

**Local Planning Appeal Tribunal**  
Tribunal d'appel de l'aménagement  
local



**ISSUE DATE:** March 08, 2021

**CASE NO(S):**

PL200200

The Ontario Municipal Board (the “OMB”) is continued under the name Local Planning Appeal Tribunal (the “Tribunal”), and any reference to the Ontario Municipal Board or Board in any publication of the Tribunal is deemed to be a reference to the Tribunal.

**PROCEEDING COMMENCED UNDER** subsection 53(19) of the *Planning Act*, R.S.O. 1990, c. P.13, as amended

Appellant:	McDonald's T.V. & Furniture
Applicant:	2670766 Ontario Ltd.
Subject:	Consent
Property Address/Description:	105 Drury Street
Municipality:	City of North Bay
Municipal File No.:	B-05-20
LPAT Case No.:	PL200200
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LPAT Case Name:	McDonald's T.V. & Furniture v. North Bay (City)

**Heard:** September 16, 2020 via video hearing

**APPEARANCES:**

**Parties**

**Counsel\*/Representative**

McDonald's T.V. & Furniture

Lisa Carr

2670766 Ontario Ltd.

K. Jennings\*

**DECISION DELIVERED BY C. TUCCI AND ORDER OF THE TRIBUNAL**

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**INTRODUCTION**

[1] The matter before the Tribunal is an appeal under s. 53(19) of the *Planning Act* (“Act”) of the decision of the City of North Bay (“City”) Committee of Adjustment (“COA”).

[2] A consent to sever application was submitted to the City by Shortt Acquisitions on behalf of 2670766 Ontario Ltd. (“Applicant”), requesting to sever a portion of their holdings located at 105 Drury Street (the “subject property”) for the purpose of creating one new industrial/commercial lot.

[3] On May 12, 2020, the COA approved the Applicant’s Consent application with conditions.

[4] On June 2, 2020, McDonald’s T.V. & Furniture through its owner(s) (“Appellant”), appealed the decision to the Local Planning Appeal Tribunal.

[5] In considering the appeal, the Tribunal is to have regard for the criteria as set out in s. 51(24) of the Act when considering whether to grant the Application for Consent.

[6] Counsel for the Applicant, Kristie Jennings, filed a Book of Evidence with the Tribunal as Exhibit 1.

[7] The Tribunal heard uncontested planning opinion evidence from Paul Goodridge, a professional planner, who was qualified by the Tribunal to provide expert land use planning evidence for the Applicant, in opposition to the appeal.

[8] Lisa Carr, on behalf of the Appellant, spoke in support of her appeal of the COA’s decision. Ms. Carr called no supporting witness.

## **APPLICATION**

[9] The Applicant filed an Application for Consent to the COA referenced as City File No. B-05-20 to sever the vacant, northerly portion of the subject property to permit additional development of the one new industrial/commercial lot to be created from the subject property.

## PLANNING EVIDENCE

[10] The Tribunal heard evidence from Mr. Goodridge that the subject property is comprised of 1.429 hectares (3.53 acres) of land. It is bounded on the south by Franklin Street and the rear property boundaries of a few residences and a business that also front on Franklin Street; on the north by the North Bay By-Pass of The King's Highways 11 and 17; on the west by the Ontario Northland Railway right-of-way; and on the east by the Appellant's business and the City owned lands that provide access from Drury Street (also referred to as Drury Lane) to the subject property. The land is designated "General Industry" under the Official Plan and is zoned "Industrial Commercial (MC)" under Zoning By-Law No. 2015-30.

[11] The southerly portion of the subject property (0.827 ha) is leased to a rental business comprised of a 10,000 square foot building, paved customer parking at the front and gravel storage compound east, west and north of the building. The rental business has two entrances directly onto Franklin Street. The perimeter of the storage compound is completely fenced and no longer has access to the City owned lands. This portion of the property is described as the Retained Lands in the application for severance consent.

[12] The northerly portion of the subject property (0.602 ha) is currently vacant and is identified as the proposed Severed Lands in the application for severance consent. Although it fronts directly onto the North Bay By-Pass, it is unlikely the Ontario Ministry of Transportation will issue any entrance permits as this highway is classified as a controlled access highway. Therefore, the proposed access to this land is via the City-owned lands to Drury Street which has been used for this purpose for at least 50 years. The southerly 6.096 metres (20 feet) is subject to Easement LT114906 over Parts 1 and 2, Plan NR-1441 in favour of the City for sanitary sewers, storm sewers and watermains.

[13] In reviewing the Staff Report included at Tab 15 of Exhibit 1, Mr. Goodridge agreed with the conclusions of the report included herein.

