



PROCEEDINGS
for a Public Meeting
to discuss a Proposed Zoning By-law Amendment
(Re: D14-21-06 -865 East Melick Road)
Tuesday, August 10, 2021
12:00 p.m.
Virtual Attendance

Council met electronically as permitted by the City of Kenora Procedural bylaw. Citizens and our Media Partners are encouraged to watch the virtual meeting via the Public Live Stream Event at: <https://video.isilive.ca/kenora/2021-08-10-PZA.html>

Present: Mayor Daniel Reynard, Councillor G. Chaze, Councillor M. Goss, Councillor R. McMillan, Councillor A. Poirier, Councillor S. Smith, Councillor C. Van Wallegem

Staff: Kyle Attanasio, CAO, Heather Pihulak, Director of Corporate Services/City Clerk, Melissa Shaw, Planning Analyst, Kevan Sumner, City Planner, Adam Smith, Development Services Manager

Land Acknowledgement - Councillor Chaze

As we gather, we recognize that we are on Treaty Three Lands which are steeped in rich Indigenous history and home to many First Nations and Metis people today. We continue to be thankful for the partnerships with our Indigenous people.

We give thanks for the many blessings we enjoy in the City of Kenora. We seek wisdom in our minds, clearness in our thinking, truth in our speaking and always love in our hearts, so that we may try always to unite the Citizens of Kenora. Let these principles guide us in our decision making.

Council Declaration of Pecuniary Interest & General Nature Thereof

Mayor Reynard 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.

Mayor Reynard 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 member of Council 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 August 10, 2021

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.

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 Ontario Land 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.

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 his 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 Planner.

1. Applicant Presentation

Beth Greene, Agent on behalf of the Applicant, 8 Matheson Bay Road. 407-2288.

Ms. Greene noted that the Planners report does address all of the intentions of the application thoroughly. The applicants intend on maintaining the look of the property as it currently exists now. There are currently 5-10 being built in the area. Kenora is expanding and there are a lot people looking to find smaller homes in the area. The temporary plan is to only make a change in one hectare of the property.

2. City Planning Staff Report/Rationale

City Planner, Kevan Sumner described the details of the planning application.

Introduction

An application has been received to change the zoning of a portion of the subject property from "RU" Rural Zone to "HC" Highway Commercial Zone to allow for development of an indoor and outdoor storage facility located at 865 East Melick Road.

Description of Proposal

The property owner is proposing to develop an indoor and outdoor storage facility on a 4.25 ha portion of the subject property. The land will be cleared for outdoor storage and up to five mini self storage buildings will be located on the property.

Existing Conditions

The portion of the property being re-zoned is primarily tree covered, with a gradual slope upward to the east. A wetland is located on the property, approximately 130m east of the proposed development on the other side of a natural ridge at the rear of the site. There is an existing entrance off East Melick Road, which provides access to a residential dwelling that is located north of the area being rezoned.

Surrounding properties contain a mixture of agricultural land uses on large lots and rural residential development on smaller lots of various sizes. East Melick Road is one of the main north-south collector roads providing access from the Highway 17A bypass to properties on the east side of Black Sturgeon Lake.

Site Visit

On July 13th, 2021, the Planner attended the subject location to view existing conditions.

Consistency with Legislated Policy and City Directives

a) Provincial Policy Statement (PPS) 2020

The proposed rezoning is consistent with those policies that promote development in rural areas that is compatible with the rural landscape and can be sustained by rural service levels (Policy 1.1.5.4) and are appropriate for the infrastructure which is planned or available (Policy 1.1.5.5).

b) City of Kenora Official Plan (2015)

The land use designation of the property is Rural Area. Policy 4.8 of the Plan states that Rural Areas include a variety of agricultural, residential, industrial, commercial, recreational, tourism, and open space uses, and that these areas may experience limited change over the lifetime of the Plan. Small-scale commercial and industrial uses that meet the needs of the rural economy may be permitted by an amendment to the Zoning By-law provided that those uses are compatible with existing uses (Policy 4.8.4(a)).

