

**May 12, 2020**



## **Staff Report**

**File No.: D13-20-02**

**To: City of Kenora Planning Advisory Committee**

**Fr: Adam Smith, Manager Development Services  
Melissa Shaw, Planning Analyst**

**Action: Consideration for Approval**

**Re: Application for Minor Variance**

**Location: 534 Park Street, Kenora, ON**

**Owner: Plaza Park Street (Kenora) Investments Inc.**

**Agent: James Petrie, EVP & Chief Operating Officer**

### **1. Proposal**

The City of Kenora has received an application for variance to Zoning By-law 101-2015 for the property located at 534 Park Street, locally known as Park Street Plaza, and as identified in Figure 1 below. An Application for Minor Variance is proposed to seek relief from the City of Kenora Zoning By-law 101-2015, Section 4.7.3 (h) which prohibits restaurants from including Drive-Through Facilities. The effect of approval would allow a new tenant at Park Street Plaza to install a Drive-Through Facility that shall not be permitted to include an exterior menu board as a condition of approval.

**Figure 1 – Aerial Photo, 2019**



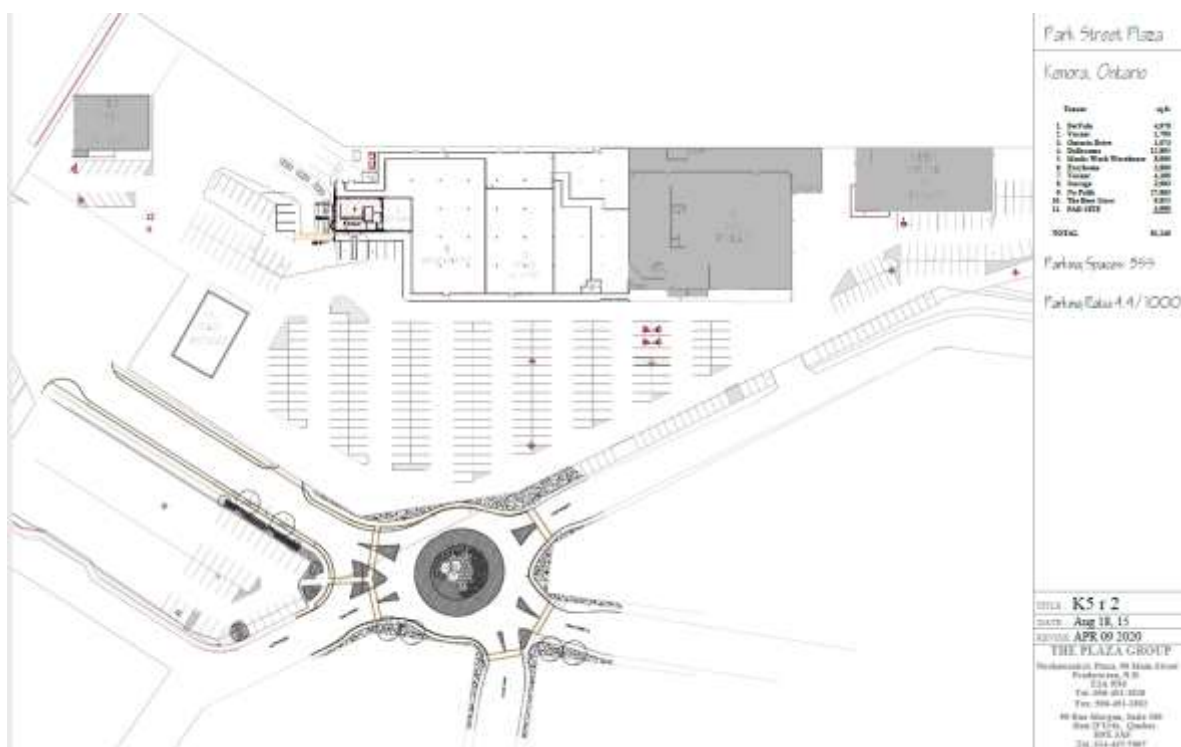
As per the City of Kenora Zoning By-law, the definition of Drive-Through Facility is as follows:

*An establishment that provides or dispenses products or services, through an attendant or an automated machine, to persons remaining in vehicles that are in designated stacking aisles. A Drive-Through Facility may be in combination with other uses, such as a bank, restaurant or gas station.*

The Agent has described the use as a pick-up window within the Planning Rationale. The proposal does not include an exterior menu board and is described as a delivery method only, to customers whom have preordered online or via telephone. The Drive-Through facility will act as a scheduled pick-up window.

