

COUNCIL REPORT

M&C No.	2021-092
Report Date	March 26, 2021
Meeting Date	March 29, 2021
Service Area	Growth and Community Services

His Worship Mayor Don Darling and Members of Common Council

***SUBJECT: Proposed Municipal Plan Amendment – 2100 Sandy Point Road
(Ethos Ridge) Supplementary Report***

OPEN OR CLOSED SESSION

This matter is to be discussed in open session of Common Council.

AUTHORIZATION

Primary Author	Commissioner/Dept. Head	City Manager
<i>Andrew Reid</i>	<i>Jacqueline Hamilton</i>	<i>John Collin</i>

RECOMMENDATION

1. That Common Council redesignate, on Schedule A of the Municipal Development Plan, land having an area of 8.57 hectares, located adjacent to 2100 Sandy Point Road, also identified as PID No. 55238471, from Park and Natural Area and Rural Resource Area to Stable Area;
2. That Common Council redesignate, on Schedule B of the Municipal Development Plan, land having an area of 8.57 hectares, located adjacent to 2100 Sandy Point Road, also identified as PID No. 55238471, from Rural Resource and Park and Natural Area to Major Community Facility and extend the boundary of the Primary Development Area (PDA);
3. That Common Council rezone a parcel of land having an area of approximately 8.57 hectares, located adjacent to 2100 Sandy Point Road, also identified as PID Number 55238471, from Rural (RU) to Major Community Facility (CFM) zone;
4. That Common Council impose the following conditions on land having an area of 8.57 hectares, located adjacent to 2100 Sandy Point Road, also identified as PID No. 55238471 pursuant to section 59(1)(a)(ii) of the New Brunswick *Community Planning Act*:
 - (a) There shall be no vehicular access to the development off Pelton Road. The entrance to Pelton Road is to be gated and utilized only by service vehicles required for limited inspection and maintenance of the lift station and pad

mount transformer. All other vehicles are to enter the site from Sandy Point Road.

- (b) The Sandy Point Road access driveway shall be owned and maintained by the property owner. It shall not be owned, maintained or serviced by the City of Saint John;
 - (c) The development, in accordance with paragraph 4 (d) and (e), shall be completed within 5 years of the date the rezoning came into effect. If it is not completed within that time, Council may take steps to cancel the resolution and agreement and repeal the rezoning pursuant to Section 59(5) and 59(6) of the *New Brunswick Community Planning Act*; and,
 - (d) The development shall be restricted to the “Supportive Facility” use as identified in the Major Community Facility (CFM) Zone of the City of Saint John Zoning By-law.
 - (e) The development and use of the parcel of land shall be in accordance with a detailed site plan, landscaping plan and elevation plans, prepared by the developer and subject to the approval of the Development Officer. These plans shall be attached to the permit application for the development of the parcel of land and shall substantially conform to the landscape and site plans contained in this report, with particular regard to the minimum 30 metre wooded buffer between any building and the northern property line at Pelton Road and the minimum 30 metre setback and buffer from the Kennebecasis River.
5. That the City, upon third reading at Common Council, pursuant to the provisions of Section 59(1)(b) of the *Community Planning Act*, enter into an agreement with the developer of the parcel of land having an area of approximately 8.57 hectares, located adjacent to 2100 Sandy Point Road, also identified as PID Number 55238471 respecting the following:
- (a) The developer’s obligation, at its own cost, to upgrade the existing municipal infrastructure required to service the proposal, which comprise the extension of water and sewer, and the restoration of the street;
 - (b) The developer is to maintain public pedestrian access to a private trail system on the property;
 - (c) The developer is to contribute to the cost of implementing traffic calming measures at the Foster Thurston/Sandy Point Road intersection. The contribution is to be commensurate with the amount of impact; and,

- (d) Subsequent to extension of services on Sandy Point Road, the developer is to restore the east side of the street from the subject property to the Westmount Drive intersection to include an asphalted and delineated pedestrian walking surface.

