



A G E N D A

WEST NIPISSING COMMITTEE OF ADJUSTMENT

MEETING HELD ON FEBRUARY 14, 2022 – 7:30PM

Join Zoom Meeting

<https://www.westnipissing.ca/town-hall/council/council-meetings/>

1 647 558 0588

Meeting ID: 265 014 1204

Participant: #

Password: 654321

YouTube Link: <https://www.youtube.com/channel/UCG6HWMXnA-RBiH-UdZVCIHg>

1. Meeting called to Order;
2. Declaration of Pecuniary Interest;
3. Approval of Agenda for February 14, 2022;
4. Adoption of Minutes of December 13, 2021 meeting;
5. Consent and Minor Variance Applications;

File No.	Applicant/Agent	Address	Geographic Location	Purpose
C04/22	2682213 Ontario Ltd	Vacant land on Highway 17 and Principale St West	Caldwell	One (1) lot addition
C05/22	Shawn McRae, Albert Viau, and Lucie Chartrand-Viau	116A Nature's Trail Road	Falconer	Creation of one (1) new lot
C07/22	Peter Best and Elizabeth Peekstok	128 Nature's Trail Road	Falconer	One (1) easement/ROW
C08/22	Greg and Lori McDonald	140 Poirier Road	Caldwell	One (1) new lot
C09/22	Northland Farms and Contracting	Rainville Road	Caldwell	One (1) lot addition
C11/22	Northland Farms and Contracting	122 Rainville Road	Caldwell	Two (2) new lots and one (1) lot addition
C10/22	Northland Farms and Contracting	Lafreniere Road	Macpherson	One (1) new lot
C12/22	Daniel Schwartzentruber and Leslie Bernard	10725 Highway 17	Caldwell	One (1) Easement/ROW
C13/22	Taylor and Megan Hummel	13351 Highway 64	Field	One (1) new lot and one (1) Easement/ROW
MV2022/02	Gabriel St. Denis	557 Laplage Road	Caldwell	Reduce minimum front-yard setback from 5m to 3m for boathouse.

6. Amendments to the Planning Act;
7. Adjournment.

MINUTES

Municipality of West Nipissing
Meeting of the Committee of Adjustment
Held on January 10, 2022 at 7:30 PM
Chair: Normand Roberge



PRESENT: Fernand Pellerin
Normand Roberge
Roger Gagnon
Christopher Fisher
Denis Sénécal

ABSENT:

CALL TO ORDER

RESOLUTION #2022/001

Moved by: **Denis Sénécal**

Seconded by: **Roger Gagnon**

That the Agenda for the Committee of Adjustment meeting of January 19th, 2022 be adopted, as presented.

CARRIED

MINUTES

RESOLUTION #2022/002

Moved by: **Christopher Fisher**

Seconded by: **Denis Sénécal**

That the Minutes of the Committee of Adjustment meeting held on December 13th, 2021, be adopted, as presented.

CARRIED

APPLICATIONS FOR CONSENT

C01/22 - Application for Consent by Yves Rainville (Owner)

A consent application made by Yves Rainville for one (1) lot addition on Rainville Road, Verner, ON. East Part Lot 5, Concession B, Caldwell Township, Municipality of West Nipissing, District of Nipissing.

RESOLUTION #2022/003

Moved by: **Roger Gagnon**

Seconded by: **Denis Sénécal**

CONDITIONS:

1.	That a Reference Plan be prepared and deposited in the Land Registry Office and a copy of the new survey be filed with the Municipality.
2.	Confirmation that all property taxes are paid up to date.
3.	That all conditions be met on or before a date being one year from the date of giving of notice or the consent shall be deemed not to have been given as per Section 53(20) of the Planning Act, R.S.O., as amended.
4.	That a Transfer/Deed of Land be submitted to the Secretary-Treasurer for the issuance of a Certificate of Consent.

5.	That any portion of the municipally maintained and travelled roadway(s) located on the subject property, including the retained portion, shall be surveyed, at the owner's cost, and transferred to the municipality as a condition of the within severance.
6.	That a PIN Consolidation be registered in the Land Registry Office in order to consolidate the lot addition(s) with the lands to which they are being added.

CARRIED

C02/22 - Application for Consent by Andrew and Tricia Stewart (Owners)

A consent application made by Andrew and Tricia Stewart to create one (1) new lot on vacant land on Highway 64, Lavigne, ON. Part Lot 8, Concession 2, Macpherson Township, Municipality of West Nipissing, District of Nipissing.

RESOLUTION #2022/004

Moved by: **Christopher Fisher**

Seconded by: **Fernand Pellerin**

CONDITIONS:

1.	That a Reference Plan be prepared and deposited in the Land Registry Office and a copy of the new survey be filed with the Municipality.
2.	Confirmation that all taxes are paid up to date.
3.	That all conditions be met on or before a date being one year from the date of giving of notice or the consent shall be deemed not to have been given as per Section 53(20) of the Planning Act, R.S.O., as amended.
4.	That a Transfer/Deed of Land be submitted to the Secretary Treasurer for the issuance of a Certificate of Consent.
5.	The property is located in the watershed for the Rousseau Drain. The Municipal Clerk shall instruct the Engineer pursuant to S. 65(1) of the Drainage Act to apportion the assessment for construction and future maintenance between the severed and retained lands. The owner shall be responsible for all costs associated with the said apportionment.

CARRIED

C03/22 - Application for Consent by Yves and Brandei Baznet (Owners)

A consent application made by Yves and Brandei Bazinet for one (1) lot addition at 1691 Highway 575, Field, ON. East ½ of Part Lot 2, Concession 5, Part 1 36R14496, Badgerow Township, Municipality of West Nipissing, District of Nipissing.

RESOLUTION #2022/005

Moved by: **Christopher Fisher**

Seconded by: **Fernand Pellerin**

CONDITIONS:

1.	That a Reference Plan be prepared and deposited in the Land Registry Office and a copy of the new survey be filed with the Municipality.
2.	Confirmation that all taxes are paid up to date.
3.	That all conditions be met on or before a date being one year from the date of giving of notice or the consent shall be deemed not to have been given as per Section 53(20) of the Planning Act, R.S.O., as amended.

4.	That a Transfer/Deed of Land be submitted to the Secretary Treasurer for the issuance of a Certificate of Consent.
5.	That a PIN Consolidation be registered in the Land Registry Office in order to consolidate the lot addition(s) with the lands to which they are being added.

CARRIED

MV2021/15 - Application for Minor Variance by Julianne Spencer and Roy Vinall (Owner)

A minor variance application made by Julianne Spencer and Roy Vinall to reduce minimum side-yard setback from 3m to 1.5m to permit construction of addition, including attached garage. Part Lot 5, Concession 3, Part 4 NR201, Hugel Township, Municipality West Nipissing, District of Nipissing.

RESOLUTION #2022/006

Moved by: **Roger Gagnon**

Seconded by: **Christopher Fisher**

CARRIED

ADJOURNMENT

RESOLUTION #2022/007

Moved By: **Christopher Fisher**

Seconded by: **Roger Gagnon**

BE IT RESOLVED THAT the West Nipissing Committee of Adjustment meeting be adjourned to February 14, 2022.

CARRIED

RECORD OF ALL COMMENTS

APPLICATION	BELL CANADA	MTO	HYDRO ONE	GREATER SUDBURY UTILITIES	CN/CP RAIL	PUBLIC WORKS DEPT.	BUILDING DEPT.
C04/22 - 2682213 Ontario Ltd. - Highway 17 & Principale St West - One lot addition	•	• See attached email	• No comments or concerns	• No conflict	•	• Existing water service crossing over property • No sewer • No road access	• No objections
C05/22 - Shaun McRae, Albert Viau, Lucie Chartrand-Viau - 116A Nature's Trail - One new lot	•	• No comments	• No comments or concerns	• No conflict	•	• No water • No sewer • Road not currently maintained	• No issues
C07/22 - Peter Best and Elizabeth Peekstok - 128 Nature's Trail Rd - One ROW	•	• No comments	• No comments or concerns	• No conflict	•	• Currently not maintained • No water • No sewer • No municipal road allowance to my knowledge	• No issues
C08/22 - Greg and Lori McDonald - 140 Poirier Rd - One new lot	• No comments or concerns	• No comments	• No comments or concerns	• No conflict	•	• No water • No sewer • No foreseeable roads issues	• No objections
C09/22 - Northland Farms and Contracting Inc - Rainville Rd - One lot addition	• No comments or concerns	• No comments	• No comments or concerns	• No conflict	•	• No water • No sewer • Retain 10m from centre of road if ROW not registered	• No issues
C10/22 - Northland Farms and Contracting - Lafreniere Rd - One new lot	•	• No comments	• No comments or concerns	• No conflict	•	• No water • No sewer • Retain 10m from centre of road if ROW not registered	• No issues

RECORD OF ALL COMMENTS

APPLICATION	BELL CANADA	MTO	HYDRO ONE	GREATER SUDBURY UTILITIES	CN/CP RAIL	PUBLIC WORKS DEPT.	BUILDING DEPT.
C11/22 Northland Farms and Contracting	• No comments or concerns	• No comments	• No comments or concerns	• No conflict	•	• No water • No sewer • No foreseeable road issues	• No issues
C12/22 Daniel Schwartzentruber and Leslie Bernard	• No comments or concerns	• See attached email	• No comments or concerns	•	•	• No water • No sewer • No roads, MTO jurisdiction	• No issues
C13/22 - Taylor and Megan Hummel - 13351 Highway 64 - One new lot and one ROW	•	• See attached email	•	• No conflict	•	• MTO jurisdiction	• No issues
MV2022/02 - Gabriel St. Denis - 557 Laplage	•	• No comments	•	• No objections	•	• No concerns	• No issues

PLANNING SUMMARY REPORT

CONSENT APPLICATION NO. C04/22

Registered Owner(s)	2682213 Ontario Ltd.
Agent(s)	Miller and Urso Surveying Inc.
Property Location	Vacant land on Highway 17 and Principale Street West, Verner, ON Part of Lot 42, 43, 45, All of lot 44, Part of Beaudry St, Plan M496, Caldwell Township, Municipality of West Nipissing
Purpose and Effect of Application	One (1) lot addition
Current Zoning	C2 – Highway Commercial Zone
Official Plan Land Use	Employment
Consistent with PPS (2014)	Yes
Conditions of Approval, if any	<ol style="list-style-type: none"> 1. That a Reference Plan be prepared and deposited in the Land Registry Office and a copy of the new survey be filed with the Municipality. 2. Confirmation that all property taxes are paid up to date. 3. That all conditions be met on or before a date being one year from the date of giving of notice or the consent shall be deemed not to have been given as per Section 53(20) of the Planning Act, R.S.O., as amended. 4. That a Transfer/Deed of Land be submitted to the Secretary-Treasurer for the issuance of a Certificate of Consent. 5. That a PIN Consolidation be registered in the Land Registry Office in order to consolidate the lot addition(s) with the lands to which they are being added. 6. The Municipality of West Nipissing requires an easement for the existing waterline commencing on Cartier Street and crossing the severed and retained land. The easement shall be no less than 7.5m. It is understood and agreed that such easement shall be temporary in nature until such time as the infrastructure is either removed or re-located, at which time the Municipality agrees to release and abandon the said easement.
Recommendation	Severance be granted subject to conditions of approval.

Tanya Lelievre

From: Muldoon, Laurel (MTO) <Laurel.Muldoon@ontario.ca>
Sent: February 9, 2022 1:16 PM
To: Tanya Lelievre
Cc: Burke, Debra A. (MTO)
Subject: MTO Comments C04-22
Attachments: C04-22 - Notice and Key Maps.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Tanya,

The Ministry of Transportation of Ontario has reviewed the consent application C04-22. It is the understanding of the Ministry that the consent application is to create a lot addition. The subject lands are located within the MTO's permit control area, therefore, is subject for review under the Public Transportation and Highway Improvement Act R.S.O 1990. The ministry does not have any concerns with this application. The applicant should be made aware of the following:

1. No new access shall be created on Highway 17 without consulting the MTO prior.
2. Any buildings, structures, or site alterations proposed within 45 metres of the limit of Highway 17 or 180 metres from an intersection, requires a Building and Land Use Permit from the Ministry of Transportation. Also, wells must maintain a minimum setback of 30 metres from the limit of the highway. MTO Sign permit(s) are required for the placement of any signs within 400 m of the limit of the highway.
3. Please contact Debra Burke, Corridor Management Officer, at debra.burke@ontario.ca or by calling (705) 491-1634 for further information with respect to MTO permit and setback requirements. Permits from the MTO can be obtained by applying online at <https://www.hcms.mto.gov.on.ca/>

Thank you,

Laurel

Laurel Muldoon, MSc.Environmental
Corridor Management Senior Project Manager

Operations Division, Northeast Region
Ministry of Transportation
447 McKee Ave, Suite 301
North Bay, Ontario, P1B 9S9
T. 705-491-0757 | E. laurel.muldoon@ontario.ca

FILE: C04/22

PROPERTY: Vacant land on Highway 17 and Principale St West, Verner

APPLICANT: 2682213 Ontario Ltd.



DRAFT PLAN OF SUBDIVISION OF
ALL OF LOTS 1, 2, 5 TO 46 INCLUSIVE
BLOCKS B AND C
BEAUDRY STREET, RUE PRINCIPALE STREET,
RUE GAGNON STREET, RUE MENARD STREET
REGISTERED PLAN M-496

AND PART OF E 1/2 OF LOT 10, CONCESSION 4
TOWNSHIP OF CALDWELL

NOW IN THE
MUNICIPALITY OF WEST NIPISSING
DISTRICT OF NIPISSING

0m 25m 50m
SCALE 1 : 750

LAND USE ANALYSIS

LOT OR BLOCK	INTENDED USE	No. OF UNITS	AREA (HECTARES)
LOTS 1 TO 7	RESIDENTIAL-R3	7	3.0168 Ha
BLOCK 8	FUTURE DEVELOPMENT	1	0.1242 Ha
BLOCK 9	HIGHWAY COMMERCIAL-C2 TO BE ADDED TO ADJOINING PROPERTY TO THE EAST	1	0.3557 Ha
BLOCK 10	FUTURE DEVELOPMENT	1	1.4833 Ha
STREET	STREET	1	0.3769 Ha
TOTAL			5.3669 Ha

ADDITIONAL INFORMATION REQUIRED UNDER SECTION 51 (17) OF THE ONTARIO PLANNING ACT

- (A) AS CERTIFIED ON THE FACE OF THE PLAN
(B) AS SHOWN ON THE FACE OF THE PLAN
(C) AS SHOWN ON THE FACE OF THE PLAN
(D) THE PURPOSE FOR WHICH THE LOTS ARE TO BE USED ARE;
LISTED IN THE LAND USE ANALYSIS.
(E) THE EXISTING USES OF THE ADJOINING PROPERTIES ARE;
NORTH - KING'S HIGHWAY No. 17, HIGHWAY COMMERCIAL-C2
EAST - RESIDENTIAL-R3, HIGHWAY COMMERCIAL-C2
SOUTH - RAILWAY, RURAL-RU, RESIDENTIAL-R2, COMMUNITY FACILITY-CF
WEST - RURAL, RU
(F) AS SHOWN ON THE FACE OF THE PLAN
(G) AS SHOWN ON THE FACE OF THE PLAN
(H) MUNICIPALLY OWNED AND OPERATED PIPED WATER SYSTEM
(I) THE NATURE AND POROSITY OF THE SOIL IS SANDY LOAM
(J) 1.0 METRE CONTOUR INTERVALS SHOWN ON THE FACE OF THE PLAN
(K) THE MUNICIPAL SERVICES TO BE AVAILABLE TO THE LANDS ARE;
EMERGENCY SERVICES- POLICE, FIRE, AMBULANCE
MUNICIPAL SERVICES - PIPED WATER, PIPED SANITARY, TRANSIT, GARBAGE,
RECYCLING, ROAD MAINTENANCE, SCHOOL BUSING, SNOW REMOVAL
PUBLIC SERVICES - GAS, ELECTRICITY, TELEPHONE, CABLE, INTERNET
(L) THERE ARE NO EASEMENTS AFFECTING THE PROPERTY.

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT THE BOUNDARIES OF THE LAND TO BE SUBDIVIDED AND THEIR
RELATIONSHIP TO THE ADJOINING LANDS ARE CORRECTLY SHOWN.

