



PROCEEDINGS
For Public Statutory Meeting
as per the requirements of the Planning Act
R.S.O 1990, c.P13, s. 34

Wednesday, April 12, 2023

12:00 p.m.

City Hall Council Chambers

Livestream Recording: <https://kenora.civicweb.net/Portal/>

Present: Mayor A. Poirier
Councillor R. Bernie
Councillor G. Chaze
Councillor L. Koch
Councillor B. Manson
Councillor L. Moncrief
Councillor K. Van Belleghem

Staff: Kyle Attanasio, CAO
Heather Pihulak, Director of Corporate Services/City Clerk
Kevan Sumner, City Planner (virtual)
Stace Gander, Director of Economic Growth & Recovery
David Pratt, Director of Fire & Emergency Services
Andrew Smith, General Manager of Recreation & Culture

Land Acknowledgement – Councillor Manson

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
There were none.

1. Applications Being Considered:

a) Official Plan Amendment: D09-23-01

Applicant Presentation(s)

- The City is the applicant on this application.

City Planner Report/Rationale

- City Planner, Kevan Sumner described the details of the planning application(s).

Introduction

The City of Kenora Planning Department is proposing to amend the Official Plan, to bring the policies of the City of Kenora into compliance with *Planning Act* amendments made under Bill 23, the More Homes Built Faster Act and remove policies that restrict development of additional residential units with laneway access.

Description of Proposal

The purpose of the Official Plan Amendment is to update policies for Additional Residential Units (formerly referred to as Secondary Dwelling Units), to bring policies into compliance with recent amendments to the *Planning Act* by:

- Deleting Section 3.16 Laneway Housing, and
- Replacing Section 3.21 Secondary Dwelling Units with Section 3.21 Additional Residential Units, containing policies supporting up to two additional residential units for dwellings in urban areas and one additional residential unit for dwellings in rural areas.

The policies regarding Laneway Housing, which can be found in Section 5(c), are considered by the Planning Department to be unnecessarily restrictive and contrary to the spirit and intent of Bill 23 by making it impossible to develop detached accessory residential structures on many urban residential lots. For this reason, it is proposed that they be removed from the Official Plan to align with the direction and "as of right" under Bill 23.

The proposed new policies for Additional Residential Units (a) through (c) are reflective of the policies for urban residential areas as set out in the new amendments to the Planning Act. Policies (d) and (e) carry forward the existing policy supporting an additional residential unit in Rural Areas while clarifying that a unit may either be within a dwelling or within an ancillary structure and removing an existing loophole that would support both an additional residential unit and a separate structure with sleeping quarters (sleep cabin) on a single property.

Other references to "secondary dwelling units" elsewhere in the Official Plan will be updated to refer to "additional residential units".

Legislated Policy and City Directives

a) Provincial Policy Statement (PPS) 2020

The PPS states that healthy, livable, and safe communities are sustained by 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. In rural areas, permitted uses include residential development that is locally appropriate.

The PPS requires that planning authorities provide for an appropriate range and mix of housing options and densities to meet projected market-based and affordable housing needs of current and future residents by permitting and facilitating all housing options required to meet the social, health, economic and well-being requirements of current and future residents, including special needs requirements and needs arising from demographic

changes and employment opportunities, and all types of residential intensification, including additional residential units.

The PPS policies state that long-term economic prosperity should be supported, in part, by encouraging residential uses to respond to dynamic market-based needs and provide necessary housing supply and range of housing options for a diverse workforce.

b) Bill 28: More Homes Built Faster Act

Bill 23 made numerous amendments to existing laws with the intention of supporting the Province of Ontario's Housing Supply Action Plan and facilitating new housing development in Ontario. The Act included amendments to the Planning Act to create a new provincial threshold for what is permitted to be built by strengthening the additional residential unit framework. Specifically, the new amendments permit urban landowners to add up to two additional residential units "as of right" for land zoned for one home in urban residential areas without requiring a zoning by-law amendment. The additional units can be within the existing residential structure or can take the form of a residence with one internal unit plus an accessory laneway or garden home. Zoning by-law standards respecting matters such as height and lot coverage are permitted to remain and continue to apply.

Bill 23 requires that all official plans and zoning by-laws permit the use of up to two additional residential units in a detached house, semi-detached house, or rowhouse, or one additional residential unit in the house plus one in a separate ancillary building or structure on the same property, on all parcels of urban residential land. It further requires that no policy or regulation may have the effect of requiring more than one parking space in connection with an addition residential unit, or requiring a minimum floor area. Any current policy that contravenes any of these requirements due to it being an as of right is of no effect.

