

MUNICIPALITY OF THE DISTRICT OF LUNENBURG
PUBLIC HEARING
Held by **MUNICIPAL COUNCIL**
in Council Chambers, 210 Aberdeen Road, Bridgewater, NS
Monday, September 24, 2018 – 7:00 p.m.

ATTENDANCE

Mayor Carolyn Bolivar-Getson
Councillor Eric Hustvedt, District 1
Councillor Lee Nauss, District 3
Councillor John Veinot, District 4
Councillor Cathy Moore, District 5
Councillor Claudette Garland, District 6
Councillor Wade Carver, District 7
Councillor Michael Ernst, District 8
Councillor Reid Whynot, District 9
Councillor Errol Knickle, District 10

Regrets: Deputy Mayor Martin Bell, District 2

Staff: Jeff Merrill, Director of Planning and Development Services
Douglas Reid, Senior Planner
Norma Schiefer, Development Officer
Melissa Deveau, Planning Technician
Stephen Pace, Director of Engineering & Public Works
Kevin Malloy, Chief Administrative Officer
Sherry Conrad, Municipal Clerk
Tina Robichaud-Bond, Executive Assistant

1. CALL TO ORDER

Mayor Bolivar-Getson called the Public Hearing to order at 7:00 p.m.

2. OPENING REMARKS

Mayor Bolivar-Getson reported that this is a Public Hearing for Council to receive both written and verbal presentations from those in attendance concerning the proposed new Municipal Planning Strategy and Subdivision By-law.

2a – Introduction of Council Members

Councillors and staff members in attendance introduced themselves.

Mayor Bolivar-Getson noted regrets from Deputy Mayor Martin Bell.

2b – Review of Agenda and Rules of Conduct

Mayor Bolivar-Getson reviewed the agenda and read the Rules of Conduct that are to be followed by members of the public who wish to speak at the Hearing. The Rules of Conduct were also printed at the bottom of the Agenda.

3. REPORTS AND PRESENTATIONS

Ian Watson, Upland Planning Design, was in attendance.

Mr. Watson explained the reasoning for the proposed amendments to the Municipal Planning Strategy and Subdivision By-law. He advised that it had been an extensive process with much consultation. He provided a summary of the updates:

- Municipal Planning Strategy document
 - Changes made to this document were to accommodate the changes to the Subdivision By-law so that both documents conform to one another
 - Edits for readability and terminology
 - Updates for department names
- Subdivision By-law document
 - Subdivision connectivity
 - Notification for stamping plans re private design road
 - Engineering standard updates
 - Access exemption
 - Public road standards
 - Private design roads
 - Road certification
 - Flag lots
 - Public open space

4. WRITTEN AND VERBAL PRESENTATIONS FROM THE PUBLIC

4a – Review of Written Submissions

Mayor Bolivar-Getson asked if any written submissions were received by the Municipality.

Mr. Malloy reported that only one correspondence was received, an email dated September 17, 2018 from Jennifer Corson of Solterre Design, which was circulated with the Agenda for Councillors to review.. Ms. Corson's email was regarding the changes to the flag lot requirements.

4b – Verbal Presentations by the Public

Mayor Bolivar-Getson asked if there were any verbal presentations to be made by anyone in the audience.

Jennifer Corson, Architect & Developer with 3 Pastures - Ms. Corson spoke against the proposed amendments to the sections of the Subdivision By-law pertaining to “flag lots” and the requirements on concept plans as they may potentially drive development away from the area:

Sybren Vander Zwaag, Developer with Botany Woods Development & River Mill Developments – Mr. Vander Zwaag advised that he has developed two subdivisions in the Conquerall Mills area in last 25 years. He reviewed his report (copy attached to Minutes) advising that the proposed amendments to the road construction and flag lots will be detrimental to the area.

Mayor Bolivar-Getson advised Mr. Vander Zwaag that his time to address Council was up and asked if there were any other members of the public in attendance who wished to address Council. No members came forward so Mr. Vander Zwaag was allowed to address Council for a second time. He continued his presentation advising Council that flag lots are an enabling mechanism and urged Council to not adopt the proposed amendments.

Mayor Bolivar-Getson asked two more times if there were any members of the public in attendance who wished to address Council. There were no further comments.

5. REVIEW OF APPROVAL PROCESS

Mayor Bolivar-Getson reviewed the approval process, noting that Municipal Council could either call a Special Council meeting and make a decision at the close of this Hearing or the decision could be deferred to the next regular Council meeting. Council agreed to hold a Special Council meeting after the Public Hearing.

It was noted that Council has heard the concerns of the residents in attendance.

6. CLOSING OF THE PUBLIC HEARING

Mayor Bolivar-Getson declared the Public Hearing closed at 7:43 p.m.

Submission of Comments re: A BY-LAW RESPECTING THE SUBDIVISION OF LAND
IN THE MODL.

