

Hanwell Working Group Meeting

March 20, 2007

Present:	Charles Davies	Chris Robbins	Kristel Desjardins
Will Hyslop	Chris Weadick	Reade Moore	Grant Goode
John Johnston	Keith Manual	Tony Hetherington	

Meeting start at 7:37 pm

Dallas explains that we'll be moving in a more physical direction. **Dallas** explains that the group has gone over policies and proposals and now he and the group will be moving toward general provisions and zone provisions.

Dallas explains that some of the general provisions are pretty straight forward and do not require customization like fences around swimming pools, etc...where we mirror the requirement under the provincial building code.

Dallas told the group there will be some general provisions that will require the group's input and be customized to meet their needs. He brings up Home Based Businesses as the first thing. **Dallas** explained that the group must decide what the appropriate uses are in the Hanwell area as Home Based Businesses. He asked the group if they're open to different zones for different neighborhoods or if you would like to see something that is the same across the boards for the existing residential areas.

Dallas mentioned that the Covenants for the subdivision may differ. **Dallas** asked the group if they wanted to bring the covenants into the plan and incorporate them somehow, where applicable in the zoning provisions.

WG member: stated that people probably bought into the subdivisions where they live b/c of a certain way of life and covenants so we could try and incorporate these in the zones if possible. He suggested looking at the covenants and separating the residential zones based on their covenants.

Dallas reiterated says that there may be some parts of the covenants that are outside the control of the Plan i.e. the Plan will not control house paint colour but a covenant could. However, if a home based business is not permitted in a covenant, the plan will reflect this.

WG member: there are probably covenants against retail in subdivisions and so we should keep retail with retail and residential with residential.

WG member asked do covenants expire? **Dallas:** not unless they are designed to **WG member** asked who enforces them? **Dallas** stated that covenants are an agreement between the developer and the purchaser. If the purchaser breaks the agreement, the developer can take action against the owner and enforce the covenant. Covenants are a legal document so the developer can take them to court, but there are costs associated with that which the developer may not wish to incur. The Planning Commission doesn't have a say in what is included in a covenant, or are they made aware of what the covenants require; therefore, they do not enforce them. However they are still valid if the developer or third parties wanted to take action.

WG member: home based businesses – there are many possibilities.

Dallas: we would define what is a home based business and have standards associated with them. For example, we may want to take the approach of having separate classes of home based business: a class 1 home based business might mean that there is no outside storage. There could also be a class 2 home based business which could allow something like a contractor's yard meaning that there would be outside storage and work happening outside the associated dwelling. Keep in mind that if covenants do not exist outside the developed areas then those areas may not wish to be restricted by incorporating covenants into the zone provisions. So we would have to be open to separate zone if we want to have the covenants to have a strong influence on the zoning.

WG member: covenants are unenforceable so we should do away with them.

Dallas: if there are things that you like from the covenants we could incorporate them in the Rural Plan

WG member: I think we should have standards that apply across the board.

WG member: mini homes could be an issue. A past example is that there was a mini home on a property where it wasn't permitted by covenants and the residents couldn't get rid of it.

WG member: there was a huge variance granted to allow this Garden Suite to go on the property that was less than an acre in size.

Dallas: once requirements are in a plan there is not as much leeway. The policies and proposals act as a guide to lead variances and other decisions in the right direction. The intent of the Plan must be followed. Variances are not permitted if it goes against the intent of the Plan. Planners recommend a course of action in the variance application and the Commission makes the decision, but applicants do have the opportunity to appeal the decision if they do not agree with the outcome.

WG members: the only place that I can see there being a different zone is along the Hanwell Road. Subdivisions are usually all the same and not very different.

Dallas: I agree. There is a mix of residential and commercial uses and we're going to have to find a way to reconcile existing uses and our new standards.

Dallas: is there a difference between the existing subdivisions, in the group's opinion? Is there a change in the age of structures or type or size that we should consider in the plan? Or should we just let the covenants deal with that.

WG member we should address whether we should allow a 2 family dwelling next to a single family dwelling.