There may be no appeal of Official Plan policies that are passed to authorize additional residential units on any residential land, whether urban or rural.

c) City of Kenora Charting Our Course 2027: 2022-2027 Strategic Plan

Housing is identified as one of the top six priorities stated under the Strategic Plan. Goal 2.1(b) of the Plan is to facilitate opportunities for more and diverse housing development across the housing spectrum.

d) City of Kenora Official Plan (2015)

To ensure that adequate and affordable housing is available for all residents, particularly seniors and new entrants to the housing market, the City of Kenora will encourage and promote the development of affordable housing by providing a toolkit of planning incentives and direct supports, including but not limited to more flexible zoning, and permitting Secondary Dwelling Units (Policy 3.2).

The existing policies 3.16 and 3.21 which highlights our current policy does support secondary dwellings in our rural areas but was not enacted in our regulations.

The policies of Section 3.16 Laneway Housing effectively prohibit the development of additional residential units in detached ancillary structures in the urban area. These policies single out laneway housing, but do not similarly restrict any other developments that utilise parking off of back lanes, including primary residential units, and thus may be considered prejudicial against additional residential units and contrary to the spirit and intent of the recent Planning Act amendments under Bill 23.

Policy 3.21 supports “secondary dwelling units” which are now termed as additional residential units in urban and Rural Area designations, but restricts laneway access and limits the number of units to one per lot.

Results of Interdepartmental and Agency Circulation

The proposed Official Plan amendment was circulated for comment on March 3rd, 2023. The following is a summary of comments received in response.

Building	No concerns
Community Services	No concerns
Engineering	No concerns
Economic Development	No concerns
Fire and Emergency Services	No concerns
Roads	No concerns
Water / Wastewater	No concerns
Bell Canada	No concerns
Synergy North	<p>No concerns, but re-iterate their conditions of service:</p> <p><i>In the City of Kenora, all new lots created by severance or subdivision shall be serviced as approved by the City of Kenora’s requirements.</i></p> <p><i>Where practical, there shall be only one Supply Point to each land parcel. In all cases, there shall be only one service to a building.</i></p> <p><i>In circumstances where multiple services are installed to a building and one service is to be upgraded, the upgraded service will replace all existing services.</i></p> <p><i>Under special conditions, where SYNERGY NORTH determines feasible, a second service may be allowed to a second unattached building on the same property. This service will be at full cost to the Customer. The total amperage under this condition on a single land parcel will not exceed 300-amps. For semi-detached buildings with required fire separation, there may also be two services.</i></p> <p><i>Residential services will include all services up to and including 400-amp, 120/240 V single-phase 3-wire. Residential Customers requiring an electrical service greater than 400-amp single-phase 120/240 V, shall be treated the same as General Service in Section 3.2 or 3.3 as applicable. In some cases, at the sole discretion of SYNERGY NORTH, a 600-amp single phase service may be considered.</i></p>

Public Comments

Notice of the application was given in accordance with Section 17 of the Planning Act, whereby it was published in the Municipal Memo of the Newspaper on March 16th, and circulated to persons and public bodies as legislated.

The notice also stated that the Planning Advisory Committee would have the opportunity to consider recommendation for the application to Council at the meeting on March 21st, 2023. The minutes and relevant resolution from this meeting are attached. Please note that both the Official Plan amendment and the associated zoning by-law amendment were considered under a single report. The report has been separated for the public meeting, to more clearly differentiate the two sets of amendments.

As of the date of this report, three sets of comments have been received from one person and are attached to this report with identifying information redacted. It expresses concern regarding the regulation of additional residential units in rural areas with respect to density provisions, ownership, sizes, location on waterfront lots. The writer recommends against permitting additional residential units in the RR and Black Sturgeon Lakes restricted zones.

Evaluation

We know that there is a need for additional housing in the City of Kenora, and for affordable housing in particular. There is no simple solution for meeting this need, but encouraging and facilitating the development of additional residential units can be a significant step towards helping to address this need.

The benefits of additional residential units have been proven across Canada. These include enabling older homeowners to age in place, enabling first-time home buyers and others to incorporate revenue generating units to offset the high price of housing, and enabling cities to make more efficient use of existing infrastructure.

Under the amendments to the Planning Act made by Bill 23, no Official Plan may contain a policy that has the effect of prohibiting up to two additional residential units on urban residential land. This has the effect of granting an "as of right" to develop additional residential units on such properties, regardless of the policies of the local Official Plan. In situations like this, it is best practice to update the local policies and regulations to remove any discrepancies and help avoid confusion on the part of the public.

The proposed new Official Plan policies replace current policies regarding "secondary dwelling units" in urban residential areas, which are considered to have no effect as a result Planning Act amendments made by Bill 23. The proposed new policies will bring the Official Plan into compliance with the Planning Act amendments with regards to urban properties.