NORTH BAY, ONTARIO
JANUARY 25th, 2021

R. D. MILLER
ONTARIO LAND SURVEYOR
FOR: MILLER & URSO SURVEYING INC.

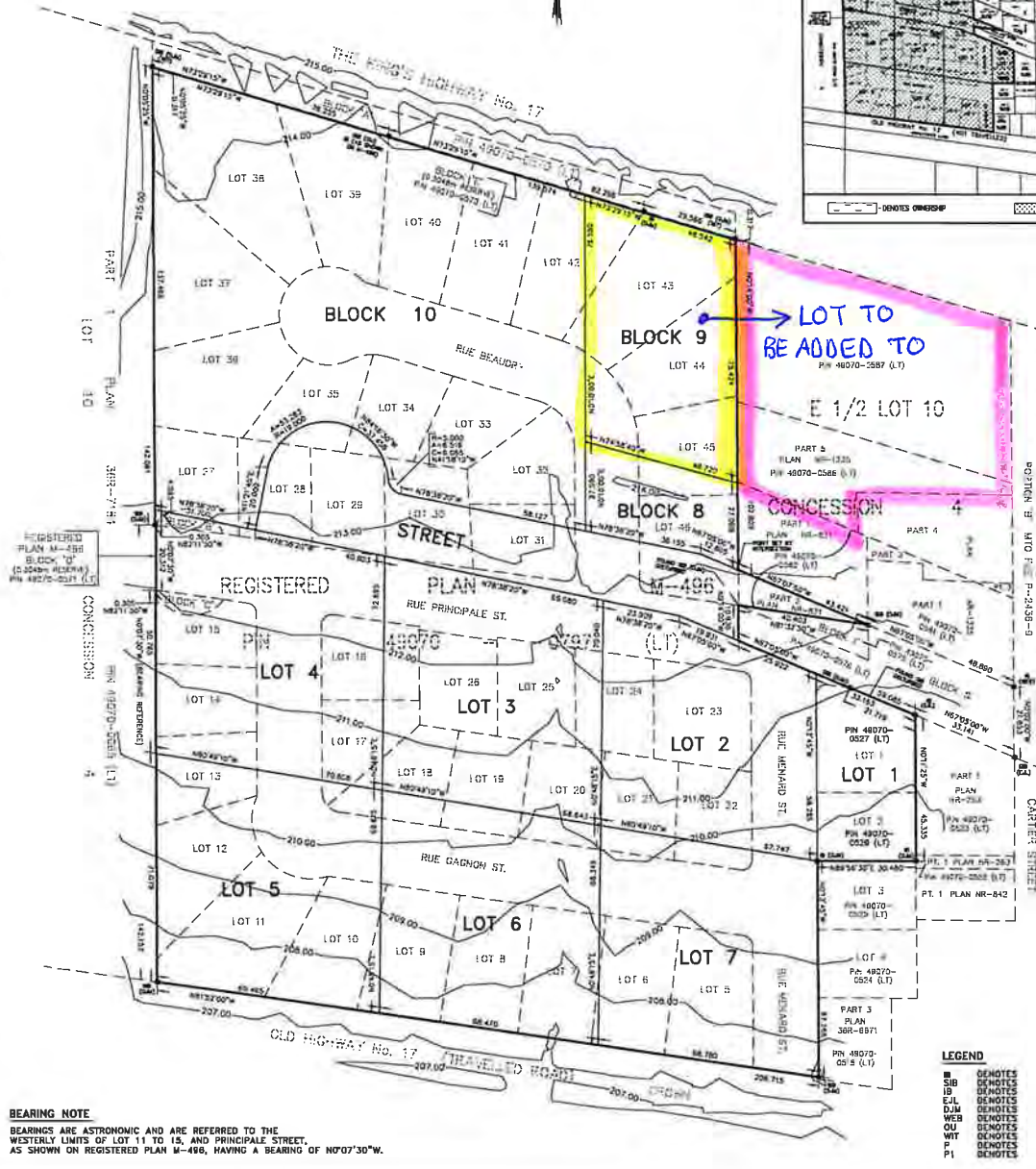
OWNER'S CERTIFICATE

I HEREBY CONSENT TO THE FILING OF THIS DRAFT PLAN FOR DRAFT APPROVAL.

NORTH BAY, ONTARIO
JANUARY 25th, 2021

YVES BRULLETTE - PRESIDENT
2582213 ONTARIO LIMITED
I HAVE THE AUTHORITY TO BIND THE CORPORATION
REGISTERED OWNER OF PINS 48070-0582 (LT), 48070-0797 (LT)
48070-0527 (LT) AND 48070-0528 (LT)

METRIC UNITS
DISTANCES AND COORDINATES SHOWN ON
THIS PLAN ARE IN METRES AND CAN BE
CONVERTED TO FEET BY DIVIDING BY 0.3048



LEGEND

- DENOTES FOUND MONUMENT
- DENOTES STANDARD IRON BAR
- DENOTES E. J. LACKSTROM, O.L.S.
- △ DENOTES D. J. MACDONELL, O.L.S.
- ◇ DENOTES W.E. BOLAN, O.L.S.
- ◇ DENOTES ORIGIN UNKNOWN
- WIT DENOTES WITNESS
- P DENOTES REGISTERED PLAN M-496
- P1 DENOTES DEPOSITED PLAN NR-821

BEARING NOTE

BEARINGS ARE ASTROMONIC AND ARE REFERRED TO THE
WESTERLY LIMITS OF LOT 11 TO 15, AND PRINCIPALE STREET.
AS SHOWN ON REGISTERED PLAN M-496, HAVING A BEARING OF N0°07'30"W.



MILLER & URSO SURVEYING INC.
SURVEYING-ENGINEERING-PLANNING
1501 Seymour Street North Bay ON P1A 0C5
www.millersurveying.com info@millersurveying.com
P: (705) 474-1210 F: (705) 474-1783

CHECKED BY: R.D. MILLER DRAWN BY: M.M. WHEATFIELD FIELD: S.D. J.L. PLAN No: W.D. # 0845

PLANNING SUMMARY REPORT

CONSENT APPLICATION NO. C05/22

Registered Owner(s)	Shawn McRae, Albert Viau, and Lucie Chartrand-Viau
Agent(s)	Miller and Urso Surveying Inc.
Property Location	116A Nature's Trail Road, Noelville, ON Part Lot 8, Concession 1, Falconer Township, Municipality of West Nipissing
Purpose and Effect of Application	Creation of one (1) new lot
Current Zoning	SR – Shoreline Residential
Official Plan Land Use	Waterfront
Consistent with PPS (2014)	Yes
Conditions of Approval, if any	<ol style="list-style-type: none"> 1. That a Reference Plan be prepared and deposited in the Land Registry Office and a copy of the new survey be filed with the Municipality. 2. Confirmation that all property taxes are paid up to date. 3. That all conditions be met on or before a date being one year from the date of giving of notice or the consent shall be deemed not to have been given as per Section 53(20) of the Planning Act, R.S.O., as amended. 4. That a Transfer/Deed of Land be submitted to the Secretary-Treasurer for the issuance of a Certificate of Consent.
Recommendation	Severance be granted subject to conditions of approval.
Notes	Concurrent Zoning By-Law Amendment ZBLA2022/02.

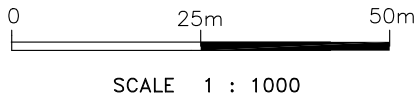
FILE: C05/22

APPLICANT: Shaun McRae, Albert Viau, Lucie Chartrand-Viau

PROPERTY: 116A Nature's Trail Road, Noëlville, ON



SKETCH FOR RE-ZONING



CAUTION

- THIS IS NOT A PLAN OF SURVEY AND SHALL NOT BE USED EXCEPT FOR THE PURPOSE INDICATED IN THE TITLE BLOCK.
- THIS SKETCH IS PROTECTED BY COPYRIGHT ©

METRIC

DISTANCES SHOWN ON THIS PLAN ARE IN METRES AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

NOTE

DIMENSIONS WERE OBTAINED FROM FIELD SURVEY.

LOT COVERAGE

SEVERED

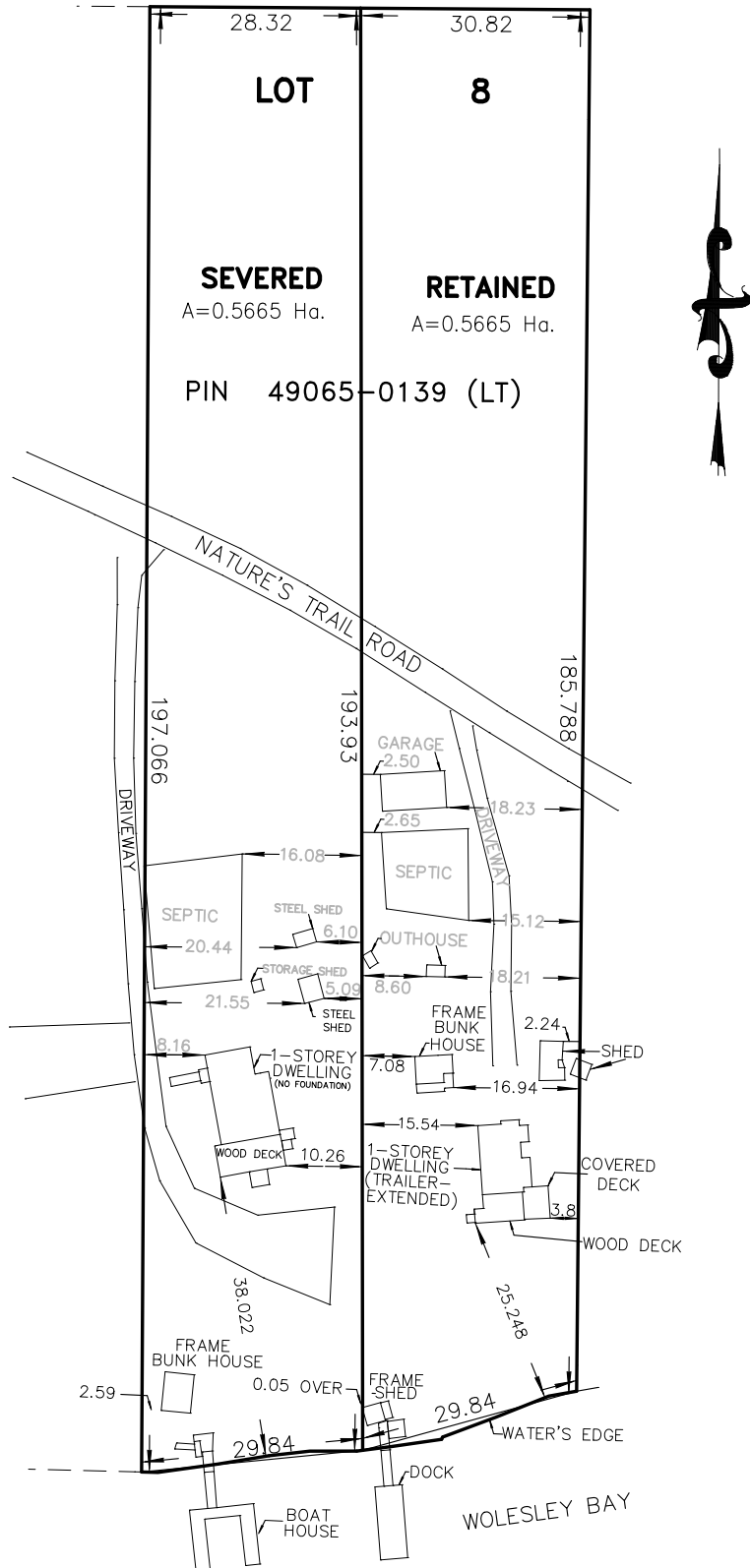
AREA OF SEVERED = 5665.0m^2
 AREA OF EXISTING DWELLING = 110.5m^2
 AREA OF EXISTING SHEDS = 16.7m^2
 AREA OF EXISTING BUNK HOUSE = 20.5m^2
 LOT COVERAGE = 2.6%

RETAINED

AREA OF RETAINED = 5665.0m^2
 AREA OF EXISTING DWELLING = 75.0m^2
 AREA OF EXISTING GARAGE = 42.8m^2
 AREA OF EXISTING SHEDS = 28.3m^2
 AREA OF BUNK HOUSE = 17.1m^2
 PRESENT LOT COVERAGE = 2.9%

NOTE

PART OF BROKEN LOT 8
 CONCESSION 1
 TOWNSHIP OF FALCONER
 NOW IN THE
 MUNICIPALITY OF WEST NIPISSING
 DISTRICT OF NIPISSING



CLIENT: BRUCE MCRAE



MILLER & URSO SURVEYING INC.
SURVEYING • ENGINEERING • PLANNING

1501 Seymour Street North Bay ON P1A 0C5
 www.muesurveying.com info@muesurveying.com
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PLANNING SUMMARY REPORT

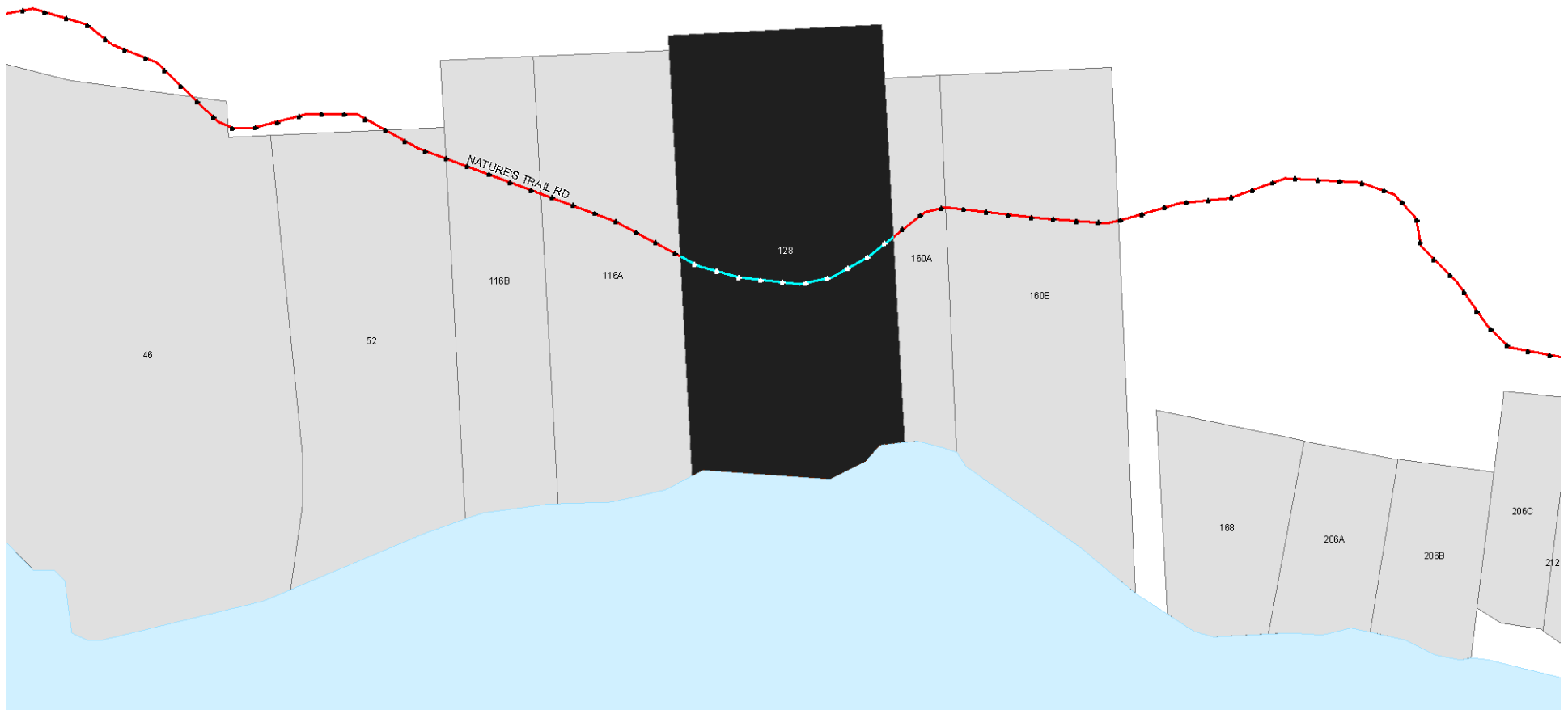
CONSENT APPLICATION NO. C07/22

Registered Owner(s)	Peter Best and Elizabeth Peekstok
Agent(s)	DS Dorland Ltd.
Property Location	128 Nature's Trail Road, Noelville, ON Part Lot 8, Concession 1, Falconer Township, Municipality of West Nipissing
Purpose and Effect of Application	Creation of one (1) Easement/Right-of-Way
Current Zoning	SR – Shoreline Residential
Official Plan Land Use	Waterfront
Consistent with PPS (2014)	Yes
Conditions of Approval, if any	<ol style="list-style-type: none"> 1. That a Reference Plan be prepared and deposited in the Land Registry Office and a copy of the new survey be filed with the Municipality. 2. Confirmation that all property taxes are paid up to date. 3. That all conditions be met on or before a date being one year from the date of giving of notice or the consent shall be deemed not to have been given as per Section 53(20) of the Planning Act, R.S.O., as amended. 4. That a Transfer/Deed of Land be submitted to the Secretary-Treasurer for the issuance of a Certificate of Consent.
Recommendation	Severance be granted subject to conditions of approval.
Notes	Resubmission of Consent file C34/20.

