

# ROTHESAY

## PUBLIC MEETING

Rothesay Hills (Higginson Avenue Subdivision)  
(PID 00239632)

Rothesay Town Hall Common Room

Monday, August 15, 2022

*Immediately following a Public Hearing (no sooner than 7:30 p.m.)*



**PRESENT:** MAYOR NANCY GRANT  
DEPUTY MAYOR MATT ALEXANDER  
COUNCILLOR HELEN BOYLE  
COUNCILLOR DAVE BROWN  
COUNCILLOR PETER J. LEWIS  
COUNCILLOR TIFFANY MACKAY FRENCH  
COUNCILLOR BILL McGUIRE  
COUNCILLOR DON SHEA

TOWN MANAGER JOHN JARVIE  
TOWN CLERK MARY JANE BANKS  
DIRECTOR OF PLANNING/DEVELOPMENT (DPDS) BRIAN WHITE  
ADMINISTRATIVE ASSISTANT LIZ HAZLETT

PETER ALLABY, P. ENG., ENGLOBE

**ABSENT:** DIRECTOR OF OPERATIONS (DO) BRETT McLEAN  
TREASURER DOUG MacDONALD  
DIRECTOR OF REC/PARKS (DRP) CHARLES JENSEN

**PUBLIC MEETING**                      **Subdivision Agreement (14 lots and new public street)**  
**Higginson Avenue**  
**PID 00239632**

<b>1. Call to Order</b>	<b>Instructions</b>
10 August 2022	Public notice (Town Hall and website)

Mayor Grant called the public meeting to order at 7:33 p.m.

Mayor Grant welcomed all in attendance and noted the application is to consider a subdivision agreement for land off Higginson Avenue (PID 00239632) for 14 single-family home lots. She listed the documentation and the dates the notice was posted to the website. Members of the public are asked to identify themselves before speaking, each will have a ten-minute time limit, and disrespectful comments will not be tolerated. For the sake of time, she asked that comments/concerns not be repeated. She explained the format of the meeting and noted a decision of Council will not be made this evening.

Mayor Grant mentioned seven written submissions were received following the deadline. A motion of Council is required for consideration.

**MOVED** by Counc. Shea and seconded by Deputy Mayor Alexander the correspondence (7) be received/filed.

**CARRIED.**

## 2. Presentations

2.1 Brian White, Director of Planning and Development Services

Mayor Grant invited Brian White, Director of Planning/Development Services (DPDS) to give a presentation.

DPDS White introduced Peter Allaby, P. Eng., Traffic Engineer for Englobe, highlighting Mr. Allaby's role in the creation of the Secondary Plan. Mr. White clarified the application is before Council because a subdivision agreement is a requirement of the Subdivision By-law, to consider a new public road connection to Higginson Avenue and provision of municipal services (water/sewer).

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DPDS White highlighted the following: the size of the property, developer obligations in a subdivision agreement (public streets, curbing, sidewalks, stormwater drainage infrastructure, water and sewer lines, streetlights, and street trees), rezoning is not required, there are no conflicts with the name “Rothesay Hills Road”, lots will be fully serviced (municipal water and sewer), the size of all lots meet by-law requirements – with the exception of one (a minor variance of 5%), and the subdivision conforms to the 2020 Municipal Plan and 2019 Secondary Plan. He explained how transportation was an area of focus during creation of the Secondary Plan, and suggested Mr. Allaby could elaborate.

Mr. Allaby advised: the 14 single-family lots will generate low traffic volumes (130-140 vehicles per day); based on 2018 data, daily traffic volumes on Horton Road (250) and Dunedin Road (600) will remain well below 1,000 vehicles per day which is a common upper threshold for residential local streets; and access to the Hillside Trail will be maintained via the new residential street.

