

# APPROVED MINUTES

## *Planning Board Public Meeting*

### Thursday, Nov 25, 2020 6:30pm

### North Shore Community Centre

**PRESENT:**

Chair Krista Shaw, Mayor Gerard Watts, Melissa Paquet, Joe Doran, Janet Ellis and CAO Stephanie Moase.  
 Planning Consultant Hope Parnham. Charlotte Vriends and Jason Doyle on Zoom  
 Council members Wanson Hemphill, Derek Cook, Nancy MacKinnon and Bob Doyle  
 48 Members of the Public  
 16 Members joined on Zoom

**1. CALL TO ORDER:** 6:30 pm by Committee Chair Krista Shaw

**2. NEW BUSINESS**

Chair Krista Shaw introduced Planning Consultant Hope Parnham from DV8 Consulting. Hope provided an overview of the process, engagement and direction. She reviewed what was not part of the project, namely, current development applications and individual re-zoning requests. The project also brought forward two studies for the Municipality to undertake. A study will be conducted on the impacts and opportunities of tourism establishments on residential properties (i.e. short term rentals, airbnbs). a further study will be conducted on the impacts on water quality and availability under a full build-out scenario for the Stanhope Peninsula.

Hope opened the floor for Public Feedback and representation.

**Mary Hennessey- Stanhope-** Comments have also been submitted in writing. Concerns are with respect to renting a single detached dwelling on a Residential Lot which is rented in its entirety. Was under the understanding that no new regulations would be placed on rentals at this time, evidenced by the change in official Plan section 7.2.7 that now states “existing tourism operations may continue to operate” and the removal of Bylaw section 4.24.4. This was done so the Municipality may conduct a study to determine whether further regulation in this area is warranted. Concern is Bylaw section 4.8.1.b that allows a tourism establishment as a home occupation but there are several restrictions placed on a home occupation such as it must be the primary dwelling, and no more than 25% of the floor area may be used as the business. The definition of home occupation is an accessory use conducted in a portion of a dwelling. Clearly then, the rental of a single detached dwelling in its entirety on a residential lot is not a home occupation as defined in the bylaw, but it is a tourism establishment as that term is defined in the Bylaw . I find the wording of this section to be unclear and confusing as some tourism establishments would fall under home occupation such as bed and breakfasts but not renting a single family dwelling in its entirety. This should be better defined in 4.8.1.b. Even more important the new bylaw draft does not allow the rental of a single detached dwelling on a residential lot in a residential zone as permitted use. Bylaw section 4.18 states land uses that are not listed as a permitted use are not permitted. The fact that renting a single family dwelling in it’s entirety is not listed as a permitted use is out of sync with the Official Plan which states existing licensed tourism establishments may continue to operate, so this must

be corrected. The current Bylaw in effect is silent on this topic and renting a single family dwelling in its entirety was allowed in practice even though there was no Bylaw to permit it. It would seem that with the resources and money spent on this Bylaw and the feedback that has been given it would be a waste not to create a Bylaw that did not clearly articulate the permitted uses. Secondly it is a leap of faith to expect residents to accept an email that says they may rent their property if the Bylaw does not permit it. Residents do not want to be subjected to the whim of Council and Planning Board whose thoughts and interpretations can change over time to continue to allow a land use that is not specifically allowed within the land use bylaw. In summary two things should be changed in the bylaw, clarifying wording in section 4.8.1.b and to add a tourist establishment as a rental of a single family dwelling in its entirety on a residential lot as a permitted use in a residential zone.

**Gaylene White- Stanhope-** Wondering if the Provincial Park would still be allowing use of their land for a new well system for the Peninsula if needed. Are there any detail son this? There have been many new developments lately on small lots. Are we waiting for a worst-case scenario or are you working on a plan for a water supply with either one or multiple wells? A water system would be costly with a lot of infrastructure and I assume those who benefit from it would have to pay. Will we have an environmental assessment for the Peninsula? When? Is it required?

**Consultant Reply:** Planning board has requested Council to undertake a study that looks at the build-out of Stanhope because the previous study which is almost 10 yrs old now indicated there were issues there. We need to address the timing, for example if it is ok now, will it still be ok after 10 or 25 more developments? Development is happening at an accelerated rate, so further study is needed. It is beyond the scope of my project but as I understand there is another committee currently addressing water supply. With regards to an environmental impact assessment, that is a Provincial jurisdiction, a development would have to trigger that assessment, so for the Peninsula, Residential development would not trigger that type of assessment. The Municipality would have to take on and pay for that type of assessment on their own.