For rural properties, the new policies support a single additional residential unit, which is a continuation of the current policy. The text has been updated to be consistent with the "additional residential unit" terminology and the structure of the urban policies. The new rural policies also clarify that an additional residential unit is only permitted in an accessory structure if no other accessory structure contains an additional residential unit or sleeping quarters. This prevents both an additional residential unit and a sleep cabin from being built on the same property, but would permit a sleep cabin to be converted to an additional residential unit with the addition of a kitchen.

The Laneway Housing policy is recommended to be removed because it has the effect of prohibiting an additional residential unit on most urban residential properties, and thus has the effect of broadly prohibiting a key right granted under Bill 23. At the same time, it appears to be prejudiced in ignoring all other land uses that commonly make use of parking off of public lanes.

Recommendation

The City Planner recommends Council to support the Application for Official Plan Amendment, File No. D09-23-01, to bring the Official Plan policies into compliance with *Bill 23: More Homes More Choices Act*.

Public Comment

Any person may express his or her views of the amendment and a record will be kept of all comments.

Susan Cone – the concern is with the additional units in the rural residential. Want it written in the bylaw amendment what the responsibility or guidelines are for the sewage. Recognize that it is a NWHU issue, but if it is in our bylaw we have some enforcement capabilities. What exactly is the expectations for the septic field. The septic fields are built to the primary houses and do not feel it is sufficient to have sewage and septic in accordance with Northwestern Health Unit. Less likely to be abuse of the system.

Kevan Sumner explained that this was a topic at Planning Advisory and it was reviewed with the Chief Building Official following the PAC meeting. Under the building code, any enlargement of a building structure requires a new permitting approval under the NWHU. Anyone who is applying for a building permit with the City will require that proof with the NWHU. If we put it into our regulation, it is a wish because septic falls under the building code and not enforceable under the zoning bylaw. The NWHU is not obligated to comply with anything under the zoning bylaw and is not a matter of the Ontario Building Code.

Ms. Cone is concerned about the size of the accessory structure and the location of the structure. Kevan explained that we are seeking definitions which would be included. We didn't quantify the size as under our current conditions there are regulations with different sizes. Ms Cone noted that somehow this needs to get translated to the density to Black Sturgeon. Protecting the water quality in Black Sturgeon is of concern. Kevan Sumner noted that they do ensure there is appropriate septic systems, and density on Black Sturgeon Lake was addressed with number of lots permitted to be created. There is a threshold set to 2025 and we didn't restrict sleep cabins, or any other units being developed on those properties. Ms. Cone is concerned that sewage will be properly monitored.

There will be another comprehensive review of the lake capacity in 2025 as stipulated in the original water quality report and we also do annual water quality monitoring testing which have identified no fluctuating decline water quality over the period of monitoring. We are aware that there are additional units being constructed on Black Sturgeon and we want to ensure those are being done on a permit basis.

Questions of Council

Councillor Moncrief asked if the language be included in our bylaw to ensure the person takes a second look at it? It was questioned if we can put it into the zoning bylaw but not sure we have authority for enforcement. Kevan explained we can certainly put something in. It was questioned what the plan would be if numerous people start building secondary dwellings. Right now they require zoning bylaw amendments for each property that they want an additional residence on.

The restrictions right now are on the number of lots but have never restricted the number of dwellings. Right now we are 60-80 dwellings short of development on Black Sturgeon Lake. The current guidelines do not talk about number of dwellings, just lots.

For some reason we adopted a policy that said secondary dwellings are permitted in the rural areas. Councillor Van Belleghem is more interested in how we create density in our urban areas versus in a rural area. Bill 23 doesn't speak to rural areas and maybe this could be separated out and only focus on the urban areas. If we are looking at our urban boundaries, that rationale does not apply. Our current rural policies says it is permitted in rural areas.

Zoning Bylaw Amendment: D14-23-02

Applicant Presentation(s)

- The City is the applicant on this application.

City Planner Report/Rationale

- City Planner described the details of the planning application(s).

Introduction

The City of Kenora Planning Department is proposing to amend the Zoning By-law No. 101-2015, to implement the policies being proposed under the associated Official Plan amendment and remove or update regulations that unnecessarily restrict development of additional residential units.

Description of Proposal

The purpose and effect of the Zoning By-law Amendment is to implement the associated Official Plan Amendment by:

- Amending Section 2 Definitions to delete the definitions for "Secondary Dwelling (Interior)" and "Secondary Dwelling (Exterior)", and add a new definition for "Additional Residential Unit", as follows:
Additional Residential Unit: A self-contained residential unit with private kitchen, bathroom facilities, and sleeping areas within dwellings or within structures ancillary to a single-detached, semi-detached, or multiple attached dwelling. It can be located within the main residential building and/or in an accessory building on the same lot, and has a smaller gross floor area than the primary residential unit.
- Replace all references to "Secondary Dwelling (Interior)" and "Secondary Dwelling (Exterior)" with "Additional Residential Unit" throughout the by-law.
- Deleting the current section 3.28 Secondary Dwelling Units and replacing it with a new section 3.28 Additional Residential Units.

