



PROCEEDINGS
for a Public Meeting
to discuss a Proposed Zoning By-law Amendment
(Re: D14-17-05 – Scott Island)
Tuesday, September 5, 2017
12:00 p.m.

Present: Mayor D. Canfield
Councillor M. Goss
Councillor R. McMillan
Councillor D. Reynard
Councillor L. Roussin
Councillor S. Smith

Regrets: Councillor C. Wasacase

Staff: Karen Brown, CAO
Devon McCloskey, City Planner
Heather Kasprick, City Clerk

Mayor Canfield opened the meeting and advised that this public meeting is being held by the City of Kenora in accordance with Section 34 of the *Planning Act* to consider various amendments to the City of Kenora Comprehensive Zoning By-law Number 101-2015, as amended.

Notice was given by publishing in the Daily Miner and News which in the opinion of the Clerk of the City of Kenora, is of sufficiently general circulation in the area to which the proposed by-law amendment would apply, and that it would give the public reasonable notice of the public meeting. Notice was also provided by mail to every owner of property within 120 metres of the subject property, prescribed persons and public bodies, and posted online on the City of Kenora portal.

If anyone wishes to receive the Notice of the Decision of Council, please leave your name and address with the City Planner.

An appeal may be made to Ontario Municipal Board not later than 20 days after the day that the giving of notice as required by section 34(18) is completed by either the applicant or person or public body who, before the by-law is passed makes oral submissions at a public meeting or written submissions to the Council by filing a notice of appeal setting out the objection to the by-law and the reasons in support of the objection, accompanied by the fee prescribed under the Ontario Municipal Board Act, with the City Clerk.

The Council of the City of Kenora will have the opportunity to consider a decision at a future meeting of Council.

Herein the applicant will have the opportunity to speak on behalf of their application, and the City Planner will provide a summation of her report and recommendation, after which anyone who wishes to speak either for or against the application will be given the opportunity to do so and a record, will be kept of all comments.

Alex Clark represented the applicant and explained the proposal / application. The zoning bylaw does not speak to through lots on the water, this is what they are trying to accomplish.

As part of this application they did an septic suitability analysis to demonstrate that these five lots could achieve provincial standards. The release of nitrogen will be less than 10 parts per million. For the smallest lot, the value of the potential nutrient loading was determined to be .697 parts per million. It is well below and meets the Ontario Drinking Water Provincial standards. Phosphorus would never be an issue on these properties.

The property sits in Norman Bay and the ice in the area seldom freezes due to the current.

The frontage is determined from the most dominant feature. In Kenora a standard waterfront lot would be from the lake and the backside lot is determined by a roadway. In this situation, there is no roadway. It is suggested that the water frontage be determined to be the dominant feature. The backside would then exceed the bylaw standards and as a result is part of this amendment. They wanted to keep the development to a minimum.

Devon McCloskey, City Planner, explained the application:

An application for zoning by-law amendment is proposed to exempt the subject property from the provision to require minimum lot size and frontage requirements as per Section 4.5 of the Zoning By-law. If approved, the change would enable the creation of through lots with a minimum frontage of 22 metres, and lot area of 0.82 hectares.

The property is located at Scott Island, Island K144, Parcel 237, Norman Bay.

1. Description of Proposal

To enable property specifically indicated on the sketch in page 1 to be rezoned to allow for the creation of through lots having a secondary frontage and lot area less than the required dimension of a lot in the Rural Residential zone on water.

Whereas the zone provisions contained in the Rural Residential Zone ('RR') requires a minimum lot frontage of 61 metres and lot area of 1.0 ha. Approval of a site specific provision would allow for the creation of lots with dimensions less than generally regulated for use of seasonal dwellings.

At the outset of the proposal, an application for severance was submitted, however the city advised that approval of an application for zoning by-law amendment would be required first in order to reduce the frontage requirement for the secondary frontage of through

lots, and reduce the regulated lot size for proposed lots.

In addition, submission of an application and draft site plan was also requested, in order to determine the viability of proposed lots, to protect significant features adjacent the shoreline and accommodate docks.

The agent supplied both applications and supporting information. An Application for Consent to Sever will be proposed at a later date, once the approval for zoning by-law amendment is received.

2. Site Visit

Site visits were conducted on August 1st, 2017, where the Planner viewed the property from the mainland shore and by boat. Many photos were captured from various aspects of the island including the shoreline.

3. Consistency with Legislated Policy and City Directives

a) Provincial Policy Statement (2014)

The applicant has identified that the application is consistent with several policies, and following are noteworthy:

Policy 1.1.1.5.2 on rural lands located in municipalities, permitted uses are: b) resource-based recreational uses; c) limited residential development.

