



PLANNING ADVISORY COMMITTEE MEETINGS

TUESDAY, NOVEMBER 13, 2018

1:00 P.M.

COUNCIL CHAMBERS

A G E N D A

PUBLIC INFORMATION MEETING

- a. ➤ a) Planning application to permit tourist accommodations and an event venue at 1636 Bishopville Road, Bishopville (File 18-20)

1. Meeting to Order
2. Presentation by Will Robinson-Mushkat, Planner, Planning and Development
3. Presentation by Applicants (if they wish)
4. Comments from the Public
5. Adjournment

PLANNING ADVISORY COMMITTEE MEETING

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1. Meeting to Order
2. Roll Call
3. Amendments to Agenda
4. Approval of the Agenda
5. Disclosure of Conflict of Interest Issues
6. Business
 - a. Application to legalize the expansion of a rural home occupation at 1399 Highway 221, Weltons Corner – File 18-07 (Laura Mosher) 1
 - b. Application to rezone a property from the Forestry (F1) Zone to the Resource Industrial (M4) Zone and amend the text of the Resource Industrial (M4) Zone to permit a tidal power facility at 1233 Cape Split Road, Cape Split – File 18-12 (Mark Fredericks) 23
 - c. Application to rezone a property from the Residential one and Two Unit (R2) Zone to the Major Commercial (C1) Zone at 5850 Prospect Road, New Minas – File 18-15 (Jasmine Bradet) 63
7. Correspondence
 - a. Email from Beth Keech dated October 29, 2018 73
11. Date of Next Meeting – December 11, 2018, 1:00 pm
- 12..Public Comments
13. Adjournment

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Report to Planning Advisory Committee

Application: Application to enter into a development agreement to legalize the expansion of a Rural Home Occupation

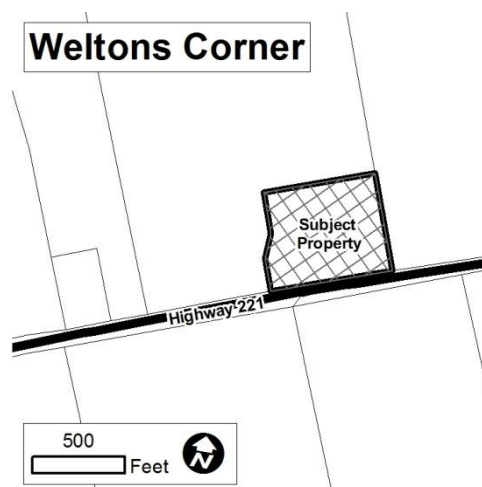
Date: November 13, 2018

Prepared by: Planning and Development Services

Applicant	Michael Cole
Land Owner	Michael Cole, All Beauty Siding Limited
Proposal	To legalize and permit the expansion of a Rural Home Occupation
Location	1399 Highway 221, Weltons Corner, PID # 55532667
Area	7.81 acres
Designation	Agricultural
Zone	Agricultural (A1) Zone
Surrounding Uses	Residential and Agricultural
Neighbour Notification	Letters were sent to the three residents within 500 feet of the subject property, notifying them of the Public Information Meeting.

1. PROPOSAL

Michael Cole of All Beauty Siding Limited has submitted an application to enter into a development agreement to legalize and permit the expansion of a rural home occupation, Community Metal, involving the manufacturing of steel roofing, siding, and associated products such as mini-barns, at 1399 Highway #221, Weltons Corner.



2. OPTIONS

In response to the application, Planning Advisory Committee may:

- A. Recommend that Council approve the development agreement as drafted;
- B. Recommend that Council refuse the development agreement as drafted; or,
- C. Provide alternative direction, such as requesting further information on a specific topic, or making changes to the proposed development agreement.

3. BACKGROUND

After being purchased in 2004, Community Metal which was established in 1985 began operations on the subject property in 2011. Between 2001 and 2011, the property was used, and continues to be used, as commercial livestock operation which has operated under different ownership since the early 1990s and is currently a beef operation. Community Metal is a family

owned business that operates in three locations in Nova Scotia and New Brunswick. The company manufactures and sells metal roofing, siding and mini-barns. In this location, the company currently has 7 employees that do not live on the subject property.

Staff became aware of the existence of the Rural Home Occupation when the applicant approached staff to legalize the current operations. It was determined at that time that the business was operating at a size that exceeded the as-of-right permissions of the Land Use Bylaw for a rural home occupation. At that time, the applicant's dwelling was on a separate parcel since it had previously been subdivided onto a separate parcel from the farm buildings. The property on which the dwelling is located and the property on which the farm buildings and buildings associated with the rural home occupation are located have since been consolidated to be able to meet the requirements for a rural home occupation.

4. INFORMATION

4.1 Site Information

The subject property is located on the north side of Highway #221, north of Kingston, between Clairmont Road and Morden Road, within the community of Weltons Corner. The area surrounding the subject property is dominated by agricultural and forested lands with a few dwellings nearby.

