

City of Kenora
Planning Advisory Committee
60 Fourteenth St. N., 2nd Floor
Kenora, Ontario P9N 4M9
807-467-2292

Agenda
City of Kenora Planning Advisory Committee
Regular Meeting held in the Operations Centre Building
60 Fourteenth St. N., 2nd Floor- Training Room
February 20, 2018
7:00 p.m.

Present:

Wayne Gauld	Chair
Bev Richards	Member
Chris Price	Member
Robert Kitowski	Member
Ray Pearson	Member
Vince Cianci	Member
Melissa Shaw	Secretary-Treasurer
Devon McCloskey	City Planner

Regrets:

Graham Chaze	Member
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DELEGATION:

- (i)** Wayne Gauld, Chair called the meeting to order at 7:00 p.m. and reviewed the meeting protocol for those in attendance.
- (ii)**
- (iii)** Additions to the Agenda, there were none.
- (iv)** Declaration of Interest by a member for this meeting or at a meeting at which a member was not present:
 - Bev Richards indicated a conflict on file: D14-17-05, Scott Island, as she was not present at previous meetings.
- (v)** Adoption of Minutes of previous meeting (January 16, 2018)
 - Amended: January 16, 2018 minutes of the regular Kenora Planning Advisory Committee meeting

Moved by: Robert Kitowski

Seconded: Ray Pearson

Carried.

- (vi)** Correspondence relating to applications before the Committee
 - File: D10-18-01

- i. Comments from the Manager of Operations, provided to the Committee
- File: D10-18-02
 - i. Easement Plans circulated and printed for Committee members

(vii) Other correspondence, there was none.

(viii) Consideration of Applications for Minor Variance, there was none.

(ix) Consideration of Application for Consent

- D10-18-01

Randy Seller, Agent
Hook, Seller & Lundin, LLP

Mr. Seller approached the Committee and referenced the Planning Report as provided. There were no issues identified with the report, indicating that the application was for lot addition at property municipally known as 1912 Ninth Street North to property municipally known as 34 Gerald Street, for the creation of an accessory structure (garage). The Agent confirmed that the retained lot will meet all provisions of the zoning by-law after the completion of the lot additions and will bring a non-complying parcel into compliance with the additional lands. Mr. Seller, acknowledged the City's concern with drainage, and agreed with the condition that a satisfactory drainage plan be worked out with the City of Kenora Operations Manager prior to construction of a garage.

The Secretary-Treasurer reviewed the Planning report, file: D10-18-01.

The Chair asked if there was anyone in the audience whom wished to speak in favour of or against the application, there were none

The Chair asked the Committee for questions pertaining to the Application, there were none.

The Chair asked the Committee for discussion regarding the Application.

Bev Richards sought clarification on the boundary of the PINS and whether only part of the plan would be severed and merged. There was discussion between the Agent and the Committee regarding the transfer of lands, and the need for consolidation and/or merger agreements.

It was confirmed by the Agent that there would be two consolidations, and one merger agreement.

Bev Richards requested that the conditions be amended to include the information that PIN 42176-0138 is consolidated with part of PIN 42176-0345, and a Merger Agreement is provided, and registered to enable lot additions in perpetuity.

Moved by: Bev Richards

Seconded: Robert Kitowski

That application D10-18-01 for consent to sever property legally described as PIN 42176-0345, PCL 11367 SEC DKF; PT W ¼ Location 265P Jaffray as in LT26201; Kenova; resulting in lot addition to 42126-138 and PIN 42176-0346, PCL 11635 SEC DKF; PT W ¼ Location 265P Jaffray as in LT27028; Kenora to enable lot addition, and provisional consent be granted, subject to conditions . The application has regard for the Provincial Policy Statement (2014); is compliant with section 51(24) of the Planning Act, and meets the intent of the City of Kenora Official Plan (2015) and Zoning By-law No. 101- 2015 as amended.

Carried.

- D10-18-02

Randy Seller, Agent
Hook, Seller & Lundin, LLP

The Agent wished to clarify at the onset of his presentation that the lands being considered for lot creation are locally known as the 'Clarifier Site", the current zoning on the subject property being MH- Heavy Industrial, which has been a carry forward from previous use and ownership by the Mill. Mr. Seller wished to confirm that the application was for lot creation, although the site is zoned MH- Heavy Industrial; the Official Plan Policy is CD- Commercial Development. There is no current use for the property; however, commercial use is the proposed use. The Agent confirmed that no development will take place on the property without the benefit of an Amendment to the Zoning By-law to permit future commercial use. For the benefit of concerned property owners in the audience, the Agent clarified that there is no application to create a heavy industrial use.

