

Applicant: 824756 Ontario Inc.
File No.: 60-C-225020
Municipality/Twp: Unsurveyed Territory, District of Kenora
Subject Lands: **PIN 42180-1606**, Plan 23R-8845, Farm Loc. LK33,
West of community of Minaki, in Unsurveyed
Territory, in the District of Kenora

Date of Decision: June 15, 2023
Date of Notice: June 15, 2023
Last Date of Appeal: July 5, 2023

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 new lot to **Application No. 60-C-225020** in respect of land in Unsurveyed Territory west of Minaki, in the District of Kenora. 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 creation of a new lot of 19.3 hectares, for resource-based recreational purposes while 9 hectares would be retained, as applied for, in the above noted location in the Unsurveyed Territory, west of Minaki, in the District of Kenora.
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 an easement over the severed land for egress and ingress to the retained property be provided for access purposes and registered on title.
4. 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 severed and retained parcels with the Ministry of Municipal Affairs and Housing (MMAH), to its satisfaction, addressing the potential development of both the severed and retained lands, including:
 - a. The lots can only be used for resource-based recreational uses (including a recreational dwelling) and are not to be used for permanent residential or commercial uses;
 - b. No further severances shall be permitted on the lots.
 - c. 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;
 - d. Should building development occur on either lot (severed and retained parcels), implementation of certain basic mitigation measures in the dwelling design and construction in order to limit potential noise and vibration impacts from the highway and railway, are required including:

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- Provision for air-conditioning, allowing occupants to close windows during the warmer months
 - Exterior cladding facing the railway and highway achieving a minimum STC rating of 54 or equivalent, e.g. masonry
 - Acoustically upgraded windows facing the railway and highway with appropriate specifications
 - Locating noise sensitive rooms away from the railway and highway side
 - Noise barrier and fencing for outdoor play areas.
- e. Certain standard and site-specific requirements and notification provisions be identified, including those in Schedule 1 to this Notice of Decision.
- f. Provisions relating to the enforcement of the Consent Agreement.
5. That prior to final approval, the Ministry must be advised in writing by the Northwestern Health Unit that both the severed and retained lands have been inspected and are suitable for the installation of a subsurface sewage system.
6. That prior to final approval, the applicant is to provide written confirmation from a licensed well driller that adequate potable water (including appropriate treatment option(s) to make the water aesthetically suitable for human consumption) and pumping capacity is available on the proposed new lot and retained property in accordance with [Regulation 903 – Wells, under the Ontario Water Resources Act](#) and the [D-5-5 Private Wells-Water Supply Assessment](#).
7. This Ministry is to be advised in writing by the transferor that the Offer of Purchase and Sale agreement, or alternatively an acknowledgement by the transferor and transferees if the transaction is between family members, contains the following clause:
- a. No assessment has been undertaken for groundwater quality or quantity. Groundwater supplies may not be adequate to support the use of individual private wells, should this source of water be used in the future on the proposed retained or severed lots.
 - b. Should wells be considered as drinking water sources, they must be constructed in accordance with Regulation 903 – Wells, under the Ontario Water Resources Act. Water quality and quantity testing should be completed for each new lot in accordance with MECP’s “Technical Guideline for Private Wells” (1996) and conducted by a qualified professional. If water from test wells exhibit values for health and aesthetic parameters that are above the Ontario Drinking Water Standards, the water must be treated prior to consumption. Upon well installation, a qualified professional should also demonstrate that there is an adequate quantity of groundwater available to meet the requirements of the residence without interference to adjacent properties.

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- c. Small private sewage disposal facilities which have a daily sewage flow of 10,000 litres or less per day must be certified by the Northwestern 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 Northwestern 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.
- d. Domestic waste must be appropriately handled and disposed of at an approved waste disposal facility.

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 either the severed or the retained lands.
4. 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 Northwestern Health Unit. The Health Unit can also provide information on construction requirements, including minimum distances required between sewage systems and sources of potable water.

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5. 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.

6. 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 National Railway Company (CNR) 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). **CNR 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 and other contaminants related to the CN Railway line and the highway. The province will not be responsible for any complaints or claims related to the railway or highway use.
- (c) From the authority given by the Public Transportation and Highway Improvement Act (PTHIA), Entrance Permits are required for any access to a provincial highway. Any change of property ownership, property description, entrance or land use, or of entrance construction, requires a new entrance permit. Entrance Permits do not run with the land. The subject property owners will have to contact the Ministry of Transportation (MTO) to reapply for a new entrance permit.

The PTHIA also requires MTO Building and Land Use Permits be obtained for any development/construction occurring within 45 metres of the property limit of Hwy 596 and within 180 metres of the centre point of the highway and a public sideroad intersection, portions of the subject properties that are within the permit area. The permit requirement is for construction/installation/alteration of any, structures above or below ground, fences, grading of land or drainage alteration.

All permits are required prior to any development/construction taking place. On-line permit applications can be found on the ministry web site at www.hcms.mto.gov.on.ca. Other permit requirements and information property owners should be aware of if their land is the vicinity of a highway can be found at www.ontario.ca/page/highway-corridor-management. If additional information or assistance with the application process is required, please contact Sarah Nicolas, Corridor Management Officer, email sarah.nicolas@ontario.ca.

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- (d) No assessment has been undertaken for groundwater quality or quantity. Groundwater supplies may not be adequate to support the use of individual private wells, should this source of water be used in future.
- (e) Should wells be considered as drinking water sources, they must be constructed in accordance with Regulation 903 - Wells, under the Ontario Water Resources Act.
- (f) Small private sewage disposal facilities which have a daily sewage flow of 10,000 litres or less per day must be certified by the Northwestern 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 Northwestern 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.
- (g) If activities subsequent to a severance or other administrative activity (for example, development on a lot) that could impact species at risk or their habitat are planned, then the person undertaking those activities will need to determine if an Endangered Species Act (ESA) authorization is required before the activities are undertaken. Please visit "How to avoid authorization" and "Permit types" (<https://www.ontario.ca/page/how-get-endangered-species-act-permit-or-authorization>) for more information.

In the case where there is a potential to impact species at risk or their habitat, determine whether any protected species at risk or their habitat exist, or are likely to exist, within or near your activity location. Then determine whether your activity is likely to contravene the prohibitions in sections 9 or 10 of the ESA. A person carrying out an activity may also wish to consult the Act and seek legal advice to understand its legal obligations. If you think you need a permit you should: complete an Information Gathering Form and submit the form by email to SAROntario@ontario.ca.

- (h) 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