



PROCEEDINGS For a Public Meeting

For a Proposed Application for Temporary Use
Under Section 34 and 39 of the Planning Act
(Re: **D14-21-02-129 Whitehead Road**)

Tuesday, May 11, 2021

12:00 p.m.

Virtual Attendance

<https://video.isilive.ca/kenora/2021-05-11-SC.html>

Present: Mayor D. Reynard
Councillor M. Goss
Councillor R. McMillan
Councillor S. Smith
Councillor C. Van Wallegghem

Absent: Councillor A. Poirier
Councillor K. Ralko

Staff: Kyle Attanasio, CAO
Heather Pihulak, Manager of Administration/City Clerk
Kevan Sumnar, City Planner
Adam Smith, Development Services Manager
Melissa Shaw, Planning Analyst
Stace Gander, Community Services Manager/Acting Operations & Infrastructure
Manager

Council Declaration 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.

Land Acknowledgement – Councillor Van Wallegghem

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.

Mayor Reynard outlined the purpose of these 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 members 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 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 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.

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 City Planner will provide a summation of the 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.

Applicant, Mark McLeod, presented his application.

Mr. McLeod is a seasonal resident of Kenora for many years and used to live in Winnipeg. Teamed up with two gentleman that are residents of Kenora and feel this is a great opportunity to do a small sawmill. We are trying to secure a wood supply. Have looked an area in Kenora with a proof of concept and investing at approximately \$200,000 to get a small lumber

operation up and running which would be about 10,000 board feet per day which translates into 100 truck loads of product. It is trying to get a proof of concept again. Use a readily available resource that is underutilized at this point. We can add several layers of jobs in finishing these products in milling and drying them and additional benefits in employment for the local community. Want a location that is close to the downtown. Marginalized population and the current site is being used as a wrecking yard, substantial amount of property there. They are sensitive to the needs of the neighbourhood. Willing to look at options to rectify that and the volume is very low. Looking at options to put in alternate road to this site. Want the neighbourhood to view favourably and the City view favourably.

Kevan Sumnar, City Planner, presented the planning report for the temporary use application:

An application has been received, requesting Temporary Use approval for the processing of products from raw materials (sawmill) and the outdoor storage of these products and materials for a period of up to three (3) years, in the "RU" Rural Zone on a 25 acre portion of the property at 129 Whitehead Road.

The applicant intends to locate a small portable sawmill on the subject property for a period of three years. This type of use is normally only permitted on properties zoned "MH" Heavy Industrial, but the applicant indicates that they have had trouble finding a properly zoned property with access to three phase power and the highway. They have made arrangements with the owner of the property to locate this operation.

The applicant indicated in the initial application that he is willing to limit his hours of operation to limit any negative impacts related to the noise generated by the sawmill. In response to comments from neighbouring property owners and the internal review, the applicant has since indicated that he is also willing to accept conditions that the use be located at least 30m from the ordinary high water mark of a wetland on the property, and restricting heavy truck traffic from accessing the property via Whitehead Road.

Existing Conditions

The north-western portion property currently contains a scrap yard that is considered to be a legal non-conforming use under the "RU" Rural zone. The southern and eastern portions of the property are undeveloped. A small wetland area is located in the northeastern portion of the property. Access to the property is via Whitehead Road, which also provides access to four rural residential properties. The entrance to Whitehead Road from Highway 17E features two tight turns and a steep gradient. Sections of Whitehead Road are in poor condition

Site Visit

On April 15th, 2021, the Planner attended the subject location to view existing conditions.

On April 30th, 2021, the Planner attended the subject property to document the current state of Whitehead Road.