- 6. That the City, upon third reading at Common council, pursuant to the provisions of Section 131(1) of the *Community Planning Act*, enter into an agreement with the developer of the parcel of land having an area of approximately 8.57 hectares, located adjacent to 2100 Sandy Point Road, also identified as PID Number 55238471 respecting the following:
 - (a) The developer paying the charges, if any, made to the current landowners of 2002 Sandy Point Road (PID # 00050930), 2020 Sandy Point Road (PID # 55184337), and 2045 Sandy Point Road (PID # 00051276) pursuant to section 117(5) of the *Local Governance Act* or the cost of said landowners to connect to the municipal water and sewer infrastructure constructed pursuant to paragraph 5 (a), whichever option is elected by the said landowners, within 1 year of the commissioning of the municipal infrastructure extension in question; and the developer entering into an agreement with the said landowners in this respect; and,
 - (b) The developer commissioning and making available to the public an expert opinion regarding the impact of the development on the groundwater recharge in the area.

- 7. That the City Manager direct staff to take the following actions respecting the identified traffic issues:
 - (a) Prioritize the Foster Thurston Road/Sandy Point Road intersection roundabout, as identified by MoveSJ, to be considered as part of the City's 10-year capital budgeting plan process;
 - (b) Implement traffic calming measures in the area of the Foster Thurston Road/Sandy Point Road intersection to address speeding and sightlines and continue to conduct appropriate monitoring;
 - (c) Report back to Council no later than one year after the date of the issuance of any occupancy permit for the development on the status of the Foster Thurston Road/Sandy Point Road intersection; and,
 - (d) Proceed with the installation of a four-way stop at the intersection of Sandy Point Road and Westmount Drive/Kennebecasis Drive.

EXECUTIVE SUMMARY

The purpose of this report is to provide Council with supplementary information to give effect to the Planning Advisory Committee (PAC)'s recommendation before Council.

Staff have prepared a suggested recommendation for Council considering this information based on what is within the City's jurisdiction and existing By-laws. In summary, staff propose the following adjustments:

- (1) Recommending that limitations on construction vehicle access to Pelton Road is dealt with through the City's Traffic By-law, as the existing mechanism, and not through a Section 59 condition;
- (2) Adopting and enhancing the Committee's proposed amendment to ensure the 5-year time limit on the development is linked to the development as it is presented, by also adding a condition that limits the use of the property exclusively to a "supportive facility" (defined as senior's housing);
- (3) Ensuring the developer's agreement to examine the groundwater recharge is dealt with through a Section 131 agreement, as opposed to a Section 59 agreement to reflect the appropriate legal mechanism under the *Community Planning Act*; and,
- (4) Ensuring the developer's agreement to pay the referenced water costs are dealt with through a Section 131 agreement, as opposed to a Section 59 agreement to reflect the appropriate legal mechanism under the *Community Planning Act*.

Furthermore, this report expands on several issues which were highlighted at the Committee's meeting, including municipal servicing, fire service, and environmental impact.

A recommendation is also included to provide staff direction on traffic issues, as was committed to in the report to PAC, but which lay outside the Committee's jurisdiction and was not put forth at that meeting in recommendation form.

PREVIOUS RESOLUTION

On February 22, 2021, Common Council received letters of correspondence from the 30-day comment period and referred the Plan Amendment and Rezoning to the Planning Advisory Committee for a recommendation.

REPORT

Staff have carefully reviewed the Committee's proposed amendments to the staff recommendation, which occurred at the Planning Advisory Committee meeting on March 16th, and was made in response to concerns identified by citizens. As per the Chair's Recommendation Letter (Attachment 1), the Committee resolved to make four amendments to the staff recommendation. These are each discussed below:

1. Pelton Road Access

The development is proposed to be accessed from Sandy Point Road via an approximately 500 metre driveway, owned and maintained by the developer. This access has not yet been constructed. There is also a frontage on Pelton Road, which is proposed to be gated and used exclusively for servicing a pump station and transformer pad, which is expected to be infrequent. With this understanding, staff proposed a Section 59 condition to ensure access is oriented to Sandy Point Road.