FILE: C07/22

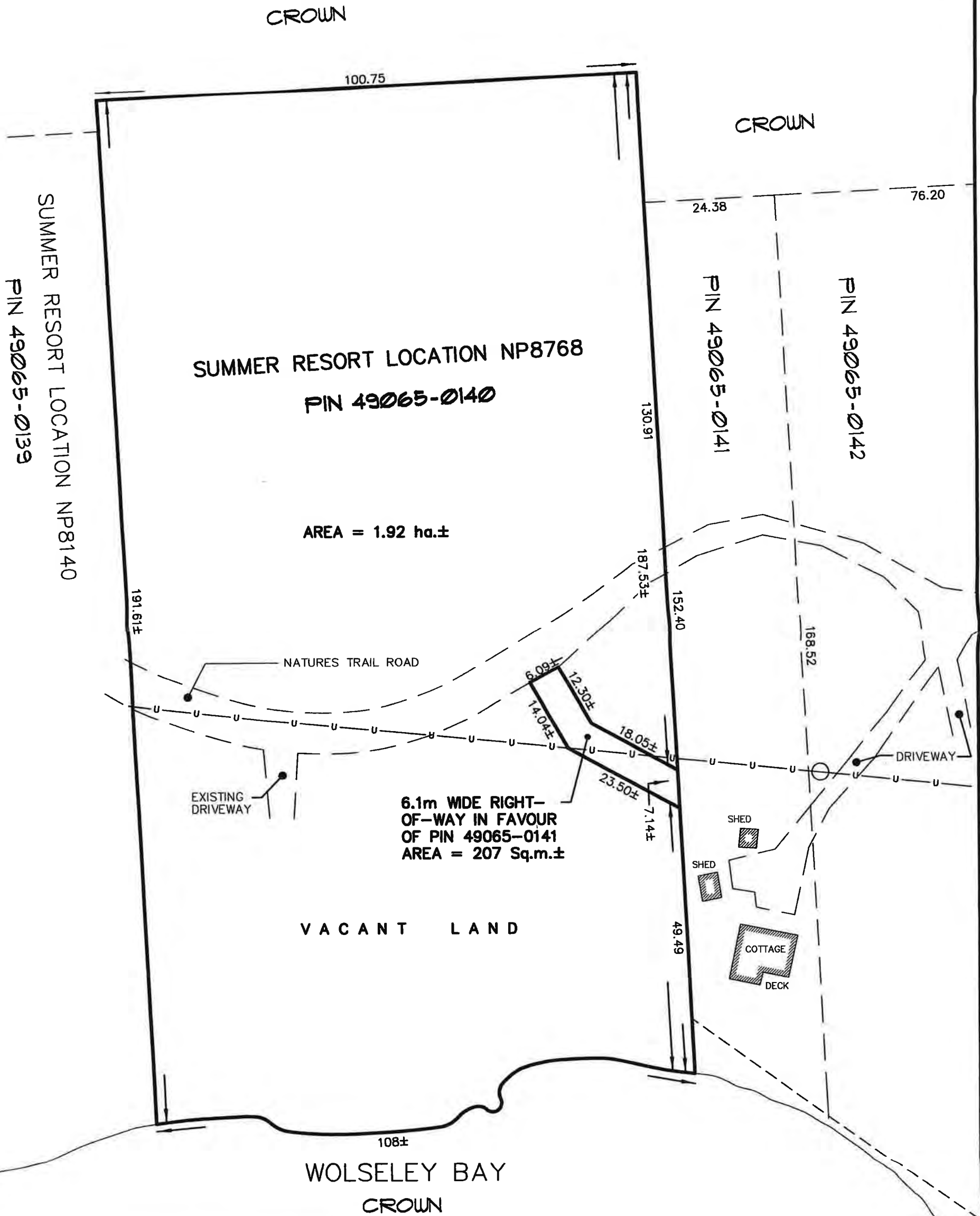
PROPERTY: 128 Nature's Trail Road

APPLICANT: Peter Best and Elizabeth Peekstok



SKETCH FOR PLANNING ACT APPLICATION
PART OF LOT 8
CONCESSION 1
GEOGRAPHIC TOWNSHIP OF FALCONER
MUNICIPALITY OF WEST NIPISSING
DISTRICT OF NIPISSING

NOTE
THIS IS NOT A PLAN OF SURVEY AND
SHOULD ONLY BE USED FOR THE PURPOSE
STATED IN THE TITLE BLOCK.



D.S. DORLAND LIMITED	ONTARIO LAND SURVEYORS GEOMATICS PROFESSIONALS
298 LARCH STREET SUDBURY, ONTARIO, P3B 1M1 PHONE (705) 673-2556 FAX (705) 673-1051 WWW.DSDORLANDLIMITED.CA	
PREPARED BY : WJM	SCALE : 1:750 METRIC
CHECKED : ****	CAD FILE : 18182 RPLAN.dwg
DATE : AUGUST 6, 2020	P.S. TAB : CONSENT SKETCH

PLANNING SUMMARY REPORT

CONSENT APPLICATION NO. C08/22

Registered Owner(s)	Greg and Lori McDonald
Agent(s)	Goodridge Goulet Planning and Surveying
Property Location	140 Poirier Road, Lavigne, ON West Part Lot 11, Concession C, Caldwell Township, Municipality of West Nipissing
Purpose and Effect of Application	Creation of one (1) new lot
Current Zoning	RU – Rural
Official Plan Land Use	Rural
Consistent with PPS (2014)	Yes
Conditions of Approval, if any	<ol style="list-style-type: none"> 1. That a Reference Plan be prepared and deposited in the Land Registry Office and a copy of the new survey be filed with the Municipality. 2. Confirmation that all property taxes are paid up to date. 3. That all conditions be met on or before a date being one year from the date of giving of notice or the consent shall be deemed not to have been given as per Section 53(20) of the Planning Act, R.S.O., as amended. 4. That a Transfer/Deed of Land be submitted to the Secretary-Treasurer for the issuance of a Certificate of Consent. 5. That 30m from centre line of the maintained and travelled roadway(s), including the retained lands, shall be surveyed, at the owner's cost, and transferred to the municipality as a condition of the within severance. 6. The Municipal Clerk shall, pursuant to Section 65(1) of the Drainage Act, instruct the municipal engineer to apportion the assessment for drainage maintenance among the parts into which the lands are being divided. The costs of the apportionment shall be borne by the applicant. (Rainville Drain 1969)
Recommendation	Severance be granted subject to conditions of approval.
Notes	Resubmission of Consent file C31/20.

