



PROCEEDINGS

Of a Public Meeting to discuss an
Amendment to Zoning By-law #160-2010
(Re: Z08/12 Bilton and Z09/12 McTaggart)

Wednesday, November 14, 2012
City Council Chambers
At 10:00 a.m.

PRESENT: Councillor L. Roussin, Property & Planning Chair
Mayor D. Canfield
Councillor C. Drinkwalter
Councillor R. McKay
Councillor R. McMillan
Councillor S. Smith
Tara Rickaby, Planning Administrator
Heather Kasprick, Deputy Clerk

REGRETS: Councillor R. Lunny
Karen Brown, CAO
Richard Perchuk, Operations Manager

Chairman of Property and Planning Committee, Louis Roussin opened the meeting. This public meeting is being held by the City of Kenora Property and Planning Committee in accordance with Section 34 of the Planning Act to consider amendments to the City of Kenora Comprehensive Zoning By-law No. 160-2010. The Property and Planning Committee will make a recommendation to Council with respect to whether or not the applications should be approved. The Council of the City of Kenora will make the decision at a meeting of Council.

The Chair asked the Clerk to confirm the dates of notice given by publishing notices in the Kenora Daily Miner and News, being a newspaper that, 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 would apply that it would give the public reasonable notice of the public meeting. H. Kasprick, Deputy Clerk, advised the Notice pertaining to these public meetings appeared in Kenora Daily Miner & News on October 18, 2012 (Bilton) and October 23, 2012 (McTaggart).

The Chair indicated that if anyone wishes to receive written notice of the adoption of the By-laws is to leave their name and address with the Clerk.

The Chair explained that an appeal may be made to Ontario Municipal Board 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 by filing a notice of appeal setting out the objection to the by-law and the reasons in support of the objection, accompanied by the fee prescribed under the Ontario Municipal Board Act, with the City Clerk.

The Chair stated that each Applicant/Agent will provide the background information for their application and then the Planning Administrator will provide information from the planning report, after which anyone who wishes to speak either for or against the applications will be given the opportunity to do so, and a record will be kept of all comments.

Application for Zoning By-law Amendment Z08/12 Bilton

Introduction

Jeff Port, Agent for Bilton advised that his client owns the property at 322 First Avenue South which is located across from the Blue Heron Gift Shop. The purpose of this application is to add an office as permitted use, to the R2 zoning of the property. Mr. Bilton runs a law office on the property. Mr. Bilton bought the house several years ago when he moved to Kenora and set up his law practice in the home. His practice has expanded to the point where it is being used solely as office space. There are special land use policies for the Harbourn Centre area and it was perfectly legal to run a home based business and on a limited basis to run his law practice from there. He has grown his business and has hired 3 other lawyers and a paralegal so has had to purchase another home to live in and has decided to run this home as a full time office. The key planning issue is parking; there is no expansion and therefore no additional parking is required. Parking is metered parking along First Street South. Entrance to the office is off the laneway side. Right now there are no clients coming to the property, but there is potential for that increase as the business grows. The neighbourhood is one of mixed uses. The zoning will remain as R2 with office use added.

Purpose of the Application: The applicant, Jonathan Bilton, proposes to add a professional office use to the existing R2 – Residential, Second Density use of the property. The rezoning of the property would permit the property to be used as a law office, and bring it into compliance with Zoning By-law No. 160-2010, as amended. Jeffrey Port acts as agent for the property owner.

Description of subject lands:

- The property is described as Plan M11, Lot 41 and north part of 40, 322 First Avenue South;
- The subject property is located in an older neighbourhood, in the Harbourn Centre area.
- This is a neighbourhood of mixed use
- The property is the site of a residence, constructed in 1913 and a garage, for which a building permit was issued in 1950 ;

- The property has vehicular access via the rear lane, from Fourth Street South;
- The property owner uses the existing residential structure as office space for a law practice.