The subject property has an approximate lot area of 7.8 acres and approximately 670 feet of frontage along Highway 221.

The subject property contains nine (9) buildings, including the following:

- one (1) residential dwelling identified as Building A on the site plan for the property;
- two (2) small residential sheds identified as buildings H and I on the site plan;
- one (1) livestock barn identified as Building B on the site plan;
- two (2) farm storage buildings identified as Buildings F and G on the site plan;
- one (1) building partially used for the rural home occupation and partially used for residential and farm storage identified as Building C on the site plan;
- one (1) building used wholly for the rural home occupation identified as Building D; and,
- one (1) small shed at the rear of the property used for the rural home occupation identified as Building E on the site plan.

Structures on the subject property are connected by gravel driveways.

The subject property is located within the Agricultural District and the Agricultural (A1) Zone.



4.2 Site Visit

A Planner and a Development Officer visited the subject property on April 23rd, 2018

4.3 Public Information Meeting

Council's Planning Policy PLAN-09-001 requires a Public Information Meeting (PIM) be held for all new uses which are to be considered by development agreement. The Public Information Meeting was held on May 8th, 2018 in the Council Chambers of the Municipal Complex, no comments from the public were made. The complete notes from the PIM are attached as Appendix A.

4.4 Request for Comments

Comments were requested from the following groups with the results as described:

4.4.1 Department of Transportation and Infrastructure Renewal

Department of Transportation and Infrastructure Renewal (DTIR) indicated that they will be able to issue an access permit for the manufacturing business at the existing entrance to PID# 55532667. DTIR does not require a traffic study, and states that the road networks surrounding the subject property are adequate for the manufacturing business.

4.4.2 Municipality of the County of Kings Engineering and Public Works (EPW)

EPW stated that the potential for precipitating or contributing to a pollution problem in the area could occur from solvents or other liquids and metal shavings if not properly stored. Raw materials stored outside of buildings should have containment berms or spill kits handy. If equipment is stored indoors, the buildings should have interceptor trenches at main doors with spill kits.

4.4.3 Municipal Building and Enforcement

Building and Enforcement (B&E) does not anticipate any problems issuing building permits for the change of use within the noted buildings. B&E recommends barrier free compliance, fire ratings due the buildings proximity to one another and non-combustible construction. B&E states that the fire protection services and equipment are adequate to serve the proposal with no concerns.

5. POLICY REVIEW

5.1 Development Agreement

The proposal meets section 5.2 of the Land Use Bylaw as the property is located within an Agricultural District and is requesting the expansion of a rural home occupation. The LUB states:

“Within Hamlets, Country Residential, Forestry and Agricultural Districts the following shall be permitted by Development Agreement:

5.2.23 Expansion of a Rural Home Occupation beyond the limits established in Subsection 10.1.1 of the Land Use Bylaw, Rural Home Occupations, in accordance with Subsection 3.2.8.4 of the Municipal Planning Strategy, Expansions to Rural Home Occupation Uses.”

Section 3.2.8.4 of the MPS provides direction to Council in their consideration of a development agreement application for the expansion of rural home occupations within the Agricultural District.

5.2 Land Use Bylaw

Section 10.1.1.4 of the LUB outlines the maximum permitted floor area for a Rural Home Occupation. Section 10.1.1.4 of the LUB states:

“The floor area used for the home occupation is limited to the following sizes: Lot size over 100,000 square feet: up to 2,000 square feet.”

The area of the lot is approximately 7.8 acres in area , and the area of the three buildings used for the business exceed the permitted floor area of 2,000 square feet for rural home occupations for a property with a lot area greater than 100,000 square feet.

Given the nature of the product offered by the business, additional floor area is required beyond the permitted floor area for a rural home occupation for the purposes housing equipment used in the manufacture of the saleable product and the storage of materials pre- and post production.

Section 10.1.1.2 of the LUB outlines the permitted number of employees who may work on site. No more than four (4) employees who are non-residents of the dwelling are permitted to be employed by the Rural Home Occupation. Currently, Community Metal employs seven (7) staff who do not live on the subject property.

5.3 Municipal Planning Strategy

Agricultural Policies

Section 3.2.8.4 of the MPS outlines policies related to expansions to rural home occupation uses. Under section 3.2.8.4.1, the MPS states:

“It shall be the policy of Council to consider proposals to expand Rural Home Occupations beyond the as-of-right allowances for such uses, by development agreement.”

Section 3.2.8.4.2 of the MPS states

“In considering a development agreement enabled by 3.2.8.4.1, Council shall be satisfied that the development:

- a. is an intensification of a currently permitted rural home occupation use*
- b. will involve the conversion of existing buildings, building additions, or new buildings in yards that are not used, or could not be reasonably used, for the cultivation of crops*
- c. will not limit or interfere with adjacent agricultural activities; and*
- d. can meet all the applicable policies of this Strategy, including those in Part 6”*

With regard to the criteria associated with this policy, the Development Officer has confirmed that the use is currently permitted to operate as a rural home occupation use. Permits have not yet been issued for the use. The buildings currently used for the operation of the business are located within proximity to the other agricultural buildings on the property and the areas where the buildings are located are appropriate with respect to adjacent agricultural activities. It is staff's opinion that the requirements of this policy have been met.