Policy 1.1.4 Rural areas in Municipalities: a) building upon rural character, and leveraging rural amenities and assets.

Policy 1.1.5.4 Development that is compatible with the rural landscape and can be sustained by rural services should be promoted.

Policy 1.1.5.3 Recreational, tourism and other economic opportunities should be promoted.

b) City of Kenora Official Plan (2015)

The Land Use Designation of the property is Rural 'RU'. The property is proposed to be serviced with private sewage disposal and surface water.

The following policies with particular relevance are extracted from the Official Plan:

3.13.3 Docks and Shoreline Development

Land uses permitted along shorelines shall be as specified in the policies of the applicable land use designation. Proposed development within these areas shall be governed by the policies of Section 3.13.1 (Hazard Lands) of this Plan, the applicable land use designation and other applicable policies of this Plan, in addition to the policies of this section.

a) Docks, waterfront and marina structures on property abutting water shall:

i. be subject to the policies of the MNR, the Canadian Coast Guard, Fisheries and Oceans, and the City of Kenora, and where such structures are to be on Crown Land covered by water, the comments of adjacent land owners.

ii. be designed, constructed and maintained in a manner which contributes to the amenity of the City.

iii. be capable of withstanding damaging storms, ice, and high water conditions.

- iv. not contain sanitary facilities, pressurized water systems or dwelling units.
 - v. be located so as not to interfere with navigation or aids to navigation.
 - vi. be constructed and placed so as to minimize the impact on natural vegetation, and topography and shall not have a negative impact on natural heritage features such as fish habitat, wildlife habitat, habitat of endangered and threatened species, and wetlands.
 - vii. be constructed to meet the requirements of Ontario Regulation R.R.O. 1990, 351 (Marinas) under the Environmental Protection Act, in the case of marinas.
- b) Septic fields servicing shoreline areas shall be located at least 30 m from the high water mark of the abutting water body. All residential lots shall be large enough to ensure that sewage fields are not located within 30 m of a water body.
- c) Commercial uses on the shoreline shall be designed to be compatible with surrounding uses. Developments which contribute to the tourism industry shall be encouraged.
- d) Prior to development or site alteration in areas adjacent to Fish Spawning and Nursery Area as shown on Schedule "A", a Fisheries Assessment and an Environmental Impact Statement shall be prepared to identify the potential impacts of development and site alteration adjacent to other areas of fish habitat and to adjacent watercourses and waterbodies.
- e) Where new development occurs adjacent to any navigable waterway within the City of Kenora, a 5 m natural vegetation area will be required and a 10 m natural vegetation buffer will be strongly encouraged adjacent to the shoreline to minimize the impact of development on water quality in the water body.
- f) Where required under the Lakes and Rivers Improvement Act or the Public Lands Act, prior written authorization from the Province must be obtained.
- g) No plans to divert, channelize or in any way alter an inland natural watercourse shall proceed without written authorization from the Province. Where required under the federal Fisheries Act, prior written authorization from the federal Department of Fisheries and Oceans must also be obtained.
- h) When considering applications for waterfront development, Council shall ensure that cultural heritage resources, both on shore and in the water, are not adversely affected. When necessary, Council will require satisfactory measures to mitigate any negative impacts on resources of cultural heritage interest or value.
- i) Council will encourage owners of properties adjacent to lakes and water bodies to participate in the Ontario Ministry of the Environment and Climate Change Lake Partner Program. The information collected through the program allows the early detection of changes in the nutrient status and/or the water clarity of lakes due to the impacts of shoreline development, climate change, and other stresses.

3.19 Private Sewage Disposal and Water Systems

No development shall be permitted unless it can be shown to the satisfaction of the City that there is an adequate water supply, availability of on-site sewage disposal system and public road access to service the development. In addition, no development shall be

permitted unless Council is satisfied that the development will not have an adverse impact on neighbouring wells and sewage disposal systems.

In considering impacts on ground water quality and quantity, the City shall consider the cumulative impacts of development on the sustainability of ground water resources. Proposals for development or redevelopment served by private services shall also be subject to the provisions of the Private Services section of this Plan. In order to assess the ability of an area to meet the requirements of individual servicing (i.e. supply of water and sewage system) within lot boundaries, proponents shall follow the Ministry of Environment and Climate Change's "Procedure D-5-4 Technical Guideline for Individual On-site Sewage Systems: Water Quality Impact Risk Assessment" (Procedure D-5-4) and "Procedure D-5-5 Technical Guideline for Private Wells: Water Supply Assessment" (Procedure D-5-5).

