



Planning Review Adjustment Committee June 21, 2021

Minutes of the meeting of the Planning Review Adjustment Committee of the Fundy Regional Service Commission held on Monday June 21, 2021 at 10:00 a.m. at Crane Mountain, Saint John via teleconference.

1. Call to Order

The Chairperson, Dwight Allaby, called the meeting to order at 10:13 a.m.

2. Record of Attendance – via teleconference

BOARD MEMBERS

Dwight Allaby, Chairperson
Joan Seeley, Vice Chairperson [**absent**]
Glen Baxter, PRAC Member
Donna Murchison, PRAC Member [**absent**]
Ron Bridges, PRAC Member
Walter Pollock, PRAC Member
Brenda Rathburn, PRAC Member
Midge Thompson, PRAC Member

OTHERS

Alicia Raynes, Recording Secretary, FRSC
Nick Cameron, Assistant Development Officer
Kevin Miller (Conditional Use applicant – 10 West Quaco Rd., St. Martins)
Cameron Campbell (resident of West Quaco Rd.)
Mike Carpenter & Kim Jones (Conditional Use applicant – 14 Beach St., Village St. Martins)
Stephen Stone, Director of Planning, Dillon Consulting

3. Approval of Order of Business

The Chairperson asked for approval of the agenda as presented.

Motion: To approve the June 21, 2021 Agenda as presented.

Moved: Glen Baxter
Seconded: Brenda Rathburn
Vote: *Motion Carried*

4. Disclosure of Conflict of Interest

None

5. Approval of Minutes

The Chairperson called for a motion to approve the minutes as circulated.

Motion: To approve the April 19, 2021 minutes as circulated.

Moved: Brenda Rathburn
Seconded: Ron Bridges
Vote: *Motion Carried*

6. Presentation of Application

a. Conditional Use – 14 Beach Street, Village of St. Martins

Nick Cameron gave an overview of the presentation on the application for the Conditional Use Report.

Applicant: Mike Carpenter & Kim Jones

Request: The property owners have made an application to operate a pub (drinking and eating establishment) at 14 Beach Street in the Village of St. Martins.

Requirement for Conditional Use:

The property is located in a Mixed Development zone. As per section 4.2.3 of the Village of St. Martins Rural Plan By-Law, a pub (drinking and eating establishment) may be permitted in a Mixed Development zone if it is in compliance with terms and conditions set by the Planning Commission. Furthermore, section 13.6.3 states “in prescribing the purposes for which land, buildings and structures may be used, the Planning Commission may, where so empowered by other sections in this Rural Plan, impose terms and conditions on or may prohibit such uses where compliance with those terms and conditions cannot reasonably be expected. Terms and conditions so imposed shall be limited to those considered necessary by the Planning Commission to protect: (a) properties within the zone or in abutting zones, (b) the health, safety and welfare of the general public”

Consultation:

As per section 13.5(1) of the Village of St. Martins Rural Plan, notice was sent to the Village Council of St. Martins on June 7, 2021 to seek input on this application. Council had no comments.

As per section 6.1 of the PRAC By-law and Operating Procedures, notices were sent to property owners within 60m of 14 Beach Street (subject property) on May 31, 2021. In total, notices were sent to 13 property owners and the Village Council of St. Martins and a deadline for written submissions was set for June 14, 2021. To date, no written objections have been received and one letter of support was received.

Overview of Application:

The Conditional Use Report: -

This proposal is to operate a pub with seating for 30 people. The main purpose is to serve New Brunswick craft beer and cider, as well as a selection of Maritime and Canadian wines. The menu will consist of locally sourced, shareable appetizers, as not to compete with already existing restaurants.

The hours of operations are from 11:00am to 10:00pm daily, from May to October and from 12pm to 9pm Friday – Sunday from November to April.

Staff have discussed the proposal with the applicant, as well as the provisions of the rural plan. A site visit was also conducted.

The property is currently zoned as Mixed Development. A drinking establishment and eating establishment is a permitted use within this zone if they are in compliance with terms and conditions of the rural plan and any additional conditions deemed necessary by the Commission. Section 13.6.3 of the Village of St. Martins Rural Plan provides a policy regarding consideration of such terms and conditions, stating "Terms and conditions so imposed shall be limited to those considered necessary by the Planning Commission to protect: (a) properties within the zone or in abutting zones. (b) the health, safety and welfare of the general public."

