

City of Kenora
Planning Advisory Committee
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Kenora, Ontario P9N 4M9
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Meeting Minutes
City of Kenora Planning Advisory Committee
Special Meeting held in the Operations Centre Building
60 Fourteenth St. N., 2nd Floor – Training Room
July 3, 2018
5:00pm

Present:

Wayne Gauld	Chair
Chris Price	Member
Robert Kitowski	Member
Vince Cianci	Member
Ray Pearson	Member
Devon McCloskey	City Planner
Kylie Hissa	Planning Analyst

Regrets:

Graham Chaze	Member
Bev Richards	Member

DELEGATION:

- (i)** Wayne Gauld, Chair, called the meeting to order at 5:06 pm and reviewed the meeting protocol for those in attendance.
- (ii)** Additions to agenda - there were none.
- (iii)** Declaration of interest by a member for this meeting or at a meeting at which a member was not present:
 - Graham Chaze and Bev Richards declared conflict on file: D14-17-05, Scott Island, as they were not present at previous meetings.
- (iv)** Correspondence relating to the application before the Committee.
 - Kylie Hissa, Secretary Treasurer, presented a previous resolution made by the Committee dated February 20th, 2018 for supplementary information and page 5 of the Environmental Impact Study included by the Applicant, which detailed the proposed lot layout of Scott Island.
- (v)** New Business
 - Reconsideration of a Recommendation to Council for an Amendment to the Zoning By-law:

i. D14-17-05, Scott Island

Alex Clark, Agent
Lakeland Consulting
Via teleconference

Mr. Clark introduced himself as the Agent for the application and wished to discuss updates to the application from when it was left off in February 2018. The application originally had been presented to the Committee in August, 2017 for a recommendation to Council. Mr. Clark informed the Committee that the Ministry of Natural Resources and Forestry (MNRF) had been consulted regarding identified lichen species (Golden Eye Lichen and Cartlidge Lichen). Further information had been required following the August 2017 meeting for a Site Plan Agreement, which included trail development and location of docks. The Agent indicated that the required information has been supplied within the application and appears in a number of revised documents, such as the Environmental Impact Study (EIS) and Elements for a Site Plan Agreement. Exact locations of future dwellings, septic fields, and docks were not provided, as Scott Island is private property. However, what have been shown in the application are the best practices and recommendations for where these future structures should be located in relation to current Zoning By-law provisions.

The Agent also indicated that at the August 2017 meeting, additional information was needed to be provided to understand the potential fish spawning habitat on the south shore of the island. A site visit had been conducted both during spawning season in November for white fish eggs and in May for walleye eggs. The first exercise in the fall of 2017 was not successful at finding white fish eggs, potentially because the window for spawning is temperature specific. The May site visit was also unsuccessful at identifying walleye eggs on any southerly portion of the island. The Agent informed the Committee that not all attractive spawning areas are utilized for spawning, especially since Lake of the Woods has plenty of quality fish spawning habitats. It was determined that although no eggs were found during spawning season on the shore of Scott Island, there may be the potential for these sites to be used in the future. As such, the areas identified are potential sites and recognized as needing protection as per the EIS.

The EIS has also since been revised to include where Golden Eye Lichen and Cartlidge Lichen species are located, following comments from the MNRF. Specific host trees had been identified by Ryan Haines in the Fall of 2017 and would be painted and marked as per Site Plan Control. Three trees had been found to host the Cartlidge lichen. As per the EIS, future property owners would be expected to acknowledge the existence of these lichen species and the host trees would remain undisturbed. The MNRF commented on the potential to include a compliance plan, whereby additional protection is provided; however, it was decided by the Agent to not include one since the island is private

property and could not be enforced beyond the authorization of the City Building Department, during the issuance of building permits.

Wayne Gauld asked the Agent if the letter, which had had been issued by the MNRF on May 15th, 2018, had been addressed.

