



QUISPAMSIS PLANNING ADVISORY COMMITTEE MEETING MINUTES -- July 13, 2021

Present: Darin Lamont John Groden

Brenda Fowlie Chrissy Scott, GIS Technologist

Brent Preston Jennifer Jarvis, Planning Technologist

Darren Bishop Violet Brown, PAC Secretary

Marc Gosselin S. Dwight Colbourne, Municipal Planning Officer

Absent: Kendall Mason

1. Call to Order

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

2. Approval of Agenda

Moved By Darren Bishop Seconded By John Groden

That the Agenda be approved as written.

Motion Carried

3. Disclosures of Interest

No disclosures were declared.

4. Approval of Previous Minutes

Moved By Brent Preston Seconded By John Groden

That the minutes of the June 22, 2021, PAC meeting be received and filed.

Motion Carried

5. Business Arising from Minutes - Notice of Decisions

Moved By Brenda Fowlie Seconded By Darren Bishop

That the Notices of Decision be received and filed.

Motion Carried

6. Unfinished Business

7. New Business

7.1 17 Gilbert Lane - Side Setback, Foundation Elevation, Waterfront

Michael MacMaster & Laura Magee attended seeking approval for construction on a Lot bordering the Waterfront, a Foundation Elevation variance, and a Side Yard Variance for 17 Gilbert Lane, PID 30341150.

Ms. Jarvis reviewed the application noting the 10.24 metre variance to Section 25.(F) of Zoning By-law 038 whereas a 30 metre side yard setback is required and the lot width is 54 metres with the proposed siting of the building is such that a 19.76-metre and 9.14-metre side yard setbacks are provided. She added that the proposed elevation of the finished floor of the first storey will be 2.44 meters below the centre line of Gilbert Lane. Therefore, a variance of 3.44 metres to Section 6.(F) of Zoning By-law 038 is required. Also, the lot abuts the Kennebecasis River so approval by the Planning Advisory Committee is required to permit a waterfront development as per Sections 6.(I)(1) and 6.(BB)(1) of Zoning By-law 038. Mr. MacMaster was asked about the drains in the garage, and he replied that each of the garages is going to have an environmental containment and safe drain.

Notice was sent to property owners within 100 m, no concerns were received, and no one attended to speak for or against this application.

Moved By Darren Bishop Seconded By Brent Preston

That the Planning Advisory Committee approve the three decimal forty-four (3.44) metre Foundation Elevation Variance from Section 6.(F)(1) of the Zoning By-law 038, a ten decimal fourteen (10.14) metre Setback Variance from Section 25.(F)(3) of Zoning By-law 038 for the Side Yard Setback, and to support construction on the Waterfront Lot as per Section 6.(I) and 6.(BB)(1) of the Zoning By-law 038 for 17 Gilbert Lane, PID 30341150, subject to the following terms and conditions:

- 1. The preparation of the "Hold Harmless" agreement should be executed prior to approval of the final inspection of the dwelling;
- 2. Notification is received by the Town from the Department of Environment and Local Government providing approval for development occurring near to the protected drainage channel that traverses the western side lot line of the subject lot; and
- 3. A building permit is issued prior to construction.

Motion Carried

7.2 MPSF Development Subdivision - Tentative Plan Phase 2 (Alpenglow Rd off Model Farm Rd)

Mr. Matthew Blain of Hughes Survey, representing Mr. Steven Forgeron, attended seeking approval for the MPSF Development Subdivision.

Mr. Colbourne reviewed the application of the Tentative Subdivision Plan that proposes the creation of five (5) residential building lots in the Rural Zone, a public street called Alpenglow Drive that was recently approved by the PAC as private access to a single lot subdivision, a "Future Street" providing connectivity to the adjacent lands as well as 6743 square metres of the Land for Public Purposes with the intended uses being stormwater attenuation, greenspace, and trail development, Local Government Services Easement for stormwater management, Public Utility Easements for electrical power and telecommunication services; and "No Cut Areas" on each lot that will be enforced by way of deed covenant. Mr. Colbourne noted the primary access will be from the Model Farm Road but as the development continues the Future Street will be developed and traffic flow into the area will be from the Evergreen Park via Kelcratis Drive. He noted that the Future Street connection has a misalignment between the location of the Future Street on this plan and the proposed location on the adjoining parcel and that this discrepancy has been communicated to the surveyors and engineers for both Developers. He added that the Lots have less than 5350 sq. metres, based on Zoning By-law 038 Section 8.(C)(1) and the New Brunswick Technical Guidelines for Onsite Sewerage Disposal Systems, the plan would be approved on the basis that dwellings will not contain more than three bedrooms unless otherwise approved by the Department of Public Safety.

