



TOWN OF SAINT ANDREWS
SPECIAL PLANNING ADVISORY COMMITTEE MEETING

March 13, 2024, 6:30 p.m.
W. C. O'NEILL ARENA COMPLEX DINING ROOM

1. RECORDING OF ATTENDANCE

At the Special Planning Advisory Committee Meeting on Wednesday, March 13, 2024, at 6:30 p.m. the following members were present:

Chair Jill Stewart, Vice-Chair Jeff Cross, PAC Members Jeremiah Kerr, Kevin Simmonds John Tanner, and Councillor Annette Harland.

Electronic - PAC Member Dwight Ingalls

Paul Nopper, Clerk - Senior Administrator and Alex Henderson, Director of Planning, Southwest New Brunswick Service Commission.

2. APPROVAL OF AGENDA

Motion: 023-03/24

Moved By PAC Cross

Seconded By PAC Tanner

That the Agenda for the 240313 Special Planning Advisory Committee Meeting be approved as presented.

6 – 0

Carried

3. LAND RECOGNITION PESKOTOMUHKATI NATION

4. APPROVAL OF MINUTES

4.1 Minutes of the 240129 Special Planning Advisory Committee Meeting on Wednesday, January 29, 2024, 6:30 p.m.

Motion: 024-03/24

Moved By Councillor Harland

Seconded By PAC Kerr

That the Minutes of the 240129 Special Planning Advisory Committee Meeting of Wednesday, January 29, 2024, at 6:30 p.m. be adopted.

6 – 0

Carried

5. DECLARATION OF CONFLICT OF INTEREST

6. AGENDA ITEMS

6.1 SPECIAL BUSINESS

6.1.1 St. Mary's First Nations Variance Application for a Lobster Holding Facility, PAC240101

This meeting was a continuation of the 240129 Special Planning Advisory Committee Meeting of Wednesday, January 29, 2024, at 6:30 p.m.

Planner Hendeson provided an overview of the background documentation that was presented at the meeting on January 29, 2024. The applicant is requesting that ta lobster holding facility be

considered similar or compatible with a light industrial use. The original variance was considered and approved by the Planning Review and Adjustments Committee in October 2022. That approval was appealed to the Assessment and Planning Appeals Board. Their direction was to send back to the PRAC, now the Planning Advisory Committee of Saint Andrews. PAC may give consideration to the APAB's direction and may affirm, revoke, or vary the original decision of PRAC of 2022. The applicant was offered to submit additional information to address concerns raised by the appellants to the APAB. The applicant submitted more detailed information on noise, odour, discharge, and revised the site plan that included a new plan for a buffer.

The main details of the development proposed in 2020 remain the same. The owner of the subject lot has proposed developing a 7,000 sq. ft. cold-water live lobster holding facility consisting of two holding tanks with a combined capacity of 80,000 lbs. of lobster. No on-site processing would occur. The holding tanks would discharge into Chamcook Harbour. Outtake pipes are controlled by the Department of Natural Resources and Energy Development under a Licence of Occupation. A lobster holding facility itself does not trigger an Environmental Assessment, but it may if the proposed saltwater well consumption is beyond 7.6 gallons a minute or more than 50 m² a day. Sand filters are to be used for the saltwater discharge for the lobster holding tanks. The applicant's facility is proposed to have the most activity during the lobster season but will remain largely dormant for part of the year, from August to October. Traffic is projected to consist of 4 to 6 cube vans and 3 to 4 trucks daily with a maximum of 8 employees. Odour generated by waste, i.e. dead lobster, is proposed to be controlled by storing waste in sealable 200 L drums. Once a drum is filled, it will be moved into a refrigerator trailer, which will be taken to the landfill. PID15044811, the subject lot, is an existing vacant shorefront lot adjacent to a residential lot to the north, PID 15056104, and it is also adjacent to a vacant lot to the south, encompassing the tip of Chamcook Point, which according to Service New Brunswick, is assessed as industrial land that is not improved or serviced at PID 15044829. The Point and all the surrounding lands were historically used for a major, but short-lived, sardine canning facility built in 1912 called the Canadian Sardine Company. Recently, the subject lot and the surrounding shoreline on Chamcook Harbour have been used for clamming and seaweed harvesting activities. The Point is mapped as an access to intertidal area and the Rural Plan encourages public access to Chamcook Harbour for both commercial sea harvesting and recreational boating activities.

The subject lot and the surrounding area are zoned for general rural development, under the Rural "RU" Zone. RU permits mixed uses, including residential and non-polluting industrial uses. The Light Industrial Use definition is the closest analogue in the Rural Plan to a lobster holding facility. The reason why there is a need for a similar to and compatible with variance is that the Rural Plan definition for light industrial does not reference handling live species, which can have different land use implications than storing, packaging, and shipping inert products or already prepared materials. The Rural

Plan does not have definitions for fishery uses occurring inside buildings, but outdoor fishery activities in Chamcook Harbour were envisioned by the Rural Plan.

Notice of this application was given to property owners within 1000 m radius of the subject lot. More time was provided to respond. PAC has received multiple letters from residents that have expressed objection to this application, including, but not limited to: loss of residential character, heavy industrial intrusion, traffic safety, poor road conditions, and concerns about noise, odour, enforcement, and pollution. Staff have consulted with officials/experts at the Department of Environment and Local Government regarding the application and potential for pollution and recommendations for environmental conditions. The original comment from the Department of Transportation and Infrastructure technician, district engineer/superintendent was unavailable for comment, provided that the development and moving of the access point will require a new culver and setback permit, the finished top of the applicant's driveway is limited to 12 m wide. If the applicant's well is within the right of way, they must also apply for a Highway Usage and Occupancy Permit.