## **PROVINCIAL POLICY STATEMENT 2020 (“PPS”)**

[14] Mr. Goodridge reviewed the PPS and testified that section 1.3.1 of the Policy encourages intensification and use of existing infrastructure. The proposed severance facilitates this policy objective by creating an additional property within the Settlement Area for industrial/commercial development. Sections 1.6.3 and 1.6.6.2 of the PPS also promote intensification and redevelopment within Settlement Areas and the optimization of existing infrastructure. The proposed severance facilitates this policy objective by creating an additional property within the Settlement Area, which will utilize existing services.

[15] Mr. Goodridge was of the view that the Application is consistent with the Policy objectives of the PPS.

## **GROWTH PLAN OF NORTHERN ONTARIO**

[16] Mr. Goodridge noted that The Growth Plan for Northern Ontario (“Growth Plan”) focuses on investing in the economic and population growth of Northern Ontario.

[17] Through the creation of a new lot that can be developed for either light industrial or limited commercial uses, Mr. Goodridge opined that this application is consistent with the policy direction of the Growth Plan.

## **CITY OF NORTH BAY OFFICIAL PLAN**

[18] Mr. Goodridge stated that section 2.2 of the City’s Official Plan promotes economic development through all sectors, including industrial and commercial sectors. Section 2.1 directs that new growth be concentrated within the Settlement Area. These goals are further expanded in section 2.2.1 Employment Lands – Commercial and section 2.2.2 Employment Lands – Industrial. The subject property is designated General Industry.

[19] The purpose of the severance application is to facilitate the future construction of an industrial/commercial project within the Settlement Area using existing City infrastructure and services. This will help to increase the employment land stock within the City of North Bay.

[20] For the reasons provided in his evidence, Mr. Goodridge concluded that the Application conforms with the policy direction of the City of North Bay Official Plan.

### **CITY OF NORTH BAY ZONING BY-LAW**

[21] Mr. Goodridge agreed that the subject lands are zoned Industrial Commercial (MC). There is neither a frontage nor an area requirement for any industrial land use. The end use of this lot is not yet known but must conform to the listed uses for the Industrial Commercial (MC) category.

[22] In Mr. Goodridge's view, the Application meets the regulations of Zoning By-Law No.2015-30.

[23] Mr. Goodridge opined that the Conditions set forth by the COA are reasonable, represent good planning and should be approved by the Tribunal.

[24] The Appellant informed the Tribunal of their concerns with the consent application. The Appellant claim the proposed severance "does not have legal access, no legal right of way and no legal municipal maintained access to the new proposed lot." The Appellant further informed the Tribunal that parking issues were her major concern. Within close proximity, the "Tim Horton's restaurant and the building owned by Gerry's Heating occupy the majority of the parking spaces, leaving very little parking available to their tenants."

[25] The Appellant was informed by City staff that these issues had no direct relation to the Consent application but that would be dealt through City's Municipal Enforcement department. The Tribunal is satisfied that the Appellant's concerns have been

addressed and will be dutifully enforce all violations by the City's Municipal Enforcement division.

[26] The Tribunal, after considering the unchallenged expert testimony of Mr. Goodridge is satisfied that the Application has regard for the matters of provincial interests as set out in s. 2 of the Act.

[27] The Tribunal finds the Application is consistent with the policies of the PPS and represents an efficient use of land and the existing infrastructure.

[28] The Tribunal finds the Application conforms to the policies of the Growth Plan as it is supporting intensification and also conforms to the City of North Bay Official Plan.

[29] The Tribunal is satisfied the Application for Consent has regards for the criteria set out in s. 51(24) of the Act.

## **ORDER**

[30] The Tribunal orders that the Appeal is dismissed, and the provisional consent is to be given subject to the conditions set out in Attachment 1 to this Decision and Order.

*"C. Tucci"*

C. TUCCI  
MEMBER

If there is an attachment referred to in this document,  
please visit [www.olt.gov.on.ca](http://www.olt.gov.on.ca) to view the attachment in PDF format.

### **Local Planning Appeal Tribunal**

A constituent tribunal of Ontario Land Tribunals

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## ATTACHMENT 1

### CONSENT APPROVAL CONDITIONS

1. That a copy of the new survey be filed with the City.
2. Confirmation that all taxes are paid up to date.
3. That the applicants enter into any necessary Agreements with the City of North Bay for creation of an access through the City owned land of Drury Street. This may include access, construction and maintenance agreements.
4. That all conditions must be fulfilled within a period of one year from the date of the issuance of the Order of the Tribunal, failing which the consent will be deemed to be refused for failure to fulfil the conditions pursuant to section 53(41) of the *Planning Act*, R.S.O. 1990, as amended.
5. That a Transfer/Deed of Land be submitted to the Secretary-Treasurer for the issuance of a Certificate of Consent.
6. Subject to the transfer to the City of North Bay of any portion of the abutting road allowance to either the retained or the severed parcel which may still be in the paper title of the applicants. This transfer shall be free and clear of all encumbrances.