Date: 24 September, 2018

From: Sybren Vander Zwaag,

Botany Woods Developments and River Mill Developments

Over the last twenty-five years I have created two subdivisions in Conquerall Mills out of 120 acres of the Lunenburg County forest, Botany Woods and River Mill. The bulk of that development occurred under the framework of the current by-laws put in place in 1999. In many respects, considering the Lunenburg County soil conditions and topography, it was a challenge. Nevertheless, these subdivisions are viewed as premium subdivisions, approximately 75% developed, averaging only one lot sale per year. These lots are currently providing approximately \$115k of annual tax revenue to the MODL for which the only direct cost is bi-weekly garbage collection. All our roads, approximately 3 kms, were constructed to municipal requirements, 6" of class C type material and 4" of Class A. Our road surfaces are 18' wide minimum and generous shoulders in most places. Our road surface is in excellent condition and some of you Councillors, who have been in the subdivision, can attest to that. These roads are maintained by a landowner's association with a \$600 annual fee per resident. This currently is a total annual contribution of about \$20,000 dollars, which is born by the residents, not by the MODL. There is no property tax credit to the residents for that effort.

These subdivisions are some of many that have been developed during the last 20 years under the same 1999 by-laws. A survey was carried out about 6 months ago that showed the average road width was 20' and average gravel surface was 16 ½'. I am aware of at least one exception of inadequate road construction that was an early development and it is regrettable the residents are saddled with its burden. But the point I wish to make is that the vast bulk of development under the current by-laws has provided good roads. They adequately address the primary driver for the proposed road construction standards, ie safety and security vehicle needs. They are already largely being met.

This by-law review process has had 7 meetings. I believe it is fair to say that the atmosphere often was frustration and sometimes to the point of anger. The development and development support communities, again and again, entreated the PAC to modify and or eliminate the

proposals related to road construction and flag lots. **The great fear is the driving up of costs and loss of flexibility in development, in a tough market and expensive development framework such as the topography of Lunenburg County.** It is clear the main points of concern have not been removed.

I am mystified by the lack of logic coming into play.

For example, it was decided that no more municipal roads were going to be allowed except where the tax base would support the maintenance component. The logic was that an analysis had been done and the tax revenue for houses on those roads did not generate enough property taxes to maintain those roads. This apparently resulted in the decision that MODL would not allow more development of municipal public roads.

What happens using that logic if not enough taxes are collected from these roads that education is not covered nor police service is not covered. Will these residents then not receive those public benefits?

A rough estimate was done on how many lots were created in private subdivisions during the last 20 or so years. These were all lakefront lot subdivisions. That tally came to about 585 +/- . Using conservative figures of property assessments of \$50k per lot and about half of those having buildings with an average value of \$300k the property tax revenue for MODL is in the range of \$10M annually. No investment was required by MODL and no road maintenance is generated by these subdivisions. The current proposals put a significant damper on this development. Logically, any investor with this pay-back would be wildly enthusiastic and find ways to create and facilitate more of this. Instead we find ourselves in MODL implementing actions that suppress and discourage this development. The guardians of MODL need to protect and support economic development to the full, not let it slip away. It is disappointing to have the shortfall on municipal public roads be used to arrest the creation of these roads and to have the windfall of taxation from private subdivision development ignored and not take into account.

If the same logic was applied to these private subdivision roads that was applied to Municipal public roads, then all of these residents should see a significant tax rebate/credit or reduction because the Municipality is not having to provide that road maintenance service.

My subdivisions relied heavily on the concept of flag lots because of the drumlin topography. There was no limit on how many were allowed. All the flag lots were serviced by high quality roads. About half of the lots in my subdivisions are framed in the flag lot concept. It looks weird on paper but functions completely normally and has allowed the development of exceptionally beautiful lots that otherwise would have been left as forestry.

This by-law review resulted in the decision to allow only 3 flag lots. What is the logic for that? Why not 6 or 10 or no limit? There is no logic. Because of this change, I will be required to resurvey a number of lots and there will be a loss of building lots. As well, a designed road will have to be constructed and the rural character we wanted to create will be eliminated. This is a loss for almost everyone involved in development and they are the risk takers. The engineers will benefit.

Statements have been given to MODL that major developers will leave the County because of the new regulations and their negative cost effect. I am not in that boat as my development is nearly complete. I can say with certainty that had these regs been in place during the last 20 years, my developments and many others would never have occurred. And that is a sad statement.

As a developer, I find it a betrayal to have these new regs put in place effective basically immediately. A long term plan and resource expenditure is engaged in on the basis that there are known rules in place and will be in place. When these change, as is being proposed, a present and future loss is incurred and no account is taken of it or for it. Very disappointing and unjust.

Nova Scotia is a great and beautiful environment to live and raise a family. We have seven children. All but one left to find work and one was able to return but did so at great sacrifice.

I heard recently, a comment, that Nova Scotia is a "can't do" province. We can't get rid of our debt. We can't build four lane highways, we can't keep our young people here, we can't be trusted to buy our alcohol products in grocery or private stores, we can't have an open market on gasoline prices, we can't raise poultry, produce eggs or milk unless you have bought the quota rights, we can't frack, "off shore drilling is not worth the risk", we can't get a doctor, our population is declining and we can't get people to stay, etc.

