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**QUISPAMIS PLANNING ADVISORY COMMITTEE**  
**MEETING MINUTES – February 28, 2023**

<b>Present:</b>	Darin Lamont	Marc Gosselin (Virtual)
	Darren Bishop	Mark Guest
	Brenda Fowlie	Chrissy Scott, GIS Technologist
	Brent Preston	Jennifer Jarvis, Planning Technologist
	Kendall Mason	Violet Brown, PAC Secretary
		S. Dwight Colbourne, Municipal Planning Officer

**1. Call to Order**

Darin Lamont called the meeting to order at 7:00 p.m.

**2. Approval of Agenda**

**Moved By** Brenda Fowlie

**Seconded By** Mark Guest

That the Agenda be approved as written.

**Motion Carried**

**3. Disclosures of Interest**

Marc Gosselin declared a conflict with Item 7A for 8 Lyden Drive.

**4. Approval of Previous Minutes**

**Moved By** Kendall Mason

**Seconded By** Brenda Fowlie

That the minutes of the February 14, 2023 PAC meeting be received and filed.

**Motion Carried**

**5. Business Arising from Minutes - Notice of Decisions**

**Moved By** Brenda Fowlie

**Seconded By** Mark Guest

That the Notices of Decision be received and filed.

**Motion Carried**

**6. Unfinished Business**

Mr. Gosselin signed off his virtual attendance.

**7. New Business**

**7.1 Zone Change - 8 Lyden Drive (Residential to Central Commercial)**

Jennifer Jarvis stated that Council, at its February 21, 2023 Regular Meeting referred the rezoning application of 8 Lyden Drive, PID No. 54619 from Single & Two Family Residential (R1) to Central Commercial (CC) to accommodate a new parking lot and storage shed to support business at 170 Hampton Road, to the Planning Advisory Committee (PAC) for its written views pursuant to Section 110 of the Community Planning Act.

Ms. Jarvis reviewed the application stating that a Parking Lot is not permitted in the current zone so a request to rezone was initiated. Technical engineered drawings have not yet been received as this level of detail is not required during the re-zoning application process, however they will be required prior to the issuance of a Development Permit for the site works if the rezoning is approved. She added that the drainage easement and water layers shown in the Town's GIS mapping system will need to be addressed and the proposed 3 to 1 slope of the rear embankment will need to be approved by the engineering staff. A permit would be required for the garbage enclosure and the accessory building being proposed. Ms. Jarvis acknowledged that notices were sent to property owners within 100 metres of the subject property and seven correspondences were received; six were opposed and one was in support. All correspondences were included in the PAC package. She also noted that this application will require both a Municipal Plan and a Zoning By-law amendment and as such, a Public Presentation will be held on March 21, 2023, at 6:00 PM in Council Chambers.

Mr. Dino Cipolla attended and addressed the letters that were received as part of the notice, stating that he took offense to some of the remarks as he felt they were a personal attack. He added that work he has done in the last few years has shown good faith and quality construction. He stated that he is not changing any of the building, just seeking approval for more parking and a baby barn to store furniture for the patio, and a fence around the garbage enclosure. He added that there will be no additional lights as there are enough lights at the back of the building plus there is one streetlight, but if the shed was approved, they will install a light on the building that will be downward facing for safety. As for the noise, Mr. Cipolla stated that nothing on that lot that will cause disturbance as there will not be any rock bands or anything on the lot as it is strictly for parking, and the existing patio is closed at 10:00 p.m. As for the garbage complaint, he stated that he has someone come by once a week to clean up the yard and most of the garbage flying around is coffee cups and burger wrappings from other businesses, but they still clean it up. As for the rat complaint, he stated that they have

professionals coming around all the time and were told that they have the cleanest place as there is never a concern for critters. Furthermore, he added that the proposal will clean up the back yard and make it look nicer and be safer. He stated that his company bought that land 25 years ago and has been paying taxes on the land all that time, and now he would like to use it to better his property. The buffer will be thirty (30) feet, three times what is required in the by-law and there will be no exit onto or from Lyden Drive. He asked that if this is turned down, he would like to know what he can do with the land and asked if he could put a duplex or an apartment there even though this would be more disruptive.