Mr. Blain stated that Mr. Forgeron is ready to proceed and would prefer not to delay any further due to collaborations with the adjacent landowner and developer on the street misalignment. He added that they have not received any Storm Water Management Plan (STWMP) from the adjacent developer, so they do not wish to adjust their lot lines to align with the potential street on the adjacent lot that is not at the same level of development. This subdivision is now ready, with their Engineer and STWMP all complete.

Mr. Gerry Roberts of Kierstead Quigley and Roberts spoke regarding the design of the adjacent property which was submitted to the Town in March for tentative review as well as being presented to the adjacent property owner's surveyor. He said the developer has been preparing to move forward with the existing lots and they will lose a Lot if the road is changed. This developer has hired a consultant to assist with this next phase and it was his understanding that the developers were willing to work together. He recommends that the PAC requests the two developers to work together.

Ms. Jacqueline Darling and Mr. John Foster attended with questions and concerns. They asked about the Land for Public Purposes (LPP) and walking trail noting that they have land right on this trail and worry about how this will be policed to avoid

four wheelers and hunters. Ms. Darling noted that the road has been unused in over 100 years and wondered why it is being opened now and what is the impact to adjacent landowners. She asked about the size of the buffer zone between their property and the residential lots going in stating that they were at the meeting to gather information and take back to their legal counsel. She further asked who owns the Lambs Ferry Road and how is ownership proved and who is funding this trail development.

Mr. Colbourne responded with information on the requirements for LPP as per the by-law, as well as discussions with the developer over the proposed land for a pedestrian trail to connect to the Old Lambs Ferry Road, which historically is still owned by the Town as an old public road. The plan is not to proceed to the degree of a public road. He added that once the town owns it, it changes from private property and is monitored and enforced more regularly than private property would be. As for buffering, residential development to residential does not have to have a physical buffer, the town has many properties that are back to back lots without even any trees. However, the town encourages, as can Council or PAC, a buffer between properties. Mr. Colbourne further added that this developer is requesting a treed buffer on the lots being developed.

Mr. Blain added the tentative plan showed several buffers that are a desire of the developer noting that if this same developer continues up to Lambs Ferry Road, they anticipate the same individual lot buffers. He further added that the Lambs Ferry Road is a public Right-Of-Way measuring 20 metres and if this plan has a 10 metre buffer that would offer 30 metres between landowners.

Mr. Aaron Keating of 321 Model Farm Road attended with his concerns for the storm water management. Mr. Colbourne reviewed the requirements for STWMP as part of all developments. He noted the retention pond, holding water to allow for slower drainage, that the Engineering Department reviews prior to development.

Mr. Steven Forgeron spoke to say that his primary motivation is to protect the land and the water. While he wants to work with the other developer, time is tight, and he would like to proceed with the current plans, the lay of the land, and the natural flow of the water as it is now.

Moved By Brent Preston Seconded By Darren Bishop

That the Planning Advisory Committee support the Development Officer in approving the MPSF Inc. Subdivision Phase 2 subject to the following:

- 1. Support is given to the overall street layout;
- 2. Approval of a 2.0 metre street right-of-way width variance;
- 3. Support is given for the Land for Public Purposes as proposed by the Tentative plan, with the 2073 square metre deficit to be addressed in a future phase;

- 4. Support is given for an Abbreviated Water Source and Supply Assessment recognizing this is not a requirement based on the proposed number of lots and the Subdivision By-law criteria; and
- 5. An on-site septic approval is required by the Provincial Health Act.