Consistency with Legislated Policy and City Directives

a) Provincial Policy Statement (PPS) 2020

The proposed temporary use is generally consistent with the Provincial Policy Statement, which states that planning authorities shall promote economic development and competitiveness by providing opportunities for a diversified economic base, including maintaining a range and choice of suitable sites for employment uses which support a wide range of economic activities and ancillary uses, and take into account the needs of existing and future businesses (Policy 1.3.1(b)).

b) City of Kenora Official Plan (2015)

The land use designation of the property is Rural Area. Policy 4.1 of the Plan states that permitted uses shall include a variety of agricultural, residential, industrial, commercial, recreational, tourism, and open space uses. All of the adjacent properties are also designated as Rural Area.

In the Rural Area, small-scale commercial and industrial uses that meet the needs of the rural community may be permitted by an amendment to the Zoning By-law provided that those uses are compatible with adjacent uses (Section 4.8.4).

The City of Kenora prefers that industrial uses be located in areas designated Industrial, but recognizes that certain types of industry have historically been located in Rural Areas, and should continue to be allowed to do so. It is recognized that such industries are important to the rural economy, but that they should not be offensive or create a nuisance as a result of noise, hours of operation, odour, traffic generation, air emissions, or other means (Section 4.8.5(a) and (b)).

Large scale industries that are unable to locate in the Industrial Development Area due to land area, open storage, and transportation requirements may locate in the Rural Area subject to Council being satisfied that the use does not have unacceptable impacts related to noise, odour, emissions, traffic, and servicing (Section 4.8.5(d)).

The Official Plan, in guiding the implementation of the Zoning By-law, allows that Council may pass a by-law to allow the temporary use of lands that do not comply with the Land Use designations of the Plan provided that:

- a) The temporary use does not require major capital investment or alteration to the existing landscape;
- b) The proposed use is compatible with surrounding land uses;
- c) The proposed use does not require the extension of municipal services;
- d) The developer has entered into an agreement with the municipality specifying the conditions under which the use may be permitted; and,
- e) The by-law shall specify a maximum time period for which the use may be permitted. (Section 8.3.2)

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 (Section 4.12). Most adjacent properties are also zoned "RU", with the exception of the properties zoned "RR" Rural Residential on Whitehead Road.

During the Planning Advisory Committee meeting, questions were raised as to whether the proposed use could be considered a Forestry Use, which is permitted in the "RU" zone. Forestry Use refers to the general raising, harvesting, and milling of wood. It is my opinion that the use as proposed is more accurately described as Heavy Industrial, which includes the manufacture or processing of products from raw materials and the storage of those products and materials. Heavy Industrial uses are not normally permitted in the "RU" zone.

The Official Plan policies allow for exceptions to the normal zoning regulations when considering applications for Temporary Use.

Results of Interdepartmental and Agency Circulation

The application was circulated for comment on April 1st, 2021. Additional comments were requested following the public meeting of the Planning Advisory Committee, to address concerns raised by neighbouring property owners. The following is a summary of comments received in response to both requests.

By-law Enforcement	Note concerns related to noise, as it is the one thing we may receive complaints from property owners on. The application indicates there may be noise associated with the operation and their intentions to mitigate.
Economic Development	The project is anticipated to result in positive job creation outcomes.
Environmental Division	No concerns
Roads Division	<p>This road is in no conditions at this time to with stand any kind of heavy truck traffic with raw material coming in and finished product going out. As Engineering suggests the road is only hard surfaced and it is not capable to handle these heavy weights. The road needs to be re-surfaced which is not scheduled in this year's re-surfacing program and as for asphaltting the road. There would need to be significant work and cost for the amount of traffic that uses the road at this time, such as widening it, adding material and better drainage with probably new culverts before any asphaltting could take place.</p> <p>The entrance off the highway is very troubling to me with heavy large loads coming off and on to the highway with the incline of the hill. From my experience these heavy loads would polish the hill and entrance quickly in the winter months. Another problem I see is the time trucks would be bringing products into and out of the mill as I'm sure they will be complaints of noise with early hours and even late hours depending on the hours of operation of the mill.</p> <p>As for maintenance in the winter it is not completed until main routes are cleared because of the classification of road. Depending on the amount of snow fall within that event it may not get done till second day of an event.</p>
Hydro One	No concerns

