



## **Planning Review Adjustment Committee October 18, 2021**

Minutes of the meeting of the Planning Review Adjustment Committee of the Fundy Regional Service Commission held on Monday October 18, 2021 at 10:00 a.m. at Crane Mountain, Saint John via teleconference.

### **1. Call to Order**

The Chairperson, Dwight Allaby, called the meeting to order at 10:03 a.m.

### **2. Record of Attendance – via teleconference**

#### **BOARD MEMBERS**

Dwight Allaby, Chairperson  
John Cairns, PRAC Member  
Glen Baxter, PRAC Member  
Donna Murchison, PRAC Member  
Ron Bridges, PRAC Member  
Tina Dealy, PRAC Member  
Brenda Rathburn, PRAC Member  
Cindy MacCready, PRAC Member

#### **STAFF**

Alicia Raynes, Recording Secretary, FRSC  
Nick Cameron, Assistant Development Officer  
Stephen Stone, Director of Planning, Dillon Consulting  
Stephanie Mawhinney-Wright & Scott Mawhinney – Applicant  
Members of the public – estimate 2 members

### **3. Approval of Order of Business**

The Chairperson asked for approval of the agenda as presented.

**Motion:** To approve the October 18, 2021 Agenda as circulated.

Moved: Brenda Rathburn  
Seconded: Ron Bridges  
Vote: *Motion Carried*

### **4. Disclosure of Conflict of Interest**

None

## **5. Approval of Minutes**

The Chairperson called for a motion to approve the minutes as circulated.

**Motion:** To approve the September 21, 2021 minutes as circulated.

Moved: Glen Baxter  
Seconded: Donna Murchison  
Vote: *Motion Carried*

## **6. Presentation of Application**

### **a. Temporary Use Report**

Nick Cameron gave an overview of the presentation on the application for the Temporary Use proposal.

*Applicant:* Stephanie Mawhinney-Wright

*Request:* Stephanie Mawhinney-Wright has made an application to use the former Fundy Seaside Baptist Church located at 1410 Route 790 in Dipper Harbour to operate a daycare facility accommodating up to 47 children.

#### *Requirement for the Temporary Use:*

Daycare Centres are a defined use within the Lepreau Musquash Planning Area Rural Plan; however, they are not included within the definition of institutional uses, unlike other similar uses, such as schools. Daycare facilities are permitted as a home occupation. As such, to permit a daycare facility, a text amendment would be required. A new Rural Plan for Musquash LSD is underway. As such, to facilitate the proposed application and use, staff proposes to allow the use as a temporary use application, while the Plan is being drafted. A temporary use would permit the applicant to establish their business while the Rural Plan is reviewed. Although the new Rural Plan is underway and is anticipated to provide a land use framework for this use, it is not guaranteed. The applicant has been informed of this timeline and potential risks. If granted a Temporary Use, the applicant must return to PRAC within a year with an application to permit the use permanently, or with an option to extend the Temporary Use for an additional 12 months. A temporary use can only be extended by PRAC once.

Given the nature of the development and trends in modern planning, the nature of this application is typical, representing the adaptive reuse of an institutional use to a similar use, from a church to a daycare. These uses are community uses with similar land use impacts. In recent years, it is a trend in Planning, including across New Brunswick, to modernize Plans and Regulations to support the adaptive reuse of churches and other institutional uses to other similar uses to facilitate sustainable development.

If the new rural plan for Musquash LSD does not include supportive regulations to capture this proposed use, the applicant will be directed to apply for a Plan

Amendment ahead of one-year temporary use timeline, in accordance with subsection 53(2)(i) of the *Community Planning Act*.

*Consultation:*

As per section 6.2 of the PRAC By-law and Operating Procedures, notices were sent to property owners within 100m of 1410 Route 790 (subject property) on September 23, 2021. In total, notices were sent to 5 property owners and a deadline for written submissions was sent for October 11, 2021. To date, seven letters in favour of the application have been received.

*Overview of Application:*

*The proposed Temporary Use: -*

The applicant would like to operate a daycare facility at 1410 Route 790, the former Fundy Seaside Baptist Church. The building is currently vacant.

The applicant is in the process of applying for a daycare facility license from the Department of Education and Early Childhood Development. A license cannot be issued until compliance with the rural plan regulation is confirmed.

The maximum number of children that could be authorized by a daycare facility license for a building of this size is estimated to be forty-seven. It is estimated that six (6) staff will be needed on-site to operate the daycare. The daycare licensing process will determine the exact number of children, staff, required site plan and floor plan of the building. The applicant has provided a proposed site plan which includes a drop off area at the front of the building and day parking at the side of the building. The site plan also includes a fenced outdoor play area at the back of the building.

The licensing process is expected to take several months or longer. In the interim, the application proposes to operate as an unlicensed facility at a reduced capacity, as permitted by the Early Childhood Services Act. The allowable number of children as an unlicensed facility is estimated to be eight (8) children in the after-school age group.

