

January 9th, 2018

Staff Report

To: City of Kenora Planning Advisory Committee **File Nos.:** D13-17-11 & D10-17-12

Fr: Devon McCloskey, City Planner

Location: 101 Reddit Road

Action: To Consider Approval/ Provisional Approval

Re: Applications for Minor Variance & Consent for Lot Creation

Owners: Margaret Moncrief

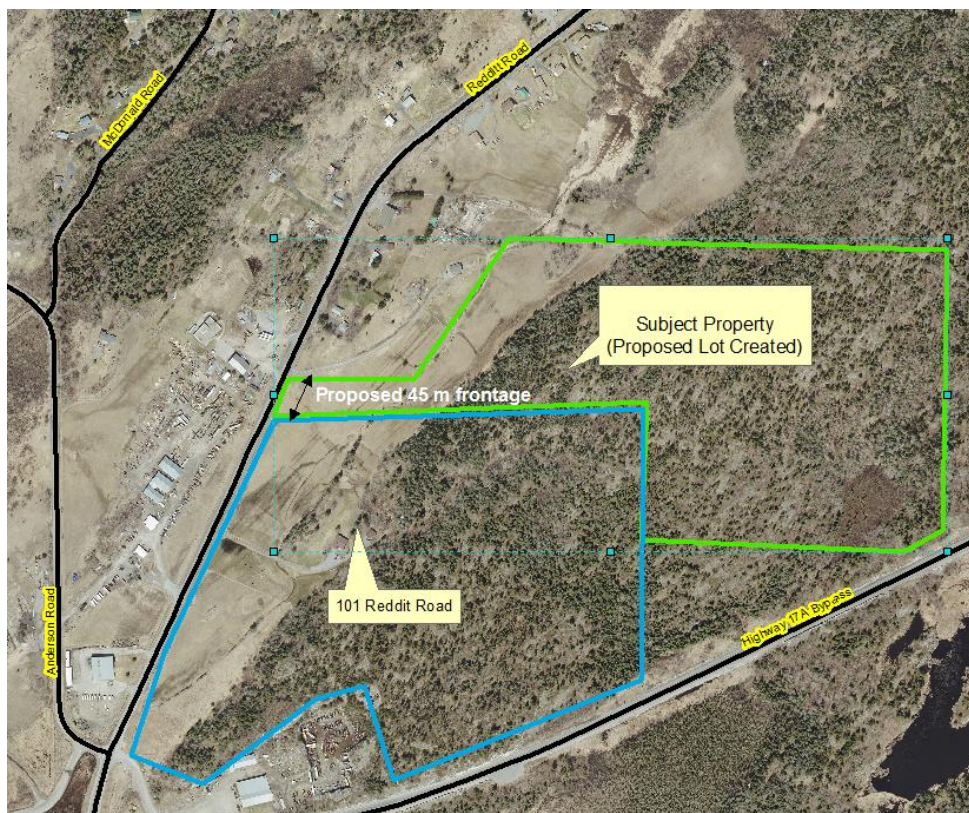
Agent: Gerry Moncrief

1. Introduction

Applications for Minor Variance and Consent for lot creation are proposed for property located at 101 Reddit Road, described as CON 7J LOT 4 REM PCL 26676; LESS PT 1 D-78 LESS PT 8;23R-5749, 23R-7517 PT 2 & 23R7919 PT 1 23R9116 PT 1&2.

The purpose of the applications is to enable lot creation while seeking relief from Section 4.12.3 (a) of the Kenora Zoning By-law 101-2015, to reduce frontage from 90 m to 45 m.

The effect of approval would be to create one (1) RU – Rural zoned lot, approximately 22.7 ha in size and identified as Lot 1 on the attached map (see aside).



2. Existing Conditions

The property is fronting on Reddit Road, which is located just north of the Kenora Hwy 17 By-pass. The property is over 22 hectares and has a frontage of over 500 metres. It is zoned for RU - Rural, and is partly developed with a single detached dwelling on private services and cleared for cattle pasture. The majority of the property is forested and undulating with exposed bedrock.