DPDS White continued, noting the development conforms to the low-density residential intent for this area in the Municipal Plan and development phasing as indicated in the Secondary Plan. He explained development of the Hillside South area is planned over 4 phases. Phase 1 lands: do not require additional watermain work by the Town, will be connected to existing sanitary sewers on Dunedin Road (no capacity concerns), design of the subdivision will include a stormwater management plan (net-zero), and no increases in peak flows are expected from the development entering into existing storm sewers. For Phases 2-4 to proceed, an upgrade and extension of Wiljac Street with a connection to Fox Farm Road, as well as sewage lift stations and water line extensions are required.

DPDS White addressed construction access concerns by sharing a draft clause, for the development agreement, that restricts sole access for construction traffic to the water utility pipeline right-of-way (Hillside Trail). He reminded Council of Policy DEVC-1 of the Municipal Plan requiring that developers bear the cost of infrastructure improvements. In conclusion, DPDS White reiterated the following: the development is a low-density large lot residential community, rezoning is not required, subdivision costs are borne entirely by the developer, the land is suitable for residential homes, and there are no concerns or hazards for development.

Mayor Grant thanked DPDS White and Mr. Allaby and invited questions from Council.

Council inquired about the following: garden homes, rationale for a cul-de-sac as opposed to a connection to Dunedin Road (as indicated in the Secondary Plan) – and single access vs. dual access; the stormwater management plan; clarification of cost-sharing of improvements amongst developers; and use of the Hillside Trail for the entire duration of the project (3-4 years).

DPDS White responded with the following: lots will be for single-family homes, not garden homes; there were concerns a connection to Dunedin Road would create a long stretch of road or “raceway”; a report was prepared for a stormwater review and conditions will be outlined in the Subdivision Agreement; and the cost of improvements for the subdivision will be borne solely by MR Investments. He suggested the developer could confirm more information regarding the timeline for the project.

Mr. Allaby advised, based on the proposal, a secondary access point is not necessary as the right-of-way near Dunedin Road will be accessible to pedestrian/non-vehicle traffic and emergency access if necessary.

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2.2 Stephen Maltby, MR Investments Inc.

Mayor Grant invited the applicant to give his presentation.

Mr. Maltby introduced himself and the company and stressed that the proposal comes before Council following many years of research by staff and consultants, as well as years of public consultation during creation of the Secondary Plan and Municipal Plan. The 2010 Municipal Plan outlined the need for a Hillside North and South Secondary Plan prior to development. In 2016, the Secondary Plan was initiated, and approved in 2019 following three years of public consultation – at which time Phase 1 of the Plan was also approved. He shared a description of the Secondary Plan as “a comprehensive framework to guide future development for years to come”. The Secondary Plan has been discussed over 12 years, which suggests the Plan is not “piecemeal or patchwork” but instead a comprehensive plan. Furthermore, the Municipal Plan By-law 1-20 was enacted in 2021 and supports the development of Phase 1 of Hillside South. He stated MR Investments Inc. has submitted a proposal for development on land identified as Phase 1 of Hillside South – exactly as Town staff, Council, and citizens approved in the Secondary Plan.

Mr. Maltby recapped details of the proposal, highlighting the following: zoning is the same as the existing neighbourhood; the average lot size exceeds the minimum size required by 31% – with the exception of one lot requiring a minor 5% variance (owing to a cul-de-sac); fewer homes are proposed than permitted; compliance with the Secondary Plan and Municipal Plan; support from Town staff; rezoning or major variances are not required; a commitment for land for public purposes has been made; and there are no conflicts with the street name “Rothesay Hills Road”. He concluded by noting the design of the subdivision was built in consultation with Town staff, using the Secondary Plan and Municipal Plan as guides. He stressed that the Municipal Plan sets policies and intent for land use, is created with public consultation, and is a guide for Rothesay once enacted.

Mayor Grant thanked Mr. Maltby and invited questions of Council.

Counc. Shea asked about expected completion of the project. Mr. Maltby noted, ideally, completion would occur in 3-4 years (3 years is the target); however he acknowledged the possibility for delays in the industry.

