

MUNICIPALITY OF THE COUNTY OF
ANTIGONISH

MUNICIPAL COUNCIL MEETING AGENDA

Tuesday, July 17th, 2018 at 7:30pm

Municipal Administration Centre

- 1) Call to Order – Chairman, Warden Owen McCarron
- 2) Approval of Agenda
- 3) Committee Reports
 - a) June 20th Joint Municipal – Town Council Meeting
 - b) June 25th Planning Advisory Committee
 - c) June 26th Active Transportation Advisory Committee
 - d) June 28th e-Poll
 - e) July 17th Asset Management Committee (report provided at the meeting)
 - f) July 17th Committee of the Whole (report provided at the meeting)
- 4) Motions
- 5) Miscellaneous Business
- 6) Adjournment

MUNICIPALITY OF THE COUNTY OF
ANTIGONISH

TO: MUNICIPAL COUNCIL
FROM: WARDEN OWEN MCCARRON
SUBJECT: **JOINT COUNCIL ADVISORY COMMITTEE REPORT**
DATE: June 20, 2018

The Joint Council Advisory Committee was convened at 6:00pm on Wednesday, June 20, 2018. The following members were present:

Warden Owen McCarron (Chair)	Mayor L. Boucher
Deputy Warden Hughie Stewart	Deputy Mayor Diane Roberts
Councillor Mary MacLellan	Councillor Mary Farrell
Councillor Vaughan Chisholm	Councillor Donnie MacInnis
Councillor Neil Corbett	Councillor Andrew Murray
Councillor Donnie MacDonald	Councillor Willie Cormier
Councillor John Dunbar	
Councillor Remi Deveau	

No recommendations were made.

The following items were discussed:

- Councillors toured the Dementia-Friendly Healing & Sensory Garden.
- Nicole Haverkort of Eastern Regional Solid Waste Management presented on Extended Producer Responsibility for consumer waste and plastics contamination in the organics waste stream.
- Dr. J.A. Howard presented on community engagement in physician recruitment.

MUNICIPALITY OF THE COUNTY OF
ANTIGONISH

TO: MUNICIPAL COUNCIL
FROM: MARY MACLELLAN, CHAIR
SUBJECT: PLANNING ADVISORY COMMITTEE REPORT
DATE: JUNE 25, 2018

The Planning Advisory Committee was convened at 6:30pm on Monday, June 25, 2018. The following committee members were present:

Councillor Mary MacLellan (Chair)
Councillor Vaughan Chisholm
Carroll (Carl) MacAdam
Mike MacEachern

Also present: John Bain, Director of Planning
Paul Dec, Staff Planner

The following items were discussed:

- Paul Dec gave a presentation of a staff report responding to a request by S.F. Smith Developments. The planning application requests amendments to municipal planning documents in order to allow for creation of private roads in the Mount Cameron subdivision of Antigonish Landing. Currently the municipal subdivision by-law prohibits the creation of private roads in serviced areas. Planning staff explained that care has to be taken to prevent such plan changes from creating undesired effects in other parts of the municipality. In this particular case, the streets – currently functioning as internal driveways of the development – have been built to a very high standard in compliance with the development agreement regulating the use of these lands. Planning staff therefore suggests that it would not be imprudent to allow for creation of private roads in serviced areas, if these were regulated (and approved by Council) through a development agreement.

Therefore staff recommend amendments to the Antigonish Fringe Municipal Planning Strategy as well as to the municipal Subdivision By-law allowing for the creation of private roads in subdivisions serviced by municipal water and sewer, if so provided for by a development agreement that regulates the subdivision of land on the property.

The Committee reviewed the amendment, discussed potential implications of the application and agreed with planning staff that the changes will not create any risks for the municipality. The Committee pointed out that this is an unusual case, as developers normally prefer to hand over the ownership and maintenance of roads to the municipality.

- John Bain disseminated information about a planning application by Mr. John G. MacDonald to rezone a number of his properties at the intersection of the Old Highway No. 104 and

Beech Hill Road to allow for commercial developments in the area to take advantage of a proposed connector road between the two public roads. The staff report on this rezoning is in its final stages but could not be presented to the Committee on this day pending clarification of details with the municipal public works department. The staff report will be presented at the upcoming Planning Advisory Committee.