Robert Carvell attended to speak in opposition. He said he was a resident of Lyden for 34 years and that Lyden Drive has been a residential and quiet in which he raised three kids. He said about 8 years ago, Mr. Cipolla cut the trees down and starting using the lot at 8 Lyden Drive for parking without approval. He stated that Mr. Cipolla is not a good neighbor and did not believe that thirty-six (36) staff parking spaces are required since there is never that many staff there at one time. Mr. Carvell stated that he thought that land was an overflow for the water that flows down Lyden Drive from above. He felt that paving that lot will create a dam and the water will be pushed back up the hill so a lot of engineering needs to be done to protect this existing flow pattern to ensure there is not flooding in the houses that flooded before this drainage was created. He added that if you take away the trees, the noise will increase as will the smell of the businesses, the light pollution, and the patrons will end up on Lyden Drive in people's backyards. He said he has seen rodents, racoons, etc. in the woods and that you cannot have a garbage unit without expecting rodents. While the plans say 30 feet for a buffer, he stated that Mr. Cipolla has already encroached on the land without approval, so he wondered how we can trust him now. If the land was sold, to Walmart or someone, he wondered how the land could be used if it is zoned Central Commercial. There will be a great deal of engineering done due to the water flow down from Lyden. The water flow was directed down that lot years ago as it was flooding all the properties on Lyden.

Stuart & Helena Hook of 10 Lyden Drive attended with objections, first was for the precedence being set for commercial property in an R1 lot. Mr. Hook asked if another property is sold to a business and they request commercial, could the entire side of Lyden Drive end up commercial. He asked if the parking numbers were looked at when the patio was approved and Mexi's requested an outside patio. He noted that the sound of car doors slamming will be a nuisance. He stated that the lot has no trees, just brush, so it is not a green buffer and they can see the property and hear everything now. He said they have been there thirty-five (35) years and they planted trees along the adjoining side of their property that took all those years to grow enough to work as a buffer but that is still not enough. Mrs. Hook said they lived in the residential zone, and it should stay residential as the zone is set up to protect residents. This could be a parking lot this year, but if they amalgamate the properties, this will no longer be 8 Lyden

Drive and could be anything commercial; once done, the residents would have no say in it. She added that a parking lot behind a drinking establishment draws people out, they chat, go out for a smoke and wonder through the properties on Lyden Drive. I would not feel safe in my back yard with people roaming about during the night. Mr. Hook asked that with the proposed layout, having parking spots all around the peripheral and leaving a huge open space in the middle, what is stopping the owner or next owner of increasing the building into that open area.

Ms. Jarvis noted that the parking was starting to get tight when the patios were introduced but the building did meet the by-laws during the review. She also added that a drainage plan would be required by a professional engineer, and as for future development, this would be limited to parking only, as part of the development agreement and any change to the building would then have to go back to Council.

Mr. Cipolla noted that their engineering consultant is already prepared to do the drainage plans if this is approved and they will identify the drainage concerns to ensure no property floods, including his own. He added that this business has been there for thirty-nine (39) years and that residents moved in after the building and restaurant came into the area.

It was noted that local people use that lot of 8 Lyden Drive as a short cut to the mall and it was asked if something could be done to ensure people don't use that pathway. Mr. Cipolla stated that the storage shed is being put in the middle of the path and that will discourage people.

No one else attended to speak for or against the application.

