



NORTH AMERICA'S  
*Premier*  
BOATING DESTINATION

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 17, 2019**  
**6:00pm**

**Present:**

Wayne Gauld	Chair
Ray Pearson	Member
Bev Richards	Member
John Barr	Member
Andrew Koch	Member
Devon McCloskey	City Planner
Kylie Hissa	Secretary Treasurer

**Regrets:**

Tanis McIntosh	Member
Robert Kitowski	Member
John McDougall	Member

**DELEGATION:**

- (i)** Wayne Gauld, Chair, called the meeting to order at 6:00 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 was 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.
  - Approved as amended: August 20, 2019 minutes of the Regular Kenora Planning Advisory Committee meeting.
- (v)** Correspondence relating to the application before the Committee.
  - Relating to file D10-19-10, the Secretary Treasurer indicated that the Ministry of Natural Resources and Forestry (MNRF) had issued a letter for the file, indicating no concerns.

(vi) Consideration of applications for minor variance

(vii) Consideration of applications for consent

- D10-19-10, Heath

Brian & Bonnie Heath, Applicants  
1540 Coker Road, Kenora

The Planner presented the Planning Report for file D10-19-10, and noted the identified fish spawning area on the subject property. She explained that the EP-Environmental Protection area mapped on the property had previously expanded further into the property; however, it had been narrowed and more scoped to reflect a 20m buffer from the bank. Narrowing the mapped EP layer was decided after direct consultation with the Ministry of Natural Resources and Forestry (MNR).

The Planner explained that updated comments had been provided from the City Engineering Department on behalf of the Roads Department. Given the road vertical and horizontal alignments, the one existing entrance was recommended to access both lots. The Planner referenced numerous photos that had been included within the Planning Report, and stated that it was evident that there were some aspects of a blind corner, which had been a concern. She expressed that the Applicants could come back to the City at a future time for a possible second entrance; however, that right now, the easement would be required.

The Planner then presented the comments provided by the MNR, which noted that all wild bird species (and their eggs/young), except those identified in the letter, have protection from take/destruction under legislation. Information for specific advice on time periods to watch out for species had also been linked in the letter, and best practices. No comments had been received from the public as of the date of the meeting.

It was the Planner's professional opinion that the application be approved, subject to the conditions as outlined in the Planning Report.

The Applicant wished to clarify on the easement. He explained that he brought in drawings with suggestions on where two separate accesses could go and the easement was preferred by the Engineering Department. If the option of having two separate accesses was approved, the Applicants would have preferred the option of having a wide driveway down the proposed middle boundary line.

The Secretary Treasurer also clarified that the easement that the Committee would be making a decision on would be for what was submitted originally, which used an existing access.

The Planner noted to the Applicant that if they wanted something slightly off from what they submitted, they would need a new entrance approval. The Applicant stated that they do not see access changing at all.



The Planner asked why the Applicants would want access to be down the middle of the two proposed lots. The Applicant explained that they could see how sharing a single access could be an issue in the future and that it would be the most cost effective for them. The Planner also stated that the City would recommend separate entrances so that pieces of property aren't cut off due to easements, similar to their application. However, that she understood that it was the Engineering Department's preference for the easement, given the road alignment.

Bonnie Heath, Co-Applicant, asked how the property would be taxed. She explained that they do not believe it is considered waterfront and therefore should not be taxed as such. The Planner explained that they could talk directly with the Municipal Property Assessment Corporation (MPAC). They would have the opportunity to appeal an assessment if they tax the property as waterfront and they disagree. The Planner explained that the City does not decide how a property is taxed as, as the MPAC is a separate agency.

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

The Chair asked the Committee for questions.

Bev Richards wished to clarify if a transfer of easement would be included in the conditions. The Planner confirmed that it could be specified in the decision and that the change would be made.

Ray Pearson asked for clarification on the rationale for the shared driveway. He did not see why two separate driveways were not proposed. He acknowledged that the Roads Department recommended that the shared driveway was preferred; however, he wished for additional reasoning.

The Applicant indicated that the reasoning was based on economics. He explained that there had been a question on potential future disputes with a shared driveway proposed, which is why he had submitted options of splitting a driveway down the middle. His other option was to have a second access near the edge of the southern proposed lot.

Ray Pearson expressed that the location of the entrances should also correspond with where future dwellings and accessory buildings will be located. He believed that the location of the proposed easement restricted possible future development of the properties.

The Planner noted that there could be the possibility of a wider entrance and changing the size of the frontage so that it was not two parallel strips. It would need to be approved by the Roads Department.

The Committee discussed the options of entrances, and whether or not there would be the possibility of approving a second one, despite the Engineering Department commenting that the easement option was preferred. It was also discussed with the

Applicants, what their timeline was, and whether they would entertain deferring the application in order to get additional options from City Roads Staff. The Applicants noted that they were not building by the end of this year and were not in immediate rush to have the application approved.

The Planner explained that depending on what information is confirmed by the Roads Department, if a second entrance could be approved and frontages of the proposed lots change, re-circulation of the application would be required.

It was clarified to the Applicants that if they decided to defer the application to explore all other options for access, approval of a second entrance would not be guaranteed. There would still be the possibility that the original proposal for shared driveway via easement would be the only option for access. The Applicants stated that they understood.

