

PROCEEDINGS
for a Public Meeting
to discuss an Application for Zoning Bylaw Amendment
(Re:D14-22-03 1439 Railway Street)

Tuesday, April 5, 2022
12:00 p.m.

City Hall Council Chambers

*Due to COVID-19 and the requirement for physical distancing, the livestream meeting recording can accessed at:
<https://kenora.civicweb.net/Portal/>

PRESENT: Councillor A. Poirier, Acting Deputy Mayor (Chair)
Mayor D. Reynard (virtual attendance)
Councillor G. Chaze
Councillor R. McMillan
Councillor C. Van Wallegghem
Councillor M. Goss

Regrets: Councillor S. Smith (virtual attendance)

Staff: Kyle Attanasio, CAO
Kelly Galbraith, Deputy Clerk
Kevan Sumner, City Planner
Adam Smith, Director of Development Services

Land Acknowledgement – Councillor McMillan

As we gather, we recognize that we are on Treaty Three Lands which are steeped in rich Indigenous history and home to many First Nations and Metis people today. We continue to be thankful for the partnerships with Indigenous people.

Council Declaration of Pecuniary Interest & General Nature Thereof

- i) On Today's Agenda or from a previous Meeting
- ii) From a Meeting at which a Member was not in Attendance

Councillor Chaze declared pecuniary interest as he is the selling agent of the subject property.

Applications Being Considered:

- a) Zoning Bylaw Amendment: D14-22-03
Civic Address: 1439 Railway Street
Registered Owner: Paulette Michalchuk
Agent: Kenora Resource Consultants

Applicant Presentation(s)

Chirag Patney presented the planning application. This proposal will maintain the commercial and residential uses in the subject property but bring them into compliance with municipal zoning by-laws.

City Planner Report/Rationale

An application has been received to change the zoning of the subject property (Figure 1) from "ML" Light Industrial Zone and "R2" Residential – Second Density Zone with a "HL" Hazard Land Zone overlay and an "EP" Environmental Protection Zone overlay, to "GC" General Commercial Zone with a "HL" Hazard Land Zone overlay and an "EP" Environmental Protection Zone overlay.

Description of Proposal

A request was made by Hook, Seller & Lundin for a Zoning and Building Compliance Letter pertaining to 1439 Railway Street. Within the request, the existing use was listed as commercial with four dwelling units on the second floor of the main structure. The described uses are located on a portion of the property zoned "ML" Light Industrial Zone. As per Section 4.9.3(j) of the City of Kenora *Zoning By-law No. 101-2015*:

(j) a maximum of one dwelling unit shall be permitted as an accessory use to any permitted use. The dwelling unit must be occupied by the business owner, caretaker, security guard, or similar employee.

This application for an amendment to the Zoning By-law to the proposed "GC" General Commercial Zone will enable the lawful permitting of multiple dwelling units to be located above permitted uses that occupy the first floor of a non-residential use building. The "GC" zone also permits the future change in use of the main floor of the structure to a recreational (fitness) facility, which has been identified by the Agent as a possible future use. Upon approval, Section 1.10 of the Zoning By-law will apply, being applications for building permits are required, per the Ontario Building Code Act and *Ontario Building Code*, in addition to all other relevant policies in the Official Plan, Zoning By-law, and Site Plan Control By-law.



Figure 1: Subject property.

Existing Conditions

An existing commercial building, previously occupied by Degagne Enterprises Inc., is located on the property, which fronts on Railway Street and is serviced by municipal sewer and water. A wetland is located on the eastern portion of the property.

Site Visit

On March 7th, 2022, I attended the subject location to view existing conditions. The photo below is intended to provide a visual of the existing property.



Figure 2 – View of property from Railway Street.

Consistency with Legislated Policy and City Directives

a) Provincial Policy Statement (PPS) 2020

Policy 1.3.1(d) states that planning authorities shall promote economic development and competitiveness by encouraging compact, mixed-use development that incorporates compatible employment uses to support liveable and resilient communities.

b) City of Kenora Official Plan (2015)

The land use designation of the subject property is Commercial Development Area with an Environmental Protection overlay on the eastern portion of the property (Figure 3). In the Commercial Development Area, the continued development of retail commercial uses is promoted in order to serve the residents of the City of Kenora, Northwestern Ontario, western Canada and the Midwestern United States. Permitted uses in the Commercial Development Area shall primarily serve vehicular traffic. Residential land uses shall be permitted on a limited basis in existing buildings and structures suitable for residential use (Section 4.4).

The Environmental Protection overlay designation indicates land to be protected for environmental reasons for the protection of groundwater or other environmental reasons (Section 5.1.3). The Environmental Protection overlay on the subject property indicates the presence of a wetland.



Figure 3 – Official Plan Mapping

c) Zoning By-law No. 101-2015

The western portion of the property is currently zoned "ML" Light Industrial Zone. The eastern portion of the property is zoned "R2" Residential – Second Density Zone. Most of the property is also covered by a "HL" Hazard Land Zone overlay and the eastern portion is covered by an "EP" Environmental Protection Zone overlay (Figure 4). The application proposes to replace both the "ML" and "R2" zones with the "GC" General Commercial Zone, while retaining the "HL" overlay zone.

The "GC" zone allows for a wide range of uses and services to meet the needs of residents, businesses and tourists.

The "HL" overlay zone identifies lands which are susceptible to flooding or erosion or any other physical characteristic which could cause harm to persons or lead to the deterioration of buildings and structures.

The "EP" zone is applied to land that is designated as provincially Significant Wetland in the Official Plan.

