

**MUNICIPAL PLANNING COMMISSION MEETING  
WEDNESDAY, FEBRUARY 15, 2012 – 12:30 PM  
TOWN OF REDCLIFF COUNCIL CHAMBERS**

**MINUTES**

<b>PRESENT:</b>	<b>Members:</b>	<b>PRESENT:</b>
	Manager of Legislative and Land Services	J. Beach, B. Duncan, L. Leipert, B. Lowery, D. Schaffer Shanon Simon
	Planning Consultant:	K. Snyder
	Confidential Secretary	C. Cranston
	Municipal Manager	D. Wolanski
<b>ABSENT:</b>	<b>Member</b>	<b>B. Vine</b>

**1. CALL TO ORDER**

B. Duncan called the meeting to order at 12:32 p.m.

**2. ADOPTION OF AGENDA**

B. Lowery moved that the agenda be adopted as presented. - Carried.

**3. PREVIOUS MINUTES**

D. Schaffer moved the minutes of the January 18, 2012 meeting be adopted as presented. – Carried.

**4. LIST OF DEVELOPMENT PERMITS ADVERTISED**

The Commission reviewed the development permits advertised in the Cypress Courier/40 Mile Commentator on January 24, 2012 and February 7, 2012 and were advised that no appeals have been received.

**5. DEVELOPMENT PERMITS FOR MPC CONSIDERATION**

**A) Development Permit Application 12-DP-008  
Sure-Lock Homes (M.H.) Ltd.  
Lot 10, Block 12, Plan 0913590 (1113 Memorial Way SE)  
Single Family Dwelling with Side Yard Setback Variance**

B. Duncan reviewed the development permit application included in the agenda package noting that the proposed single family dwelling for Lot 10, Block 12, Plan 0913590 does not meet the established 1.5 metre side yard setback in the Land Use Bylaw. In order to proceed the applicant requires a variance to the side yard setback. The maximum side yard setback variance the MPC can grant is 10% which would be a relaxation of 5.9 inches on each side of the proposed residence. The applicant is asking for a relaxation of 4 inches on each side. B. Lowery asked if granting a variance would come back to haunt the Town. B. Duncan advised that it will not haunt the Town but with every sale of the house the issue will be addressed by the new buyer, the Town and their lawyer to determine if it is legal for them to lend money on a non-conforming house. The Manager of Legislative and Land Services commented that it would remain non-compliant unless

the Land Use Bylaw changed to reflect that a setback of 1.4 m was allowed. A letter of compliance is based on the current Land Use Bylaw.

B. Duncan advised that the other concern is in regard to the Architectural Controls and the house residential style not being the same as other houses within 3 continuous lots. The Manager of Legislative and Land Services reviewed the drawing provided which indicated that the design of the proposed house is the same as the house two lots away.

J. Beach expressed concern that someone could purchase a lot adjacent to the one that already has a setback variance and may also want a setback variance. J. Beach asked at what point does the MPC say that the structures are too close, with 4 inch variance on both adjacent lots. It was noted that the MPC can grant a 10% variance. The Manager of Legislative and Land Services commented that his concerns would likely fall under the building code and whether or not they would have to use fire resistant materials. The Planning Consultant advised that the Land Use Bylaw has built in that flexibility so that the 10% variance does not cause any issues. Further that the building code at 1.2 m is when you would have to have more strenuous rules for building on the side yard so even with the 10% variance it would still fit within the 1.2 m side yard or 2.4 m separation between buildings. At the most there would be 2.8 m separation with the 10% on both sides. There is a factor of safety at the 10%.

L. Leipert commented that it appears the applicant has a standard house plan that he uses and if he reduces the width of the house then it would not meet the minimum 1100 square feet. He further questioned if the applicant was aware that the house will be non-compliant and that subsequent purchasers will have issues. The Manager of Legislative and Land Services advised that it had been discussed and the onus would be on the applicant to tell the purchaser that the house is non-compliant and future owners would be responsible for advising of the non-compliance.

S. Simon advised that during the review of the development permit application it was noted that the proposed residence does not meet the requirements of the Restrictive Covenant for Eastside subdivision and the builder was advised. She advised that the builder was unable to provide a revised front elevation however he did send an email that states that he is prepared to change the front roofline.

The Planning Consultant commented that in regard to the restrictive covenant the MPC does not have any leeway; in terms of what is on paper is what has to be enforced. The MPC could say "must meet the restrictive covenant with the house design" and there should not be too much flexibility in what is being approved; such as certain elements and the builder did state the roof. The Manager of Legislative and Land Services asked if the roof lines would be enough. The Planning Consultant commented that there is no guidance in the restrictive covenant on what defines a house style. There needs to be some subjective thoughts on how much change is needed. The Planning Consultant felt that changing the primary roof line with a gable or the pitch going off the other way, or something like that; would be enough to give it a different look.

B. Duncan asked who makes that decision if the MPC does not have leeway and the applicant must comply with the Restrictive Covenant. The Planning Consultant commented that this is a different situation because the developer has submitted plans to satisfy architectural and community aspects and not planning aspects like the MPC looks at - it would be the Town who enforces both. So it would be Town staff that at some point would make that judgement call. There have been homes in Eastside and Westside that have been developed under similar process. The Manager of Legislative and Land Services commented that this application is odd because the builder is asking for a side

yard variance. The Planning Consultant noted that usually the MPC would not see these types of applications because it is a permitted use Development Officer unless there is some kind of waiver or variance.

