

***SPECIAL COUNCIL MEETING AGENDA
Tuesday, July 30, 2013 @ 7:30 pm
Municipal Administration Centre
(Council Chambers)***

Call to Order - Chairman, Warden Russell Boucher

Approval of Agenda

1. Continuation of Public Hearing – Rezoning Application by Mattie Farms Ltd.

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2. Second Reading – Rezoning Application by Mattie Farms Ltd.

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3. Signing Authority, Glenn Horne.

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4. Adjournment

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M E M O R A N D U M

To: Alan Bond, Municipal Clerk Treasurer
Municipal Council, Municipality of the County of Antigonish

From: Planning Staff, Eastern District Planning Commission

Reference: Public Hearing held June 18, 2013 regarding application made by Ralph and Ted Mattie to rezone a portion of PID 10059285 from Rural (R-1) to Residential Multi-Unit (R-2) to permit nine (9) single unit dwellings on a single parcel of land through a bare land condominium

Date: June 25, 2013

At the Public Hearing of Council held last Tuesday, June 18, several members of the public raised concerns regarding the proposed rezoning. In some cases these concerns were beyond the scope of the application before Council. Planning Staff have compiled the relevant concerns raised at the Public Hearing and prepared a response to each including a recommendation (if applicable) from staff.

Council should note that the legal concerns raised by Aaron and Nicole Rovers of Westarm Farms Limited are outside of the expertise of Planning Staff. These concerns should be addressed by the Municipality's legal counsel and therefore have not been addressed in this Memorandum.

1. Does the proposed rezoning contravene the 2006 amendments to the *Subdivision By-law* limiting subdivision to six lots on a private road that has not been designed or built?

Planning Staff consider this to be the most important issue surrounding the rezoning. The proposal complies with the letter of the law because no new lots will be created on the existing private road. However, the proposal will permit an additional nine single family units on the existing private road, which will allow an equivalent level of development to further subdividing the land. The additional dwellings will increase traffic on the private road.

Recommendation: Council consider this issue when deciding whether to approve the rezoning.

2. Will approving this rezoning will set a precedent allowing other developers to circumvent the requirements of the *Subdivision By-law* to upgrade private roads through further rezonings to enable similar bare land condominiums?

This would definitely be a possibility. There is currently no legislation in the *Land Use By-law* prohibiting this kind of development scenario.

Recommendation: Council consider this issue when deciding whether to approve the rezoning.

3. Is a sloping sand filter actually adequate for the proposed nine single family dwellings?

In a letter dated April 5, 2013, the Department of Environment confirmed they did not object to the proposed rezoning, noting that, "[t]he development will require an on-site sewage disposal system, and the design must be by a Professional Engineer, registered to practice in Nova Scotia." In a follow-up email dated April 24, 2013, the Department also confirmed that a sloping sand filter would be acceptable, stating, "The sloping sand filter is an acceptable technology... The system will be required to meet the requirements of the Regulations."

Recommendation: Council consider the proposed septic system to be adequate.

4. If the condominium corporation owns and maintains the private road, what will that mean for other landowners who use the road for access?

Existing rights of way across PID 10059285 will continue to exist in the event a bare land condominium is formed.

Recommendation: None.

5. Will the rezoning result in increased pleasure boat traffic and a negative impact on the local oyster fishery in Tracadie West Arm?

Planning Staff do not anticipate that the proposed development will result in more boat traffic than if the property were developed as a conventional subdivision. The proposed site plan actually shows a shared dock, where a conventional subdivision might not. Approval for docks, boat launches, etc. require the approval of the Department of Natural Resources (DNR). The Department of Fisheries and Oceans (DFO) may be contacted in the event the work is expected to affect a commercial fishery. After the Public Hearing, Planning Staff contacted DFO for comment on the proposed rezoning. As of the writing of this memo, they had not responded.

Recommendation: Council consider the DNR approval process adequate consideration.

6. Will the proposed development actually be single family homes? Couldn't the applicant develop something larger or more disruptive once the land is rezoned?

The applicant has not expressed any other intentions for development. Nevertheless, the Residential Multi-Unit (R-2) Zone would allow for multi-unit dwellings and grouped dwellings. The density however would be restricted by the capacity of the on-site system. Some of the potential land uses individuals were concerned over during the Public Hearing (such as hotels and restaurants) are permitted in the existing Rural (R-1) Zone.

Recommendation: Council consider this issue when deciding whether to approve the rezoning.

7. Will the proposed development increase taxes if the Municipality is forced to assume maintenance of the private road?

The *Subdivision By-Law* has specific requirements for proposed future roads to be considered as public roads. Developers must upgrade roads to these standards before the roads can be considered public. These standards are intended to minimize future repair and maintenance costs. With that said, the developer has no intentions for the private road to become public.