The Agent stated that it had been addressed, as per the revised EIS. The two lichen species and additional fish spawning habitat have been acknowledged and discussed. The Agent informed the Committee that he won't go into too much detail on their official species designation. He indicated that they are worldwide species, yet are somewhat unique in Kenora. However, that it appears as though they are more prevalent than thought.

Wayne Gauld asked Jessica Malone, Environmental Planner at the MNRF, if she would like to provide any comments.

Jessica Malone introduced herself and stated that herself amongst others review Environmental Impact Studies; she is at the meeting to represent the MNRF and to answer any questions. She clarified that she is not a biologist and her role is to comment on their role in reviewing the application.

Ms. Malone stated that there had been initial concerns regarding fisheries habitat. After fantastic cooperation between the various groups involved these concerns have been addressed. The MNRF are satisfied with the recommendations in that respect. With regards to the lichen species, it was identified that the exact locations needed to be delineated, which have been done. As per the Provincial Policy Statement (2014), another requirement would be to demonstrate that there would be no negative impact.

Ms. Malone also informed the Committee that while the Agent has updated their EIS, the MNRF has not had sufficient time to review it in its entirety and so they do not have a concrete answer. During a preliminary review, there were some concerns about enforceability. While it is great to identify the host trees, there is no way to enforce them not being harvested in the future. A letter has been sent to the City and formal comments will be provided on July 13, 2018. The MNRF appreciates the desire to move the application forward and noted that the response to their comments from a prior meeting had only been received this past month.

Wayne Gauld asked the Agent if he would like to provide any comment or ask questions.

The Agent asked how it would be possible to give consideration to full protection of the lichen species, indicating that there are some practical limitations such as the island being private property and lack of access unless approved by the property owner. In previous experiences, the Agent indicated that recognizing the lichen species would be written in the Site Plan Control Agreement so that when potential buyers inquire about purchase, the seller would inform them of

this information. The City would also inform future buyers prior to a building permit, what they can and cannot do in terms of distance to the water and to have regard for the particular lichen species and their locations. The Agent stated that he believes most individuals would be supportive of that and that relaying the information to future property owners would be sufficient.

Wayne Gauld informed the Committee that questions may be asked to the Agent, the Planner, or Jessica Malone. Wayne also informed the Agent that one of his concerns was that a lot can happen on a property before a building permit. The buyer would be made aware of the concerns once they applied for a permit, but suggested that the buyer be aware even prior to purchase of one of the proposed lots.

The Agent responded by saying that it would be a condition of approval for the seller to provide the necessary information to potential purchasers. The recommended locations of future buildings are at least 50 metres from the water and the location of septic systems are also shown on the submitted lot layout. The Agent indicated that concerns would be monitored through Site Plan Control and the written agreement.

Wayne Gauld asked for clarification for what "monitored" means.

The Agent clarified that when a building permit is applied for, the Building Inspector would go on site and ensure everything is compliant and the concerns are addressed. Monitoring would start with the property owner as part of the agreement.

Wayne Gauld stated that his concern is still a matter of enforcement.

The Agent recognized the concern, stating that the island is private property and that the City has the tools within its Building Department to ensure things are done as prescribed.

Robert Kitowski had several questions to ask the Agent and referenced the map visualizing the proposed lot layout of Scott Island. Robert raised concern with the first lot having a high number of lichen host trees, despite being identified as having available shoreline for docks. He asked how it would be ensured that a dock would not be built directly on or near a host tree.

The Agent responded by saying that the trees themselves would be expected to be left alone. The recommended locations of docks are at a distance from the trees and provided that there is no building or shade, there would be no impact to the tree or lichen. If a property were to apply for a building permit to construct a dock, the Building Department would have the opportunity to identify these areas and inform them of where they can and cannot build.

Robert Kitowski then asked what the distance is between the shoreline and the tree on the proposed Lot 3. The Agent responded by saying it is roughly 10 m.