Surrounding properties are likewise designated as Rural Areas. A large area on the west side of East Melick Road has been identified as having a high potential for aggregate extraction,

and this extends to a small portion of the subject property located along the road, beginning approximately 75m north of the area being re-zoned.

c) Zoning By-law No. 101-2015

The property is currently zoned "RU" Rural Zone. This zone allows for the production of farm produce as well as recreational and other compatible uses, as well as limited development of low density single-detached, seasonal or permanent housing compatible uses in a rural setting. A commercial storage facility is not a permitted use in the RU zone. The wetland area on the eastern portion of the subject property, approximately 130m east of the area of the proposed development, is zoned "EP" Environmental Protection Zone.

The proposed "HC" Highway Commercial Zone allows for the development of a wide range of uses and services to meet the needs of residents, businesses, and tourists. The redevelopment of this portion of the property will need to comply with all applicable zoning regulations. The proposed commercial storage facility is permitted in the "HC" zone. A commercial storage facility is defined as a premises where individual enclosed areas are made available to the public for keeping or storing goods or commodities, but does not include any hazardous material or fuel storage.

d) Site Plan Control By-law No. 189-2010

The proposed development will be subject to Site Plan Control Approval under By-law 189-2010, which requires Site Plan Control approval of new non-residential developments (Section 2(1)). The scope of the proposed project indicates that a Site Plan Agreement approved by Council will be required as a condition of approval and registered against the title of the property. Any future redevelopment or expansion of the commercial use will require a new Site Plan Control approval.

Results of Interdepartmental and Agency Circulation

The proposed Zoning By-law Amendment was circulated for comment on June 28th, 2021. The following is a summary of comments received in response.

Hydro One	No concerns. All distribution lines are protected by unregistered easement P85847. Primary underground at property run along road allowance.
Kenora Building	No concerns
Kenora Engineering	No concerns
Kenora Environmental	No concerns
Kenora Fire and Emergency Services	No concerns
Kenora Parks and Facilities	No concerns
Kenora Roads	No concerns. An entrance permit will be required if it hasn't already been applied for.
Ministry of Natural Resources and Forestry	We don't have any policy concerns with this but our biologist did offer the following advice: if the proposed 4.25 ha is cleared of tree cover there will be increased surface runoff into the wetland located to the east and which feeds a fish

	spawning area on Black Sturgeon. Suggest that size of area be reduced and not be built on a slope towards wetland. Coarse elevation mapping can be done using the Ontario Flow Assessment Tool found here: here: https://www.lioapplications.lrc.gov.on.ca/OFAT/index.html?viewer=OFAT.OFAT&locale=en-ca .
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Public Comments

Notice of the application was given in accordance with Section 34 of the Planning Act, whereby it was circulated on June 28th, 2021 to property owners within 120 metres, published in the Municipal Memo of the Newspaper on July 8th and 15th, and circulated to persons and public bodies as legislated.

The Planning Advisory Committee considered the application and a resolution recommending approval of the application was passed at their meeting on July 20th, 2021. A representative of one community member spoken in opposition to the proposed by-law, indicating that their written comments had been submitted. The minutes and relevant resolution from this meeting will be forwarded to Council for their information. That letter and two additional letters of opposition are attached to this report. Opponents have expressed concerns related to such matters as:

- Contamination of ground water
- Desire for an Environmental Impact Study
- Incompatibility with the rural landscape and suitability of the location
- Changes to drainage and runoff as a result of development
- Light pollution
- The nature of goods to be stored on the site
- Impact of traffic and associated noise on East Mellick Road, and the existing condition of the road.

Evaluation

This large rural property has a significant undeveloped area that appears to be suitable for development for the intended use, which is supported by the policies of the Official Plan. The proposed use of the property for indoor and outdoor storage would serve the needs of the rural community east of Black Sturgeon Lake on a road which serves as a collector road for the area. The limited boundaries of the area being re-zoned will limit the extent and impact of the proposed and any future commercial use.

Concerns have been raised concerning the impact of the proposed development on groundwater and nearby wetlands. Storage of hazardous goods and fuel is not permitted in a commercial storage facility. In addition, the subject area is further than 120 metres from the Environmental Protection Zone which would have otherwise required the completion of an Environmental Impact Statement.