New lots shall generally be a minimum of 1.0 hectare, unless a smaller lot size can otherwise be supported by technical information pertaining to the physical characteristics and hydrogeology of the site in accordance with Ministry of the Environment and Climate Change D-Series guidelines or their successor documents.

New sewage systems are encouraged to be located as far back from the shoreline as possible, and septic fields shall be located a minimum of 30 metres from the shoreline, unless it is not physically possible (due to terrain features or lot depth) to locate the septic field at such a distance. If this minimum distance cannot be achieved, the septic field shall be located as far back as possible and in accordance with current legislated minimum setback requirements and on-site phosphorous treatment systems that reduce phosphorus and nitrate from reaching the shoreline shall be used.

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.

3.13.3 e) Where new development occurs adjacent to any navigable waterway within the City of Kenora, a 5 m natural vegetation area will be required and a 10 m natural vegetation buffer will be strongly encouraged adjacent to the shoreline to minimize the impact of development on water quality in the water body.

5.1.4 Fish Spawning and Nursery Area

- a) Important habitat and natural values are constantly changing and currently values mapping is likely incomplete. As these habitats and values, including the habitats of endangered and threatened species, change the schedules of this Plan will be updated based on information from the Ministry of Natural Resources and Forestry. As these

changes are usually minor in nature, formal amendments to this Plan will not be required.

b) Where detailed habitat mapping has not been completed, all water features will be considered fish habitat, unless it can be demonstrated to the satisfaction of the City of Kenora that the features do not constitute fish habitat as defined in the federal Fisheries Act. Evaluations of water features must be performed by a qualified biologist.

c) The City of Kenora supports the management of fisheries. Such management has important economic, social and environmental benefits. It is also recognized that it is the mandate of the Department of Fisheries and Oceans to protect and preserve fish habitat on Crown and private land under the Federal Fisheries Act. Under that Act, fish habitat is defined as spawning grounds and nurseries, rearing, food supply and migration areas on which fish depend directly or indirectly in order to carry out their life processes.

d) Development or site alteration shall not be permitted within areas identified as Fish Spawning and Nursery Area shown on Schedule "A" unless an EIS demonstrates that there will be no negative impact on the Fish Spawning and Nursery Area or its ecological function.

e) Where development or site alteration is proposed within 120 m of a Fish Spawning and Nursery Area, the development should be designed to ensure that there are no negative impacts on the adjacent land, which shall also include land adjacent to all watercourses and waterbodies. The City shall require the proponent to prepare a Fisheries Assessment and an Environmental Impact Statement (EIS) in accordance with the Environmental Impact Statements section of this Plan to be submitted with any development application. The EIS must be completed by a qualified professional. The report shall identify the features of the Fish Spawning and Nursery Area, the nature of the proposed development, the potential impacts that the development may have on the Fish Spawning and Nursery Area and the mitigation measures required to prevent adverse impacts on the Fish Spawning and Nursery Area.

4. Results of Interdepartmental and Agency Circulation

Departments and Agencies Circulated	Comments Received
Kenora Hydro	<p>The existing high voltage submarine cable with an (approximate age 28 years) that comes from main land runs to the north side of the island is in a standby energized condition. The decommissioned overhead lines and transformer cannot be used.</p> <p>In consideration of development, the owners will need to establish the preferred location for new electrical infrastructure in relation to potential building locations and easements will be required.</p> <p>Kenora Hydro will not be responsible for any cost installation of new infrastructure and further details specific to electrical servicing shall be detailed in a Kenora Hydro OFFER TO CONNECT.</p>

	<p>- August 30/17</p>
Kenora Fire & Emergency Services	<p>Kenora Fire has no issues with the current application. In the future when they develop my largest concern would be the clearing of brush and timber and how they dispose/burn the wood waste - August 2/17</p> <p>Would probably be best dealt with in the building permit. There is no ice road access to this area and they're going to want to burn large piles. These are normally covered through a special burn permit - August 3/17</p>
Northwestern Health Unit	<p>Approval had been provided by NWHU on October 3, 2016. It is good to see reports such as the one Alex prepared that shows that septics work so effectively - August 1/17</p> <p>A site inspection of the five lots was undertaken to determine the suitability of each lot for future septic systems. There is an unplumbed cabin on Lot 2. Each of the five lots is ok for future septic systems with imported fill. Access onto each lot looked ok. We have no objections to the proposed Planning Act application to create the new lots. Laurie from our office will follow up with a copy of the plan that was reviewed. It is dated August 31, 2015 - October 1/17</p>
Ministry of Natural Resources	<p>MNR provided comments on August 9th, 10th and 15th. The comments below summarize comments submitted. The MNR provided further explanation for the applicant in an email and report provided on August 30th and it is attached to this report.</p> <p>The Crown land use policy in this area (G2598: Kenora-Keewatin) recognizes the significant existing development in the area and generally recommends minimum frontages of 46 m and depths of 90 metres for private lots, as a mechanism to reduce potential impacts on natural resource values.</p> <p>While the proposed lots on Scott Island meet depth requirements and meet frontage requirements on the south side of the island, the frontages on the north shore do not. The intention of the minimum depth requirement is to allow appropriate room to support typical backshore developments away from the water. However, this application is for through lots, each with two frontages, which could essentially double the impact of this severance, unless shoreline development is restricted to only one side/frontage.</p> <p>The EIS indicates locations for docking along the south shore of the island, while the planning rationale report indicates that the north shore may be a more suitable location for docks. The planning rationale report also makes the argument that the interpretation of frontage should be limited to the dominant feature, allowing the back end of lots to be smaller than permitted under By-law 4.5.3. Given the better suitability of the north shore for docks, there is the potential that this should be considered the "dominant feature", and therefore need to comply with the by-law.</p>

