



P R O C E E D I N G S
for a Public Meeting
to discuss a Proposed Zoning By-law Amendment
(Re: D14-19-10 – 310 Matheson Street South, Boathouse)
Tuesday, December 10, 2019
12:00 p.m.

Present: Councillor M. Goss, Councillor R. McMillan, Councillor A. Poirier, Councillor K. Ralko, Councillor S. Smith, Councillor C. Van Wallegghem

Regrets: Mayor D. Reynard,

Staff: Adam Smith, Development Services Manager, Melissa Shaw, Planning Analyst, Kelly Galbraith, Deputy City Clerk

Deputy Mayor McMillan opened the meeting and declared the purpose of public meetings is to present planning applications in a public forum as required by The Planning Act. Following presentations by the applicant and our City Planner, any Council members will be afforded an opportunity to speak and at that time, the meeting will then be opened to the public for comments and questions. The public is encouraged to read the City Planner's planning report in advance of the public meeting which may clarify questions in advance of the public meeting. Interested persons are requested to give their name and address for recording in the minutes. There is also a sign in sheet for interested members of the public at the back of the room.

Personal information collected as a result of this public hearing and on the forms provided at the meeting are collected under the authority of the Planning Act and will be used to assist in making a decision on this matter. All names, addresses, opinions and comments may be collected and may form part of the minutes which will be available to the public. Questions regarding this collection should be forwarded to the City Clerk.

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.

An appeal may be made to the Local Planning Appeal Tribunal 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, and may not be added as a party unless, in the opinion of the Tribunal there are reasonable grounds to do so. A notice of appeal can be filed with the City Clerk with the Tribunal's required fee of \$300.00.

An appeal may only be made on the basis that the bylaw is inconsistent with a policy statement issued under subsection 3 (1), fails to conform with or conflicts with a provincial plan or fails to conform to an applicable official plan.

No decisions are made at public meetings concerning applications, unless otherwise noted. The public meeting is held to gather public opinion. 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 Planning Department 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.

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

Council Declaration of Pecuniary Interest & General Nature Thereof

Deputy Mayor McMillan asked if there were any declarations 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 declared.

1. Applicant Presentation

- The applicant (or representative) will present their planning application.

2. City Planning Staff Report/Rationale

- City Planning Staff to describe the details of the planning application.

Introduction

An application has been received to change the zoning of the subject property from GC- General Commercial and HL- Hazard Lands to GC- General Commercial and HL- Hazard Lands, Exception [47] for a portion of property located south of an existing retaining wall.

Description of Proposal

The effect of approval would allow relief from parking provisions per Table 4: Required Parking Spaces within the Kenora Zoning By-law 101-2015, and limit use to a restaurant which is legally non-complying. An application for consent will be considered once Council has had the opportunity to consider the zoning by-law.

Existing Conditions

The area of the proposed rezoning is located on Matheson Street and fronting on Lake of the Woods. It is developed with an existing building including kitchen and inside dining, patio

for seasonal dining outside, and docking for restaurant patrons. The building was reconstructed in 2016, it is legally non-complying to the General Commercial Zone since it is setback from water closer than 20 metres at 0 metres; setback from the exterior side yard closer than 5 metres at 1.39 metres; and the rear yard is less than 5 metres at 3.9 metres. The property does not provide any parking for patrons, however there is an empty lot located north of the restaurant on the corner of Matheson Street and Third Street South, where patrons are able to park free of charge.

Site Visit

On October 7th and 31st, and November 12th, 2019, the subject location was visited to view existing conditions. The photos herein are intended to provide a visual of the existing building, property, and surrounding development.

Consistency with Legislated Policy and City Directives

a) Provincial Policy Statement (PPS) 2014

The proposed rezoning is consistent with those policies that support economic development, employment being Policy 1.3 as well as Policy 1.7 which speaks to long term economic prosperity, vitality and viability of downtowns and main streets.

b) City of Kenora Official Plan (2015)

The Land Use Designation of the property is Harbourtown Centre (HC). Policy 4.3.1 of the Plan describes that permitted uses shall include commercial, entertainment, recreation and residential uses shall be permitted.