It was also clarified that current entrances off of Coker Road may be an existing situation and that a second access for the southern proposed lot would still not be preferred.

The Committee agreed to defer a decision on application for consent D10-19-10 until the next regular meeting of the Planning Advisory Committee on October 15<sup>th</sup>, 2019, or until such a time that the Applicants are able to explore and confirm options of a second entrance with the City of Kenora Roads Department.

There was no motion for a decision.

**(viii)** New Business – there was none.

**(ix)** Old Business

- CPR Warning Clause Follow-Up (John Barr)

John Barr presented his research on the Canadian Pacific Railway (CPR) warning clause, which he had printed for the Committee's review. He noted that clause itself was a substantive statement and that to him, the wording that CPR is not responsible was an add-on. He described how a large percentage of the Province lives within 300m of a rail line and that a clause cannot be registered on Title. However, that it would be put as an addendum for something else that is registered.

He also described how many municipalities larger than Kenora also use the same warning clause from CPR. John Barr referenced his document and from the examples shared, some municipalities use the same warning clause from CPR, others use the NPC 300 guidelines, and other municipalities use a combination of the two. These decisions had been based on different consultants' suggestions.

John Barr continued to present his material, explaining that the guidelines from the Railway Association of Canada and the Federation of Canadian Municipalities is a planning guide and includes potential dispute resolution processes for complaint



resolution for a number of issues, such as excessive noise. While the guidelines advise to not direct complaints to railways, it does not speak to the responsibility of CPR nor their responsibility to respond to complaints.

John Barr explained that there is conflicting information from the legislation and guidelines. He had exchanged emails with the Ministry of Environment Conservation and Parks (MECP) and they had indicated that they do not approve the warning clause provided by CPR.

John expressed that he was not sure how the statement about CPR not being responsible got included in the warning clause. He noted that all the information he found indicated that they do have responsibilities. Also, he explained that there is no statutory requirement for the City to use the warning clause that CPR wants; rather, that there was more reasoning for the City to use the last sentence of the NPC-300 guidelines.

John Barr suggested that the City either does nothing, which is a risk, or, change the warning clause included in planning decisions to remove the section that states CPR is not responsible.

The Chair asked if the Official Plan would then need to be amended.

The Planner explained that a warning clause is not mentioned in the Official Plan, so changes would not need to be made there. She stated that she would connect with the City's contact at CPR and involve the Ministry of Municipal Affairs and Housing (MMAH), since they would be a good sounding board on the matter.

The Committee discussed the possibilities of CPR appealing planning decisions to the LPAT, if their warning clause is not included, and how the City could have them change it. It was noted that the City requests comments from various agencies and that the warning clause comes forward as a comment; it is not registered on Title.

The Planner described how some of the wording in the Official Plan is strongly worded when it comes to consulting CPR. She expressed that it may be more appropriate to deal with the matter during the Official Plan update in 2020 and by talking with existing contacts.

The Chair noted that the Committee was disputing the wording of a warning clause, which was outside the scope of a planning application. There was concern that the Committee should be careful that they are not going outside the scope of their responsibilities.

John Barr asked whether there would be a way to word the warning clause to read that the clause is shared at their wish. The Secretary Treasurer clarified that the warning clause already is included within the list of conditions by reading that it was at CPR's request.

Ray Pearson introduced the possibility of including a condition after CPR's warning clause that used the NPC-300 guidelines. The Committee agreed with that option. It was noted that the Applicant would have both clauses and would take the information for what it was. The additional clause would read:

"Purchasers/tenants are advised that sound levels due to rail traffic and rail operations may, on occasion, interfere with some activities of the dwelling occupants as the sound levels may exceed the Ministry of the Environment and Climate Change's noise criteria."

The Planner also noted that the warning clause was an option for an Applicant not to be required to submit a noise study, as it is described in the Official Plan.

John Barr asked how the Official Plan got so definitive about noise studies and transportation corridors. He noted that a noise study tells you what the noise levels are but that it does not do anything about your building. The Planner elaborated by saying that it would also give mitigations and recommendations in the report, such as incorporating a berm or a fence.

The Planner also explained that the Province approves a municipality's Official Plan and they give the City delegated approval for lot creation; the Province decide the policies.


The Committee finished the discussion by agreeing to add the NPC-300 guidelines as well as the warning clause per CPR's request. The Planner would also follow up with the City's contact for CPR.

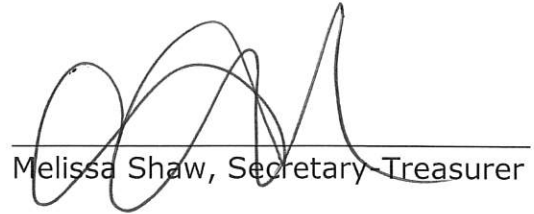
**(x)** Adjourn

**Moved by: John Barr**

That the September 17<sup>th</sup>, 2019 Planning Advisory Committee meeting be adjourned at 7:11 p.m.

Minutes of the Kenora Planning Advisory Committee meeting, Tuesday September 17<sup>th</sup>, 2019, are approved this 15<sup>th</sup> day of October, 2019.

  
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Wayne Gauld, Chair

  
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Melissa Shaw, Secretary Treasurer