Robert Kitowski referenced the identified shoreline available for docks on proposed Lot 5 and stated that he believes that at a different meeting it was agreed to have no docks within this western edge of the island.

The Agent stated that there is only a small section of Lot 5 to where the channel opens up to Lake of the Woods. Some of the area had been removed for future docks. Now, most of the available docking is on the southerly shore.

Vince Cianci referenced the title of one of the submitted documents, which was written as "site plan control" and indicated that the title could mislead someone into thinking that these locations are where the final buildings would be located.

The Planner clarified that at this stage, the Committee is reviewing the application for a Zoning By-law Amendment. An application for consent had been circulated as of the present date and at the time it is brought forward to the Committee, individual site plan control for each lot can be requested. A site layout was asked for this meeting to demonstrate that with all concerns, these lots are truly viable and can accommodate docks, dwellings, and septic fields. At this time, the Site Plan would demonstrate that the lots are accommodating; not that they are to be exactly located in the recommended positions.

It was clarified that the above referenced document is not legally binding.

The Planner also clarified that the intent of the current meeting was to make a recommendation to Council for the Zoning By-law Amendment. Now that a site plan layout is received to demonstrate that the lots have the opportunity to include docks and that there is some compatibility for lichen and shoreline structures, the Planner wished to know more about the opportunities to register a clause on title to caution a property owner before purchase. The Planner indicated that in her view, the only way to appropriately protect/enforce the extent of the shoreline with fisheries habitat as well as the individual sites where the lichen is located, would be through zoning and overlaying an environmental protection zone, which would be flagged at the time of purchase. The Planner reiterated that a lot can be done in terms of development prior to needing a building permit. The Planning Department issues zoning compliance letters and the environmental protection overlay would be identified at that time. Property owners would be able to work with Planning Staff to understand the process towards developing the lots and what features would need to be protected.

The Agent stated that he agrees with that more or less. Any discussion with Planning or the Building Department would be able to inform future property owners what development could take place and where. The Agent referenced again that an individual would be informed during a building permit approval process.

The Chair clarified that the Planner was suggesting a specific environmental protection overlay, not that it be addressed during the building permit stage.

The Planner contributed by saying that it would be protected in a similar way to provincially significant wetlands and the area would be marked in a different colour. The Planner recommended that the overlay would cover the entire shoreline to encompass the location of the lichen host trees as well as fisheries habitat.

Ray Pearson raised a number of concerns. First, he mentioned a concern that Vince Cianci originally brought up at a prior meeting regarding an existing cabin and the discussion that it would be demolished. Ray pointed out that he didn't see any reference to its demolition in the submitted application and related documents.

The Agent stated that there has been conversation with Scott Island's current owners. They were prepared to take it down as it is no longer viable and no longer safe; the demolition would be a condition of approval. The Agent explained that the cabin is a family sentiment, which is likely why it is still standing today; however, they recognize that it needs to come down.

Ray Pearson indicated that he would like to see that clearly outlined in the agreement. The new site location is also proposed on the plan -both the old cabin and a new one cannot be on a lot.

Ray Pearson also referenced page 4 item "g" in the planning rationale, with respect to site plan control. It was mentioned that there is no site plan control for the northern half of the island. Ray asked where the line of division is for the northern half and what the reason was.

The Agent indicated that the northern and southern portions of the island had been defined by elevation; however, that it was not marked on the map.

Ray Pearson stated that he would like to see it clearly defined within the EIS and marked on the map to know absolutely what is north and what is south of the island. He indicated that the contour lines do not provide information other than the height of the island and because the EIS states that the northern section is not subject to site plan control, a line to distinguish the two needs to be identified.

The Planner suggested that the purpose for requesting the proposed lot layout for this meeting was to identify that there would be room for shoreline docks and structures on the south portion. Moving forward, a site plan control agreement would consider the entire lot and at that time, the location of docks on both the north and south side would be identified.

