



City of Kenora
Planning Advisory Committee
60 Fourteenth Street N., 2nd Floor
Kenora, Ontario P9N 4M9
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Minutes
City of Kenora Virtual Planning Advisory Committee
Regular meeting held by way of Zoom Meeting
Tuesday May 2, 2023
12:00 Noon (CST)
Video Recording:

DELEGATION:

Present:

Robert Kitowski	Chair
Tara Rickaby	Vice Chair
Robert Bulman	Member
Andrea Campbell	Member
Renee Robert	Member
Jay Whetter	Member
Kevan Sumner	City Planner
Stace Gander	Manager of Development Services
Alberic Marginet	Secretary-Treasurer
	Minute Taker

Members of Public:

Kyle Kostenuk	Applicant for D07-23-01
Laura Wheatley	Agent for D07-23-01
Stefan Robinson	104-561 Veterans Drive

i. Call meeting to order

The special meeting was called to Order by the Chair, Robert Kitowski, at 12:00 noon Central Time, and a Land Acknowledgement was provided recognizing the traditional territories of Treaty Three First Nations and Metis people. The Chair identified the meeting being recorded and that all participants agree to be recorded by choosing to attend. The Chair described the expected protocols and processes to be followed during the meeting.

ii. Additions to the Agenda

The Chair asked the Secretary-Treasurer, Mr. Alberic Marginet, if there were any additions to the agenda. The Secretary-Treasurer identified no additions.

iii. Declaration of Interest by a member for this meeting or at a meeting at which a member was not present.

The Chair asked the members of the Committee for any declarations of interest for the meeting, or any meeting at which a member was not present. No members of PAC made declarations of interests.

iv. Correspondence relating to applications before the Committee

The Chair asked if there was any new correspondence related to the applications before the Committee. The Secretary-Treasurer identified none.

v. Adjournment Requests

The Chair asked if there were any Adjournment Requests. The Secretary-Treasurer reported there were none.

vi. Consideration of Applications for Land Division

i) D07-23-01 (Evergreen Condos)

The Chair asked who would be presenting the application for D13-23-04. The Applicant, Mr. Kyle Kostenuk, stated he would be making the presentation. (Mr. Kostenuk, 209 Webster, Winnipeg, Manitoba) made a slideshow presentation outlining the development, its phases, the site and residential units, and other details related to the development.

The City Planner, Mr. Kevan Sumner, presented the Planning Report. He described the purpose of the application, the details related to the development, and the site conditions and history. A current site plan control application is being review by the City of Kenora. Completed studies and site requirements were described. The application was reviewed against the Provincial Policy Statement, the Official Plan, and the Zoning By-law 101-2015, and found to generally comply with these policies. Conflict with Section 3.13.1 of the Zoning By-law was reported, and a Minor Variance will be required to resolve this conflict. Interdepartmental and Agency circulations were identified and reported to the Committee. The City Planner's evaluation is the proposed Plan of Condominium meets the criteria for approval, that:

- (a) The draft plan is consistent with the policy directions of the Provincial Policy Statement (2020) with regards to promoting residential intensification, more efficient use of municipal services, and directing development to designated growth areas adjacent to the existing built-up area. Appropriate consideration has been made for the proximity of the development to the adjacent rail yard through completion of the Noise Impact Assessment.
- (b) The proposed draft plan will allow for the development of a greenfield property in a central location, with ready access to a range of services. The City of Kenora has recognized our need to develop more housing, and so the proposed development meets a current urgent need and is in the broader public interest.
- (c) The proposed condominium conforms to the policies of the City of Kenora Official Plan, specifically Policy 4.1.2(c) which encourages infill residential development at moderate density in the Established area and Policy 4.7.1(b)

which requires a noise study to the satisfaction of Council and CP. Council has received a copy of the noise study and has approved the designation of the property as Class 4 under the NPC300 guidelines, and it was also provided to CP Rail for consideration in their comments.

