

**May 12, 2020**

## Staff Report

**File No.:** D10-20-02

**To:** City of Kenora Planning Advisory Committee

**Fr:** Adam Smith, Manager Development Services  
Melissa Shaw, Planning Analyst

**Action:** Consideration for Provisional Approval

**Re:** Application for Consent

**Location:** 1930 Hwy 17 West, Keewatin, ON

**Applicant:** K.C. Refrigeration LTD.

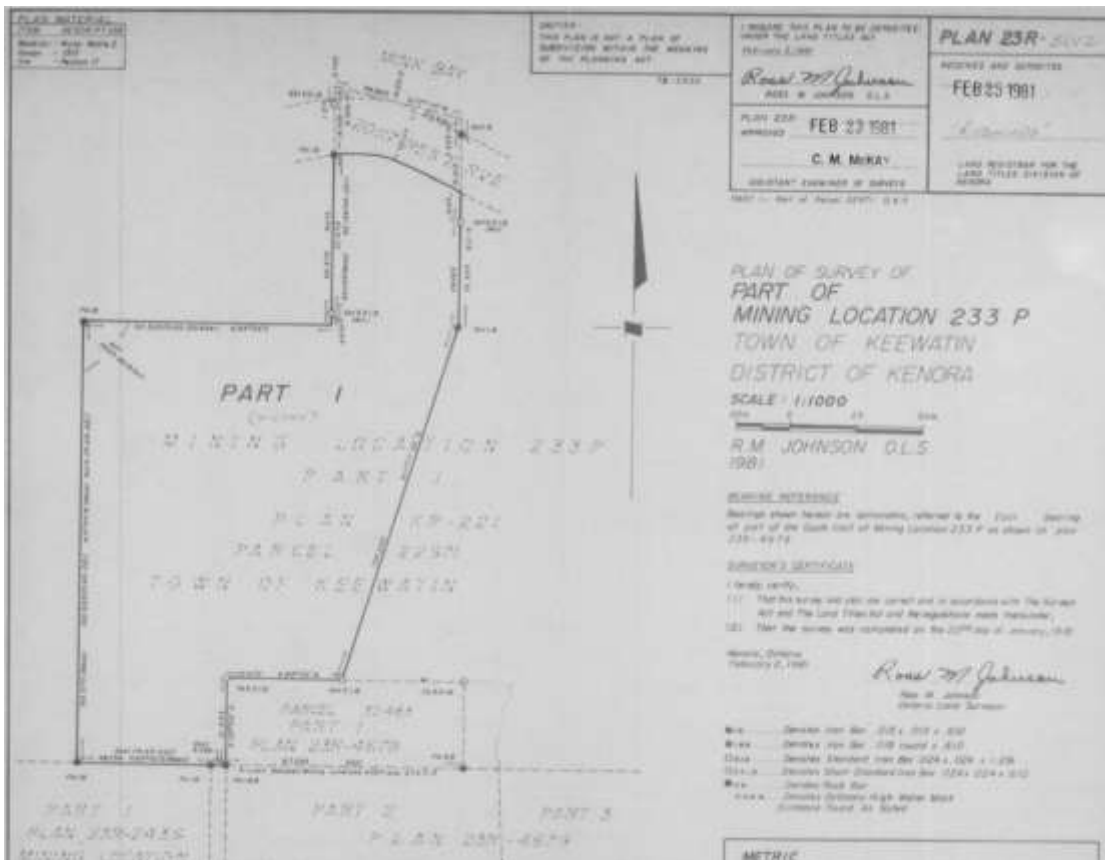
**Agent:** Randy Seller, Hook, Seller & Lundin, LLP