## **Documentation**

4 August 2022

Memorandum from Planning Advisory Committee

30 June 2022

Staff Report to Planning Advisory Committee

## **3. Submissions**

8 August 2022

Letter from Wiljac Street resident

8 August 2022

Email from Horton Road resident

10 August 2022

Email from Dunedin Road resident

11 August 2022

Email from Valpy Drive resident

11 August 2022

Email from Valpy Drive resident

12 August 2022

Email from area resident

12 August 2022

Email from Burnett Terrace resident

## **4. Appearances (In-person/online)**

**In-person**

Tom Mueller

**Online**

Mayor Grant invited Mr. Mueller to speak.

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Tom Mueller, 105 Horton Road, made the following comments: a prior application on the same land was unsuccessful owing to traffic and safety concerns; development should not proceed before a collector road is in place – as assured by Town staff; existing concerns should be addressed before development occurs; residents desire the enhanced infrastructure which accompanies development; completion of Phase 1 separately, and before Phases 2-4, can be described as “piecemeal and patchwork”; subdivisions cannot be constructed by accessing current roads if those roads are deemed inadequate or too steep; the Dunedin Road and Horton Road intersection poses safety concerns; consultation with police, fire, and ambulance services has not occurred; the current design creates an even longer “raceway” on Horton Road than if Dunedin Road were extended; existing neighbourhoods will become a thoroughfare for Phase 1 developments and a shortcut for existing residents (those of Appleby Drive); public consultation was impeded during the pandemic; supporting the proposal conflicts with the 2002 ruling by the Provincial Planning Appeal Board – a ruling based on a consultant’s report which residents have not been able to access; concerns of an existing watercourse on the property (unnoticed owing to a biomass of trees and moss)/potential stormwater run-off problems; a preliminary response from Boreal Environmental indicates the property appears to be contiguous with a sloping wetland and removal of the biomass could create stormwater run-off problems; Boreal Environmental also indicated the Department of Environment and Local Government would be amenable to constructing a bridge spanning a short interval of wetland immediately adjacent to the highway (significant cost); the 2002 Provincial Planning Appeal Board decision and consultant’s report should be revisited before approval or future development; traffic should be directed through Dunedin Road as identified in the Secondary Plan; the Secondary Plan should be revisited in view of obstacles to public consultation during the pandemic; Council should abide by Rothesay’s intent to be “a suburban retreat for all ages”; Council should provide an Environmental Impact Assessment for the proposal and future development to protect wetlands; and Council’s first obligation is to existing ratepayers.

Council inquired about: the location of the watercourse, significance of decisions made in the early 2000s by the Planning Advisory Committee and Provincial Planning Appeal Board, flexibility of the Department of Environment’s refusal to impact the wetland, and public thoughts on use of the Hillside trail for construction access.

Mr. Mueller showed the location of the watercourse using the draft subdivision plan. He shared his experience with Water Rights (British Columbia) and revealing watercourses – and subsequent downstream issues – once lands have been cleared.

Town Manager Jarvie advised the Provincial Planning Appeal Board decision does not set a precedent. The ruling was based on factors including access to the site and municipal water. Subsequent to the decision, municipal water was extended into the area. He noted it is unclear how the Board would act if presented with the proposal today.

Mr. Allaby advised there were several meetings with the Department of Environment in 2018-2019 to review options for a collector road. The Department would not entertain an option that impacted any portion of the wetland. He added a bridge may be possible, but this was not considered as cost was a deterrent.

With respect to use of the Hillside trail, Mr. Mueller indicated traffic generated by the developments, the collector road, and existing residents using Horton Road as a shortcut, is a greater concern. He relayed requests made to Town staff to incorporate traffic calming measures into the area. He added use of Hillside trail is a welcome consideration, but not a major concern.

