

Applicants: Andre Nicol, Leon Nicol, Marie Kitching, Simone MacCormack
Date of Decision: February 21, 2023
File No.: 58-C-212436
Date of Notice: February 21, 2023
Municipality/Twp: Unincorporated Township of Lahontan, District of Thunder Bay
Last Date of Appeal: March 13, 2023
Subject Lands: **PIN 62460-0103**, Part 1, Pcl 14860, Plan 55R-4934, RosSPORT, Unincorporated Twp of Lahontan, District of Thunder Bay

NOTICE OF DECISION

On Application for Consent

Subsection 53(17) of the Planning Act

On **the above noted date**, the Minister of Municipal Affairs and Housing gave provisional consent for a lot addition to **Application No. 58-C-212436** in respect of land in the Village of RosSPORT, in the unincorporated Township of Lahontan in the District of Thunder Bay. A copy of the decision is attached.

Who Has Appeal Rights

Other than the applicant, only a “specified person” or “public body”, as defined in s. 1(1) of the *Planning Act*, has the ability to appeal the decision to the Ontario Land Tribunal.

When and How to File a Notice of Appeal

Notice to appeal the decision to the Ontario Land Tribunal must be filed with the Minister of Municipal Affairs and Housing on or before the last date of appeal as noted above.

The notice of appeal should be sent to the attention of Chelsea Flegel, Planner at the address shown below and it must,

- (1) set out the reasons for the appeal, and
- (2) be accompanied by the fee prescribed under the *Ontario Land Tribunal Act* in the amount of \$400.00, payable to the Minister of Finance, Province of Ontario.

What Name Can a Notice of Appeal be Filed in

Only individuals, corporations or public bodies may appeal decisions in respect of applications for consent to the Ontario Land Tribunal. A notice of appeal may not be filed by an unincorporated association or group. However, a notice of appeal may be filed in the name of an individual who is a member of the association or group.

Effect of Written and Oral Submissions

No written or oral submissions were received.

How to Receive Notice of Changed Conditions

The conditions of a provisional consent may be changed at any time before the consent is given.

You will be entitled to receive notice of any changes to the conditions of the provisional consent if you make a written request to be notified of changes to the conditions of approval of the provisional consent.

Other Related Applications

n/a

Getting Additional Information

Additional information about the application is available for public inspection during regular office hours at the address shown below.

Mail Address for Notice of Appeal

Ministry of Municipal Affairs and Housing
Municipal Services Office North (Thunder Bay)
435 James Street South, Suite 223
Thunder Bay, ON. P7E 6S7
Attention: Chelsea Flegel, Planner
Telephone: (807) 630-8442

Victoria Kosny, Manager
Community Planning and Development

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The Minister's conditions to the granting of consent for this transaction **which must be fulfilled within two (2) years from the date of this letter** are set out below. These conditions must be fulfilled prior to the granting of consent.

No. Conditions

1. That this approval applies to the transfer of 0.15 hectares from PIN 62460-0103 to PIN 62460-0102, for resource-based recreational purposes while 0.17 hectares would be retained, as applied for, in the above noted location in the Unincorporated Township of Lahontan, in the District of Thunder Bay.
2. That the following documents be provided for the transaction described in Condition 1:
 - a. A copy of the application to transfer documents;
 - b. A schedule to application to transfer on which is set out the entire legal description of the parcel(s) in question. This Schedule must also contain the names of the parties indicated on application to transfer; and
 - c. A reference plan of survey, which bears the Land Registry Office registration number and signature as evidence of its deposit therein, illustrating the parcel(s) to which the consent approval relates; and/or a legal description of the lands to be severed which is acceptable to the land registrar.
3. That prior to final approval, and pursuant to subsections 53(12) and 51(25) and 51(26) or (27) of the Planning Act, the applicants shall enter into a Consent Agreement for the benefitting and retained parcels with the Ministry of Municipal Affairs and Housing (MMAH), to its satisfaction, addressing the potential development of the lands, including:
 - a. The lots can only be used for resource-based recreational uses (including a recreational dwelling) and is not to be used for permanent residential or commercial uses;
 - b. No further severances shall be permitted on the retained or benefitting lands.
 - c. Should recreational dwellings be considered on either the benefitting or retained parcels, implementation of certain basic mitigation measures in the dwelling design and construction in order to limit potential impacts, are required including:
 - Provision for air-conditioning, allowing occupants to close windows during the warmer months
 - Exterior cladding facing the railway achieving a minimum STC rating of 54 or equivalent, e.g. masonry