The proposed development and any future redevelopment of the property will be subject to Site Plan Control approval, which will provide the opportunity to require any necessary studies and/or site improvements if any risk is identified in regards to the proposed development following the Zoning By-law Amendment. Planning staff are prepared to restrict development from the small portion of the southeast corner of the site that is upslope from

the wetland, as a requirement of the future Site Plan Control Agreement which will be brought to Council for approval.

Recommendation

As the Planner for the City of Kenora, it is my professional planning opinion, that the Application for Zoning By-law Amendment, File No. D14-21-06, to change the zoning of a portion of the subject property from "RU" Rural Zone to "HC" Highway Commercial Zone; should be approved, in lieu of public comments that may yet to be received.

3. Express Interest

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

a) Is there any member of the public who wishes to speak in favour of the amendment?
There were none.

b) Is there any member of the public who wishes to speak in opposition of the amendment?

Gloria Mejia, 214 Wyder Drive, 548-5554. Ms. Mejia has been requested to speak on behalf of a property owner who received notice abutting his property and can't make it because he is working. He is opposed to the amendment both this property owner and myself are disappointed that the amendment was approved by the PAC committee. During the presentation the applicant's information was misleading. She travels East Melick road every day and they stated that there are several buildings/storage units that are the same size and on the road. There are not. There is one very large garage that does have metal storage units and train cars there. That is misleading. The PAC members asked really good questions of the City Planner but didn't get direct answers. In the application itself there are errors as in the rationale there are more units than what is applied for and the timelines are not consistent. The applicant is not sure what they intend to put in there. How does the City control without a survey and what if they start encroaching on the environmentally protected land. Is the bylaw officer going to do this and how will he know the size is being adhered to. The property out here is rural and is farmland. We choose to live out here because it is rural. The landscape has not changed in order for highway commercial activity to take place. They indicated they would limit the times and hours that they units could be accessed. What if they decide to put something different there once the property is rezoned if the business is not successful? The road conditions are not great and it is already a busy road so in order for big storage units to come out and things to be stored there is a safety concern. What is most concerning is the environmental protection piece.

Jessica Malone-Daninher, 919 East Melick Road, 464-2220.

Jessica Malone-Daniher is the property owner immediately adjacent to the subject property. She has been in communication with the city planner beginning with an email sent July 15th regarding her concerns surrounding this proposed re-zoning. While she shares similar concerns as those expressed by other neighbours she additionally has the long term concern of the impact commercial zoning could have on my drinking water. A site visit occurred, but it was before the deadline for comments. Mr. Sumner's initial response to her concern about her drinking water was that my property is a similar elevation as the subject property. While this is accurate for the back end of her 5 acre parcel, her well is at the front end of her property. No one from the city has been to her property to see this but if you were to walk

