

**Minutes of a Special Meeting of Amherst Town Council
Held in Council Chambers
Tuesday, June 29, 2010 at 7:00 PM**

PRESENT: Mayor Robert Small
Deputy Mayor Terry Rhindress
Councillor Robert Angel
Councillor George Baker
Councillor Dale Fawthrop
Councillor David March
Greg Herrett, CAO

REGRETS: Councillor Robert Bird

ATTENDING: Jason MacDonald, Director of Planning and Engineering
Vince Arbing, Treasurer
Ben Pitman, Director of Transportation and Public Works
Roger MacIsaac, Director of Community and Economic Development
Rebecca Purdy, Executive Assistant

1. CALL TO ORDER

This special meeting of Amherst Town Council was duly called and advertised to hold a public hearing on the matter of a proposed Development Agreement with the owners of property located at 57 Havelock Street to permit the operation of a licensed restaurant in conjunction with the existing bed and breakfast on the same property, and subsequently, for Council to consider second reading of the Development Agreement.

**1.1 Approval of the Agenda M-1006- 14
Moved by Councillor Angel, seconded by Deputy Mayor Rhindress to approve the agenda as circulated.**

MOTION CARRIED

2. HEARING / PRESENTATION

2.1 Public Hearing – Development Agreement at 57 Havelock Street

Mayor Small called the public hearing to order and asked the Director of Planning and Development to give his report. The only citizens in attendance were the applicants. Jason MacDonald reported that an application for a licensed restaurant as part of a bed and breakfast establishment at the property located at 57 Havelock Street had received 1st reading on May 25, 2010 and that this public hearing had been duly advertised. The requested use is permitted by development agreement under the Town's Municipal Planning Strategy policy RP-16. The DA satisfies all relevant policies of the MPS. The property owner to the west on Robie street wants a fence installed. The PAC recommended the fence not be installed and the fence was not included in the DA as received 1st reading last month. The applicants' intent is to serve their B&B clients and the public by reservation. Mayor Small asked the CAO if he had received any written correspondence; he had not. The public hearing was concluded.

3. REQUEST FOR DECISION

**3.1 2nd Reading – Development Agreement at 57 Havelock St, RFD#2010072 M-1006-15
Moved by Councillor Angel seconded by Councillor Angel that Council approve 2nd reading to the development agreement for a licensed restaurant in conjunction with the existing bed and breakfast on property located at 57 Havelock Street, and further, that Council repeal the existing development agreement for the operation of a physiotherapy clinic on the same property.**

Case No. DA-2010-02

This Agreement made this _____ Day of _____ 2010.

Between:

Colin McElrea and Margaret York, Owners of property located at **57 Havelock Street** (PIDs25021395), hereinafter called the Owner, Of the one part

- and-

The Town of Amherst, a body corporate hereinafter called the Town, Of the other part

WHEREAS the Owner wishes to obtain permission pursuant to Policy RP-16 of the municipal Planning Strategy of the Town of Amherst, to operate a licensed restaurant as part of a bed and breakfast establishment on the property located at 57 Havelock Street.

AND WHEREAS a condition of the granting of approval of Council is that the Owner enter into an agreement with the Town;

AND WHEREAS the Council of the Town, at its meeting on the ___th Day of _____ 2010, approved the said development agreement subject to the registered Owner of the land described herein entering into this agreement;

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the granting by the Town of the development agreement requested by the Owner, the Owner agrees as follows:

- 1) That the Owner is the registered owner of the aforesaid lands in the Town of Amherst, hereinafter called the lands. The aforesaid lots are the only lands in the Town of Amherst to which this agreement applies, and the lands are illustrated in the plan shown on Schedule B attached hereto and forming part of this agreement.
- 2) That the Owner may operate a licensed restaurant as part of a bed and breakfast establishment on the said lands, subject to the following Schedules A, B and C, attached.
- 3) Any failure of the Town to insist upon strict enforcement of any requirements or conditions contained in this agreement shall not be deemed a waiver of any rights or remedies that the Town may have and shall not be deemed a waiver of any subsequent breach or default in the conditions or requirements contained in this agreement.
- 4) Should the Owner fail to act in accordance with any aspect of this agreement, the Town shall retain the right to discharge the agreement upon 30 days notification and / or enter the property and conduct the required work. The cost of the said work will become a lien on the property tax bill.
- 5) The Town shall issue the necessary permit for the development upon the expiration of the appeal period specified for development agreements in the Municipal Government Act, Section 249, as the same may be amended from time to time, or upon the withdrawal or dismissal of any appeal which may be taken.
- 6) A copy of this Agreement and every amendment and discharge of this Agreement shall be recorded at the office of the Registry of Deeds at Amherst, Nova Scotia and the Owner shall pay or reimburse the Town for the registration cost incurred in recording such documents.
- 7) The Agreement shall be binding upon the parties hereto, their heirs, successors, assigns, mortgagees, lessees and all subsequent Owners, and shall run with the land which the subject of this Agreement until this Agreement is discharged by Council.
- 8) If the Owner fails to observe or perform any condition of this Agreement after the Town has given the Owner thirty (30) days written notice of the failure or default, then the Town may by resolution discharge the Agreement whereupon the Agreement shall have no further force or effect and henceforth the development and use of the land shall conform with the provisions of the Land Use Bylaw.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals on the day and year first above written:

