



City of Kenora  
Planning Advisory Committee  
60 Fourteenth St. N., 2<sup>nd</sup> Floor  
Kenora, Ontario P9N 4M9  
807-467-2292

**Meeting Minutes  
City of Kenora Planning Advisory Committee  
Regular Meeting held in the Operations Centre Building  
60 Fourteenth St. N., 2<sup>nd</sup> Floor – Training Room  
September 18, 2018  
7:00pm**

**Present:**

Wayne Gauld	Chair
Robert Kitowski	Member
Graham Chaze	Member
Bev Richards	Member
Vince Cianci	Member
Chris Price	Member
Ray Pearson	Member
Devon McCloskey	City Planner
Kylie Hissa	Secretary Treasurer

**Regrets:**

None

**DELEGATION:**

- (i) Wayne Gauld, Chair, called the meeting to order at 7:00 pm and reviewed the meeting protocol for those in attendance.
- (ii) Additions to agenda - there were none.
- (iii) Declaration of interest by a member for this meeting or at a meeting at which a member was not present – there were none.
- (iv) Adoption of minutes of previous meeting

The Chair asked the Committee if there were any questions or corrections to the minutes as circulated.

- August 21, 2018
  - Approved as amended: August 21<sup>st</sup>, 2018 minutes of the regular Kenora Planning Advisory Committee meeting.
- (v) Correspondence relating to the application before the Committee

- The Secretary Treasurer presented printed copies of a comment submitted by a biologist at the Ministry of Natural Resources and Forestry, relating to application for draft plan of subdivision D07-18-02, Wickham. It had been received as of 5:03 p.m. that day.
- (vi)** Consideration of applications for minor variance/permission
- (vii)** Considerations of applications for Consent
- D10-18-09, Meek

Tara Rickaby, Agent  
TMER Consulting, Kenora ON

The owner Geordie Meek and Tara Rickaby attended the meeting. Tara introduced herself as the Agent for file D10-18-09 and explained that the owner is looking to separate two existing businesses, which would result in two undersized lots zoned MH-Heavy Industrial. The Agent indicated that she presented at the last PAC meeting an application for an amendment to the Zoning By-law, file D14-18-05, for the same property. The agent re-presented her report to the Committee, explaining that the Zoning By-law amendment needs to be approved and has been listed as a condition within the planning report for the consent application (D10-18-09). The two businesses are complementary and the demand is there to support both their operations. The general public will not be affected, nor will they notice a difference.

The Planner presented the planning report file D10-18-09, and explained that the application is for lot creation and approval would be to permit existing uses in the MH zone. Approval would sever the two existing businesses with formal easement for access. Development is compatible with existing land uses, and the application promotes employment lands and economic development. Most of the uses are occurring within the 20 m area designated as hazard land and if there were a proposal for servicing and a building, it would be closely evaluated; further development would have an impact on what the property could be used for. In this circumstance, the limited use is appropriate.

The Planner explained that the Agent presented the application for Zoning By-law amendment to Council at the recent Committee of the Whole meeting (September 11, 2018). No persons were in attendance by the public and there were no concerns by Council. Next week Council will make a decision on the application. It was the Planner's professional opinion that the application D10-18-09 be given provisional approval. Approval would note that the retained parcel of land and the created parcel would be approximate in size, as they still need to be surveyed and the plan registered.

The Agent indicated that she and the owner had reviewed the conditions with no concerns.

The Chair asked the Committee if they had questions pertaining to the application.

Vince Cianci requested some clarification. He explained that he had gone to the site and tried to find the retaining wall that created the bend in the proposed lot line. However, he could not find anything that would mark as a vertical wall; he was not sure what was creating that bend. Vince asked if the retaining wall was in the water.

The owner, Geordie Meek, explained that the wood retaining wall is found on-site, directly down from the orange marker on the right hand side. The request to bend the proposed lot line in order to incorporate the retaining wall was requested from the purchaser. The surveyor also said it was fine.