The following standard conditions will be applied to possible approval of the plan by the Planning (Development) Officer:

- 6. Professionally engineered design drawings for the street network to be submitted to the Town for review and approval;
- 7. Submission of a Comprehensive Stormwater Management Plan and a Lot Grading Plan as designed by a qualified professional engineer licensed to practice in the Province of New Brunswick. The plan must demonstrate a balanced pre and post-development flows. The plan must provide acceptable solutions for any downstream impacts. The final stormwater management plan is to be reviewed and approved by the Town for construction;
- 8. A review of any significant wet areas to determine if Department of Environment approval is required prior to construction;
- 9. All Local Government Services Easements necessary for the stormwater management are to be incorporated into the final subdivision plan;
- 10. Tree clearing shall be restricted to street rights-of-way and easements necessary for the installation of services in accordance with Zoning By-law 038 and Subdivision By-law 035 Section 7;
- 11. Standard Developer's Agreements, bonding and subdivision fees will be required;
- 12. Subdivision filing fees of Two Hundred Fifty Dollars (\$250.00) for a five (5) lot subdivision plan to be paid to the Town prior to final plan approval; and
- 13. The development of MPSF Development Inc. Subdivision Phase 2 Alpenglow Drive, shall be completed in accordance with all applicable Town By-laws, Provincial and Federal Acts and Regulations thereto.

Motion Carried

7.3 Covered Bridge Subdivision - Phase 4 Tentative Plan (Off Bridgeford Dr)

Mr. Gerry Roberts of Kierstead Quigley and Roberts attended with Mr. Bruce Robinson seeking approval for the Covered Bridge Estates Phase 4 Tentative Subdivision plan.

Mr. Colbourne reviewed the application for two lots with access to the Lots from Bridgeford Drive with driveways at least eleven metres from the proposed Future Street. He pointed to the watercourses and streams recognized by the Department of the Environment and stated that these Lots are impacted by the required 30 metre

buffers by 700 square metres and 900 square metres, respectively. He added that if the Lot Area is not usable with respect to septic field location, well location or the dwelling, then consideration must be given to the adequacy of the lot to support the development with respect to the Department of the Environment (DOE). Development on either lot will require a Watercourse and Wetland Alteration (WAWA) permit from the DOE. Mr. Colbourne stated that Lot 24 requires a width variance of 0.28 metres and is only 4000 square metres in area. Recently the Town has been informed that the usable area of a Lot cannot include the 30 metre buffer from the watercourse so the well, sewer, house, etc., must all be within the usable Lot area. Furthermore, 4000 sqm is only large enough to accommodate a three bedroom house and the DOE requires 5350 or more for homes that exceed three bedrooms.

No one attended to speak for or against this application.

Moved By Darren Bishop Seconded By Brent Preston

That the Planning Advisory Committee support the Development Officer in possible approval for the Covered Bridge Estates Phase 4 Tentative Subdivision plan, subject to the following:

- 1. The PAC grants approval for a 0.28 metre lot width variance for Lot 24;
- 2. The access to Lot 24 and 25 to be from Bridgeford Drive and being at least 11.0 metres from the side property line common with the area identified on the plan as Reserved for Future Street;
- 3. An on-site septic approval from the Department of Public Safety as per the *Provincial Health Act* and New Brunswick Technical Guidelines for Onsite Sewerage Disposal Systems;
- 4. Potable water supply and service through privately-owned drilled wells as per the Clean Water Act and New Brunswick Potable Water Regulation NB93-203;
- 5. A Stormwater and Lot Grading plan is to be submitted at the time of Building Permit Application stage and shall include a lot grading plan for Lot 24 and Lot 25;
- 6. LPP obligations are to be satisfied prior to final plan approvals.
- 7. Filing Fees in the amount of One Hundred Dollars (\$100) for a subdivision plan of two lots; and
- 8. The Final Plan is to be signed by the property owners and any applicable Public Utilities.

Motion Carried

7.4 Gondola Point Park Phase 12 - Tentative Subdivision Plan

Mr. Gerry Roberts of Kierstead Quigley and Roberts attended on behalf of Mr. Ron Scott of RJ Scott Homes Ltd., seeking approval for Gondola Point Park Tentative Plan for Phase 12.

