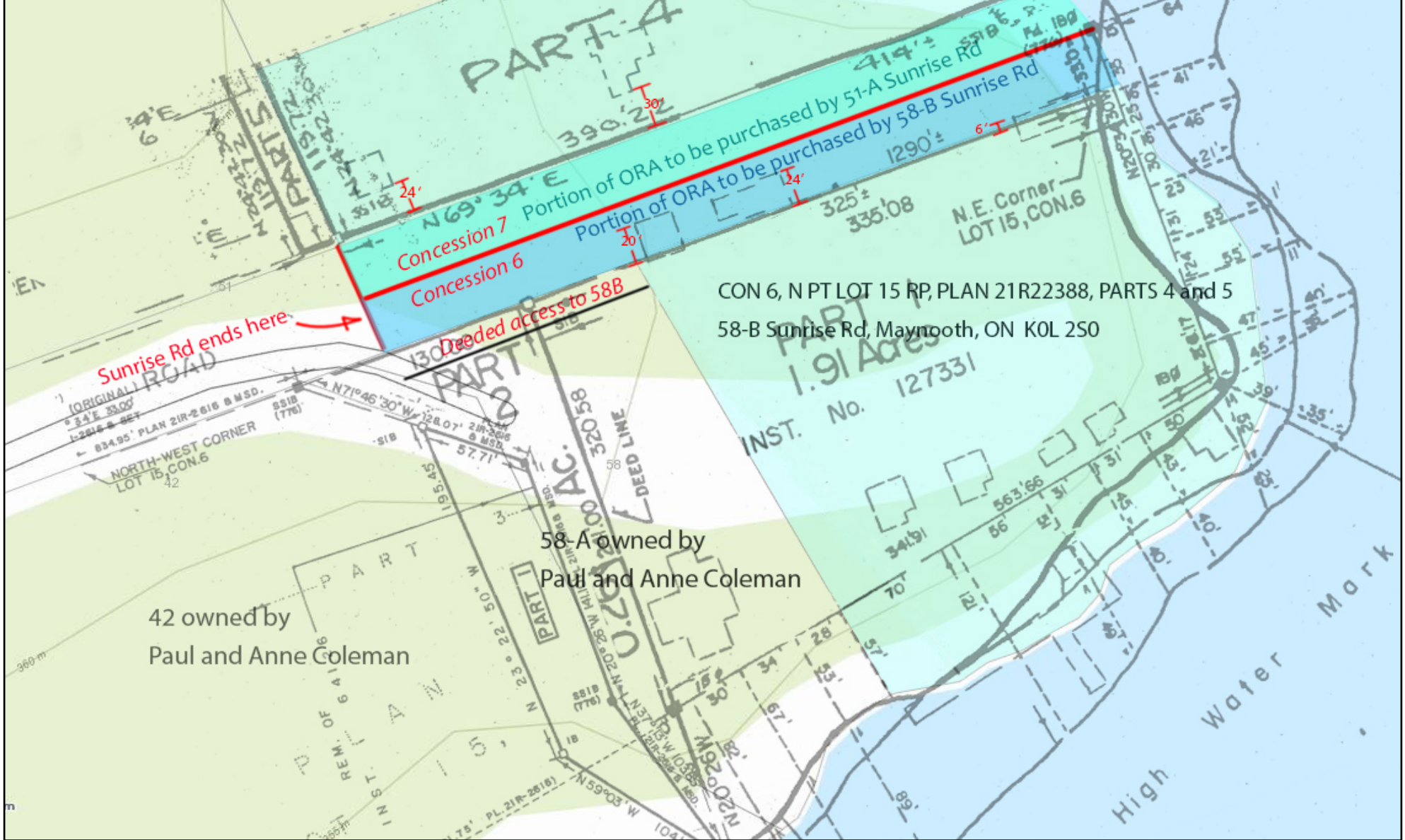
-  Override 1
-  9-1-1 Road _Query result
-  Civic Addresses
-  Property Information



Hastings County, Province of Ontario, Ontario MNR, Esri Canada, Esri, HERE, Garmin, INCREMENT P, USGS, METI/NASA, EPA, USDA, AAFC, NRCan



CON 7, PT LOT 15, PLAN 21R5986, PART 4
51-A Sunrise Rd, Maynooth, ON K0L 2S0



Concession 7
Concession 6
Portion of ORA to be purchased by 51-A Sunrise Rd
Portion of ORA to be purchased by 58-B Sunrise Rd

CON 6, N PT LOT 15 RP, PLAN 21R22388, PARTS 4 and 5
58-B Sunrise Rd, Maynooth, ON K0L 2S0

58-A owned by
Paul and Anne Coleman

42 owned by
Paul and Anne Coleman

High Water Mark