New application information was brought forward after the January 29th, 2024, meeting from the Superintendent at the Department of Transportation and Infrastructure. The new information provided:

"I have a couple of concerns with this development. Firstly the road is very narrow which will pose an issue with trucks entering and leaving the facility. Trucks will most likely take up both lanes of traffic. According to the site plan the building does not meet DTI setback standards. It should be noted that the road is a 43,500 kg road and depending on load size possible road distress will occur. The present condition of the road would not support heavy trucking."

DTI noted that the original proposed site plan for the building would not meet the Provincial Setback Regulations of 7.5 metres from the boundary with a local road. Staff subsequently raised the setback issue on the site plan with the applicant, and the applicant has adjusted its proposed building location by 2.5 metres to meet the setback requirements. The applicant also responded by stating that it would adhere to the weight restrictions that area imposed on Saint Andrews North Road by not allowing any vehicles with a weight above 43,500 kg. A second notice for the PAC's March 13th, 2024, meeting was resent to neighbours in the same radius with an explanation of the new information from DTI and the applicants, the modified site plan as well as their response to the DTI comments. The new site plan was provided to the PAC for review.

Objectives of the Chamcook Rural Plan include (a) to preserve the area's rural character and lifestyle, (c) to preserve the area's aesthetic beauty for both residents and tourists, (f) to improve the water quality of Chamcook Harbour, McCann Cove, Birch Cove, and the St. Croix River areas as to encourage fishing, aquaculture, and clam harvesting, and (k) to encourage the development of non-polluting light industrial uses within the area. Planner Henderson noted that fishing as a non-polluting light industrial use is encouraged and helps preserve the rural character/lifestyle, and aesthetic beauty

of the area. This development may be encouraged but only where conditions are established to ensure that development does not undermine the environment, the water quality of Chamcook Harbour, the area's rural character and lifestyle, and aesthetics. Preserving the character, lifestyles, and aesthetics is discretionary to the PAC. The environment and water quality are protected through accepted pollution-control standards.

Relevant policies of the Chamcook Rural Plan include (a) Residential Uses, which is a policy to discourage the intrusion of incompatible uses into established residential areas and (c) Industrial Uses, which are proposed to only consider light industrial use that is non-polluting and non-harmful to the environment. Planner Henderson noted that A Guideline for the Development of Rural Plans (2017) states that "a policy is a statement of intent; it is binding on the Minister, not individuals and guides the framing of any subsequent proposal or zoning provision."

The Province of New Brunswick's Statements of Public Interest noted include 4(1) With respect to agriculture, fisheries, and aquaculture, it is a public interest and public priority to promote the agricultural, fishery, and aquaculture sectors and the production of food in the Province, 4(2) The following policies are established with respect to agriculture, fisheries, and aquaculture (b) identify current and future areas for fishery use and aquaculture use and prioritize them for those uses and other compatible uses and (c) consider setbacks, including reciprocal set-backs if appropriate, between areas with an agricultural use, fishery use or aquaculture use and areas used for incompatible purposes. Planner Henderson noted that the SPI regulations took effect province-wide in October of 2023, and prevailed over local plans. The SPI intent is to ensure fishery uses have access to coastal areas. PAC's decision must consider the long-term impacts of all types of developments in coastal areas and balance the interest of year-round and seasonal residents with industry opportunities. PAC may consider the development subject to standards or conditions on its approval to help avoid, minimize, or mitigate potential land use conflicts.

PAC has a mandate to revisit the decision made by the PRAC in October of 2022. It may affirm, revoke, or vary that original decision. A Guideline for Applications to Permit a Proposed Use that is sufficiently Similar to or Compatible with a Permitted Use in Zoning Regulation (2007) was referenced. The Rural Plan does not consider lobster holding as part of an "agricultural use" but an agricultural use is also permitted within the RU Zone. Agricultural use in the RU Zone includes growing and raising, preparation, and processing of livestock, including pigs, cattle, poultry, etc. The Rural Plan does not require agricultural uses in the RU Zone to be specifically non-polluting; it does promote general watershed protection and organic practices. "Agricultural Use" has the potential for noise, odour, and other impacts in the RU Zone and the PAC must consider that general rural resource developments are within the purpose of the RU Zone, which also hosts established rural residential areas. The purpose of the RU Zone, therefore, is not to protect a single-use, residential character at the expense of all other reasonable-impact rural resource uses. The applicant's proposal of a lobster holding

facility does not involve any raising or growing, preparing, or processing of seafood, but rather the warehousing and distribution of living animal (albeit dormant) products. It is the opinion of the Planning Staff that the closest analogue for a lobster holding facility is still a non-polluting light industrial use. The definition of light industrial use includes packing, storage, and distribution of products. The proposal is to have live lobster stored, packaged, and distributed from this facility. The definition clearly excludes heavy industrial use that commonly results in odours, fumes, noise, cinder, vibrations, heat, or electrical interference. Trucking is incidental to light industrial uses, such as warehouses, which require the distribution of products using trucks with internal combustion engines. Freight trucks do cause certain noises, vibrations, and fumes, so it is obvious that the intent of the "non-polluting" clause in the Rural Plan was not meant to be taken so broadly as to render the permitted use altogether meaningless. If the applicant's proposal involved constructing a facility for packaging, warehousing, and distributing inert, frozen food products, there would be no requirement for a variance application and a development application would have to be granted by staff upon compliance with the Rural Plan, including Section 3.13. Section 3.13 would require a non-polluting use with a 5-metre buffer. Where this is a variance application, the PAC has the opportunity to establish additional terms and conditions. These terms and conditions can be reasonable standards in order to balance the interests of year-round and seasonal residents with the fishery industry and be used to help avoid, minimize, or mitigate potential land use conflicts between uses.