Kenora Fire and Emergency Services	The applicant would have to comply with Part 2 Fire Safety and Part 3, Section 3.2.2 Outdoor Storage of Lumber and Forest Products and Section 3.2.3 Outdoor Storage of Wood Chips of the Ontario Fire Code.
Engineering	<p>The Whitehead Road is only a surface treated road that would likely not survive heavy traffic from pulp and transport trucks. With many curves and steep gradients along with the s-curve approach at Hwy 17 E, the road is not conducive to pulp and transport truck traffic.</p> <p>It would also appear that a few homes along Whitehead Road and Hwy 17 E are within 500 m of the proposed mill and there may noise issues with the mill perched on a high point of land in comparison to the adjoining neighbours.</p> <p>In my opinion with the comments from both myself and Roads, and without the proponent being tasked with making substantial improvements and upgrades to the road (i.e. widening, ditching and hot mix asphalt surface) which would appear to overburden the proponent for a temporary site, that the additional truck traffic will have further harm to the existing road. The other set of factors that would also come into play is the horizontal and vertical geometry that can likely not be improved which is still a concern with the type of traffic being considered if the aforementioned improvements and upgrades are implemented.</p>
Building Division	No concerns
Ministry of the Environment, Conservation, and Parks	Recommend a minimum 30 meter setback of the saw mill from the high water mark of the wetland located on the eastern portion of the lot. This will help prevent sawdust from entering the waterway.

A careful review of the existing condition of Whitehead Road, completed following the Planning Advisory Committee meeting, identified cause for concern regarding the potential for the proposed heavy truck traffic to cause further deterioration to Whitehead Road and thus require major capital investment to improve the road to a suitable standard.

Public Notice and Comments

A public meeting is scheduled to be held by Council on May 11th, 2021. Notice of the application was given in accordance with Section 34 of the Planning Act, whereby it was circulated on April 1st, 2021 to property owners within 120 metres, published in the Municipal Memo of the Newspaper on April 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 defeated at their meeting on April 20th, 2021. Several local residents participated in the virtual meeting and expressed concerns regarding the ability of Whitehead Road to safely accommodate the proposed heavy truck traffic.

As of May 5th, 2021, one letter had been received from a neighbouring landowner expressing concern that the proposal is not consistent with the Official Plan due to incompatibility with

surrounding land uses and not constituting good land use planning. The Planning Division has also received several inquiries and requests for information regarding attendance of the public meetings.

Evaluation

Given the difficulty that the applicant reports in obtaining a suitable lot zoned for heavy industrial use, the proposed temporary use appears to be a reasonable short-term accommodation to allow the applicant to establish operations while continuing a search for a site that will be suitable for long-term operations.

The Official Plan is supportive of small-scale industrial uses in the Rural Area, as well as industrial uses that cannot be easily accommodated in existing industrial areas due to such factors as land area requirements, open storage, or transportation needs, but care must be taken to ensure that such uses do not create an unacceptable impact on the area.

The applicant has indicated this property is required as a location to establish the business while continuing to search for a more appropriate long-term location, and that a maximum of four large trucks will be arriving on site with timber each week, and that four trucks will be departing each week with processed wood. He has indicated that he is willing to operate during regular business hours and to locate the saw in an area that decreases noise pollution that would affect neighbouring properties on Whitehead Road.

In response to concerns from City departments and neighbouring property owners, the applicant has indicated that he is now working on obtaining permission to build an alternate access route from Highway 17E to his property, bypassing the need for heavy trucks to access Whitehead Road. He has indicated that he is prepared to honour a condition on the Temporary Use approval that restricts heavy trucks from accessing the proposed location via Whitehead Road.