### 1. Introduction

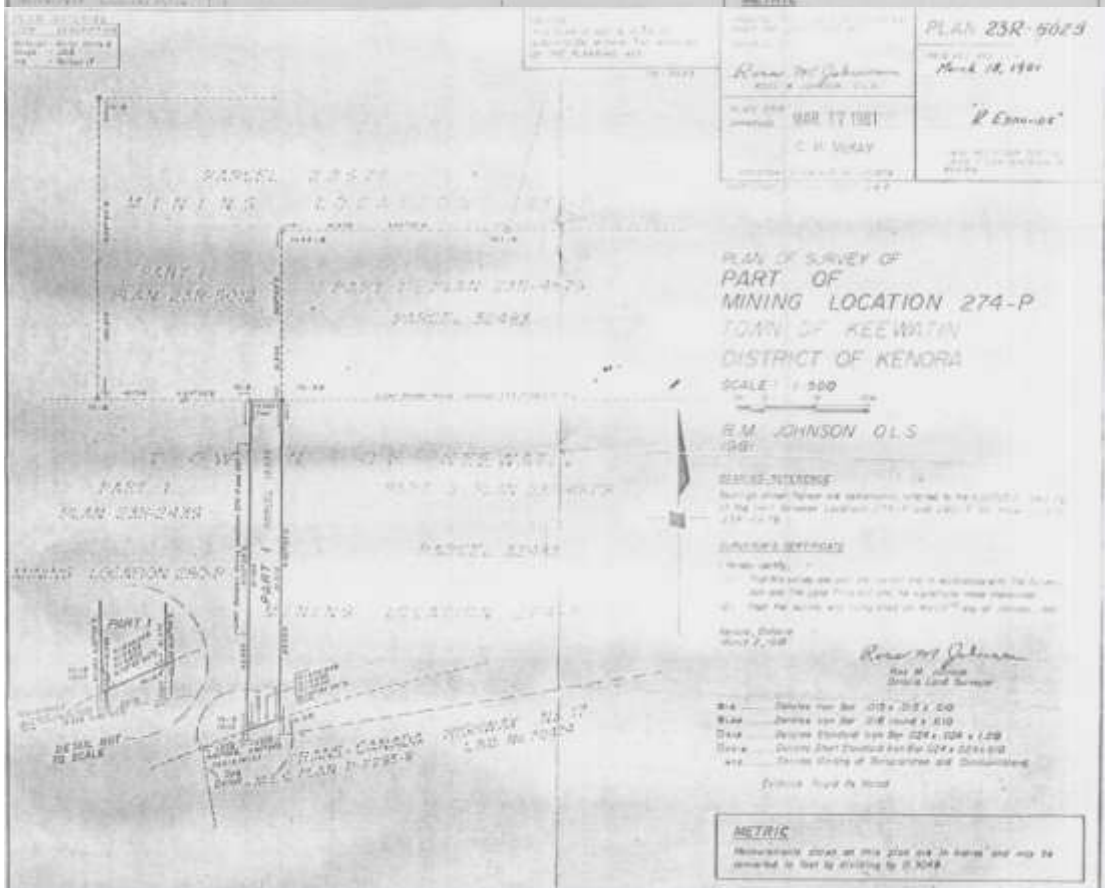
An application for consent is proposed for a lot addition. The effect of approval would be to allow approximately 0.43 ha of land to be transferred from 1930 Highway 17 West (Lot 1 on the map) to the adjacent property, 1930-A Highway 17 W (Lot 2 on the map).

**Figure 1 (above)** - Aerial sketch displaying the proposal for consent





**Figure 2-**  
Reference  
Plan of  
Survey 23R-  
5012, 1930  
Highway 17 E



**Figure 3 -**  
Reference  
Plan of Survey  
23R-5025,  
access  
5.675m

## 2. Description of Proposal

In 2018, the Planning advisory Committee gave provisional approval for application D10-18-04 for lot creation, at 1930 Highway 17 West, Part Mining Location 233P, Part 1 of 23R5012; PIN: 42174-0029; the approval was subject to a set of conditions, of which, were not completed within the provisions of Section 53(41) of the Planning Act, which states the following:

### **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.*

Application made in April 2020, known as File Number D10-20-02, is a resubmission of the application provisionally approved in 2018. Provisional approval of the application for consent, lot addition will allow 0.43 ha of land to be transferred to an abutting lot. As per By-law 36-2018 the subject property at 1930 Highway 17W was re-zoned from RR-Rural Residential to RR [38], a site specific Rural Residential Zone to allow for use of a converted dwelling on a lot with reduced frontage along Mink Bay. The retained property will have approximately 22.7 m frontage, a total lot area of 1.54 ha and a rear lot line providing access along Highway 17W at approximately 5.675 m in width as per Plan 23R-5025.