- Upon request of Councillor Chisholm, John Bain gave an overview of the situation with regard to a property on Somers Road in the Post Road community (PID# 01299726). The property was acquired by 'MMI Roofing And Carpentry Inc.' through a tax sale. A number of inquiries were made to planning staff at the time of the tax sale by interested parties and they were all informed that the property was not zoned for commercial uses. In the days prior to the meeting, planning staff have received a planning application to rezone the subject lands. The property is situated in the Residential designation of the Antigonish Fringe Plan Area and zoned R-1. In order to change the zoning on that property, the municipality would need to review the strategy for that area. A staff report to the Committee and Council is under preparation.
- The next regular meeting date for the Committee is September 24, 2018.
- The Committee adjourned at 7:26 PM.

Recommendations made:

- Motion by Mike MacEachern, seconded by Carroll MacAdam that:

"The recommendation of planning staff that Municipal Council approve:

- 1) Amendments to the Fringe Area Secondary Planning Strategy and municipal Subdivision By-law, allowing the creation of private roads in subdivisions serviced by municipal water and sewer, if so provided by a development agreement that regulates the subdivision of land on the property; and
- 2) An addition to the subdivision by-law which stipulates that in the case of (1), easements for the maintenance of water and sewer need to be deeded to the municipality whenever municipal infrastructure runs below a privately owned road;

be recommended to Council for approval.

Motion Carried

Planning Advisory Committee asks that Council give the proposed amendments first reading and set a public hearing date.

STAFF REPORT

To: **Antigonish County Planning Advisory Committee**

Antigonish County Council

From: **Planning Staff (EDPC)**

Date: **June 25, 2018**

Reference: **Plan amendments related to approval of private roads in serviced areas**



Summary:

Planning staff recommend amendments to the Antigonish Fringe Municipal Planning Strategy as well as to the municipal Subdivision By-law allowing for the creation of private roads in subdivisions serviced by municipal water and sewer, if so provided for by a development agreement that regulates the subdivision of land on the property.

Background:

This report was prepared following an application by S.F Smith Developments to amend the Municipal Planning Strategy of the Fringe Plan Area, requesting the municipality to allow for the creation of private roads in areas served by municipal water and sewer if the roads are built to high standards.

The development which gave reason for this application is located in the emerging Mount Cameron neighbourhood in Antigonish Landing. The subject area of this application is located on lands enclosed by Mount Cameron Circle and Smith Way (see Figure 1 and 2). Municipal Council adopted a development agreement on July 03, 2013, approving the development of an 85 unit retirement living complex and 36 dwelling units in the confines of these two public roads.

The development agreement was recorded against the property in the Land Registration Office on March 04, 2014. The site plan in the document identifies two streets in the interior of the area covered by the agreement. In line with the terms of the agreement, these streets were constructed as internal driveways for the development. They cannot be recognized as any other

Overview

Community:	Antigonish Landing
Subdivision:	Mount Cameron
Plan Amendment Request:	Allow for creation of two private roads
Identification:	Osprey Lane (#10127876) Eagle Court (#10127884)
Length of Roads:	346m and 141m
Site Visit:	June 12, 2018