Deputy Mayor Alexander asked if a connecting road is necessary between the two Phase 1 developments. DPDS White noted such a road could be considered, but is not guaranteed, as it requires more information and a review by staff and traffic consultants. He clarified this is not part of the current proposal.

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In response to an inquiry, DPDS White advised should development occur near Appleby Drive (Phase 1) it would require municipal services (water and sewer).

Mayor Grant called three times for those wishing to speak.

Josh Hennessy, 146 Horton Road, reiterated the importance of development for community growth but cautioned it should not be done at the expense of public safety. He raised the following concerns: known risks in the area require mitigation; there are varying levels of service (ex. utilities or sidewalks) for Dunedin Road, Newport Road, Mantua Road, Valpy Road, Horton Road, and Higginson Avenue; the grades of Dunedin Road (14%), Horton Road (17%), and Appleby Drive (12%) do not comply with current standards and prevent school buses from accessing the neighbourhood; it is expected the grade of the subdivision road will exceed current standards as well; a significant population of young children in the area; and risks to pedestrians from additional vehicular traffic (roughly 25% increase). He urged Council to table the application until mitigation strategies are brought forth to address: road grades, alternate vehicle access, pedestrian safety (sidewalks), school bus access, traffic calming measures, and equitable services for existing residents (municipal water is not available to existing Horton Road and Higginson Avenue properties).

John Steeves, 85 Dunedin Road, asked if the timeframe for completion (3, possibly 4 years) means the construction of homes or simply preparation of the land. Mr. Maltby confirmed completion means the construction of homes not just land preparation. When questioned, he confirmed the timeline depends on real estate factors as well.

Catherine Chiasson, 136 Horton Road, extended appreciation for the meeting. She made the following comments: this is the tenth occasion that residents have expressed concerns about road condition and traffic to the Town; prior applications for Phase 1 lands were unsuccessful as they either preceded creation of a Secondary Plan, or because of road conditions, traffic concerns, and access to water; the collector road should be constructed before developments are approved; use of the Hillside Trail for construction access is a temporary solution that does not address concerns regarding traffic generated by Phase 1 developments; unaddressed concerns represent a disregard for current citizens; road conditions have not improved but may have worsened (Horton Road/Dunedin Road intersection), especially in winter, therefore similar applications are not warranted; despite public consultations residents remain unheard; and the threshold for daily vehicular traffic should be reconsidered as these roads are not typical streets.

Counc. Shea asked if the School District informs resident of why buses do not travel up these roads. Ms. Chiasson explained it is a safety issue as the buses are not able to travel around some corners without crossing the centerline of the road.

Mike Start, 79 Dunedin Road, made the following comments: the addition of 14 homes would result in a total of 50 homes relying on a single point of access; noise from construction traffic would impact quality of life for existing residents; concern of potential impact to privately owned parkland on Mantua Road, Dunedin Road, and Horton Road collectively maintained by surrounding residents; there is development potential for the land but it should not be done without consideration for existing residents; and he supports use of the Hillside Trail for construction access.

Greg Redford, 42 Horton Road, expressed concerns regarding safety of young children in the area and lack of sidewalks. He noted traffic reports address vehicle counts but do not mention pedestrian counts.

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Town Manager Jarvie clarified that a sidewalk exists from Horton Road to Rothesay Road. Mr. Allaby explained traffic studies examine vehicle counts as a measure of potential conflicts – with vehicles or pedestrians. He noted pedestrian activity is not typically measured, but some municipalities have guidelines for prioritization of sidewalk installation. The Secondary Plan proposes new roads be constructed as a rural cross-section (ex. no sidewalks, open ditches). He indicated based on traffic volume it is unlikely sidewalk installation would occur on Horton Road before other roads.

Mr. Redford suggested the methodology for typical streets is not applicable to Dunedin Road, and surrounding roads, as they do not fit the description of a standard street. He added the sidewalk only extends a quarter of Dunedin Road whereas the majority of children live at the top of the hill.