As mentioned in pre-consultation comments, MNRF identified walleye and white sucker spawning habitat June 2, 2017 along the south shore of Scott Island. This feature has since been delineated and entered in LIO. MNRF's delineation of fish spawning habitat included all of Sections E, F, G, H, I, and J as described in the 2016 Scott Island Fish Habitat Assessment.

Sections F and H were not identified as critical fish spawning habitat in the Scott Island Fish Habitat Assessment. However, we recommend additional consideration of sections F and H as potential fish habitat, not only because of the substrate in this area, but also because of the negative impacts that docks may have on adjacent fish spawning habitat (i.e. by impeding wave action, current and prevailing winds, thereby contributing to gradual siltation of spawning habitat and incremental loss of habitat). A photo of shoreline substrate along section F is included with these comments.

In MNRF's opinion, inclusions of lesser quality habitat are too small to be removed from the fish habitat designation or to accommodate shoreline development without negatively impacting adjacent higher quality fish habitat. MNRF determined the majority (~20 of 33 m) of Section H (H to I) and entire length of Section F (F to G) showed characteristics of walleye, white sucker and lake whitefish habitat.

We agree with the conclusion that species at risk are unlikely to utilize Scott Island as breeding or denning habitat, although it may have been appropriate to consider Canada Warbler in the EIS.

Goldeneye lichen (*Teloschistes chrysophthalmus*) was also found on white spruce branches along the south shore of Scott Island and is an S-ranked Species, S2S3, which is a conservation status rank. S2S3 means that it is very rare to uncommon in the province of Ontario. As an S2S3 ranked species in Ontario, goldeneye lichen habitat meets criteria to be considered significant wildlife habitat as per the Provincial Policy Statement, 2014 (Section 2.1.5 (d)) and Significant Wildlife Habitat Technical Guide, 2000 (Pg 54-57).

As a result of these observations and given the issues and concerns around through lots, the MNRF does not believe any docks or shoreline development should be permitted along the south shore of Scott Island. The proposed 20 m minimal disturbance zone should be extended and include the entire south shore of Scott Island, from points A through K (as per the map provided in EIS). This should serve to proactively protect the fish habitat, as well as the goldeneye lichen habitat.

If the no-disturbance zone is not extended to include the entire south shore, then an EIS should delineate the extent of the goldeneye lichen habitat and demonstrate that there will be no negative impacts on this

	<p>natural feature and is ecological function. It is the responsibility of the proponent to determine the exact location of the goldeneye lichen.</p> <p>Site plan control will be especially important, as work permits are no longer required from the MNRF for docks that physically touch less than 15 square meters of below-water substrate on Crown Land. Through the planning process, MNRF can only promote good planning in order to ensure that values, such as fish habitat, are proactively protected.</p> <p>Thank you again for the opportunity to provide comment on this application. Please advise us of your decision in this matter.</p>
<p>Ministry of Tourism, Culture and Sport</p>	<p>Letter of acceptance provided – November 28/17</p>

5. Public Comments

A public meeting is being held by Council today. Notice of the application was given in accordance with Section 34 of the Planning Act, whereby it was circulated on August 2nd to property owners within 120 metres, published in the Municipal Memo of the Newspaper on August 3rd, and circulated to persons and public bodies as legislated. Together with staff, Council will have the opportunity to evaluate the proposal in lieu of public comments.

The notice also stated that the Planning Advisory Committee would have the opportunity to consider recommendation of the application to Council at their meeting on August 15th, 2017, and requested that written comments be provided on August 9th, in order to allow for circulation to PAC.

