

MUNICIPALITY OF THE COUNTY OF
ANTIGONISH

COUNCIL MEETING REVISED AGENDA

Thursday, August 9, 2018, 7:00 pm

Board Room

Municipal Administration Building

285 Beech Hill Road

Beech Hill, NS B2G 0B4

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1. Call to Order- Chairman, Warden Owen McCarron
 2. Approval of Agenda
 3. Statutory Public Hearing

The Council of the Municipality of the County of Antigonish intends to consider and, if deemed advisable,

1. Amend the Antigonish County Fringe Area Municipal Planning Strategy to reiterate the intention of Council to prohibit the creation of private roads in serviced areas but at the same time define exceptions to this rule in the Municipal Subdivision By-law; and
2. Amend the Antigonish Subdivision Bylaw to allow for the approval of private roads situated in the area of the "Fringe Plan Area Secondary Municipal Planning Strategy" where the creation of such private road, including construction standards is regulated through a development agreement and where the applicant provides the municipality with a "service easement".

Notice of this Public Hearing was posted July 25th and August 1st 2018 in accordance with the requirements of the Municipal Government Act.

4. Committee Reports
 - a. August 9th Planning Advisory Committee Report

This report will be provided at the meeting.

5. Motions

a. Request for Tax Write-off Due to Fire Damage

Municipal Staff has received notification from PVSC regarding a dwelling on a property that was destroyed by fire earlier this year. The Municipal Government Act (MGA) 1998, c.18, s.1 provides at s.69A that a municipal council may, by policy, provide for reduction or reimbursement of taxes payable in cases of property destroyed or damaged by fire. PVSC has provided a revised assessment value for the property, and Finance staff have calculated this to result in a write-off of \$193.64 for AAN 03706109.

*b. The Acadian Forest and Farm School

The Acadian Forest and Farm School was chosen as a recipient of the Farm Credit Canada AgriSpirit Fund, which is a \$25,000.00 donation toward eligible capital expenses. In order for the Acadian Forest and Farm School to be able to receive any funds the Municipality of the County of Antigonish will have to agree to be bound by the terms of the agreement and will have to:

- Receive and administer the Funding Amount on behalf of the Acadian Forest and Farm School
- Ensure that the Funding Amount is used only for the Project
- Maintain the financial records required by this Agreement; and
- If the Acadian Forest and Farm School fails to do so: complete and submit to Farm Credit Canada the Project Completion Form and provide Farm Credit Canada confirmation that the Acadian Forest and Farm School received the funding amount.

If the County approves this request than Farm Credit Canada will send the \$25,000 to the County and we will be required to administer the funds, maintain financial records and report on the project if the Acadian Forest and Farm School is unable to do so. If the Committee decides to approve this request, the Acadian Forest and Farm School will have to submit their funding application dated March 27, 2018 so that the County will know what the eligible expenses should be.

6. Miscellaneous Business

7. Adjournment

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

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|--------------------------------|--|
| 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

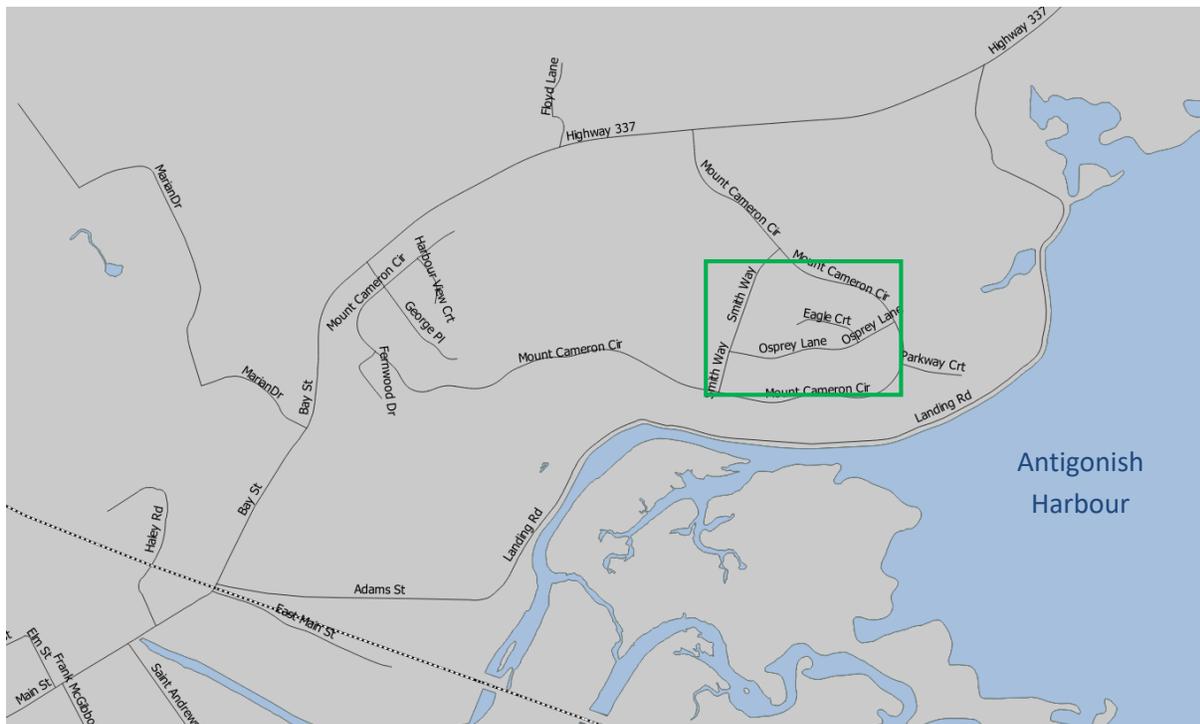


Figure 2: Location map of the area shown on Figure 1

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