The owner and the Agent clarified the location of the retaining wall, which is on-shore. They explained that the survey will include the piece of retaining wall so that they would not have to dismantle it in future operations.

The Chair asked for discussion prior to making a decision.

Robert Kitowski asked if the fish habitat should be included within the conditions, since the planning report indicated that it would be mapped. The Planner explained that the City agreed to include it when the Official Plan is updated in 2019. There is no onus on the applicants to make that happen, so there was no need to include it as a condition of approval for this application.

Wayne Gauld asked Vince Cianci what the true concern was with the application, and referenced the bend in the proposed survey line. Vince explained that generally, the more jogs created, the more expensive it will be in the future as it is more difficult to recreate the survey. If there is one straight line, it is easier to work with from a surveying point of view. In this case, trying to monument a small piece of land for a future owner to work with would require at least two pins – neither of which would be stable. To have a straight line, you could have a witness bar and could be worked with much more easily.

Wayne Gauld highlighted that it is at their expense and that they have come to this agreement with their neighbour.

There was no further discussion.

**Moved by: Bev Richards**

**Seconded: Graham Chaze**

That application D10-18-09 for consent to sever for the creation of one (1) waterfront lot, and one retained, located at 1053 Lakeview Drive, described as Part K85 Part Road Allowance Parcel 43316; Registered Plan 23R10653 Parts 1 to 5, being PIN #42161-0560; be approved, and provisional consent be granted, subject to the conditions as outlined within the planning report.

Carried.

- (viii)** Consideration of Application for Draft Plan of Subdivision
- D07-18-02, Wickham

Randy Seller, Agent  
Hook Seller Lundin LLP

Randy Seller introduced himself as one of the Agents for the file D07-18-02 and was joined by one of the owners, Bill Wickham. The Agent explained that the application originally began as an application for consent; however, there were questions concerning a private road, easements, and the requirement of utility servicing. After review with the Planner it seemed more appropriate to have an application for draft plan of subdivision for infill within the City of Kenora and to create an actual right of way, municipal road, and appropriate hydro and other utilities. The Agent stated that in all the years he has done this, he has not seen as much pre-consultation take place with regard to road construction, utility issues and natural heritage features. There has been a lot of work put in by each of the parties and other agents involved.

The Agent went on to explain that the application is for a seven (7) lot subdivision and the existing infrastructure provides for a municipal road, appropriate road drainage, and hydro access. Originally they looked for a way to create some water frontage for utilities on the back lot (proposed Lot 1) as part of a minor variance application; however, due to topography and other issues it was determined inappropriate. The minor variance application was withdrawn and the current application for subdivision includes one backlot (proposed Lot 1) and another lot that is already developed (proposed Lot 3). The owners have reviewed the conditions of approval with no issues. The Agent referenced the piece of correspondence that came from the Ministry of Natural Resources and Forestry (MNR) at 5:03 p.m. that day, which commented on the historical bait fish ponds on Lots 1 & 3. The owner advises that they have not been used for over 15 years; however, has no objection to pursuing a fish habitat study in order to demonstrate that the habitat is gone. The Agent recommended that the planning report be reviewed and the conditions be revisited.

In reference to the comment that was received by the MNR earlier that day, the Planner stated that she spoke to Ryan Haines, another Agent for the file, at 6:37 p.m and prior to the current meeting. Ryan had expressed some frustration, as the study was written in 2013 and had been initially provided to the MNR 6 months ago. He was not sure if staff changes would have affected things.

The Planner explained that the MNR asked for a way to have the potential fish habitat noted and so potentially destroying it by infilling the ponds would be a problem. She suggested that instead of incurring the costs to undertake a study, the City could map each of the five ponds as potential fish habitat and it would be noted as a provision. Future owners would be aware at the subdivision agreement.

The Agent stated that it makes sense for Ryan Haines to take a look at it now so that future owners won't have to undertake a study. He explained that they want to have everything resolved and wished that a condition be included to have it addressed.