The Agent identified that the subject lands were previously considered in an application for consent in 2016, the reason that this consent did not get accomplished was due to the length of time it has taken the Owner and the City of Kenora to accomplish the easement requirements as identified in the conditions of the previous approval in 2016.

The Agent wished to discuss the comment as received from Ontario Power Generation (OPG) in external agency circulation, and their request for a flooding easement right to be created over this property, and that the applicant be obliged to prepare all necessary plans. The Agent disputed this condition, arguing that it was not a requirement in 2016; the parcel to the north of the subject lands which was created as part of the 2016 application, does not have the flooding easement, not do any of the other abutting lands. The Agent suggested that OPG approach the owners and negotiate and pay for a survey, and its registration and it would be inappropriate for OPG to suggest it is a necessary planning tool that the Planning Advisory Committee impose the condition and cost of the easement on the applicant. As it stands right now, there is no application to create a heavy industrial

use. The Agent identified that OPG has certain rights with respect to the water power lease within the Province of Ontario; anything outside of this agreement shall be negotiated with the property owner and OPG, and not as a condition of consent under the *Planning Act*.

The Secretary-Treasurer reviewed the Planning Report for file: D10-18-02

The Chair asked if there was anyone in the audience whom wished to speak in favour of or against the application.

Alfonso and Darlene Martins
8A Mikado Avenue
Kenora, ON
P9N 3A6

Mr. Martins identified that the properties north of Veterans Drive drain into a culvert and onto the subject lands, and questioned if the drainage would be dealt with.

The Agent identified that drainage will be dealt with when final use is identified. The Agent confirmed that there are easements in favour of the City of Kenova.

Sharen Biglow
Shaun Biglow
6 Mascott Avenue
Kenora, ON
P9N 2Z9

Mrs. Biglow questioned if rate payers would have a vote on the use of the subject lands, and if the owner's information was public.

The Chair clarified that the current zoning on the property is MH- Heavy Industrial; however, a final use has not been determined.

The Planner identified that as part of the zoning by-law amendment circulation will occur within 120 m of the subject property, shall be posted in the municipal memo and will be heard at a public meeting. Proposed uses may be discussed at the public meeting; however, there are no applications at this time to discuss use.

Mr. Biglow questioned access to the boat launch, and why it was closed off.

The Agent clarified that the boat launch is privately owned, it was closed by the current owner with concern for liability reasons.

The Chair asked the Committee if there were any questions pertaining to the file.

Referencing the Private Road, Bev Richards acknowledged that the agreement was signed with the City to register on the owners lands, however it is not registered.

The Agent confirmed that when the second transfer is completed, the private road agreement will be registered at this time.

Mrs. Richards also noticed a 'bump out' on the diagram identifying the subject lands, and asked what it was for. The Agent suggested it was likely Part 8 on Plan 23R-14566 which is where an easement comes out for Hydro across the water. There was a discussion surrounding access, the Agent agreed there would have to be a traffic impact study for future access all contingent upon future use.

Bev Richards requested an amendment to the planning report on page #2 and #4 and #9 adding the description of PIN 42163-0260 and 42163-0266, and asked that the MOE be added into the Planning Report in Section 8.8- Potential Contaminated Sites on pages 10 and 15 of the report.

Ray Pearson, questioned the request from OPG for flooding easement, and asked the Agent if the contour lines were provided on the completed survey. The Agent maintained that the high-water mark is only a dotted line, not a reference to show the contour lines to 1047.6 feet. The Agent reiterated that if OPG wishes to pursue an easement, they can negotiate it with the property owner. The Agent reminded the Committee that there was no response from OPG in the 2016 application; it was his opinion that it is not appropriate that the rate payer should pay for an easement.

Mr. Vince Cianci clarified that the lot is currently zoned heavy industrial, with the creation of a new lot, what would stop an individual from using it as heavy industrial? The Agent responded that any development would be subject to site plan control and City policies. There is no point changing the zoning until the final use is conceptualized. The Agent reminded the Committee and the public that the lands have been sitting vacant for over 10 years and it will remain vacant until a specific use is determined. Mr. Cianci also discussed the access and the need for a review of the ingress/egress once the use is determined. The Agent agreed, the access would be addressed at the stage of re-zoning the subject property.

Robert Kitowski questioned the Planning Staff on the original report prepared in 2016, and confirmation that OPG was circulated. The Secretary Treasurer confirmed in the paper files, there are no comments received from OPG; however, the Secretary-Treasurer could not confirm circulation, noting historically OPG was circulated on lands that abut the Winnipeg River system.