The subject property is located on Beach Street and is approximately 30 metres from Main Street. It abuts other properties zoned as Mixed Development and abuts the Beach Street Inn along the southern and western property boundary. It is directly across the street from the Coastal Tides Family Restaurant. Other properties on Beach Street include season and full-time residences, and a wedding venue.

The property at 2 Beach Street abuts the subject property on the northern boundary. It is a seasonal residence. As per section 15.3.1(1)(a)(i), a fence or 5-metre landscaped buffer is required between the property at 2 Beach Street and the subject property. The buffer area between the proposed pub building and the property line is greater than 5-metres. The application also proposes that a fence be installed between existing trees to complete the required buffer and maintain the existing trees. The property owners at 2 Beach Street have also provided a letter stating they support this application.

The applicant is in the process of replacing the septic system. An approved septic system appropriate for the proposed use is a pre-requisite for the applicant to receive a building permit for renovations to the building.

This proposal meets or exceeds all other development criteria in the rural plan, including the off-street parking requirement.

Recommendation:

It is recommended that a drinking and eating establishment proposed at 14 Beach Street in the Village of St. Martins (PID 00411009) be permitted.

Motion: To accept the recommendation by the Fundy Regional Service Commission to approve the proposed conditional use for a drinking and eating establishment at 14 Beach Street in the Village of St. Martins (PID 00411009).

Moved: Glen Baxter
Seconded: Midge Thompson
Vote: *Motion Carried*

b. Conditional Use – 10 West Quaco Rd., West Quaco

Nick Cameron gave an overview of the presentation on the application for the Conditional Use Report.

Applicant: Kevin Miller

Request: The property owner has made an application to offer up to eight cottages for short-term rental at 10 West Quaco Road in the Local Service District of Saint Martins. The cottages are to be built, if approved. There is an existing dwelling at the front of the property which would be used by the applicant as a seasonal residence.

Requirement for Conditional Use:

The property is located in an area where there is no zoning established. Land use in the LSD of Saint Martins is regulated by a Basic Planning Statement established in 1994 under the Community Planning Act. Since this time, the Community Planning Act was repealed and replaced in 2017 and no longer recognizes Basic Planning Statements. Therefore, there is no legal framework to amend a Basic Planning Statement. However, the current Basic Planning Statement remains in effect until replaced with a modern rural plan. Uses which are not currently included in the Basic Planning Statement may be permitted with a variance approved by the Planning Review Adjustments Committee (PRAC).

PRAC is authorized to permit a variance through Section 55(1)(a) of the Community Planning Act of 2017:

“55(1) Subject to the terms and conditions it consider fit, the advisory committee or regional service commission may permit: (a) a proposed use of land or a building that is otherwise not permitted under the zoning by-law if, in its opinion, the proposed use is sufficiently similar to or compatible with a use permitted in the by-law for the zone in which the land or building is situated”.

Consultation:

As per section 6.1 of the PRAC By-law and Operating Procedures, notices were sent to property owners within 100m of 10 West Quaco Road (subject property) on May 31, 2021. In total, notices were sent to 10 property owners and a deadline for written submissions was set for June 14, 2021. To date, no written objections have been received.

Overview of Application:

The Conditional Use Report: -

This proposal is to offer up to eight cottages for short-term rentals, aimed at tourists. The cottages are to be constructed, and would include a new septic system and well. Other proposed site work includes developing a new access road to the cottages and a new overflow pipe for an existing man-made pond on the property. The cottages would be located east of the pond, along the southern property line.

The property contains an existing dwelling, which is currently vacant. The applicant is preparing for renovations and plans to use this building for personal use as a seasonal residence.

Staff have discussed the proposal and provisions of the Basic Planning Statement with the applicant and a site visit was also conducted.

Cottages and other tourist accommodations in the LSD of Saint Martins have been approved under this Basic Planning Statement by the former Royal District Planning Commission. These uses were permitted by staff, without a decision of PRAC, based on the description of a 'seasonal residential use' in the Basic Planning Statement, which is as follows: "It is proposed that the seasonal residential uses, being camps, cottages and other single-family dwellings that are not winterized and are only inhabited during part of the year, and no other uses shall be permitted uses in an area designated for seasonal residential use on the map attached as Schedule A."

The applicant has stated that the cottages will most likely be winterized, which is outside the scope of a seasonal residence as described in the basic planning statement. It is also not clear from the description if a seasonal residence includes commercial uses. Therefore, a variance by PRAC is necessary to permit the applicant's proposal.