**Kathy Thompson- Stanhope-** Written feedback has already been submitted and we strongly agree with what Mary Henessey has just presented on permitted uses on residential lots. I have questions with regards to a Home Occupation in a single detached dwelling on a non-conforming lot. Section 4.8.2 of the Bylaw. Currently drafted says Council may approve a home occupation on a non-conforming lot after receiving recommendation from Planning Board that the home occupation does not intensify use of water and/or sewerage disposal system. Therefore, anyone with a lot size under 1 acre must apply to Planning Board to have a home Occupation no matter what type. This seems very bureaucratic and heavy handed basically dictating what people can do in their own homes., and it will be time consuming, labor-intensive and costly for Planning board to meet and draft a recommendation and then Council to have to meet and pass a resolution. It would be much more efficient to have Council and Planning Board only look at the exceptions, those that do intensify the use of water/sewer instead of having to look at every case on a non-conforming lot. The Bylaw, in section 4.15.5 allows secondary suites on a non-conforming lot if the sewer system is certified by a licensed professional engineer or a licensed septic contractor who carries errors and omissions and liability insurance. So on one hand the Bylaw requires Council approval on each home occupation on a non-conforming lot which in most cases would not intensify the water/sewer, but on the other hand allows secondary suites which in most cases does intensify water and sewer usage, without Council and Planning Board approval. This seems unreasonable and inconsistent.

**Colin Jeffrey- West Covehead-** Has concerns regarding long term plans to conserve parts of the coastline, for cultural, scenic views, wildlife. Currently along Covehead Bay the only part of the coast undeveloped is along MacLauchlan Rd, thinks there have been 5 new lots approved along that road this year and another large property for sale along that road that could be subdivided. So, with this demand for development is there a longterm plan to preserve this coast for wildlife and viewsapes that attract tourists.

**Consultant reply-** The coastline is important and these are issues that should be looked at in long term planning, it would be very aspirational to bring such types of goals into regulation in a small municipality, not that we shouldn't aim high. What we have done with regards to the coastline is reinforce Provincial regulations with regards to the buffer zone. Currently the environmental buffer zone is 50 ft from the coastline as delineated by Province that should not be developable and under Provincial jurisdiction a dwelling would have to be 75ft from the Coastline. Under Municipal jurisdiction requirement is only the 50ft buffer not the additional 25ft setback to the buffer like the Province requires, so this Municipality has added that to the requirement as additional protection of the buffer zone so setbacks are not measured to the edge of the coastline but to the edge of the buffer. We now ask for erosion management plans with regards to development adjacent to coastlines. Regulations have been added with regards to subdivisions so that lot size is measured by actual developable land, as in some cases land has eroded significantly from the actual measurements on the deed. These regulations are always evolving as well as environmental boundaries on maps will continue to change with climate change, so we want to encourage smart development in these areas without the heavy hand of saying no development. So in those coastlines we want to get development in higher elevations so they are not in flood risk areas, and protect the buffer zone which is supposed to be there for wildlife habitat and it reinforces that edge which is susceptible to erosion when you maintain the vegetation. So these types of regulations have addressed preservation of the coastline. It would be great to have even greater protection along coastal corridors, the North Shore is very lucky to have the National Park, which provides more protected land in this Municipality than most, and are very fortunate to have that habitat here.

**Colin Jeffrey- West Covehead-** would encourage people to think in terms of a longterm strategy regarding these concerns of viewsapes and wildlife habitat. England for example has protected 30% of the entire coastline of the country through Municipal Bylaws. Our strategy as it is now will look completely different in 20 years.

**John Palmer- West Covehead-** In terms of the mechanisms explained about the development officer and Council, when there are differences in the way a bylaw or regulation is interpreted, what is the process on agreeing on the outcome? I am unsure of what the dispute process is or how much authority the Development Officer has, as these type of disputes can happen. Also looking to clarify what you meant by there are residential zones and agricultural zone and residential zones inside of agricultural zones? Is that a misinterpretation?