The regulations under proposed section 3.28.1 are intended to implement policies 3.21 (a) through 3.21 (c) of the associated Official Plan amendment. Additionally, they require that all additional residential units in the urban area must be connected to municipal sewer and water, as is required under the existing regulations.

The regulations under proposed section 3.28.2 are intended to implement policies 3.21 (d) and 3.21 (e) of the proposed Official Plan amendment. Additionally, they require that additional residential units in the rural area must be serviced by approved sewer and water services. It is important to note that in rural areas, a detached additional residential unit is only permitted if no other accessory structures contain a residential unit or sleeping quarters. Sleep cabins are currently permitted in rural zones, and could be converted to a residential unit through addition of a kitchen, but an additional residential unit may not be added if a sleep cabin is already located on a property.

The general regulations under proposed section 3.28.3 are intended to apply to both rural and urban areas. They are intended to ensure that it is clear that detached units must be on the same lot as the primary dwelling (3.28.3(a)) and that parking is provided on the property (3.28.3(b)).

3.28.3(c) is an existing regulation that is being carried forward to these proposed new regulations, and clarifies that additional residential units are not included in density calculations. This is primarily a consideration in urban areas, where certain Official Plan policies and zone regulations are tied to density. For example, large portions of the urban area are designated as Established Area under the Official Plan, and requiring a zoning amendment if the number of dwellings exceeds 40 units/net hectare. Any more than two dwellings on a typical residential lot would exceed this density calculation. This would go against the spirit and intent of the recent Planning Act amendments under Bill 23.

3.28.3(d) is another existing regulation being carried forward, which clarifies that additional residential units may not be developed in addition to other, similar uses that similarly add additional residential living spaces on a property.

3.28.3(e) clarifies that accessory structures containing additional residential units are subject to the same zoning regulations that apply to other accessory structures on a property, and prevents the redevelopment of existing non-compliant accessory structures into additional residential units.

Other references to "secondary dwelling units" elsewhere in the Zoning By-law will also be updated to refer to "additional residential units".

Legislated Policy and City Directives

b) Provincial Policy Statement (PPS) 2020

The PPS states that healthy, livable, and safe communities are sustained by 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. In rural areas, permitted uses include residential development that is locally appropriate.

The PPS requires that planning authorities provide for an appropriate range and mix of housing options and densities to meet projected market-based and affordable housing needs of current and future residents by permitting and facilitating all housing options required to meet the social, health, economic and well-being requirements of current and future residents, including special needs requirements and needs arising from demographic changes and employment opportunities, and all types of residential intensification, including additional residential units.

The PPS policies state that long-term economic prosperity should be supported, in part, by encouraging residential uses to respond to dynamic market-based needs and provide necessary housing supply and range of housing options for a diverse workforce (Policy 1.7.1).

e) City of Kenora Official Plan (2015)

To ensure that adequate and affordable housing is available for all residents, particularly seniors and new entrants to the housing market, the City of Kenora will encourage and promote the development of affordable housing by providing a toolkit of planning incentives and direct supports, including but not limited to more flexible zoning, and permitting Secondary Dwelling Units (Policy 3.2).

Details of the amendments being proposed for the Official Plan under application D09-23-01 may be found in associated report.

Zoning By-law No. 101-2015

Secondary Dwelling units are regulated under section 3.28, which contains the following regulations. Notations have been added to indicate which regulations are being carried forward, amended, or deleted in the proposed new regulations. In the case of regulations being carried forward, some are being implemented differently, such as through clarifying language under Definitions.

These current regulations were structured around the current Official Plan policies, with their limit of one unit per lot and restriction on laneway housing. While the current Official Plan policies supported secondary dwelling units in Rural Areas, that policy was never implemented in the Zoning By-law, which restricted secondary units to the R1, R2, and R3 zones. The SH Small Home Zone was added to the by-law in 2019, but secondary dwelling unit regulations weren't updated at that time, and as an urban residential zone it must allow for additional residential units.

In addition to the restriction on laneway housing, there are other current regulations that may be seen as unreasonably restrictive and being in conflict with Bill 23 and the proposed new Official Plan policies. This includes restricting detached units to lots of 1,000m², which eliminated the majority of residential lots in the urban area, where a typical residential lot (originally surveyed at 50' x 120') is approximately half that size (557 m²). Other broadly limiting regulations include restricting detached units from undersized lots and from waterfront lots, which eliminates large numbers of lots throughout the City.

