

MEETING #106

**TOWN OF BEDFORD
PUBLIC HEARING #94-05
MONDAY, SEPTEMBER 26, 1995 - 8:00 P.M.**

Public Hearing #94-05 was held Monday, September 26, 1994 - 8:00 p.m. - in the Town Council Chambers, Mezzanine Level, Sunnyside Mall, 1595 Bedford Highway, Bedford, Nova Scotia.

Those in attendance included Mayor Peter Kelly; Deputy Mayor Bill MacLean and Councillors Stephen Oickle, John Davies, Len Goucher, Harris Hutt and Anne Cosgrove.

Staff members in attendance included Rick Paynter, Director of Engineering and Works; Donna Davis-Lohnes, Acting Director of Planning and Development; John Robertson, Chief Building Inspector and Jane Nauss, Recording Secretary.

Mayor Peter Kelly advised that the purpose of the Hearing was to receive both written and verbal submissions respecting Council's intention to approve the entering into of a Development Agreement with Redden Brothers Development Ltd. regarding RCDD lands in the Union Street area.

Mayor Kelly called upon Ms. Davis-Lohnes to provide an overview of the process to date.

Ms. Davis-Lohnes advised that an application had been received by the Town from the proponent in August, 1993. This was followed by the establishment of a Public Participation Committee to develop a concept plan for the land in question (met March - June/94). A Public Information Meeting was held July 5, 1994; the matter was brought before the Recreation Advisory Committee on June 8, 1994 and the Planning Advisory Committee on two separate dates - August 31 and September 6, 1994. As well, the Town's Waters Advisory Committee undertook a review of the Application on September 14, 1994.

Mayor Peter Kelly advised that following the Hearing, the matter would go before Town Council during a Regular Session scheduled for October 11, 1994.

Jenifer Tsang provided an overview of the proposal.

- the lands included within the Redden Brothers Development Ltd. proposal of Union Street RCDD are approximately 33 acres in size. Of the 166 residential units included, 102 are single detached units on standard sized lots, 21 are single detached units on small lots, 35 are townhouse units and 8 are apartment units;
- an environmental study is to be undertaken by the developer to address the impact

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of the development on slopes of 20% and greater. This study will also address the impact of development on the two watercourses which cross the site, even though these watercourses are not identified on the Environmentally Sensitive Areas Map;

- a stormwater management plan is to be conducted to address how storm water will be handled on site as well as the impact on the Sackville River during and after construction. The Terms of Reference for this Stormwater Management Plan are attached to the Draft Development Agreement;
- stormwater on Union St. is a great concern;
- Town staff recommend that the developer be responsible for providing an off-site storm water system to accommodate the project which will not negatively impact on the existing stormwater system in the area;
- the sanitary sewer system in Union St. is a great concern;
- Town staff recommend that the developer be responsible for all off-site costs associated with connecting the project to a portion of the Town's sanitary sewer system which can accommodate the development;
- that the developer contribute to the Town's Infiltration Reduction Program until such time that additional capacity at the sewage treatment plant is obtained;
- a Traffic Study has been conducted to address the impact the development will have on Union St. and the intersection with the Bedford Highway;
- the study recommends that the developer contribute 25% of the cost of signalization.
- Province has acquired 35 acres of the Union St. RCDD, including the location of the petroglyphs;
- the development proposal is approximately 1200 feet from the carvings;
- an application has been made to the Historic Sites and Monuments Board of Canada to have official recognition given to the entire Union RCDD, however, no recommendation has been received to date, with no response expected until November, 1994;
- the developer does not intend to commence construction until the spring of 1995.

Ms. Tsang closed her comments by advising it was staff's recommendation to enter into this agreement with Redden Brothers Development Ltd. subject to the following conditions:

- cash contribution from developer to the infiltration reduction program;
- detailed site plans for the townhouse and apartment sites are to be developed;
- detailed stormwater management plan to be developed;
- developer is to be responsible for servicing the development so as not to negatively impact on the existing storm and sanitary sewer systems.

Along with recommending the developer contribute 25% of the cost to installing signalization at the corner of Union St. and the Bedford Highway, Town staff also

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recommend the developer extend the existing sidewalk on Union Street to the RCDD development entrance.

Mayor Peter Kelly requested Ms. Tsang to read the position of both the Planning and Water's Advisory Committees on the proposal:

- **BPAC** - supports the recommendation of the Planning and Development Control Department that Town Council approve the entering into of a Development Agreement with Redden Brothers Development Limited to permit the development of the 33 acres within the Union Street RCDD subject to the above-noted conditions.

- **BWAC** - that the storm water management plan specifically include the impact the run off from the development will have on the Sackville River.

On a Point of Clarification, Councillor Len Goucher sought clarification of BWAC's motion.

In response, Mr. Rick Paynter advised that BWAC would like to be involved with the review of the stormwater management plan.

In response to an enquiry from Councillor Anne Cosgrove as to what happens if a response from the Historic Sites and Monuments Board of Canada is received later than November, 1994, Ms. Tsang advised that the Board is aware of the current situation and have indicated that they intend to make a decision at their November meeting.

Councillor Len Goucher expressed a concern on Town Council deciding approval of the Development Agreement prior to receiving a response from the Historic Sites and Monuments Board. He asked Ms. Tsang if the Board would consider the Redden lands more valuable if Council approves the proposal. Ms. Tsang responded that the lands are zoned RCDD, therefore, considered developable whether the project is approved or not.

Mayor Kelly invited Mr. Barry Zwicker, Wallace MacDonald & Lively, Consultants, to address Council.

Mr. Zwicker advised that the proposal included 33 acres of land and that this project has received ample attention. He further noted:

- a topographic survey had been carried out which permitted the developer to determine how the land uses will blend with the neighbourhood;

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- the project is primarily single family homes;
- single unit dwellings have been placed adjacent to existing single unit dwellings;
- buffers are provided between existing and proposed development;
- the developer has acquired a portion of land near First Avenue as well as land extending from Nottingham St.
- with respect to parkland, the Bedford Recreation Advisory Committee requested the developer clear a portion of the land for active parkland. Mr. Zwicker advised that this has been realized;
- a significant amount of openspace has been protected;
- the project exceeds the requirements of the M.P.S. as it pertains to the number of units per acre with only five units per acre to be developed;
- the developer is to address both stormwater and sanitary sewer concerns and will contribute to the Infiltration Reduction program on a per unit basis;
- the developer has agreed to contribute 25% of the cost for signalization at the Union Street and Bedford Highway intersection;
- the developer cannot address the issue of the petroglyphs. The developer has been requested to not proceed and has agreed to await commencing construction until the Spring of 1995 to allow for land assessment. However, the developer is not prepared to wait indefinitely. Mr. Zwicker also suggested that if a decision is delayed on the part of Town Council, the Town will be working outside the M.P.S.

Mayor Peter Kelly invited Mr. Dwight Dorey, Chief and President of the Native Council of Nova Scotia, to address Council.

Mr. Dorey circulated and read a declaration publically made by all Chiefs of the Mi'Kmaq Nation of Nova Scotia. Mr. Dorey noted his concern with respect to the wording "Notice to Approve" which was included in the Public Hearing notice. The meeting was advised that although various Town Committee comments on the proposal had been provided to Council, the Petroglyph Advisory Committee (P.A.C.) Report was not included in the package. Accordingly, Mr. Dorey reviewed the conclusions and recommendations of P.A.C.

Mr. Dorey advised that in his opinion all Town Council has done is ask the Provincial and Federal governments as to what they are prepared to do with respect to acquisition of the lands. He noted that the Petroglyph Advisory Report does still exist. Mr. Dorey was also concerned that the human interest of the lands in question are being totally ignored.

Mr. Dorey questioned the proceedings involved todate making reference to the Public Hearing Notice and the Environment Act. This project will affect the culture of the Mi'Kmaq community. He also felt an environmental assessment should be carried out

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prior to Council making a decision on this proposal. It was Mr. Dorey's opinion that should this project proceed, the Mi'Kmaq people will be given a "stacked deck."

Mayor Kelly enquired to Ms. Davis-Lohnes as to the status of the Petroglyph Advisory Committee Report.

Ms. Davis-Lohnes advised that the Petroglyph Advisory Committee Report had been completed and brought before Town Council on several occasions. On April 26, 1994, Town Council concluded that nothing more could be done to protect the petroglyphs. She noted that the Province has acquired 35 acres and that the Petroglyph Advisory Report had been forwarded to senior levels of government for their perusal.

Ms. Jenifer Tsang read the Town Council Motion from April 26, 1994 for the record:

"... to request Planning Staff to determine if the areas which have been acquired for the protection of the petroglyphs can be re-designated and re-zoned from RCDD to Park Open Space."

Ms. Davis-Lohnes also reminded Town Council that discussion had taken place to have a tri-level meeting to discuss same, however, the Motion pertaining to same did not receive Council approval.

Mayor Peter Kelly enquired to Ms. Davis-Lohnes if it would be appropriate to have an environmental assessment carried out in accordance with the Environment Act.

Ms. Davis-Lohnes advised that the Environment Act is not applicable to this proposal. She further advised, however, an environmental study would be undertaken in accordance with the M.P.S.

Ms. Davis-Lohnes reiterated the fact that the PAC recommendations had been brought before Town Council. Although some anthropological studies had been carried out, it had been suggested that further studies be undertaken.

On a Point of Clarification, Councillor Len Goucher enquired to Ms. Davis-Lohnes on an actual Motion of Town Council dealing with the report.

Ms. Davis-Lohnes noted that no formal recommendation was ever made by Town Council other than the April 26, 1994 Motion which had been read into the minutes earlier.

Mayor Peter Kelly called a five-minute recess.

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Following the recess, Mayor Peter Kelly advised that Town Council recognized the concerns of Mr. Dwight Dorey, however, the Public Hearing would continue.

Mayor Kelly opened the floor for questions.

TONY EDWARDS - 8 SULLIVAN'S HILL

Mr. Edwards read a prepared statement noting his concerns: timing of all meetings dealing with this proposal; proposal is too dense; residents along Union St. may lose a portion of their front lawns due to widening of street; impact on sewage treatment plant and school facilities; ignoring comments from native community and comments from Petroglyph Advisory Committee; concern with potential flooding on Union St.

Mr. Edwards left a copy of an article he prepared for Heritage Canada Magazine with the Recording Secretary.

MR. FRED HALL - 93 UNION ST.

Mr. Hall read a prepared statement and expressed the following concerns: timing of this Hearing - one day is insufficient; this is a great injustice to the native people of Nova Scotia; people on Union St. have fought for their neighbourhood; upper levels of government have provided no assistance; former Mayor Peter Christie felt there was insufficient time to make a decision. He made reference to various statements made in the past by specific Councillors.

Mayor Peter Kelly called Mr. Hall Out of Order.

Mr. Hall continued his remarks noting there was a conflict of certain members of both the Planning Advisory and Petroglyph Advisory Committees; feels the people of Nova Scotia should preserve the land in question.

Mayor Peter Kelly called Mr. Hall Out of Order.

Mr. Hall continued his remarks noting there is too much traffic in the area now and that Town Council has carried out no action to close the access road. He is concerned that this development will generate additional traffic.

SHIRLEY TOWILL - 71 UNION ST.

Mrs. Towill addressed Council noting she would like to see the Barrens area protected. She expressed her concerns on traffic, stormwater, sewer and the impact of development on the Sackville River. Mrs. Towill advised that Council was well aware

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of the traffic problem in the area now. She expressed her concern on the formula utilized to determine the percentage figure of 27% increase of traffic should the development proceed.

Mr. McCusker, from Streetwise Traffic Engineering, advised that most of the traffic in the area was generated by mall traffic.

Mrs. Towill advised that the stormwater system could not handle the additional load and she enquired as to a definition of "majority" in the staff report.

Mr. Rick Paynter noted that "majority" as stated in his report, referred to 85%.

Mrs. Towill stated she was concerned with the diversion of stormwater and sanitary sewer discharge.

Mr. Paynter advised that alternative options would be examined relative to the diversion of the stormwater and sanitary sewer from the existing systems.

Mrs. Towill enquired of Planning staff if the development would access Centre St.

Ms. Jenifer Tsang advised this was not ever a part of this proposal.

Mrs. Towill enquired if Mr. Paynter, as a professional Engineer, would guarantee to the homeowners, that no problems will occur to their homes as a result of the development. She also noted that the RCDD Committee report recommended that the storm water and sanitary sewer system be improved up to date before development on the Barrens takes place.

Mrs. Towill advised it is Town Council's responsibility to ensure that existing residents do not suffer as a result of this development. She has lived in the area since 1976 and as yet as had no water damage to her basement. Should this proposal be approved, it should be the Town's responsibility to assist her if problems occur as a result of this development.

MICHAEL ROUGHNEEN - 16 BEDFORD ST.

Mr. Roughneen felt the Hearing was about what Bedford residents value, the values Bedford residents have and political principles. . Mr. Brian Molyneaux was brought in to do a superficial survey of the Barrens area. Subsequently, Mr. Molyneaux advised this was an important site. As a result, the Petroglyph Advisory Committee was established comprised of various members. Another individual, Mr. Stephen Davis, from St. Mary's University, was brought in to assist the Committee.

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Mr. Roughneen felt this entire matter goes beyond protection of the petroglyphs; it should address the entire area as a spiritual site. This position is not antidevelopment and this was never about antidevelopment. This is about the character of Bedford.

The Petroglyph Advisory Committee was advised this area was a spiritual site and therefore; the matter has to be resolved through a political process. The three levels of government should meet together to resolve the problem and the Town of Bedford should support the recommendations of the Petroglyph Advisory Committee. Mr. Roughneen felt the Town has not taken a position on the matter. The Redden Brothers' proposal should be set aside until the Petroglyph Advisory Committee report has been dealt with and a decision rendered. As well, it was noted the Town should determine what position the Federal Government is going to take.

MARVIN SILVER, VICE-PRESIDENT - SACKVILLE RIVER ASSOCIATION

Mr. Silver advised that the President of the Association, Mrs. Aileen McCormick, was also in attendance.

Mr. Silver advised the meeting that the mandate of the Association is to clean, protect, restore and preserve the River. He is concerned this project may have a negative impact on the River through flooding problems creating a runoff of silt and clay into the River. Mr. Silver felt that clearing 1 million sq. ft. of land within this development will drastically increase the runoff which will affect the mouth of the river.

With respect to the cultural aspect of this proposal, the Association feels the land is significant and should be part of the heritage of all Nova Scotians.

MR. ERIC FRASER - UNION ST.

Mr. Fraser advised that the Barrens was open land and good for walking. He was concerned that blasting in the area will create problems and that potential storm water problems were of great concern to all who live on Union St. He enquired as to how this proposal could be approved without dealing with the existing storm water situation.

With respect to traffic, Mr. Fraser advised that signalization at the Union St. and Bedford Highway intersection was justified now. He was concerned that mall traffic comprised 70% of the total number of vehicles using Union St and that the mall should be approached to cost-share on the cost of the signalization. As well, Mr. Fraser felt the funds to establish the traffic lights should be approved by Council at the

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time the Development Agreement is approved. Mr. Fraser also noted that the stormwater problems need to be clarified prior to approving this proposal.

In response to an enquiry from Mr. Fraser on the stormwater and sanitary sewer system, Mr. Paynter advised that the elevation of both systems will have to be set out in terms of the existing topography and that grades will have to be determined. The Town is cognizant of what the area needs in order to deal with the stormwater system and sanitary sewer system.

In response to an enquiry from Mr. Fraser if Redden Brothers Development Ltd. are going to cost-share, would it not provide the Town an opportunity to convert the Union St. area properly, Mr. Paynter advised this is a decision of Town Council as to whether they wish to commit the funds.

Mr. Fraser advised that Town Council should have the costs in place for the servicing infrastructure and traffic lights before approving the development. He felt the new Council should be able to make a decision on the proposal.

MR. MICHAEL SMILEY, MILLWOOD HIGH ENVIRONMENTAL COUNCIL

Mr. Smiley presented a petition to preserve the Barrens and read from a prepared statement making note of the fact that the Barrens have great cultural and historical significance. The petroglyphs are rare and the Town should not permit development on the parcel of land in question.

BETSY VANHELVOORT - 75 GILES ROAD

Mrs. Vanhelvoort advised that Town Council needs to look at its original intent which clearly showed a desire to go forward to acquire as much of the land as possible. The public wants retention of the Barrens and they need to know how much land will be retained. Mrs. Vanhelvoort felt the Town should not spend time considering a development as residents are receiving a mix message.

JOYCE PITCHER - 68 UNION ST.

Mrs. Pitcher enquired if consideration has been given to the mall access road if the development proceeds.

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Mr. Rick Paynter advised the Town has no future plans for the mall access road and he noted he is not aware of the mall's plans.

WADE MORRIS - MILLWOOD HIGH SCHOOL

Mr. Morris advised the Barrens have been in existence for a long time and that they should remain as a spiritual site.

AILEEN MCCORMICK - PRESIDENT - SACKVILLE RIVER ASSOCIATION

Mrs. McCormick enquired if the Federal Government was late in providing a response, can the Town stop the construction?

Mayor Peter Kelly advised that the question was difficult to respond to however, Town Council may defer a decision pending a response from the Federal Government.

In response to an enquiry as to what drainage plans will be approved within the next two weeks, Mr. Paynter advised that the project, in concept, may be approved, however, other aspects pertaining to the environment need to be approved and that the process could take months.

Deputy Mayor Bill MacLean sought clarification on Mrs. McCormick's question if no stormwater management plan was in place, can the developer go ahead the beginning of Spring, 1995.

In response, Ms. Davis-Lohnes advised that the developer cannot proceed until all the requirements of the Development Agreement are met.

PHIL CARTER - CENTRE ST.

Mr. Carter enquired if the proposal is approved, can the residents in the future, come back to Council with questions.

Ms. Jenifer Tsang advised that if the project is approved by Town Council, the next step is to place an advertisement for a 21 day appeal period with the Nova Scotia Utility and Review Board making the final decision. The Board will then determine if Council's decision meets the intent of the Municipal Planning Strategy.

Mr. Carter also expressed his concern with the proposed walkway which enters his property near First Avenue. He suggested nothing be done regarding the walkway.

Mr. Barry Zwicker noted that the developer can hold off until there is a definite

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destination for the walkway.

Mr. Carter advised he would like the brook system undisturbed at which time Mr. Zwicker advised 95% of the brook is off the developer's property. Accordingly, he did not foresee any problems.

MR. GORDON BURNS - 56 UNION ST.

Mr. Burns had a concern in that another access road to the project is required. Mr. Paynter advised that the contours of the land prohibited the construction of a street that would connect to either Centre Street or First Avenue.

Mr. Brown enquired if there was any other location which could be utilized as an exit point at which time Mr. Zwicker explained why it was physically impossible.

MS. WETSKE GRADSTIN - CENTRE ST.

Ms. Gradstin noted the entire RCDD area should be addressed at once and that Town Council should wait for a response from the Federal government prior to making any decision on the proposal.

Ms. Davis-Lohnes advised that the Town cannot force the property owners to join the planning process if they are unwilling to do so. however, in the best interest of property owners, they should take an active part in discussions.

As there was no further speakers, the meeting adjourned at 11 p.m.

MAYOR

CHIEF ADMINISTRATIVE OFFICER