This variance request is being made under Section 55(1) of the Community Planning Act. Section 55(1) states subject to terms and conditions it considers fit, the advisory committee or regional service commission may permit (a) a proposed use of land or a building that is otherwise not permitted under the Zoning By-Law if, in its opinion, the proposed use is sufficiently similar to or compatible with a use permitted in the By-Law for the zone in which the land or building is situated. Planner Henderson read the Recommendation as stated in the January 29, 2024, meeting for the PAC.

Questions for the Planner

PAC asked about the L & B Industrial property to the south, is this considered light industrial? Planner Henderson noted that this is not used for anything but staging for outdoor fishing activities, i.e. boats, net assembly, clammers parking there, etc. It is a vacant lot. Under zoning, we would be looking at compliance with Zoning. There are no permits needed to take out for the current activity. PAC asked in the 1 km polling radius, are there other examples of light industrial? Planner Henderson did not recall if they are within the 1 km radius but there are some in Chamcook. PAC asked would this application become the standard if approved for light industrial by which other applications would be compared. Planner Henderson noted no, but if you comply with the Rural Plan you can obtain a permit, if outside the rural plan but close to it, the PAC would decide the next case. No precedence considerations and merits of each application need to be reviewed. PAC asked about the picture noting the residential-style fence, a 10 ft. tall concrete fence, are you aware of this fence

anywhere else in Saint Andrews? Planner Henderson said not in the old Town of Saint Andrews, the fence would not be allowed. There are options for taller fences or institutional use that require a substantial fence. The residential style product shown is a wall style that is shown by a traffic corridor to mitigate noises. We do not have that evidence in subdivisions around here. PAC asked if our decision is discretionary correct. Planner Henderson noted yes. PAC noted that the Planner's recommendation is discretionary correct. Planner Henderson noted yes. PAC indicated that the report provided is the best shot at a discretionary slot for light industrial use. Planner Henderson noted yes. PAC asked about the STC rating of 35 and 55 and if this can be put into context. Planner Henderson looked at this for mitigating noises at another lobster facility. It is a rating to mitigate noise and the Building Inspector, who is trained in STC ratings, provided this as a recommendation. Examples of sound transmission of commercial and residential properties were provided, i.e. common stairwells, separation between apartments and commercial properties, etc. PAC asked about the 37 and 55 ratings, what are the noise ratings at 50 ft., 100ft, etc.? What is the tolerable level at a 24 hours a day operation? Planner Henderson noted he is not an expert in this but the goal was to mitigate as much as possible but would not eliminate the noise. The goal is to eliminate nuisance. PAC asked about the Service New Brunswick land assessment and noted the property is set at a residential waterfront. How does this apply to the zoning of the property? PAC Henderson noted that the assessment is rated residential. Tax appraisers use real-estate ratings that do not correspond to zoning and look at it to the view the tax appraiser thinks it would be. Zoning and assessments can be different depending on interpretation. This is my best guess. PAC asked about the property to the south and if that is zoned commercial and what is it for tax purposes. Planner Henderson explained that the property might be zoned commercial but might have a house on it, so it is taxed residential as an example. PAC asked if the building were developed, would the tax be changed and who is responsible for it. Planner Henderson indicated, if PAC approved it, the applicant made a building permit request, and issued a permit, that information is sent to Service New Brunswick and they could reclassify it in taxation in their system. PAC asked about the mean high water mark and setbacks. What are the regulations of the Province on this? Planner Henderson noted brackish water or fresh water, at a certain point it will change to open ocean. The Water Course and Wetland Alteration Permit will regulate 30 metres of shoreline regarding what could be done. As this is an open ocean situation, there is no regulation from the province to deal with close to the open ocean. You can develop right next to it if it complies with local planning. If you cross that line and go onto the mudflats, you would speak to the Department of Natural Resources and Energy Development for permitting. It could even end up with the Department of Fisheries and Oceans depending on how far you go into the low tide area. The Province has a policy to suggest setbacks from the ocean, but no regulations. It was noted that there is a St. Croix River Corridor buffer of 30 metre setback but is only within this area where the regulation is in place for firm setbacks. PAC noted that the Chamcook Rural Plan came into effect in 2012 and that the plans need to be reviewed every 10