WG member: Along the Hanwell Road, the retail and commercial and those types of uses, I can see them being established along the first hundred metres of the road. This would mean noise and air and ground water pollution should be considered when we look at home based businesses. Inside the house we can't really deal with it because we can't really see it, but anything that happens outside the home means potential pollution issues to the surrounding neighbours.

Dallas: We need to start thinking about "where" are we talking about for these issues? "Where" are we talking about applying these standards?

WG member: what we should be looking at is can the land support the type of proposed use and if the surrounding uses are compatible with the proposed uses?

Dallas stated: what we said at the last meeting was that we were going to limit future residential uses to where the existing residential is located. Then, future proposals to establish residential uses on "rural" properties would be required to rezone from rural to residential and the community would then have the opportunity to comment on the proposal looking at things like will the water table be impacted or will there be negative traffic impacts, etc... It's difficult to zone land for it's most compatible use because we don't have the resources to look at water tables and what types of uses can be supported by it and how many, etc...

WG member: maybe we should be looking at water and sewer systems.

Dallas: I agree however, in practice the Dept. of Env does not really look favorably on communal water and sewer systems in unincorporated areas because when they fail the Minister of Env must take ownership.

Dallas: You mention a good example of forethought and strategic planning, much that that planning is based on infrastructure.

WG member: in Moncton, up where they have the Costco and the other big box stores are located on one side of the road and there are other commercial or service type businesses on the other side, then there were beautiful residential subdivisions behind those uses. Can we do something like that that keeps certain uses in certain areas where everyone will be happy? For example, they won't be happy in the middle of a major residential subdivision and the adjacent owners won't be happy either.

Dallas: You mention a good example of forethought and strategic planning. Much that that approach is based on infrastructure. In our rural area and given the local governance framework we lack many of those tools. It's difficult to look at all the different types of uses and identify areas where they should be located whereas you include some flexibility to address rural realities. Ideally, the type of planning you talk about would have been done on a Greater Fredericton Regional scale way earlier when the streets were being planned out. Forethought should have been given to traffic and future uses, and expansions but we can't fix all of that through this exercise and in these frameworks we don't control the major infrastructure like the highways that would have major impact.

WG member: sense of community was one of the things that came up in previous meetings and what we have to look at as if we want to be our own entity or if we just want to be an arm of the city of Fredericton.

WG member: was there a Plan in place when Mountain Rd. in Moncton was developed?

Dallas: there was a municipal plan in place in Moncton and they review it and make changes to it to allow or disallow certain uses or change the standards set strategic growth initiatives.

WG member: for example, if I owned the vacant lot across the road and I had plans to develop a hotel, but the plan has the property in a zone that doesn't allow it. Are my plans thrown out the door?

Dallas: no, you would still have the opportunity to apply for a rezoning.

WG member: we do have to have a plan in place to control the uses and I do think that we could have home occupations in residential subdivisions as long as they're not intrusive to the neighbours. Those types of uses that are intrusive that might have a lot of traffic or noise, etc... should be located somewhere else other than in residential areas.

Dallas: do we want to allow home based businesses in areas where covenants do not allow them?

WG member: I would like to see different zones so that everyone's investment is protected including the contractor and the residential land owner.

WG member: we need zoning as opposed to covenants. How do we distinguish between the uses that are allowed in an area?

Dallas: reads a portion of the minutes from the last meeting where the group said they agreed to have some of the vacant lands preserved and not chopped up for tiny residential lots. These vacant lots would then, in order to be developed, be required to go through the rezoning process so that the public would have the opportunity to comment on the development.

WG member: covenants basically protect the subdivisions from home based businesses or anything that goes against the existing covenants, but I think we should incorporate the covenants into the zoning provisions where we are able to.

WG member: what will happen to properties that do not currently have covenants?

Dallas: let's focus the discussion on where there are covenants for the time being.

WG member: the covenants are a starting point and if we do something radically different then people will be upset b/c their expectations of what should be protected are not met. How are we going to find out what all these covenants are?