Policy 4.3.2 of the plan speaks to objectives of the designation to recognize and support commercial activities and functions of the Harbourtown Centre area "by providing a wide range of goods and services within the overall commercial land use hierarchy established by this Plan".

Policy 4.3.2 f) and g) provide as follows:

"to maintain the unique sense of place and human scale derived from the heritage streetscapes and pedestrian orientated characteristics of the Harbourtown Centre;"

"to provide for ongoing integration of the Harbourtown Centre with the Lake of the Woods through ongoing waterfront improvements and linkages;"

The proposed amendment would enable a severance of the property, while still accommodating a vibrant lakeside restaurant within a walkable area of downtown.

c) Zoning By-law No. 101-2015

Zoning of the property is currently General Commercial (GC) and it is also subject to a Hazard Land Overlay. Permitted uses include Restaurant, Retail Store, Hotel, Marina, Studio, Taxi Stand, and would also allow for residential uses. The property is also subject to the hazard land overlay, since it is located closer than 20 metres to the water, and the elevation is less than 324.60 m CGVD28 datum.

Results of Interdepartmental and Agency Circulation

Engineering

No issues or concerns from engineering as there is currently no parking associated with the Boathouse next to or adjacent to the restaurant.

- November 11, 2019

Roads Division	As we discussed last week I don't see any concerns from the roads Department. We discussed parking which is in the planning part which states no parking will be established on the property. I think you said there was one spot there by the restaurant that was being used for one vehicle at this time. It doesn't look like it will be a problem with any road maintenance in summer or winter. - October 29, 2019
Water and Wastewater	No concerns. - November 13, 2019
Building	Department has no comments. - November 5, 2019
Kenora Fire	Kenora Fire has no issues with the Zoning amendments to allow for parking in the property known as "The Boathouse" at 310 Matheson Street South. -October 21, 2019
Environmental Services	No concerns. - November 13, 2019
Ministry of Natural Resources	MNR has no changes to our comments from July 5, 2019. The Kenora District of the Ministry of Natural Resources and Forestry has reviewed the package provided. Given that both the retained and severed lots are already developed, that this severance itself would not involve further development and that there are no negative impacts to natural heritage values anticipated, the ministry has no concerns with this proposed application. -July 5, 2019

Public Comments

A public meeting is scheduled to be held by Council on December 10th, 2019. Notice of the application was given in accordance with Section 34 of the Planning Act, whereby it was circulated on November 7th, 2019 to property owners within 120 metres, published in the Municipal Memo of the Newspaper on November 7th, 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 November 19th, 2019. Resolution and minutes of this meeting has been forwarded on to Council for their information.

As of the date of this report (December 3, 2019), no public comments have been received.

Evaluation

Policy 3.13.1 d) of the Official Plan provides for the recognition of existing uses despite the natural hazardous characteristics of the land. "Expansions to such uses will be discouraged: however, reconstruction and/or minor alterations to existing buildings and

structures, and additions and extensions which are not likely to incur significant flood damage, and will not result in impediments to flow or floodwater storage, may be considered by the City subject to the policies of this section of this Plan.”

Policy 8.11.4 of the Official Plan which provides direction on the “Creation of New Lots”, provides as follows:

g) Lot creation shall not be granted or approved in the following circumstances:

- for a parcel of land that is zoned Environmental Protection or Hazard Land which is subject to flooding unless sufficient non-hazardous land forms part of the severance to permit all buildings for human occupation.

Finally, Official Plan policy k) provides for the following:

k) Notwithstanding any other policies of this Plan, consents may be granted to correct lot boundaries, to convey land to an adjacent lot, to grant easements, or to separate buildings or structures in existence at the date of the adoption of this Plan, provided that the requirements of the Zoning By-law are met.