Mr. Colbourne reviewed the application for the sixteen (16) residential building lots in the Single or Two-Family Dwelling Zone (R1), an extension of the existing public streets of Maddie Lane and Sheraton Avenue, and the creation of Public Utility Easements for electrical power and telecommunications agencies. He noted that all lots meet the required sizes and will be serviced with on-site wells and municipal sewer. Mr. Colbourne explained that Land for Public Purposes (LPP) that was donated from previous phases and became part of the Towns trail system. left the Developer with a credit that can be applied to this development. He reviewed the two areas denoted as "Wetlands" on the plan, reflective of the provincial January 2020 wetland mapping as well as the Town's Wet Area and Predictive Streams information. The Developer, based on his knowledge of the grounds, challenged the validity of the mapping, and undertook a wetland delineation in May 2021. Mr. Keirstead stated he met with the DOE who have just remapped the area and this new review takes the entire wetland out of this phase so the plan will be revised to reflect any DOE designated wetlands and the required buffer zones.

Notice was sent to property owners within 100 metres of the subject property and correspondence was received from some property owners with concerns regarding impacts on well water, maintaining greenspace and providing trails, and possible higher density (apartment) development through this subdivision; however, the main common concern was increased traffic, pedestrian safety, and speed on the local streets.

Mr. Fred (James) Stillwell of 21 Kane Road spoke of concerns. He said that in 2007 when they moved there, their house was the last on the street and now the street has been extended to connect with Matthews Drive and the condo development. He added that there is a lot of traffic and the speed limit of 50 km per hour is too fast, and folks drive faster than that. He said that we all had to deal with a construction zone for the last 10 years and due to the traffic noise and smells and dirt from the well drillers, the excavators, trucks, etc. we have all lost our quiet little community. He said people cannot sit on their deck and enjoy the peace and quiet with the traffic. He would like to see a connection from the Gondola Point Arterial Highway or a connector road to Meenans Cove Road. He is also concerned for the private wells and the wetland issues.

Ms. Jennifer Ramsey and Mr. Robert Jones of 10 Matthews Drive attended stating the same concerns as above. They said the traffic has increased to 70 and 80 km per hour but the police cannot seem to catch anyone. They worry about safety with the increased traffic and the connectivity to another subdivision. They would like the speed lowered and some speed bumps installed. They are also concerned for

well water and would like a report to ensure quantity and quality. They asked if the properties could be limited to single family homes, not condo buildings, and enquired on the timelines of when the development starts, how long will this take and will the developer build to sell or sell lots for others to build. Ms. Ramsey added that the traffic from development is constant for the last 7 years and since they expect more, they would like the connection from Meenans Cove Road to be created first.

Mr. Roberts stated that the connection to Meenans Cove is high on the Scott Bros Ltd. list, and they have looked at the designs over the winter with potential plans of getting this done is the next three years. However, he added that there is a huge elevation concern at the connection point of Sheraton Avenue to Meenans Cove.

Mr. Colbourne noted that any speed changes can be directed to Council. He also stated that construction on Saturday is permitted but not on Sunday and as per the Noise By-law, the hours of construction are limited to 7:00 a.m. until 9:00 p.m. It was stated to Mr. Roberts that anything the Developer can do to minimize the traffic impact would be appreciated by the residents.

Moved By John Groden Seconded By Brenda Fowlie

That the Planning Advisory Committee support the Municipal Planning Officer in considering the approval of the Gondola Point Phase 12 Tentative Subdivision Plan, subject to the following:

- 1. Approval is granted for the proposed street layout and connection;
- 2. Support is given for the use of the LPP land credit established as part of Phase 9 to fulfil the LPP requirements for Phase 12; however, identifying the need for additional greenspaces and trail connections to continue as part of the Gondola Point Park development; and
- 3. Supporting the requirement for an Abbreviated Water Source and Supply Assessment, with a Comprehensive to completed in the next phase.

The following standard conditions will be applied to possible approval of the plan by the Planning (Development) Officer:

- 4. Professionally engineered design drawings for the sanitary sewer system to be submitted to the Town for review and approval, incorporating a service lateral to the property line of Lot 05-1, if required.;
- 5. Professionally engineered design drawings for the street network to be submitted to the Town for review and approval;
- 6. Submission of a Comprehensive Stormwater Management Plan and a Lot Grading Plan as designed by a qualified professional engineer licensed to practice in the Province of New Brunswick. The plan must demonstrate a balanced pre and post-development flows. The plan must provide acceptable