Tim Walsh, 98 Wiljac Street, stressed the need for a collector road as long as it is done properly. When sharing his opposition to the Wiljac Street extension – at the public meeting for the Secondary Plan – he was informed there are no plans to install streetlights at Fox Farm Road and staff were not receptive to public ideas. He encouraged Council to not only visit the area but spend time there to truly understand public concerns. He expressed further concerns: traffic issues have evolved over time – vehicles are larger and speeding is more frequent; Wiljac Street cannot support 4,000 cars per day; storm sewer capacity; and improper sewer connections that go unnoticed.

Deputy Mayor Alexander clarified that Council, at its last regular meeting, approved a tender for the design of the Wiljac Street extension project. The design will accommodate increased traffic.

Ingrid Warning, 67 Appleby Drive, spoke of several challenges faced by drivers of large vehicles travelling up Appleby Drive unfamiliar with the hazards of this network of streets. She listed examples of incidents where vehicles stray from the road, especially in icy conditions. She shared concerns that a lack of curb, or other safety measures, could result in a vehicle veering off the road and onto her property, potentially injuring someone. She noted she does not mind the construction of 14 homes, but her concerns relate to large vehicles driving these hazardous streets without prior knowledge or warning signs. She stated Appleby Drive can accommodate a 48-foot trailer but not a 53-foot trailer. She expressed further concerns regarding vehicles accidentally backing into ditches and causing damage to lawns, and water issues surrounding poles owing to the age and structure of the road. She noted she shares other residents' interest in developing infrastructure before developments are approved. She commented that the Town is liable for infrastructure provided. She asked why a road cannot be built for permanent use of the Hillside Trail. She urged Council to listen to residents and take the existing problems seriously, and perhaps revisit how best to accommodate growth.

Mayor Grant called three times for those wishing to make any new comments. Hearing none, she invited the four online registrants to speak. There was no response from David Gates, and Karin Frazer did not wish to comment.

Jeff Shaw, 60 Higginson Avenue, noted he grew up on Appleby Drive and now lives on Higginson Avenue and echoed concerns regarding traffic generated and the safety of young children on the Horton Road “raceway”.

Greg Murdock, 22 Maplecrest Drive, encouraged a second access point and suggested further consideration be given to an extension of Dunedin Road.

Town Manager Jarvie advised it could be considered but the current plan is somewhat circuitous. He added the intent is that traffic generated by phases in the Secondary Plan will use the collector road as opposed to existing streets.

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Mr. Murdock added he supports the temporary use of the Hillside Trail for construction access.

Mayor Grant invited David Gates to speak again but Mr. Gates was no longer connected.

### **5. Closing Remarks**

Mayor Grant invited closing remarks from the developer.

Mr. Maltby noted while roughly 9-10 people spoke tonight, over the past six years the Town has heard from hundreds of Rothesay citizens during the creation of the Secondary Plan and the Municipal Plan.

He stated after significant investment in time and effort, thorough review, and consideration of other residents, both Plans were approved – and both Plans support the application. As a developer, the roadmap for development is the Municipal Plan and Secondary Plan. He stressed the importance of facts when considering the proposal as opposed to personal opinion. He concluded with five facts that support the application:

1. Phase 1 of Hillside South (subject land for the proposal) was approved for development in 2019;
2. The proposal complies with the Secondary Plan;
3. Engineering experts were engaged by the Town throughout the creation of the Secondary Plan to evaluate safety and identified no concerns;
4. Existing infrastructure for municipal water and sewer is sufficient for the proposal – no additional work is required by the Town; and
5. The proposal is supported by Town staff who engaged several experts and spoke with Provincial bodies throughout the years to get to this point.

Mayor Grant thanked all in attendance.

### **6. Adjournment**

The public meeting adjourned at 9:11 p.m.

Respectfully submitted,

*Original signed by*

Mary Jane Banks, BComm  
Town Clerk