Dallas: I can go the Registry of Deeds and pull up deed and covenants for the subdivision and compare them. There is no guarantee that all covenants, even in the same subdivision, are going to be identical but if I look at a few of each I think I can be sure they will very close.

Keith: can we do this research and then plot it on the map?

Dallas: yes, that will be a big step for us too because it will bring us closer to a zoning map. I can find the deeds for the different subdivisions in Hanwell and then plot them on a map, to show where they differ.

WG member: my covenants do allow home based business, but there are standards, but I'm not totally sure what they all are or how far they go.

Dallas: There are other directions we can move in, but clearly the group is okay with establishing different residential zones with different requirements. What about land that is being used outside of the covenants now? Should they be grandfathered in (i.e. ignore them and basically allow them to continue with certain restrictions-re: expansion)?

WG member: we should do something in the spirit of the covenant, not necessarily mimic the covenant – it doesn't have to be word for word.

Dallas: what I'm trying to get at is how people feel about the instance where we want to mirror a covenant but if there are existing home based businesses already that would then become non-conforming uses in the rural plan. What extent do we make allowances for existing developments.

Dallas: Garden suites are going to be a similar thing as the home occupations, and could be covered by covenants. What we want to look at is there areas where we want to say no to them.

WG member: can the garden suite exceed the septic capacity on the existing lot?

Dallas: can it or should it? Should it? Many times the conditions we write into the rural plans control the size of the garden suite which controls its size and hopefully its septic effluent. The garden suites are established on compassionate grounds exemption from Department of Health b/c the main home owner has to care for an infirm relative under the requirements that they structure has to be moved within a specified time frame. The septic is to be approved by the Department of Health.

WG member: how do we get rid of these garden suites after they've served their purpose and are now being used for something else?

Dallas: once the plan is in place, there is the avenue to take enforceable action via the commission for enforcement and other departments.

Dallas: how does the group feel about allowing these garden suites?

WG member: if we don't allow them can someone appeal that decision?

Dallas: once the plan is in place and they want a garden suite, they would have to apply to have the plan amended to allow them.

WG member: aren't there different types of granny suites? There is one down the road where granny is in the basement and no one has said anything about it.

WG member: what happens in other jurisdictions?

Dallas: we usually allow them as secondary uses as a secondary use to a main residential use in some zones. If the group doesn't want to allow them, then we would just leave it out of the plan.

WG member: we may want to not permit them because once you open the door the opportunity is there to abuse it.

WG member: is there governmental legislation that could override us if we say that we're not going to allow garden suites?

Dallas: not that I am aware of. Just because someone gets an exemption from Dept of Health, I do not believe that entitles them to violate the Rural Plan if the plan did not permit them.

WG member: is it more of an appearance thing or the granny suite meeting all the requirements?

Dallas: It can be both. Keep in mind that in many of our plans we have allowances, notwithstanding the garden suite example, where if the lot is large enough so that a second separate home can be placed on a lot, so that it would meet all requirements lot and setback requirements if it was to be subdivided. So for us, depending on the circumstance the mere fact of two homes on one lot is not always in issue, on one acre, it's a bigger issue

Dallas: So, as a group it seems as if we're more comfortable with not allowing them in subdivisions rather than making them follow the rules. Once the garden suite is in place and the person who was living with it is no longer in residence there, the land owner has 6 months to remove that dwelling unit from the property. We do rely on neighbours to let us know at the planning commission if the garden suite is no longer in use and that's not a perfect process.

WG member: Are the garden suite and its placement reflected on their tax assessment?

Dallas: Good question. The tax assessors sometimes don't realize that it's a temporary use. In some cases, the tax assessor may put the value up or it may be brought down, either way the landowner could appeal, and or ask for a re-assessment when the structure is removed.

WG member: I don't think we can not allow them. It will be difficult not to have them especially since nursing home spaces are difficult to get.

WG member: I thought that as long as septic and water requirements and lot area was met the garden suite would be permitted.

Dallas: sometimes in cases where people can't establish the garden suite on the lot, they can add an extra bedroom in their home.