Adjacent land uses:

North: Residential and one home-based occupation (personal service)
 East: Residential, open space and Canada Safeway across Fourth Avenue South
 South: Commercial, office use and associated parking, open space
 West: Residential, and commercial, multi-family residential

Description of proposed development:

The application indicates that the existing residential structure and accessory garage will remain and not be expanded. The use of the residential structure will be as an office, to house a law practice. The application is to add this use the residential use permitted in the zoning by-law.

Provincial Policy Statement (2005):

The property is located in an area which can accommodate a range and mix of residential and commercial uses along First Avenue South and is an efficient use of land and resources as no expansion of municipal services is required and there is no change to the settlement area. The proposed use provides another opportunity for intensification and provision of employment lands (Sections 1.1.1.1 (b), 1.1.3.2 , 1.1.3.7, 1.31.2 PPS 2005).

City of Kenora Official Plan (2010)

The guiding principles and objectives, set out in Section 2 of the Official Plan, support infill and intensification in the Harbourn Centre, where services exist, identifies the need to support existing business in order to encourage a diversified economy, The support of a mixed-use neighbourhood and promotion of desirable built form are two of objectives identified in the Official Plan which support this application, the approval of which considers the intent of the Official Plan policies of the Harbourn Centre area.

The subject property is designated in the City of Kenora Official Plan 2010 as Harbourn Centre Area. Section 4.3. 1 states that: Commercial, entertainment, recreation and residential uses shall be permitted. Section 4.3.2 – Objectives in the Harbourn Centre include: to promote the continued development and growth of the Harbourn Centre as the primary office, business, cultural, entertainment, tourism and administrative area for the City of Kenora;

e) to reinforce the Harbourn Centre as a vibrant and vigorous commercial area offering a full, balanced and diversified commercial land use mix. Section 4.3.4 (c) indicates that the change of use of existing structures from any use to any permitted use other than residential shall not require the provision of additional parking. Conversions to residential uses, new construction or additions to existing structures shall require the provision of additional parking, in accordance with the implementing Zoning By-law.

Compatibility of new developments shall be assessed based on the following criteria:

- a) **Height and massing:** No new buildings are being considered as part of this application.
- b) **Pattern of surrounding community:** The proposed development will not alter the character of the surrounding buildings, including scale and rhythm, massing, and architectural design;
- c) **Outdoor amenity areas:** The privacy of outdoor amenity areas of adjacent residential units must be respected. The City has not received any comments/complaints from the residential neighbours.
- d) **Shadowing:** No changes proposed to existing structures as part of this application.
- e) **Lighting:** the potential for light spill over or glare onto adjacent light-sensitive areas must be minimized;
- f) **Noise and Air Quality:** There are no changes proposed to the existing structures as part of this application.
- g) **Parking:** On-site parking is provided.
- h) **Loading and service areas:** There are no loading/service areas proposed as part of this application.
- i) **Vehicular access:** The location and orientation of vehicular access will not change as a result of this application.

Zoning By-law No. 160-2010

The subject property is zoned R2 – Residential, Second Density in the City of Kenora Zoning By-law 160-2010. Residential uses are permitted in the R2 zone, as are home occupations, including professional offices, with a maximum of one employee other than the resident.

An office is defined in the Zoning By-law as a building or part thereof designed, intended or used for the practice of a profession, the transaction and/or management of a business, or the conduct of public services and administration, but shall not include a clinic or a financial establishment.

Per Section 3.29.7 additional parking is not required beyond that already supplied as the building's gross floor area is not being increased.

Description of Proposed Development

The Applicant proposes to maintain the property's residential zoning, and the permitted uses, and add a professional office as a use in order to permit the property and structure to be used as a law office.