The effect of approval of the application for consent, lot addition will allow for an undersized lot located at 1930-A Highway 17W to become more compliant with the Zoning By-law with regards to lot size with the addition of .43ha of land, frontage along Mink Bay with the addition of 26.2 metres and will allow for future development that would comply with the regulations of Section 4.5.3 the RR zone in the Kenora Zoning By-law 101-2015.

## 3. Existing Conditions

The property is fronting on Mink Bay, a Provincially Significant Wetland as identified by the Ministry of Natural Resources and Forestry. The property has a rear lot line of 5.596 metres in width along Highway 17 West, providing access to the subject property.

The subject property is developed with a two storey dwelling having a gross floor area of 1500 m<sup>2</sup> in size. By-law 36-2018 enabled a change of use for the building permitted as a single-detached dwelling to a “converted dwelling” and to achieve compliance with the provisions of the RR [38] zone. The Kenora Building Department issued permit 2018-0075 on June 18, 2018 for renovations required for use as a triplex; Occupancy Permit issued July 11, 2019.

The property is serviced with a private septic and summer water service provided by the City of Kenora, in addition to a holding tank. Northwestern Heath Unit (NWHU) provided comment in 2018 that was in support of the application for consent, lot addition stating that there is area on the retained property to address increases in the potential sewage flow if need be. As per recent discussions with NWHU, they are in support of the lot addition to support an existing undersize lot. The Chief Building Official for NWHU commented that the septic system for the converted dwelling was designed and installed for a multi-unit dwelling and is not located near the lands to be transferred as such the existing septic field at 1930 Highway 17 W causes no concern to the proposed lot addition.

Adjacent properties are zoned RR-Rural Residential and HC-Highway Commercial, and have been improved with low density single-detached housing, and commercial development including dealerships, storage, sales, service and repair, and light industrial use.

#### 4. Site Visit

A site visit was conducted on May 12, 2020, photos from the inspection are included below.

**Photo 1, 2 and 3:** Picture of the existing converted dwelling located at the subject property 1930 Highway 17W.





**Photo 4-** Amenity space and storage area accessory to the existing converted dwelling located on the subject property at 1930 Highway 17W.



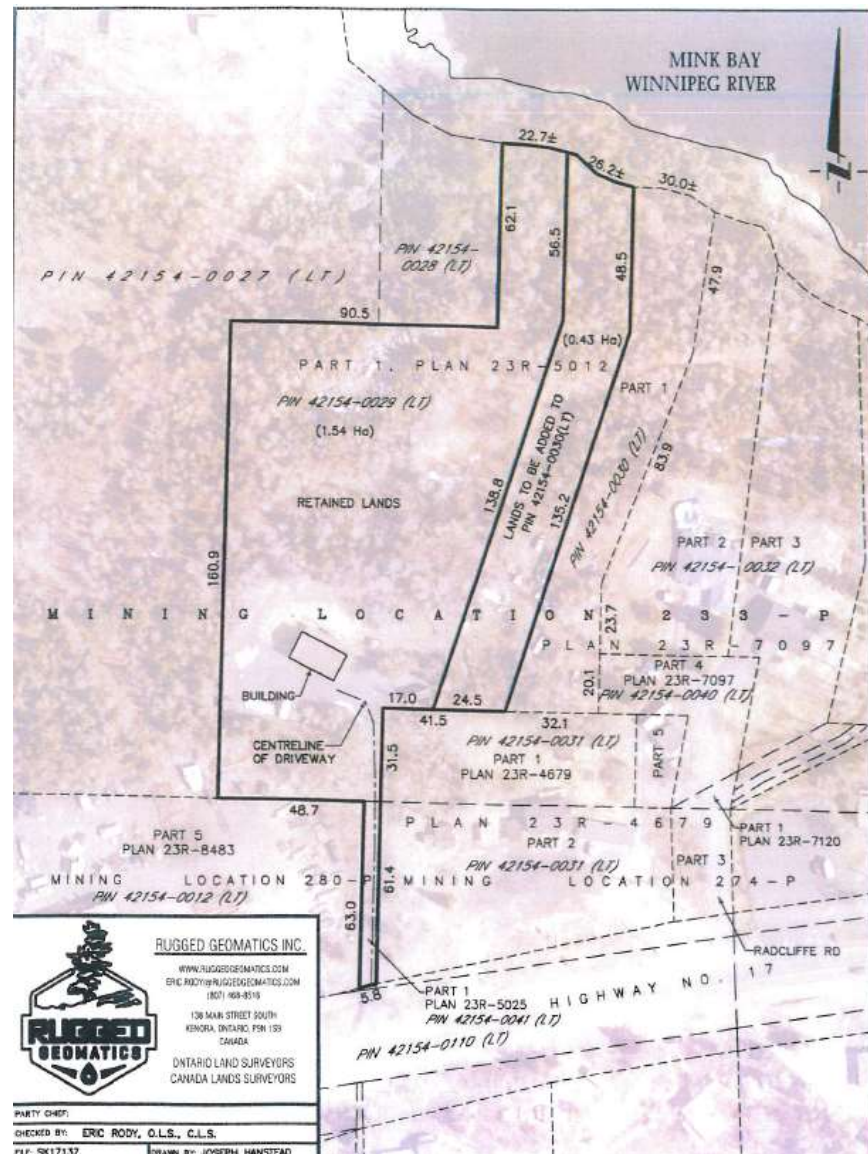
**Photo 5** (below)- Portion of the 0.43 ha of the subject property proposed for transfer to the abutting parcel at 1930-A Highway 17W. Shipping containers are not permitted within the RR-zone.