In response to neighbours' concerns regarding construction, the Committee passed a resolution to amend the condition 4(a) to prohibit, in addition to any vehicles once the development was completed, any construction vehicle from using the Pelton Road access.

Staff understand the concerns relate to Pelton Road being a local road, wear and tear on street infrastructure, and safety concerns. The Traffic By-law provides the means to address these concerns. Staff recommend that Common Council give effect to the views of the Planning Advisory Committee through the processes in the City's Traffic By-law.

Section 19(3) of the By-law ensures that commercial vehicles over 4,500 kg use the safest and shortest route through any local road from a truck route to the construction site. Further, Section 19(4) requires permission from the Commissioner of Public Works for any commercial vehicle engaged in activities related to construction, for the use of any road other than a truck route. Sandy Point Road to Kennebecasis Drive is classified as a Truck Route in accordance with Schedule J of the By-law. Any construction vehicles, particularly those that are over 4,500 kg, using Pelton Road will require approval from the Commissioner.

As per typical practice for a project of this size in its current phase, the developer has not yet selected a general contractor or developed a detailed construction management plan. The developer has indicated that they intend to limit access off Pelton Road and they are encouraged to do so; however, in certain cases access may be desirable from Pelton Road prior to the construction of the Sandy Point Road private access. For example, the developer intends to conduct well monitoring by drilling a test pit but without access to Pelton Road, vehicles

would not be able to access the site through Sandy Point Road to conduct this activity.

2. 5-Year Sunset Clause

Section 59(a)(iii) of the CPA enables Council to prescribe time limits in which the proposal may be carried out. Condition 4(c) of the staff recommendation proposes a 5-year period as a reasonable timeframe in accordance with Municipal Plan Implementation policy to complete the development, otherwise Council may revert the lands to the former land use.

Concern was expressed at the meeting and in written correspondence that this condition was ambiguous and urged it be strengthened by indicating that it reference the specific proposal brought forward by the proponents. This led the Committee to expand staff's recommendation and tie the 5-year period to the specific development. The implications of this are that if the development as proposed by the proponent is not built within 5 years, Council would have the authority to revert the zoning.

Staff have reviewed this amendment and it is within Council's power to impose. Recommendation 4(e) requires the development "substantially conform to the landscape and site plans contained in this report." Substantial conformance is a reasonable condition that ties the development to the site and landscaping plans but enables design changes that may be required during the detailed design phase of the project. Recommendation 4(e) provides that at the time of building permit application submission, the Development Officer will be required to review the submission and ensure it substantially conforms with the site plan and landscaping plans submitted with the Rezoning application.

For further clarity and strengthening of this condition, staff have also introduced an additional condition 4(d), to limit available land uses under the Major Community Facility Zone exclusively to a Seniors Housing, meaning no other main uses would be permitted on the property and the proposal should overall substantially conform to what has been brought forward by the proponent.

3. Groundwater Recharge Study

Hearing concerns raised by citizens related to well water quantity and quality in the area, in particular about how the development may impact groundwater recharge, the Committee resolved to apply a condition as part of the development that groundwater recharge be incorporated within the developer's scope of work for a stormwater drainage submission.

The City has reviewed this resolution with the General Counsel's Office in terms of legal jurisdiction and Infrastructure Development staff in terms of the Drainage By-law. The City has no jurisdiction in regulating well water and further, this is reflected in the city's review and regulation of stormwater management.

At the same time, it is understood that the developer is proposing to address this concern through a hydrogeological submission as a matter of public record, in conjunction with their efforts to measure and monitor the impact of the development on the neighbourhood. This submission will be available to the public but not reviewed by City staff as it falls outside the municipality's jurisdiction. As the submission is strictly being proposed by the developer, it is recommended that this condition be incorporated as part of a Section 131 agreement under the Community Planning Act.