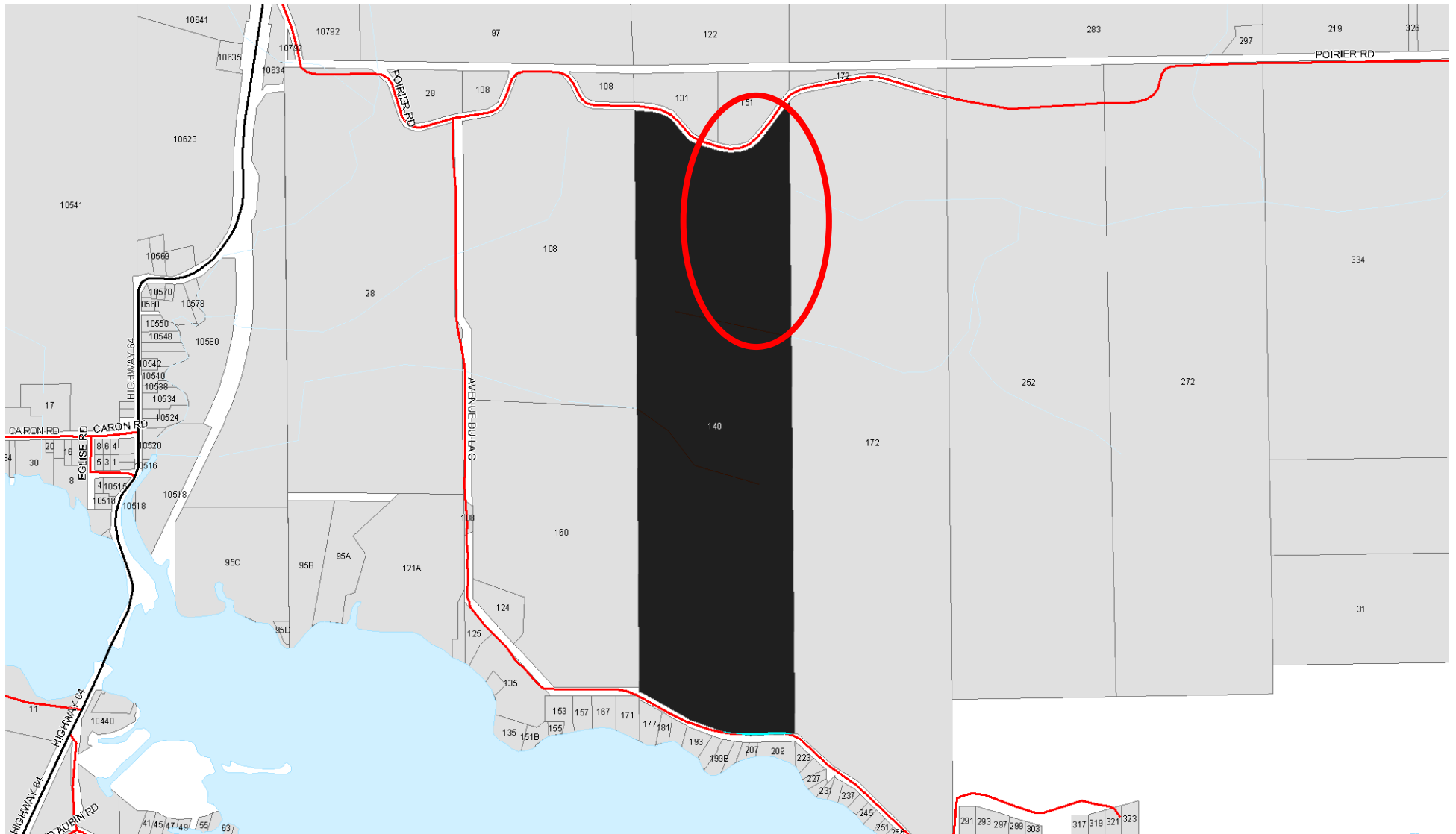
FILE: C08/22

APPLICANT: Greg and Lori McDonald

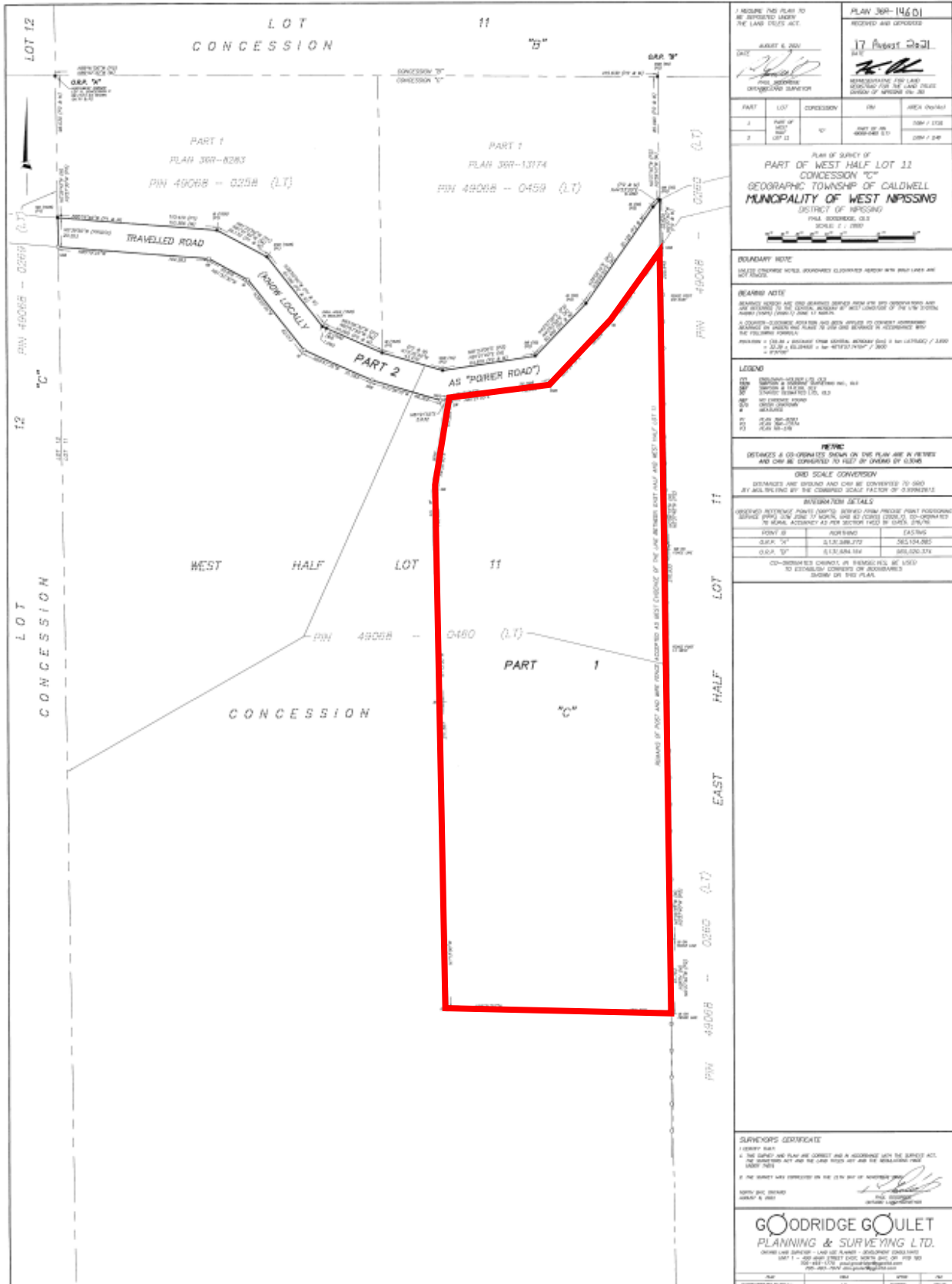
PROPERTY: 140 Poirier Road, Lavigne

APPLICANT: Greg and Lori McDonald
PROPERTY: 140 Poirier Road, Lavigne

PROPERTY: 140 Poirier Road, Lavigne



PROPERTY: 140 Poirier Road, Lavigne, ON

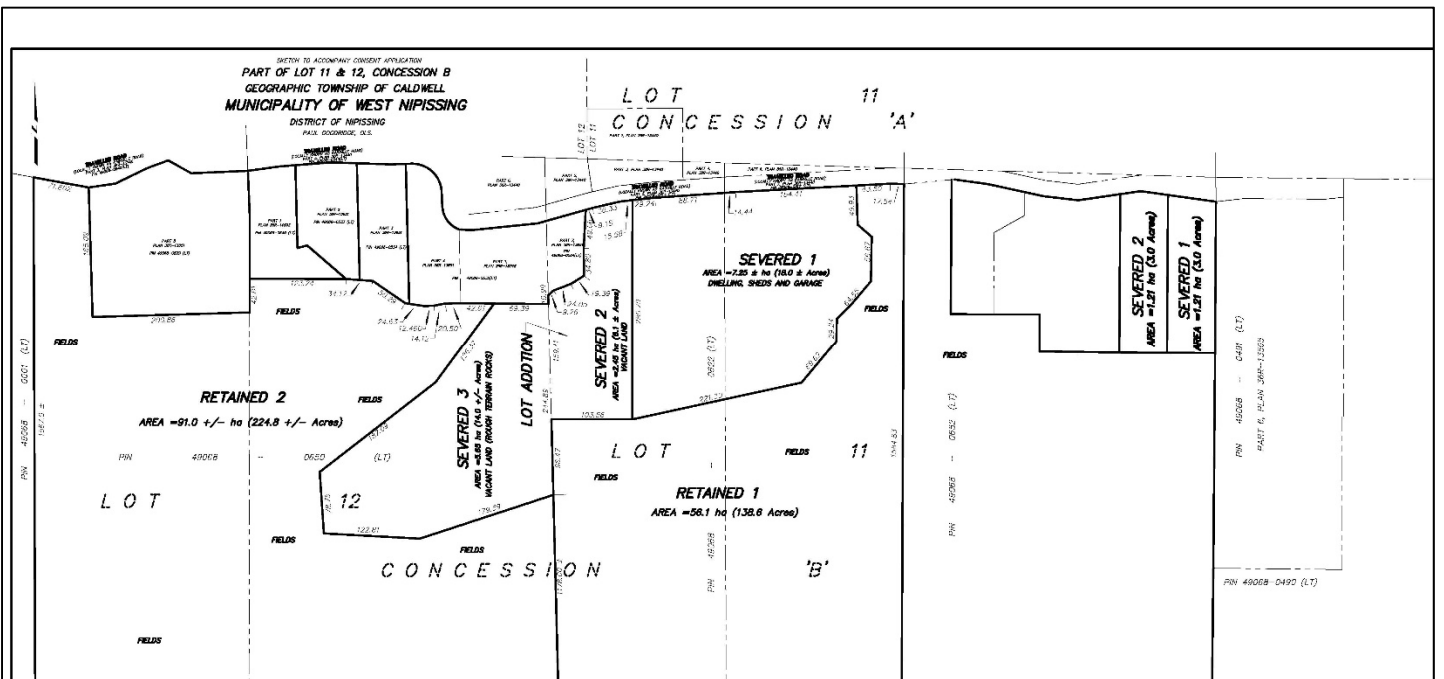


PLANNING SUMMARY REPORT

CONSENT APPLICATION NO. C09/22

Registered Owner(s)	Northland Farms and Contracting Inc.
Agent(s)	Goodridge Goulet Planning and Surveying
Property Location	Rainville Road, Lavigne, ON East Half Lot 11, Concession B, Caldwell Township, Municipality of West Nipissing
Purpose and Effect of Application	One (1) lot addition
Current Zoning	RU – Rural
Official Plan Land Use	Rural
Consistent with PPS (2014)	Yes
Conditions of Approval, if any	<ol style="list-style-type: none"> 1. That a Reference Plan be prepared and deposited in the Land Registry Office and a copy of the new survey be filed with the Municipality. 2. Confirmation that all property taxes are paid up to date. 3. That all conditions be met on or before a date being one year from the date of giving of notice or the consent shall be deemed not to have been given as per Section 53(20) of the Planning Act, R.S.O., as amended. 4. That a Transfer/Deed of Land be submitted to the Secretary-Treasurer for the issuance of a Certificate of Consent. 5. That 30m from centre line of the maintained and travelled roadway(s), including the retained lands, shall be surveyed, at the owner's cost, and transferred to the municipality as a condition of the within severance. 6. The Municipal Clerk shall, pursuant to Section 65(1) of the Drainage Act, instruct the municipal engineer to apportion the assessment for drainage maintenance among the parts into which the lands are being divided. The costs of the apportionment shall be borne by the applicant. (Rainville Drain 1969 and Rainville Drain Improvement 1985) 7. That a PIN Consolidation be registered in the Land Registry Office in order to consolidate the lot addition(s) with the lands to which they are being added.
Recommendation	Severance be granted subject to amended lot configuration shown on attached schedule.

PROPERTY: 116A Nature's Trail Road, Noelville, ON



SKETCH TO ACCOMPANY CONSENT APPLICATION
PART OF LOT 11 & 12, CONCESSION B
GEOGRAPHIC TOWNSHIP OF CALDWELL
MUNICIPALITY OF WEST NIPISSING
DISTRICT OF NIPISSING
PAUL GOODRIDGE, OLS

LOT 11
CONCESSION 'A'

LOT 12
CONCESSION 'B'

LOT 11
CONCESSION 'B'

LOT 12
CONCESSION 'B'

LOT 12
CONCESSION 'B'

LOT 11
CONCESSION 'C'

LOT 12
CONCESSION 'B'

RETAINED 2
AREA = 91.0 +/- ha (224.8 +/- Acres)

SEVERED 3
AREA = 5.65 ha (14.0 +/- Acres)
VACANT LAND (ROUGH TERRAIN ROCKS)

SEVERED 2
AREA = 2.45 ha (6.1 +/- Acres)
VACANT LAND

SEVERED 1
AREA = 7.25 +/- ha (18.0 +/- Acres)
DWELLING, SHEDS AND GARAGE

SEVERED 2
AREA = 1.21 ha (3.0 Acres)

SEVERED 1
AREA = 1.21 ha (3.0 Acres)

RETAINED 1
AREA = 56.1 ha (138.6 Acres)

SCALE: 1 : 2000

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www.goodridgegoulet.com

PLANNING SUMMARY REPORT

CONSENT APPLICATION NO. C11/22

Registered Owner(s)	Northland Farms and Contracting Inc.
Agent(s)	Goodridge Goulet Planning and Surveying
Property Location	122 Rainville Road, Lavigne, ON West Half of West Half Lot 11, Concession B, Caldwell Township, Municipality of West Nipissing
Purpose and Effect of Application	Creation of two (2) new lots and one (1) lot addition
Current Zoning	RU – Rural
Official Plan Land Use	Rural
Consistent with PPS (2014)	Yes
Conditions of Approval, if any	<ol style="list-style-type: none"> 1. That a Reference Plan be prepared and deposited in the Land Registry Office and a copy of the new survey be filed with the Municipality. 2. Confirmation that all property taxes are paid up to date. 3. That all conditions be met on or before a date being one year from the date of giving of notice or the consent shall be deemed not to have been given as per Section 53(20) of the Planning Act, R.S.O., as amended. 4. That a Transfer/Deed of Land be submitted to the Secretary-Treasurer for the issuance of a Certificate of Consent. 5. That 30m from centre line of the maintained and travelled roadway(s), including the retained lands, shall be surveyed, at the owner's cost, and transferred to the municipality as a condition of the within severance. 6. The Municipal Clerk shall, pursuant to Section 65(1) of the Drainage Act, instruct the municipal engineer to apportion the assessment for drainage maintenance among the parts into which the lands are being divided. The costs of the apportionment shall be borne by the applicant. (Poirier Drain and Rainville Drain Improvement 1985) 7. That a PIN Consolidation be registered in the Land Registry Office in order to consolidate the lot addition(s) with the lands to which they are being added. 8. That the east boundary of Severed 1 be straightened and a Minor Variance be obtained for the reduced lot frontage resulting therefrom (from 60m to 30m).
RECOMMENDATION	<p>Severed 1 and 2, be granted subject to conditions above.</p> <p>Severed 3 (lot addition) be refused in accordance with S. 53(24)(f) of the Planning Act on the basis that the lot shape is not in conformity with the general nature and character of the area</p>

FILE: C11/22

PROPERTY: 122 RAINVILLE ROAD, LAVIGNE, ON

APPLICANT: NORTHLAND FARMS AND CONTRACTING

FILE: C11/22

PROPERTY: 122 RAINVILLE ROAD, LAVIGNE, ON

APPLICANT: NORTHLAND FARMS AND CONTRACTING

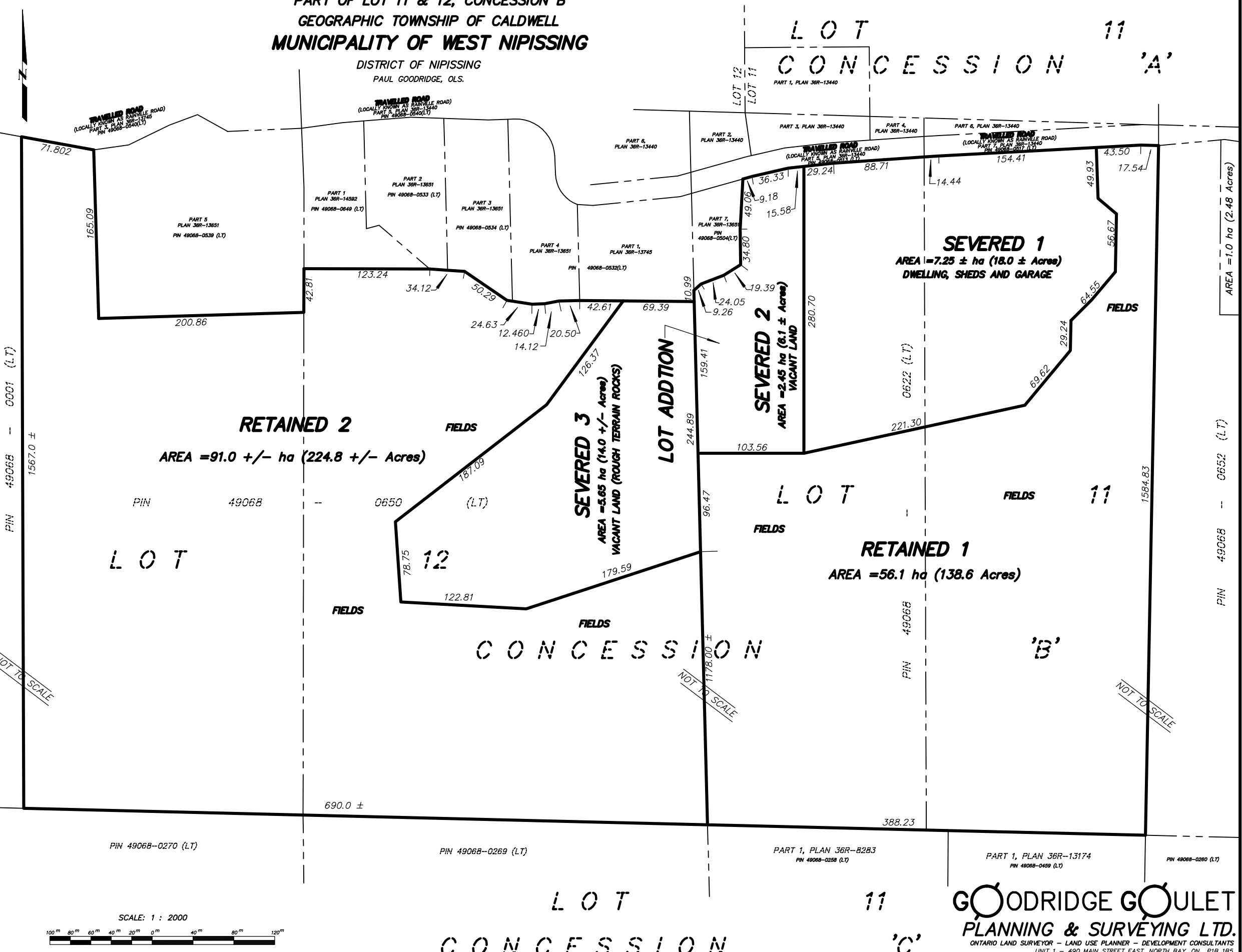
FILE: C11/22

PROPERTY: 122 RAINVILLE ROAD, LAVIGNE, ON

APPLICANT: NORTHLAND FARMS AND CONTRACTING



SKETCH TO ACCOMPANY CONSENT APPLICATION
PART OF LOT 11 & 12, CONCESSION B
GEOGRAPHIC TOWNSHIP OF CALDWELL
MUNICIPALITY OF WEST NIPISSING
DISTRICT OF NIPISSING
PAUL GOODRIDGE, OLS.

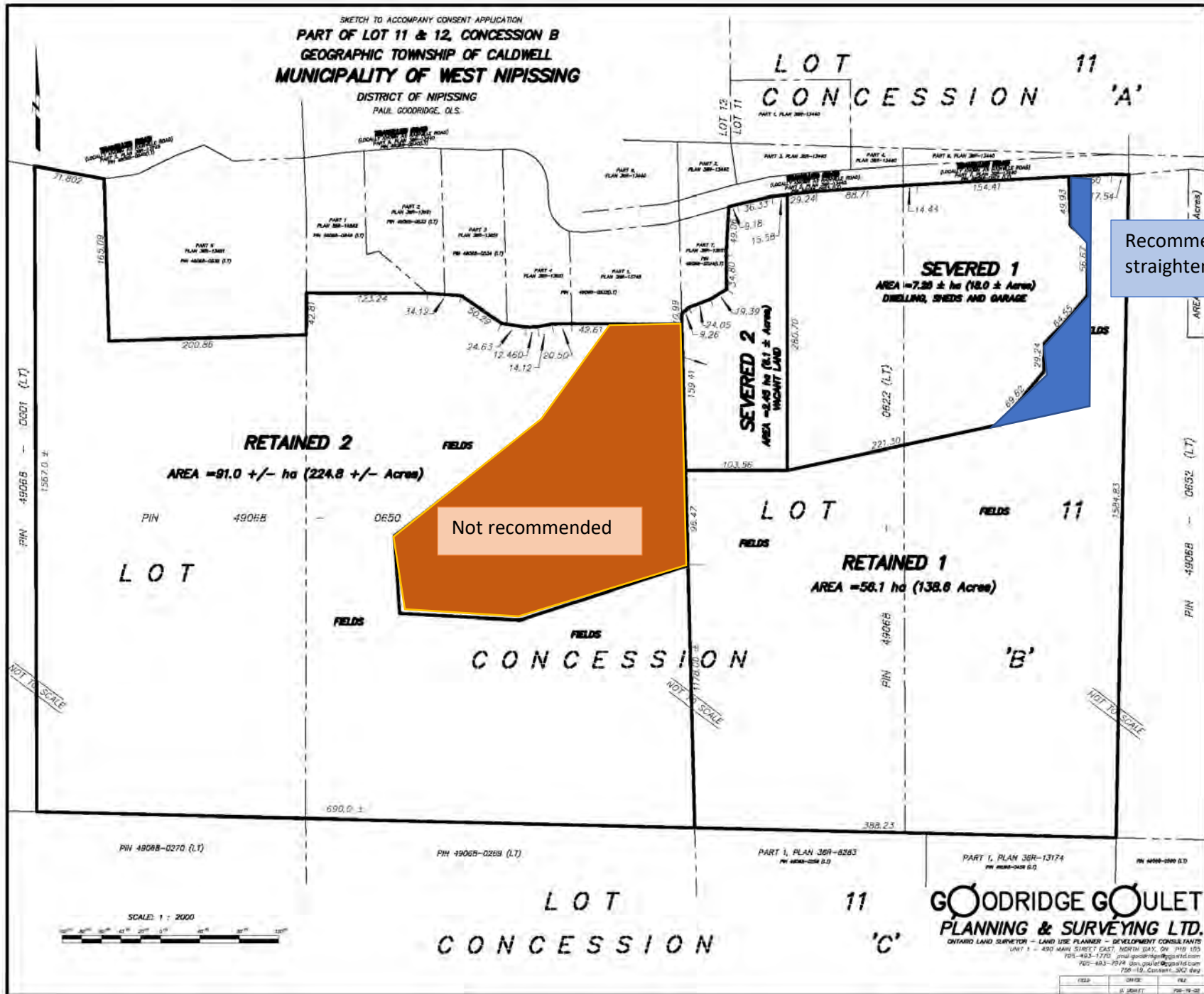


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705-493-1770 paul.goodridge@ggpltd.com
705-493-7974 don.goulet@ggpltd.com
756-19-Consent_SK2.dwg

FIELD	OFFICE	FILE
	D. GOULET	756-19-02

SKETCH TO ACCOMPANY CONSENT APPLICATION
PART OF LOT 11 & 12, CONCESSION B
GEOGRAPHIC TOWNSHIP OF CALDWELL
MUNICIPALITY OF WEST NIPISSING

DISTRICT OF NIPISSING
 PAUL GOODRIDGE, O.L.S.



