



PROCEEDINGS

Of a Public Meeting to discuss an
Amendment to Zoning By-law #160-2010
(Re: Z03/15 Moncrief)

Tuesday, October 13, 2015
City Council Chambers
At 11:00 a.m.

PRESENT: Councillor S. Smith, Property & Planning Lead
Mayor D. Canfield
Councillor M. Goss
Councillor R. McMillan
Councillor D. Reynard
Councillor L. Roussin
Councillor C. Wasacase
Karen Brown, CAO
Tara Rickaby, Planning Administrator
Melissa Shaw, Planning Assistant
Rick Perchuk, Manager of Operations
Heather Kasprick, City Clerk

Lead of the Property and Planning Committee, Sharon Smith, 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, City Clerk, advised the Notices pertaining to these public meetings were provided in accordance with Planning Act requirements.

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.

Applicant Description of details:

Mr. Randy Seller provided details of the amendment, explaining that the only access to the property is off the James Road. The intended use of the property is for a single family dwelling. It is an environmentally protected zone. A scoped EIS was required by the City of Kenora, and mitigation measures are included in the biologist's recommendations, including reforestation. The biologist, Mr. Ryan Haines will provide proof of compliance to the recommendations. An agreement for financial security will be used in order to ensure compliance. Mr. Seller concluded that, with the requirements of the EIS, this application meets requirements of the Provincial Policy Statement and Official Plan policies.

Property & Planning Administrator, Tara Rickaby Introduction:

Earlier in 2015, the property owner began work on a driveway through an area designated EP – Environmental Protection. At the request of the City, the property owner commissioned and provided a scoped environmental impact statement which provides the foundation for this report; Report Detailing the Results of a Scoped Environmental Impact Statement for an Access Road to a Waterfront Property on Lower Black Sturgeon Lake Kenora Resource Consultants, Spring 2015.

Randall Seller, Agent for the property owners, Gerry Moncrief and Lisa Moncrief, has made an application to amend Zoning By-law No. 160-2010, as amended, to bring a property into compliance with the Zoning By-law. The effect of the amendment is permit the construction of a single lane driveway, through an EP zone, and to ensure that the construction of that existing driveway is performed in such a way that there is no impact to natural heritage features. In the opinion of the Planning Administrator, the application, and conditions, is consistent with the Provincial Policy Statement 2014, the City of Kenora Official Plan and the City of Kenora Zoning By-law and to permit the driveway in the EP – Environmental Protection zone.

Description of Subject Lands and Context

- Approximately 62 ha in size
- Generally vacant; abandoned house on site (now demolished)
- Within a bay on the west side of Black Sturgeon Lake
- EP – Environmental Protections area appears to mirror a wetland/intermittent stream
- BLS – Black Sturgeon Lake Restricted Development Area to the north

Description of Proposed Development

The applicant proposes to amend Zoning By-law No. 160-2010, as amended by adding a single lane driveway (including mitigating measures), as an exception, through the EP – Environmental Protection zone.

A scoped Environmental Impact Statement, prepared by Kenora Resource Consultants (Ryan Haines), sets out the nature and extent of the environmental protected zone features where the proposed road is to be refined and provides several mitigating measures:

- the width of the road across the wetland area be single-lane only, and that the footprint of any ditching be minimized to that required for road stability;
- the road location across the wetland area (sections 1 and 2) continues along the currently cleared area running parallel to the shore of lower Black Sturgeon Lake at a distance of between 70 m and 120 m from where the wetland meets the open water of the lake;
- the road continue to head due west into the upland forest and then turn parallel to the shoreline once a minimum vegetative buffer of 30 m from the wetland/upland forest boundary has been reached. This 30 m buffer should be maintained for as great a distance as possible until the road turns to meet the existing road bed running parallel to the shoreline. A sediment and erosion control plan, including spill containment and clean-up, should be in place for this project with a particular focus on the work conducted within the 30 m buffer where the new road will meet up with the existing road bed along the northwestern end of the wetland area.
- To ensure that the ecological impacts of the wetland disruption are minimized, it is recommended that there be no infilling or disruption of the wetland area beyond that required for a single-lane driveway to be installed in the manner described above. The remaining wetland area should be kept free of any development activities or vehicular traffic to ensure that any impacts on the integrity of the wetland area and its ability to carry out important ecological functions (i.e. retaining and filtering water) is minimized.
- For all areas where the road will transition from the wetland area to upland forest, it is recommended that the ditches on the upland side have diversion berms constructed to disperse waters into the surrounding forest and not directly into the wetland area. The frequency, size, and extent of the diversion berms should reflect the drainage area and slope for the roadway approaching each wetland boundary.
- For cross drainage and to maintain the integrity of the wetland area, it is recommended that a 300 mm culvert be installed every 25 m of roadway along the wetland area. In addition, it is recommended that a 600 mm culvert be installed at the small stream located at the western side of the proposed road and one 300 mm culvert at the northwestern end of the wetland area to ensure that any impacts to the wetland area due to high rainfall or flood events are minimized. Therefore, as part of road construction, there should be a minimum of four 300 mm culverts installed and equally spaced along section 1 of the proposed road, two 300 mm culverts and one 600 mm culvert installed along section 2 of the proposed road, and one 300 mm culvert where the road crosses the northwest end of the wetland area to meet up with the existing road bed.

Some rehabilitation is also recommended:

In order to provide for rehabilitation of currently cleared area along section 3, it is recommended that black spruce trees be planted along the entire length of the disturbed area. In order to maximize the success of the tree planting, it is recommended that trees at least 50 cm in height (available in one gallon pots from local nurseries) be planted 10 m apart in the middle of the disturbed area along its entire length. Given the length of section 3, it is estimated that 20 trees will be required to cover the disturbed area and assist with site remediation. In order to minimize any further soil compaction, it is recommended that there be no future operation of any equipment (e.g. heavy equipment, vehicles, ATVs, snowmobiles) along section 3.

Comments from External Agencies

The application was circulated per the requirements of the *Planning Act* and the following comments were received:

Agencies	Comments Received
NWHU	No objections

Comments from the Public – No response to date.

Comments from City Departments:

Departments Circulated	Comments Received
FoTenn Planning and Urban Design	Subject to completion of an EIS, the application would conform to the PPS and Official Plan. The EIS needs to demonstrate that there will be no negative impacts on the environmental protection area, as required by the PPS. A development agreement should be entered into between the applicant and the City (including the posting of security) to ensure that the mitigation and rehabilitation measures recommended in the final EIS are implemented and inspected.
Building Department	
Roads Department	
Sewer & Water Department	N/A
Kenora Hydro	N/A
Kenora Fire & Emergency Services	
Heritage Kenora	
Engineering Department	

Official Plan and Zoning By-Law

The Official Plan designation is Rural Area and Black Sturgeon Restricted Development Area. Limited residential development is permitted in these designations.

The Rural Area and Black Sturgeon Restricted Development Area designations all permit a single detached dwelling to be constructed on the property, to which the proposed driveway will provide access.

The Official Plan includes a list of Guiding Principles and Objectives, one of which is Principle 2. Principle 2 – Natural Environment - **Kenora shall support the protection and integrity of the natural environment as valued by the community. The Objectives are:**

To protect natural heritage features and areas, surface water features, and ground water features.

To limit shoreline development.

Section 8.8.1 Scoped EIS has been applied to this application:

In cases where the development constitutes a relatively minor undertaking (such as construction on a single residential lot), or one that barely encroaches within the adjacent lands zone, municipal planning staff can exercise some discretion and request that the proponent prepare a scoped EIS. This typically involves a simple checklist approach of planning issues that only addresses the key issues identified at the initial assessment stage.

The exception to the zoning meets the intent of Official Plan designation and natural heritage policies as the proposed driveway will provide access to a permitted use, and the applicant has completed an EIS with recommended mitigation and rehabilitation measures.

Section 8.4 Site Plan Control states that the City shall utilize Site Plan Control to ensure that development in the City is attractive and compatible with adjacent uses. Development at the entrances to the City shall be designed to create a positive first impression to visitors and residents.

Site Plan Control may be used for any development on Black Sturgeon Lake, or any navigable waterway in the City, in order to protect natural resource values.

Zoning By-law No. 160-2010

The EP – Environmental Protection zone permits only a wildlife conservation reserve and does not permit “the cutting, removal or burning of trees and other natural vegetation , or the placement or removal of topsoil.”