4. Payment of Unconnected Fees

In accordance with the Water and Sewer By-law and current Saint John Water policy, there are three properties that would be charged an annual unconnected rate upon commissioning of the proposed 270 metre watermain should they decide not to connect. The March 12th staff report made this clear. During the Committee meeting, the developer provided a commitment to either pay for these property owners to hook up to services or pay the unconnected fee. The Committee requested that this commitment be formalized through a condition of the development. Staff recommend that the condition be implemented through a Section 131 agreement, as it is something similarly being proposed by the developer outside of the normal land use provisions governed by the Zoning By-law or Subdivision By-law.

5. Other Changes

The developer has acquired the property and consolidated the two former PID numbers into one. The PAC's recommendation been updated to reflect this. For clarity, should the by-law amendment be registered, staff recommend that Council's resolution correctly reference the property as PID Number 55238471, and note that the civic number in question is located adjacent to 2100 Sandy Point Road.

Issues Identified at PAC

The staff report dated March 12, 2021 contains a comprehensive review of the proposal based on feedback provided by several departments. Additional information and clarification is provided below in response to detailed concerns that emerged at the meeting:

Municipal Operations and Servicing

- In response to concerns regarding the state of existing stormwater and road infrastructure, Public Works and Transportation has reviewed the submissions and are in the process of investigating and will make repairs where appropriate. Staff encourage citizens to submit work requests for any issues that they are aware of. Citizens may do so through the City's Integrated Customer Service Centre at 658-4455, via our website, or by emailing service@saintjohn.ca.

- Priority of re-paving is based on condition of roadways as measured by the Pavement Condition Index. Staff have identified that Pelton Road is presently on the short list for paving in the next few years. This work will be scheduled around any potential development, or any required culvert repairs identified through the review.

Fire Services

- The proposal was circulated to the City of Saint John Fire Services. From a public safety perspective, it is understood the development will require both a Fire Sprinkler System and Fire Alarm System. Function fire suppression systems combined with maintained and accessible means of egress are two critical life safety factors that will be addressed through the Building Permit and Office of the Fire Marshall's Plans Review processes.
- With respect to the fire department access route to the building, the access is subject to adherence with Access Route Design Requirements of the 2015 National Building Code, as part of the Building and Development Permit Review process. This access road would be tested well in advance of occupancy of the building.

Environmental Impact

- The Proposal was circulated to Province's Department of Environment and Local Government (ELG). A Wetland and Watercourse alteration permit would be required prior to any activity within 30 metres of a watercourse or wetland feature on the property. According to the ELG mapping application, there are no such features on the property. A WAWA permit would be required for any activity within 30 metres of the Kennebecasis River.

CONCLUSION

This recommendation before Council has been crafted to best give effect to the Planning Advisory Committee's unanimous recommendation to proceed with the development while addressing the concerns raised by the public.

STRATEGIC ALIGNMENT

While the holding of public hearings for proposed rezoning and Section 59 amendments is a legislative requirement of the Community Planning Act, it is also a key component of a clear and consistent land development process envisioned in the One Stop Development Shop Program. These processes provide transparency and predictability for the development community and

City residents.

On a broader note, the development approvals process works towards fulfilling key Council priorities including:

- ensuring Saint John has a competitive business environment for investment,
- supporting business retention and attraction; and
- driving development in accordance with PlanSJ which creates the density required for efficient infrastructure, services and economic growth.

INPUT FROM OTHER SERVICE AREAS AND STAKEHOLDERS

Input from Public Works and Transportation, Utilities and Infrastructure, Fire Services, and the Office of General Counsel were incorporated into this report.

ATTACHMENTS

- 1 – PAC Recommendation Letter
- 2 – Staff Report to PAC and Correspondence
- 3 – Additional Correspondence
- 4 – Amending By-law
- 5 – Council Presentation