Recommendation to straighten east boundary.

PLANNING SUMMARY REPORT

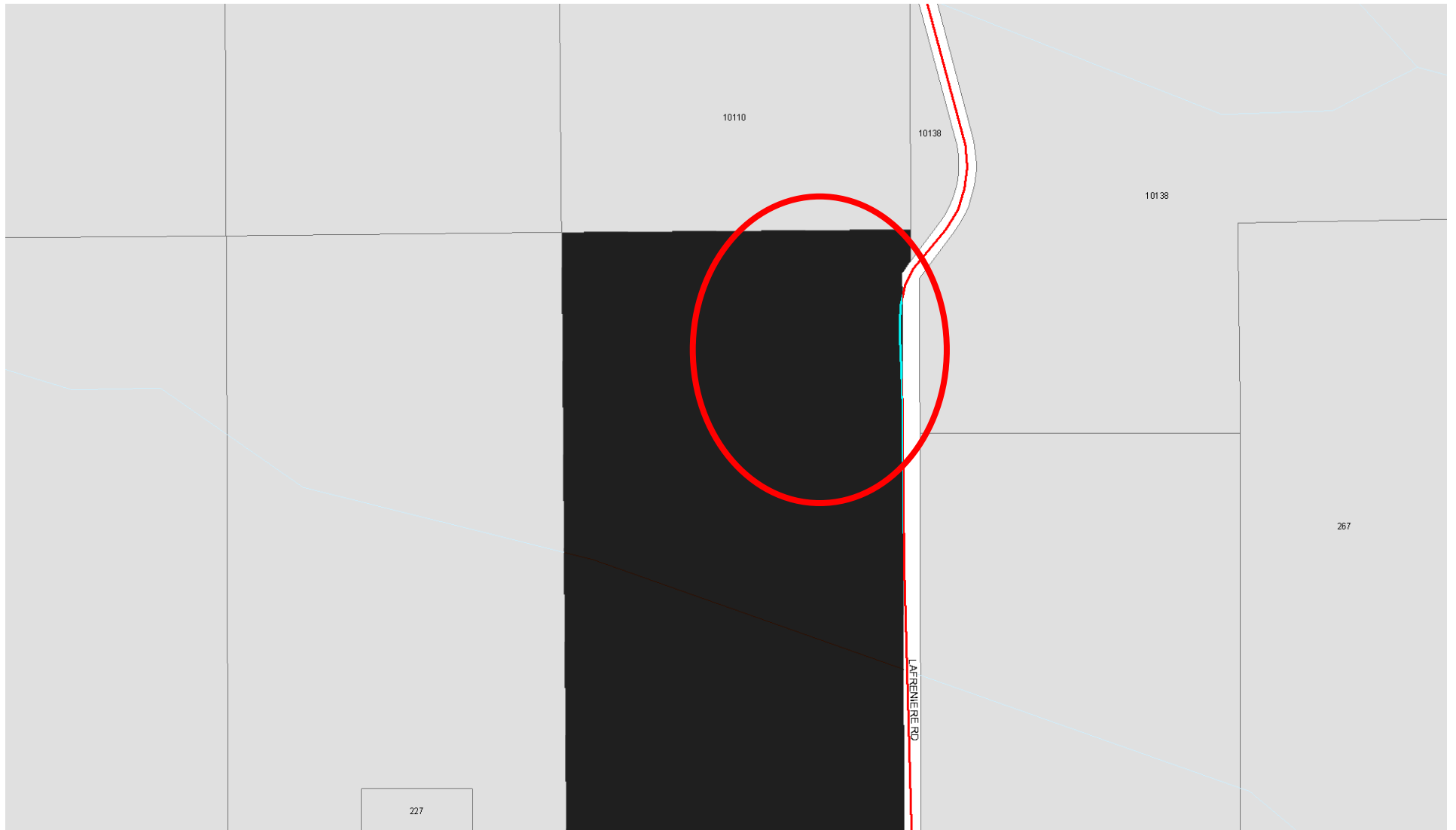
CONSENT APPLICATION NO. C10/22

Registered Owner(s)	Northland Farms and Contracting Inc.
Agent(s)	Goodridge Goulet Planning and Surveying
Property Location	Lafreniere Road, Lavigne, ON South Half of East Half Lot 5, Concession 2, Macpherson Township, Municipality of West Nipissing
Purpose and Effect of Application	Creation of one (1) new lot
Current Zoning	RU – Rural
Official Plan Land Use	Rural
Consistent with PPS (2014)	Yes
Conditions of Approval, if any	<ol style="list-style-type: none"> 1. That a Reference Plan be prepared and deposited in the Land Registry Office and a copy of the new survey be filed with the Municipality. 2. Confirmation that all property taxes are paid up to date. 3. That all conditions be met on or before a date being one year from the date of giving of notice or the consent shall be deemed not to have been given as per Section 53(20) of the Planning Act, R.S.O., as amended. 4. That a Transfer/Deed of Land be submitted to the Secretary-Treasurer for the issuance of a Certificate of Consent. 5. That 30m from centre line of the maintained and travelled roadway(s), including the retained lands, shall be surveyed, at the owner's cost, and transferred to the municipality as a condition of the within severance. 6. The Municipal Clerk shall, pursuant to Section 65(1) of the Drainage Act, instruct the municipal engineer to apportion the assessment for drainage maintenance among the parts into which the lands are being divided. The costs of the apportionment shall be borne by the applicant. (Courchesne Drain)
Recommendation	Severance be granted subject to conditions of approval.

FILE: C10/22

PROPERTY: Lafreniere Road, Lavigne, ON

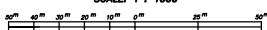
APPLICANT: Northland Farms and Contracting



LOT
CONCESSION

SKETCH TO ACCOMPANY CONSENT APPLICATION
PART OF LOT 5, CONCESSION 2
GEOGRAPHIC TOWNSHIP OF MACPHERSON
MUNICIPALITY OF WEST NIPISSING
 DISTRICT OF NIPISSING

SCALE: 1 = 1000



PIN 49063 -- 0171 (LT)

SEVERED 1
AREA = 3.22 ha ±

RETAINED
AREA = 23.54 ± HA

LOT	CONCESSION
49063	0167 (LT)

SOUTH 1/2 OF WEST 1/2 OF LOT 5

746.16 ±

PIN 49063 -- 0637 (LT)

PART 6
C11/21

PIN 49063 -- 0636 (LT)

PIN 49063--0637 (LT)

TRAVELLED ROAD 333.260
OWN LOCALLY AS LAFRENIERE ROAD

PART 4
PART 1, PLAN 36R-11403

PART 2, PLAN 36R-11403

CONCESSION 2
CONCESSION 1

CONCESSION	2
CONCESSION	1

CONCESSION

LOT

WEST 1/2 LOT 5
EAST 1/2 LOT 5

CONCESSION

865

APPROXIMATE
LOCATION OF
CROWN OF ROAD

MINIMUM OF 61.0m
ROAD FRONTAGE

TRAVELLED ROAD 610.27 ±
KNOWN LOCALLY AS LAFRENIERE ROAD
LOT

Nile 49063 -- 0174 (LT)

GOODRIDGE GOULET
PLANNING & SURVEYING LTD.

PLAN	FIELD	OFFICE	FILE
3-1000-0001-0001-01-001-001	1	1-0000-0001-0001-01-001-001	1000-0001-0001-01-001-001

PLANNING SUMMARY REPORT

CONSENT APPLICATION NO. C12/22

Registered Owner(s)	Daniel Schwartzentruber and Leslie Bernard
Agent(s)	Goodridge Goulet Planning and Surveying
Property Location	10725 Highway 17, Verner, ON Part Lot 6, Concession 4, Caldwell Township, Municipality of West Nipissing
Purpose and Effect of Application	Creation of one (1) Easement/Right-of-Way
Current Zoning	A1 – Agricultural One Zone
Official Plan Land Use	Agricultural Resource Lands
Consistent with PPS (2014)	Yes
Conditions of Approval, if any	<ol style="list-style-type: none"> 1. That a Reference Plan be prepared and deposited in the Land Registry Office and a copy of the new survey be filed with the Municipality. 2. Confirmation that all property taxes are paid up to date. 3. That all conditions be met on or before a date being one year from the date of giving of notice or the consent shall be deemed not to have been given as per Section 53(20) of the Planning Act, R.S.O., as amended. 4. That a Transfer/Deed of Land be submitted to the Secretary-Treasurer for the issuance of a Certificate of Consent.
Recommendation	Severance be granted subject to conditions of approval.
Notes	Shared driveway pursuant to MTO comments on file C75/21.

Tanya Lelievre

From: Muldoon, Laurel (MTO) <Laurel.Muldoon@ontario.ca>
Sent: February 9, 2022 1:09 PM
To: Tanya Lelievre
Cc: Burke, Debra A. (MTO)
Subject: MTO Comments C12-22 Highway 17
Attachments: C12-22 - Notice and Key Maps.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Tanya,

The Ministry of Transportation of Ontario (MTO) has reviewed the consent application C12-22. It is the understanding of the Ministry that the intent is to create (1) new right-of-way. The subject lands are located within MTO's permit control area and are subject for review under the *Public Transportation and Highway Improvement Act R.S.O.1990*. The MTO supports the consent application. The applicant should be made aware of the following:

MTO Entrance permits will be required for new, modified, or mutual entrance(s), and to reflect any changes in land ownership or land use.

When common access arrangements are required, a surveyed right-of-way must be established and an easement granted by each lot in favour of the other lot sharing the entrance. This ensures continuous access to both lots served by the mutual entrance. The easements must be shown on the reference plan and the easement rights incorporated into the deeds of both lots involved. The width of the easement for the mutual entrance must be 10m in width (residential) at a minimum of 10 metres in depth and the block is to be located/centred on the shared property line. The MTO residential entrance standard is a 5 metre wide entrance but the additional easement block width allows for other entrance features such as snow removal and drainage.

- a. MTO will require that the draft reference plan be submitted to MTO for review and approval prior to registration as a condition of severance.
- b. MTO will require that the draft deeds of both lots be submitted to MTO for review prior to registration to ensure the legal mutual access rights have been incorporated into the deeds of both properties.

Please let me know if you have any questions,

Laurel

**Laurel Muldoon, MSc.Environmental
Corridor Management Senior Project Manager**

Operations Division, Northeast Region
Ministry of Transportation
447 McKewen Ave, Suite 301

FILE: C12/22

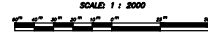
PROPERTY: 10725 Highway 17, Verner

APPLICANT: Daniel Schwartzentruber and Leslie Bernard



SKETCH TO ACCOMPANY CONSENT APPLICATION
PART OF LOT 6, CONCESSION 4
GEOGRAPHIC TOWNSHIP OF CALDWELL
MUNICIPALITY OF WEST HESSING
 DISTRICT OF HESSING

5



CONCESSION

LOT 6

PIN 49070 -- 0023 (LT)

LOT

CONCESSION

PIN 49070 -- 0071 (LT)

1533.0 ±

PIN 49070 -- 0075 (LT)

6

C75 - 11
RETAINED
AREA=62.0± HA

LOT 6

PIN 49070 -- 0076 (LT)

1546.0 ±

LOT 5

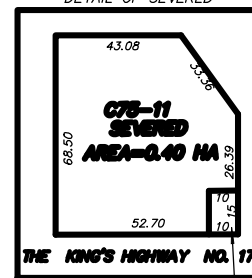
PIN 49070 -- 0077 (LT)

LOT 5

5

4

DETAIL OF SEVERED



THE KING'S HIGHWAY NO. 17

RIGHT-OF-WAY

PART 1
 PLAN NR-258

PART 2
 PLAN 36R-12B20

EASEMENT

NO.

LT90212

RIGHT-OF-WAY

PART 3
 PLAN 36R-12B20

153.53 48.93 37.21 62.70 101.86

THE KING'S HIGHWAY NO. 17

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 705-683-1770, info@goodridgegoulet.com
 705-683-7674, den.goulet@goodridgegoulet.com

PLAN	DATE	REVISED
100-20-001-001	2020	1

PLANNING SUMMARY REPORT

CONSENT APPLICATION NO. C13/22

Registered Owner(s)	Taylor and Megan Hummel
Agent(s)	Goodridge Goulet Planning and Surveying
Property Location	13351 Highway 64, Verner, ON Part Lot 9, Concession 4, Part 1 36R3839, Field Township, Municipality of West Nipissing
Purpose and Effect of Application	Creation of one (1) new lot and one (1) Easement/Right-of-Way
Current Zoning	RU - Rural
Official Plan Land Use	Rural
Consistent with PPS (2014)	Yes
Conditions of Approval, if any	<ol style="list-style-type: none"> 1. That a Reference Plan be prepared and deposited in the Land Registry Office and a copy of the new survey be filed with the Municipality. 2. Confirmation that all property taxes are paid up to date. 3. That all conditions be met on or before a date being one year from the date of giving of notice or the consent shall be deemed not to have been given as per Section 53(20) of the Planning Act, R.S.O., as amended. 4. That a Transfer/Deed of Land be submitted to the Secretary-Treasurer for the issuance of a Certificate of Consent.
Recommendation	Severance be granted subject to conditions of approval.

Tanya Lelievre

From: Muldoon, Laurel (MTO) <Laurel.Muldoon@ontario.ca>
Sent: February 9, 2022 1:01 PM
To: Tanya Lelievre
Cc: Burke, Debra A. (MTO)
Subject: MTO Comments C13-22
Attachments: C13-22 - Notice and Key Maps.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Tanya,

The Ministry of Transportation of Ontario (MTO) has reviewed the application for consent located at 13351 Highway 64 in Field. It is the understanding of the Ministry that the intent is to create one (1) new lot and one (1) right-of-way for a shared mutual access.

Since the property in question is located within the MTO permit control area and is subject for review under *the Public the Transportation and Highway Improvement Act R.S.O 1990*, you should be aware of the following:

1. Any buildings, structures, or site alterations proposed within 45 metres of the limit of Highway 64, requires a Building and Land Use Permit from the Ministry of Transportation. Also, wells must maintain a minimum setback of 30 metres from the limit of the highway. MTO Sign permit(s) are required for the placement of any signs within 400 m of the limit of the highway.
2. MTO Entrance permits will be required for new, modified, or mutual entrance(s), and to reflect any changes in land ownership or land use.

When common access arrangements are required, a surveyed right-of-way must be established and an easement granted by each lot in favour of the other lot sharing the entrance. This ensures continuous access to both lots served by the mutual entrance. The easements must be shown on the reference plan and the easement rights incorporated into the deeds of both lots involved. The width of the easement for the mutual entrance must be 10m in width (residential) at a minimum of 10 metres in depth and the block is to be located/centred on the shared property line. The MTO residential entrance standard is a 5 metre wide entrance but the additional easement block width allows for other entrance features such as snow removal and drainage.

- a. MTO will require that the draft reference plan be submitted to MTO for review and approval prior to registration as a condition of severance.
- b. MTO will require that the draft deeds of both lots be submitted to MTO for review prior to registration to ensure the legal mutual access rights have been incorporated into the deeds of both properties.