Existing uses in the surrounding area include seasonal and fulltime residences along West Quaco Road, and vacant lots behind the subject property to the west.

Objectives of the Basic Planning Statement propose that conflicts between different land uses are minimized, such as between commercial and residential uses. However, a Basic Planning Statement does not provide development or zoning provisions to achieve these objectives. Therefore, terms and conditions should be considered for this proposal. A landscaped buffer is a common approach to minimize noise and other potential nuisances between land uses. It is also common for rural plans to provide provisions for off-street parking for commercial uses, which should also be considered.

Concerns from a neighbour were discussed in detail relating to the water table and sewer system. It was explained that there are no special requirements for well supply to service this number of cottages since they are for seasonal use. Additionally, any legal authority with regards to the water table would be through the building permit application process. It was further explained that there is an approval process through the department of public safety with regards to the sewer system. The applicant, Kevin Miller also noted that there will be no laundry facilities onsite so no issues are anticipated with regards to the water supply.

Recommendation:

Whereas cottages for short-term rental is similar to a seasonal residence as described in the Saint Martins Parish Planning Area Basic Planning Statement;

And whereas Section 55(1)(a) of the Community Planning Act authorizes a regional service commission to permit a proposed use of land that is otherwise not permitted under the zoning by-law if, in its opinion, the proposed use is sufficiently similar to or compatible with a use permitted in the by-law;

It is recommended that short-term rentals at 10 West Quaco Road in West Quaco (PID 00277814) be permitted with the following terms and conditions:

1. At least one off-street parking space be provided for each dwelling on the property.
2. A fence or landscaped buffer, approved by the development officer, is provided and maintained between the short-term rental use and abutting residential lots.

Motion: To accept the recommendation by the Fundy Regional Service Commission to approve the proposed conditional use for up to eight cottages for short-term rental at 10 West Quaco Road in West Quaco (PID 00277814) with the following terms and conditions:

1. At least one off-street parking space be provided for each dwelling on the property.
2. A fence or landscaped buffer, approved by the development officer, is provided and maintained between the short-term rental use and abutting residential lots.

Moved: Ron Bridges
Seconded: Walter Pollock
Vote: *Motion Carried*

c. PRAC Comments – Rezoning to Resource and Aggregate Extraction Zone – PID 00271387, Dipper Harbour (Musquash LSD)

Stephen Stone, Planning Director, Dillon Consulting provided a summary of the application to Rezone PID 00271387 to a Resource and Aggregate Extraction Zone.

It was explained that this type of application is a ministerial decision and no recommendation is required by the PRAC. The Minister would be looking for a letter from PRAC on what conditions should be in place.

Motion: To authorize the Chair to send a letter to the Minister expressing committee satisfaction with the process.

Moved: Ron Bridges
Seconded: Walter Pollock
Vote: *Motion Carried*

7. Other Business

The Rural Plan Reviews for the Village of St. Martins, Simonds LSD, St. Martins LSD and Musquash LSD were discussed.

It was explained that the Village of St. Martins Rural Plan review began in February and is well underway. The hope is to conduct public engagements in the Village over the summer

There has not been much change with regards to the Rural Plans for Simonds or St. Martins LSDs. There is a bit of hesitancy around municipal reform and what that may look like and how it could impact Rural Plan review.

It was noted that the Rural Plan review for Musquash LSD has become a high priority due to frequent issues and concerns, especially in the Dipper Harbour area. The current plan is from 2011.

Motion: To sent a letter to communicating that PRAC is having difficulty administering a Basic Planning Statement.

Moved: Ron Bridges
Seconded: Midge Thompson
Vote: *Motion Carried*

Nick Cameron, Assistant Development Officer, FRSC, spoke with regards to the appointment of PRAC members. He explained that 4 member terms expired at the end of April, 2021. As per the PRAC Operating Procedures By-Law, at least one member of PRAC must be a board member of the Fundy Regional Service Commission. Due to recent changes of the board's composition, PRAC's

membership no longer meets this requirement. Therefore, someone will have to vacate their position in order to make room for a FRSC board member.

8. Motion to Adjourn

Motion: The Chair called for a motion to adjourn at 10:28am.

Moved: Midge Thompson
Seconded: Brenda Rathburn
Vote: *Motion Carried*

APPROVED (date) 16 August 2021

Dwight Allaby
Dwight Allaby, Chairperson

Alicia Raynes
Alicia Raynes, Recording Secretary