General regulations elsewhere in the by-law pertaining to all accessory structures will still apply, meaning that individual accessory structures are limited to 10% of the area of a lot and total lot coverage in urban residential zones is limited to 40%. Additionally, detached accessory structures are not permitted in waterfront front yards, which ranges in depth from 7.5m in urban zones to 20m in the BSL zone (or 1m in all zones, if there is also a 20m shoreline public reserve between the lot and the water).

Similarly, the requirement for amenity areas is not being carried forward as it singled out additional residential units without applying the same requirement to duplexes and other situations where eight or fewer residential units are on the same property. Lot coverage restrictions require that at least 60% of urban residential lots remain clear of structures.

Regulations that served no clear purpose or benefit have been removed under the same by-law. This includes requiring the height of an accessory unit to be within 2m of the height of

the primary dwelling, limiting entrances to the ground floor only, and restricting residences in accessory structures from being located below grade, all of which can be particularly troublesome on the sloping lots that are common in Kenora. Also proposed for removal is the requirement that additional units “not change the streetscape character”, which requires a subjective assessment or opinion that is all but impossible to regulate. The requirement that detached units must be within 50m of a public road was irrelevant in most urban areas and unnecessarily restrictive for large rural lots.

Regulations that were seen as beneficial have been carried through to the new regulations.

Results of Interdepartmental and Agency Circulation

The proposed zoning amendment was circulated for comment on March 3rd, 2023. The following is a summary of comments received in response.

Building	No concerns
Community Services	No concerns
Engineering	No concerns
Economic Development	No concerns
Fire and Emergency Services	No concerns
Roads	No concerns
Water/Wastewater	No concerns
Bell Canada	No concerns
Synergy North	<p>No concerns, but re-iterate their conditions of service:</p> <p><i>In the City of Kenora, all new lots created by severance or subdivision shall be serviced as approved by the City of Kenora’s requirements.</i></p> <p><i>Where practical, there shall be only one Supply Point to each land parcel. In all cases, there shall be only one service to a building.</i></p> <p><i>In circumstances where multiple services are installed to a building and one service is to be upgraded, the upgraded service will replace all existing services.</i></p> <p><i>Under special conditions, where SYNERGY NORTH determines feasible, a second service may be allowed to a second unattached building on the same property. This service will be at full cost to the Customer. The total amperage under this condition on a single land parcel will not exceed 300-amps. For semi-detached buildings with required fire separation, there may also be two services.</i></p> <p><i>Residential services will include all services up to and including 400-amp, 120/240 V single-phase 3-wire. Residential Customers requiring an electrical service greater than 400-amp single-phase 120/240 V, shall be treated the same as General Service in Section 3.2 or 3.3 as applicable. In some cases, at</i></p>

	<i>the sole discretion of SYNERGY NORTH, a 600-amp single phase service may be considered.</i>
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Public Comments

Notice of the application was given in accordance with Section 34 of the Planning Act, whereby it was published in the Municipal Memo of the Newspaper on March 16th, and circulated to persons and public bodies as legislated.

The notice also stated that the Planning Advisory Committee would have the opportunity to consider recommendation for the application to Council at the meeting on March 21st, 2023. The minutes and relevant resolution from this meeting are attached. Please note that both the zoning amendment and the associated Official Plan amendment were considered under a single report. The report has been separated for the public meeting, to more clearly differentiate the two sets of amendments.

As of the date of this report, three sets of comments have been received from one person and are attached to this report with identifying information redacted. It expresses concern regarding the regulation of additional residential units in rural areas with respect to density provisions, ownership, sizes, location on waterfront lots. The writer recommends against permitting additional residential units in the RR and BSL zones.

Evaluation

Zoning regulations implement the policies of the Official Plan. In some areas the policies provide clear guidance, such as in regards to the number of units to be permitted in urban and rural zones. In others, the spirit and intent of the policies must be considered. Regulations that single out additional residential units without applying the same standards of similar types of development appear not to reflect the intent of the policies or, and could even be seen as exclusionary or even discriminatory.

Other zoning regulations have little or not directly relationship to the policies of the Official Plan. In reviewing the existing secondary dwelling regulations and proposing the new additional residential unit regulations, the Planning Department has attempted to maintain regulations that are seen as having a significant benefit while removing or amending those that were seen as having little or no benefit.

The primary intent of these amendments is to facilitate new development, but we know that units have been developed without permits in both urban and rural areas of the City, in part because homeowners are discouraged by restrictive regulations or intimidated by the need for variances or zoning amendments. We hope that the new regulations may encourage some of these property owners to obtain the necessary permits, so that we can be assured these units meet Ontario Building Code standards and are safe for their inhabitants.