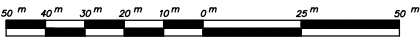
FILE: C13/22

APPLICANT: Taylor and Megan Hummel

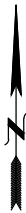
PROPERTY: 13351 Highway 64, Field, ON



SKETCH TO ACCOMPANY CONSENT APPLICATION
PART OF BROKEN LOT 9, CONCESSION 4
GEOGRAPHIC TOWNSHIP OF FIELD
MUNICIPALITY OF WEST NIPISSING
DISTRICT OF SUDBURY
SCALE: 1 : 1000



STURGEON RIVER



THE KING'S HIGHWAY 64
-PIN 49072 - 0510
PART 3 PLAN - NW-SE2 (AND PLAN P-2185-20)

PIN 49072-0443 (LT)

PIN 49072-0443 (LT)

**SEVERED
AREA = 4.4 ha ±**

PIN 49072-0470 (LT)

THE KING'S HIGHWAY 64

SHARED EXISTING
DRIVEWAY

LOT

BROKEN

CONCESSION

**RETAINED
AREA = 7.2 ha ±**

PIN 49072-0443 (LT)

PIN 49072-0445 (LT)

4

9

UNPATENTED LAND

STURGEON RIVER

UNPATENTED LAND

3

LOT 10
C O N C E S S I O N
LOT 9

UNPATENTED LAND

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705-493-7974 don.goulet@ggpltd.com

FIELD	OFFICE	FILE
	D.GOULET	1314-22

PLANNING SUMMARY SHEET

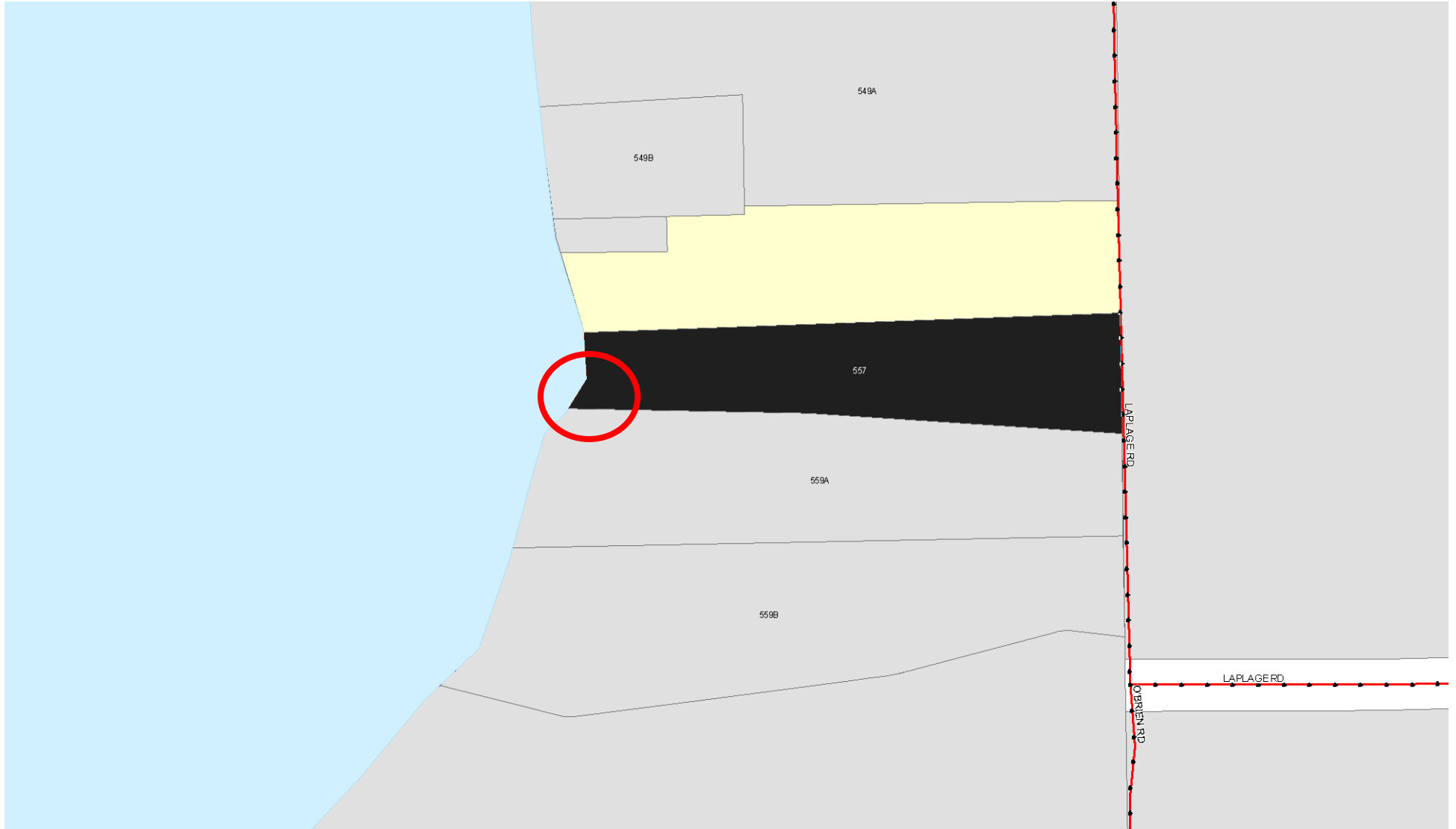
MINOR VARIANCE APPLICATION NO. MV2022/02

Applicant(s)	Gabriel St. Denis
Agent(s)	Goodridge Goulet Planning and Surveying
Property Location	557 Laplage Road, Verner, ON Part Lot 3, Concession C, Parts 5 to 7, 36R14173, Caldwell Township, Municipality of West Nipissing
Proposal	To reduce minimum front-yard setback from 5m to 3m for boathouse.
Current Zoning	SR – Shoreline Residential
Official Plan Land Use	Waterfront
Conditions of Approval, if any	
Recommendation:	<p>Minor Variance be granted:</p> <p>Reasons:</p> <ul style="list-style-type: none"> • No objections have been raised from adjacent owners • Proposed application meets the general intent of the West Nipissing Zoning By-Law and Official Plan
NOTES TO MINOR VARIANCE	<p><i>A minor variance is a small variation from the requirements of the zoning by-law. A minor variance approval is a certificate of permission, because it allows the property owner to obtain a building permit even though their property does not comply precisely with the zoning by-law. Under Section 45(1) of the Planning Act there are four tests a minor variance must meet:</i></p> <ul style="list-style-type: none"> • <i>Is the application minor?</i> • <i>Is the application desirable for the appropriate development of the lands in question?</i> • <i>Does the application conform to the general intent of the Zoning By-law?</i> • <i>Does the application conform to the general intent of the Official Plan?</i> <p><i>It is important to note that to consider any application a minor variance it must meet <u>all four</u> tests</i></p>
Notes:	

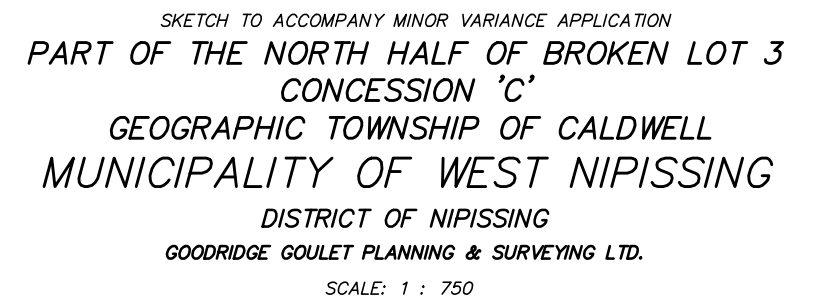
FILE: MV2022/02

PROPERTY: 557 Laplage Road, Verner, ON

APPLICANT: Gabriel St. Denis



DISTANCES & COORDINATES
SHOWN ON THIS PLAN ARE IN
METRES AND CAN BE
CONVERTED TO FEET
BY DIVIDING BY 0.3048.



FIELD	OFFICE	FILE
A. SANDS	P. GOODRIDGE	376-17

MEMORANDUM

TO: Committee of Adjustment

FROM: Melanie Ducharme, Clerk/Planner

DATE: February 10, 2022

RE: **RECENT PLANNING ACT CHANGES & IMPLEMENTATION OF NEW FEES**

As some of you may be aware, the provincial government has been working on some changes to the Planning Act which have finally received Royal Assent in 2021 and are in effect as of January 1, 2022. These changes are of particular benefit to Committees of Adjustment as most of the changes affect Consent (Severance) Applications.

I am attaching a procedural guide which was prepared by Sidney Troister, author of *The Law of Subdivision Control in Ontario*, considered to be the “bible” to lawyers and law clerks working in the area of real estate law. Because the actual legislation is written in language which creates more questions than answers, Mr. Troister has provided a procedural guide to pare down the changes into plain language and provide a practical guide for implementation. A summary of the changes is as follows:

Changes in a nutshell:

1. **Time for satisfying conditions has changed from one (1) year to (2) years.** This will give applicants a great deal more time to get their legal surveys done and will (hopefully) reduce the number of applications which lapse and have to be re-submitted;
2. **Consent Certificates for Retained Land.** Although many consent granting authorities (including me) have, when asked to do so, provided a Certificate for the retained lands, it was never clearly stated in the Act that it was permissible to do so. Now it is clearly set out in the Act as to what is required for the issuance of a Certificate of Consent for the retained lands. Additionally, most Consent granting authorities charge a separate fee for issuing the Certificates of Consent. This municipality has never done so, however as application become more and more complicate and now the retained lands are permitted as of right, I am suggesting that West Nipissing begin charging a fee for the certificates as well.
3. **Certificate of Cancellation:** “Once a Consent, always a Consent” has been drilled into consent granting authorities for years – meaning that a lot which is created by consent will always be legally conveyable. For subdivision lots, a Deeming By-Law could be

Joie de vivre



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registered, removing the lot's subdivision status, but lots created by Consent had no such mechanism in the Act. This created a quandary when the owner of a lot which was created by consent, wished to acquire a strip of land from a neighbour (lot addition) because, technically, the first lot could always be sold by itself which could conceivably leave a small strip of land "orphaned" if the person decided not to sell the added piece. Although this committee has seen dozens of these types of applications, there was always the knowledge that the "lot addition" to a consent created parcel, was not quite perfect. Now an applicant, wishing to add on to a Consent created lot can apply for a Certificate of Cancellation to remove the original consent from the original lot so that the added piece can "merge" naturally and remove the risk of one part being conveyed without the other.

4. **Amending Applications:** As we know, periodically, applications periodically come back before the committee for changes. Again, this was something that many Consent granting authorities did "as of right", with no real statutory authority to do so. Now the Act allows this process and also suggests that a fee could be imposed for amending applications
5. **Purchaser can apply for Consent:** This will allow the buyer of a parcel of land to apply for the consent, rather than the seller having to bear the expense and administrative burden of doing so;
6. **Validation Certificates:** Validation Certificates are used rarely and only in circumstances where the prior Planning Act violation had taken place a long time ago and the violating lot had been for all intents and purposes, functioning as a separate lot for some time. There used to be a requirement to ensure that the lands which were the subject of a Validation Certificate, complied with the local zoning by-laws and Official Plan. This requirement has been removed and the Consent Granting authority need only consider the Validation Certificate using the same criteria as an application for Consent.

For the purpose of this discussion, I am suggesting that the Committee of Adjustment request to Council to amend by-law 2011/12 by implementing the following new fees for the new services which will be required to be provided as a result of the changes:

New Service	Nature and Intent of New Service	Proposed Fee
Certificate of Consent	We have been doing this for years as a courtesy, but not charging – as it is now entrenched in legislation, a fee is reasonable. This service involves dealing with applicant's lawyers and is often "last minute" to accommodate real estate transactions. It should be noted that most consent authorities charge a separate fee for the Certificate of Consent – over and above the basic application fee.	\$30.00/lot created including the retained lands
Cancellation Certificate (cancel a previous severance)	This will allow people to legally break a severance so that they can add on or alter their lot fabric in some way. Involves dealing with applicant and solicitors	\$125.00
Amending Applications	Again, something we have done for free for years, but never charged for it, but it's nearly as much work as the original application	\$225.00
Certificates of Validation	These certificates are given where there has been a prior violation of the Planning Act that has happened way back before current owners. This is also something we've never charged for because it happens so rarely – maybe twice a year, but involves review of correspondence and documents from lawyer, goes to Committee of Adjustment.	\$100.00

A PROCEDURAL GUIDE TO THE ONTARIO *PLANNING ACT* AMENDMENTS 2022.
(An Unauthorized Guide for Consenting Authorities)

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On April 15, 2021, the Ontario Government introduced in Bill 276 amendments to the *Planning Act*, which controls the subdivision of land in the province. Bill 276 was given Royal Assent on June 3, 2021. Proclamation occurred on January 1, 2022 and the amendments are now law.

Some of the amendments affect the business of consenting authorities. This procedural guide is intended to offer guidance to consenting authorities, lawyers, planners, and the public on the procedural amendments to the *Planning Act* and how the amendments should be implemented and applied.

THE TIME FOR SATISFYING CONDITIONS IS NOW 2 YEARS, NOT ONE.

Section 53(41) has been amended to provide that the period for satisfying conditions under a provisional consent is now 2 years after which, if unfulfilled, the application for consent is deemed to have been refused. The two year period now takes the pressure off applicants to get conditions satisfied when there may be delays due to the inability to retain a surveyor, weather conditions preventing surveying, or the need to obtain the cooperation of others including municipal bodies to facilitate the satisfaction of conditions.

For clarity, if an application has been deemed refused after one year but the period of two years from decision has not yet lapsed, the applicant cannot seek to resurrect the application and satisfy

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This guide is prepared based on the author's experience in the drafting and finalization of the amendments with the Ministry. It has not been reviewed, authorized or approved by the Ministry and the comments are those of the author alone.

the conditions within that window of time. Once the application has been deemed refused, section 53 (41.1) makes it clear that the application gets no benefit from the new legislation.

Note to consenting authorities: Consenting authorities will likely want to amend their standard form conditions to change the usual one year period for satisfying conditions to two years in accordance with the legislation.

The applicable sections

Conditions not fulfilled

(41) If conditions have been imposed and the applicant has not, within a period of two years after notice was given under subsection (17) or (24), whichever is later, fulfilled the conditions, the application for consent shall be deemed to be refused but, if there is an appeal under subsection (14), (19) or (27), the application for consent shall not be deemed to be refused for failure to fulfil the conditions until the expiry of two years from the date of the order of the Tribunal issued in respect of the appeal or from the date of a notice issued by the Tribunal under subsection (29) or (33).

Transition

(41.1) For greater certainty, subsection (41), as it reads on and after the day subsection 4 (11) of Schedule 24 to the *Supporting Recovery and Competitiveness Act, 2021* comes into force, does not apply with respect to an application that was, before that day, deemed to have been refused under subsection (41), as it read immediately before that day.

Timing examples-does the new provision apply to outstanding decisions?

Provisional consent issued November 2, 2020 and conditions not satisfied within the one year period following decision	The decision lapsed on November 2, 2021 and is deemed refused; 1 year only to satisfy conditions since it lapsed before January 1, 2022, the date of proclamation of the amendment.
Provisional consent issued November 2, 2021.	2 years to satisfy the conditions even though decision issued before January 1, 2022, the date of proclamation of the amendment.

CONSENT CERTIFICATES FOR THE RETAINED LAND

Section 53(42) provides that where consent has been given, the clerk shall give a certificate of the consent to the applicant. This provision remains the same. However, the Ministry recognized that with any consent other than a consent that is stipulated (for a lot addition for instance), 2 or more separate parcels are created with the decision: the applied for lot and the retained land, the land abutting the lot for which consent was sought. An applicant can ask for and the consenting authority shall give a consent for the retained land.

The recognition that two or more parcels are created with an unstipulated consent has been built into the *Planning Act* with the following provisions. Section 53(12) sets out what the authority must consider in deciding whether to issue a provisional consent.

(12) A council or the Minister in determining whether a provisional consent is to be given shall have regard to the matters under subsection 51 (24) and has the same powers as the approval authority has under subsection 51 (25) with respect to the approval of a plan of subdivision and subsections 51 (26) and (27) and section 51.1 apply with necessary modifications to the granting of a provisional consent.

The added section 53(12.1) makes it clear that the same considerations for the applied for land applies to the retained land.

(12.1) For greater certainty, the powers of a council or the Minister under subsection (12) apply to both the part of the parcel of land that is the subject of the application for consent and the remaining part of the parcel of land.

The terminology in the legislation is somewhat confusing and not intuitive so first, some definitions.

1. In this guide and in the legislation, “subject land” refers to the land that is both the land for which a consent is sought and also the retained land. It is essentially all of the land under consideration in the application.
2. “Applied for land” or “conveyed land” is that part of the subject land for which consent is sought.
3. Retained land is a new definition and is what we usually consider the land that abuts the land that is the land for which consent is applied. Its statutory definition is as follows:

Section 50(1.0.0.1) For the purposes of this section and section 53, a reference to “retained land” refers to the whole of a parcel of land that abuts land that is the subject of a certificate given under subsection 53 (42) allowing the conveyance by way of a deed or transfer with a consent that was given on or after March 31, 1979 and that did not stipulate that subsection (3) or (5) applies to any subsequent conveyance or other transaction.