**Figure 6** (aside)- Unopened road allowance to access 1930- A Highway 17W off of Ratcliff Drive. A residential entrance permit shall be a condition of provisional approval.



**Figure 4 – Sketch of proposed future consent**



## 5. Consistency with Legislated Policy and City Directives

### a) Provincial Policy Statement (PPS)2020

The application is consistent with several policies, and following are noteworthy:

Policy 1.1. Managing and directing land use to achieve efficient and resilient development and land use patterns;

1.1.1. Healthy, liveable and safe communities are sustained by:

- a) promoting efficient development and land use patterns which sustain the financial well-being of the Province and municipalities over the long term;
- b) accommodating an appropriate affordable and market-based range and mix of residential types (including single-detached, additional residential units, multi-unit housing, affordable housing and housing for older persons) to meet long-term needs;

Policy 1.1.4.1 Healthy, integrated and viable *rural areas* should be supported by:

- c) Accommodating an appropriate range and mix of housing in rural *settlement areas*;
- d) Encouraging the conservation and *redevelopment* of existing rural housing stock on *rural lands*;

### **b) City of Kenora Official Plan (2015)**



The Land Use Designation of the property is RU – Rural Area. The following policies with particular relevance are extracted.

### **3.17 Residential Densities**

*Density is a relative term that is used to define the scale and grain of development. It is typically a measure of persons or dwelling units per unit of land area. Net residential density is usually expressed as the number of dwelling units per hectare and measures the area of land used exclusively for residential use, including private*

*roads and parking areas but excluding public streets, rights-of-way, parks, environmental areas and non-residential uses.*

*The definition of low, medium and high density differs from place to place. For the purposes of the Official Plan, residential densities are defined as follows:*

- Low: up to 16 units/net hectare*
- Medium: 17 to 40 units/net hectare*
- High: over 40 units/net hectare*

The current use as a converted dwelling with three units is considered low density as per the definitions within the Official Plan.

#### **4.8 Rural Area**

*Rural Areas include a variety of agricultural, residential, industrial, commercial, recreational, tourism and open space uses. Over the lifetime of this Plan the Rural Areas may experience limited change.*

##### **4.8.3 Residential Development in the Rural Area**

- a) Residential development shall be restricted to single-detached dwellings on relatively large lots serviced by private water and sewage;*
- b) Development proposals shall be limited in scale and shall not detract from the planned role and function of the settlement area; and*
- c) Development shall preserve rural character and the scenic quality of the rural landscape and shall avoid densities more appropriately found in the settlement area.*

The subject property is adjacent to Mink Bay wetland complex, a Provincially Significant Wetland as outlined within Section 4.1 of the Official Plan.