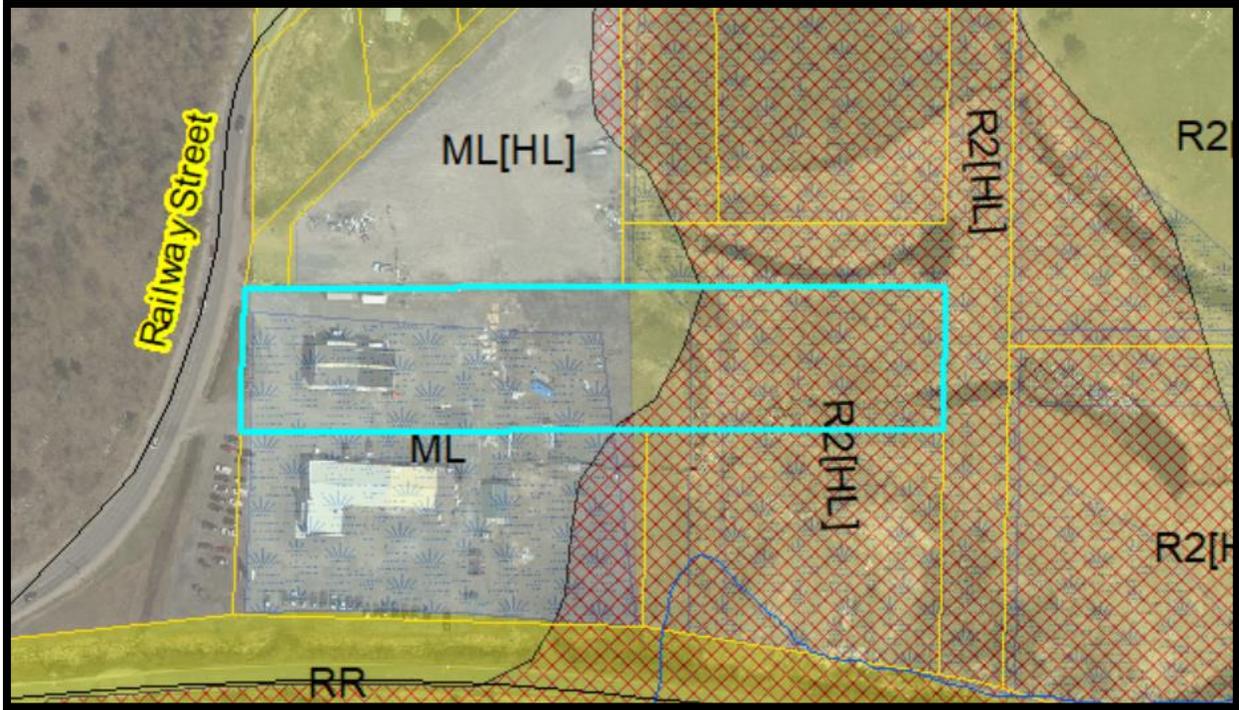


Figure 4 – Current Zoning By-law Mapping. “ML” zone is indicated in grey and the “R2” zone is indicated in light yellow. Blue hatching indicates the limits of the “HL” overlay zone and red hatching indicates the extent of the “EP” overlay zone.

Results of Interdepartmental and Agency Circulation

The proposed zoning amendment was circulated for comment on February 24th, 2022. The following is a summary of comments received in response.

Building	A Building Permit will be required for the 4 existing unpermitted residential units. Design by a code qualified designer is required and must accompany the application submission.
Community Services	No concerns
Engineering	No concerns
Environmental Division	No concerns
Fire and Emergency Services	No concerns
Roads	No concerns
Water / Wastewater	No concerns.
Ministry of Environment, Conservation, and Parks	No concerns.
Ministry of Northern Development, Mines, Natural Resources and Forestry	No concerns.
Synergy North	No concerns.

Public Comments

A public meeting is scheduled to be held by Council on April 5th, 2022. Notice of the application was given in accordance with Section 34 of the Planning Act, whereby it was circulated to property owners within 120 metres, published in the Municipal Memo of the Newspaper on March 10th and 17th, and circulated to persons and public bodies as legislated.

The Planning Advisory Committee had the opportunity to consider the application to Council at the meeting on March 15th, 2022, and has recommended approval. The minutes and relevant resolution from this meeting are attached.

As of the date of this report (March 29th, 2022), no public comments have been received.

Evaluation

The proposed zoning amendment is appropriate to bringing the existing use of the property in to conformance with the Zoning By-law and to permit the future redevelopment of the property as a fitness facility. The preservation of the "HL" and "EP" overlay zones ensures the continued protection of the wetlands on the eastern portion of the site.

Both the Provincial Policy Statement and the Official Plan are supportive of the zoning by-law amendment, which preserves the lands as an Employment Area and enables a commercial use.

Site Plan Control approval will be required due to the change in use of the property to a recreational facility with a residential use of the second storey, and being partly situated in an Environmental Protection Area.

The Building Division will require a Building Permit if the property owner wishes to bring the property into compliance with the Ontario Building Code. Obtaining a building permit is not recommended as a precondition to the zoning amendment, as the zoning must change to allow the dwellings as a use before the permit can be issued.

Recommendation of City Planner

That Council hereby approves the Application for Zoning By-law Amendment, File No. D14-22-03, to change the zoning of the subject properties from "ML" Light Industrial Zone and "R2" Residential – Second Density Zone with a "HL" Hazard Land Zone overlay and an "EP" Environmental Protection Zone overlay, to "GC" General Commercial Zone with a "HL" Hazard Land Zone overlay and an "EP" Environmental Protection Zone overlay; and further

That Council gives three readings to a by-law to that effect.

Questions of Council (no decision)

There were none.

Close of Public Meeting

Acting Deputy Mayor Poirier asked if there were any questions.

There were none.

As there are no further questions, Acting Deputy Mayor Poirier declared this public meeting CLOSED at 12:17 p.m.