Ray Pearson then raised a prior concern over the size of the lots since they don't meet minimum frontage and lot area for that particular zoning. Since the proposed lots are irregular, whereby they are wider at the south shore and narrower on the north shore, development is swayed to be built on the southern portion. If there were four lots total instead of five, potential owners would

have more choice for building location and shorelines structures. Ray mentioned that at earlier meetings, he had stated the same dissatisfaction.

The Agent explained that the current owner wishes to maximize development. In a previous Official Plan new lot sizes had been required to be 0.8 hectares. In the current Plan, the lots need to be 1 hectare – unless it can be demonstrated that a smaller lot size is in accordance with the Ministry of the Environment and Climate Change (MOECC) D-Series guidelines or in their successor documents. The Agent indicated that they performed a hydrogeological study as required by the MOECC and it was clearly demonstrated that septic effluent would not exceed the provincial standard. In terms of water frontage, both the Official Plan and Zoning By-law do not have a clear definition of what that is. The view taken as per the application was that the widest area should be deemed as water frontage, similar to how other Ontario municipalities have suggested. From a cultural heritage point of view, there were no issues and the natural heritage that had been identified is recognized with appropriate strategies to protect them. It was the Agent's view that there is no problem with their particular proposal of the five lots on Scott Island.

Lastly, Ray Pearson asked if the proposed septic fields will need to be raised, and raised above the proposed cabins.

The Agent confirmed that they would be; a discussion had been had with Doug Vergunst at the Northwestern Health Unit (NWHU).

Ray asked if they would be raised banks out of clay to which the Agent responded by saying the NWHU has informed them that all lots can accommodate Class 4 Standards. They will all need to be raised and the person installing them will ensure that they are approved and certified.

Wayne Gauld asked to summarize the recommendation to Council that they will be asked to make at the meeting.

The Planner informed the Committee that tonight, the Agent is requesting that the Committee approve the application as presented, which would have through lots with frontage of 22 m as well as reduced lot area to be as low as 0.82 Ha for one of the lots. The Zoning By-law Amendment would enable the creation of four new lots and one retained.

The Planner stated again that her recommendation would be to approve the application with the above noted reliefs on a site specific basis but to also have a 20 m environmental protection zone on the shoreline, encompassing the upland portion of the lots with fisheries habitat as well as the location of the lichen host trees. Doing so would enable protection and inform future owners of the species.

The Planner informed the Committee that on the July 17th, 2018 Planning Advisory Committee meeting would hear the Scott Island application for consent; conditional of approval of the Zoning By-law Amendment.

The Chair asked the Committee for discussion prior to making a recommendation.

Chris Price had similar comments to what Ray Pearson and mentioned earlier; notably, that the lots are undersized and forces development to the south. Chris also stated concern that the lots would not be viable to abide to the By-law while being undersized, having reduced frontage, in addition to a 20 m environmental protection zone along the shoreline.

Ray Pearson stated again his dissatisfaction with the proposed five lots in total, rather than four.

Vince Cianci indicated that in previous years, the prerequisite for waterfront lots was 2 acres and that they also had been irregular whereby they feather back to the road to allow for the entrance of a driveway. In this current proposal, the septic fields will be approved by the NWHU, which they have the authority to do. The undersized lots could be made into a larger concern; however, they do abide by the old provisions. Vince also wanted to point out that they will need to ensure that the existing building is demolished. Lastly, he stated that he has driven a boat in the area of the island, and it appears that there is enough room to have docks on the western edge.

Robert Kitowski stated he believes there is enough information to make a recommendation to Council of the general intent of the application; although, that he has serious concerns regarding where the potential docks can be built and of the enforceability of protecting the lichen species.

Wayne Gauld asked for clarification on whether the number of created lots would be decided as part of the recommendation to Council. The Planner stated that the number would not be decided and that it can be further discussed at the meeting where the consent application is presented to the Committee.

Vince Cianci asked the Planner why lots can be created with 11m of road frontage but for water frontage the requirement is 61m on both sides.