The definition has other purposes in the Act but for our purposes is the remainder of the applicant’s land that is not the applied for land.

At times, applicants may want or need a certificate for the retained land. For example, a builder of two adjacent homes obtains a consent for parcel 1 but will sell parcel 2 first and needs a certificate for parcel 2. It is recognized that the practice in Ontario was inconsistent: some consenting authorities granted a certificate for both the applied for land and the retained land; others refused on the basis that the applicant was only entitled to a certificate for the parcel applied for as the land to be conveyed.

Now, under section 53(42.1), an applicant can request a certificate, not only for the applied for land but also for the retained land. The second certificate shall be issued if the applicant asks that it be issued and provides a registrable description for the retained land. (In this guideline, I refer to the certificate for the retained land as the “second certificate.”)

The following is the current section 53 provision that authorizes the certificate for the applied for land.

(42) When a consent has been given under this section, the clerk of the municipality or the Minister, as the case may be, shall give a certificate to the applicant stating that the consent has been given and the certificate is conclusive evidence that the consent was given and that the provisions of this Act leading to the consent have been complied with and that, despite any other provision of this Act, the council or the Minister had jurisdiction to grant the consent and after the certificate has been given no action may be maintained to question the validity of the consent.

The following is the new provision that adds the applicant's entitlement to a certificate for the retained land.

(42.1) If a consent has been given under this section to a conveyance of a part of a parcel of land and the consent did not stipulate that subsection 50(3) or (5) applies to any subsequent conveyance or other transaction, the clerk of the municipality or the Minister, as the case may be, shall give the same form of certificate described in subsection (42) to the applicant for the retained land resulting from the consent, if the applicant, in making the application for consent,

(a) requests that the certificate be given; and

(b) provides a registrable legal description of the retained land.

How will this work-what the consenting authority has to do?

First, consenting authorities have to revise their application forms for consents. The form of application for consent needs to be amended. Ontario regulation 197/96 sets out what needs to go in a consent application. There are many different application forms for consents across the province but all of them have the basic requirements set out in Schedule 1 to the regulation.

Sections 14.1 and 14.2 of the regulation now adds two provisions:

1. The application form must now ask if the applicant is requesting a certificate for the retained land. This could be a yes or no checked box on the application.
2. According to section 14.2, if the answer is yes, the applicant must provide a lawyer's statement that there is no land abutting the subject land that is owned by the owner of the subject land other than land that could be conveyed without contravening section 50 of the Act.

The language is somewhat confusing but it works this way. Ordinarily, the public thinks of the subject land as the land for which a consent is sought and the retained land as the land abutting it. However, as I noted above, the regulation defines subject land as both the land for which consent is sought and the retained land and that language is continued in the new section 14.2.

Essentially, the requirement asks for confirmation that when a second certificate is sought, the applicant does not own any land other than the subject land i.e. the land for which a consent is sought and the retained land. The only permitted exception in section 14.2 is if the applicant owns additional land that abuts the subject land provided that that land can be conveyed in compliance with the *Planning Act*.

The legislation makes it more complicated than it really is and it is best explained with these examples.

Example 1

This will be the typical situation where the applicant is seeking a simple consent to create two lots out of one. The applicant does not own any land other than the subject land.

Parcel A consent sought for this parcel	Parcel B the land abutting the land for which consent is sought This is the retained land.
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Here, Parcels A and B are the subject land and in accordance with the regulation, the applicant's lawyer must state that there is no land abutting the subject land that is owned by the owner of the subject land. That will be most cases and very straightforward. The lawyer just states that the owner does not own any land other than what will be the two parcels.

Example 2

The second example below is to address the remote possibility that the applicant owns more than the just the subject land A and B and owns another parcel of abutting land as well. This scenario is what the required statement is attempting to address.

In this example, the owner owns A, B and C. The "subject land" is parcels A and B. A is the applied for land and B is the abutting retained land. The regulation wants clarification that there is no land that is owned by the owner of A and B (the subject land) that abuts the subject land that cannot be conveyed in compliance with the Act. Since Parcel C has been previously conveyed with consent, the statement can be made. A second certificate can issue for parcel B.

It will be only the unusual case, in my view where an owner does not include all of its land in the application and the part not included is otherwise merged with the subject land and is not separately conveyable in accordance with the *Planning Act*.

Parcel A consent sought for this parcel	
Parcel B Abuts Parcel A and C but is merged with Parcel A. it is the retained land.	Parcel C Abuts Parcel A and B but parcel C was previously conveyed with an unstipulated consent.

Example 3

In this common example where one application is intended to create 3 parcels of land, not only will a second certificate be available but so is a third certificate.

Parcel A	Parcel B	Parcel C
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Parcels A, B and C are the subject parcel. B is the applied for parcel. There is no land abutting the subject parcel i.e. all of A, B and C are owned by the applicant. The lawyer's statement can again be given and a second and third certificate can be issued for the parcels that are the retained land.

The legal description of the retained land.

It follows that a request for a second certificate indicates that the applicant will want to register it on title and as a result, it requires a registrable description. In many cases, the legal description of the retained land may be identified as part on a reference plan.

Alternatively, the legal description for the retained land may not be available from the land registry office until the first certificate is registered and the land registrar creates a new PIN for the consented parcel and the retained land. (This might occur where a farm house is severed from a large farm holding and the retained farm holding will be described by all of the land except the farm house property).

There is no reason for or requirement that the two certificates to be issued at the same time. If the request is made, a certificate must be issued on the production of a registrable legal description for the retained parcel. The description may be available at the same time as the issue of the first certificate or it may be available only after the creation of a PIN for the retained parcel.

Note to consenting authorities: A request for a second certificate is not considered a second application deserving of a second application fee. It was noted that, but for lot additions applications, a consent application always considers the viability of both the applied for land and the retained land. Clearly, once the applied for land is dealt with, the retained land stands separately conveyable as well and so it is implicit that the planning and other consultations consider both parcels of land for compliance with land severance criteria. The request for a second certificate is administrative only and does not involve any further due diligence than if a second certificate was not asked for.

CERTIFICATE OF CANCELLATION

There are rare times when an owner owns property that is the subject of an unstipulated consent and wants it cancelled. Remembering that once land is conveyed with a consent, section 50(12) applies and the owner never needs another consent to deal with the identical parcel of land. As a matter of law, it is a separately conveyable parcel of land.....forever.

But there may be times when a prior consent is standing in the way of further uses of the property. Two examples. Parcel A was conveyed with consent. The abutting owner of parcel B is seeking a consent to convey a small strip of his land as a lot addition to Parcel A. The consenting authority notes that if the owner of A plus the strip from B ever transferred A alone, it would leave a small strip of land as a stand-alone parcel. This would be an unintended consequence and potential concern for the application for the lot addition. An ideal solution with the owner of A's approval would be the cancellation of the certificate for A.

Similarly, an owner owns two abutting parcels of land, one of which has the benefit of a prior consent. Owner wants to develop the two properties as one but the planning authorities are concerned that the owner could still transfer the consented half of the property when the intention is that it be a merged property with the abutting parcel.

Section 53(45) permits an owner of a parcel land previously conveyed with an unstipulated consent to apply for the issuance of a certificate of cancellation.

(45) An owner of land that was previously conveyed with a consent, or the owner's agent duly authorized in writing, may apply to the council or the Minister, whichever is authorized to give a consent in respect of the land at the time of the application, for the issuance of a certificate of cancellation of such consent. The certificate must provide that subsection 50(12) does not apply in respect of the land that was the subject of the consent and that subsection 50(3) or (5), as the case may be, applies to a subsequent conveyance or other transaction involving the land.

What is the effect of a cancellation certificate?

The effect of the cancellation certificate is that from the time of registration on title, the parcel is considered no longer to have been conveyed with an unstipulated consent and section 50(12) no longer applies to the parcel. It causes the merger of the previously conveyed property with any abutting land that the owner might own. Section 53(49) provides as follows:

(49) After the registration of a certificate of cancellation referred to in subsection (45),

(a) subsection 50(3) or (5), as the case may be, applies to any subsequent conveyance or other transaction involving land that is the subject of the certificate despite subsection 50(12); and

(b) for the purposes of subsection 50(3) or (5), as the case may be, the land that is the subject of the certificate is deemed not to be land that was previously conveyed by way of a deed or transfer with a consent.

To be clear, cancelling a consent does not affect anything that happened previously. It only affects transactions subsequent to the registration of the cancellation certificate. As section 53 (45) states "The certificate must provide that subsection 50(12) does not apply in respect of the land that was the subject of the consent and that subsections 50(3) or (5), as the case may be, applies to a subsequent conveyance or other transaction involving the land.

What is the procedure and the criteria?

It is likely that such applications will be rare and many consenting authorities may never see such an application. There is no mandated form of application or required components of an application. The issues that might apply in a consent or even a validation application are not applicable. The cancellation causes merger, and not the creation or validation of a parcel of land. A simple letter applying a cancellation certificate is likely all that is needed to initiate the process.

(47) An application referred to in subsection (45) shall be accompanied by any prescribed information and material and such other information or material as the council or the Minister, as the case may be, requires.

There is no prescribed information.

What information does the authority need? Other than a letter requesting cancellation, the application should include information about the title, why the cancellation certificate is being sought, and evidence of the certificate to be cancelled that includes the legal description of the property, all of which is included in the transfer for which the consent was originally given.

What kind of fee would be appropriate? Given that the goal of cancellation is the merger of parcels and not the creation of parcels, there is seemingly no need for consultation, conditions or otherwise. The consent that was given is akin to an asset, a benefit that applies to a parcel of land. One would think the fee represents the cost of processing the application and as noted below, since there is no planning input involved, one would think it would be limited to simple administrative costs of opening a file and issuing a certificate.

Are there or should there be any criteria? No. Logically, the benefit of the certificate of consent belongs to the owner. And if the owner wants to give up that benefit that will result in a merger of its consented parcel with abutting land, that is his or her right. It causes merger and there does not seem to be a good reason why a municipality would want to avoid or prevent parcels of land from merging.

Does it involve a planning policy issue? No for the same reasons. The default (as one might term it) is to have merger and cancelling a certificate will result in merger and the creation of a larger parcel, not a smaller one.

Is there a need for circulation, notices, posting, etc.? There is no statutory requirement and logically, none is needed. Statutorily, those are required for consent applications. The cancellation of a certificate does not affect planning issues, neighbourhoods, traffic, official plan, zoning or otherwise. Any development matters that might arise from a cancellation of a consent is not an issue for the consenting authority. It is for the owner to satisfy other municipal departments on zoning and other development issues but they are not a function of the consent that is sought to be cancelled.

What does the certificate say?

Section 53(45) says what the certificate has to say. The certificate needs only to track the language of the section as noted below.

(45) The certificate must provide that subsection 50(12) does not apply in respect of the land that was the subject of the consent and that subsection 50(3) or (5), as the case may be, applies to a subsequent conveyance or other transaction involving the land.

The following is a form of cancellation certificate.

CERTIFICATE OF CANCELLATION

Section 53 (45) of the *Planning Act*

Subsection 50(12) of the *Planning Act* does not apply in respect of the land described as follows:

(insert legal description of the land that was the subject of the consent).

Subsection 50(3) or (5) applies to a subsequent conveyance or other transaction involving the land.

This Certificate of cancellation is issued in accordance with Section 53(45) of the *Planning Act*, R.S.O. 1990, c.P.13, as amended, and the decision of the Committee of Adjustments of the City of _____, dated _____, 20____.

Dated the _____ day of _____ 20____

Who has jurisdiction to issue cancellation certificates?

The amendment revises the several provisions in the Act that grant authority to councils that issue consents and by delegation to committees of adjustment and land division committees to issue certificates of cancellation. The sections dealing with jurisdiction are set out on schedule to this guideline.

AMENDING APPLICATIONS--ANYTIME UNTIL A DECISION IS MADE

Some authorities take the view that once a consent application has been filed, it cannot be amended but, instead, the process must begin anew. Amendments can range from simple omissions such as forgetting to include the need for a right of way for access, or adjusting a boundary line to comply with zoning requirements, to more significant changes for the relief sought.

The more rigid response to requests to amend may cause greater expense and delay to applicants and the duplication of work by authorities. The amendment clarifies that amendments can be made to applications at any time prior to a decision with discretion to the authority to determine how best to address planning issues if necessary.

In particular, on a request to amend, the authority can impose terms that may include requiring more information and extending the times set out in the Act for conducting a hearing. Some amendments may be made at the hearing itself where the authority can decide if there is a need for more information or further circulation of the application to responding departments. Others may be made much earlier in the process. Where an amendment is minor, or is well understood by the authority, there may be no need for terms at all.

The key to the amendment is to give authorities the discretion and ability to focus on the planning issues and not be distracted by what might be a perceived legal or technical limitation on their ability to make a proper planning decision.

Amendment to application

(4.2.1) An application may be amended by the applicant at any time before the council or the Minister gives or refuses to give a consent.

Terms

(4.2.2) If an application is amended by the applicant, the council or the Minister may impose such terms as the council or Minister considers appropriate, including terms, (a) requiring the provision of additional information and material in relation to the amendment; and (b) specifying that the time period referred to in subsection (14) is deemed not to have begun until the later of, (i) the date the application was amended, and

(ii) if additional information and material was required under clause (a), the date on which all the information and material was provided.

Fees

(4.2.3) For greater certainty, the council or the Minister may include fees in respect of an amendment to an application in its fees established under section 69 or 69.1, as the case may be.

Other

(4.2.4) For greater certainty, subsection (4.2.1) shall not be construed as preventing a person from amending any other type of application under this Act.

PURCHASER CAN ALSO APPLY FOR CONSENT

Section 53(1) permits only an owner or a mortgagee or their agent to apply for consent. At times, a property is sold where it is the purchaser that seeks to bear the expense of obtaining land division. Procedurally, the purchaser can only act as the owner's agent and not bring the application in its own right. The right of a purchaser to bring an application is now permitted provided that the purchaser provides to the authority that portion of its agreement of purchase and sale that gives the purchaser the right to apply.

53(1) An owner, chargee or purchaser of land, or such owner's, chargee's or purchaser's agent duly authorized in writing, may apply for a consent as defined in subsection 50 (1) and the council or the Minister, as the case may be, may, subject to this section, give a consent if satisfied that a plan of subdivision of the land is not necessary for the proper and orderly development of the municipality.

(1.1) For the purposes of subsection (1), a purchaser of land is a person who has entered into an agreement of purchase and sale to acquire the land and who is authorized in the agreement of purchase and sale to make the application.

Section 18.1 is added to regulation 197/96 to assist the authority in assessing whether the purchaser has the right to bring the application. Simply, the purchaser applicant needs only to provide to the authority "copy of the portion of the agreement of purchase and sale that authorises the purchaser to make the application".

VALIDATION CERTIFICATE

Like cancellation certificates, there is no mandated or regulated form for validations of title under section 57. Some consenting authorities have their own forms; other simply ask for the filing of their consent application form with appropriate alterations to suit the circumstances.

The information required on the consent application form (which is mandated by regulation 197/96) is not appropriate for validations because there is rarely if ever land abutting the land to be validated. More often than not, using the consent forms involves noting that some information required for consents is "not applicable".

Validations correct or make effective prior registered instruments that contravened the *Planning Act*. Typically, the land involved is already recognized practically as a separate parcel of land.

Validations of title involve legal ownership and title and usually not a planning issue involved in validations. As a result, the authority needs to understand the history of the ownership of the property and how the error occurred. Rarely is there a planning issue with validations.

Note to consenting authorities: Consenting authorities should consider instructing intake personnel that validation applications are not the same as consent applications and are not subject to the same rules. Such applications perhaps should be “flagged” for further senior review. For example, a sworn affidavit by the owner or agent is required by the regulations on a consent application. There is no such requirement for validation applications. Terminology on consent applications is not applicable. There is no abutting land that is necessarily relevant. Similarly, there are no requirements for notices, posting, circulation or rights of appeal. Reference plans are not required if the parcel to be validated already has a registrable legal description and PIN. Section 53, which addresses consent applications has no application to validations.

Validations involve a different process because the considerations are different. With validations, authorities are fixing a prior usually technical error in conveyancing. Planning issues with validations are rare. Unlike consent certificates, validation certificates have no future on going benefit. Consents contemplate future dealings. Validations only validate or cure past dealings.