Retained lot

Lands proposed to be retained would be reduced to 25 hectares and provide the minimum 500 metres of frontage. It will encompass the existing dwelling, servicing, and accessory buildings.

Severed area for lot addition

Vacant lands proposed to be severed for lot addition amount to approximately 22 hectares. A request for minimal frontage has been submitted in order to provide legal access, but not remove important cattle pasture from the west side of the lot. The land use objective of the newly created lot is to develop the property for recreational/ seasonal residential use.

3. Background

The property recently received approval for a lot addition to allow for a strip of land on the north side to be severed and added to an abutting property for the purpose of resolving encroaching septic field, and enabling the service to be established on the same lot as the dwelling.

4. Site Visit

Photos from a site visit January 4th, 2018 are included below.



Photo 1 – Southbound perspective on Reddit Road



Photo 2 – Eastern perspective of the property frontage showing the cattle grazing area and rocky treed terrain in the background



Photo 3 – North perspective of the property from the southern property line with the existing residential building at the furthest view

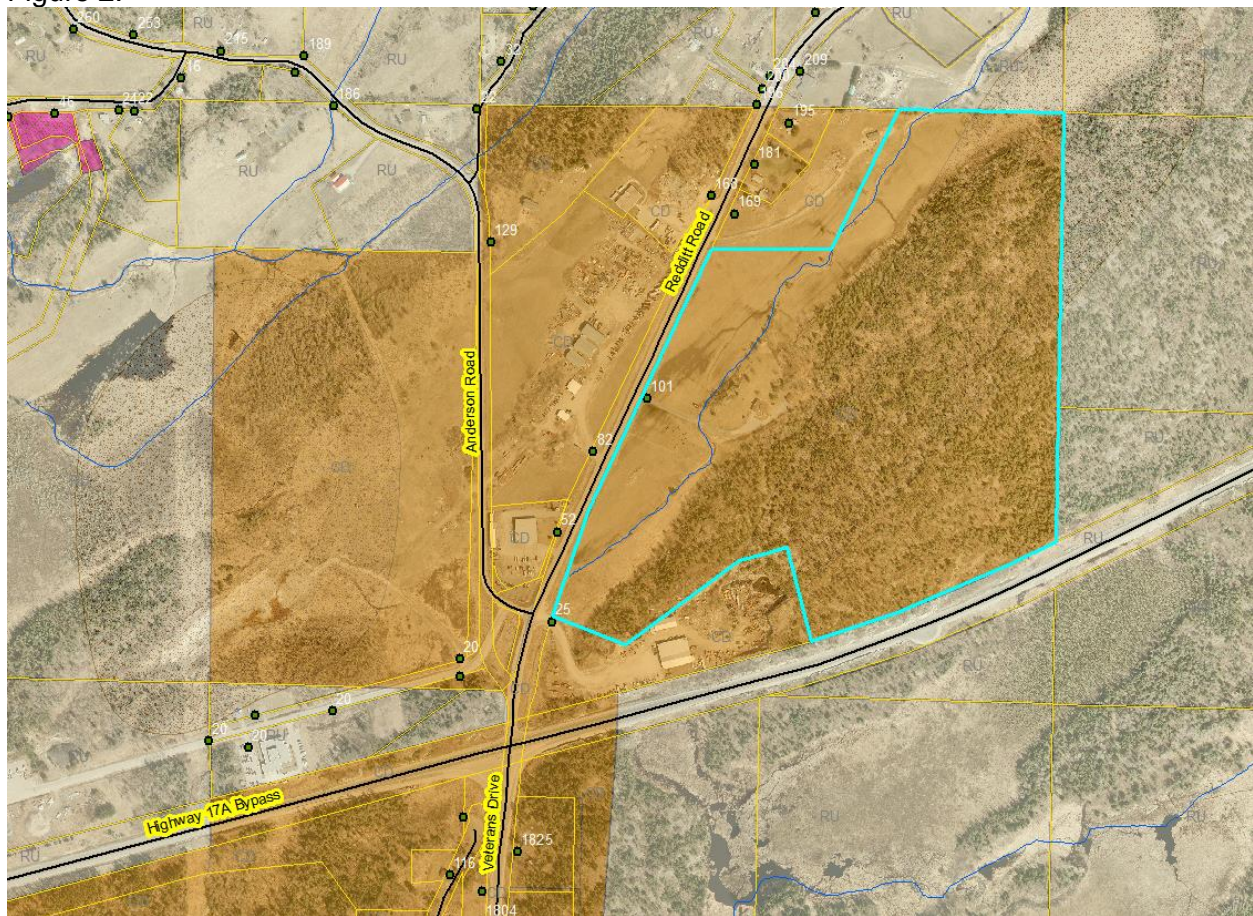
5. Consistency with Legislated Policy and City Directives