Figure 1: Site plan of the area covered by the development agreement

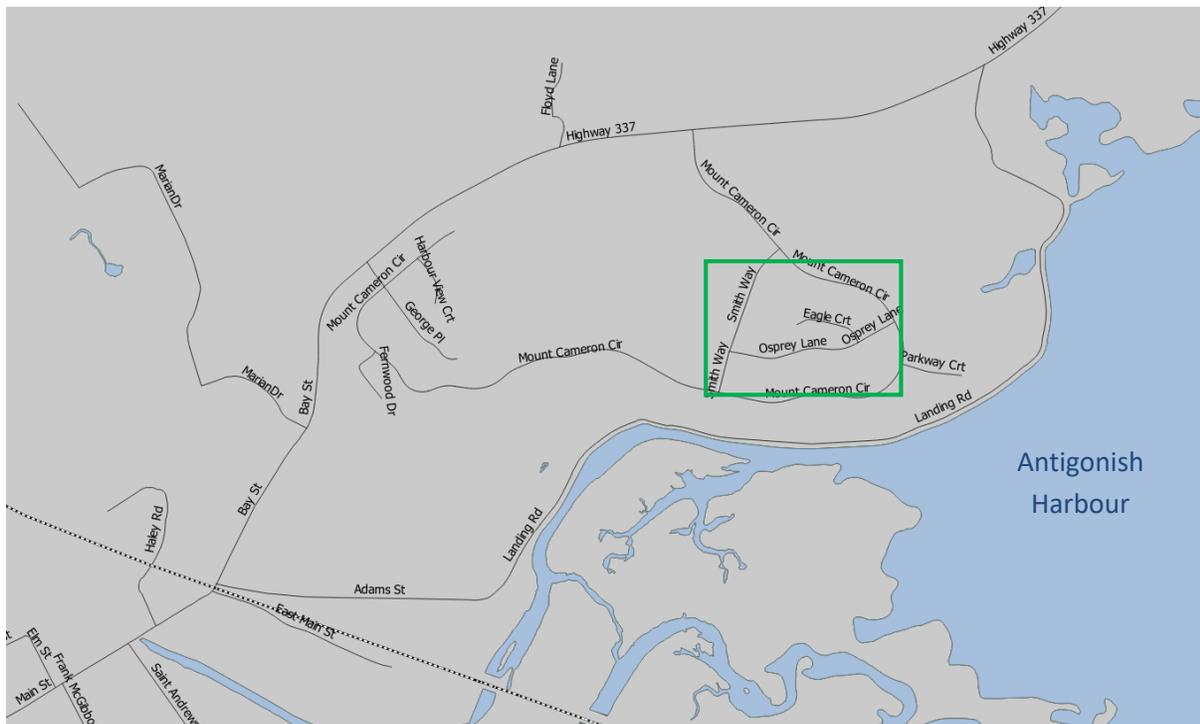


Figure 2: Location map of the area shown on Figure 1

type of road in accordance with municipal planning documents; the streets do not comply with the municipality's public road standards and private roads are not permitted in areas served by municipal sewer by virtue of the municipal Subdivision By-law. Nevertheless the development agreement specifically mentions that these streets could be adopted as private roads if changes to the Municipal Planning Strategy occur.

This arrangement was sufficient for the developer while the company was operating the dwellings as rental units. However, recently the decision was taken to allow tenants to purchase their semi-detached and townhouse units. In order to convey title to tenants, a plan of subdivision would need to create individual parcels for each dwelling. Subdivisions cannot be permitted based on lots fronting an internal driveway, they need either to front on a public or private road. Therefore, the developer is asking for changes to municipal planning documents that would allow the creation of two private roads in the Mount Cameron subdivision.

Analysis:

Road standards in the Municipality

The municipal subdivision by-law currently allows for three types of roads: Private Lanes, Private Roads and Public Roads. Private Lanes and Roads both remain under the ownership of the developer after the subdivision, but the former have less stringent design requirements. Designs of Private Lanes do not need to comply with the full set of municipal road specifications, as long as they are drafted in accordance with the Transportation Association of Canada (TAC) Geometric Design Guide for Canadian Roads.

Construction standards for Private Lanes are also more lenient than for Private Roads. Among other deviations from the Private Road standard, Lanes can e.g. satisfy the Subdivision By-law requirements with road widths of 6.0 metres (as opposed to 7.3m) and gravel thickness of 100mm (as opposed to 150mm).

Public Streets define the highest standard of roads in the Subdivision By-law, and roads to be approved under this category have to be fully compliant with the manual on municipal road specifications for the design and construction of the road. Once the road is approved, its ownership is transferred to the Municipality who takes on the maintenance.

Private Lanes and Roads are not permitted in areas of the municipality which are serviced by municipal sewer, which by default makes Public Streets the only permissible option for new roads to be approved in those areas. There are two main reasons for this approach: first, the design standards of Public Streets ensure that the physical structure of the street does not interfere with the operation and maintenance of underground installations. Secondly, in case there is a failure of any of the municipal underground infrastructure (water, sewer or storm

water), the municipality would need to request permission from the owner(s) of the road to break its surface for the implementation of maintenance works.

Current state of streets

Both Osprey Lane and Eagle Court have been designed and constructed to a high quality standard. Even though the streets currently have the status of internal driveways, a joint site visit by public works and planning staff on June 12, 2018 has found that the streets fulfill all requirements of a Private Lane. With regard to storm water management, the streets exceed the standards by providing a storm water retention pond, which would help to prevent the streets from flooding in rare flood events.



Figure 3: Osprey Lane with visible manhole covers of sewer line and rounded curb edges



Figure 4: Storm water management on Osprey Lane, with storm water retention pond and Eagle Court in the background

However, the streets fall short of the Public Street standard due to a lack of width (7m instead of 7.3m) and rounded curbs that do not meet the municipal specifications. These deviations from the Public Street norm are minor and the Public Works department does not expect any abnormalities in the maintenance and operation of sewer and water.