Recommendation

As the Planner for the City of Kenora, it is my professional planning opinion, that the Application for Temporary Use Bylaw, File No. D14-21-02, to permit the temporary use of a 25 acre portion of the property located at 129 Whitehead Road for the processing of products from raw materials (sawmill) and the outdoor storage of these products and materials for a period of up to three (3) years, in the "RU" Rural Zone should be approved, in lieu of public comments that may yet to be received. It is further recommended that the approval be subject to the applicant entering in to an Agreement with the City of Kenora to:

- a) Restrict hours of operation to between 8am and 5pm,
- b) Require that all mill operations be located at least 30m from the ordinary high water mark of the wetlands on the subject property,
- c) Restrict heavy truck traffic associated with the proposed sawmill from utilizing Whitehead Road to access the property for deliveries or outgoing shipments, and
- d) Require that the applicant obtain an entrance permit for a private driveway on to Highway 17E, for a private road providing access to the proposed temporary use site.

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

Mayor Reynard questioned if there was anyone who wished to speak in favour of the temporary use provision?

There were none.

Mayor Reynard questioned if there was anyone who wished to speak in opposition of the temporary use provision?

Lael Lunam – 73 Whitehead Road. Ms. Lunam’s property is adjacent to this property. All attended the meeting in the evening so they aren’t able to attend during the day. There is no public transportation out to this property. The alternate road addresses the roads issue. Trilake Timber very familiar with the sounds and noise. Concern is quiet and enjoyment. They are lower than us and they can hear it already. Every day all day – we just had our property appraised for sale in a year or two and selling will not do much for evaluation. There are young families planning on doing development here and friends are on the other side. Would like to be amicable but not sure how we can work around the noise and the road.

Would like to know the three year thing and can other things just come in and what happens after three years.

Mayor Reynard asked if there were any questions of Council?

Councillor McMillan having read the report and the original motion by the planning advisory committee – road access would the applicant have to have that in place before zoning bylaw is passed.

Kevan Sumnar the agreement would be in place prior to.

Councillor Smith – note the proponent recognizes they can’t use Whitehead Road and would expect that would be a very lengthy process to build that. Would that timeline be better spent to look for new location that can accommodate long term use and a more permanent location. The closest property will be bearing the brunt of that noise and mitigate that noise and interested in how that mitigation will happen. Surprised our planner is moving forward with recommendation when defeated at PAC session.

Mr. McLeod – regarding time to do the road, timeline to start mill would be in the fall and would give us the summer to put a road through and looking at costs to put a road in. Trying to reduce the infrastructure costs while proof of concepts. We have 3-4 months to get a road in. They will have a better idea in two weeks of costs and timelines.

Regarding the noise issue, the sawmill will be located in the lower part of the land and we anticipate following the local bylaws where there is a noise decibels are outlined. Other concept is to put a buffer up which will deflect the noise. That would substantially cover those items off.

Mayor Reynard posed a question to Kevan Sumnar, City Planner. For conditions were any of

these brought forward after the conditions of PAC, that was a condition that was added just last week.

Councillor Smith – restricted uses to working hours – limit hours of operation between 8 a.m.- 5 p.m. but weekend hours were not identified. Asked if there is a three year variance – what happens after the three years. Does he reapply and can you just do anything else on there. The temporary use bylaw approves this specific use on that particular 25 acre piece of property for three years from the date of the bylaw and then it would expire. If he wants to continue, he would need to apply for a further temporary use or apply for a permanent rezoning.

Webcast questions that were submitted -

What about a water source and what happens if it catches fire. Houses are quite close to where this sawmill is going to be. I don't want to be risking my house because they want to put an industrial business in our backyard.

Defer to the applicant with questions pertaining to the water. There is minimal water usage by the operation. We aren't extending any water service or sewer. Fire & Emergency Services noted that they would need to comply with the Building and Fire Codes.

Second question – why that spot when the old Tri-Lake

Third question:

How close to the properties is this alternate road going to be. My property also butts up to his property and we are concerned as well for noise and air pollution.

The road being considered is on the southeast corner of this property – few hundred meters east of the whitehead road.

As there are no further questions, Mayor Reynard declared this public meeting CLOSED at 12:44 p.m.