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QUISPAMIS PLANNING ADVISORY COMMITTEE
MEETING MINUTES – January 24, 2023

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

1. Call to Order

Darin Lamont called the meeting to order at 6:00 p.m.

2. Approval of Agenda

Moved By Mark Guest

Seconded By Brenda Fowle

That the Agenda be approved as written.

Motion Carried

3. Disclosures of Interest

No disclosures were declared.

4. Approval of Previous Minutes

Moved By Marc Gosselin

Seconded By Brenda Fowle

That the minutes of the January 10, 2023 PAC meeting be received and filed.

Motion Carried

5. Business Arising from Minutes - Notice of Decisions

Moved By Darren Bishop

Seconded By Mark Guest

That the Notices of Decision be received and filed.

Motion Carried

6. Unfinished Business

7. New Business

7.1 157 Palmer Brook Rd - Development Agreement Amendment

The applicant has postponed the Mobi-Dock Package Distribution Facility and Outside Storage Screening Variance until they have met with the Planning Department for further review.

7.2 Wright Subdivision

Brian Wright of 83 Meenans Cove Road attended seeking approval for the Wright Subdivision Phase 1 – Misty Cove Lane (Ext. Private Street) – PID 30294052 – with one Lot Not Fronting a Municipal Street.

Mr. Wright noted the garbage removal concern from the neighbors. He said he talked to the garbage management company, and they are ok with going to the end of the lane to pick up the garbage. Two properties now put their garbage up there, one person should be putting his at the top of the lane at Meenans Cove Road instead of Misty Cove Lane. Mr. Wright mentioned the concerns received regarding the water drainage but stated that those who voiced concerns have properties that are at a higher resolution so there should not be any changes from this subdivision to their water problems.

Mr. Colbourne stated that the lot being proposed can be accessed directly from the Municipal Right-of-Way, Misty Cove Lane, and that this type of arrangement has been permitted in Quispamsis. He reviewed a letter of concern (from Mr. Wilson) that implies Section 9.(D)ii may be applicable and reasonable grounds to deny the subdivision; however, the current access to the property owned by Mr. Wilson would have been approved under the same manner and reasoning as the PAC would have to apply to the application that is before them. The future subdividing of the remnant land may be restricted to the requirement to construct a public street to municipal standards; however, this appears to be the point of impasse between adjoining property owners. Mr. Wright owns the land being encumbered by a right-of-way in favor of Mr. Wilson, it appears future development of both parcels (Mr. Wright's and Mr. Wilson) is contingent on the parties coming to some mutual agreement regarding the public street. It would be reasonable to conclude that the law of not approving a subdivision plan prejudicing development of the lands would be applicable to both adjoining landowners as both are objecting to the future development of their lands by way of an apparent impasse.

A 2007 staff report from Mr. Losier to the Planning Advisory Committee for the creation of Lot 07-1 (now Mr. Wilson's Property) was reviewed by Mr. Bishop. When the lot was first proposed, it was noted that the area has the potential for future development and the proposed layout of the ROW was written on the plan

as a potential future street. When Mr. Wilson purchased the land, the sale agreement stated that the road had to be developed as a public street, a paved, 67.3 metres of street to service the one lot. It was stated that the previous developer had to build a public street for one lot so the PAC should be enforcing another developer to do the same instead of creating a lot off a private access that is not up to town standard. Furthermore, Mr. Bishop stated that private lanes should not be permitted in areas where there is opportunity for large development.

Mr. Colbourne noted that the Town's staff report was to ask the PAC to review the potential ROW versus a future street, however, we don't have files showing that this was done but instead, the proposed tentative plan was changed to have the ROW land given back to Mrs. Saunders with a ROW granted to Mr. Wilson over the land. In terms of the application today, Mr. Colbourne explain that the lot does not front a municipal street but there is a ROW that goes to this lot, Mr. Wilson's property and 479 Misty Cove Lane. He stated that the PAC is to determine if this is reasonable access.

It was confirmed that Mr. Wilson has rights to use this as access for the development of a single family home and since he has deeded rights for the access to an approved lot, he would not have to return to the PAC for a lot that does not front a municipal street. If he subdivided further, he would require approval for development of the road. If either land is further subdivided, the PAC has the authority to request the access be brought up to a municipal street. Mr. Colbourne stated that while our subdivision by-law does not indicate the number of homes permitted on a private lane, this is coming as an amendment to our Municipal Plan and Zoning By-law. However, once you have three lots on a lane, it has to be a named street.

During discussions of a public street, Mr. Wright stated he discussed this with Mr. Wilson for eight years and they have never come to a decision. Mr. Wright was asked if Mr. Wilson approached him to offer to pay for the entire road construction would he let him? Mr. Wright said he would be willing to discuss this but added that the cost difference between what he would have to pay and what Mr. Wilson would have to pay would depend on the lots they could sell. First, the street would be going on his land and his lots are approximately \$90,000 and Mr. Wilson would be selling his lots for a million each so Mr. Wright stated he is not benefitting from the development of the road as much as Mr. Wilson would. Furthermore, he has no plans to sell more lots until retirement and if this lot doesn't get approved, he will just sit on it and allow the people to enjoy the private lane.