Interdepartmental comments:

Departments and Agencies Circulated	Comments Received
<p>Planning Department</p>	<p>The property was transferred to J. Bilton in 2007. The City's records indicate that a business license was approved, with an office as a home occupation, in 2009. The Applicant's agent indicates that the property was, in fact, used as a law office from the date of purchase. There is currently no residential use of the property.</p> <p>Floor area is not proposed to be increased and therefore Section 3.29. 7 of the Zoning By-law applies; no additional parking is required. Notwithstanding any requirements of the Ontario Building Code, this section applies also to barrier free parking.</p> <p>The use of the existing structure as a law office should not have an impact on the neighbourhood with respect to noise.</p> <p>The City has not received complaints regarding the use of the property as an office.</p> <p>Maintenance of the structure's residential character is in keeping with the character of the residential uses in the area.</p> <p>The Official Plan designation of Harbourtown Centre promotes mixed uses in the area.</p>
<p>Building Department</p>	<p>Section 10 of the Building Code Act indicates that even though no construction is proposed, no person shall change the use of a building or part of a building if the change would result in an increase in hazard as determined in accordance with the building code, unless a permit has been issued by the chief building official. Change from a C use (residential) to a D use (business and personal services) requires a permit. If any alterations are required to comply with Part 10 (Change of Use) other parts of the code</p>

	may apply. As the building is located in Harbourtown Centre, Site plan control may apply.
Roads Department	No objections
Sewer & Water Department	No objections
Kenora Hydro	No objections
Kenora Fire & Emergency Services	The file remains incomplete. A combined office and residential occupancy requires egress and fire separations etc. A floor plan and building components between the two occupancies would be useful.
Heritage Kenora	No objections
Kenora Planning Advisory Committee	No objections based on notice and request for comments circulated 17 Oct 2012

Comments from the Public: None, to date (November 13, 2012)

Other information:

The property was purchased in 2009 and a business license, for law office as a home occupation issued. According to the Applicant’s agent, the structure was only ever used by the property owner as a law office. There has not been a residential use of the property since purchase.

The City of Kenora is awaiting receipt of a floor plan of the structure in order to determine use of the structure and possible requirements under the Ontario Building Code and Ontario Fire Code.

Planning Recommendation:

That the decision regarding the application to amend Zoning By-law No. 160-2010, Z08/12 Bilton, be deferred to the December meeting of Property and Planning, pending receipt of a floor plan of the structure and comments from the Chief Building Official and Manager of Fire and Emergency Services.

Councillor Roussin asked if anyone wishes to speak in favour of the amendment. There were no further comments from the public.

Councillor Roussin asked if anyone wishes to speak in opposition of the amendment. There were no oppositions from the public.

Councillor Roussin asked if there were any questions. Gloria Alcock stated that she lives behind the building in question. She suggested that should they install a sign it should be consistent with the heritage theme similar to the others that have been installed on Main and Second Street. Planning Administrator Tara Rickaby noted that the building itself is not a designated heritage building under the Heritage Act, however, it is a good suggestion. Gloria further requested for the owner to

install some lighting so that it is not so dark at night in that area. Jeff Port agreed to discuss it with his client.

Linda Mitchell also expressed that she owns the property right next to the property in question. She asked Council what the vision and direction of the area is. Planning Administrator Tara Rickaby indicated that when staff and Council review the Official Plan and Zoning Bylaw again, it will be discussed then which will not be until the new Council is elected.

There were no further questions and Councillor Roussin moved to the next applicant.

Application for Zoning By-law Amendment Z09/12 McTaggart

Introduction

1429 Hwy 17 W is a duplex building located in a Highway Commercial zone. Owners of the Laurenside Inn renovated and previously used for the structure for many years as overflow for the establishment. The house was reconstructed in 1994 as a duplex and operated commercially under a lease agreement until now. The owners of building want to dispose of the building as it is no longer viable as a commercial operation. It is a duplex and currently being used as a duplex therefore the application is to add a duplex building in commercial zone. The Official Plan policy in the Commercial Development Area supports limited residential development in a commercial area. The building is not to be reconfigured; it will be rented out as a monthly rental rather than nightly rental as hotel. The application is to add the duplex as a residential use; nothing will change on the ground. It will be owned independently and rented as such.