There was discussion whether Ryan Haines had assessed the fish ponds prior; it was stated that he did not look at them thoroughly when the 2013 report was prepared. The owner stated that the ponds haven't been used in over twenty years, as the business was sold five years prior to the property being sold fifteen years ago. There are frogs in the pond but not any minnows.

The Planner presented the report for file D07-18-02, and provided a recap on what exactly is proposed. It is a draft plan of subdivision for seven (7) RR-Rural Residential lots and includes a road which will be developed in accordance with municipal standards. The lots exceed the area requirement and frontage. The planner indicated that there had been an error in the report where the neighbouring lot was referenced. The location stated at the top of the report should also read "47D".

If approved, the application would enable the creation of six (6) waterfront lots and one (1) backlot; each serviced privately with the option of water. Hydro would be installed by submarine. Three lots would be owned by the applicants and the others would be transferred in the future. To plan for sensitive fish habitat on proposed Lot 4, site plan is proposed. Historical use had also been identified as bait fish ponds. The Northwestern Health Unit has indicated that access to the site for development would be possible.

Two of the proposed lots are situated on the Winnipeg River with docks, and the road allowance is unpatented. On the reference plan, it shows that there is an easement over Lot 47C, which accesses what is proposed to be Lot 3, currently. The easement would be removed from title, so that it is no longer the primary access. On July 11<sup>th</sup>, 2018 the owner and the Planner walked the property and reviewed the proposed entry point and also looked at the existing use of the proposed Lot 1.

The Planner stated that the application is consistent with City directives and policy, as it would contribute to the housing supply. The subject property is located approximately 6 km from the downtown area and has access to garbage collection. The Rural Area under the Official Plan is intended to have limited change, relatively large lots and should not detract from the rural settlement area, which they wouldn't in this application; the development would preserve the rural area. The property is zoned RR-Rural Residential, which permits single detached and seasonal dwellings.

The application had been circulated to internal departments, with a fair amount of correspondence between Engineering and the office of the road designer. As of today's date, the plans were not yet finalized but they were well on their way with four drafts having been reviewed. There is no concern that they won't be able to come to a resolution. The area is serviced by Hydro One and the Northwestern Health Unit gave comments over two circulations. Initially, their comment stated that there was enough room. In the second circulation, they provided some notation with drawings about comments for recommended lot line adjustment to accommodate a septic system with the added lots. Kenora Fire noted that the road would meet fire code with the turnaround at the end; the only concern would be disposal of tree and debris and a special fire permit would be required if the developer wants to burn. Hydro One commented that a single phase supply would support the subdivision and they will be working with the contractor for that design. They noted that required easements may be required an obtained as usual. Ontario Power Generation (OPG) provided a letter, noting no concerns so long as their rights are not affected and attached their land rights and rights to flood. The Ministry of Transportation provided building land use permit issued in accordance with the *Public Transportation and Highway Improvement Act*. The Ministry of Natural Resources and Forestry initially stated that they had no concerns; however, has since provided additional comment today with a concern about the historically used bait fish ponds and potential fish habitat.

As of today's date, no written concerns were received from the public. During the on-site inspection, a neighbour did inquire what was proposed and had no concerns other than intensifying the easement area, which has been addressed with its removal. A prospective purchaser also asked how the easement would proceed.

It was the Planner's professional opinion that the application is consistent with the *Planning Act*, Provincial Policy Statement (2014) and the City of Kenora Official Plan. The Planner recommended to the Committee that it be approved. The Planner indicated that on the proposed Lot 1, there is an existing use of a dwelling, and that a condition would be added that this use cease. The owner, Bill Wickham, stated that as of today's date, it has been resolved. The Planner explained that as requested by the MNRF for those areas that were historically used as bait fish ponds. The Agent indicated that there were no issues with the added condition.

The Chair asked if there was anyone in the public whom wished to speak in favour or against the application. There were none.

The Chair asked the Committee if they had questions pertaining to the application.