**Moved By** Brent Preston

**Seconded By** Darren Bishop

That the Planning Advisory Committee Support Council with the rezoning of 8 Lyden Drive Road, PID 54619 from Residential (R1) to Central Commercial (CC), with the following reasonable terms and conditions:

1. A revised site plan identifying the parking stalls that are being proposed to be relocated from 170 Hampton Road to 8 Lyden Drive;
2. The site plan shall include parking stall measurements and number each individual parking stall that supports the businesses located at 170 Hampton Road on the site plan;
3. The revised site plan must also include any easements that impact the subject lot;
4. The revised site plan is required prior to a Public Hearing date for this application;
5. A report be submitted from a Professional Engineer indicating the amount of excavation that will be required to achieve a parking surface. The report

must include the extent of the excavation and if any stabilization work is required, and if so, what that work will entail.

6. A storm water management plan will also be required, and this should be provided on a revised site plan and be submitted prior to the Public Hearing;
7. A Lot consolidation of 170 Hampton Road, PID 255232 and 8 Lyden Drive, PID 54619 be completed prior to the issuance of a Development Permit;
8. The applicant is to enter into a Development Agreement with the Town of Quispamsis for the parking plan;
9. A Development Permit is issued prior to any site work being done;
10. The thirty (30) foot buffer to be maintained on the south end of the property regardless of the ownership of the property.
11. In order to maximize the buffer zone, the number of parking spots may be lowered to twenty-five (25) versus the proposed thirty-six (36) spots to keep the 3 to 1 slope unless the professionals can determined that a 2 to 1 or other slope is sufficient for slope stabilization; and
12. A landscape architect be hired to address the buffer area to ensure sound buffers and as a way to discourage people from passing through the property to Lyden Drive.

### **Motion Carried**

Mr. Gosselin returned to virtual attendance.

## **7.2 Home Occupation - 8 Jester Court**

Ms. Jarvis reviewed the application for a Home Occupation, that of HIIT30 KV Fitness at 8 Jester Court, PID 30203376. She noted that the business existed at 80 Millennium Drive, a commercial space for seven (7) years. The COVID-19 restrictions impacted the business, and they were unable to retain the commercial address. The applicant moved to an online format, providing instruction from her basement at 8 Jester Court to online clients. As the COVID-19 restrictions were lifted, the homeowner began providing classes from her home stating they were unaware that they needed permission from the Planning Advisory Committee to operate a Home Occupation. After receiving complaints of traffic and street parking, a violation letter was sent to the property owners, and they applied immediately. The application noted the classes were held in one room in the dwelling that was over the thirty-two (32) sqm permitted as the room was thirty-seven decimal one (37.1) sqm so if this is approved, a variance of five decimal one (5.1) sqm is required for the floor space.

Ms. Jarvis noted the Municipal Plan supporting entrepreneurs, but this application is in a reverse order it is requesting approval for a business that once existed in a commercial property that is being relocated to a dwelling unit. Staff do not consider this to be in line with the intention of the Municipal Plan. Staff also have traffic concerns for thirty-two (32) vehicles entering the court each week above the normal traffic flow. She noted that concerns were received for traffic, noise, lack of privacy, to people outright rejecting it as it is not in keeping with the residential characteristic of the neighbourhood.

Ms. Jarvis stated that it would be prudent that the PAC review Section 3.(C) of the Town's Zoning By-law 038 which states the Planning Advisory Committee may prohibit land uses where compliance with terms and conditions cannot reasonably be expected.

Cheryl and Rob Moore attended and stated they had no idea a business approval was required, especially due to the scale in which they were doing it. Ms. Moore stated hers was a thriving business with one hundred twenty to one hundred thirty members and seven coaches, and seven classes a day, for three years until Covid made her close her doors. She stated that she changed her business model to focus on women experiencing perimenopause and menopause and she started to do everything on line in a global scale with 80% on-line, and with a few women coming to the home for personal training. The sessions are no longer high intensity and no longer thirty-two people per class; there are only four ladies that come at (the new time) 8:15 for thirty minutes and three to four ladies at 9:15 to ensure a new thirty minute buffer between classes. Ms. Moore noted that it is not unusual for three to four visitors in a home adding that they have three drivers in their home with one more coming up. She also noted that it is not unusual to hear music from a home and she will ensure the window are closed if the music is loud. She stated that she saw the images of the traffic concern on a particular day and explained that the cars were her husband's and her cleaner's plus a few cars pulling in for class. She has asked her clients to be aware of speed and traffic and car doors slamming and reminded them that this is a residential area. She also addressed the number of cars coming and going by reiterating the time change, so the classes are not over lapping, and moving the cars up closer to the garage to ensure no one parks on the road. Ms. Moore also stated that with regards to safety and traffic, that is the responsibility of everyone in the court. She spoke to the reference of other businesses in the home, first with the reference to the baseball team stating that her husband Rob is the President of the organization, but it is not a business, it is them giving back to the community. She addressed the reference to the tower gardens business by stating that she is a distributor of the multi-level marketing business, similar to Pampered Chef where she has people visit her home to view the gardens before spending the thousand dollar investment. The product is then shipped direct to people's home.