a) Provincial Policy Statement (2014)

The application for lot creation, generally supports direction under Policy 1.1.1 which promotes managing and directing land use to achieve efficient and resilient development and land use patterns, including efficient land use patterns, whereas the severance of a large vacant and treed property, with minimal frontage on a high travelled road may enable other forms of development to be provided in the retained area.

b) City of Kenora Official Plan (2015)

Figure 2.



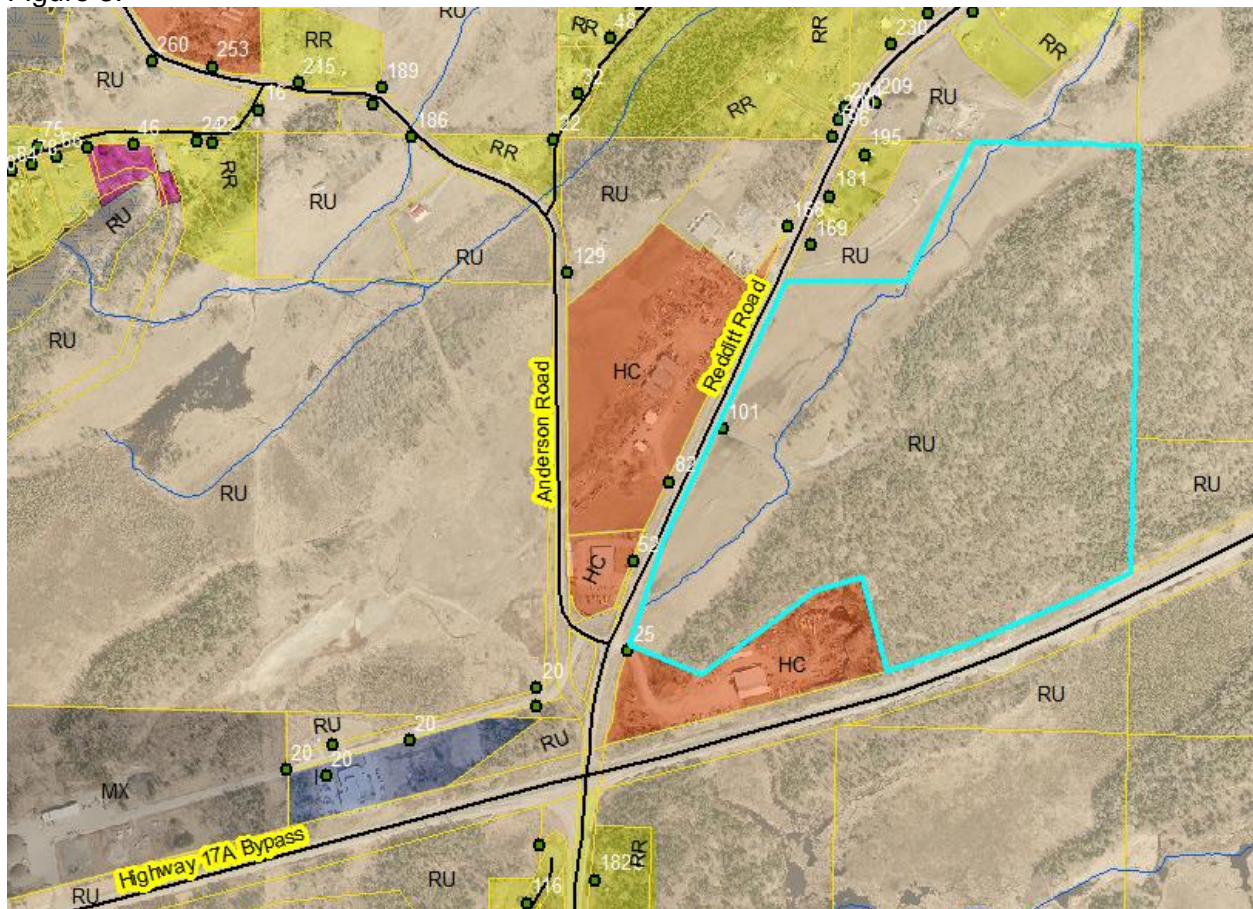
The property is designated as CD – Commercial Development Area