Mr. Ahmed of 101 Rockefeller Drive attended to speak of his concerns. Initially the two lot subdivision was recently denied, now one lot is being requested but nothing has changed. He stated that none of the recommendations of the PAC in 2018 have been implemented by the developer so allowing one lot to be created without meeting conditions or recommendations previously laid out by the Town sets a dangerous precedent. Mr. Ahmed stated there are currently no culverts for

ground water to drain into so they are concerned that they could have a potential issue with the back up of groundwater onto their property with the development of this lot. Furthermore, residents of the private part of Misty Cove Lane bring their garbage bins onto the corner of their property because the garbage truck does not go down that part of the lane and they have to pick up garbage blown out of the bins on to their property.

Ken Wilson of 489 Misty Cove Lane attended virtually. He clarified that they bought the property from Brian Wilson's grandmother, Mrs. Saunders, and the only access was off Meenans Cove Road at that time. The plans for the property included the subdividing of lots for family members and the original design included the land that is now the right-of-way (ROW). He stated that when the town reviewed the tentative plan, the land that is now the ROW was not to be included with the new Lot but to be left with the remnant lot as a future street, so the tentative plan was amended and the property line moved back twenty (20) metres to allow for the future public street. Mr. Wilson stated that they basically gave up approximately two thousand (2000) square metres of land due to the request of the town for the street development. Mr. Wilson explained that they made arrangements to create a ROW between the end of Misty Cove Lane (at that time) and the edge of the Lot 07-1 where he developed and paid for the ROW as it stands today. He added that a private lane is a dead issue as it only saves money and that he wants to develop the property but cannot because they gave up the land. The sale agreement for the original Lot 07-1 states they can convey this ROW to anyone but that was not included in the deed; furthermore, Mrs. Saunders and the lawyer used at the time are both deceased so they cannot convey it to the town or anyone even though they paid for that portion of the land and paid for the access that was supposed to be temporary. Mr. Wilson added that they would like to develop this as a public street and was sure they (Mr. Wilson and Mr. Wright) can come to a cost sharing agreement, but they can't do anything if the access stays private. He stated they are asking the PAC to deny this until the two parties come to an agreement on the development of the road.

Mr. Colbourne explained the difference between a ROW and Private Lane. A Private Lane is a named Lane just not maintained by the town. It also has to be developed to a standard for Emergency Services. A ROW is like a driveway with permission over someone else's land. The access that is there now is just a ROW, not a Private Lane. This request today is not for a Private Lane, just a driveway over the land belonging to Mr. Wright from Misty Cove Lane.

Moved By Mark Guest
Seconded By Brenda Fowlie

The Planning Advisory Committee approve the proposed right-of-way access to the Lot 18-1 of the Wright Subdivision within the existing 20-metre right-of-way as shown on the plan subject to the following terms and conditions:

1. Any further subdividing of the remnant parcel PID 30294052 shall require the 20-metre wide right-of-way as shown on the plan to be constructed to a municipal public street standard;
2. The property owner is to enter into a Hold Harmless Agreement to protect the Town, and to make the property and homeowners aware of the responsibilities associated with the private driveway that does not front a municipal street and highlights the concerns from fire, police and ambulance and the importance of unobstructed access;
3. A Hold Harmless Agreement to incorporate a clause whereby it is recognized that investment made in construction of the private access will not be recovered if it is destroyed during construction of a public street to municipal standards and the owner further agrees to maintain the access to a reasonable standard satisfactory to the Town until such time as the private access becomes a public street;
4. Submission of approval from the Department of Public Safety for the installation of an onsite sewage disposal system as per the Public Health Act of New Brunswick along with a copy of the associated Building Plans to issuing of a Development Permit by the Town;
5. The property owner is responsible for all cost associated with drilling, installation, testing and maintenance of the private well system;
6. Drainage concerns must be addressed through a site, grading and drainage plan done by a professional engineer that is required as part of the development/building permit;
7. Any drainage work must be approved by the Engineering Department of the town and the existing culverts must be brought up to Town standards;
8. The culvert existing at the end of Misty Cove Lane, on Mr. Wright's property, considered as a driveway culvert, will be reviewed as part of the site drainage plan as part of the Development/Building permit;
9. The portion of the Right-Of-Way from Misty Cove Lane to the proposed driveway should be brought up to the Emergency Standards of the National Building Code, that of a six (6) metre wide driving surface;
10. The post development flow must be less than or equal to the predevelopment flow;
11. All property owners on the Right-Of-Way are requested to use the proper garbage receptacles required by the garbage removal company (currently Fero);
12. Land for Public Purposes obligations to be met through a payment of seven hundred and fifty (\$750) in lieu of land dedication;

13. Filing Fees totaling One Hundred Dollars (\$100) for a subdivision plan of two lots or less; and
14. The Development is to be completed as per all applicable Provincial Acts and Town By-laws.

Motion Carried
Nay – Darren Bishop

8. Information Items and/or Discussion

Moved By Brenda Fowlie
Seconded By Mark Guest

That Council Meeting Minutes of December 6 & 20, 2022 be received and filed.

Motion Carried

8.1 PAC Meeting - March 14, 2023

Due to PAC Chairperson and Vice Chairperson not being available, the PAC should determine if the March 14, 2023 meeting can be removed from the calendar and the public notified.

Moved By Brent Preston
Seconded By Mark Guest

That the PAC Meeting of March 14, 2023 be removed from the 2023 PAC Calendar and this notice be shared through the Town's communication.

Motion Carried

9. Adjournment

Moved By Darren Bishop
Seconded By Brenda Fowlie

Meeting adjourned at 7:36 p.m.

Respectfully Submitted,



CHAIRMAN



SECRETARY