In consideration that the building is existing, the Official Plan provides flexibility for the creation of a new lot, in recognition of the current use. However, given the limited proposed lot size, its proximity to water, hazard land designation, and inability to accommodate parking, consideration must be taken to limit the permitted use of the property so that hazards are not created.

As submitted, it is recommended that approval is given to allow for a rezoning for the current use which is a legally non-complying restaurant.

Recommendation

In consideration of the latest comments received from Ministries, Agencies, and the Public, my recommendation remains to be as follows:

That the Application for Zoning By-law Amendment, File No. D14-19-10, to change the zoning of the area identified to allow for an existing legal non complying building and restaurant, by changing the Zoning from GC- General Commercial and HL- Hazard Lands to GC- General Commercial and HL- Hazard Lands, Exception [47] for a portion of the property located south of the retaining wall.

The effect would allow relief from parking provisions as per Table 4: Required Parking Spaces within the Kenora Zoning By-law 101-2015 and limit use to a restaurant which is legally non-complying; that it should be approved.

Express Interest

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

Deputy Mayor McMillan asked if there was any member of the public who wishes to speak in favour of the amendment.

There were none.

Deputy Mayor McMillan asked if there was any member of the public who wishes to speak in opposition of the amendment.

Lydia Eberhardt expressed concerns for parking shortages in the area. She is the owner and operator of Lake of the Woods Vacation Rental at 204 Water Street. Parking has been a historic

problem for the business people on Main Street. The Town of Kenora owned the property where Shoppers Drug Mart and the Boathouse Restaurant are located. The Town of Kenora sold the property for \$350,000 (Canadian Tire). They could have used this property for parking. The Town of Kenora, Chamber of Commerce and the Local Surveyor began to expropriate the business people's property for parking on the "Lakefront" which is known as the Harbourfront Parking Lot. They took 10 stalls from business owners for the business people on Main Street. After the development of the Harbourfront Parking Lot there was still a shortage of parking for the business people in Kenora. Historically the business people had to pay the Town of Kenora/City of Kenora \$5,000.00 for each parking spot that they were not able to provide. The Lack of parking continues to have a ripple effect on the business people in Kenora including Ms. Eberhardt. In an appeal with the OPA2/16, it was stated that there was lots of parking for 200 Main Street South customers to park at the Harbourfront Parking Lot or to park at the other parkades. This is false because;

- a) Chipman Street – is reserved long-term
- b) Matheson Parkade- is reserved long-term
- c) Harbourfront South Parking lot- #1-30 parking spots are reserved long-term
- d) Bernie Drive North Harbourfront Parking Lot - is reserved long-term
- e) City Hall Parking – is 15 minutes

Over the years the City of Kenora has continued to remove the parking spots from the Harbourfront Parking Lot, and instead of adding additional parking at the Kenora Mall for \$100.00 per parking spot, it is relocating the Harbourfront parking to the Kenora Mall. That does not include the costs of relocating the parking lot, and the development of it. Metered parking has become an increasing business for the City of Kenora by enforcing Saturday pay parking because of the shortage of parking. The business people and their employees are parking in front of other business owners' businesses taking up their parking spots.

Ms. Eberhardt noted that as business owner she continues to pay for parking, trying to supply her customers with parking and that she is also dealing with the parking interruption of other businesses that do not have enough parking or want to free up their parking for their business.

Discussion - Members of Council – Discussion/Questions

Deputy Mayor McMillan asked if there were any questions.

Councillor Smith asked if docking considered parking. It was noted that under the current by-law docking is not considered dedicated parking space.

Questions

Deputy Mayor McMillan asked if any members of the public had any questions of the application. There were none.

Close of Public Meeting

Deputy Mayor McMillan noted as there were no further questions, he declared the public meeting CLOSED at 12:15 p.m.