The development agreement and options in the context of NS planning system

As elaborated above, private roads are not allowed in areas served by municipal sewer because of possible impacts on maintenance and operation. Therefore planning staff is careful to suggest any plan amendments that may result in a lack of control over underground infrastructure in serviced areas. However, in this case the development is regulated by a development agreement, which clearly defined the specifications for the installation of sewer and water lines as well as the subdivision of roads. The developer complied with these requirements.

These terms of the development agreement are in line with the legal possibilities of the Municipal Government Act (MGA), since pursuant to s. 227 (1) development agreements may contain terms with respect to

(f) the construction, in whole or in part, of a stormwater system, wastewater facilities and water system;

(g) the subdivision of land;

While this has not been addressed in the existing development agreement for the above lands, such documents may also contain regulations with respect to municipal easements (MGA s.227 (1)(d)).

When a development agreement has been signed between the municipality and the owner of a property, there is little risk for the municipality that the water and sewer installations could be implemented in an unfavourable way. Therefore it seems reasonable to allow private roads in serviced areas if the subdivision is subject to such an agreement. In addition to the controls imposed by the terms of the agreement, Council would be able to decide on a case by case basis whether the creation of a private road in a serviced area shall be permitted.

The Municipal Government Act allows “to regulate or prohibit subdivisions on private roads in all or part of the municipality”, if a respective policy is provided in the Municipal Planning Strategy (MGA s. 271 (4)(b)). Planning staff is of the opinion that this includes the possibility to permit private roads only by development agreement. However, since the Municipality of the County of Antigonish has not adopted a municipality-wide Municipal Planning Strategy, such a policy could only be introduced to the Fringe Plan Area Secondary Planning Strategy. Since section 271 (1) enables a subdivision by-law to “contain different requirements for different parts of the municipality”, the introduction of a special requirement for private roads in the Fringe Plan Area seems feasible, if it is supported by an adequate policy statement in the Secondary Planning Strategy of that plan area.

To hold the municipality free from risk that may result from different ownerships of infrastructure above and below the ground surface, the subdivision by-law should also contain a requirement to include municipal water and sewer maintenance easements on private roads. MGA s. 272 (2)(a) enables such stipulations in subdivision by-laws.

Conclusion and recommendation:

The prohibition of private roads in serviced areas, as it is currently contained in the municipal Subdivision By-law, is intended to supply the municipality with sufficient control of roads that carry municipal water and sewer infrastructure below the road surface. From the perspective of planning staff, this goal can equally be achieved by means of development agreements. There seems to be no need to completely rule out the possibility of private roads in serviced areas, even if Council previously approves private roads through a development agreement.

Consequently, planning staff recommends amending the municipal Subdivision By-law by allowing the creation of private roads in subdivisions serviced by municipal water and sewer, if so provided by a development agreement that regulates the subdivision of land on the property. In order to comply with the Municipal Government Act, this new provision needs to be supported by a policy statement in the Antigonish Fringe Plan Area Secondary Planning Strategy and only apply to that plan area.

Furthermore, the subdivision by-law needs to stipulate that easements for the maintenance of water and sewer need to be deeded to the municipality whenever municipal infrastructure runs below a privately owned road.

A BY-LAW TO AMEND THE MUNICIPAL PLANNING STRATEGY
FOR THE MUNICIPALITY OF THE COUNTY OF ANTIGONISH
ANTIGONISH FRINGE PLANNING AREA

The Municipal Planning Strategy for the Municipality of the County of Antigonish, **Antigonish Fringe Planning Area** is hereby amended as follows:

- 1) By inserting the following text in bold into the fourth paragraph of Section “4.2 Transportation” in Chapter 4 of the Strategy:

Private roads are prevalent throughout the Antigonish Fringe Plan Area. Private roads are not owned or maintained by the Municipality of the County of Antigonish and do not fall under the Municipality’s responsibility for services. The responsibility for services, such as snow removal, is that of the property owners who have dwellings on lots with frontage along a private road. **Private roads should be avoided in areas where municipal sewer services are available, as private road design and maintenance could interfere with the orderly operation of municipal services. Only if special controls such as development agreements are in place, to ensure a high quality of a constructed private road, may such roads be exceptionally considered in serviced areas.**

- 2) By adding the following policy text in Section “4.2 Transportation” in Chapter 4 of the Strategy, immediately following Policy CS-1.4:

Policy CS-1.5 It is the intention of Council to prohibit the creation of private roads in serviced areas and to define exceptions to this rule in the municipal Subdivision By-law.