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- Acoustically upgraded windows facing the railway with appropriate specifications
 - Locating noise sensitive rooms away from the railway side
 - Noise barrier and fencing for outdoor play areas.
- d. Certain standard and site-specific requirements and notification provisions be identified, including those in Schedule 1 to this Notice of Decision.
 - e. Provisions to obtain undertakings from the applicant and/or the applicants' lawyer to implement conditions and requirements, including that the Consent Agreement be registered on title in priority to other documents; and
 - f. Provisions relating to the enforcement of the Consent Agreement.
4. That the application to consolidate the parcels be prepared and an undertaking from the person registering the documents shall be required agreeing to register the consolidations once the land transfers have been registered.
 5. That prior to final approval, the Ministry must be advised in writing by the Thunder Bay District Health Unit that both the benefitting lot and the retained lands have been inspected and are suitable for the installation of a subsurface sewage system.
 6. That prior to final approval, the Ministry receives written confirmation of adequate capacity to dispose of hauled sewage that may be generated in the future by the benefitting and retained lots, in the form of a letter from the holder of an Environmental Compliance Approval (ECA) for an approved septage disposal facility, confirming it has sufficient reserve capacity to accept any additional hauled sewage from the lots.
 7. That prior to final approval, the Ministry receives written confirmation of adequate capacity for the Rosspport Water Treatment Plant to connect and service the benefitting and retained lots maintained by the Rosspport Local Services Board.
 8. That prior to final approval a letter from the Rosspport Local Roads Board is provided that indicates that the extension of the eastern end of East Superior Street is voted into the Rosspport Local Roads Board system; or
That prior to final approval, legal road access to the retained lot is provided in the form of an easement application submitted by the owner of the eastern end of East Superior Street and approved by MMAH. See Note #4 for further information.
 9. That prior to final approval, the Ministry receives written confirmation that an archaeological assessment has been undertaken by an archaeologist licensed under the *Ontario Heritage Act*, for the entire property. The licenced archaeologist will forward a

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copy of the completed assessment report directly to Ministry of Citizenship & Multiculturalism (MCM) for review as per the terms and conditions of their license, and following the review, an acceptance letter should be submitted to MMAH confirming MCM is satisfied that no further assessment is required.

10. That prior to final approval, the Ministry must receive written confirmation from the Ministry of Environment, Conservation and Parks (MECP) confirming that site conditions for the benefitting and retained lots are appropriate for the proposed developments upon review of a prepared site-specific hydrogeological study which incorporates detailed site plans for each property, including a 30-metre setback buffer from Park Creek and required railway setbacks. The proponent undertakes to complete any recommendations of the site-specific study, including but not limited to, any further study required.

The following NOTES are for your information:

NOTES:

1. The required Transfer/Deed of Land form and Schedule page shall contain a complete and accurate legal description. The Minister's certificate of consent will be affixed to the completed Schedule page. For this reason, the names of the parties also must be set out on the Schedule page, so that the consent may be properly related to the intended conveyance.

Inaccuracies or omissions with regard to the legal description in the Transfer/Deed of Land form, the Schedule page or the survey plan will result in the documents being returned without consent.

2. All Buildings, including those in unorganized territories, have been required to comply with the Ontario Building Code since December 31, 1975.

At this time in unorganized territory, building permits and the payment of permit fees are not required. Inquiries about the Building Code should be made to:

Ontario's Building Code
Ministry of Municipal Affairs and Housing
777 Bay St.
Toronto, ON M5G 2E5
Telephone: (416) 585-7000

3. No further severances shall be permitted on the retained or benefitting lands.
4. For more information on adding Superior Street to the Local Roads Board system,

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contact John McClelland, MTO Regional Operations Officer at (807) 473-2137. The road must be voted into the Local Roads Area and be brought to roads board standards at the expense of the landowners. That vote is open to all landowners in the LRB area.