Recommendation: None.

8. Will the proposed development create more noise?

An additional nine single family dwellings will undoubtedly create noise during the construction phase and once occupied by new residents. However, noise is not a criteria laid out in the existing planning documents to be considered during the rezoning application.

Recommendation: None.

Notwithstanding the concerns presented at the Public Hearing on Tuesday, June 18, 2013 it is still the recommendation of Staff that the proposed rezoning be approved by Council. Of the concerns raised at the Public Hearing, Planning Staff consider the most important issue to be whether Council feels the rezoning allows the applicant to circumvent the requirements of the *Subdivision By-law* to upgrade the existing private road to permit further subdivision.

M E M O R A N D U M

To: Alan Bond, Municipal Clerk Treasurer
Municipal Council, Municipality of the County of Antigonish

From: Planning Staff, Eastern District Planning Commission

Reference: Department of Fisheries and Oceans response regarding application made by Ralph and Ted Mattie to rezone a portion of PID 10059285 from Rural (R-1) to Residential Multi-Unit (R-2) to permit nine (9) single unit dwellings on a single parcel of land through a bare land condominium

Date: June 26, 2013

At the Public Hearing of Council held June 18, 2013 regarding the above referenced matter, several members of the public raised concerns over the proposed rezoning. One of these concerns was with regard to potential effects of the proposed development (specifically a proposed dock and potential increased boat traffic) on the commercial oyster fishery in Tracadie West Arm. Following the Public Hearing, Planning Staff contacted the Department of Fisheries and Oceans for their comment on the proposed rezoning. On June 26, 2013, Ed Parker, a biologist with the Fisheries Protection Program, contacted the Eastern District Planning Commission by telephone with the following information.

The proposed development does present the possibility of increasing nutrient, sediment, and pollution levels in the estuary of Tracadie West Arm. This may result from either the construction and maintenance of the proposed single detached dwellings or potential boat traffic associated with them. Mr. Parker expressly noted that the effects of this development could not be accurately predicted before the development took place. Regarding the proposed dock, he stated that approval for docks or other work done on submerged Crown Land would be subject to the approval of the Department of Natural Resources. He expressed that if the design of the dock was in accordance with departmental standards, the Department of Fisheries and Oceans would not typically be involved in its approval.

In summary, he noted that the development had the *potential* to affect the oyster fishery in Tracadie West Arm, but that the extent of the effect, and whether it would be negative or positive, could not be accurately assessed before the fact. He noted that while the prohibition of waterfront development around the province would probably result in a net benefit to fish habitat, that this was not a practical expectation. He noted that the scale and nature of the proposed development raised no particular red flags to his organization with regard to potential for negative impact on the local oyster fishery.

M E M O R A N D U M

To: Alan Bond, Municipal Clerk Treasurer
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From: Planning Staff, Eastern District Planning Commission

Reference: Department of Natural Resources response regarding application made by Ralph and Ted Mattie to rezone a portion of PID 10059285 from Rural (R-1) to Residential Multi-Unit (R-2) to permit nine (9) single unit dwellings on a single parcel of land through a bare land condominium

Date: June 27, 2013

At the Public Hearing of Council regarding the above referenced matter held June 18, 2013, several members of the public raised concerns over the proposed rezoning. One of these concerns was with regard to potential effects of the proposed development (specifically a proposed dock and potential increased boat traffic) on the commercial oyster fishery in Tracadie West Arm. On June 27, 2013, Planning Staff spoke with Gregor Fraser of the Department of Natural Resources (DNR) by telephone regarding the application and were given the following information.

Mr. Fraser explained that wharves, boat ramps, and other structures built in tidal water (i.e. below the ordinary high water mark on submerged Crown Land) require a permit from the DNR. If the design of the proposed structure conforms to departmental standards it can be approved in-house by the local DNR office. These standards were developed with the Department of Fisheries and Oceans (DFO) and are intended to result in wharves that maintain water flow along the coastline and disturb a minimal footprint on the ocean floor. If the design of the proposed structure does not conform to these standards, it must be reviewed by the DFO. This review typically involves a site visit and review by a DFO biologist. If the non-conforming design is approved, the approval will be conditional on specific requirements to minimize impact on marine habitat and water quality.

The applicants do not have detailed plans for the proposed wharf at this time, as they are unsure whether their land will be rezoned. Without detailed plans, Mr. Fraser could not comment on whether the proposal would conform to DNR standards, and could only speak to the proposal in general terms.
