

HALIFAX REGIONAL MUNICIPALITY
Public Information Meeting
Case 21813

The following does not represent a verbatim record of the proceedings of this meeting.

Thursday, January 31, 2019

7:00 p.m.

Eastern Passage Buffalo Club - 625 Cow Bay Rd, Eastern Passage, NS

STAFF IN

ATTENDANCE: Megan Backos, Planner, Planner II, HRM Planning
Shayne Vipond, Planner III, HRM Planning
Thea Langille, Principle Planner, HRM Planning
Steven Higgins, Manager of Current Planning, HRM Planning
Holly Kent, Planning Technician, HRM Planning
Tara Couvrette, Planning Controller, HRM Planning

ALSO IN

ATTENDANCE: Councillor, Bill Karsten, District 3
Rob LeBlanc – Ekistics Plan and Design

PUBLIC IN

ATTENDANCE: Approximately: 61

The meeting commenced at approximately 7:00 p.m.

Call to order, purpose of meeting – Megan Backos

Ms. Backos introduced herself as the Planner and Facilitator for the application. They also introduced; Councillor Bill Karsten, Tara Couvrette – Planning Controller, Holly Kent - Planning Technician, and the Consultant, Rob Leblanc – Ekistics Plan and Design.

Case 21813 - Application by Ekistics on behalf of Silver Sands Realty Ltd. to rezone a portion of one property along Cow Bay Road from P-2 to RA to permit a single unit dwelling. Halifax Regional Municipality is considering expanding the area of rezoning to include the P-2 zoned portions of PIDs 41453937, 41459520 and 41459538 as well.

Ms. Backos explained; the purpose of the Public Information Meeting (PIM) is: a) to identify that HRM has received a proposal for the site; b) to provide information on the project; c) to explain the Planning Policies and the stages of the Planning Process; d) an opportunity for Staff to receive public feedback regarding the proposal. No decisions are made at this PIM.

1. Presentation of Proposal – Ms. Backos

Ms. Backos provided a brief introduction to the application and then made a presentation to the public outlining the purpose of the meeting, status of the application and the applicants request. Ms. Backos outlined the context of the subject lands and the relevant planning policies.

2. Questions and Comments

Darren, Cow Bay - would like to know when the wetlands map was done. **Ms. Backos** stated it came out of the Land Use Bylaw (LUB) which was mapped out in 2014. **Darren** – stated the wetlands don't stop where the map shows that is does. Suggested somebody go out and investigate it to see how far down they really go. **Ms. Backos** stated that is why she stated it was conceptual. It is from the LUB and at the time of permitting the applicant would be required to provide a survey plan of where the wetlands are and a delineated buffer drawn 30 metres from the edge of the wetland.

Elizabeth Skid – stated the reason it was zoned P-2 was because they weren't allowed to have it zoned parkland. How many houses can be put on the lot that the applicant is rezoning? **Ms. Backos** today with

the one lot, one. There is the potential it could be subdivided into another lot because of its size and this would allow one house per lot. There would be a review from NS environment to review the wetlands and make sure it would be suitable for another septic and well system. **Elizabeth** – so there is no possibility to put in a road and have more properties developed off that private road? **Ms. Backos** – no.

Rick Osborne, Eastern Passage – verified what property is up for rezoning and what HRM is asking to rezone. **Ms. Backos** explained what the applicant was asking for and what HRM was asking for from one of the slides used in her presentation. **Rick** believes it looks like a lot of wasted land when you look at the lot sizes around it and believes it should be zoned like the rest of the lots around it. Would like to make sure the residents are informed regarding future meetings. Also feels there should be a resident advocate that follows up with all the residents of any upcoming meetings. **Ms. Backos** explained that the public hearing meeting is a community council meeting and they happen monthly. Ms. Backos also explained all the ways to get information regarding any upcoming meetings. **Thea Langille** also provided clarification around how people are notified.

Bill Falconer, Cow Bay – stated the rezoning goes against the Eastern Passage / Cow Bay Municipal Planning Strategy (MPS) in particular, coastal lands, page 25 of the MPS. HRM and the residents both know that these lands flood and it has been known since 1978. This would suggest that we are making a bad and costly tax payer decision. What has changed to support such a decision? According to the most recent document that is online the setback is presently 61 metres. HRM is going to reduce the setback from 61 to 30 metres. This goes against the MPS coastal lands section NWB 418 1a. These lands now, more often than in the past, flood due to the Cow Bay Lake inlet and the Atlantic Ocean storm surge events. The setbacks were put in place to lessen the cost to homeowners and the municipality to spend future money to fortify the shoreline against the effects of coastal erosion. What makes you think it is safe to lift those setbacks now? HRM and the tax payers both know that the Silver Sands Beach is migrating north into the new development. Why has the councillor not shown due diligence by having a study commissioned to confirm the beach migration pattern, speed and location over the next 30-50-year cycle prior to any rezoning/amendment discussion. **Councillor Karsten** explained the process and needs residents to understand he is neutral and is not the planner on this application or an expert in planning. The councillor respects what Mr. Falconer is saying but staff are the experts in this field that will bring the report to council. Explained that this is a queasy judicial system and what that means. **Mr. Falconer** stated the issue is that they need representation at the council which should be you (Councillor Karsten). If you remain neutral who represents the residents of Cow Bay? **Councillor Karsten** stated how you get your voice across is through the mailout that was sent, secondly through this meeting and then again at the public hearing.

Leigh Ireland, Autumn Dr. - There was a mailout sent out in November however, it was received after the due date for comments to be sent in. What is taken from tonight as far as questions go. When will we be provided with answers if they can't be given here tonight. When will we be made aware of the meeting we can go to when the councillors are going to vote. **Ms. Backos** explained how the notification works.

Bill Falconer, Cow Bay – What has changed, with regards to the MPS, that enables us to simply rezone this? Does the rezoning comply with the MPS? **Ms. Backos** stated it does comply with the MPS because of the enabling policy SA 10. **Bill** – when was the policy SA 10 brought into effect? **Ms. Backos** – the MPS was written in 1992. **Bill** – the second question was regarding setbacks from 61 metres to 30 metres, Ms. MacIntyre said they were going to be reduced because of section 418 1a and in that section, there is a mistake in the language. When you read the MPS it says that it shall be the intent to extend the setback to 200 feet with the possibility of a reduction to 100 feet if the land was large enough to support a single-family dwelling. In this case the land is large enough to support a single-family dwelling so there should be no requirement to reduce the setback from 200 metres. There is also a simple spelling mistake in the Land Use Bylaw (LUB) that refers to the Atlantic Ocean, it says Cow Bay and Barrier Ponds. It should say Cow Bay Lake. It also references Map 4 which has nothing to do with the boundaries of Cow Bay. If you read that sentence verbatim it says that you would put a 61 metre boundary around Cow Bay. **Ms. Backos** stated the setback is 30 metres or 98.4 feet is the current requirement. If there are typos in the LUB, it would be something that would have to be looked into. At this point we have to regulate based on the wording that is in the LUB. **Bill** – In the MPS it states in EP7 that the intent is to have a 200 foot setback on the Cow Bay Lake and the Barrier Ponds. My understanding is that that document (MPS) gets translated into an action document called the LUB. In the LUB it left the word lake out (Cow Bay Lake) so would this be a situation where some housekeeping of the document needs to be done. The other issue is you have identified the Barrier Ponds in the wrong position. You have them identified as Osborne Lake, AKA the Barrier Ponds, but the Barrier Ponds are located within the SA area and the SA area is not

around Osborne Lake. The SA area is where the Barrier Ponds are right in front of the Atlantic Ocean. **Ms. Backos** – that could be something that would potentially be looked into when the next amendment package goes. We cannot delay this planning application until the next amendment page goes to council. **Bill** – the problem is right now you are making decisions based on inconsistent information. You should have to resolve all those issues before you have a discussion about any new applications. The last question is about the beach migrating north. We will have a situation very similar to Chezzetcook. Why not have a study commissioned to confirm the beach migration pattern, speed and location over the next 30-50-year to protect not only the developer but the residents who may purchase that land. **Ms. Backos** explained how the research of Silver Sands beach would work and who would look into that. Regional Planning and the Environmental teams. **Bill** – there is no data right now that supports that the beach isn't moving and that the P2 lands don't flood. There is data to support that it is flooding and the beach is moving. **Mr. Higgins** explained what he does and how the process works **Bill** – If you make a decision based on bad data then the taxpayer inadvertently gets pulled into supporting the development because the data to support what's going on simply isn't there. Taxes payers will end up paying to fortify the beach. Currently we have nobody in the P2 zone so there are no issues and no concerns. Moving this forward in this direction will put an issue on table for taxpayers.

John MacDonald, Autumn Dr. – The properties, as they are zoned right now, will allow for a well and septic. If they split up the property would water and sewer come down through here? They do not want water and sewer. **Ms. Backos** – stated in the phone conversations with Mr. MacDonald she never made any comment of water service being brought into the area. **John** said he said that, not her, but it opened it up for him. **Mr. Higgins** stated servicing this land by sewer and water is not on the table under any circumstances under this application. **John** – if the water comes off the ocean like it did in Chezzetcook will you assume all the cost or will you stick it on the taxpayer like they did there.

Derick, Cow Bay – You stated it was your responsibility to respond to the applicant. Is it your responsibility to also recommend a larger sloth of rezoning? **Ms. Backos** explained why HRM requested a larger area of rezoning. The recommendation has not been made to council yet. At this it is being brought forth to the public and getting their information and feedback. **Mr. Higgins** spoke to expanding this application to include more property. **Derick** – wanted to know if the dark shaded area (on the map) was inside the 200-foot setback. **Ms. Backos** stated it would be outside of the 98.4-foot setback or (today's standard) even the 200-foot setback. **Derick** – In the P2 zone you can have a single-family dwelling with a daycare so how many daycares can be in that area. **Ms. Backos** – one per single family home.

Ross Hartley, Cow Bay – If you had 4/5 houses with that many daycares would those septic fields be able to support that? **Ms. Backos** – NS Environment, back when those lots were approved, would have had to be able to support those uses.

Barbra Adams, MLA for Cole Harbour / Eastern Passage – How often are the amendment packages done to correct housekeeping errors. **Ms. Backos** – wasn't sure what the schedule would be for that. **Ms. Langille** – it is done when the opportunity arises through resources. There is no clear schedule as to how frequently it is done. **Ms. Adams** – If a constituent has come to you, like Mr. Faulkner, and shown you issues that would change the documents intent, would that now be something that you would not do an amendment package for. Mr. Faulkner has been talking about this to you for over 10 months. Should this not be addressed before this application is put to council. **Ms. Langille** – There have been numerous conversations with Bill and HRM has done their best to put him in contact with the right people within HRM to discuss his concerns. All information will be put in front of council so that they can make the most informed decision. **Ms. Adams** – At the townhall that Bill and his daughter had they had a petition with 200 signatures opposed to this application. There has been nothing said here that would change her mind and she believes the same things goes for the residents. Until those issues can be addressed she isn't sure that the community would have the confidence that bringing a decision to council without that being answered and these amendments coming forward to council would be the prudent thing to do. Why can't that happen first. **Ms. Langille** advised they have to go with the policy that is in place when the application is received. **Ms. Adams** – feels that we have an obligation to the gentleman who brought forth the application but people are looking for answers to there questions as well. **Mr. Higgins** – stated there are a series of those questions that have been answered with different people Mr. Falconer has been connected with within HRM. There are still some that are outstanding and people are looking into it now. **Ms. Adams** – for clarification, if you receive a lot of feedback from a community that they are not in favor of this what impact does that have on your recommendation to council. **Mr. Higgins** explained all

information is presented to council so they are fully informed. Planning's recommendation is based on policy.

Kim Gingell, Cow Bay – concerns are that if the policy needs to be rewritten and why isn't it being done. Give council the information they need to make an informed decision.

Rick Osborne – has concerns that the process will not be followed and the residents will not be informed. Feels this may just go before council without anyone knowing. Feels Mr. Karsten should be sticking up for the residents. Wants residents to be informed by an advocate. **Ms. Backos** wanted to clarify that notification of the public hearing at community council will be mailed to everyone on the sign in sheet or who received notification of tonight's meeting and that Harbour East – Marine Drive Community Council will be the ones making a decision on this application.

Public – it bothers them that Barb has stood up, Bill with all the information has stood up, everything has been explained, and at every point you say, we can do that afterwards but it can't come before we consider this application for Rob LeBlanc. You're planning and you know it is flawed and nothing seems to matter. You have an agenda and a timeline and that is what you are going by.

Theresa Kuhn, Cow Bay – Would like a list of the specialists and their credentials that are weighing in of this application to be considered in the report that goes to council. Also, can any of the developable areas change with the zone change, can there be other uses added. **Ms. Backos** – explained the experts are the planners, development officers, development engineers, NS Environment. **Mr. Higgins** explained who reads the report and the steps it goes through before it goes to council. **Ms. Backos** - With regards to the developable area, the only uses that would be allowed currently are what is in the P2 zone and if rezoned it would only be the uses available in the RA zone. If there was a request to rezone to something different it would again have to go through this same process and the public participation process. Subdivision would be done as-of-right and would not require public notification. **Theresa** stated there is currently a driveway/roadway, what does that look like for people. **Thea Langille** explained they come out to the community to find out what the questions are.

Darren, Cow Bay – If you are putting the information out to us and the information is wrong, and we know it is wrong, especially where the wetlands are, and then the high-water mark. If the wetlands migrate further over that is going to push the high-water mark up. It is inaccurate information that is out there. When you take this and present this in your report are you going to present what we are telling you is fact or are you going to present something that is from 2014. **Ms. Langille** stated the map shown is a conceptual diagram that is being used for this meeting. More details would come at a later stage when they are going for a permit. The info provided tonight is part of the staff report that goes to council.

Wendy, Cow Bay – feels this meeting is a waste of time because so many of these issues go back many years and you are saying tell us more but aren't doing anything to address them. We hear you but we will send the issues onto somebody else. Doesn't feel that HRM is being honest with them (the community) because there is already construction going on and they are already building up that land and nobody has even voted on this application. HRM is going to put us on hold but not the developer and they think that is unfair.

Will Filshie, Cow Bay – has watched the beach deteriorate for over 50 years. When the storm surge comes over the beach, which it does every year, what does that do to the high-water mark in that lake? Has anyone done any assessments on that? **Ms. Backos** – stated the high-water mark in the LUB is a surveyed line which would be done by a surveyor. **Will** – would that be done at a certain time of year or would they look at a storm surge. It washes up over into the lake and then the lake rises. That land has been wet his entire life, 57 years. Why anybody would want to put a home there, I don't know. Has it been perk tested? You find out how quick the land drains. **Ms. Backos** stated the perk testing would be done at the time of permitting. **Will** – if they failed perk they wouldn't be able to develop there, right. **Ms. Backos** – if they were not able to develop a suitable sewer and well system on that property than no, they would not be able to develop. The lots that have been approved to date have been approved by NS Environment. **Will** – so they have been perk tested. **Ms. Backos** – the lots would have been at the time of subdivision. But at the time of building they would be required to have that approval again. **Will** – if it got rezoned it would be rezoned before the perk testing would be done, right. **Ms. Backos** – It would have been done in 2017 when these lots were created and then the rezoning would be approved (potentially) and at the later date they would come in for their permit and that approval would have to

come from NS Environment for sewer and septic. **Will** – is this undisturbed land? Has anything been pulled in here, have any trucks been in here? **Ms. Backos** has heard that there has been some clearing and infilling on this property. **Will** – Can you build a structure on undisturbed soil? **Ms. Backos** – you can build on it, yes. **Will** – Does it have to be a certain amount of time. If I bring 1000 pounds of rock in can I build on it right away? **Ms. Backos** – you wouldn't be able to build on it without the permit. **Will** – when were the tests done on these lots. **Ms. Backos** – the subdivision was approved in 2017. **Will** – has any more stuff been pulled into those lots since the approval? **Ms. Backos** – not sure how much as been infilled since that last test. They would need new approval from NS Environment before building the house.

Public - Why can't you get the right information together and change it now.

Bill Falconer, Cow Bay – Read verbatim what he got from the planning department with regards to when the Land Use By-law regulations begin to apply. That would be the restraints, the elevation constraints, the setbacks, they do not kick in until a permit is applied for. The significance of that is that if you buy a piece of land that is below the grade level, too close to the water, if there are trees in the way, you can remove the trees, you can infill, you can excavate. Until you apply for the permit you can pretty much do whatever you want. If you buy these lands and they don't meet the requirements it is possible that you simply fill it in and then go apply for the permit. He stated planning told him once the footings are poured there is a clear intent to develop. This is the point where the development and the construction permit must be approved and issues for the project. This is informed by section 4.1a in the LUB. If you read the LUB there is no reference to the pouring of footings. It seems to be an erroneous interpretation of the LUB. We have a nice LUB. When you look at our LUB it seems to strike a good balance between construction, safe development and it also strikes a good balance between environmental issues and the maintenance of environmentally sensitive land. The problem is we have an interpretation of the LUB that is somewhat erroneous and really should be addressed.

3. Closing Comments

Ms. Backos thanked everyone for coming and expressing their comments.

4. Adjournment

The meeting adjourned at approximately 8:50 p.m.