The current Official Plan states that secondary dwellings (additional residential units) are permitted in rural areas, but this policy hasn't previously been implemented in the zoning by-law. As a result, the City of Kenora has been requiring that such dwellings be approved through a Minor Variance application, which is a questionable use of that process. Uses of property are generally considered to be outside the scope of what can be approved under a variance. For units on waterfront properties in both urban and rural areas, a zoning amendment has been required, which adds expense, time, and public scrutiny to any proposal.

The new regulations require that any new additional residential units in rural areas must be connected to a septic system that is approved by the Northwestern Health Unit. This will ensure that the water quality of our lakes is protected, and is consistent with our approach to similar redevelopment of any rural property, such as when a seasonal dwelling is replaced with a permanent dwelling, or when an addition is made to an existing dwelling. The Northwestern Health Unit acts as Chief Building Official for approving all septic systems in the City of Kenora.

We heard concerns at the Planning Advisory Committee meeting and received three letters from a single member of the public with concerns regarding the design and inspection of septic systems in rural areas. It may be advisable to consult with the Northwestern Health Unit and the public as we review our general policies and regulations in the ongoing review of our Official Plan and zoning by-law, but it would be unfair to use such concerns as reason to prevent development of additional residential units without putting a similar moratorium on all other developments requiring private septic systems.

For any development adjacent to designated environmental areas such as provincially significant wetlands or Black Sturgeon Lake, Site Plan Control approval is and will continue to be required for new development, including new detached additional residential units.

If Council has concerns regarding permitting new additional residential units in ancillary structures or allowing conversion of sleep cabins to additional residential units on rural waterfront lots where septic systems are required, an option is to add an additional regulation for rural areas as follows:

3.28.2 (d) No additional residential unit is permitted in any ancillary building on a waterfront property in a rural area.

If Council chooses to make this amendment, the matter may be further considered as part of the ongoing review of the Official Plan and Zoning By-law.

Public Comment

Any person may express his or her views of the amendment and a record will be kept of all comments.

Questions of Council

Councillor Van Belleghem noted that she did not feel comfortable enough to make a decision on the rural piece of these changes. Is there a way to separate out the rural portion of this amendment? An amendment to the recommendation would need to come forward next week to remove the rural portion.

Mayor Poirier questioned if we have received inquiries for these additional units. Kevan confirmed that we have received inquiries. He is concerned about the statement about people not following legislation and the bylaws. If they are doing it, they are to be paying taxes on these changes as this is defrauding the municipality. Kevan indicated that if we receive a complaint about a specific property, we follow up with it. Often things are not up to code, and great to have permitting revenue but more importantly we want to ensure everyone is living in safe conditions. If we know about something, we do take it seriously and do follow up with enforcement.

Councillor Van Belleghem wanted to confirm that if we amend the recommendation to address the rural area, anyone who applies to rural areas would need to apply for zoning bylaw amendment for site specific.

b) Zoning Bylaw Amendment: D14-23-03

Civic Address: 1439 Railway Street

Legal Description:

Registered Owner: Pinnacle Kenora Holding Corp.

Agent: MHBC Planning

Applicant Presentation(s)

Shayne Connors, MHBC Planning and Urban Design & Landscape Architecture. Agent for Pinnacle Kenora Holding Corp.

The purpose of the application is to permit the reconstruction of the existing Hyundai dealership building on the subject property. The proposed building is slightly larger and has a different footprint than the existing building. The subject property is currently zoned the Light Industrial (ML) Zone with overlays for the Environmental Protection (EP) Zone and the Hazard Lands (HL) Zone. The location of the proposed building is subject to the HL Zone overlay. A Zoning By-law Amendment is required to permit new buildings within this overlay. Application proposes to remove a portion of the HL Zone overlay on the subject property to accommodate the proposed building and allow for non-habitable accessory buildings within the HL-56 Zone.

Planning Justification is an automobile dealership is a permitted use within the ML Zone. A lot grading plan was required and prepared to demonstrate that the building will be constructed at/above the elevation of 324.6 metres CGVD28 datum, which is the flood elevation for the Lake of the Woods area. The applicant agrees with the City's staff report and the decision of the Planning Advisory Committee (March 21, 2023) to pass the Zoning By-law Amendment. Proposed building will be elevated and not subject to the flood hazard (HL Zone Overlay) identified and development is located outside the EP Zone Overlay. No impacts on adjacent wetland. Proposal represents good land use planning.

City Planner Report/Rationale

- City Planner described the details of the planning application(s).