Section 4.4 of the Official Plan states:

The continued development of retail commercial uses shall be promoted in order to serve the residents of the City of Kenora, Northwestern Ontario, western Canada and the Midwestern United States. Maintaining Highway 17E, Highway 17A (known locally as the Kenora By-pass), Jones Road and Highway 658 (Redditt Road) through the City is paramount to maintaining the economic health of the commercial/retail sector of the local economy.

b) Zoning By-law No. 101-2015

Figure 3.



Section 4.12.2 of the Zoning By-law provides for the use of single detached dwellings or seasonal dwellings.

Sections 4.12.3 provides the dimensions and criterion for the creation of a new lot.

6. Results of Interdepartmental and Agency Circulation

Departments and Agencies Circulated	Comments Received
Municipal Engineer	No comments received
Building Department	No comments received
Roads Department	No concerns – December 21/17
Water & Wastewater Department	No concerns – December 12/17

Hydro One	Hydro One has no issue with the proposed application for Minor Variance – January 11/18
Kenora Fire & Emergency Services	No issues – December 21/17
Northwestern Health Unit	No concerns. Provided their report which noted that there is available area within both lots to accommodate a septic field - December 12/17
Ministry of Transportation	Please see the letter attached for details of the comments provided. Essentially the MTO has no objections to the approval, but advises the property owners that they must comply with the Public Transportation and Highway Improvement Act; that an MTO Entrance Permit be obtained under the circumstances; the provisions for where it may be developed, among other matters – January 8/18

7. Public Comments

Circulation of the Notice of Complete Applications and Hearing was completed in accordance with Sections 53 of the Planning Act; whereby it was circulated to property owners within 60 metres of the subject property on December 21st, 2017, and provided to the persons and public bodies prescribed.

A public hearing is scheduled to be held on January 16th, 2018, to hear public comments. If new information or comments are provided at the meeting, additional information may affect the outcome of the recommendation presented.

As of the date of this report, no public comments have been received.

8. Evaluation

If approved, the Minor Variance and Consent for creation of one lot, would enable a severance of approximately half the property, creating two lots, 22 and 25 hectares in size.

The property has been subject to a number of previous applications for lot creation in the past. The applicant recalls a total of four (4) other lots that were created out of the remainder original parcel, with the exception of the natural severance caused by the severance by Reddit Road.

Section 8.11.3 of the Official Plan states the following with regard to the number of lots that may be created by Consent.

Consents may be granted when a Plan of Subdivision or Plan of Condominium is not required for the orderly development of the land or the provision of services. When a consent is considered appropriate, it shall be granted in accordance with the policies of this Plan, including the following general policies which apply to all land use designations. Lot creation through the consent process shall be generally limited to four lots (three severed, one retained). In situations where no extension of municipal roads or municipal services or utilities are required, consents for five lots (four severed, one retained) may be considered.

The provision is intended to provide guidance in addition to the legislation, which triggers the need for more expansive reporting where six (6) or more lots are proposed, i.e. hydrogeological report for properties serviced by private water, etc.

The Official Plan policy is not a hard and fast rule, it is intending to make decision makers aware of the suitability of the consent or subdivision processes, given the circumstances presented, and whether the extension of services including roads, may be required in order to facilitate the development of the property. The process for subdivision, enables the City to use other tools such as a subdivision agreement, surveying matters are also dealt with differently where the property would be described as an M-Plan versus R-Plan, and lots could be created and continued to be owned by the existing owner without risk of the properties going back together.