**Consultant Reply-** The question on processes and applications, current process is the applicant submits an application, the Municipality has a consultant who administers the Bylaw on their behalf and signs off on the authority as Development Officer. Many of those land uses automatically go through a Planning Board review, and Council approval because it is not a residential development, anything that is alternate would go through Council approval. My argument is that Council should not be voting on a decision that is an as of right development. So that is where the changes are, we want the Development Officer to have signing authority on what is as of right so that Council doesn't vote no for the wrong reasons. It really protects the Council from voting on something that they really had no say in, in the first place, in terms of if it were to be legally challenged. If the Applicant is arguing the intent or interpretation of the Bylaw, there are some

things that may be up for interpretation, but things like set-back distances and other measurements are not. It really comes down to the Development Officer making that call. Recommending to a Planner if the Development Officer is not a Planner for their interpretation. The Development Officer always has the authority to refer a matter to Council as a question. It is not that the Council is making the decision on the application, but giving interpretation on that section of the Bylaw. The reconsideration process that has been added to the Bylaw, allows that if there has been a decision made that the applicant disagrees with, or another party disagreed with, they can bring that forward to Council to argue or present their interpretation of the Bylaw and why they felt it should have been decided in another way. This is an intermediate step between IRAC as that is what IRAC will do, but will cost a lot more money to go through lawyers and to wait the potential six months it takes to get a hearing date. If there is reason to re-evaluate the interpretation of a Bylaw, the Municipality can hire their lawyer to sit down and with the Development Officer and review what went wrong. It is important to realise we are all on the same team, it is not Applicant vs the Development Officer, if an application is rejected it is not against the Applicant but because the Bylaw does not allow them to approve it.

**John Palmer- West Covehead-** But there could be cases where the Development Officer gets it wrong, I am not sure what the qualifications of the Development Officer are, presumably they have a good educational background.

**Consultant Reply-** There are no legal requirements for background experience for a Development Officer and there is no Provincial Planning Authority for a Planner to call themselves Planners in PEI. We are lucky to have Professional Planners working on the Island where we have them, but currently anyone can call themselves a Planner. Your question regarding zoning, a zone on a property refers you to a section in the Bylaw which describes the permitted uses and development standards. A Zone and a Land use are two different things. A land use of residential use can happen in an Agricultural Zone, a house is permitted in an Agricultural zone, you can sub-divide up to four lots in an Agricultural Zone and build single family dwellings, that is not new, but what we don't need is for each individual house, just because it was built in an agricultural area to be then re-zoned as a Residential Zone, it doesn't need to change it's classification. On the map, all of the area along the highway is Agricultural Zoned area, but we all know there are many houses all along the road. These houses were built in an agricultural setting, so they don't need to be zoned Residential. Subdivisions, Zoned Residential, are areas where the residents have an expectation of just residential uses. Their neighbours are not going to have cattle and tractors. It is the distinction between residences being allowed in Agricultural Zones but we don't want intensive agricultural uses in Residential Zones.

**Connie Egan- Stanhope-** Acknowledge the tremendous amount of work that has been done in putting together the Plan and Bylaw. Thank-you for allowing the community to provide feedback, it is a big document and it is hard to always catch everything, but is encouraging that we have been allowed this time, if everyone puts in thoughtful considerations, we will come out with a good roadmap going forward. Concerned over unnecessary restrictions on the use of land within the Municipality, and any restrictions that are put in place need to be well considered and clearly justified. Support the points that have been made here tonight by Kathy Thompson and Mary Henessey. Proposed new height restrictions of buildings erected on a non-conforming lot, section 4.15.3 of Bylaw, says a main building shall have a maximum height of 8m (26.2ft). A non-conforming lot is one which is under 1 acre, so even slightly under is still non-conforming. The current Bylaw permits a height of 35ft, so the new restriction would be 8.8 ft reduction in height which does not sound like a lot but will have significant consequences. Contractors state that it is impossible to build a two storey house with a conventional 12 on 6 pitch roof with the new proposed height restrictions of 26.2ft. So this means residents in the whole Municipality are now prohibited from building a two storey home on even a 0.8 acre lot. Recommend this be amended to continue to allow the

maximum height at 35ft for main building on a non-conforming lot. Can you explain the reason for this change?