WG member: What are the Department of Health's powers in approving a garden suite?

Dallas: the DOH has to approve compassionate grounds to establish the garden suite and also approve the septic system. The planning commission controls whether or not the land use is permitted regardless if compassionate grounds are granted by DOH. The planning commission can issue a permit for the garden suite to establish subject to the DOH approving the lot on compassionate grounds and gives septic approval.

WG member: when it comes time to move the garden suite, can they appeal the removal by claiming hardship?

Dallas: no, you can't claim unreasonable hardship when it comes time to remove the garden suite. It's not unreasonable because you knew when you established the use that you would have to remove it after a certain amount of time. Unreasonable is if you were not expecting to incur a certain cost or hardship, also you must have "clean hands" in the matter, meaning the issue should not be of your own making.

Dallas: So where are we as a group in relation to the idea of garden suites in subdivisions? Are we okay with them or not?
(one group member raised their hand to say they were not in favor of allowing any garden suites in subdivisions)

Dallas: mini homes – how does the group feel about them and do they go against the covenants?

WG member: is a garden suite an exception? So, mini homes are not permitted, unless they are being used as a garden suite. I think mini homes should be in mini home parks, within a specifically defined area.

WG member: is there a definition in provincial regulations of what a mini home is?

Dallas: yes, but it's old. I can't quote here for you. We tend not to use whether it can be transported on a flat bed truck, they have to be less than 6 m in width and that is the definition. So, in a rural plan we would draw the definition between what is a mobile home, mini home, and modular home.

WG member: if I had 400 acres of land and I wanted to put a mini home on it then I don't want to be told that I can't have a mini home on the property.

WG member: I think we are referring to existing subdivisions like Eaglewood or Starlite. I wouldn't want to see mini homes permitted in those areas – outside of these subdivisions, fine.

Dallas: do you feel the same toward a mini home and a mobile home? Many times a mini home is being used in place of building a bungalow.

WG member: Should there be a buffer zone between mini homes and the adjacent residential property to protect land values?

WG member: can't we require that through the rural plan? In an existing residential subdivision, we should probably not permit those buildings in the subdivisions. Central water and sewer is also a determining factor because it will limit the density.

Dallas: At this point I'm trying to find out how the group feels about these uses. There are many other issues we'll have to discuss such as how we feel about the keeping of livestock and how we're going to handle livestock operations that have less than the number of animals units that the Agricultural Act regulates. Hanwell doesn't really have a strong agricultural character; there is some, but not a lot. There is more of hobby farm type development. We could just draw a line somewhere along the Hanwell Rd. where hobby farms will be permitted and areas where they aren't.

WG member: are there standards for what the land can bear?

Dallas: animal units are the determining factor and the nitrogen content is really the managing factor – it is more the proper handling of manure that affects what the property can safely handle.

WG member: is there a definition of a hobby farm? Is there a federal or provincial definition?

Dallas: there are likely many, I'm not sure if there is on chief one, but we find a good one that meets what we want to do in Hanwell.

WG member: if we set parameters or criteria, what happens to operations that already exceed these criteria?

Dallas: we can treat them as non-conforming uses but then they would have the related conditions associated with being non-conforming. They could apply for a variance or rezoning. We can also "spot zone" the property to signify that we realize that this property doesn't meet the requirements and so we've created a zone that allows them to continue.

WG member: how do we deal with issues where the group is not 100% supportive of?

Dallas: Well that is going to happen to likely everyone at some point. Everything is going to be brought forward for review and if we move on for the time being, it can be revisited later. If there is more to add to the discussion now we can discuss, if after we have discussed it and there is a difference of opinion, well we try to reach consensus as much as possible. Like the ground rules say, I would just encourage a person that there are going to be many more issues, and opportunities of for adding to the discussion to not get discouraged, if the WG differs in opinion when consensus is not possible.

Meeting ended 10:04pm.

Dallas says that he'll be going to the registry of deeds to check on the covenants that are in place and bringing that info back to the group for discussion and then the group will look at establishing the various residential zones.