in a straight line from her well to the area indicated as the Phase 1 clearing you would be heading straight uphill. Additionally, a slight rise in elevation at the rental house on the subject property serves to further channel runoff directly to her well and garden. She sent Mr. Sumner back a copy of the topographic map he had sent her with her well marked on it and he responded that he was not aware of any potential impact to my well water. Respectfully, as a Registered Professional Planner, he is not qualified to make that determination. She has been reassured that storage of hazardous goods and fuel is not permitted in a commercial storage facility, and you'll see that included in the city planner's report. But, Mr. Sumner also indicates that Highway Commercial zoning allows for a wide range of uses and several of these would allow for storage of fuel and hazardous goods. By re-zoning the subject property highway commercial, you are opening the door for future uses that would impact my drinking water. At the July 20th meeting the Planning Advisory Committee discussed the potential of a site-specific amendment with an added use in order to allow this self-storage facility to be built but prevent other, more impactful commercial uses from occurring. Mr. Sumner agreed that Highway Commercial zoning allows for a range of activities once it's developed but felt that site specific zoning was cumbersome. So, the city planner feels that the measures necessary to provide long term protection for my family's drinking water to be "too cumbersome" to be bothered with. Mr. Sumner went on to say that once a property is developed for commercial use it is restrictive to encumber it with limited commercial uses. But in this case, given the concerns of surrounding neighbours about the compatibility of this development with the surrounding existing rural land uses, limiting future commercial uses would be a positive thing. There is another self-storage facility in the city that operates in an area with rural zoning, it's on the Goss Rd. She is not familiar with the details of how this was approved but that the zoning in that case continues to be Rural so authorizing these 70 self-storage units as an added use while retaining the Rural zoning would be compatible with the rural landscape as required by the Provincial Policy Statement while also remaining consistent with existing land uses within the municipality. Recognizing that Mayor and Council are being put in a difficult position on this file as the Planning Advisory Committee has already provided their recommendation that the Zoning By-law Amendment be approved. She has a great deal of respect for the PAC and the work that they do. In fact, she has had the privilege of attending meetings in-person in the past to speak as a reviewer on files and I realize the weight their recommendations hold with Mayor and Council. Unfortunately, in this case she feels that the PAC was not presented with all the information prior to being asked to make a recommendation and that they were rushed through the discussion at the end of what was an incredibly long meeting. She would therefore ask that the mayor and council either require additional studies to be completed prior to approving any re-zoning or that the City chooses to allow a site-specific amendment with an added use. This would allow my neighbor to develop their property while preventing future uses that would not be compatible with the rural landscape and would also provide long term protection of her family's health and safety.

Steve Mastromatteo and Janet Hyslop, 364 East Melick Road 204-430-9493.

The road conditions are not in good condition. There are no shoulders and the road is far past its life span and doesn't fit its uses. Not opposed to development but there are various concerns with the environmental issues, road use and it is purely unacceptable. We need to take a serious look at the access to this. There is more development happening but the City hasn't made a move to address the road conditions. The existing properties were already in existence that are operating as commercial. Safety is a priority and protection of the wildlife and waterways. Need to look at what that road looks like and what are the changes required

to that road and the maintenance of those roads are very different. With the Essex Road shut down they have noticed significant increase in the road use and the maintenance of that road needs to improve. This is a great opportunity for people to come forward and express their concerns. When one thing happens it has to look like the other thing. We should have the same surfacing, same drainage as other busy primary roads. The laws are written that the City is untouchable so we hope this will be taken seriously.

4. Questions

- Members of the Public – are there any questions of the application?

Gloria Mejia – if this amendment is approved by Council would like to know who would be overseeing the site planning and next process that they have to create for the next approval. Is it now carte blanche and whatever they want is fine? Even the road permit has to be approved or is it carte blanche. What happens if there is a hiccup and it doesn't look as it was proposed in the building?

Kevan Sumnar, City Planner advised that site plan approval is coordinated through Development Services and involves several branches of the different City divisions to bring in experts in those areas.

Gloria Mejia - The suggestions of the MNR biologist goes away or do you go back to the proponent and suggest that to them?

Kevan Sumnar - That information was already forwarded to the applicant/agent when received. The owners are willing to forego clearing of land on the southeast edge of the property.

Beth Greene, Agent – Absolutely the triangle that has been outlined as an angle of concern in that area will not be touched at all. Within the site plan control there is no intention to go near the triangle. She takes the environmental and wetlands seriously and are only intending on clearing one hectre. Now have three full hectares to work with if there are any concerns with the way the drainage is moving. There are various interventions that can be put in if there are any concerns. Official plan 3.1 allows for multiple zones to be on one lot. Still need to adhere to the rule regulations and that is why it is better to do it the way they have as a site specific amendment the rules still apply and will be addressing those throughout the site plan control process.

Gloria Mejia – to clarify, the three hectares they are not developing.

Beth Greene, Agent – not visible from road and not commercial storage buildings, personal large steel garages, must fall within the existing look and feel of the property. The Tew's want to keep this compact and at the back of the property and any interventions will be put in place that are required.

Gloria Mejia - What controls do we have that the rest of the property won't be developed?

Beth Greene - There are three to four plans of policy that are required before proceeding with development on properties.