The proposed amendments meet the intent of the Zoning By-law as the applicant has completed an EIS which outlines mitigation and rehabilitation measures that will maintain the intent of the EP Zone.

Provincial Policy Statement (2014)

The Provincial Policy Statement permits development and site alteration within environmental protection areas subject to demonstrating “that there will be no negative impacts on the natural features or their ecological functions”.

The development of a single lane driveway, is consistent with the Provincial Policy Statement 2014 as the applicant has completed an EIS which has demonstrated that, subject to recommended mitigation and rehabilitation, there will be no negative impacts on the area

Kenora Planning Advisory Committee:

The Kenora Planning Advisory Committee – 18 September, 2015

Moved by: Ray Pearson

Seconded by: Vince Cianci

Recommendation to Council:

That the proposed zoning by-law amendment Z03/15 Moncrief, to amend the Zoning By-law 160-2010, as amended, for the property described as Pt ML D666 Melick Pt 2 KR 4, Pt E Pt Location D666 Melick as in LT 43312, except Pts 8 and 9 23R 12248, Pt Location D666 Melick Pt 7 23R 12248 , City of Kenora, District of Kenora from RU and EP to RU/EP [32] notwithstanding any other provisions of the By-law, on lands noted by [33] on the Schedules to the By-law the lands shall be zoned to permit the development of a single lane access driveway in addition to the EP – Environmental Protection uses 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 City enter into a development agreement with the applicant. The development agreement shall, among other matters, require that the applicant implement, and have inspected, all recommended mitigation and rehabilitation measures outlined in “Scoped Environmental Impact Statement – Moncrief Property – James Road Spring 2015” prepared by Kenora Resource Consultants to the satisfaction of the City. The said development agreement shall also require that the applicant post securities in a format approved by the Treasurer in the amount of \$2,000.00 to ensure due performance of the required works.

Recommendation to Council – 13 October, 2015

That Council of the Corporation of the City of Kenora approves zoning by-law amendment Z03/15 Moncrief, to amend the Zoning By-law 160-2010, as amended, for the property described as Pt ML D666 Melick Pt 2 KR 4, Pt E Pt Location D666 Melick as in LT 43312, except Pts 8 and 9 23R 12248, Pt Location D666 Melick Pt 7 23R 12248 , City of Kenora, District of Kenora from RU and EP to RU/EP [32] notwithstanding any other provisions of the By-law, on lands noted by [33] on the Schedules to the By-law the lands shall be zoned to permit the development of a single lane access driveway in addition to the EP – Environmental Protection uses 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 City enter into a development agreement with the applicant/property owner. The development agreement shall, among other matters, require that the applicant implement, and have inspected, all recommended mitigation and rehabilitation measures outlined in "Scoped Environmental Impact Statement – Moncrief Property – James Road Spring 2015" prepared by Kenora Resource Consultants to the satisfaction of the City. The said development agreement shall also require that the applicant post securities in a format approved by the Treasurer in the amount of \$2,000.00 to ensure due performance of the required works.

Councillor Smith asked if anyone wished to speak in favour of the amendment. There were no further comments.

Councillor Smith asked if anyone wished to speak in opposition of the amendment.

Wendy Midgard, 518 James Road noted she had two letters written opposing this amendment. She has concerns regarding the works that have taken place on this property and the damage that has been done to the property.

The Planning Administrator explained that the policy of the City is to first request voluntary compliance, by a property owner, if there is a contravention of a by-law. She further noted that the courts value the City's attempt to work towards voluntary compliance if charges are brought forward. In this case the Moncrief's provided ongoing compliance. The zoning amendment is a requirement in order to bring the property into compliance. In addition, if there is a complete application submitted to the City for a land development it must be heard and a decision must be made.

Councillor Smith asked if there were any questions.

Mr. Moncrief clarified on some of the statement of Ms. Midgard. A demolition permit was in place according the City's requirements. The equipment was brought in during half-loading but was well within limits on the road. Mr. Moncrief stated that he had permission from the City to cross that land and he received an email following to cease the works, which he did. As far as he knew, he was ok to go.

Councillor Smith asked whether or not there was anyone else to speak to the application.

Hearing nothing, she the declared the Public Meeting closed at 11:20 a.m.