Purpose of the Application: The applicants, John and Gordon McTaggart, propose to add a residential use to the existing HC – Highway Commercial use of the property. The rezoning of the property would permit the property to be used either or both as a duplex or a residential/commercial mix. Bill Scribilo acts as agent for the property owners.

Description of subject lands:

- The property is described as 1429 Highway 17 East, PLAN M63 PT LOT 256 & 257 PCL 20983 ;
- The subject property is located on the east end of the area locally known as the "Sunset Strip) on Highway 17 East.
- This is a neighbourhood of mixed use
- The property is the site of a duplex residence; the original home being constructed in 1957, renovated by Thee Laurenside Inn in 1990 and the conversion of the basement to a second residential suite permitted in 1993, and a commercial sign;
- Parking is provided on site;
- The property has vehicular access via Highway 17 East;
- The property owner leases the existing residential structure to Thee Laurenside Inn for both the travelling public and longer term stays.

Adjacent land uses:

North: Highway commercial uses
East: Residential
South: Residential
West: Residential and highway commercial uses

Description of proposed development:

The application indicates that the existing residential structure is proposed to be used as a duplex, but that if the need arises to use it commercially, the property owner wishes to be permitted to do so.

Provincial Policy Statement (2005):

The property is located in an area which currently accommodates a range and mix of residential and commercial uses along Highway 17 East, and is an efficient use of land and resources as no expansion of municipal services is required and there is no change to the settlement area.

The proposed use provides another opportunity to provide both affordable housing for intensification and does not affect the employment lands (Sections 1.1.1.1 (b), 1.1.3.2 , 1.1.3.7, 1.31.2 PPS 2005).

City of Kenora Official Plan (2010)

The guiding principles and objectives, set out in Section 2 of the Official Plan, support infill and intensification in areas where municipal services exist, identifies the need to provide a range of housing opportunities. The support of a mixed-use neighbourhood and promotion of desirable built form are two of objectives identified in the Official Plan which support this application, the approval of which considers the intent of the Official Plan policies of the Commercial Development Area and the underlying principles and objectives of the Official Plan.

The subject property is designated in the City of Kenora Official Plan 2010 as Commercial Development Area. Section 4.4.1c) states that residential land uses shall be permitted on a limited basis in existing buildings and structures suitable for residential use. New residential development in the Commercial Development Area shall not be permitted.

The use of the property has historically been residential in nature. The residence was originally constructed as a private residence. Thee Laurenside Inn then purchased the property for use for longer term accommodations.

Compatibility of new developments shall be assessed based on the following criteria:

- j) **Height and massing:** No new buildings are being considered as part of this application.

- k) **Pattern of surrounding community:** The proposed development will not alter the character of the surrounding buildings, including scale and rhythm, massing, and architectural design;
- l) **Outdoor amenity areas:** The privacy of outdoor amenity areas of adjacent residential units must be respected. The City has not received any comments/complaints from the residential neighbours about the current use of the property.
- m) **Shadowing:** No changes proposed to existing structures as part of this application.
- n) **Lighting:** Residential lighting only.
- o) **Noise and Air Quality:** There are no changes proposed to the existing structures as part of this application.
- p) **Parking:** On-site parking is provided.
- q) **Loading and service areas:** There are no loading/service areas proposed as part of this application.
- r) **Vehicular access:** The location and orientation of vehicular access will not change as a result of this application.

The commercial uses across Highway 17E are protected in that the entire area remains designated as Commercial Development Area in the Official Plan.

Zoning By-law No. 160-2010

The subject property is zoned HC – Highway Commercial in the City of Kenora Zoning By-law 160-2010. Hotels/motels are both permitted uses in the zone and residential uses are permitted as accessory uses, with conditional occupation. The applicants propose to maintain the commercial zoning, and in order to provide flexibility, add a duplex as a use.