- (d) The proposed condominium is suitable for the purpose of the land. the grade change on site has necessitated a 12% slope/proposed incline of the private road that is unsuitable for emergency vehicle access however the proponent has proposed a secondary gated access through adjacent private lands that allow for emergency access via a driveway with suitable gradient. A formal easement shall be a condition of approval. The fire department will require that keys be accessible via a lock box at the gate.

Section 3.13.1 of the by-law stipulates that no more than one single-detached, semi-detached, duplex, triplex, stacked, apartment, multiple attached, or converted dwelling shall be erected on any lot. A Minor Variance Application under Section 45 of the Planning Act will therefore be required to seek relief from this restriction and permit multiple duplex and triplex dwellings on the single lot of the condominium.

- (e) All roads within the development will be private. Access to the property will be via an entrance off Ninth Avenue North. An easement or Private Road Agreement will form a condition of approval, which will require Private Road signage and no-parking signs along portions of the private road without designated parking stalls.

Access shall require approval of an Entrance Permit from the City of Kenora Roads Department.

- (f) The proposed condominium development will occupy a single lot. The lot complies with the requirements of the R3 zone and appears suitable to the number of residences being proposed at a density of 32 dwelling units per hectare. Medium density development of up to 40 units per net hectare is supported in the Established Area. As noted above, a Minor Variance application shall be required to comply with Section 3.13.1- Lot Occupancy of the Kenora Zoning By-law 101-2015. Future phases shall comply with the current day provisions of the Zoning By-law in force.

- (g) The proposed condominium units will be required to connect to municipal sewer and water, as required under Policy 6.1(h) of the Official Plan and the regulations of the Zoning By-law for R3 zoned properties. Units must meet the Class 4 limits under the NPC 300 Environmental Noise Guidelines.

Any future development on the proposed Draft Plan of Condominium shall be subject to the proposed restrictions and conditions of approval for the Draft Plan of Condominium Application.

- (h) With respect to natural resources, there are no known natural heritage features or areas on or near the site.
- (i) Municipal sewer and water connections are available from Ninth Avenue North.

- (j) At the time of this report, the School Boards have not identified the need for a school site on the subject lands. Evergreen School is located immediately adjacent to the property, and an easement agreement for access over the School Board property shall be required as a condition of approval to support the secondary access for emergency vehicles.
- (k) As provided for under policy 4.6.3 of the Official Plan, the City is requesting that up to 5% of the land be conveyed to the City for parkland dedication. The conveyed parcel must be suitable for recreation purposes and acceptable to the City of Kenora. Dedication of land for public purposes shall be determined as a condition of draft approval.
- (l) The proposed lots will be able to connect to the existing electrical lines which run along adjacent streets. The proponent shall provide any easements required for utilities such as Synergy North as a condition of approval.
- (m) The developer has a submitted an application for Site Plan Control approval, which is being reviewed concurrently with the subdivision application. Future development shall be subject to the conditions of a Site Plan Agreement being entered into and registered on title per the City of Kenora Site Plan Control Policy.

The City Planner recommendation and opinion is the draft plan meets the criteria of Section 51(24) of *the Planning Act*, and can be approved by the Planning Advisory Committee, subject to the following conditions and any other conditions identified by the City of Kenora:

1. That this draft approval applies to the Plan of Condominium, File No. D07-23-01, 1000059403 Ont Inc. (operating as Evergreen Condos), for an unaddressed Property at the corner of Brinkman Road and Ninth Avenue North, generally described as PINs 42169-0159, 42169-0160, 42169-0162, 42169-0163, 42169-0164, 42169-0243, 42169-0245, and 42169-0301; Kenora, Ontario.
2. That prior to final approval being granted the City of Kenora shall confirm that the final plan for that phase is in compliance with the Zoning By-law in effect.
3. That prior to final approval, the Owner/Developer shall receive approval of a Minor Variance to address the non-compliance with the Zoning By-law Section 3.13.1- Residential Lot Occupancy.
4. That approvals are received from the City for the provision of any future entrance permits, culvert and materials as required to develop driveway access, where a new entrance is required.
5. That an easement agreement or Private Road Agreement must be registered on title with regards to indemnification, maintenance, upkeep, and garbage collection.
6. That an easement is registered for right-of-way access in favour of the condominium over KPDSB property as a secondary/emergency access.
7. That the private road shall include a sign at each entrance to the Condominium as approved by the City of Kenora for sign specifications and