An application has been received to change the zoning of the subject property (Figure 1) from "ML" Light Industrial Zone, "EP" Environmental Protection Zone overlay, and "HL" Hazard Land Zone overlay, to "ML" Light Industrial Zone and, "EP" Environmental Protection Zone overlay, by removing the "HL" Hazard Land Zone overlay from the property.

Description of Proposal

The property owner wishes to amend the zoning to permit the redevelopment of the property with a new, larger commercial structure (car dealership). The "HL" Hazard land zone does not permit any new development of the site, and therefore the agent is proposing to remove the HL zone from the property to enable the project to proceed.

The agent has submitted a site plan and lot grading plan. These plans indicate plans to construct a new building at a central location on the lot. The lot will be re-graded to bring the floor of the building to an elevation of 324.6m CGVD28 datum. The grading and redevelopment of the lot will avoid the wetland area on the eastern edge of the property.

The agent has also provided an Environmental Impact Statement (EIS) addressing the proximity of the proposed development to the Laurenson's Creek Provincially Significant Wetland.

Existing Conditions

The property has an area of approximately 0.74ha and currently has a single large commercial building containing the existing car dealership. It is serviced with municipal water and sewer. It has frontage on both Railway Street and Gould Road, with indirect access to Railway Street. The property is adjacent to the Laurenson's Creek wetlands, and large portions of the property appear to be of lower elevation than the flood levels of Lake of the Woods (324.60m CGVD28), which is connected directly to the wetlands via Laurenson's Creek. The impact of high water levels on the property can be seen in the 2022 aerial image of the property denoted by the blackened areas in the northwest and southwest corners of the property.

Legislated Policy and City Directives

c) Provincial Policy Statement (PPS) 2020

The PPS encourages redevelopment within settlement areas, and that land use patterns include a mix of land uses which efficiently use land and resources, are appropriate for and efficiently use available infrastructure, and support redevelopment (Section 1.1.3 Settlement Areas).

The PPS stipulates that development and site alteration is not permitted on significant areas of natural interest, and shall not be permitted on adjacent lands to a natural heritage feature unless the ecological function of the adjacent land has been evaluated and it has been demonstrated that there will be no negative impacts on the natural features or on their ecological function (Policies 1.2.5 and 2.1.8).

The PPS allows that development and site alteration may be permitted in those portions of hazard lands where the effects and risk to public safety are minor, could be mitigated in accordance with provincial standards, and where it is demonstrated that: development and site alteration is carried out in accordance with relevant standards; vehicles and people have a way of safely entering and exiting the area during times of flooding, erosion, and other emergencies; new hazards are not created and existing hazards are not aggravated; and no adverse environmental impacts will result (Policy 3.1.7).

f) City of Kenora Official Plan (2015)

The land use designation of the property is Commercial Development Area, with the easternmost portion of the property being identified as being within a Provincially Significant Wetland (Laurenson's Creek Wetland Complex).

Section 4.4 of the Plan states that the continued development or 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. Permitted uses in the Commercial

Development Area are to primarily serve vehicular traffic, with permitted uses including, but not limited to, automobile service stations and sales agencies.

Policies regarding provincially significant wetlands are set out in section 4.10.1. Development and site alteration are not permitted within the wetland complex unless an Environmental Impact Statement (EIS) demonstrates that there will be no negative impact on the wetlands. Where development or site alteration is proposed within 120m adjacent to the boundaries of the wetland complex, the proponent must provide the City with an EIS, prepared by a qualified professional and in accordance with the EIS section of the Official Plan, which demonstrates that there will be no negative impacts on the wetland or its ecological function. Any changes may also require a permit from the Ministry of Natural Resources and Forestry.

More general hazard land policies may be found in section 3.13.1 of the Plan. Development and site alteration, including the erection and/or construction of buildings or structures, and the placement or removal of fill, may be permitted, subject to rezoing, where there is no defined floodway and it can be demonstrated that the proposal meets the same criteria as set out in section 3.1.7 of the PPS (noted above).

g) Zoning By-law No. 101-2015

The property is currently zoned "ML" Light Industrial Zone, with "HL" Hazard Land and "EP" Environmental Protection Overlay Zones. The HL zone covers all but the easternmost edge of the property, including all of the area of the proposed redevelopment. The EP zone covers the eastern portion of the property, outside of the area being redeveloped.

The ML zone allows for a wide range of low-impact light industrial land uses as well as complementary commercial uses. An automobile dealership is a permitted use in the ML zone.

The EP zone provides protection to areas which have historical and natural significance, and is applied to land that is designated as Provincially Significant Wetland in the Official Plan. An EP area may only be used as a wildlife conservation reserve and no buildings or structures are permitted. The cutting, removal or burning of tree and other natural vegetation is prohibited, as is the placement or removal of topsoil.