On-site parking is presently provided.

Description of Proposed Development

The Applicant proposes to maintain the property's commercial zoning, and the permitted uses, and add a duplex as a use in order to permit the property and structure to be used for residential purposes and/or commercial purposes.

Interdepartmental comments:

Departments and Agencies Circulated	Comments Received
Planning Department	<p>The current use of the property, for longer term residential, as part of a hotel use is similar to the use of the property for a duplex dwelling.</p> <p>The property is located on property abutting residential uses on all but the west side.</p> <p>The structure's residential character is in keeping with the character of the residential uses in the area and will not change.</p> <p>The existing structure is designed as a duplex and therefore the use of the property meets the intent of section 4.4.1(c) of the Official Plan.</p> <p>The Highway Commercial zone permits residential dwelling unit as an accessory to a commercial use. Residential use would be permitted without a zoning by-law amendment, if used in accordance with the HC provisions.</p> <p>The addition of a residential use to a highway commercial zone maintains protection for the existing commercial uses while providing affordable housing, or an opportunity for a small business to be established.</p>
Building Department	<p>Reference is made to 5.0 Reason for Zoning Amendment – if however a commercial use is identified that use could continue under this application. It should be noted that appropriate zoning in itself doesn't necessarily permit the use. Additional approvals/permits for a change of use may include but are not limited to the Ontario Building Code, Ontario Fire Code and Site Plan Control.</p>
Municipal Engineer	No objections
Roads Department	No objections
Sewer & Water Department	No objections
Kenora Hydro	No objections
Kenora Fire & Emergency Services	<p>The application included fire code requirements which are listed as a result of an inspection of the property.</p>

Heritage Kenora	No objections
Kenora Planning Advisory Committee	No objections based on notice and request for comments circulated 17 Oct 2012

Comments from the Public: None, to date (November 13, 2012)

Other information:

The property is listed for sale.

Per information provided by the Agent on 7 Nov 12, the smoke detectors have been repaired, there has not been an ESA inspection scheduled yet and the drywall patching is 4"x8" in size and therefore a building permit will not be applied for. The Chief Building Official concurs.

Planning Recommendation:

That the zoning by-law amendment Z09/12 McTaggart, to amend the Zoning By-law 160-2010, as amended, for the property described as 1429 Highway 17 East, PLAN M63 PT LOT 256 & 257 PCL 20983 , City of Kenora, District of Kenora to add "duplex" as a use to the HC – Highway Commercial zone as the application is consistent with the Provincial Policy Statement (2005), and meets the purpose and intent of both the City of Kenora Official Plan (2010) and Zoning By-law No. 160-2010, as amended for the reasons outlined in the planning report; and further that the Zoning By-law No. 160-2010 be amended as follows: That notwithstanding other provisions as set out in Comprehensive Zoning By-law 160-2010, at the property described on Schedule "A" and specifically described as 1429 Highway 17 East, PLAN M63 PT LOT 256 & 257 PCL 20983 by changing the zoning to HC [25] Notwithstanding any other provisions of this By-law, on the property described as 1429 Highway 17 East, PLAN M63 PT LOT 256 & 257 PCL 20983 the property may include a duplex as a use in addition to the HC – Highway Commercial use.

Note to approval: Approval by Council of the amendment of Zoning By-law Number 160-2010, as amended, does not preclude the property owner from obtaining the required change of use permit or any other permit required by municipal by-law or Provincial or Federal legislation.

Councillor Roussin asked if anyone wishes to speak in favour of the amendment. There were no further comments from the public.

Councillor Roussin asked if anyone wishes to speak in opposition of the amendment. There were no oppositions from the public.

Councillor Roussin asked if there were any questions.

- There were no questions.

Councillor Roussin the declared the Public Meeting closed at 10:23 a.m.