- solutions for any downstream impacts. The final stormwater management plan is to be reviewed and approved by the Town for construction;
- 7. Any areas impacted in Phase 12 constrained by a provincial wetland or watercourse shall be submitted to the DOE for review and approval, with copies of the approvals submitted to the Town;
- 8. All Local Government Services Easement necessary for the stormwater management or sanitary sewerage service are to be incorporated into the final subdivision plan;
- 9. Tree clearing shall be restricted to street rights-of-way and easements necessary for the installation of services in accordance with Zoning By-law 038;
- 10. Standard Developer's Agreements, bonding and subdivision fees will be required;
- 11. Subdivision filing fees of Three Hundred Sixty Dollars (\$360.00) for a sixteen (16) lot subdivision plan to be paid to the Town prior to final plan approval;
- 12. The Tentative Plan will be forwarded to all applicable Public Utilities providing electrical power and telecommunication services for review and comment on the proposed Public Utility Easements for incorporation into the final subdivision plan; and
- 13. The Developer agrees to construct and development Phase 12 in accordance with all applicable Town By-laws, Provincial and Federal Acts, and regulations thereto.

Motion Carried

7.5 170 Hampton Road - Roof Top Patio - Discretionary Use

Mr. Glen Dewer, representing the property owner, Mr. Dino Cipolla, attended seeking approval for a Rooftop Patio as a Discretionary Use at 170 Hampton Road (PID 00255232).

Ms. Jarvis reviewed the application noting that an outdoor patio is not listed as a Permitted Use or Discretionary Use in Zoning By-law 038; therefore, the Use would have to be reviewed as a Similar or Compatible with the existing use of the building as per By-law 038 Section 3.(D)(1). She added that a variance is required from the Town's Zoning By-law 038, Section 6.(J) which states: "Notwithstanding any other provision of this By-law, in the case of a lot in a Commercial or Industrial Zone and abutting a Residential Zone, no main building or structure may be placed or erected thereon unless the yard adjoining the Residential Zone has a depth or width equal to twice (2X) the height of the main building or structure. Whereas the existing building is approximately three metres, the setback should be six metres. She reviewed the applicant's operations list that included the proposed hours of operation not to exceed 11 am to 10 pm from Monday to Sunday, live music would

be limited to occasional solo performers who will perform without amplifiers, the seasonal use of 6 to 8 months of the year, the liquor license expanded to cover this patio area for casual, dine-in customers, and no dance floor area will be on the deck.

Mr. Dewer addressed some of the concerns received with the primary concerns of noise pollution, sight line and light pollution. He stated this family business has operated on this site for nearly 40 years and that prior to 2007, it was managed by the current owner's brothers and any events during that time may not be repeated. The business was rebranded to Amici and is not the old place where the old boys hang around. Some solo arrangements or duets may be on location but there has not been live rock and roll music at this location for years. He stated that the owner understands that loud music, loud cars and conversations are disturbing, but over the last several years there have been fewer complaints from the public. and they will continue to enforce their noise levels. Mr. Dewer added that a six foot high fence will be erected at the foot of the stairs and there will be no one permitted behind the fence. The addition of the patio will not increase the number of patrons even though there will be more seats due to the constraints on available washrooms. The patio will close at 10:00 p.m. therefore there should be no increase to the existing late night noise. There will be a gate that will open only from the inside with no access from the outside. The plan is for a four foot picket style fence on the roof of the patio facing the residential properties. As for the privacy, for the residents and the guests, he showed pictures of the roof top taken today showing the existing foliage from different angles. As for light pollution, Mr. Dewer said there is a streetlight between Amici and Scholten's which will be the significant light for the patio, with added patio lights along the edges to address light pollution. He referenced the staff report, noting 80% of the notified people had concerns, but two of the concerns were from property owners outside the 100 metre radius so they should not count, and one was ok if they were to install a fence, plus one other was only concerned about the commercial business and not directly to the patio.