The HL 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. An automobile dealership is not a permitted use in the HL zone. Uses are restricted to wildlife conservation reserves, docks, farms, parks, and parking lots or other accessory non-structural uses. The placement or removal of fill in the HL zone is subject to engineering studies demonstrating minimal risk of environmental damage and/or the reduction of potential hazards for which the land is designated. No habitable building or structure may have a window or other opening on the Lake of the Woods where the elevation is below 324.6m CGVD28 datum. This zoning amendment is required to remove the HL zone from the property, so that the automobile dealership may be permitted under the remaining ML zone.

Results of Interdepartmental and Agency Circulation

The proposed zoning amendment was circulated for comment on February 24th, 2023. The following is a summary of comments received in response.

Building	No concerns
Community Services	No concerns
Engineering	No concerns with the re-zoning based on any new building elevation being at or above the hazard flood elevation. Recommend that Site Plan Control be used on this development before issuing a building permit as the drainage plan leaves questions regarding existing elevations versus design. In the front where cars for sale will be parked, it may be of interest to further increase the elevation of the south west corner of the property.
Economic Development	No concerns
Fire & Emergency Services	No concerns
Roads	No concerns
Water / Wastewater	Sewer and water must be upgraded to accommodate the new build, and must not build over the sewer and water main. Records indicate there is currently a grinder that pumps over to the sewer of the neighbouring building.
Synergy North	No concerns

Public Comments

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, was published in the Municipal Memo of the Newspaper on March 2nd, and circulated to persons and public bodies as legislated.

The notice also stated that the Planning Advisory Committee would have the opportunity to consider recommendation for the application to Council at the meeting on March 21st, 2023. The minutes and relevant resolution from this meeting are attached. Please note that the Planning Advisory Committee supported the recommendation not to remove the HL zone from only a portion of the property, and to include the site-specific provision for unoccupied storage buildings to be located in the HL zone, so long as there was no chemical storage in those buildings.

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

Evaluation

The "HL" zone restricts the City of Kenora from approving any permits for new buildings or structures on the property, and permits the placement or removal of fill only when appropriate engineering studies have been completed. Permitted uses are severely limited.

A new automobile dealership would not be permitted, but the existing dealership is considered to be a legally non-conforming use, meaning it was legally permitted at the time of construction and may continue to exist on the property regardless of subsequent zoning changes. Legal non-conforming uses are regulated under section 3.21.2 of the Zoning By-law. The existing building could be restored or reconstructed if damaged in its current location, as long as the height, size, volume, and lot coverage are not increased, but a new building must comply with all current zoning regulations.

The Environmental Impact Statement and lot grading plan submitted with the application give assurance that the lot may be re-graded and a new building constructed above the flood elevation without impacting the neighbouring wetland. However, significant portions of the property will remain below the flood level. Removing the HL zone entirely, as requested, would remove the HL restrictions that prevent development below the flood level. It is therefore being recommended that the HL zone only be removed from the portion of the property containing the proposed dwelling, and the immediate surrounding area, as illustrated in Figure 7. This will allow some flexibility in the final grading and design while maintaining the HL zoning and limiting the use of remaining lower elevation portions of the property to parking.

As noted in section 5(c) of this report, accessory uses in the HL zone are limited to parking lots and non-structural uses. In consideration of the needs of the proposed commercial redevelopment, it is reasonable to accommodate accessory structures within the cleared and developed portion of the property, so long as those structures are non-habitable, are not used for storage of any chemical storage (including but not limited to gasoline and oil), and there is a clear understanding that they could be impacted by future high water events. Any accessory structures would still be restricted from being located within the EP zone at the eastern edge of the property.

Site Plan Control approval will be required prior to the issuance of building permits. The recommendations of the Environmental Impact Statement will be considered in any approvals and associated Site Plan Agreement.

Recommendation:

That the Application for Zoning By-law Amendment, File No. D14-23-03, to remove the "HL" Hazard Land Zone from the subject property should be approved in part, for removal of the HL zone from the portion of the property illustrated in Figure 7 of the Planning Report, and further

That the remaining "HL" Hazard Land Zone should be amended to "HL[56]" Hazard Land, Exception Zone with permitted site-specific use of non-habitable accessory storage buildings, in which no chemical storage is to be permitted, and further

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

Public Comment

Any person may express his or her views of the amendment and a record will be kept of all comments.

There were no public comments.

Questions of Council

Councillor Van Belleghem questioned if we have considered any environmental impacts. Kevan explained that we do we have a policy or anything in lieu of any major environment impacts to the property. Leaving a part of this property still below the water levels and what is being proposed is quite reasonable. It is understood that the impotence was the need to upgrade the dealership. The area is low and there will continue to be issues in this area.

Close of Public Meeting

This meeting is now adjourned at 1:35 p.m.