Four individual written public comments and one enquiry for more information have been received as of the date of this report. Questions raised within the submissions were answered and additional information was provided, and made available as requested. Personal information has been redacted and comments are provided attached to this report.

Concern is generally being raised about the potential of the amendment and related severance to cause increased boat traffic and parking issues on the mainland, as well as interference with navigation due to docks. It was also noted that the island is within view of other waterfront properties.

6. Evaluation

The Official Plan provides policy and direction as to the development and creation of lots designated for rural residential use.

Several pieces of supporting information were supplied upfront with the application including, an environmental impact study, a fisheries habitat assessment, MCTS acknowledged archaeology assessment, and a septic suitability report for consideration of lots 0.8 to 1 hectare in size. A Planning Rationale, property PIN and site plan application

were also provided. A Real Property Report - Plan of Survey was submitted after the PAC meeting.

Toward the evaluation of reports received, the city circulated all information and received comments from agencies, and internal departments as to the development proposal and supporting information.

The NWHU was supportive of the technical information supplied as well as the recommendation within the site suitability report for septic fields. The MNRF provided comments to the Zoning By-law Amendment as well as Site Plan Application and advised that since significant fish habitat and tree lichen was identified on the south side of the island, that no development within 20 metres of the shoreline should occur, and that no shoreline structures including docks should be permitted on the south side of the island. Since both the east and west sides of the island are adjacent to narrow and busy navigation channels, docks would impede the flow of traffic and would not be suitable at these locations either. Ultimately it was suggested that if docks could not be accommodated on the northside of the island, that the proposed lot lines should be reconfigured to accommodate docks within adequate locations.

Since the ultimate effect of an approval of the application for zoning by-law amendment will be the submission of an application for consent to sever. It is important to consider whether the lots are suitable and independently able to accommodate development including buildings, docks, on-site sewage disposal and water supply.

Comments as to the site plan have been provided to the agent. The agent and the biologist who authored the fisheries report are not in agreement with the MNR's comments. Toward resolution, further discussion is to occur between the MNR and the agent.

7. Recommendation

The Planner supports the recommendation of the Planning Advisory Committee is upheld, to consider a decision once further information is provided to the PAC. Once the PAC has had the opportunity to reconsider the application, a subsequent recommendation will come forward to Council for consideration.

Mayor Canfield advised that any person may express his or her views of the amendment and a record will be kept of all comments.

Mayor Canfield asked if there is anyone who wishes to speak in favour of the amendment. The applicant, Bruce Thiessen, spoke and expressed that he is in favour of the amendment.

Mayor Canfield asked if there is anyone who wishes to speak in opposition of the amendment. There were none.

Mayor Canfield asked if there were any questions. Don Parfitt asked a question about the Ministry concerns and what constitutes what is south of the island.

It was questioned what the size is for a dock allowed to be on it. It was explained that the shoreline development is maximum of 83m squared for the features in the water, but the dock could be larger.

Councillor McMillan noted that the MNR and Ryan Haines report do not agree. Devon expressed that the MNR does not agree with the consultant's recommendation and did not agree that there should be any development that could negatively impact the fish habitat.

Councillor Roussin sought clarification on page 17, table 1 deals with the wild life species at risk. He questioned the concerns and what is outlined in it. This is a list of species that are threatened or in danger.

Councillor Reynard, clarification on whether it is Kenora Hydro or Ontario Hydro. It was clarified that it is Kenora Hydro.

Councillor Reynard questioned that prior to us updating the zoning bylaw the minimum lot size was 0.8 hectare. Devon explained that it was done through the revisions of the Official Plan. The MOE has mandated that the policy state that the minimum lot size be one hectare, unless supporting studies are provided to demonstrate the ability for the lot to accommodate a septic field. It is the requirement now, and we would not have had our Official Plan approved without the one hectare policy. That is why this property requires this amendment.

Councillor Smith noted that when we are looking at the south shore there are two concerns. She expressed the concerns on the water work and the habitat invasion. There might be some opportunity to mitigate the development on shoreline and a joint meeting will be helpful.

Mayor Canfield questioned how many units are in the Norman condominiums. Councillor Roussin believes there are 33 units in that development.

Devon explained that we are stuck on the review of the environmental impact study. Since the City does not have a biologist on staff, we rely on MNR to review and provide comments. The City has the opportunity to take the MNR's recommendations; but if not, we would need to be certain of our position which could be appealed to the OMB. Alternatively, third party could review the two positions and advise the City. Devon would like to see the parties come together and see if we can come together.

As there are no (further) questions, Mayor Canfield declared this public meeting closed at 1:05 p.m.