Staff have discussed the proposal and provisions of the rural plan with the applicant and a site visit was also conducted.

Section 3.11(1) of the Lepreau Musquash Planning Area Rural Plan Regulation states that "All uses of land shall provide adequate onsite parking, so that no on-street parking is required for the use." Therefore, a parking requirement should be considered as a condition. It is estimated that the parking areas shown in the proposed site plan can accommodate at least twenty vehicles without further work to the site. This is more than sufficient for the proposed use.

The upper floor is currently an open area with two stairwells and an emergency exit. The lower floor includes a kitchen, bathrooms and one larger room. Changes to the floor plan are anticipated once further requirements for the daycare license are provided by the licensor. The licensor will provide guidance on room configuration for the appropriate age groups, safety measures and other requirements. A building permit application, including a final floor plan, will be required for this work.

The property is located on an arterial road with two (2) access points through a u-shaped driveway. The speed limit on the road is 60km/hr. Sight distance at the northeastern driveway is limited due to a curve in the road. Sightlines are better from the southwestern driveway; therefore, it is recommended that the southwestern driveway is used exclusively for vehicles exiting the property and the northeastern driveway is used exclusively as the entrance. The proposed use will be primarily a daytime operation limited to weekdays with traffic being generated in the morning and afternoon. The impact of this traffic is similar to the former church use.

The subject property is adjacent to vacant land on two sides. There is one adjacent residence on the southeastern side and two residences directly across the street. There will be a fenced outdoor yard for recreation time, however, it is appropriately distanced and screened from adjacent properties and the roadway. Section 3.16 of the Lepreau Musquash Planning Area Rural Plan Regulation states "Any non-residential use located adjacent to a residential use shall have, at or near the boundary of the lot on which it is situated, a 5-metre-wide landscaped buffer, including a fence, or hedge or shelter belt of trees." Therefore, a buffer should be considered as a condition.

The proposed daycare use is a similar land use to the previous operation of the site as a church. It is a recent trend to see the adaptive reuse of churches and other similar institutional structures, such as schools, to be renovated and used for community amenities or commercial uses, such as a community daycare. Given the nature of the proposed use, there are no adverse land use impacts associated with the application.

A draft of the Musquash Planning Area Rural Plan does provide a land use framework for daycare facilities, as proposed. Current drafts allow daycare facilities as a conditional use, which would require PRAC approval and a public process. If the Musquash Rural Plan is approved with this language, the applicant must submit a new conditional use application to permit the daycare facility. Additionally, a draft institutional use policy provides for the adaptive reuse of places of worship, as proposed in this application.

*Recommendation:*

Whereas, a standalone daycare facility is not currently permitted by the Lepreau Musquash Planning Area Rural Plan Regulation;

And whereas the section 2.2.(2) of the Lepreau Musquash Planning Area Rural Plan Regulations authorizes the Commission to permit a temporary use not permitted by the rural plan for up to one year;

And whereas it is anticipated that a new rural plan for the Local Service District of Musquash or amendment application shall occur with in 1 to 2 years;

It is recommended that the application from Stephanie Mawhinney-Wright to permit the operation of a daycare facility at 1410 Route 790 in Dipper Harbour (PID 00271411), be granted with the following conditions:

1. The proposed use be permitted for a period of one (1) year, beginning on the first day of operation of the daycare;
2. Off-street vehicular parking spaces with adequate access shall be provided;
3. A fence or landscaped buffer, approved by the development officer, is provided and maintained between the daycare and abutting residential lots.

It was asked at what stage of development the plan is currently at. It was explained that a draft plan for the LSD of Musquash has been presented to the LSD advisory committee, however, there is no way to know for sure if or when it will be approved.

Additionally, it was asked whether there was anything said about signage or a speed limit. It was explained that PRAC has no authority over road operations.

It was noted that the applicant agrees to the conditions set out by PRAC.

**Motion:** To accept the recommendation by the Fundy Regional Service Commission to approve the Temporary Use application to permit the operation of a daycare facility at 1410 Route 790 in Dipper Harbour (PID00271411) with the recommended terms and conditions.

Moved: Glen Baxter  
Seconded: Ron Bridges  
Vote: *Motion Carried*

## **7. Other Business**

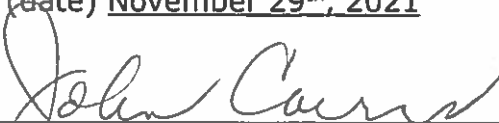
There was no other business to discuss.

## **8. Motion to Adjourn**

**Motion:** The Chair called for a motion to adjourn at 10:27am.

Moved: Brenda Rathburn  
Seconded: Glen Baxter  
Vote: *Motion Carried*

APPROVED (date) November 29<sup>th</sup>, 2021

  
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John Cairns, Vice-Chairperson

  
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Alicia Raynes, Recording Secretary