



P R O C E E D I N G S
for a Public Meeting
to discuss a Proposed Zoning By-law Amendment
(Re: D14-17-01 7044 Coker Road)
Tuesday, February 14, 2017
11:00 a.m.

PRESENT: Mayor D. Canfield
Councillor M. Goss
Councillor R. McMillan
Councillor D. Reynard
Councillor S. Smith
Councillor C. Wasacase

Regrets: Councillor L. Roussin

Staff: Karen Brown, CAO
Devon McCloskey, City Planner
Melissa Shaw, Planning Assistant
Heather Kasprick, City Clerk

Mayor Canfield opened the meeting and indicated that the public meeting is being held by the Council of the City of Kenora in accordance with Section 34 of the Planning Act to consider an amendment to the City of Kenora Comprehensive Zoning By-law No. 101-2015.

The Chair advised that 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. It was advised that if anyone wishes to receive the Notice of the Decision of Council, they are to leave their 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.

Mr. Alex Clark was presenting and representing Mr. Cody Brown who is the applicant.

A map was presented which displayed 37 acres. The client is proposing 5 lots through the consent process and changing the zoning bylaw from Rural to Black Sturgeon Lake Restricted Development Area. There are some issues that hinder this proposed development. There are environmental considerations to be given with this development. Frontage is 66 meters once you average them all.

There are two significant ridges running north-south and this causes some undulation where water collects and drains slowly in valley areas. There are intermittent streams, rock outcrops and shallow soils, which limit the ability for corridor development for roads and services, as well as septic fields.

Devon McCloskey, City Planner presented the planning report for the zoning amendment application:

An application for zoning by-law amendment is proposed to change to zoning of the subject property from Rural ('RU') to Black Sturgeon Lake (Restricted Development Area) Zone ('BSL'), and to except the property from Section 3.13.5, to increase the 'frontage to depth ratio' from 1:5 to an average of 1:7. Approval of the amendment would enable consideration of an application for consent to sever, having the effect of creating 4 new lots, and 1 retained.

To enable property specifically indicated to be rezoned for residential use. Since the zone provisions of the Black Sturgeon Lake Restricted Development Zone are different, and in most cases lesser than the Rural zone; a reduction in the required lot frontage from 90 metres to 61 metres, and increase in the frontage to depth ratio, would enable the property to be further divided, creating additional lots, zoned BSL. The property is located in the Area of Lower Black Sturgeon Lake being 7044 Coker Road.

The property is fronting on Black Sturgeon Lake and abutting Coker Road. It is undeveloped, vacant and forested. Driveway access into the lot is not yet provided. The property is proposed to be serviced privately with surface or well water, and sewage waste will be managed with private septic fields established upon locations given prior approval by the Northwestern Health Unit.

The property in its current capacity is conforming with the zoning by-law.

The property abuts lots along the lake zoned for Rural Residential ('RR') use and Black Sturgeon Restricted Development Zone ('BSL'). Property to the east across Coker Road is zoned Rural ('RU'). There is a small area at the southern property boundary zoned Environmental Protection (EP), for the preservation of fish habitat.

As part of the proposal for Zoning By-law Amendment to change the use from RU to BSL, and reduce the ratio of frontage to depth, the application is also noting that access to future lots is proposed to be provided via shared driveway, in a subsequent application for Consent to sever.

Each of the lots to be proposed would abut a year-round maintained municipal road, however due to driveway development challenges and the terrain, a single driveway access is proposed. Each of the lots would have legal access to the driveway and over it and be used for recreational use.

The shared driveway would encompass the rear side of the centre lot, where further driveways would lead off north and south, providing access to individual lots. The lots would then be developed for residential use on the western side, closer the lake.

A number of supporting documents were used for the application. During the spring and summer of 2015, Kenora Resource Consultants ('KRC') was retained to produce a Species at Risk Site Assessment. The subject property was surveyed for potential species at risk, twelve observation points were established, and these are described in detail within the methodology of the report.

The methodology and recommendations of the report, KRC explained that there was potential spawning habitat for lake sturgeon found during the 2015 shoreline field work, and the fish habitat assessment prepared for the subject property should be referenced for the location of identified high potential spawning habitat and proposed mitigation measures.

Potential habitat for Eastern whip-poor-will was found during the 2015 general site assessment, but there was no presence identified, and it was concluded that development may occur at the proposed property without adversely impacting upon whip-poor-will breeding habitat. It was further concluded that a severance would not adversely impact species at risk.

In 2015 KRC was retained to undertake a Fish Habitat Assessment "...to take an intensive look at both the shoreline and substrate beneath the water and propose appropriate shoreline development locations to minimize any impact on potential critical fish spawning habitat." The report concludes with several recommendations and mitigation methods to prevent adverse impact to potential habitat of walleye, sucker, lake whitefish, and lake sturgeon. The report provides detailed analysis and mapping of sites that are particularly vulnerable, and would recommend no shoreline development, development activity, removal of vegetation in the riparian area 20 metres back from the high water mark to prevent soil erosion and deposition, within areas of high potential spawning habitat.

In addition, it is noted that there is a small ephemeral stream outlet, and in order to ensure no adverse impacts from sediment erosion and transport along the stream, it is recommended that there is no development activities or removal of riparian vegetation 10 metres on either side of the stream for a minimum distance of 50 metres inland from the outlet. Any water crossings upstream should follow best management practices.

The applicant has explained that a Licensed Archaeologist was retained to complete fieldwork and reporting, and that once complete, the document will be submitted to the Ministry of Culture, Tourism and Sport, for acknowledgement. It is anticipated that this report will be complete in time for review of the application for consent to sever (March or April, 2017).