shall include the following wording: *This road is not owned or maintained by the City of Kenora: Use at your own risk*, and that No Parking signs shall be installed along those portions of the Private Road which are not identified as an exclusive use forming required parking.

8. That easements as may be required for access, pedestrian walkways, utilities, drainage, or other purposes shall be granted to the City of Kenora, and any other authority or party e.g., Synergy, Enbridge, Bell etc. shall be registered on the lands and described on a reference plan.
9. That a Service Agreement for municipal utilities be entered into to the satisfaction of the City of Kenora, unless the City of Kenora determines that such an Agreement is unnecessary.
10. That a drainage plan be submitted, to the satisfaction of the City of Kenora, for ground water drainage and connection to the municipal storm water system.
11. That recommendation respecting noise mitigation from the Noise Impact Assessment completed by LBE, dated February 10, 2023, are incorporated into the condominium declaration, including:
 - a. mechanical cooling in all units to allow closed windows, effectively allowing the building façade to act as a noise barrier for indoor sound quality.
 - b. building facades to meet a minimum STC rating of 50 for exterior walls facing the rail yard and 35 for windows, and to be compliant with Ontario Building Code requirements for walls facing the rail yard, as recommended in the Noise Impact Assessment.
12. That the developer be required to provide notice to prospective purchasers and tenants on all Purchase and Sale Agreements that the dwellings are located in a Class 4 Noise Area and that agreements respecting noise mitigation exist and are registered on titled.
13. That the developer be required to provide notice to prospective purchasers and tenants that, "Canadian Pacific Railway and/or its assigns or successors in interest has or have a railway right-of-way and/or yard located adjacent to the subject land hereof with operations conducted 24 hours a day, 7 days a week, including the shunting of trains and the idling of locomotives. There may be alterations to, or expansions of, the railway facilities and/or operations in the future, which alterations or expansions may affect the living environment of the residents in the vicinity. Notwithstanding the inclusion of any noise and/or vibration attenuating measures in the design of the development and individual dwellings, Canadian Pacific Railway will not be responsible for complaints or claims arising from the use of its facilities and/or its operations on, over, or under the aforesaid right-of-way and/or yard."
14. That up to 5% of the subject property, as agreed upon by the developer and the City of Kenora, be conveyed to the City of Kenora and dedicated for a park or other recreational purposes.

15. That the payment of any outstanding taxes, including penalties and interest (and any local improvement charges if applicable) shall be paid to the City of Kenora.
16. That a Site Plan Agreement is entered into and registered as per the City's Policy.
17. That prior to final approval being granted the City of Kenora shall be in receipt of a draft copy of the Condominium Declaration for review for City of Kenora.
18. That prior to approval, a digital file of the plan to be registered will be provided to the City of Kenora Planning Department in PDF format.
19. That three original copies (not photocopies) of the plan of survey, bearing the Land Registry Office registration number and signatures as evidence of deposit therein be provided; that illustrate the units, exclusive use common areas, the common elements, and any other items to which the approval relates; it must show in general, the same area and dimensions as the draft plan forming part of the application.
20. The final plan for registration must be in a registerable form together with all necessary instruments or plans describing an interest in the land.
21. That the Declaration by 1000059403 Ontario Inc., known as "Kenmare Developments Inc., locally known as the "Evergreen Condos" be registered on title.
22. That all costs associated with extension of services, development of private driveways, surveys, legal fees and matters related to the application are the responsibility of the owner.
23. That prior to final approval the City of Kenora shall receive a letter, from the owner or owner's Agent/Solicitor, confirming that conditions #1 through #22 have been fulfilled. Clearance letters from the City of Kenora and external agencies are to be included.