The Official Plan depicts the property as being designated for Commercial Development, because the property is strategically located adjacent to the crossroads of Hwy 17 and Reddit Road/ Veterans Drive. By reducing the frontage of the new lot, little impact will result on the developable property adjacent to Reddit Road, and the lot to be created will be established primarily within the treed and rocky area, that is approximately 200 metres back from the highway. Therefore the minor variance will enable the proposal to be more in keeping with the objective of the Official Plan.

No concerns or comments in opposition were received.

The application is consistent with objectives of the official plan and the zoning by-law; and the development is appropriate and desirable, as per the four tests.

9. Legislative Framework for Consent approval

The Committee shall evaluate a consent application based on the Provincial Policy Statement (2014), The City of Kenora Official Plan (2015), Zoning By-law No. 101-2015 as amended and the provisions of section 51(24) of the Planning Act:

In determining whether a provisional consent is to be given, 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;
- (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;
- (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

10. Recommendation

It is my professional planning opinion that applications D10-17-12 for lot creation and D13-17-11 for Minor Variance, at property located at 101 Reddit Road; legally described as CON 7J LOT 4 REM PCL 26676; LESS PT 1 D-78 LESS PT 8;23R-5749, 23R-7517 PT 2 & 23R7919 PT 1 23R9116 PT 1&2; meet the intent of the Official Plan and Zoning By-law and should be approved.

- 1) The original executed Transfer/Deed of Land form, a duplicate original and one photocopy for City records be provided
- 2) A Schedule to the Transfer/Deed of land form on which is set out the entire legal description of the parcel(s) in question and containing the names of the parties indicated on page 1 of the Transfer/Deed of Land form be provided.
- 3) That the transferor and transferee not be the same person.
- 4) That any easement(s) which may be required for servicing are registered in order to allow for hydro access, and that the Planning fee of \$100 is paid.
- 5) That approvals are received from the City for the provision of any future entrance permits, culvert and materials as required to develop driveway access, where a new entrance is required.
- 6) Three original copies (not photocopies) of the reference plan of survey, bearing the Land Registry Office registration number and signatures as evidence of deposit therein, and illustrating the parcel(s) to which the consent approval relates an which must show in general the same area and dimensions as the sketch forming part of the application be provided.
- 7) That the payment of any outstanding taxes, including penalties and interest (and any local improvement charges if applicable) shall be paid to the City of Kenora.
- 8) That prior to endorsement of the deeds, the Secretary-Treasurer shall receive a letter, from the owner or owner's Agent/Solicitor, confirming that conditions #1 through #7 have been fulfilled. Clearance letters from the City of Kenora and external agencies are to be included.
- 9) That all costs associated with extension of services, driveway installation, surveys, legal fees and matters related to the application are the responsibility of the developer/applicant.

NOTES:

Prior to any grading or any construction on the site, the Developer may be requested to provide a Drainage Plan, to identify the capacity of the existing natural swales and/or proposed ditches, and demonstrate that the drainage for all roads and lots be as close to the property lines as possible. References would be made to an overall drainage basin runoff flow calculation

The following section(s) of the Planning Act apply:

Conditions not fulfilled

53(41) If conditions have been imposed and the applicant has not, within a period of one year 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 fulfill the conditions until the expiry of one year from the date of the order of the Municipal Board issued in respect of the appeal or from the date of a notice issued by the Board under subsection (29) or (33). 1994, c. 23, s. 32.

Lapse of consent

53 (43) A consent given under this section lapses at the expiration of two years from the date of the certificate given under subsection (42) if the transaction in respect of which the consent was given is not carried out within the two-year period, but the council or the Minister in giving the consent may provide for an earlier lapsing of the consent. 1994, c. 23, s. 32.

A handwritten signature in black ink, appearing to read "Devon McCloskey". The signature is fluid and cursive, with the first name "Devon" written in a larger, more prominent script than the last name "McCloskey".

Devon McCloskey, RPP, MCIP
City Planner

Attachments

- Complete Applications for Minor Variance and Consent to Sever
- Notice of Applications and Public Meeting
- Correspondence received from MTO and NWHU