Ray Pearson stated that the application looks really good; however, he did have a few questions. Ray indicated that the NWHU commented on adjusting the lot line on Lot 4 and asked if this had already been taken care of. The Planner confirmed that it had been addressed. Second, Ray mentioned that because the proposed road will become a municipal road, it automatically will service properties to the east and

they can get the advantage of that. Ray asked if there would be any potential issues.

The owner, Bill Wickham, explained that there would be a one foot wide road reserve so that the road wouldn't touch the property line. If someone wanted to develop the adjacent property, they would cross over the privately owned reserve. It would protect them from someone else benefiting without contributing to the cost.

The Agent continued by saying that the property to the east is owned by a third party. Normally in this type of situation, when someone incurs the cost of developing the road, and if someone would benefit from it, there is negotiation with contributing to the cost so that it could be incorporated in the final subdivision plan done by the surveyor. Typically, the one foot reserve would be retained either by the City on an agreement or by the developer; whoever wanted to use the public road would negotiate with either one. The Agent explained that it is all vacant land and inland at this time; any new development would need to attach a private road to the municipal road in order to have waterfront access.

Ray asked if this is usual in plans of subdivision, to which the Agent stated yes. Otherwise, it would allow access to neighbouring properties with no contribution. The owner will have to pay and maintain it for two years, so it is appropriate to have a reserve in order for negotiation. This can be worked out later with the Planner. Historically, these reserves are owned by the City.

Karen Brown (CAO), in the meeting, explained that she does not anticipate that the City would negotiate costs back to the owner if it is maintained for the two years prior to being transferred.

Ray Pearson asked if the costs would likely be incorporated into the price of the lots to be sold. The Agent explained that typically the reserve is for the City so that they aren't stuck with issues of servicing. The Agent asked if he and the owner could step outside the meeting to discuss options.

The Agent and the Owner left the meeting at 8:05 p.m. They returned at 8:07 p.m. and indicated that they had no issues; the road is adjacent to the property line and will stay there. The abutting land owner is a rate payer and there are no services out there. There is no logic in dealing with that.

Bev Richards asked why the owners did not purchase the 66ft reserve. The Agent explained that it is not for sale and is owned by the City, otherwise they would. Bev also asked how protection of the fish habitat on Lot 4, which is off shore, could be guaranteed if you don't own it. The Agent explained that the fish habitat would be identified on the site plan and eventually an owner would apply for a dock permit at which time they would be notified.

On that note, the Planner stated that there is policy that discusses who is entitled to what. As far as shore road allowance for who can use what; it is not a public

access situation. Only the backshore owner would be able to use that frontage. There is very limited development on the Winnipeg River due to the flooding rights and we don't want to see any potential loss if flooding were to occur. Only docks are permitted.

Graham Chaze asked if the bait fish ponds were man made, to which the owner, Bill Wickham, confirmed that they were. Graham asked why the potential fish habitat is an issue given that they were man made and doubted that anything would be there if they haven't been used in twenty years. He wanted to make the comment that he does not believe that the MNR's recommendation is reasonable.

Karen Brown (CAO), in the meeting, stated that it is up to the Committee whether or not the comments from the MNR are included as a condition of approval. Karen explained she wanted to make it clear that it is up to the Committee's discretion.

Wayne Gauld asked whether Hydro One and Bell actually need to have an easement on the property. The Agent explained that they call them farm services, whereby they go to the corner lot of the two and put a little square for services in at the intersection of the lots. This would cover two lots with one service; Hydro One would want an easement for the tiny squares.

Vince Cianci asked why the small building was included on the proposed Lot 5 compared to it being included on the proposed Lot 4. The owner explained that the purchaser of Lot 5 wants that piece of property. Vince explained that from a planning perspective, it is unfair to Lot 4 because of that, and he would encourage the property line be straightened up. Vince stated that he believes Lot 4 will sell for a lot less with the proposed layout. The owner agreed and stated that they have taken that into consideration.