A site visit was conducted on October 17th, 2016, where I attended the property with the applicant and agent. We walked into the lot from Coker Road on the eastside, along a route that is proposed to be transected for development of a shared driveway.

The applicant has identified that the application is consistent with several policies, and Provincial Policy statement and are noted in the Planners report.

While the property currently complies with the zoning by-law, this application is proposing to change the regulated land use from RU to BSL to allow for residential use.

Permitted uses and lot dimensions within the BSL zone are different from the RU, in that the minimum frontage requirement is 61 metres rather than 90 metres, the required lot area is 1 hectare rather than 2 hectares.

In consideration of the reduced lot sizes, the variety of permitted uses in RU is not available to lots in the BSL Zone, including Marina, retirement home, equestrian establishment, contractor service, kennel, non-commercial farm, and food-processing plant.

The gross floor area minimum for lots in the RU is 90 m², whereas BSL is 80 m², meanwhile the maximum lot coverage is 10% for both.

This regulation is intended to regulate the efficient use of land and prevent lots from being created with an inevitable resurgence of land division applications to sever the unused portions. This rationale was reviewed further by Northwest Michigan townships, which produced a guidebook for growth development. Key concepts are provided in the paragraphs to follow. A quotation from them includes "...local jurisdictions can minimize the impact of land division by promoting zoning ordinances to establish width-to-depth ratios, which promote better utilization of land while maintaining the rural character. The perception is that this would reduce sprawling, and fragmented development that can result from the division of large parcels of land." Furthermore it is described that a minimum lot width-to-depth ratio prevents the creation of long and narrow lots, as well as the crowding of buildings along access roads while leaving the land behind buildings vacant and unserviceable. Except in critical areas (*e.g. parcels with steep slopes, shorelines with a high risk of erosion, sensitive natural ecosystems*) lots should not exceed a 1:4 ratio.

Was circulated internally and no internal comments were received at this stage. The Northwestern Health Unit is good with the proposed lot creation and the future easements as proposed. There are suitable septic field areas on each lot that are not affected by the

location of the driveways and roadway as proposed.

The Kenora District of the Ministry of Natural Resources and Forestry has reviewed the package provided. The Ministry understands that this application will not in itself increase the impact to natural heritage values in the area. They did request the opportunity to review the Application for Consent to sever the property once it is submitted.

A public meeting is held today on February 14th, 2017. No written public comments have been received as of the date of this report. A representative of the Black Sturgeon Lake Property Owner's Association, did contact the city to seek clarification of the proposal, but no comments have been received.

The Planning Advisory Committee did support the recommendation. A property owner was in attendance at the PAC meeting to observe, but did not provide comments.

The agent for the applicant has explained that it is not advantageous for the property owner, or in keeping with sustainable development concepts to maintain the RU zone, because there are no zone restrictions along the shoreline fronting the subject property (i.e. limits of shoreline disturbance). Given the topography, terrain and existing drainage, the property is faced with many development challenges and cannot sustain a higher density of development than proposed.

In 2007, The Council of The City of Kenora approved the development of a lake capacity and management study for Black Sturgeon Lakes. One of its key recommendations was that the City develop a comprehensive monitoring program to assess patterns in lake productivity (including total phosphorus and chlorophyll), during open water season. As recommended, the City has retained consultants annually, to conduct Water Quality and Monitoring. The 2016 report summarizes that the water quality results are consistent with results of previous studies conducted on Lower Black Sturgeon Lake, and indicates that the health of the water body has remained consistent and is not deteriorating over time. Recent development in the area includes the Coker Plan of Subdivision, where lots were zoned for BSL to enable further regulation beyond those set out for the Rural and Rural Residential Zones.

In order to ensure that significant aquatic and terrestrial habitats are protected, the City may require submission of an application for site plan approval and agreement prior to the issuance of a building permit; to reflect the recommendations and mitigation methods provided within studies that accompanied the application, including Fish Assessment and Species at Risk Assessment. The city may also include site plan approval as a condition of provisional consent.

Recommendation of City Planner:

That following a Public Meeting to hear submissions and public comments in regard to the Application for Zoning By-law Amendment, File No. D14-17-01 for property described as civic address 7044 Coker Road;

That Council accepts the recommendation of the Kenora Planning Advisory Committee, and further;

That Council in lieu of public comments, gives three readings to a by-law to authorize approval of the amendment to change the zoning from Rural (RU) the Black Sturgeon Lake Restricted Development Zone (BSL), and exception to Section 3.13.5, to allow for a lot frontage to depth ratio of 1:7.

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 questioned if there was anyone who wished to speak in favour of the amendment? There were none.

Mayor Canfield questioned if there was anyone who wished to speak in opposition of the amendment? There were none.

Mayor Canfield asked if there were any questions?

Councillor Smith referenced in her report that he considers these a seasonal designation on these properties. She asked to explain what seasonal would mean.

City Planner Devon McCloskey did not recommend that it is a seasonal residence. Currently the zoning bylaw does not capture the difference between seasonal residences and full time residences. The City is maintaining roads regardless and is a permitted use to have seasonal residences within rural areas in the zoning bylaw. But we should not lower our standards when someone is claiming seasonal residences.

Councillor Smith questioned two lots one and four are recommending no shoreline developments. Understanding was more about removal of vegetation on the shoreline. Not more than 25% of vegetation removed. She noted that sturgeon and walleye spawn and needed wave action, and if those applications for docking would go in we need something on file such as site plan control for the docks.

It was questioned that if we are talking about a private road, how would that private road work. Where is the environmental protection designation along that shoreline? It was confirmed that it is the most southerly west side and Ryan Haines has been working with the agent on this.

As there are no (further) questions, Mayor Canfield declared this public meeting CLOSED at 11:37 a.m.