years. That plan was to be reviewed in 2022 but with Local Governance Reform this did not happen. One of the challenges with this is that the former Local Service District did not have the opportunity to ensure proper zoning and policies were in place, including setbacks, if the plan was reviewed in 2022. Even with the amalgamation with the Town of Saint Andrews, this Rural Plan is still in place until modified. The Town is looking to review these documents and make changes accordingly, however, the Chamcook Rural Plan is still in use for this particular property even if it is changed due to the appeal process. Planner Henderson noted this is correct. PAC asked about noise and the rating of STC 37, which consists of 2x4 wood studs 16 inches apart with one layer of gypsum board on each side. Some research was done and loud speech can be heard clearly on the other side of the wall. PAC noted difficulty in understanding noise levels for the neighbour in a residential area. What kind of noise will this be? Planner Henderson noted he is not an expert on this but looked at this as a reasonable standard on another file. The buffer requirement is not compelling to eliminate all noises but mitigate to reduce impact. In many cases, reducing impact is in the best case scenario. PAC asked about overflow and discharge into Passamaquoddy Bay, when we look at the plan, one consideration is the sewage. It was noted that the only discharge into the Bay would be from the recirculating system. When they clean tanks and pipes, besides the use of water, it looks like you need other cleaning products for motors and pipes that will have to go into a septic system. Concerns were brought forward about adjacent water supplies and what happens if a resident's well becomes affected. Planner Henderson noted that a septic system proposed would require a plumbing permit from the Department of Environment and Local Government. There needs to be a special separations from the septic field and a neighbouring well to protect against contamination. There could be a risk for adjacent wells if there is a saltwater well. We need permitted approval or a waive of the permit from the Department of Environment and Local Government. PAC asked who's responsibility is it if an adjacent property's well gets contaminated. Planner Henderson stated if there is a consumption status above the draw limit, the Department of Environment and Local Government would address this with mitigation processes. Experts at the Department would deal with that question. PAC asked about noise, as far as the STC levels, come to best practices, and the building inspectors are certified to look and assess the STC, is there some sort of device they use to measure or just through the types of building materials? Is it a best practice or definitive? Planner Henderson indicated more use of experience and type of material used. This was based on best practices by the Building Inspector and that they do not use sound equipment to detect the noise levels on decibel readings. It is about building materials and reasonable mitigation of noise through those materials.

Questions for the Applicant

Mr. Adrian Desbarats, technical advisor for the St. Mary's First Nations, spoke to the PAC on this file. Mr. Desbarats has been in aquaculture for over 20 years and working in live lobster facilities. Has experience with small and large scale live lobster facilities. On

the STC ratings, Mr. Desbarates shared a graph as to why they selected materials and reasoning on how to mitigate frequency. Some materials are good at mitigating high and low frequencies. They chose concrete to be used to mitigate sound as it mitigates lower end frequencies, that would come off the pump and motor systems. Important to note that there are multiple layers of noise mitigation that are being proposed. The majority of equipment, 20 horsepower worth, will all be inside the building in an insulated room. There will be quite a bit of noise mitigation to STC 37. Pumps and air blowers will also be mounted on rubber to reduce and mitigate vibration and noise. Further mitigation will be provided through the structure walls and the exterior sound barrier fencing. In addition, air is also a noise mitigation. This will be one of the quietest facilities on the street. Noise is estimated at a whisper range beyond the fence. We used a decibel reader at another live lobster facility and at the boundary of the property, the noise is mitigated to a whisper. We anticipate this to be the scenario on this property. Because of feedback from residents and from the Planners, we further implemented measures including the concrete fence to allay the concerns. Touching base on cleaning agents, you can speak to different live lobster providers about their cleaning processes, but from my experience freshwater is good for disinfection. Microbes and viruses in saltwater processes do not work well in freshwater. Also, good husbandry is the best practice measure. Once a year, clean all internal piping, motors, containers, etc. and allow for air drying which is a good disinfectant. Regarding well contamination, if there are no cleaning agents being used, then there should be no concern for adjacent wells. Also on the water supply side, without question, an EIA would need to be done. We would have to follow the recommendations to ensure any saltwater being withdrawn is sustainable. If there is a risk to the aquifer, it would lead to the withdrawing of saltwater from the Bay. We would have to get a permit from the Department of Fisheries and Oceans on this.

PAC asked about the cleaning aspect of the facility. It was noted that in your experience water is the best cleaning agent. We are speaking a lobster facility, there must be some relative food-grade standard used for cleaning. How is water the only thing acceptable as a cleaning agent? Seems like most facilities use chemicals to clean from my research and what type of contamination will be released. Mr. Desbarats noted that the facility is not Canadian Food Inspection Agency certified. As this is a holding facility and not a processing facility, there is no CFIA requirement for use of cleaning agents. It is up to the facility operator. In my expert opinion I recommend freshwater. Chemicals can be damaging to the environment. PAC added to the issue of cleaning and Nova Scotia has an in-depth process for cleaning tanks and facilities. Cleaning agents are used and are documented on a monthly basis as part of their reporting. Does New Brunswick have a guideline for this? Mr. Desbarats noted he was not aware of any provincial regulations in New Brunswick. PAC noted lighting at the facility and the application outlined compliance to the dark sky, but when talking loading and unloading lobsters in the winter months, it would be dark and think Worksafe NB would require industrial lighting during those times. So those night sky compliance would be for the off hours correct? Mr.