And now, added to that, a set of regulations is being proposed that affects a community of job-providers and risk takers that almost without exception has loudly declared "this is not the way to go".

What should be happening is providing ways to speed up the development processes, make it more efficient, implement ways to facilitate development, reduce cost, attract and keep people here.

Our British heritage is built on the concept that those who govern us are charged to create and environment where the citizens are liberated to use their energy, talents, skills and imagination to thrive and prosper.

For the development community, the existing framework has provided a lot of that concept. Improvements can and should always be made. Some of these proposals are counterproductive to the prosperity of MODL. Regulation should only occur where clearly needed and not arbitrary. If these proposals are adopted, the roads and subdivisions that will be built may have beautiful roads but there will be much less of them.

It is ironic that we are drawn to the towns and villages, especially in the old world, because of their charm and character. These emerged spontaneously over time and without much regulation. The modern world could not function under those conditions, but we should allow as much liberty in development as possible. It is ok to have the quirkiness of flag lots. They are not an impediment to anything but an enabling mechanism.

I urge Council not to adopt these proposed changes. Of course, not all the proposals are unacceptable. Many are positive and justified. A lot of hard work has gone into the review. The amendments should be sent back for removal of the changes that are unacceptable to the development community.

Thank you for the opportunity for input.

Tina Robichaud-Bond

From: Jeff Merrill
Sent: September 17, 2018 12:09 PM
To: Jennifer Corson
Cc: Norma Schiefer; Berrigan Surveys Ltd
Subject: RE: PUBLIC HEARING NOTICE - Subdivision By-law

Ms. Corson,

Your e-mail has been received. I will include your e-mail with the written submissions for Council's public hearing.

Regards,

Jeff

Jeff A. Merrill, MCIP, LPP
Director
Planning & Development Services
Municipality of the District of Lunenburg
210 Aberdeen Road | Bridgewater NS | B4V 4G8
Office: (902) 541-1340 | Cell: (902) 521-0925



**Clean Energy
Financing**

From: Jennifer Corson <jennifer@solterre.com>
Sent: September 17, 2018 11:56 AM
To: Jeff Merrill <Jeff.Merrill@modl.ca>
Cc: Norma Schiefer <Norma.Schiefer@modl.ca>; Berrigan Surveys Ltd <berrigan@istar.ca>
Subject: Re: PUBLIC HEARING NOTICE - Subdivision By-law

Hello Mr. Merrill,

Thank you for the clarification and the link to the document that will be presented this evening. I won't be able to attend this evening's event but will be in attendance for next week's Public Hearing.

I continue to struggle with the changes to the 'flag lot' requirements. There are two erroneous statement in the brief summary regarding flag lots in the document:

"The August 28 drafts also limit the number of flag lots (lots with a long, skinny "pole" to gain the required frontage) to three from an area of land. Beyond three lots, the combined "poles" are **typically wide enough to provide a right-of-way for a Private Designed Road**. The cut-off date for creating an "area of land" will be set to the date the Subdivision By-law amendments are adopted by Council. This will **provide protection for subdividers** who are currently invested in subdivision designs that depend on flag lots. "

1. **“typically wide enough to provide a right-of-way for a Private Designed Road”.**

I have commented on a number of occasions as to the rare occasion where exactly 60' wide strip can work to provide a road width, when dealing with elevation changes (of which Lunenburg County's many hills should easily be an example), water courses, rock outcroppings, etc. and where a piece of land will meet a public road at right angles.

Why has there been no reference as to the required 'commercial entrance' requirements by the Department of Transportation to be one to refer to, or at least acknowledge is in place for developments with over four properties?

I will continue to speak to the value of subdivisions such as '3 Pastures on Second Peninsula', not being able to be built in the manner as we have done, with a high quality gravel road maintained by a neighbourhood association. This new flag lot requirement will limit any new investment by sensitive developers who want to work with the beauty and assets of any given piece of land, to work roads around heritage trees, and not keep within a 3-lot wide required clear cut swath. '3 Pastures' is an example where the Municipality of Lunenburg will miss out on property taxes from eleven residential owners with lots valued between \$160,000 and \$450,000 (not to mention the increased value once homes are built).

The Municipality is missing the opportunity to look at smaller-scale, greener developments, which will not happen if higher costs due to paper planning requirements and new road specifications, which are out of scale with the desirable rural development.

2. **“provide protection for subdividers”.**

Why are previously 'approved in concept' subdivisions being required to meet these new bylaws? Even though I do not agree with the change to the flag lot requirement, if one is adopted, it should only be for new 'subdivision' applications, not any future lots that may be planned, under existing subdivisions. Surely there are not that many in MODL that could be noted to be exempt from the new bylaw so that current projects by developers don't have to rush to pay for surveying and open space fees, for a plan that has been approved by MODL in the past?

I see no 'protection' being provided by MODL for developers who are integral to the generation of tax-base for the municipality.

Please forward these comments to the PAC and Council for review. I have not seen my previous emails and comments attached to any of the previous public sessions. If I am not sending this to the correct address for inclusion in minutes, please let me know.

Regards,

Jennifer

Jennifer Corson, M. Arch. NSAA

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