J. Beach asked if he has to change the roof style. The Planning Consultant stated that there is a provision in the restrictive covenant that talks about you can't have similar styles; what is a similar house style. You could move the door over five inches and you can be really lax or stringent. It is a bit subjective. The Manager of Legislative and Land Services commented that if you look at the other plans he has flipped the design on a couple of them. The Planning Consultant suggested that the MPC give some guidance. For instance if you think he should do something to break up the top roof line, then give the applicant some guidance. Or if it is something to do with the garage or the gable or the bay window, just give a little bit of guidance but enough flexibility that you do not handcuff the builder too much. The Planning Consultant suggested that the detail that jumps out the most would be the roof line as it slopes toward the street and it is not broken up. That is consistent with all of the plans. Over the garage that side if the roof slopes down to the side yard, or the gable if a little roof pitch was put up in the roof that would likely be enough to qualify as a different house plan.

L. Leipert commented that he would not want to be too restrictive as this builder is selling the lots in East side and moving people in to pay taxes and he could understand some architectural things but could it not be left up to the builder and the Development Officer to come up with something. The Planning Consultant commented that whenever there is an application before the Commission, the Commission must make the decision; however in this instance you have to be very careful not to delegate too much away.

B. Duncan asked if the Dutch gable would be enough and the Planning Consultant felt the builder would have to do more to change the roof line. J. Beach asked if the Commission could suggest some general terms. The Planning Consultant suggested that if the Commission felt that the roof would be the most benefit, focus on changes on the roof and not suggest exactly what has to be done. Then you would know that the roof line is going to change. J. Beach asked if the Commission says that would the builder have choices. L. Leipert noted that it was the builder who suggested the roof. The Manager of Legislative and Land Services stated that she spoke to the builder and advised that there was going to be an issue in regard to the restrictive covenant and that she would have to give the Commission something or else the application could be tabled as the MPC you would not have enough information. The builder stated as he was leaving the next day for vacation and he would not have enough time to provide a different design for the front elevation. He submitted the email indicating he was prepared to change the roofline.

D. Schaffer asked about changing the exteriors, a different material, or colours. It was noted that colours and finishes are also included as a separate item in the restrictive covenant. J. The Planning Consultant suggested that the Commission consider some kind of condition such as "the primary roof line or design be adjusted as per the restrictive covenant".

The Manager of Legislative and Land Services asked if the commission was okay with the eaves as he did mention that he could drop the eaves back as well. She advised that the minimum setback that he can have for the eaves is .75 m and he has .8 m.

Municipal Manager advised that he was in attendance on behalf of the Developer, the Town, as reference in the Restrictive Covenant. His concern is that the Council decided what they wanted in the restrictive covenant. Normally if an application came in it would be the Town making subjective determination architecturally or style, etc. By putting in a

condition that states just the roof line it is the MPC making the subjective call, which may be acceptable to the Town, however it may not be the only change that would be needed to meet with the restrictive covenant. Since the application has come to the Commission and it is great to say that the roofline will be changed but no one has seen the new design and he has concerns. It is different than making a general statement of meeting the restrictive covenant. Currently plans are reviewed by the Development Officer and we do not feel that the proposed plan meets the restrictive covenant as is. The builder is saying that he will work with the Town but the Town wants to ensure that the restrictive covenant is met as that is what Council has decided. The builder has said he will change the roof lines and the MPC has said the roof lines however there are concerns that we have not seen a new plan yet. B. Duncan asked if it would be appropriate to include in the condition that the builder must work with the Development Officer of the Town of Redcliff to achieve satisfaction, or something similar. The Municipal Manager had concerns on only putting in a change of roof line as a condition and that would be all he would be required to do but once the new plans is received it should be reviewed by the Development Officer to ensure that the new plan meets the restrictive covenant. He further stated that his concern is to make sure that whatever condition that the Municipal Planning Commission includes as part of the approval, that the condition be enforceable with the same strength as it is currently being done.

B. Duncan asked the Planning Consultant if he saw any problems in mentioning "so as to meet the Development Officer's approval" to the condition of approval. The Planning Consultant commented that as long as they provide direction regarding the roof line. Just to say the roof does not meet the restrictive covenant is too open ended. If you are trying to do this by the book and as clean as possible, you would table the application and ask the builder to provide the drawing as it is the MPC providing the decision. The MPC is trying to be helpful to the development in taking that step however you still have to be able to defend your decision. The Planning Consultant thought that it would be acceptable as long as the MPC gives pretty specific direction on what is to be changed, such as roof style or something like that.

J. Beach moved that Development Permit Application 12-DP-008, for Sure-Lock Homes (M.H.) Ltd. to construct a Single Family Dwelling with Side Yard setback variances on Lot 10, Block 12, Plan 0913590 (1113 Memorial Way SE) as submitted be approved with the following condition:

1. The primary roof lines/design be adjusted as per Restrictive Covenant to the satisfaction of the Town of Redcliff. - Carried.

## 6. ADJOURNMENT

B. Lowery moved adjournment of the meeting at 1:04 p.m. – Carried.

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Chairman

  
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Secretary