Desbarats noted they would have to follow health and safety requirements. There is a condition in the variance noting no activity between 8:00 p.m. and 7:00 a.m. If lighting is pointed downward and not horizontally you are lighting the area of work and therefore impacting only the areas where work is needed. We tried to allay the concerns of the public about horizontal lighting. We would also have the 10 foot high wall fence will also act as a barrier to mitigate light. You want to shine light on the workspace versus outward. PAC noted in speaking with other operations they noted the odour from lobster. PAC noted being at facilities and noting the odours. Understanding the mitigation of dead lobster being held in a reefer truck, but there would be odour from the general operation of the business, including when lobster is brought in, juices from lobster, etc. The community of Richibucto noted with the issue of the shell drying facility in the community and the odour it causes is a detriment to the community. Kevin Arseneau MLA Kent North, noted that this facility has the right to exist but it is not in the right place. This is a planning problem. It should never have been allowed to be in the centre of a region based in tourism. PAC had concerns with the small 1.5-acre piece of land in a residential area with a facility trying to mitigate odour. There will still be odour from the facility that could affect the enjoyment of the residential properties. Mr. Desbarats appreciated what was stated and that only from time to time you would get a strong odour and that is when they removed the dead lobster. As dead lobsters are collected, they are filled into 200 litre barrels. Once the truck comes to take them to the landfill, the drums are rolled outside, opened, and dumped into the truck to be taken away. The smell is strongest when the barrels are opened. In speaking with the St. Mary's First Nations, it was decided to put into cold storage to prevent smell. With fresh dead, you get a smell of the ocean. The animals are fresh, water is fresh, the dead lobster are an odour concern but if moved into the cold storage, the odour concern is eliminated. When enough product is ready to go to the landfill, you dump the frozen lobster into the truck and it drives away. No one in the business of lobster holding can eliminate all the odour. PAC asked about the timeframe for operation daily. There are concerns about trucks and operations. Other facilities operate 24 hours and have trucks throughout that timeframe. With an operation limited from 7:00 a.m. - 8:00 p.m., depending on when lobsters are offloaded from boats, lobsters would need to be kept in a refer truck in ideal conditions, where would that truck sit? Would it sit on the property running, or would it be on the wharf, etc.? Mr. Jordan Paul noted we will either hold them on the vessels, partnering facility, in a truck, but we have options to meet the conditions. PAC asked where the lobsters come from and if they would be fishing the grey zone. Mr. Paul answered no. PAC asked about pest control at the facility. Mr. Paul and Mr. Desbarats have spoken on this and do not see how the pests can get into the facility. They will have exterior pest controls as needed. PAC noted that there are a lot of traps outside of other live lobster facilities, and this is a residential area. PAC noted that the exterior fence will not span around the entire property. PAC noted concern for dogs going to the property and the live traps and how they can potentially be harmed by it. PAC asked about fencing around the whole facility. Mr. Paul noted they can work with that. PAC asked about bait and storage of

bait at this facility. Mr. Paul noted likely will have bait in the freezer. PAC asked about storage outside in a refer storage exterior of the facility. Mr. Paul noted yes to this and noise mitigation will be there with an STC rating of 55. Mr. Desbarats noted it will be an electric freezer versus diesel. PAC asked about backup generators and if these would be diesel. Mr. Desbarats noted yes that will be in place. It was also noted that this would not be the only generator running in the area.

Resident Presentations

Brenda Waiwood, 31 St. Andrews North Road. Your package includes a lengthy document and was sent in prior to the concerns from the Department of Transportation. The concerns I have about lot lines, the area occupied on the lot, or the position of the 3-metre wall on the property have not been addressed in the latest site plan. I really feel the St. Mary's Band is owed apologies from the consultants and the Southwest New Brunswick Service Commission Planners. The issues raised by all of us who have objected and DTI should have been addressed prior to going to the PRAC in 2022. The lengthy process is stressful for everyone involved. My question is how many times does a proponent get to revise their presentation before a decision is made thank you.

Gail Reed, 39 St. Andrews North Road. I want to thank PAC for taking the time to go through this lengthy process. I was happy to hear Mr. Henderson present that the Chamcook Rural Plan's number one objective is to preserve the rural lifestyle and character. This is subjective, discretionary, and can be determined by the PAC. I think the community has clearly spoken as to what they envisioned when they chose to live in this area and the lifestyle and character of the Chamcook area, it is quiet and minimal, not loud and 24/7. Mr. Henderson also spoke about an application needs to be sufficiently similar to or compatible with a permitted use. He suggested the PAC should give consideration to determining the proposed use or structure does not compromise the intent to such a degree to be considered outside of the zone. I would propose this is outside of the zone because of all the time and energy required for this. If this was to be simply approved, none of this would be required. If it was just me standing here complaining about my property values having decreased or my experience and enjoyment outside of my property is decreased, or safety on the road and it was just me, tough luck on the location. But there has been clear community support noting this is not the right place for this development; this is a rezoning by variance. When you look at the new information, from DTI, I appreciate the 2.5 metre setback that has been followed. However, this makes the lot smaller. If we look at the buffer zones and do in fact consider this light industrial and non-polluting but need these buffer zones in place to prevent adversity to neighbours. The area to the east of the property has eroded. Is there a retaining wall to be included in the recommendations, as that eastern shoreline is supposed to be the buffer zone and there is not a lot of room for movement? The fence discussed tonight does it need a 1 metre setback for maintenance. On the southern boundary there is a proposed space for a well and how does this affect the 5 metre buffer zone, what is the timeline for planting and growth, and what is the

maintenance plan? I know there is a discussion on STC ratings and appreciate the low frequency reduced by concrete but what about the high frequency of trucks backing up? That buffer will not mitigate these frequencies. The weight restrictions I appreciate they were acknowledged and agreed upon. The road distress will occur; what is the plan to deal with that. All our rural roads have this issue and this road is not in a 5-year plan. What happens as this road further deteriorates? DTI noted that the condition of the road will not support heavy trucking. How is the weight monitored? When does it happen, and where it happens? DTI stated this is a very narrow road and trucks will take up both lanes of traffic, What is the safety plan for the road? A video was provided to the PAC for visual representation of the roadway, vehicles using it, and public walking. Will signage be posted about a narrow road and what is the safety plan? There is also a community mailbox in this area as well. School buses are not allowed to be on St. Andrews North Road as they have been told this is not a safe road. Kids have to go to the corner of St. Andrews North Road and Harkness Road. How are people not from the area going to navigate the road in a safe way when there are many safety issues? I would urge you to revoke this decision. This is not the right location for this type of industry and this area has not been marked as an area for fisheries under the statements of public interest. There has not been time to review this. I urge PAC to revoke the decision. Thank you.