## 2. Existing Conditions

The property is located within the Harbourtown Centre as per the City of Kenora Official Plan-Land Use Designations. As such the neighboring uses include concentrations of commerce, finance, tourism, entertainment, recreation, residential and business activities. The Harbourtown Centre provides a dynamic commercial core, for the residents of and visitors to, the City of Kenora.



**Figure 2:** Park Street Plaza Site Plan

In August, 2015 the Kenora Shoppers Mall was sold to Plaza REIT, renaming the shopping centre to Park Street Plaza. Since then the property has undergone extensive renovation to the building; redeveloped into a smaller footprint; access

has been improved with the recent road re-alignment and extension of First Street South.

The property is currently improved with three (3) buildings, two (2) freestanding units, an eight (8) unit retail strip mall and a vacant pad site offering future development opportunity. As per the site plan, a total of 355 parking stalls are provided which exceeds the required stalls for uses on-site per Table 4 of the City of Kenora Zoning By-law. Ingress/egress is provided off the newly realigned First Street South as well as Park Street which is subject to a road reconstruction project in 2020.

### 3. Site Visit

A visit was completed on May 12 2020, photos are included below:

**Photo 1** – View of Park Street Plaza from First Street South.



**Photo 2** – Exterior west wall of the existing strip mall and proposed location of the drive-through facility excluding an exterior menu board.



**Photo 3** – Front view, end-cap unit within Park Street Plaza mall that will occupy the new tenant proposing the drive-through facility excluding an exterior menu board.



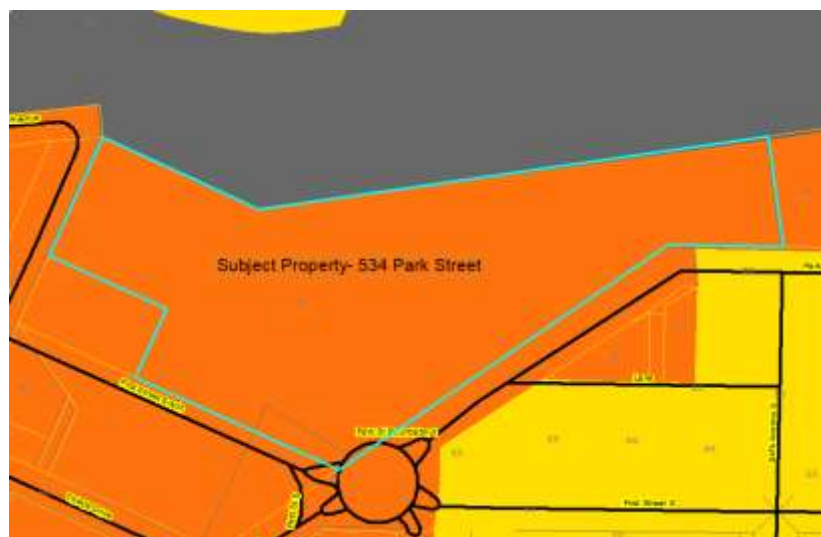
#### **4. Consistency with Legislated Policy and City Directives**

##### **a) Provincial Policy Statement (PPS), 2020**

The application is consistent with Policy 1.3.1 of the PPS which promotes economic development and competitiveness by providing for an appropriate mix and range of employment, opportunities for a diversified economic base, and considering the needs of existing and future businesses. Furthermore the application is consistent with Policy 1.7.1 whereby long-term economic prosperity shall be supported by promoting opportunities for economic development and community investment-readiness; and where possible, enhancing the vitality and viability of downtowns and main streets.