Section 57 of the *Planning Act* used to require that no validation could occur without compliance with prescribed criteria which were set out in Regulation 144/95. The prescribed criteria were that the property conform with Official Plan and local zoning bylaws. That requirement has been repealed.

As an aside and curiously, neither consent applications nor validation applications require compliance or conformity with official plans and zoning. Validation applications did but do not any longer. Recognizing a past error and what was the status quo was more onerous to owners and applicants than a land division consent for future use. Validations then often required usually unnecessary minor variance or OP amendments in order to qualify. They do not any longer.

Section 57(6) and (7) of the *Planning Act* and the prescribed criteria Regulation 144/95 are repealed.

What then are the criteria for validations? And by extension for consents?

Section 57(6) now provides

Criteria for certificate

(6) No certificate shall be issued under subsection (1) unless the land described in the certificate of validation conforms with the same criteria that apply to the granting of consents under section 53.

This is important. There is now no need to conform to OP and zoning for validations but the authority need only consider the same criteria that apply to consents.

That invites a critical question. What are the statutory criteria for the granting of consents? Some committees through the advice and recommendation of their local planners believe that it is

mandatory that consents be issued only if there is conformity with OP and zoning. This adds to expense, and delay for applicants with often, no particular benefit to the municipality.

Statutorily, these are the requirements for consents and validations.

Section 53(1) says that a consent can issue if the authority is “satisfied that a plan of subdivision of the land is not necessary for the proper and orderly development of the municipality.”

The first criterion for the authority is the consenting authority being satisfied that no plan of subdivision is required. If the decision is that a plan of subdivision is not required, are there then any statutory criteria? The criteria for consents and now for validations as well are set out in sections 53(12) and (13) of the Act as follows:

(12) A council or the Minister in determining whether a provisional consent is to be given shall have regard to the matters under subsection 51(24) and has the same powers as the approval authority has under subsection 51 (25) with respect to the approval of a plan of subdivision and subsections 51 (26) and (27) and section 51.1 apply with necessary modifications to the granting of a provisional consent. 1994, c. 23, section 32.

(12.1) For greater certainty, the powers of a council or the Minister under subsection (12) apply to both the part of the parcel of land that is the subject of the application for consent and the remaining part of the parcel of land. 2021, c. 25, Sched. 24, section 4 (4).

The critical question of the section 51(24) checklist of criteria is whether anything is mandatory? The language of section 51(24) seems to indicate that nothing in the list is mandatory including compliance or conformity with either Official Plan or zoning bylaws.

The preamble to the criteria for plans of subdivision in the Act makes it clear that it is up to the authority to decide what is relevant to their decision. There is no absolute precondition to approval of a subdivision and by extension to the granting of consents or validations. The section requires that the authority have “regard” to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality and regard as well to a number of other considerations but it does not mandate conformity with Official Plans and does not even mention compliance with zoning bylaws. As to conformity with official plans, the list only requires that consideration be given to “whether” the plan conforms to the official plan and not that the plan must conform.

(24) In considering a draft plan of subdivision, regard shall be had, among other matters, to the health, safety, convenience, accessibility for persons with disabilities and welfare of the present and future inhabitants of the municipality and to,

(a) the effect of development of the proposed subdivision on matters of provincial interest as referred to in section 2;

(b) whether the proposed subdivision is premature or in the public interest;

(c) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;

(d) the suitability of the land for the purposes for which it is to be subdivided;

(d.1) if any affordable housing units are being proposed, the suitability of the proposed units for affordable housing;

- (e) the number, width, location and proposed grades and elevations of highways, and the adequacy of them, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity and the adequacy of them;
- (f) the dimensions and shapes of the proposed lots;
- (g) the restrictions or proposed restrictions, if any, on the land proposed to be subdivided or the buildings and structures proposed to be erected on it and the restrictions, if any, on adjoining land;
- (h) conservation of natural resources and flood control;
- (i) the adequacy of utilities and municipal services;
- (j) the adequacy of school sites;
- (k) the area of land, if any, within the proposed subdivision that, exclusive of highways, is to be conveyed or dedicated for public purposes;
- (l) the extent to which the plan's design optimizes the available supply, means of supplying, efficient use, and conservation of energy; and
- (m) the interrelationship between the design of the proposed plan of subdivision and site plan control matters relating to any development on the land, if the land is also located within a site plan control area designated under subsection 41 (2) of this Act or subsection 114 (2) of the *City of Toronto Act, 2006*.

Do validation of title applications deserve a different approach than with consents?

While the criteria for both consents and validations are the same, there are often different considerations to the decision making process. Usually, actual ownership of a property has changed. Usually, the property involved has been recognized by the municipality, taxing and other authorities including the land registry office as a separate and distinct property. Usually, the property has been historically separate from abutting lands and has its own identity and services. Usually, it has already been developed and with validations, usually, there is no construction, development, building, or other improvements involved. The validation application validates the legal title to a property already identified for all purposes as separate. The validation cures the title problem that arose as a result of a technical contravention of the *Planning Act*.

This writer hopes that the consenting authorities will see such applications as having a purpose different from a consent application for future land division and development.

FREQUENTLY ASKED QUESTIONS

Mergers and the death of a joint tenant

In the past, if parcel 1 was owned by A and B as joint tenants and parcel B was owned by A alone to keep them separate and then B died, there was an automatic merger as a matter of law.

<p>PARCEL A Owned by Mr and Mrs. as joint tenants.</p> <p>Mrs. has died.</p>	<p>PARCEL B Owned by Mr alone</p>
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That is no longer the case. A new exception in sections 50(3) and (5) provides that a person can deal separately with a parcel of land if the land is the whole of a parcel that was previously owned by, or abutted land previously owned by joint tenants and the ownership would have, but for this clause, merged in the person as a result of the death of one of the joint tenants.

Using the above example. The survivor, Mr. qualifies for the exception for both parcels. The land was previously owned by joint tenants (parcel A) or abutted land previously owned by joint tenants (parcel B) and if it were not for this clause, the ownership would have merged as result of the death of Mrs.

Does it apply to deaths prior to January 1, 2022? The *Planning Act* has never directly answered the question of retroactivity of its provisions. Given that legislation is intended to be remedial and this new section was inserted to solve a practical unfairness in the Act arising from the unexpected or unplanned for death of one of the joint owners, a fair and reasonable interpretation indicates retroactivity. From a planning policy viewpoint, but for the death of the joint tenant, the properties would always have been separate. There does not seem to be a good reason to prefer merger as a result of an act of fate or bad timing. Lawyers can come to their own conclusions on the issue and ensure validity in a subsequent transaction by signing *Planning Act* statements.

(a.1) the land is the whole of a parcel of land that was previously owned by, or abutted land previously owned by, joint tenants and the ownership would have, but for this clause, merged in the person as a result of the death of one of the joint tenants;

Are second certificates required in every consent application?

No, and the likelihood that such requests will not be typical, except perhaps where an owner is unsure which of two properties will be dealt with first. Even then, it may not be required.

The Act has been amended to now permit land that is retained land i.e., land that abuts land previously conveyed with consent to be an exception to the prohibition.

Section 50(3b) and (5a) now provides an exception to the abutting land rules where the land in question abuts an identical parcel of land that was previously conveyed with a consent given after March 31, 1979.

PARCEL A Mr. owns	PARCEL B Mr. owns
It was previously conveyed with consent	It has never been conveyed with consent.

In this example, Mr. owns both A and B; A was previously conveyed with consent. B has never been conveyed with consent. Until the amendment, A could be dealt with as a separate parcel because it was identical to land previously conveyed with consent and got the benefit of section 50(12). However, B was never previously conveyed with consent and Mr. owns abutting land. B could not be conveyed separately unless Mr. did a work around and change the ownership of A.

Now, land previously conveyed with consent and land abutting land previously conveyed with consent can be dealt with separately. It gives real meaning to “once a consent, always a consent” in that a consent now creates two separate parcels of land and it does not matter what the order is in the dealing, so long as one of the two has been conveyed, even to oneself with consent.

Why is March 31, 1979 relevant. Until that date, consents could be given for lot additions and the concern was that this rule would make lot additions separate parcels of land. While the concern involved a highly remote possibility, the rule only applies to consents given from and after March 31, 1979.

(b) the person does not retain the fee or the equity of redemption in, or a power or right to grant, assign or exercise a power of appointment in respect of, any land abutting the land that is being conveyed or otherwise dealt with other than,

- (i) land that is the whole of one or more lots or blocks within one or more registered plans of subdivision,
- (ii) land that is within a registered description under the Condominium Act, 1998, or
- (iii) land that is the identical parcel of land that was previously conveyed by way of a deed or transfer with a consent given under section 53 or was mortgaged or charged with a consent given under section 53, either of which consent was given on or after March 31, 1979 and did not stipulate that this subsection or subsection (5) applies to any subsequent conveyance or other transaction;

Reference plans of survey; when you need them, when you don't

There is an inconsistent practice in Ontario about requiring a reference plan of survey with every application for consent and sometimes, even for validations. Reference plans of survey can be very expensive and can cause delay in completing a matter, often because of weather or even the level of business of local surveyors.

The need for reference plans arose in the land registry offices. Historically, land was described by a metes and bounds legal description, often prepared by a land surveyor. The legal description described the land by compass bearings and distances and except perhaps in a simple rectangular parcel of land could be very complicated.

The applicable legislation was amended in the 1970s to require that any new legal description usually arising from a division of land required a reference plan of survey that would illustrate the property in question and describe it as a “part” on the plan. Reference plans were registered with the number of the land registry office, followed by the letter R followed by a sequential number such 66R-12345.

They differ clearly from land titles plans of subdivision with the prefix M such as 66M and a reference to “lots” and “blocks”, roads and reserves. They typically contain a warning that they are not registered plans of subdivision.

In typical consent applications where a land division is occurring i.e., where an existing parcel of land is being divided into new separate parcels that have never had their own specific legal description or where new easements or rights of way are being created, a reference plan is required for registration on title. This is important. The reference plan requirement is a land registry office requirement; it is not a requirement for consenting authorities unless a new legal description is being created on the application. Consenting authorities typically need a sketch to understand the land division and if consent is granted and a new legal description is to be created in the land registry office, then the authority needs a reference plan to identify the land for land registration purposes.

But if there is no new legal description, typical with technical severances and validations, no reference plan is necessary. Technical severances involve separate parcels of land, historically separate for all purposes that get merged because the owner of one parcel also owns the other. While owners take pains to keep them under separate ownership and avoid merger, merger can happen inadvertently for example through lawyer's mistake or as a matter of law. But each property retains its own PIN or parcel register and individual legal description. Similarly, with validations, there was merger of two previously separate parcels but one of the two parcels has since been dealt with separately resulting in a contravention of the *Planning Act* and the resulting voiding of the transfer or mortgage on title. Again, that separate parcel that requires validation has its own PIN and legal description and so, no reference plan of survey is required for registration.

Don't I need a reference plan to confirm compliance with zoning bylaws?

Before answering that question, the better question is does the consenting authority need to confirm compliance with zoning bylaws. It may be the local municipality's planner's mindset to want confirmation of compliance with zoning bylaws but there is nothing in the criteria for consents or

validations that a parcel that is the subject of an application must conform to local zoning. This is particularly important on applications involving long standing buildings requiring technical consent of validation where the property is clearly a legal non-conforming use.

If a municipality's planner wants to be satisfied about zoning compliance, a survey may suffice. Although it seems that there is much more to zoning bylaws than side yards and setbacks that surveys or reference plans will not answer. Which is why I don't quite understand the knee jerk requirement that some municipalities impose that there be a reference plan when one is not really necessary for the consent application. A municipality may prefer a survey but again, reference plans are land registry requirements where a new legal description is being created.

Imposing conditions on severance consents

Many authorities have what they call their "standard conditions". At times, the conditions are not relevant to the subject of the planning decision and yet are imposed on the applicant before it can implement the planning decision.

Some of them may impose unnecessary hardship and expense to the applicant. Some of them take advantage of the applicant in the application process and are unrelated to the purpose of the application. Some just cannot be satisfied.

Examples:

The obligation to consolidate two parcels or PINs into one.

Consolidating PINs is in the jurisdiction of the land registry office and is not automatic. Land titles and Teranet cannot consolidate two PINs that are not identical in quality or character. Most common, they cannot consolidate two PINs where one is an absolute title PIN and the other is a converted qualified PIN. Absolute titles have certain characteristics in the land titles system; converted qualified titles (LTCQ PINs) have very different characteristics and they do not match and therefore cannot be consolidated.

Before you impose such a condition, ensure by a review of the two PINs that are before you that they are of the same type.

Requiring road widenings or other municipal conveyances.

Planners reviewing applications often see an opportunity to take something for the municipality that they would not be otherwise able to obtain but for the application for consent and the imposition of a condition of granting consent. Consenting authorities often go along and impose the condition because the planning staff asks for it, even though it is not relevant to the application itself. Road widenings are a common "ask", even though the road widening has nothing to do with the planning decision before the authority.

In a recent case where the applicant appealed a road widening condition, the LPAT made it clear that the requirement was not relevant to the planning decision before it, the municipality was taking advantage of the situation and set aside the condition.

Schedule of sections of the act regarding delegated authority for cancellation certificates.

(46) A delegation by the Minister under section 4 or by a council or planning board under section 5 of the Minister's authority for the giving of consents under this section shall be deemed to include the authority to issue certificates of cancellation under subsection (45). 2021, c. 25, Sched. 24, s. 4 (13).

Same, application

54 (2.1) If council has delegated its authority to give consents under subsection (1), (1.1), (2), (2.3), (4) or (5), that delegation shall be deemed to include the authority to issue certificates of cancellation under subsection 53 (45) and to issue certificates of validation under section 57 in respect of land situate in the lower-tier municipality. 1993, c. 26, s. 61 (1); 1994, c. 23, s. 33 (3); 2002, c. 17, Sched. B, s. 21 (2).

Delegation to committee of council, etc.

(4) Except as delegated under subsection (1) or (1.1), the authority or any part of such authority of the council of an upper-tier municipality may be delegated by the council to a committee of council, to an appointed officer identified in the by-law by name or position occupied or to a land division committee. R.S.O. 1990, c. P.13, s. 54 (4); 1994, c. 23, s. 33 (7); 2002, c. 17, Sched. B, s. 21 (3).

Delegation, single-tier municipalities

(5) The council of a single-tier municipality authorized to give a consent under section 53 may by by-law delegate the authority of the council under section 53 or any part of that authority to a committee of council, to an appointed officer identified in the by-law by name or position occupied, to a municipal planning authority or to the committee of adjustment. 2002, c. 17, Sched. B, s. 21 (4).

Committee of adjustment

(6) Where, under subsection (2) or (5), a committee of adjustment has had delegated to it the authority to give a consent, section 53 applies with necessary modifications and subsections 45 (4) to (20) do not apply in the exercise of that authority. 1994, c. 23, s. 33 (9).

54(6.1) Where, under subsection (2) or (5), a committee of adjustment has the authority to issue certificates of cancellation under subsection 53 (45) and the authority to issue certificates of validation under section 57, subsections 45 (8) to (8.2) apply in the exercise of that authority, but subsections 45 (4) to (7) and (9) to (20) do not apply. 2021, c. 25, Sched. 24, s. 5 (3).

Conditions

(7) A delegation of authority made by a council or a municipal planning authority under this section may be subject to such conditions as the council or the municipal planning authority by by-law provides and the council or the municipal planning authority may by by-law withdraw the delegation of authority but, where authority delegated under subsection (1) or (1.1) is withdrawn, all applications for consent, for the issuance of a certificate of validation under section 57 or for the issuance of a certificate of cancellation under subsection 53 (45) made prior to the withdrawal shall continue to be dealt with as if the delegation had not been withdrawn. 1994, c. 23, s. 33 (10).

District land division committee, delegation

55 (1) The Minister by order may constitute and appoint one or more district land division committees composed of such persons as he or she considers advisable and may by order delegate thereto the authority of the Minister to give consents under section 53, to issue certificates of cancellation under subsection 53 (45) or the authority to issue certificates of validation under section 57 in respect of such lands situate in a territorial district as are defined in the order. R.S.O. 1990, c. P.13, s. 55 (1); 1993, c. 26, s. 62 (1).

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