Vince Cianci also stated that he does not believe the road needs to go as far as it does, which is past proposed Lot 6. He explained that all that is needed is about 11m to put the driveway on Lot 5 and the turnaround does not need to be there. The 90 degree turn is too abrupt and not necessary.

The Agent explained that they have been working with a roads consultant. Vince Cianci indicated that if the owners want a different design, then they will build the road accordingly.

Wayne Gauld asked to confirm that the road designs have been discussed with the City Engineer. The Planner confirmed that they have been, and the design is now tied back to the City because it will be transferred over. If the plan were to be revised, it would have to go back for review and approval. The Planner stated that she could not guarantee at this time that a new design would be agreed upon by the Engineer.

Robert Kitowski referenced a recommended condition with regard to the cash in lieu of parkland. Robert stated that he is aware that the same condition had been included in another planning application but he thought it was because they were



removing parkland and this particular application is not. The Planner explained that the *Planning Act* gives the opportunity to take this amount if our Official Plan states it. The City of Kenora's Official Plan says that we would take the cash in lieu or the equivalent in land if there was something within this area that the City identified as wanting to develop as parkland; however, there is nothing in the area that the City is interested in. The Agent highlighted that sometimes you see blocks of parkland within subdivision, such as where there is a set of swings, for example.

Robert Kitowski asked if it is 5% of current value, to which the Planner stated that it is the current value, the day before the subdivision is approved.

Robert Kitowski then recommended that the bait fish ponds be noted within the decision to be mapped as per the Official Plan; however, that the fisheries assessment study not be a condition of approval.

The Agent stated that the potential fish habitat should be addressed and the only reason why the MNRF would have known about it is from the report written in 2013. The Agent explained that he does not see the utility is having it mapped and having future owners be involved when it can be easily addressed in a study. The Planner clarified that the bait fish ponds were not addressed in the original report (2013) but that it was included with the planning rationale of this current application.

There was discussion whether the Committee should include the fisheries assessment to review potential fish habitat on the bait fish ponds as a condition of approval. The Planner also confirmed that an owner can be fined by the MNRF for filling in a man-made pond on private property if it has fish habitat, and provided an example from Red Lake.

It was agreed upon that the fisheries assessment study be completed or that it be mapped under the Official Plan policies.

**Moved by: Robert Kitowski**

**Seconded by: Bev Richards**

That application D07-18-02 for proposed Draft Plan of Subdivision, described as Part 1 of Plan 23R-8171, Part of Broken Lot 1, Concession 7, Geographic Township of Jaffray, Winnipeg River, City of Kenora, District of Kenora, being PIN#42174-0311 is given Draft Approval by the Planning Advisory Committee, subject to the amended conditions as outlined within the planning report. That the application meets the criteria set out in Section 51(24) of the *Planning Act* and will increase the supply of housing for the City of Kenora.

Carried.

The Agent and Owner left the meeting at 8:33 p.m.

The Committee had a brief discussion over the last minute comment received by the MNRF, regarding file D07-18-02, Wickham. The Planner suggested that in the future, we could request a comment letter from the MNRF as part of a complete

application rather than the City circulating them. The City requested comments to be provided last week and only today did a call take place at roughly 4:27 p.m.

**(ix)** New Business

**(x)** Old Business

Robert Kitowski asked where the 5% of cash in lieu of parkland goes. Karen Brown (CAO), from the meeting, stated that it goes into a special park reserve. The Planner explained further by saying that there are restrictions for what the funds can be used for, such as that it cannot be used to fund maintenance.

**(xi)** Adjourn

**Moved by:** Chris Price

That the September 18, 2018 Planning Advisory Committee meeting be adjourned at 8:38 p.m.

Minutes of the Kenora Planning Advisory Committee Meeting, Tuesday September 18, 2018, are approved this 16<sup>th</sup> day of October, 2018.

  
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Ray Pearson, Vice Chair

  
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Kylie Hissa, Secretary-Treasurer