##### **b) City of Kenora Official Plan (2015)**

**Figure 3** – Official Plan Mapping



City of Kenora Official Plan, sets out a vision and guiding principles and objectives for the City. Principle 4 in Section 2.2.4 expresses municipal support for a diversified economy:

*Kenora shall maintain and seek opportunities for a strong, diversified economy that provides a wide range of employment opportunities for its residents, including youth to withstand global market conditions and provide financial stability.*

The implementing objectives that support this application for minor variance include:

- to support existing business and to attract a diverse range of new employment opportunities for new and existing residents;

Principle 7 in Section 2.2.7 identifies neighbourhood design as an important component of the City's vision:

*Kenora shall promote a desirable built form in any development or redevelopment.*

Implementing objectives for this Principle include:

- to promote built form that may address the needs of present and future generations (i.e. live, work, play);
- to ensure that all aspects (e.g. buildings, streetscapes, landscapes) contribute to everyday living in a positive manner;

The property is designated Harbourtown Centre within the Kenora Official Plan. Permitted uses include commercial, entertainment, recreation and residential uses as well as the colocation of public services facilities is encouraged for convenience, cost-effectiveness, service integration, and promotion of active transportation.

The Official Plan establishes objectives for the Harbourtown Centre area in Section 4.3.2, provided below are a few that are consistent with the application for minor variance to include a Drive-Through facility within a restaurant, they are as follows:

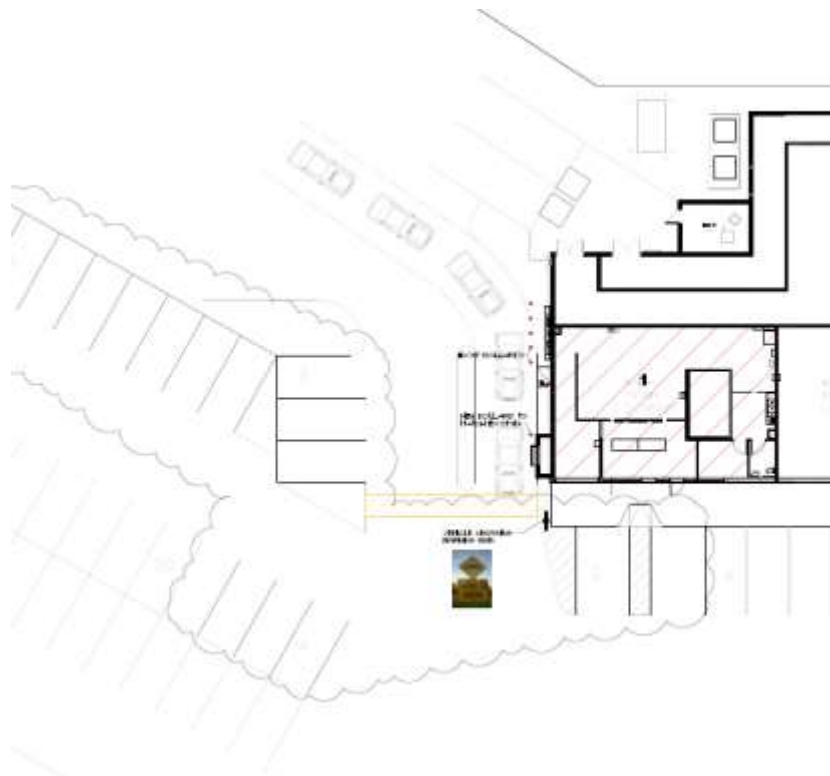
- a) to recognize and support commercial activities and functions of the Harbourtown Centre area by providing a wide range of goods and services within the overall commercial land use hierarchy established by this Plan;
- b) to promote the Harbourtown Centre as a regional commercial, cultural, recreational, entertainment, business and tourism centre;
- d) to promote the continued development and growth of the Harbourtown Centre as the primary office, business, cultural, entertainment, tourism and administrative area for the City of Kenora;
- e) to reinforce the Harbourtown Centre as a vibrant and vigorous commercial area offering a full, balanced and diversified commercial land use mix;
- f) to maintain the unique sense of place and human scale derived from the heritage streetscapes and pedestrian orientated characteristics of the Harbourtown Centre;

As per Section 3.9 of the Official Plan, new drive-through facilities will not be permitted in the Harbourtown Centre in order to protect and enhance the unique sense of place. However, there may be exceptional circumstances where a drive-through facility may be permitted where the intent of this Plan regarding the Harbourtown Centre can otherwise be maintained.