Ms. Fowlie noted she was on the roof yesterday to look at the site lines, and thought a roof top wall of six feet, not four feet, would eliminate some sight lines. Mr. Gosselin noted the garbage bins at the rear of the building and the cover open where the birds can spread it around. Mr. Dewer admitted the garbage on the ground belonged to the business and stated that they will enhance the procedure of the hired person to clean up more often. Mr. Gosselin then noted the back door is open when music is playing which causes the noise to travel to nearby homes. The Manager of Amici said the door is not open, unlocked for safety reasons, but not left open and said that this may have been the way in the older days so the smoke could escape, and the band was set up near the door so the music would be louder. Mr. Dewer said the access to the patio is only from inside the dining room and up the staircase which is surrounded by the six foot high solid fence with a fire door exit on the gate for emergency exit. The capacity of sixty people was questioned as to how the owner can ensure the capacity is limited with chair downstairs and outside. Mr. Andrew Johnson noted that under the building code, the seating limit must be

posted on the stairs and any inspection that showed over 60, the owner could be fined.

Ms. Trinda Carvell of 13 Lyden spoke on her concerns. She asked how the lights on the patio will be directed, if the capacity of 60 on the patio included staff, if there would be live music and how do you control the volume for 60 people to hear since 60 people can make a lot of noise. She asked if the hours could be no earlier than 11:00 a.m. and only until 10:00 p.m. With regards to the noise, Ms. Carvell asked if the owner lived in the neighborhood where he would endure the late night noise and was told that he lived in Rothesay. She asked if the patio could include a six foot solid fence on the roof instead of the proposed 4 foot picket fence. She noted that since the stairs are outside, every time someone opens the door, the music will travel to the residential properties. Ms. Carvell stated that she is not opposed to a patio, but the location of the roof top patio allows for the site lines and noise travel. As a neighbor, she said she did not want to listen to music from 11:00 a.m. until 10:00 p.m. and added that the concerns that came from people just outside the 100 metre notification list are important since they are affected as well.

Mr. David McDougall of 3 Lyden Drive stated he has been living at this address for 34 years and is aware of the numerous noise complaints and asked if the staff of the PAC contacted the police to find out how many complaints they get on average. He stated that the current site lines of trees with thick foliage does not last and that the fence should be built to hide the visual from the property owners to the rear of the building. He added that 60 people on the roof top leaves a lot more space for people downstairs inside, which is a lot bigger than the roof top, and that 60 people make a lot of noise, especially when there is drinking involved. He asked if there was a reason the patio could not be built on the ground level.

Mr. Dewer responded to the voiced concerns stating that the lights will be directed inward and facing Hampton Road and the approved capacity of 60 includes staff and that number will lower once tables and chairs are added. Music from inside is only in the evening for a few hours and is not played that loudly and music on the roof top patio will only be on special occasion for a few hours a day, and the six foot wall solid fence will buffer some sound. Closing time is 10:00 p.m. outside.

The Chairman read aloud each of the concerns received which included seven of the ten notified plus two others on the same street of Lyden Drive.

Moved By Brent Preston Seconded By Darren Bishop

That the Planning Advisory Committee approve the Rooftop Patio as a Similar Use to the existing use of the business at 170 Hampton Road, PID 00255232 subject to the following conditions:

1. The five decimal five (5.5) metre setback variance is approved from Section 6.(J)(1) of the Zoning By-law 038 which states that no main building or structure may be placed or erected thereon (in a Commercial Zone) unless the

- yard adjoining the Residential Zone has a depth or width two times the height of the building;
- 2. The zero decimal six (0.6) metre height variance is approved for a solid privacy wall to be erected on the roof top patio, along the back side facing the residential properties, measuring two decimal four (2.4) metres in height from the finished surface. The other side patio deck railings must be constructed as per the National Building Code for safety;
- 3. A one decimal eight (1.8) metre solid privacy fence to be erected at the edge of the cement pad at the rear of the property with a gate installed for emergency exit;
- 4. The capacity to be a maximum of forty-five (45) people based on an approved Engineer Report;
- 5. All lights are to be minimized and directed downward and away from the residential properties to eliminate light pollution;
- 6. Live music on the patio is only acoustic stringed instruments without any amplifiers and limited to no more than a trio of players;
- 7. The patio is shut down by 10:00 p.m.;
- 8. The rear door of main dining facility on which the rooftop patio is located must remain closed unless for typical ingress or egress of patrons;
- 9. A building permit is obtained prior to construction; and
- 10. The developer's agreement is amended to include the additional use.

Motion Carried

8. Information Items and/or Discussion (none)

9. Adjournment

Moved By Darren Bishop Seconded By John Groden

Meeting adjourned at 9:58 p.m.

Respectfully Submitted,

CHAIRMAN

SECRETARY