The Agent followed up with the information that OPG has a lease with the Province of Ontario to 1042 feet; they are seeking a request for an easement to the 1045 feet level, which is above the lease agreement with the Province. The Agent established if they did comment in 2016, the same argument would be made. What planning rationale do they have to ask for an additional three feet under the right they have under the lease?

The City Planner, Devon McCloskey identified the hazard land layer on the subject land to the 1042 foot datum. Building permits and development are limited within that area, nonetheless.

The chair asked the Committee for discussion prior to making a decision. There was a roundtable discussion on the condition as requested to be imposed by the Ontario Power Generation for a flooding right up to the 1045 foot datum. The Committee recommended that the condition be removed, and the decision amended to reflect the removal.

Moved by: Robert Kitowski

Seconded: Bev Richards

That application for consent D10-18-02 property legally described as PIN 42163-0266, locally known as the 'Clarifier Site', Kenora, ON to enable the creation of one (1) MH- heavy Industrial zoned lot, be approved and provisional consent is granted, subject to conditions. The application has regard for the Provincial Policy Statement (2014); is compliant with section 51(24) of the Planning Act, and meets the intent of the City of Kenora Official Plan (2015) and Zoning By-law No. 101- 2015 as amended.

Carried.

(x) New Business, there was none.

(xi) Old Business

- D14-17-05, Scott Island

Alex Clark, Agent
Lakeland Consulting
Via teleconference

Mr. Clark thanked the Committee and wished to pick-up the file where it was left off in August, 2017, addressing each of the points within the resolution from the Planning Advisory Committee.

Mr. Clark discussed the issue of the fisheries and noted that spring guzzling will take place in April, 2018 or as soon as the opportunity arises.

Mr. Clark addressed the Golden Eye Lichen; informing the Committee that the biologist as retained by the Agent (Kenora Resource Consulting) identified 19 locations on the island containing the Golden-Eye Lichen. Many of which were within the 20m shoreline setback. Information was provided to the Committee in maps and within a proposed site plan. Mr. Clark discussed confusion on the status of the Lichen under the Endangered Species Act. Mr. Clark presented his discussion with Natural Heritage Information Centre (NHIC) in Peterborough providing brief history on the organization and their role in tracking over 2000 wildlife species, taking a custodial role recognizing that if species have a status of being threatened or endangered, some of the outliers of special concern do not necessarily have a prescribed method to ensure.

Mr. Clark reviewed his discussion with a Coordinator at NHIC and the prescription that was proposed to identify the host trees, in the field, and on maps. In discussions with NHIC, the recommendation is to identify the trees and leave them in the field. As the host trees mature, they will shade the Golden-eye Lichen, the recommendation is that through future site preparation of residential buildings and septic fields, by leaving open standing less mature trees, these trees will become host for the Lichen, which will allow the species to continue on Scott Island. Environmental impact study has been updated to reflect these recommendations.

The Chair asked the City Planner if she would like to address any comments.

The Planner asked Alex if he had received any other correspondence from Mr. MacKenzie other than the email received February 12th, 2018. The Agent identified that most conversations were via telephone, both with Mr. MacKenzie and Mr. Sam Brinkman, Biologist.

The City Planner has concern that there was no real recipe on how to do protection for the species, and asked the Agent if the recommendations were bounced off any other professionals.

Mr. Clark clarified that his approach was discussed with professionals within the Province, at the outset, with both the NHIC and with the Canadian Environmental Assessment Group whom represents the Committee on the Status of Endangered Wildlife in Canada (COSEWIC).

The Planner understood that the Agent chose not to deal with the local MNR office; however, the Planner was expecting that something by way of a review would have been received either from MNR locally, or the NHIC, providing their support for the practical recommendations on how to proceed.

Mr. Clark was not sure what the City Planner was looking for, he reviewed the last correspondence from the district office, that there was a prescriptive measure required. Mr. Clark mentioned that MNR in this instance is a commenting agency and it was his opinion that it is up to the City to take all comments, review them and make this recommendation.

The City Planner confirmed that she is looking for a letter of support from either the NHIC or the local MNR office, acknowledging receipt of recommendations and support for the management plan proposed.

Mr. Clark identified that he was working at the Provincial level, stating that the office of NHIC has a greater provincial perspective than the local office.