In review of the application for minor variance and as per the proposed site plan the location and function of the Drive-Through facility excluding an exterior menu board causes no negative impact to existing parking lot traffic flow design. The site plan has considered the impact on pedestrian movement with the inclusion of a dedicated cross walk installed to alert drivers using the pick-up window and a sign advising pedestrians to be aware of vehicles crossing in their path. Although defined as a "Drive-Through facility" within the City of Kenora Zoning By-law 101-2015, the proposed pick-up window will not operate as a typical Drive-Through. The proposal offers a method of delivery to customers who have pre ordered online or via telephone and will act as a scheduled pick-up window only.

As per Section 3.15 of the Official Plan, Land Use Compatibility the proposed development achieves the intent of Section 3.4, Community Neighbourhood Design and Urban Design Principles in this Plan; the minor variance application for relief to include a Drive-Through facility that shall not include an exterior menu board does not change the continuity and character of the existing streetscape; considers the impact on loading and service areas of the existing parking lot and vehicular access and flow design and prioritized the needs of pedestrians.

**Figure 4-** Kenora Leasing Plan- Drive-Through Facility (No menu board)





Development proposals should be given the flexibility to address design matters in different ways, allowing for creativity and dialogue, particularly since different design responses may be appropriate depending on the context of each area. In review of the application and its compatibility with Principle 7 of the Official Plan, the application for minor variance to allow for the installation of a Drive-Through facility promotes built form that address the needs of present residents and with regard to public health and safety aims to contribute to everyday living in a positive manner.

### **c) City of Kenora Zoning by-law (2015)**

The subject property is zoned General Commercial Zone (GC), this zone allows for a wide range of uses and services to meet the needs of residents, businesses, and tourists; as such development is required to be consistent with the regulations of Section 4.7.7 of the By-law.

In the GC zone, shopping centres and restaurants are a permitted use, however as per Section 4.7.3 (h) Restaurants shall not include Drive-Through facilities.

**Figure 5** – Zoning By-law mapping



As per section 2.0 of the Kenora Zoning By-law, definitions are given to aid in the understanding and implementation of the spirit, intent and meaning of the By-law.

The definition of a drive-through facility is as follows:

*An establishment that provides or dispenses products or services, through an attendant or an automated machine, to persons remaining in vehicles that are in designated stacking aisles. A drive-through facility may be in combination with other uses, such as a bank, restaurant or gas station.*

As the proposed pick-up window shall provide a product or service though an attendant to persons remaining in their vehicles and the facility is in combination with a restaurant, by definition it meets the intent of a drive through facility and as a result an application under Section 45 of the Planning Act shall be made to seek relief from the provision of the zoning by-law which limits Drive-Through facilities in restaurants. As per the planning rationale, the proposed method of delivery will not include a menu board which should discourage que lines. Delivery though the window will be scheduled with pre-ordered food/drink done online or via telephone in advance.

Section 3.12.3 Drive-Through Facility of the current zoning by-law sets out required vehicle queuing spaces that a drive-through facility must provide, leading both to and from the service window. As set out in Table 2 of the by-law, where a drive-through facility is provided with no order board: 4 spaces before/at service window are required. In review of the 'Kenora Leasing Site Plan' in Figure 4, the applicant has complied with this provision.