John Gibbon, 159 Harkness Road.

I was limited on commenting on the upcoming meeting as it relates to the change of placement of the building. Had I known it was open to general comments I would have prepared them. We will start with respectfully submitting views from the Department of Transportation. To be clear we fully support the Lobster Holding Facility at the end of the St. Andrews North Road. We see this as marketable, taxable, and attractive to the community. It will provide trades work, construction, and jobs for the facility. The issue is that the building does not meet DTI standards. The applicant has adjusted the building to meet the setback requirements. The applicant was able to change the site plan and have adequate room to make the adjustment. It will not negatively affect the PRAC and PAC decisions. Hanna, my wife, agrees with these positions. We live on Harkness Road which is more like the Harkness Freeway. My comments are on trucking, while the applicant has responded with the weight restrictions, most of the other trucks on the road for construction are heavier than that truck being the same as a lobster truck. Dump trucks, cement trucks, propane trucks, etc. apply on Harkness Road. I believe 15 trucks maximum per week going down to the lobster facility including workers. On Harkness Road, if you could tell me that trucking would be reduced to 15 trucks a day, people would be dancing. Everyone of those trucks are working to build a house on St. Andrews North Road currently. In fact DTI is encouraged to set up a weigh station to test every truck coming onto Harkness Road. Even in January we noticed the level of trucking and how frequent it was. They are fully loaded and leaving with tree cuttings. St. Andrews North Road is as wide at the barrier as it is at the top. The only difference is the overgrowing of the roadway at the end. Grass, dirt,

and brush have grown in along the edges of the road. It was built at the same time as Harkness Road, to the same width and materials. I could address the water situation, but we will leave that to hydrologists. The residents have possibility of drilling through the saltwater ledge and to the sweet water aquifer, thus exposing it to saltwater above it. That salt water well would stop above the sweet water cap. If the sweet water aquifer is polluted, it is a good chance it is by residents. There is a solution to that, and that is to hook up to the Town water supply. This is a treated freshwater supply. This used to feed the industries that were down there. There was a recent industry there. You will see modern PVC pipes coming out of the shoreline currently. There is a barn there with a primary colour there, that is as long as the building proposed. Also on Harkness Road, there are two large rubberized arched barns that are for boat building and repair. Those are primary colours too. If we want to talk Water Street, is a narrow street. I am done thank you.

Committee Comments

The Planning Advisory Committee made the following motion:

That the Planning Advisory Committee of the Town of Saint Andrews revoke the decision of the Planning Review and Adjustment Committee's meeting of October 2022 and deny the variance application considering the lobster holding facility as proposed by the St. Mary's First Nation on the subject lot PID 15044811 to be similar to or comparable with light industrial use.

The Planning Advisory Committee made the following background statement to the motion:

With respect to the motion, as a PAC we are being asked to approve a variance by considering the proposed lobster holding facility to be similar to or comparable with a light industrial use. As Mr. Henderson noted at the beginning of his presentation tonight, he said our job is to balance light industrial and the rural lifestyle of the current area. One of the objectives of the Chamcook Rural Plan is to encourage the development of light industrial use that is non-polluting and non-harmful to the environment. Mr. Henderson has noted that fishing and non-polluting light industry may be encouraged as well as preserving the rural character, lifestyle, and aesthetic beauty. Mr. Henderson noted that one of the five statements of the Statements of Public Interest, which is the new tool that the Planners and the Municipality are required to consider when making decisions, is that public interest and public priority is to promote the agricultural, fishery, and aquaculture sectors and the production of food in the province. However, the very first Statement of Public Interest is that it is in the public interest and priority to also promote settlement patterns that enhance the wellbeing of residents of the province and minimize the impacts on the environment and support vibrant rural and urban communities. Within the 1-kilometre radius that was polled for this application, there are 67 homes and no other light industrial uses. In the last 20 years there has been a significant increase in residential development. We heard from many people in the polling area and why they chose to move here, to build homes and to invest in the community. They spoke about the importance of the natural environment, the peace and quiet, the ability to develop a lifestyle