#### **4.10 Wetlands and Provincially Significant Wetlands**

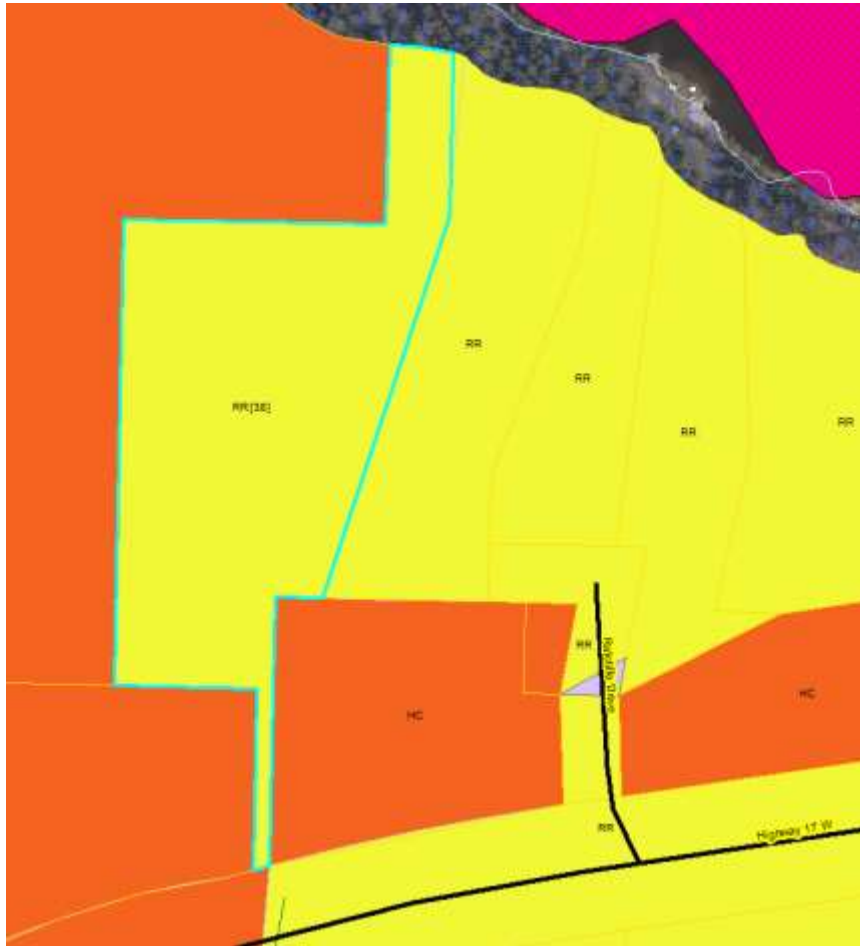
*Wetlands are essential components of ecosystems that contribute to the high quality of the environment. Wetlands control and store surface water to assist in flood control, function as sediment traps to improve water quality, provide habitat for a variety of plant and animal species, and function as recharge areas for groundwater resources. It is the policy of this Plan to protect wetlands and their critical functions. The Ministry of Natural Resources and Forestry evaluates the biological, social, hydrological and special features of wetlands to determine their relative significance in Ontario and identifies certain areas as Provincially Significant Wetlands.*

Within Section 4.10.1 of the Official Plan Mink Bay is named as a significant wetland, and under this policy it is noted that where development or site alteration is proposed within 120 m adjacent to the boundaries of the Mink Bay wetland complex, the proponent shall provide the City with an Environmental Impact Statement (EIS), prepared by a qualified professional. In 2018, Application D10-18-02 was submitted to the Ministry of Natural Resources and Forestry (MNRF) for comment, the most recent submission being application for consent file D10-20-02 was also forwarded to MNRF for comment. In both applications, the comments from MNRF were of no concern with very low risk to natural heritage values. An EIS has



not been submitted as part of this application. Future development at 1903-A Highway 17W shall comply with the policies of the Official Plan.