Schedule A **57 Havelock Street - Development Agreement**

Terms and Conditions:

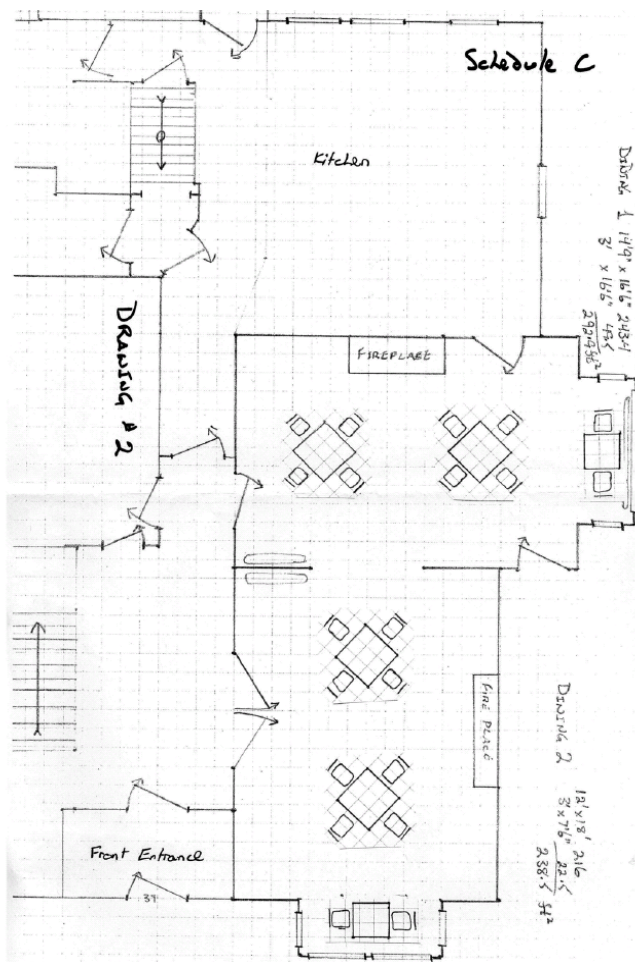
1. The use of the property shall be limited to four (4) bedrooms available to the traveling public and a licensed restaurant within the existing footprint of the building.
2. The restaurant use of the property shall be limited to the kitchen and a dining area on the interior of the dwelling of approximately 50 square metres containing seating for twenty (20) individuals, and generally in accordance with Schedule C.
3. No more than two (2) employees, other than the property Owners shall be employed at the restaurant.
4. The bulk, height, and character of the building shall not be increased or substantially changed from that which existed prior to this agreement, except for those changes required to meet the National Building Code, or any other regulatory requirements.
5. Solid waste management shall be in conformance with the town solid waste bylaw, and shall be stored in an enclosed receptacle and secured from unauthorized access by humans and rodents.
6. A minimum of (11) parking spaces be provided on the site, generally in accordance with the attached Schedule B.
7. All driveway and parking areas shall be maintained so as to be dust free.
8. All areas not used for buildings, parking or driveways shall be landscaped with grass or other such vegetation.
9. No outdoor storage shall be permitted on the property, other than that required to comply with the Solid Waste Bylaw.
10. Exterior lighting shall be carefully designed to not shine directly onto adjacent properties, including ornamental lighting along the driveway.

11. The permitted restaurant hours of operation shall be between 7:00 a.m. and 11:00 p.m.

Schedule B 57 Havelock Street - Development Agreement



Schedule C 57 Havelock Street - Development Agreement



4. ADJOURNMENT

On motion by Deputy Mayor Rhindress, the meeting adjourned at 7:05 PM

APPROVED BY:

Gregory D. Herrett, CA
Town Clerk and Chief Administrative Officer

Robert Small
Mayor