- 3) And by renumbering the remainder of policies in Chapter 4 accordingly.

This is to certify that the resolution of which this is a true copy, was passed at a duly called meeting of the Municipal Council of the Municipality of the County of Antigonish held on the:

__th day of _____ 2018.

Given under the hand of the Municipal Clerk and under the corporate seal of the Municipality this:

__th day of _____ 2018.

Mr. Glenn Horne, Municipal Clerk

A BY-LAW TO AMEND THE SUBDIVISION BY-LAW
FOR THE MUNICIPALITY OF THE COUNTY OF ANTIGONISH

The Subdivision By-law for the Municipality of the County of Antigonish is hereby amended as follows:

1) By replacing Section 30 in Part 5 by the following:

30. NOT PERMITTED IN SERVICED AREAS

- (1) No private roads or private lanes shall be permitted in areas of the Municipality that are depicted as serviced in Schedule "G" of this By-law, or that have access to the Municipal sewer system.
- (2) Notwithstanding Subsection (1), private roads may be approved where the plan of subdivision is situated in the area of the "Fringe Plan Area Secondary Municipal Planning Strategy" and the creation of such private road, including construction standards is regulated by Council through a development agreement.
- (3) Where private roads are created in accordance with Subsection (2) above, the applicant shall provide the municipality with a "service easement".

This is to certify that the resolution of which this is a true copy, was passed at a duly called meeting of the Municipal Council of the Municipality of the County of Antigonish held on the:

__th day of _____ 2018.

Given under the hand of the Municipal Clerk and under the corporate seal of the Municipality this:

__th day of _____ 2018.

Mr. Glenn Horne, Municipal Clerk

MUNICIPALITY OF THE COUNTY OF
ANTIGONISH

TO: MUNICIPAL COUNCIL
FROM: Remi Deveau, CHAIR
SUBJECT: ACTIVE TRANSPORTATION ADVISORY COMMITTEE REPORT
DATE: Tuesday, July 17th, 2018

The regular scheduled monthly meeting for March 2018 was cancelled. The regular scheduled monthly meeting for April 2018 was cancelled in lieu of the Active Transportation in Antigonish event hosted by Responsible Energy Action and Antigonish Community Energy.

The AT event was held on May 2nd from 6:30pm – 8:30pm at the People’s Place library. Meaghan MacNeil was one of 3 presenters prior to the bulk of the evening’s facilitated discussions. The presentation gave a brief overview of the County’s AT plans and progress.

The Active Transportation Advisory Committee last convened at 3:00pm on Tuesday, June 26th, 2018.

The following members were present:

Remi Deveau
Jack Beaton
Marlene Melanson
Eric Lumsden
Meaghan MacNeil
Monica Schuegraf
Dale Bogle (called in)
Regrets: Gary Mattie, John Dunbar

No Recommendations

The following items were discussed:

- Updates on:
 - Atlantic Active Transportation Summit held in Halifax May 23rd and 24th. Four members of the AT advisory committee attended.
 - Bike Awareness and Safety at the market- In partner with the Town Rec department and the Highland Bike Shop, a table at the Saturday farmer’s market was set up to provide bike/motor safety information; free giveaways; a chance to win a bike safety kit. The highland bike Shop hosted a community family ride during the event.
- Discussion on creating a definition of AT for the County. Several ideas and examples were discussed. Discussions will continue next meeting with hopes to finalize a definition of AT that truly captures the County’s vision and mission of AT.
- Updates and actions on moving forward with our 3 chosen actions from our AT Implementation Plan.
 - Discussions have begun with TIR local and provincial reps in regards to our interest in creating an AT corridor along route 4.

MUNICIPALITY OF THE COUNTY OF
ANTIGONISH

TO: MUNICIPAL COUNCIL
FROM: GLENN HORNE, MUNICIPAL CLERK TREASURER
SUBJECT: e-Poll REPORT
DATE: June 28th, 2018

An e-Poll was issued on Tuesday, June 28th, 2018. The following Councillors participated:

Councillor MacLellan
Councillor MacDonald
Councillor Chisholm
Councillor Deveau
Councillor Dunbar
Councillor Mattie
Councillor Corbett
Councillor MacFarlane

The following recommendation was made:

The Committee of the Whole recommends that Municipal Council sell PID 01303726 situated at Highfield Road, Maryvale, to Ron MacGillivray for a purchase price of \$50,625 + HST and associated expenses.