**Consultant Reply-** Some background behind this, it was raised in the early workshops in discussion with residents that many lots were subdivided long ago for cottages, typically single storey bungalow or smaller. Over time houses built on these lots continue to get bigger and bigger but the lots are still the same size. Now the oversized buildings tower over those existing cottages. These were the initial discussions that led to the proposed change. I appreciate that you have talked to contractors about what can be built, because what can be built at 35 ft is 3 stories with a flat roof so the intent was to avoid 3 stories, not to be restrictive on 2 stories with a pitched roof. Planning Board will be discussing it, and I am doing additional research on what is reasonable. In the current 2014 Bylaw it states 35ft and 2 ½ stories, it actually states the number of stories allowable. By taking out stories, I was trying to be clearer by just being a number but that may have changed what this was intended to be, not actually trying to be unnecessarily restrictive, but the intent being to avoid 3 stories developments next to these small cottages on tiny lots where there are minimal setback distances between properties.

**Gordie MacCallum- Brackley Beach-** I have been part of the watershed group Friends of Covehead and Brackley Bay since it's inception. There is a big change in the watersheds around the harbours and the amount of sand in the harbours. Where a speedboat used to be able to go around Macmillan Point you can barely get a kayak through now. Can the Municipality do anything to add weight to get work done getting channels dredged out, the FCBB don't seem to be getting very far with it. Brackley Bay is now so shallow in spots it is not fully drained before it comes back in causing anoxic events.

**Consultant Reply-** Comments are appreciated, I have witnessed these changes also. It is outside the scope of this project, and outside the authority of the Municipality to deal with waterways, even outside the Province in many ways. What can be done is use the Municipalities support of the organization, they can support volunteers to collaborate together on that and can write letters on behalf , or to assist in funding applications. The Municipality is very much a stakeholder in the waterways even though they have no authority to regulate what is happening and where it is dredged etc. The other thing to remember is waterways change overtime and as much as we want to restrict, many of the things are caused by what we have done but sometimes waterways change as a natural evolution of our coastlines. Currently armouring techniques are permitted by the Province, that is outside the Municipal jurisdiction but if we limit the development on the coastline we won't need that armouring. And the armouring actually has negative impacts on the waterways. So there are things the Municipality can do in terms of land use management to help the coastline which helps the waterways.

**Tim Banks- Grand Tracadie-** Has been unable to find the Zoning map online. Thinks his property may be zoned Environmental Conservation. Has 140-150 acres. Province in 1990 approved a 23 unit hotel permit and in 1994 approved a 58 lot subdivision. Built roads and water system surveyed and pinned, and then just parked the project. Picked it back up again in 2015 and tried to be environmentally conscious, withdrew the 58 lot application, removed 15 lots off the shoreline side and turned the project to 41 lots. Currently working to develop the property and all I am looking for is to have our Planner meet with your Planner. As opposed to your definition of residence we want to have a Resort component added to your Bylaws which will help us finish our project. Some feedback on the Bylaws, there should be something that gives benefits to people developing net-zero properties, carbon reduction and credits should be considered. Alternate sewer and electrical, when you speak about the small lots, there is a company in Pooles Corner called ReGen that are developing septic systems that are contained, away from the typical

that is in the Provincial Bylaws, and you should look at those applications. EV chargers should be a requirement of any new commercial development over a certain size as a requirement to put them in. Geo thermal should be another requirement for any scale of a project, just to reduce the carbon footprint. Generators, private schools, should be allowed in the zoning because I think they are coming in the future. The length of building permits, currently there is a provision for a year and an extension if you can apply for it but in multi-use development, some projects are taking over two years to build and then you are halfway through it and you end up at IRAC because someone doesn't like the look of it, and then you are back to square one.