## 5. Results of Interdepartmental and Agency Circulation

Engineering	No issues or concerns from Engineering  - April 18, 2020
Roads	The Roads Department does not have any issues with the applicants request for pick up window. The property in question does not affect our department with any maintenance issues as it is on private property. The applicant has indicated they have safety hazards covered with bollards and signage for pedestrian and vehicle traffic.  - April 22, 2020
Water and Wastewater	No Concerns. - April 22, 2020
Building	The building department has no comments. - April 22, 2020
CP Proximity Ontario (CPR)	Please be advised that we have no objections or comments to this proposed minor variance - April 20, 2020
Union Gas	Enbridge Gas Inc. may have service lines running within the area which may or may not be affected by the proposal.  Should the proposal impact these services, it may be necessary to terminate the gas service and relocate the line according. Any Service relocation required would be at the cost of the property owner.



	<p>If there is any work (i.e. underground infrastructure rebuild or grading changes...) on/near any of our existing facilities, please contact us as early as possible (1 month in advance at least) so we can exercise engineering assessment of your work. The purpose is to ensure the integrity of our main is maintained and protected.</p> <p>Confirmation of the location of our natural gas pipeline should be made through Ontario One Call 1-800-400-2255 for locates prior to any activity.</p> <p>- April 23, 2020</p>
Kenora Fire	<p>I have reviewed the attached plans and Kenora Fire has no issue with this minor variance for the applicant to install a pick up window.</p> <p>- April 20, 2020</p>
Environmental Services	<p>Solid Waste Division does not have any concern with this application.</p> <p>- April 22, 2020</p>

## 6. Public Comments

Circulation of the Notice of Complete Application and Hearing was completed on May 4, 2020 in accordance with Section 45 of the Planning Act; whereby it was circulated to property owners within 60 metres of the subject property, and provided to the persons and public bodies prescribed.

A public virtual hearing is scheduled to be held on May 19, 2020, to hear public comments. If new information or comments are provided at the meeting, additional information may affect the outcome of the recommendation presented.

As of the date of this report (May 11, 2020), no public comments have been received.

## 7. Evaluation, The Four Tests

### I. General intent and purpose of the City's Official Plan (2015)

- In review of the official plan policies to support commercial activities and functions of the Harbourtown Centre and promote built form that may address the needs of present and future generations and to ensure that all aspects contribute to everyday living in a positive manner; the proposed application for minor variance supports Section 3.15 of the Official Plan, Land Use Compatibility and achieves the intent of Section 3.4, Community Neighbourhood Design and Urban Design Principles as the proposal does not change the continuity and character of the existing streetscape; considers the impact on loading and service areas of the existing parking lot and vehicular access and flow design, prioritizing pedestrian safety and has regard for public health.

**II. General intent and purpose of the Zoning By-law No. 101-2015**

- As per implementation of the Official Plan, intent of the Zoning By-law is achieved where relief from a regulation may be granted, if no negative impacts are anticipated.
- The proposed relief will not impact neighbouring uses, and does not change the continuity and character of the existing streetscape the proposed method of delivery will not include a menu board which should discourage que lines. Delivery though the window will be scheduled with pre-ordered food/drink done online or via telephone in advance.

**III. Appropriate and Desirable Development of the Land**

- Desirable development of land is development that is compatible with the established community, existing buildings and development.
- By definition the proposal shall be considered a Drive-Through facility, but the proposed method of delivery will not include a menu board which should discourage queue lines. Delivery though the window will be scheduled with pre-ordered food/drink performed online.
- The proposal has regard for land use compatibility and neighborhood design principles.

**IV. Proposed variance is minor in nature**

- The variance as requested is minor. Allowing for a Drive-Through facility which shall operate as a scheduled pick up window to be located within Park Street Plaza does not change the continuity and character of the existing streetscape nor have negative effect on existing development, traffic flow or pedestrian safety in the area.

**8. Recommendation**

That the Kenora Planning Advisory Committee takes into consideration, those comments that may yet to be received.

That it is my professional opinion that the application, D13-20-02 for minor variance to seek relief from the City of Kenora Zoning By-law, Section 4.7.3 (h) which prohibits restaurants from including Drive-Through facilities, to permit a new tenant at Park Street Plaza to install a drive though facility, excluding an exterior menu board; meets the Four (4) Tests and should be approved.

Adam Smith  
Manager of Development Services