Planning Review Adjustment Committee
November 13, 2013

Minutes of the meeting of the Planning Review Adjustment Committee of the Fundy Regional Service Commission held on Wednesday, November 13, 2013 at 1:00 p.m. at Crane Mountain, Saint John.

1. Call to Order

The Chairperson, Dwight Allaby, called the meeting to order at 1:00 p.m.

2. Record of Attendance

BOARD MEMBERS

Dwight Allaby, Chairperson
Joan Seeley, Vice Chairperson
Glen Baxter, PRAC Member
Robert Buck, PRAC Member
Paul Gordon, PRAC Member
Merv Hebb, PRAC Member
Walter Pollock, PRAC Member [Absent]
Brenda Rathburn, PRAC Member

OTHERS

Brian Shannon, FRSC, Chief Building Inspector/Development Officer
Dan Daigle – Juehui Intl. Corp. Canada
Ken Situ – Juehui Intl. Corp. Canada
Hodges Hamm – ReMax Professionals
Ron Gale – Property Owner
Group of residents from the community (6)

3. Approval of Order of Business

The Chairperson asked for approval of the agenda as presented.

Motion: To approve the agenda November 13, 2013 as presented.

Moved:	Paul Gordon
Seconded:	Joan Seeley
Vote:	Motion Carried

4. Disclosure of Conflict of Interest

None

5. Approval of Minutes

The Chairperson asked for the approval of the minutes as presented.

Motion: To approve the minutes of August 14, 2013 as presented.

Moved:	Glen Baxter
Seconded:	Merv Hebb
Vote:	Motion Carried

6. Presentation of Juehui International Corporation Canada Non-Conforming Use Application

Decision Required

Request to extend the ten month time period a non-conforming use can be discontinued and still maintain its 'non-conforming use status' to allow for the re-establishment of a previous use, a water bottling operation.

Staff Presentation

Brian Shannon gave an overview of the presentation on the application, which included the Committees function and legal authority.

Applicant: Juehui International Corporation Canada

Request: To extend the ten month time period a non-conforming use can be discontinued and still maintain its 'non-conforming use status' to allow for the re-establishment of a previous use, a water bottling operation.

Requirement: To re-establish a non-conforming use that has been discontinued for a period exceeding ten months the request to extend the period is to be considered by the Regional Service Commission as per Community Planning Act, Article 40(2)(a).

Overview of Application: The applicants Juehui International Corporation Canada wish to purchase the property with PED 55200869, contingent upon proper zoning approval to allow for the re-establishment of the water bottling operation. The current owners have given written authorization to allow the proponents to request an extension to the non-conforming use period.

The current owners, 504982 NB Ltd. Have stated the former water bottling process operation ran from 1999 to 2009 within the warehouse. In 2009 the water bottling operation was bought out and the equipment sold and dismantled after the sale of

the water portion of the business. The water bottling operation has been ceased for four years. The building continues to be used as warehouse and offices since.

The proponents plan is to re-establish the water works by installing new equipment, completing renovations to the building along with some site landscaping and access alterations. They expect there would be some employment opportunities with the recommenced operation.

Consultation: Letters and communications with Department of Environment, Health, Transportation and the Canadian Food Inspection Agency. Eleven notices, as required were sent to neighbours within 100 meters of the address. Five responses were received.

Discussion

Vice Chair Seeley asked Mr. Shannon for clarification regarding setting terms and conditions if the non-conforming use is extended. Mr. Shannon advised that it would not be possible. If however, the property goes through the rezoning process and is approved then terms and conditions and outcomes of the required EIA could be imposed.

PRAC Member Gordon asked about the possibility of sinking wells in the future. Mr. Shannon advised that it is not in the current plan, and that it would be the responsibility of the Department of Environment to deal with that issue.

The board heard from the residents opposing the project, the current property owner as well as the proponent.

Vice Chair Seeley asked for clarification regarding the condition set at the time of sale of the water bottling business in 2009. Mr. Gale advised that the condition was for a no competition agreement for a five year period on the 4 gallon size container. This term will expire at the end of 2013.

Motion: To reject the request to extend the ten month period so as to not allow the re-establishment of the previous water bottling process.

Moved:	Robert Buck
Seconded:	Glen Baxter
Vote:	Motion Carried

Legal Authority for Decision

In accordance with section 40(2) of the Community Planning Act,

“A non-conforming use may continue notwithstanding the zoning by-law or regulation or rural plan but

(a) If such use is discontinued for a consecutive period of ten months, or such further period as the advisory committee or regional service commission, as the case may be, consider fit, it shall not be recommenced and any further use of the land, building, or structure shall conform with the zoning by-law regulation or rural plan"

7. Motion to Adjourn

Motion: The Chair called for a motion to adjourn at 2:07 pm.

Moved:	Robert Buck
Seconded:	Paul Gordon
Vote:	Motion Carried

APPROVED (date) December 16, 2013.

Dwight Allaby, Chairperson

Jeanne DeCourville, Recording Secretary