that incorporates the rural character and aesthetic beauty. We also heard people refer to this area as their neighbourhood and they spoke of their neighbours. They identified typical neighbourhood activities; walking to pick up the mail, walking their dogs, and meeting their children at the bus stop. We support the St. Mary's First Nations desire to further develop economic activities to support their community. We appreciate the additions made to the applications to address light and noise pollution. However, we believe these measures will mitigate, not eradicate noise and light pollution. Placing the dead lobsters in a freezer truck will assist with the level of smell, however, lobsters' area a smelly business and there will be significant odour from just the day-to-day operations of this business. We also have great concern about the effluent that will be discharged into Chamcook Harbour and the potential impact that would have on both the Harbour and the very vibrant clam beds in that area. The Chamcook Rural Plan identifies two objectives related to this; to protect the areas water from pollution and to improve water quality of Chamcook Harbour, McCann Cove, Birch Cove, and the St. Croix River areas to encourage fishing, aquaculture, and clam harvesting. Mr. Henderson has noted that trucking is incidental to light industry, and we understand that, however the Department of Transportation and Infrastructure has expressed significant concerns regarding this development given how narrow the roads area and the fact that trucks will have to take up both lanes of traffic and that truck traffic and load size will cause road distress. The applicant has indicated that during peak season there could be three to ten trucks per day going to and from the facility. The present condition of the road will not support that level of traffic and a huge safety issue that has to be considered. We have heard very clearly from a large number of the public including those who live directly in the residential area and from those in the larger Town of Saint Andrews. They do not believe that this is the right location for this development. They have identified very clear concerns and fears. We do not believe this variance application with 12 terms and conditions is similar to or compatible with light industrial use. This facility will run 24 hours a day, 7 days a week, and 365 days of the year. The facility includes a 7000 sq. ft. building with auxiliary buildings and a 10 ft. high concrete wall along the property lines all on a 1.1-acre lot. This application does impact the preservation of the areas rural character, lifestyle, and the aesthetic beauty both for residents and tourists. Mr. Henderson in his report referenced the Rural Plan policy which under residential uses states that it is a policy to discourage the intrusion of incompatible uses into established residential areas. This is an established residential area. Recently the area has been used for inshore fishery and seaweed harvesting, which is nowhere near compatible to this particular application. Under the Land Use Planning Principles under the Statements of Public Interest it states that Land Use Planning Principles help guide responsible land use planning. Important planning concepts including ensuring local priorities reflect the interests of the public through the planning process as well as guiding decisions affecting land use and development. That is why polling of affected residents and hearing concerns is a critical part of the process. In this case, the public has

clearly spoken. Given these concerns, we are not able to support this variance application.

Clerk Nopper noted to the PAC that the background provided has to be provided with the motion for justification. PAC agreed to add the background to the motion.

PAC noted that the motion provided was well-developed and presented based on the information provided during this process. Looking through the Statements of Public Interest, identification of areas for Aquaculture and Fisheries and also say commissions may consider up to 5 to 10 acres of land, large volumes of water, and transportation corridors. We do not think this has been accomplished with this site. Additionally, incompatible uses with fisheries include residential, quarries, etc. that impact the water quality in the aquifer. This development is in a built residential area. In many ways, the decision is discretionary by the PAC but this development is not the right place and use for this land.

Motion: 025-03/24

Moved By Councillor Harland

Seconded By PAC Tanner

That the Planning Advisory Committee of the Town of Saint Andrews revokes the variance decision of the PRAC in October 2022 by considering the lobster holding facility, as proposed by the St. Mary's First Nations on the subject lot (PID 15044811), to be similar to or compatible with a light industrial use – a permitted use in the Rural (RU) Zone, and varying the October 2022 PRAC decision by subjecting it to the following terms and conditions:

1. *That a copy of the Environmental Impact Assessment (EIA) approval, or EIA exemption, from the Department of Environment and Local Government for the proposed volume of saltwater consumption shall be provided to the Development Officer prior to building permit issuance.*
2. *That a copy of the Licence of Occupation from the Department of Natural Resources and Energy Development for the saltwater discharge pipe, shall be provided to the Development Officer prior to building permit issuance.*
3. *That the arrangement of the buildings, structures, mechanical systems, parking, and loading areas be developed in general conformity with the information submitted with the application.*
4. *That prior to the final inspection by the Building Inspector, a 5 to 8.5 metre-wide treed buffer and a 'residential-style' 3-metre-tall concrete wall with a sound transmission class (STC) rating of 37 or greater be installed and completed according to the buffer design and site plan submitted with the variance application.*
5. *That, other than the access points or the buffers referred to in the previous condition, a 5-metre naturally vegetated buffer is developed along other property lines and along the top of the bank, and that this buffer area is to be preserved for the planting, growing, and maintenance for trees.*
6. *That prior to the final building inspection, the facility's exterior mechanical equipment be enclosed in solid structures with an*

STC of 55 or greater, with access doors with a STC of 37 or greater, to the satisfaction of the Building Inspector.

7. That no heavy industrial uses, or other industrial processing of fish, aquaculture, or slaughter of live species may occur on the subject lot without a Zoning By-Law amendment approved by the Council of the Town of Saint Andrews.
8. That prior to the final building inspection, the facility's exterior siding be clad with either traditional building materials, such as cedar shakes, wooden facsimiles, masonry or be clad with metal material painted with a bright primary colour.
9. That prior to the final building inspection, any exterior lighting be shielded and directed downward, and not directed at any neighbouring property or into Chamcook Harbour, to the satisfaction of the Development Officer.
10. That all dead animal waste shall be stored in sealed, odour-proof containers inside the facility or in a refrigerated trailer on-site before being disposed at the regional landfill.
11. That no loading or off-loading of lobsters, equipment, or other products shall occur between the hours of 8:00 p.m. – 7:00 a.m.
12. That all other requirements of the Chamcook Planning Area Rural Plan and all environmental Provincial and Federal Acts or regulations are complied with.

Amended

Motion: 026-03/24

Moved By Councillor Harland

Seconded By PAC Tanner

That the Planning Advisory Committee of the Town of Saint Andrews revoke the decision of the Planning Review and Adjustment Committee's meeting of October 2022 and deny the variance application considering the lobster holding facility as proposed by the St. Mary's First Nation on the subject lot PID 15044811 to be similar to or comparable with light industrial use.