The Planner explained that the reasoning behind the 61 m requirement is to ensure future owners can have the shoreline structures they want without increasing the density of development on the water. She indicated that there is also nothing preventing future owners to have shore development on the north side. However, that the relief is being asked for is in case they do not want to develop that area.

Vince Cianci posed the idea to deny development on the north side so that the application would only request a slight area reduction. The Planner stated her opinion that she is not sure why we would want to do that.

Robert Kitowski re-stated his belief that there is sufficient information to make a recommendation to Council. He expressed concern whether everything will be addressed in preparation for the July 17, 2018 PAC meeting.

The Committee agreed to include a 20 m site specific environmental protection zone on the south shore as part of the recommendation to Council. It was clarified that the number of lots and size can be up for discussion at the next meeting.

There was no further discussion.

Moved by: Robert Kitowski

Seconded: Chris Price

RESOLVED THAT the **PLANNING ADVISORY COMMITTEE** recommends that the Council of the Corporation of the City of Kenora approve application D14-17-05, subject property located at Scott Island, and described as Island K144, Parcel 237, Norman Bay, and the site specific zoning to enable the creation of through lots with a minimum frontage of 22 metres and lot area of 0.82 hectares, and to include a 20 metre site specific environmental protection zone in accordance with Section 4.16 of the Zoning By-law No. 101-2015 on the south shore of Scott Island.

Carried.

A member of the public asked why there was no public input at the meeting with the application changes and the reduced lot size.

The Chair indicated that the decision would move forward to Council.

The Planner explained that the reason for increased lot size is to allow suitable septic fields and an assessment was conducted. It had been demonstrated that there would be enough room. The lot size requirement for 1 ha is a straight rule without having looked at individual lots created, unless a septic study had been provided. This is a guideline published by the MOECC. Through the Official Plan, the City has the ability to reduce the lot size if that study has come forward.

(vi) Old business – there was none.

(vii) Adjourn

Moved by: Chris Price

That the July 3rd, 2018 Planning Advisory Committee Special Meeting be adjourned at 6:36 p.m.

Following the motion to adjourn the meeting, further discussion ensued.

The Agent wished to summarize the recommendation that had been made by the Committee and offered to provide further comment on the concerns of having everything ready for the next PAC meeting on July 17, 2018.

Robert Kitowski summarized the concerns made by the Committee, which included the existing old cabin requiring demolition, whether a compliance plan would be necessary, the number of proposed lots, and the area marked available for docks on the western edge of the Island.

The Agent stated that the only people able to implement a compliance plan would be the City Building Department because of the issue of access.

Jessica Malone, Environmental Planner with the MNRF, indicated that conservation officers under the *Public Lands Act* would be able to enter on the land; they have the ability to enforce any legislation that the MNRF is responsible for.

Karen Brown, CAO, asked what a compliance plan would look like from the MNRF's perspective.

There was discussion between Jessica Malone and Karen Brown regarding enforceability and the how the *Planning Act* comes into play for land use. Jessica Malone explained that the MNRF's role when reviewing Environmental Impact Studies for planning applications is to determine whether or not it is compliant with the Provincial Policy Statement (2014). Whether or not a compliance plan is necessary would be up to the discretion of the Planner.

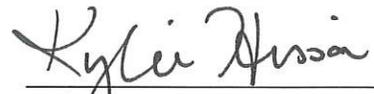
Jessica Malone stated that the MNRF would be able to review and provide comment on the recommended environmental protection zone, which would capture the fisheries spawning areas as well as the location of the lichen host trees. She stated again that the above noted scenario would potentially be sufficient to protect the natural heritage and a compliance plan would not necessarily be requested.

No further discussion ensued. The teleconference call ended at 6:50 p.m.

Minutes of the Kenora Planning Advisory Committee Special Meeting, Tuesday July 3, 2018, are approved this 17th day of July, 2018.



Wayne Gauld, Chair



Kylie Hissa, Secretary-Treasurer