### **c) Zoning By-law No. 101-2015**



The subject property is currently zoned RR [38], a site specific Rural Residential Zone to allow for use of a converted dwelling on a lot with reduced frontage along Mink Bay.

Section 4.5.3 (a) of the zoning by-law regulates lot frontage in the RR - zone to a minimum of 61 metres. The current zoning allows for reduce frontage to permit severance; approval of lot addition, transferring 0.43 ha of land to the abutting parcel of property locally known as 1930-A Highway 17 W, Part 1, Plan 23R-7097, PIN-42154-0030, will reduce the frontage along Mink Bay to approximately 22.7 metres. All other regulations and requirements of the zoning by-law would be met for the lot dimensions and building locations.

The 0.43 ha of the subject property being contemplated for consent, lot addition to the abutting 1930-A Highway 17W is occupied with two shipping containers which contravene the current provisions of Section 3.34.1 (g) - Accessory Structures of the current zoning by-law. Removal of these shipping containers shall be a condition of approval.

As per Section 3.34.1 (g)- Accessory Structures of Zoning By-law 101-2015

When a shipping container is permitted, such shipping container shall:

- a. be used exclusively for the storage of goods and materials and shall not be used as a garage, as human habitation, or to accommodate uses such as work areas, shops, or offices;
- b. only be permitted in the following zones: HC – Highway Commercial, ML – Light Industrial, MH – Heavy Industrial, MX – Extractive Industrial and RU – Rural, Open Space and I – Institutional;
- c. be located no closer to the road than the principle structure;
- d. not be located in any front yard where there is no other structure; and
- e. Site Plan Control shall be used for exterior finishes.

## 6. Results of Interdepartmental and Agency Circulation

<b>Department s and Agencies Circulated</b>	<b>Comments Received</b>
Building Department	The Building Department would like to add/confirm the following; <ul style="list-style-type: none"> <li>- Building permit 2018-0075 was issued June 18, 2018 (renovations required for use as a triplex);</li> <li>- Occupancy Permit issued July 11, 2019</li> </ul> -April 24, 2020
Roads Department	The property owner needs to obtain an entrance permit for lot 1 for the access to Ratcliffe drive. Also it is the property owners responsibility to construct the road way in the unopened portion of the road allowance of Ratcliffe drive in accordance with the municipal standards – March 26, 2018 reviewed April, 2020 with no change.
Water & Wastewater Department	No changes on the earlier comments from the Division. -April 24, 2020 Division has no issues on this application - April 24, 2020
Kenora Fire & Emergency Services	Kenora Fire has reviewed the attached application for a lot extension for 1930-A Highway 17 W and has no concerns. - April 24, 2020

Hydro One	No comments received
Ministry of Natural Resources	<p>Given that no concerns were identified in our previous review, that this was reviewed relatively recently and that a lot addition poses very low risk to natural heritage values, we're comfortable allowing our previous comments to stand.</p> <p>- April 27, 2020</p> <p>We have not identified any concerns as a result of our review Jessica Malone-Daniher, District Planner - March 5, 2018</p>
Northwestern Health Unit	<p>We are still ok with this lot addition that makes the lot it is being added to much better. The septic for the multi-unit dwelling was designed and installed for a multi-unit dwelling and it is not near the land to be transferred.</p> <p>-April 24, 2020</p> <p>Included within the Application a copy of the NWHU Report regarding the above mentioned property - January 31, 2018</p> <div data-bbox="448 840 1169 1757"> <p><b>Northwestern Health Unit</b> Application for Consent Report</p> <p><b>Regarding Property:</b>        legal description: Pt Mining Loc 233P Plan 23R-5012        location: 1930 Hwy 17 West        Owner(s): KC Refrigeration Ltd - Ken Campbell        NWHU File Number: LDK036-17</p> <p>The Northwestern Health Unit inspects and/or reviews proposed consents to assess the retained and new proposed lot's ability to have future Ontario Building Code compliant septic systems and to assess the suitability of any existing sewage systems. Most illnesses that arise from contact with sewage are caused by pathogens which are biological agents that cause disease or illness in a host. Pathogens in sewage include bacteria, parasites and viruses. They can cause a wide variety of acute illnesses.</p> <p>The items below only address the sewage system capability of the proposed consent. Any deficiencies noted about existing sewage systems are dealt with directly with the property owner.</p> <p>Systems are subject to environmental factors such as soil conditions, prevalence of shallow or exposed bedrock, groundwater table and drainage. Correct or improper usage of a system will also affect its operable longevity.</p> <p><b>Retained Property</b>  <b>Main Sewage</b>        There is a dwelling with an existing septic system. There is sufficient area to install a new system in the same general area when needed.</p> <p>The septic approval was issued when there were two units instead of three rentals in the apartment complex. The conversion of the plumbed shop to an apartment does increase the potential sewage flow. There is area on the remaining property to address this increase if need be.</p> <p><b>Severed Property</b>  <b>Main Sewage</b>        The proposed lot is vacant and there are suitable areas to install a future septic system with imported sand fill.</p> <p>The severed portion is being added to a vacant lot. This addition will only increase the ability of the new lot to support a septic system.</p> <p><b>Final Comments:</b>        The Northwestern Health Unit has no objections to the proposed consent</p> <p><b>Property Inspected By:</b>        Doug Vergunst, Chief Building Official        Date: Jan 31 2018</p> <p><b>Report Reviewed By:</b>        Doug Vergunst, Chief Building Official        Date: Jan 31 2018</p> </div>