With respect to the motion, as a PAC we are being asked to approve a variance by considering the proposed lobster holding facility to be similar to or comparable with a light industrial use. As Mr. Henderson noted at the beginning of his presentation tonight, he said our job is to balance light industrial and the rural lifestyle of the current area. One of the objectives of the Chamcook Rural Plan is to encourage the development of light industrial use that is non-polluting and non-harmful to the environment. Mr. Henderson has noted that fishing and non-polluting light industry may be encouraged as well as preserving the rural character, lifestyle, and aesthetic beauty. Mr. Henderson noted that one of the five statements of the Statements of Public Interest, which is the new tool that the Planners and the Municipality are required to consider when making decisions, is that public interest and public priority is to promote the agricultural, fishery, and aquaculture sectors and the production of food in the province. However, the very first Statement of Public Interest is that it is in the public interest and priority to also promote settlement patterns that enhance the wellbeing of residents of the province and minimize the impacts on the environment and support vibrant rural and urban communities. Within the 1-kilometre radius that was polled

for this application, there are 67 homes and no other light industrial uses. In the last 20 years, there has been a significant increase in residential development. We heard from many people in the polling area and why they chose to move here; to build homes and to invest in the community. They spoke about the importance of the natural environment, the peace and quiet, the ability to develop a lifestyle that incorporates the rural character and aesthetic beauty. We also heard people refer to this area as their neighbourhood and they spoke of their neighbours. They identified typical neighbourhood activities; walking to pick up the mail, walking their dogs, and meeting their children at the bus stop. We support the St. Mary's First Nations' desire to further develop economic activities to support their community. We appreciate the additions made to the applications to address light and noise pollution. However, we believe these measures will mitigate, not eradicate noise and light pollution. Placing the dead lobsters in a freezer truck will assist with the level of smell, however, lobsters' are a is a smelly business and there will be significant odour from just the day-to-day operations of this business. We also have great concern about the effluent that will be discharged into Chamcook Harbour and the potential impact that would have on both the Harbour and the very vibrant clam beds in that area. The Chamcook Rural Plan identifies two objectives related to this; to protect the area's water from pollution and to improve water quality of Chamcook Harbour, McCann Cove, Birch Cove, and the St. Croix River areas to encourage fishing, aquaculture, and clam harvesting. Mr. Henderson has noted that trucking is incidental to light industry, and we understand that, however the Department of Transportation and Infrastructure has expressed significant concerns regarding this development given how narrow the roads area and the fact that trucks will have to take up both lanes of traffic and that truck traffic and load size will cause road distress. The applicant has indicated that during peak season there could be three to ten trucks per day going to and from the facility. The present condition of the road will not support that level of traffic and a huge safety issue that has to be considered. We have heard very clearly from a large number of the public including those who live directly in the residential area and from those in the larger Town of Saint Andrews. They do not believe that this is the right location for this development. They have identified very clear concerns and fears. We do not believe this variance application with 12 terms and conditions is similar to or compatible with light industrial use. This facility will run 24 hours a day, 7 days a week, and 365 days of the year. The facility includes a 7000 sq. ft. building with auxiliary buildings and a 10 ft. high concrete wall along the property lines all on a 1.1-acre lot. This application does impact the preservation of the area's rural character, lifestyle, and the aesthetic beauty both for residents and tourists. Mr. Henderson in his report referenced the Rural Plan policy which under residential uses states that it is a policy to discourage the intrusion of incompatible uses into established residential areas. This is an established residential area. Recently the area has been used for inshore fishery and seaweed harvesting, which is nowhere near compatible to this particular application. Under the Land Use Planning Principles under the Statements of Public Interest it states that Land Use Planning Principles help guide responsible land use

planning. Important planning concepts including ensuring local priorities reflect the interests of the public through the planning process as well as guiding decisions affecting land use and development. That is why polling of affected residents and hearing concerns is a critical part of the process. In this case, the public has clearly spoken. Given these concerns, we are not able to support this variance application.

6 – 0

Carried

7. QUESTION PERIOD

Is there an appeal process to the decision tonight of the PAC?

PAC noted yes there is a process that you can apply for.

Michael Bear, St. Mary's First Nations Councillor - Does the appeal come back to the PAC for a decision?

Planner Henderson - Once the decision is put into writing, you will have a time limit to appeal. We will guide you to the locations on how to appeal to the Assessment and Planning Appeals Board.

Michael Bear, St. Mary's First Nations Councillor - Would an agricultural use like a farm, need to come before the PAC?

Planner Henderson - You need to apply for a permit for the development of land. You can contact our office to discuss.

8. PAC MEMBER COMMENTS

9. ADJOURNMENT

Motion: 027-03/24

Moved By PAC Stewart

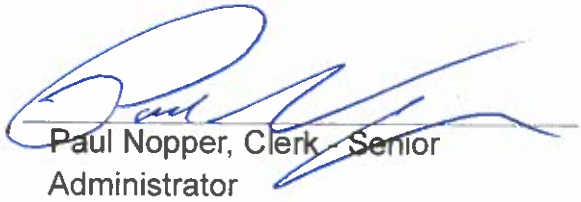
At 8:44 p.m. that the meeting be adjourned.

6 – 0

Carried



Jill Stewart, Chair



Paul Nopper, Clerk - Senior
Administrator