5. Approval must be obtained from the local Health Unit for all sewage systems that require a permit, including greywater systems but excluding pit privies. The importation of suitable fill may be required to construct sewage treatment systems to the satisfaction of the Thunder Bay District Health Unit. The Health Unit can also provide information on construction requirements, including minimum distances required between sewage systems and sources of potable water.
6. Please notify the Ministry of Citizenship and Multiculturalism (MCM) (at archaeology@ontario.ca or 416-314-7620) if archaeological resources are impacted by any ground disturbing work. All activities impacting archaeological resources must cease immediately, and a licensed archaeologist is required to carry out an archaeological assessment in accordance with the Ontario Heritage Act and the Standards and Guidelines for Consultant Archaeologists.

If human remains are encountered, all activities must cease immediately and the local police as well as the Registrar, Burials of the Ministry of Government and Consumer Services (416-326-8800) must be contacted. In situations where human remains are associated with archaeological resources, MCM should also be notified to ensure that the site is not subject to unlicensed alterations which would be a contravention of the Ontario Heritage Act.

7. It is the applicant's and/or agent's responsibility to fulfill the conditions of consent approval within two years of the date of this letter pursuant to Section 53(41) of the Planning Act. **We will issue no further notice or warning of the expiration of the two-year period.**

If the conditions to consent approval are not fulfilled within two years of the date of this letter and the applicant is still interested in pursuing the proposal, a new application will be required. All documentation required for final approval should be provided to the Ministry of Municipal Affairs and Housing a minimum of one month prior to the lapsing date.

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SCHEDULE 1

Preliminary list of standard and site-specific requirements and notification provisions.

- (a) **Warning:** Canadian Pacific Railway Company (CPR) or its assigns or successors in interest has or have a right-of-way within 300 metres from the subject land hereof. There may be alterations to or expansions of the railway facilities on such right-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). **CPR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way.**
- (b) Noise and vibration studies have not been completed to prevent or mitigate adverse effects from noise, vibration, and other contaminants related to the CP Railway line. The province will not be responsible for any complaints or claims related to the railway use.
- (c) Groundwater supplies may not be adequate to support the use of individual private wells, therefore, wells should only be used in the future on the benefitting and retained lots if assessment has been undertaken through a hydrogeological study and suitability of groundwater quality and quantity confirmed. Should wells be considered as drinking water sources, they must be constructed in accordance with Regulation 903 - Wells, under the Ontario Water Resources Act.
- (d) Small private sewage disposal facilities which have a daily sewage flow of 10,000 litres or less per day must be certified by the Thunder Bay District Health Unit. Large private sewage disposal facilities which have a daily sewage flow of >10,000 litres, or communal systems, must be approved by the Ministry of the Environment, Conservation and Parks. The Thunder Bay District Health Unit should be contacted for information on the proper installation and operation of Class IV septic systems and Class 1 (pit privy) sewage systems.
- (e) The use of Best Management Practices for shoreline development along Park Creek is strongly recommended. Best Management Practices such as shoreline naturalization and vegetated buffer strips can reduce the adverse effects of shoreline development. It is recommended that sewage systems be located where native soils are deepest, and at the furthest distance possible from the shoreline.

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Other Best Management Practices include maintaining vegetation along the shoreline and elsewhere on the site, appropriate site design (e.g. minimum 30 metre non-development zone adjacent to the shoreline), and construction mitigation. Measures such as avoiding septic starters, pumping out septic tanks every three to five years, and reducing water use also help protect water quality. Lot grading and clearing and the creation of impervious surfaces should be minimized. The use of fertilizers should be avoided. Additional resources regarding Best Management Practices are listed in Appendix B of the Lakeshore Capacity Assessment Handbook, 2010, available at: <http://www.ontario.ca/environment-and-energy/lakeshore-capacity-assessment-handbook-protecting-water-quality-inland-lakes>.

- (f) All buildings including those in unorganized territories have been required to comply with the Ontario Building Code since December 31, 1975.

At this time, in unorganized territory, building permits and the payment of permit fees are not required, except as they relate to the location and construction of septic systems. Inquiries about the Building Code Construction Standards should be made to: Buildings and Development Branch, Ministry of Municipal Affairs and Housing, 17th Floor, 777 Bay Street, Toronto, ON M7A 2J3. PH: (416) 585-6666; codeinfo@ontario.ca