Kevan Sumnar – we have site plan control bylaw that requires site plan control approval for any commercial development of this nature. It comes down to the particular application and considered as part of the application. The applicants did submit a conceptual plan that could

be done and often find that the initial vision is changed prior to the actual development. If there are concerns identified through the initial review they work with the applicant to ensure any necessary alternations are made to the site plan to give us the confidence that there is nothing being done with the development that would cause negative impacts and is taken on a case by case basis with interdepartmental review.

Gloria Mejia – who is going to monitor the site plan control several years down the line where they have several storage units and who monitors that. What is controlling that?

Adam – if it is going to go beyond the terms of the site plan agreement it becomes an enforcement issue. We would seek compliance and it is a process and oversight over those types of developments. We do our best to address these concerns with site plan control. We rely on complaints to find out about non-compliance.

Jessica Malone-Daninher – Site plan control does not trigger the need for an environmental impact study. Just to add a residential development the City required an environmental impact study. It is within the City’s authority to require this if there have been concerns brought up. The 120m has been referenced but not certain would be consistent with the Provincial Policy Statement in this case the environmental protection falls on the property itself.

Janet Hyslop – what is the procedure that is in place once it has been approved. What are the next steps are there more opportunity for feedback or ask questions or put forward concerns.

Kevan Sumner - Site plan control approval is required as well as any necessary permits required such as building permits but in regards to public input those are not public processes so there is no public component to those in the future. We do anticipate a site plan control agreement which is brought back to Council at a public Council meeting. The decision on this amendment will take place on August 24th and up to that date the public can still make comment on this application.

5. Discussion

a) Members of Council – Discussion/Questions

Councillor McMillan – with respect to some of the concerns expressed in regards to the environmental impact will the recommendation to Council be amended to reflect this requirement? Within the site plan control, will there be any request to have an environmental impact study based on comments from the biologist.

Kevan’s recommendation remains the same in regards to environmental impact and he has already been in contact with Ms. Greene regards how the site plan can be amended to address the drainage issues. In reviewing our criteria when requiring an environmental impact study and for the information seen today the Planner has not seen a need to require one at this time.

Councillor Smith follow up on the comment made on the highway commercial zone and permitted use. Councillor Smith requested an outline of the list of permitted uses in highway commercial zone.

Kevan – Highway Commercial Zone use has a list of permitted uses as laid out in section 4.8 of the Zoning bylaw which includes a wide list of uses.

Councillor Smith - Once this is rezoned, if that business is no longer viable for that property that means that the property could be used for any of those other permitted uses under the HCZ and could be built on that property if rezoned.

Kevan Sumnar agreed that yes just as under the rural zone they could also develop any permitted use under the rural zone but would still be subject to site plan control.

Councillor Smith – Ms. Greene raised an interesting point regarding the overriding zone there is rural. The rural conditions would take precedent would be looked at first before the highway commercial stipulations.

Kevan – with the zoning amendment, any development of this portion of the property would be subject to the regulations of the highway commercial zone. The rural policy area under the official plan remains in effect as there are rural policies that are overarching. There are situations where there are two zones on a property where things get a little more complicated but this would be highway commercial zone on this portion being rezoned.

Councillor Smith – would it be a consideration to ensure that the concerns are met from the people speaking in regards to the environmental concerns, that it would be included in the site plan.

Kevan has every intention to include in the site plan control agreement that everything in the south east side of that ridge, following that ridge line to the southeast would include a provision to restrict clearing of vegetation from that portion of the site in respect of MNRF comments.

Mayor Reynard – talked about all the uses but does the site plan control prevent someone from building something like a hotel or funeral home once the site plan control is in place.

Kevan – if they could fit a new development into the structure they could do it, but any expansion or change in use would be subject to site plan control approval. The site plan control proceeding as indicated would be for those structures as shown on the property. Any change to that they would need to apply for site plan control for any new additions or change of use of the property. There are various details depending on the nature of the development. Once it is zoned Highway Commercial it does not give them carte blanche to do what they want there is a process to follow for future changes.

6. Close of Public Meeting

As there are no further questions, Mayor Reynard declared this public meeting CLOSED at 1:09 p.m.