Ms. Moore was asked since the Millennium Drive building still has all the logos of her business, would she return. She stated that the Amana Yoga left their

building and the signs were not taken down until the next renter came in. Mr. Moore added that they will never go back to the brick and mortar business as it is not financially viable due to the high cost of rent of commercial buildings.

Michael King of 12 Jester Court attended to speak of his concerns. He said he has been there since 2007, prior to that at 20 Destiny Lane which is at the start of the court. He said he honestly felt that once the applicants saw the opposition to the business from all the neighbors, they would withdraw the application. However, he felt that the applicant just did a sales pitch and that some things mentioned were not the truth. He said the applicant is advertising HIIT30 on her Facebook, the music is loud, and the traffic is busy. The application states it is for KV Fitness HIIT30, yet tonight she stated it is not HIIT30. The cars are still there everyday, up to six to eight together every time. The last few days there have been fewer cars, but he also noted there were two people in most cars. As for the baseball organization, there are eighty plus members, and it is a business they are running out of their home. The garden towers are also a business they are running out of their home. Mr. King said he hoped the committee recognizes the concerns of the residents of the court and deny the application.

Lisa Caissie of 1 Jester Court attended in opposition. She said they have been there eight years and have young children and that there are retired people and school age children in the court, some with severe health concerns and mobility concerns. She said they never expected to have businesses, multiple businesses, in the court. Ms. Caissie said that she was the resident who sent in pictures of the traffic concern noting it was far more than two or three cars, that it is very busy and can bottle neck which makes are concerns for safety of children walking to the several bus stops. The snowplows push the snow around the court making high snowbanks; with no sidewalks or lights, the large community mailbox directly across from the court, makes increased traffic a concern for walkers. She added that she read all the letters of opposition and this has a large impact on the neighborhood. The front yards all face each other so privacy is limited, there are no buffers to reduce the noise of the HIIT30, and some cars drop off people and wait in the cars for their partners to finish class which is uncomfortable having people sitting in front of your house. Ms. Caissie stated that gyms should not be located in small residential areas due to traffic, noise, and safety concerns. She asked that the application be denied.

Ann Marie Golding, an on-line client of the applicant, spoke in support stating that there are four cars in her home and when visitors come, there is upwards of seven cars in her driveway. She said there are no high intensity classes, and the music is not loud. She stated that she was going to the gym on Millennium Drive, but this is not the same, the business plan has changed. Ms. Moore has completely changed her program to work with women like her going through menopause.

Pam Jones, another client at her facility stated that it is more like a family than a facility. There are four women who attend and they are all perimenopause women helping each other; reiterating that Ms. Moore is not offering HIIT30 classes. There are not eight, fifteen or twenty cars, just two or three and we slow down. She added that they compromised with the start times, and that they don't yell or slam doors. I have a group of ladies at my home once a week, five cars in my driveway at any time and asked who has the right to complain about cars in a private driveway. She asked what would stop her and this group of women from going to Ms. Moore's for coffee on Monday, Wednesday and Friday. She said they are not causing trouble and they are willing to compromise. Ms. Jones stated that Ms. Moore hasn't lied, she is a good person with a nice small business. She felt that people were judging Ms. Moore who took a large business and turned it into a small business and asked that the PAC doesn't shut them down.