## **7. Public Comments**

As the Province of Ontario declared a State of Emergency and continues to take significant steps to limit the transmission of the COVID-19 virus, the City of Kenora continues to protect the health and safety of the public, Council, and employees while at the same time processing Planning Act applications to ensure services that support community development can continue. Therefore, in accordance with the City of Kenora Procedural By-law 043-2020, Planning Advisory Committee shall hold a virtual public meeting in accordance with the Planning Act, and orders made under the Emergency Management and Civil Protection Act.

Notice of the Application and virtual Public Hearing was given in accordance with Section 53 of the Planning Act, whereby it was circulated on May 4<sup>th</sup>, 2020 to property owners within 60 metres, and circulated to persons and public bodies as legislated.

As of the date of this report (May 8<sup>th</sup>, 2020) no public comments have been received.

## **Evaluation**

If approved, the subject application for lot addition would enable an existing vacant and non-complying lot at 1930-A Highway 17W to become more compliant with the provision of the RR- zone, and would allow for the opportunity of develop the lands to provide for housing, in a desirable form and in a manner that protects the natural environment.

The reduction in lot area to the retained portion at 1930 Highway 17W would have no negative impact to the functionality of the property, servicing or natural heritage values.

Concerns in regard to outdoor storage and waste debris which were identified in the submission of an application for consent in 2018, which subsequently lapsed have now been addressed as shown in the site visit photos.

The application is consistent with the objectives of the Provincial Policy Statement (2020) and conforms to the Official Plan (2015). While the proposed development doesn't comply with the specific provisions for lot area and frontage within the zoning by-law, the retained lands have received a site specific re-zone to allow for the severance to occur, and the lands at 1903-A Highway 17W are considered legal non-complying to the provisions of the by-law. The lot addition will encourage the land at 1930-A Highway 17W to become more compatible to the RR- zone provisions. As such, the application for lot addition meet the general intent and purpose of the Zoning By-law 101-2015.

## **1. Legislative Framework for Consent approval**

The Committee shall evaluate a consent application based on the Provincial Policy Statement (2020), 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 opinion that application D10-18-04 for lot creation, at 1930 Highway 17 West, Part Mining Location 233P, Part 1 of 23R5012; PIN: 42174-0029; meets the intent of the Official Plan and Zoning By-law and should be approved, by granting provisional consent with the following conditions of approval:

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 access by Hydro One and/or Bell Canada, 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. That shipping containers located at 1930 Highway 17W and 1930-A Highway 17 W which contravene the provisions of By-law 101-2015, are removed.
7. 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, in addition to an electronic copy if available.
8. 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.
9. 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 #8 have been fulfilled. Clearance letters from the City of Kenora and external agencies are to be included.

#### **NOTES:**

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.

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.

Adam Smith

Manager Development Services