The Chair wished to discuss the email from Mr. Jim Mackenzie, Coordinator, Ontario Natural Heritage Information Centre Ontario Ministry of Natural Resources and Forestry. It was the opinion of Mr. Clark, that Mr. Mackenzie agreed, from a legal perspective that the Golden-Eye Lichen are not recognized, however, in a custodial role they are a species of special concern, and there is work being completed within

the Province to further assess the Golden-eye Lichen. Given the unique status, Mr. Clark maintained his attempt to come up with a prescriptive measure to recognize the Golden-Eye Lichen on the Scott Island landscape and to come up with a reasonable approach to keep it on the landscape.

Wayne Gauld, Chair wished to clarify that the last email from Jim Mackenzie acknowledges that a management strategy was a reasonable approach to take. The Agent confirmed.

Mr. Kitowski asked the Agent to clarify why COSWIC prepared an assessment and status report on the Golden-eye Lichen (*Teloschistes chrysophthalmus*). Mr. Alex Clark sustained that the golden eye lichen does not have status although has been identified. Mr. Clark suggested that if all parties can more or less agree that the Golden-eye Lichen is a species of special concern, and the recommendation that we are going to protect it through the identified host trees, and when clearing takes place that future host trees should be considered to leave some of those trees for the future.

The City Planner addressed the fish spawning, and the need for spring guzzling. The Planner maintained that a finalized site plan wouldn't be able to be produced until sampling results were received.

The Agent discussed the elements for Site Plan Control Agreement. The reports have been presented for guidance on development with the identified location of the Golden-eye Lichen and fish spawning. The Agent confirmed that site specific plans shall give consideration to drainage, septic placement, and the development of dwellings.

The Planner informed the Agent that unfortunately we do not have a phased process for site plan control. As explained the Planner agreed that perhaps individual site plans shall be agreed upon for individual owners to guide lot development.

The Committee was concerned with making a recommendation without a concrete fish habitat assessment, and site plan for shoreline development on each lot. Discussion on the proposed lot layout and size of the lots deters development to the south side of the island where all of the environmental concerns exist. The Committee asked the Agent if consideration has been given to reducing the lot count to four (4) and increasing lot size or the idea of terminating interior through lots, to discourage development on the north shore. The Committee discussed lot layout options to allow for opportunity to develop the proposed lots in a manner consistent with policy. The Agent informed the Committee that the owners wish to maximize the number of lots within the consent process and they would like to proceed with the layout as presented. The Agent confirmed that all lots on the south side have a location for docks outside of a spawning area.

The Committee raised the concern again with the lack of acknowledgment by the Kenora district Planner from MNR. The Committee maintained the need for local approval.

The City Planner recommended she try to make contact with Jim Mackenzie and the local office to discuss the proposal for the Golden-eye Lichen. In addition, the Planner recommended the Agent confirm that there is a location for each lot to have docks on the southern shore, in addition to a finalized fisheries study including the result from spring guzzling to be submitted in the spring of 2018.

The Agent asked for an email on what the Committee would like to see, so that information can be provided. The Planner suggested that the committee provide a resolution to ensure clear direction to the applicant is provided.

The Chair asked for approval from the Members to continue the meeting beyond 10:00p.m. (CST). The Committee concurred.

Vince Cianci questioned the existing cottage. The Agent confirmed it will be demolished. From a structural point of view it is deemed unsafe.

Moved by: Robert Kitowski

Seconded: Chris Price

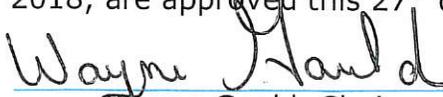
Resolved that the Planning Advisory Committee defer a recommendation to Council of the Corporation of the City of Kenora on File: D14-17-05 until the next regular meeting of the Planning Advisory Committee on March 20, 2018, or until such a time that the Planner received a final Environmental Impact Statement and the Planner approved a Site Plan Agreement.

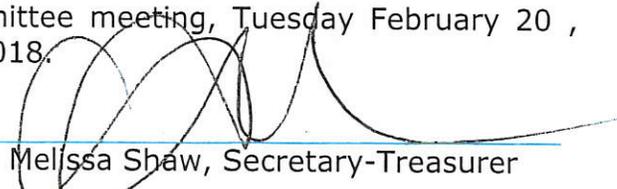
(xii) Adjourn

Moved by: Chris Price

That the January 16, 2018 Planning Advisory Committee meeting be adjourned at 10:15 p.m.

Minutes of Kenora Planning Advisory Committee meeting, Tuesday February 20 , 2018, are approved this 27th day of March 2018.


Wayne Gauld, Chair


Melissa Shaw, Secretary-Treasurer