Cheryl Logan, another client, stated it is not HIIT30 and that she can't do that as she has had three surgeries this year alone. She said that there are four of them, three here tonight, learning to live in a body that has changed due to menopause. Four others are the second class. We understand that the traffic can be bad, but we are willing to compromise, such as travel together. She said she lives on Neck Road, and several properties have five to ten cars in their yard as well as other utility vehicles. She added that her neighbor has a loud Harley but she doesn't complain nor does he complain when she has music in her yard. She felt that closing car doors is not a nuisance, but a normal day to day occurrence. Ms. Logan stated they are women helping each other, mental and physical help that should not be taken out of the community. She said Ms. Moore does not sell the gardens from her home, just shows them to people which would be no different than her having ten people over to see my Rumba before they buy one. She asked that the PAC approve the business.

Cheryl & Rob Moore returned to the podium. Ms. Moore stated that the legal name of her business is HIIT30 and that gives her insurance, the only way to offer classes. She said she no longer teaches these classes and didn't think having a smaller group of clients was any different than holding a book club, or a few friends coming over for tea, so she didn't think it was required to get approval. Mr. Moore noted the Black Bears softball organization does not hold events at their home, just uses the home address for mail. He reiterated the garden sales are an on-line multi-level marketing business where they are shipped to the buyers' homes. Ms. Moore stated that this is no different from someone selling Pampered Chef or Arbonne products and doesn't know how you could police that. She added that it will not be any larger than this and can't be as it is her home. Mr. Moore said they didn't think to talk to the neighbor and didn't mean to upset anyone over this, it is Cheryl's living, and that contributes to us being able to live there.



Ms. Jarvis noted that family and friends parking is considered incidental to any home; parking for a business would be a specific number at a specific time every day and is not incidental to the home because it is a requirement of the business.

**Moved By** Brenda Fowlie

**Seconded By** Mark Guest

That the Planning Advisory Committee deny the request to operate the Home Occupation of the HIIT30 KV Fitness Classes, at 8 Jester Court, PID 30203376 as it is not in keeping with the intent of the Zoning By-law 038, Section 6.(K) and the Municipal Plan By-law, Section 7.3.1. Based on the concerns received, there is an impact on the quality of life of the residents of Jester Court; therefore, the imposing of additional terms and conditions beyond those of Section 6.(K)(2), that would reasonably be expected to be complied with and enforced, to protect the health, safety and welfare of the general public are beyond the intent of the Municipal Plan to permit Home Occupations in residential neighborhood.

**Motion Carried**

NAY: Darren Bishop, Brent Preston

### 7.3 By-law 038 Amendment

Jennifer Jarvis reviewed the Proposed Zoning By-law Amendment No. 038-37 which included the Apiary Operations (Beekeeping) within the Municipal Boundary of Quispamsis, an introduction to Development Permits as a tool in meeting Town development objectives, and the following housekeeping items: provisions to regulate cannabis production facilities and cannabis retail sales, garden suites, lot boundary verification, and surface water drainage, and to strengthen language regarding developments adjacent to a stream or watercourse, the restrictions for waterfront properties, and elevations of new structures and residential driveways. Ms. Jarvis noted the proposal for the bees, the apiary rules and regulations, the number of hives permitted on each lot, the recommendations for water & gravel on the lot, etc.

**Moved By** Marc Gosselin

**Seconded By** Kendall Mason

That the Planning Advisory Committee support Council on the Zoning By-law 038-37 Beekeeping and Apiary Operations amendment.

**Motion Carried**

**8. Information Items and/or Discussion**

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**Moved By** Mark Guest

**Seconded By** Brenda Fowlie

That the Information Items be received and filed.

**Motion Carried**

**9. Adjournment**

**Moved By** Darren Bishop

**Seconded By** Marc Gosselin

Meeting adjourned at 7:50 p.m.

**Respectfully Submitted,**



CHAIRMAN



SECRETARY