**Consultant Reply-** Your specific development is under Provincial jurisdiction so the details of your applications in the past is not something the Municipality has access to, other than what you have provided. Being under Provincial jurisdiction it is outside the scope of this project, other than to look at what is there today. Current applications are private, those records are not open to the public or for the Municipality to know. We can barely find out how many current applications are pending in those areas that are currently under Provincial jurisdiction so to find out what your applications are even for is beyond the information we have had to work with. With regards to your subdivision, this is the most recent property data that I have been able to obtain from the Province. So as of August, I don't have all those lots on there that you said have been approved, so if they have final subdivision approval with the Province, you may want to check why it's not showing up because it did not show up last year or this year in the updated database. As I mentioned in the beginning this project is about larger objectives and goals and the zoning is a result of the bigger picture than individual development applications. A proposal for a hotel would certainly fit within the new Tourist Establishment Zone, it also supports secondary uses, like restaurants, spas and accommodations that you have intended for your development. Those permits, being with the Province will continue with the Province since you have started it there so this Bylaw would not apply to any of that, and assuming development proceeds over the next five years it would be picked up as you are developed. If you intend to have properties rezoned for any reason then the applications would be with this Bylaw once adopted but until it is adopted, you are still with the Province. We have accounted for changes in that area, I mentioned before the Grand Tracadie coastline does not look anything like it does today. In Bylaw section 2.3 interpretation of the Zoning Map, I have recognized that the Environmental Conservation Zone, the Coastline, the buffer zones are all delineated by the Province and the data is then made available for us to use to make the map. I did not go and draw the wetlands on anyone's properties, that is based on corporate land use inventory that the Province does every ten years on what they classified as wetland in that inventory is re-done every ten years. It has been done this year and I expect the data to be available in the spring so the map can be updated at that time. And if the land use is updated by the Province then the map can be updated in that sense at that time as well. So we have recognized under that section of the Bylaw that data comes from the Province, it needs to be updated as necessary, and whenever the data comes available we can do those updates. Coastlines change, maps are not static and as things erode or in the case of Grand Tracadie, accrete, the beach area there has grown substantially that wasn't there before. That accretion will be reflected in the new coastline and the new maps going forward.

**Tim Banks- Grand Tracadie-** An example of my issues, the height of the hotel is 51ft but your Bylaw only allows 35ft and because we have what is called a development permit with the Province, which I have provided to the Municipality, it doesn't give us a building permit. For the Building permit, when the Bylaws come in place I have to go to the Municipality and then all of a sudden my development permit doesn't work within your community. With respect to your environmental thing, we have had environmental impact studies done and submitted to the Province. But all our permits expire on Dec 30<sup>th</sup>

every year, and the Province told me that I have to deal with the Municipality to get me on to your map. That is all I want to do is get my properties that are zoned and I have development permits for now to be established on your Bylaws map. That is all I want.

**Jon Hack (on Zoom)- Property owner in Stanhope-** Acknowledge the incredible amount of work that went into creating both a new Official Plan and new Land Use Bylaw. Supports comments made to inconsistencies in the language as it relates to Short Term Rentals of homes in their entirety when the owner is not there on the property. In terms of process, the Bylaw cannot be put in place until the permitted uses in the Residential Zone make it clear that a short-term vacation rental is a permitted use. As it currently stands it is expressly prohibited as a use. My understanding is there was a study that was to be undertaken to better understand some of the issues, there could well be negative issues from tourist establishments as well as positive economic impact, so I understand the issue needs to be studied, but I don't see how you could possibly study that at a later date particularly when the Bylaw prohibits the use. Is it the intention of the Planning Board and Council to hold the Bylaw adoption in abeyance until such time as the issue of vacation rentals has been studied in more depth or do you intend to change the language of the Residential zone in order to make it consistent with what we understand to be your intent which is to allow Short term rentals to continue on Residential properties.

**Consultant Reply-** I cannot speak on behalf of Council so whether or not they decide to proceed with the Bylaw adoption at this time or not but the intent is continue short term rental practices as has been in the past. But we will be looking at the wording of the changes that have been made recently to allow the short term rentals to continue in the manner that they currently have been, to ensure that is more clear if it's not currently clear.

**Meaghan Senechal- Stanhope-** I strongly believe it is important for the North Shore Community and all communities on PEI to encourage and welcome younger families and individuals and I believe right now in the Stanhope Peninsula we are seeing that. There are younger families, younger individuals purchasing properties there. However, I do fear that by imposing some of these stricter land use bylaws and the restrictions on rentals, this is going to make it less feasible for younger families to purchase property throughout the North Shore community. The study on tourism establishments to determine both opportunities and impacts, it is important to take into account both seasonal residents as well as full time residents for any surveys that are done at that time, as seasonal residents pay taxes just as we do, and it will affect them in the long run, so if we decide not to take their comments into consideration then I don't believe it will be a true representation of what the residents think should happen in the future.

**Consultant** reviewed next steps to be Planning Board review, Recommendation to Council, Council readings and approval, Ministerial approval.

### 3. ADJOURNMENT: 8:10pm

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SIGNED: Krista Shaw, Chair

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DATE:

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SIGNED: Stephanie Moase, CAO

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DATE: