

Town of Amherst Planning Advisory Committee Minutes

Date of Meeting: Monday, December 3, 2018
Location: Council Chambers, Town Hall

Members Present: Deputy Mayor Sheila Christie
Councillor Terry Rhindress (Vice Chair)
Councillor Jason Blanch
Citizen Appointee Gordon Goodwin
Citizen Appointee Ronald Wilson
Citizen Appointee Larry Pardy

Staff Present: Manager of Planning and Strategic
Priorities, Andrew Fisher
Municipal Clerk Kimberlee Jones
Admin Assistant Emily Wainwright

1. Call to Order

Vice-Chair called the meeting to order at 5:00 p.m.

1.1. Approval of Agenda

Moved By: Citizen Appointee Goodwin
Seconded By: Deputy Mayor Christie
That the agenda be approved.

Motion Carried

1.2. Approval of Minutes

Moved By: Citizen Appointee Wilson
Seconded By: Councillor Blanch
That the minutes of the November 13, 2018 PAC meeting be approved.

Motion Carried

2. Public Participation Opportunity – 150 East Victoria Street Development Agreement Application

2.1 Staff Report Presentation

Mr. Fisher reviewed his report as included as part of the agenda package.

2.2 Committee Questions

Citizen Appointee Wilson asked if the current building has been converted from 10 units to five. Mr. Fisher responded that that was correct. Mr. Wilson then asked if then those 5 motel units currently have a kitchenette with a stove. Mr. Fisher replied that there were reports of stoves being installed, but my understanding that there are now no stoves in the units. Mr. Wilson asked if the property was still being used as a motel. Mr. Fisher replied that yes that was correct.

Deputy Mayor Christie stated that if this is approved as a development agreement, it will then go to a building permit, but there was an issue of work done before without a proper permit. There is also an issue with fire proof insulation, or fireproofing on the back wall, because there is a residence so close, and because a permit was not issued the inspection was not done and we are not able to know if that has been completed or not to code. Am I correct in saying that? Mr. Fisher responded that my understanding is that when the conversion was made in 2016/2017 from 10 units to 5, work was started without a building permit. Building inspection officials inspected the property and they determined that since the use was not being changed, a permit was not required. If the development agreement were to be approved, that approves the use on the property, and the next significant step for the property owner is to show in a plan, that the building as dwelling units will meet the national building code, which may require extensive renovations. Deputy Mayor Christie followed up asking if the development agreement is then required in order to get to the next step. Mr. Fisher replied yes.

Councillor Blanch referenced #6 in schedule A and the reference in the development agreement that lists a minimum of parking spaces. I believe that the minimum of 17 spaces, 1 space per unit and an extra space, from the photos and thinking of landscaping, and I remember concerns from the past, I would like to put in my recommendation, space for landscaping or green space as a benefit to people living there, neighbours, and the town. We have in our agreement that asphalt will be taken care of and maintained. My thinking is that we wouldn't expect them to do the work until they have gone through the building code process, but I would feel an agreement to do the work be appropriate.

Citizen Appointee Goodwin asked if someone would explain why it wouldn't be helpful to do a proper engineered drawing now, because that would take care of a lot of things listed in Schedule A. Mr. Fisher responded that there would be a cost to engage in an engineer professional, and there would be an upfront cost,

and without knowing whether the development agreement would be approved, there would still be a cost. If it were a new project, you would have a preliminary design that would be put together, but in this case, we have an existing building, so there was not an immediate need for a design official

Citizen Appointee Pardy asked if the purpose of the development agreement was for the maintaining of the commercial character of the building, but at the same time the wording also states to provide patios and benches, is that maintaining commercial character, or does it make it more attractive for someone living there and long-term residents. Mr. Fisher responded that he thinks that is correct, the report from the 2017 process showed there was an issue with lack of green space and amenities, the inclusion of benches was a way to provide a space for residents.

Citizen Appointee Wilson asked, with regards to the development agreement and the conditions that are incorporated, how are they policed to ensure that the items identified are fulfilled. Mr. Fisher replied that the Building Inspector and Development Officer would oversee that.

Citizen Appointee Pardy asked if a development agreement would be needed for an occupancy change, where it changes the nature going from a motel to a long-term residency. Residents living there long-term may be inclined to BBQ, so are those things permitted. Mr. Fisher replied that it would be permitted now as a motel, and as a residential property. Mr. Pardy then asked about a shed for residents. Mr. Fisher replied that it would be subject to the land use bylaw in terms of an accessory building.

Deputy Mayor Christie stated that there is a door going directly to the bedroom, would one door then be taken away. Mr. Fisher replied that no, all doors would be remaining so there is no change in the exterior.

Citizen Appointee Goodwin asked if these units would be for sale or for rent. Mr. Fisher responded that the units would be for rent but said that it would be possible for the property owner to apply to have it converted into a condominium.

Councillor Blanch stated that the renovations have already been done, and that they only need approval to add the stoves, I understand that these are already being rented by the month rather than the night, but I may be incorrect. Mr. Fisher replied that he believes they are rented by the month, but all motels have that option. But it raises a good point that if these are rented as long-term apartments, the inclusion of a stove or the use of a hot plate and in terms of safety and whether that is safe long term, that is not an insignificant issue.

2.3 Owner Questions & Comments

Jack Van Der Donk owner of Victorian Motel. To address the parking issue and beautification of property, the upper section is staying as single motel rooms, so we would need all 10 parking spaces there. For the lower section we are trying to

convert to suites, we would have to do it way in the back of the driveway in order to complete the beautification. The beautification part of it is going to be very difficult I am willing to try anything if any suggestions have been made. The rooms have been closed for a few years now because of the tourism industry is slowing down here in Amherst and instead of being closed we have converted them to suites. We have had an electrician come in and rewire the building. We have the fire-resistant drywall on, smoke alarms in each room that are connected to the electrical system, so you don't have to worry about batteries. The building inspector was there and approved everything that we had done. Nova Scotia Power was also in and approved what had been done, we are only asking to have a stove put in.

Citizen Appointee Goodwin asked the owner if we were only talking about the lower units, and that the upper units will remain as motel units. Mr. Van Der Donk replied that that was correct.

Councillor Blanch stated that the property owner could do something with every second space and have green spaces. If you took the asphalt off every second space, and add some shrubs, it would make it look much better. If you were to do it in the back, you would have twice as much space, like the last 5 spaces, where you could have some lawn space. Mr. Van Der Donk replied that he also must worry about the snow clearing. Right now, the plows push the snow to the back of the property. Councillor Blanch then asked the owner if there was a significant cost he may be worried about, what has been the resistance in the past. Mr. Van Der Donk replied that it is mainly the snow clearing, and that is the only resistance he has to taking away parking spaces. If it is necessary to get the agreement, it is something I will do. Councillor Blanch then asked if there were any residents living there. Mr. Van Der Donk replied that there is one resident, and only one unit is being rented to a senior lady who lives by herself.

Citizen Appointee Goodwin referred to the section where the pavement must be maintained and told the property owner that there seems to be a need for work to be done. Mr. Van Der Donk replied that the snow plows have been loosening things up. The pavement is still good, it has just settled. Mr. Goodwin stated that it looks like the water is going to run into one of the doors. Mr. Van Der Donk replied that there is a step there.

2.4 Public Questions & Comments

Johnathon Ettinger, I live directly behind it. This is the second time I have been here to oppose this decision to change it to dwelling units. Andrew is right with the closeness and proximity of the building the rain comes right on our property, and it is within 12 inches of our property line. When we moved in 16 years ago the motel was a going concern with onsite owner who kept up the property and were responsible for the overnight guests. The last 10 we have certainly seen a decline of motel stays and are almost all long-term residents. We have not seen the coming and going of individuals. To give some perspective, work first began

to convert these into apartment units without a building permit. I was driving by and there was work going on, so I called the Town to find out what was happening, and there was no building permit that had been issued. There was not a development agreement or any concern for the adjacent properties. So, from what I understand, the building inspector went in to check out the renovations, and a permit was issued. Plans were developed after that, which again came after the building permit. I suspect the Town was satisfied with everything that Andrew was saying, and what was done to the motel units was absolutely fine. Part of the permit that was issued said specifically that there is to be no ovens in that space. On the 19th of June, as I was driving down the street, with their doors open, the first three units all had ovens. 2 units down from that is where the building permit was posted, which says 'no ovens.' They were installed anyways, with the other renovations, I'm assuming they were hoping no one would notice. This is the biggest part of it, that having those 3 ovens changes the way that the space is used and how that property works. We have seen little improvements go on the exterior. There is a hose that is hanging out of one of the windows on my side of the property. There has been a pile of wood that has been sitting outside of the building for the last two months, and there was a couch that was there for a couple weeks as well. My position from the last time is certainly the same. We have had a lot of issues with the number of police visits, hypodermic needles that were found on the property, where people were disposing of them in the manhole on the property. Fire code is certainly the biggest issue; none of that work was verified, there were no engineered documents as to what was going to happen, the fire precautions that were necessary between the units to stop the spread of fire, but also to my side. If they were to apply the building code, all of these windows would have to disappear, the back would have to change to non-combustible material, because we are within 12 inches of the building sitting there. The building is an eyesore as far as our neighborhood goes, and we do not allow our daughter to walk down that side of the street along that property. There is only one person living there right now, and already look at the build up of items that is on the property. We could assume there is a lady living there, but we have only ever seen a guy standing outside, and he has to stand by the door to smoke. The beautification that we have talked about the last time I was here, and with new properties and how much of a buffer you need between the property itself and adjacent properties. There is nothing in this that makes any of these units livable for the people there. Much like what Jason was saying, there are no green spaces, and the last application said there were some baskets, benches, and he was going to paint, and nothing has been done. Nothing has happened in 10 years. If there is one specific thing, it is fire code.

Councillor Blanch asked Mr. Ettinger what could be done to improve his position, but we were to agree with the owner's desire and allow this development, is there potential for things to improve. If we were to force greenspace, perhaps it would change the tenants. What would be your hope. Mr. Ettinger replied that I guess to compare to the last time I was here, they were applying for rental units, and where they are located on Marshview, the detail in which the size of the patios outside, the amounts of space each person has, it was very specific and the Town was very specific of what needed to be there. There is nothing here that

will transform that space. If someone came in with a full proposal, detailing what is exactly going to happen to make the neighbours happy and the people living there happy and to live a fulfilled life. If there were detail, I would say that was great. If we saw anything happen, then I would be more optimistic about the future. If anything, we are going downhill and adding 4 more people to that space, will not make it a nice place for residents.

Deputy Mayor Christie stated that the last time this was before Council, I voted it down based on a lot of your comments, and I agree with what you are saying, but I have come to realize that after having discussions and reading this, that we will not have a say in any of this if the development agreement is not accepted. That is my hope, that if we enter into this, then the Town has some say into what happens. Ettinger replied that he certainly understands that position, but even after the property owner was told no ovens, he still added ovens. As far as I know, this is still up for sale.

Citizen Appointee Goodwin stated that he supports the Deputy Mayor request to move forward with the development agreement, then at that stage an engineer drawing must be provided, that shows improvements to the property, safety, fire, windows, proper doors, etc. on that basis that I vote this go forward to that point.

John, neighbour, stated there were a couple of points he wanted to address that I heard tonight that need to be addressed. The first one is the Deputy Mayors comment. I have been across the street for 18 years, and I have seen people come and go, the previous owner was no better than the owner now in the respect of what has been done to the property. You are dealing with a building that is in existence. You talk about the new developments and the amount of yard space that they need, sure with new developments there should be restrictions. With an existing building, how do I as a neighbour allow this to continue, with a man that invests in real estate to be told that no you cannot increase your property value for any reason. Regards if it was for sale, or to attract better tenants, because that's what I think will happen. I think you have a better chance of that building looking good if you have it rented and are collecting rent. If it continues like it has been lately, where nobody lives there, and no one is paying rent, then he has no money to spend on it, and no motivation to fix it up. Even if he wants to sell it, that is his right. The only reason why I stood up tonight is that Council has to determine that property owners have rights. We have a right to develop our property, maintain our property, to sell our property, you have the right to collect taxes on our property. I have heard a lot about greenspace, this is a restive area where this is an existing building. You have parking spaces there and tearing them up to make green space will just cripple the snow removal there. There is no place to pile the snow there, which increases the cost. If you're placing most costs on this gentleman that make it impossible for him to repair that property, and if the amount of work that he needs to do is not worthwhile for him to do because he's only going to get \$650 a month for rent, that is really the determining factor. There is a better chance he is going to get more rent if his building is more attractive. He is also going to attract a better class of people. Little kids are not going to go and live there with a single mom or single dad, if there is no stove there. To have a stove there he must pass certain conditions, and I do not know how he is going to pass those, but at least that should be

allowed. Council should have no say in that; let the building department determine whether it is safe or not. He has property rights as a property owner. All you guys do is collect taxes. You have certain regulations to follow, and we want a certain consistency, so if you start imposing limitations on everything and say it has to be picture perfect, no one will be able to afford the place. That is exactly why places in this Town do not get maintained. For instance, I live in a house where I could put a \$23,000 roof on and still only get \$75,000. Real estate values are such that no matter what I do, I could put in gold toilets, and I would still only get a certain value for my house. There is a maximum rent, and he can't spend \$10,000 in renovating each unit to improve it, make it look beautiful, and make all of us happy while still making a dollar. Some compromise has to be made. If you want to start seeing tenants come in there on a nightly basis and convert it back to a cheap hotel.

Councillor Blanch asked if John thought the reason why the four out of the five units were not rented was because of the lack of stoves. John replied, that yes, because there will be single people living there, but if you have someone with a child, all you are doing is punishing that child without a stove.

Being no further speakers, the Public Participation Opportunity closed.

Councillor Blanch asked for clarification of the process by entering into a development agreement, then the Town would have more ability to verify the work that will be done. Mr. Fisher replied that right now there is no development agreement tied to that property. The only real remedy the Town has to rectify issues is through the dangerous and unsightly premises bylaw. A development agreement is the maximum amount of control a municipality has on a property. So, the terms and conditions of the agreement gives the municipality the control of what happens on an ongoing basis.

3. Motion to Conclude the Public Participation Opportunity and Return to the Regular Planning Advisory Committee Meeting

Moved By: Citizen Appointee Wilson

Seconded By: Citizen Appointee Pardy

That the Committee conclude the Public Participation Opportunity and return to the regular meeting.

Motion Carried

4. Adjournment

Citizen Appointee Goodwin motioned to adjourn the meeting at 6:08p.m

Motion Carried

Kimberlee Jones, Municipal Clerk

Vice Chairman Terry Rhindress

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