NOTES:

- I. Prior to any grading or any construction on the site, the Developer may be requested to provide a Drainage Plan, to identify the capacity of the existing natural swales and/or proposed ditches and demonstrate that the drainage for all roads and lots be as close to the property lines as possible. References would be made to an overall drainage basin runoff flow calculation.
- II. 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 City Planner also noted that Section 45 s.(32) and s.(33) of *the Planning Act* are applicable.

The Chair asked the Agent, Ms. Laura Wheatley, to provide her report. Ms. Wheatley provided a report explaining the legal planning layers of condominiums for the benefit of the Planning Advisory Committee's understanding. The Agent also provided details

related to the surrounding land uses, phases and details of draft plan of condominium, and other applicable details necessary to understanding the development proposal.

The Chair asked if the Applicant or the Agent had any questions or comments related to the Planning Report. Neither the Applicant, Mr. Kostenuk, nor the Agent, Ms. Wheatley, had any.

The Chair asked if any members of the public wished to speak in favour or opposition to the application. No members of the public identified.

The Chair asked if any members of the Committee had questions or comments. Member Rickaby asked if there were sidewalks proposed in the development. The Applicant Mr. Kostenuk responded that there were no sidewalks being proposed for the development.

Member Robert asked if there was a precedent for condominium development in other communities of similar size to Kenora. The Agent, Ms. Wheatley, responded with developments in Thunder Bay and Kenora as examples of condominium development, but reported that a phased condominium development is a new concept in the City of Kenora. The Applicant, Mr. Kostenuk, added that the modular development concept is new to the community as well.

Member Campbell asked if renewable energy sources were considered as part of the condominium development. The Applicant stated that renewable energy was not a consideration of the development, but this wouldn't stop the owners from developing renewable energy if they desired. Member Campbell also echoed Member Rickaby's comments about sidewalks.

The Chair asked the Planner about the potential need for a cul-de-sac in the development. The Planner indicated that this issue was being handled in site plan control, and a cul-de-sac was being developed. The Chair followed up with a question with the 5% subject land being conveyed to the City. The City Planner indicated that this land conveyance was being negotiated at present.

Member Rickaby asked if 5% was being requested, or if the City was going to use cash-in-lieu instead. The Planner responded that the City had considered accepting cash-in-lieu, but identified that it could make use of the green space provided by this development.

The Chair identified a member of the public with a question. Mr. Stefan Robinson, 104-561 Veterans Drive, identified a concern that access to water for landscaping be provided for units in the condominium development. The Applicant responded that water for landscaping hadn't been considered, but he and the Agent reported that this feature could be included as a common element of the condominium corporation.

The Chair asked the Secretary Treasurer to read out the draft decision:

That the Planning Advisory Committee provide draft approval of application for Plan of Condominium, D07-23-01, subject to the criteria of Section 51(24) of the Planning Act R.S.O. 1990, C. p. 13, the conditions identified in the Planning Report D07-23-01, and any other conditions deemed necessary by the City of Kenora.

Moved By: Member Whetter

Seconded By: Member Rickaby

In favour: 5

Opposed: None

Abstained: 1

vii. Old Business

- i) OACA Conference
Seat preferences were discussed prior to booking of flights for the OACA Conference.

vii. New Business

Member Rickaby requested that moving forward if site plans could be provided for applications when possible and available. Member Rickaby also thanked the Ms. Wheatley for her overview of condominium developments, which was mirrored by all members of the Planning Advisory Committee.

ix. Adjournment

The Chair asked for a motion for adjournment.

Moved: Member Bulman