5.2 General Development Agreement Policies

Municipal Planning Strategy section 6.3.3.1 outlines the criteria to be used when considering all development agreement proposals (see Appendix B for more detail). These consider the impact

of the proposal on the road network, services, development pattern, environment, finances, and wellfields, as well as the proposal's consistency with the intent of the Municipal Planning Strategy. The proposal meets the general criteria in that it will not result in any costs to the Municipality, raises no concerns in terms of traffic or access, is suitable for the development and appears to be free of hazards, will be serviced by private on-site septic systems, is compatible with adjacent uses, and raises no concerns regarding emergency services.

MPS subsection 6.3.3.1 (c) specifies a number of controls a development agreement may put in place in order to reduce potential land use conflicts. The draft development agreement implements controls on the permitted uses, maintenance of the property, parking, signage, lighting, buffering and the hours of operation. Parking, signage, lighting, buffering and hours of operation are outlined in the Draft Development Agreement.

6. SUMMARY OF DRAFT DEVELOPMENT AGREEMENT

The table below summarizes the terms of the draft Development Agreement (Appendix C):

Draft Development Agreement Location	Content
2.1	Specifies that the development must be in general conformance with the attached site plan
2.2	Regulates the uses permitted on the site including total number of employees and permission for future expansion.
2.3	Regulates signs
2.5	Regulates lighting
2.6	Regulates parking
2.7	Regulates access and egress
3.3	Outlines matters that are substantive that would require a Public Hearing if amended. Substantive matters in this development agreement are any changes to the uses enabled by the agreement, any expansion of uses beyond that which is permitted by this development agreement or any change to the Site Plan for uses enabled in this agreement.

7. CONCLUSION

The proposal and terms of the draft development agreement are in keeping with the intent of Council's Municipal Planning Strategy with regard to rural home occupations and the general development agreement criteria. As a result, a positive recommendation is forwarded to the Planning Advisory Committee.

8. STAFF RECOMMENDATION

Staff recommends that the Planning Advisory Committee forward a positive recommendation by passing the following motion:

Planning Advisory Committee recommends that Municipal Council give Initial Consideration to and hold a Public Hearing regarding entering into a development agreement to legalize an expanded Rural Home Occupation use at 1399 Highway 221, (PID 55532667), Weltons Corner which is substantively the same (save for minor differences in form) as the draft set out in Appendix C of the report dated November 13, 2018.

9. APPENDIXES

APPENDIX A	Public Information Meeting Minutes
APPENDIX B	General Development Agreement Criteria MPS Policy 6.3.3.1
APPENDIX C	Draft Development Agreement

Appendix A – Public Information Meeting Minutes

MUNICIPALITY OF THE COUNTY OF KINGS

PLANNING AND DEVELOPMENT SERVICES

PUBLIC INFORMATION MEETING NOTES

Planning Application to Permit the expansion of a Rural Home Occupation at 1399 Highway 221, North Kingston (File 18-07)

Meeting, Date and Time	A Public Information Meeting was held on Tuesday May 8th, 2018, in the Council Chambers of the Municipal Complex, 87 Cornwallis Street, Kentville, NS.
Attending	In Attendance:
Planning Advisory Committee Members	Councillor Brian Hirtle (Chair) Councillor Meg Hodges – District 1 Councillor Paul Spicer – District 5 Councillor Jim Winsor – District 8 Councillor Peter Allen – District 9 (Alternate) Emile Fournier – Citizen Member Tom Cosman – Citizen Member
Regrets	Deputy Mayor Emily Lutz – District 7 Bob Smith – Citizen Member
Councillors	14 members of the public were present
Planning Staff	Leanne Jennings – Planner Trish Javorek – Director of Community Development Laura Mosher – Manager of Planning and Development Services Mark Fredericks – GIS Planner Will Robinson-Mushkat – Planner
Applicants	Michael Cole
Public	There were 14 members of the public in attendance
Welcome and	The Chair, Brian Hirtle, called the meeting to order, introductions were

Introductions

made and the members of the public were welcomed to the meeting.

Presentations

Leanne Jennings explained that the purpose of the meeting was to inform the public of the application, to explain the planning policies that enable the application to occur and to receive preliminary feedback from the public. No evaluation has been completed and no decisions have been made at this point.

Mrs. Jennings provided a brief overview of the planning process and the criteria that will be used to evaluate the application. The proposal is to enter into a development agreement to permit the expansion of a Rural Home Occupation at 1399 Highway 221, North Kingston (PID # 55532667)

Mrs. Jennings stated that the Public Information Meeting provides an opportunity for the public to express concerns and/or receive clarification on any aspect of the proposal.

Following the presentation, Mr. Cole was given the opportunity to speak to their proposal and declined.

The floor was then opened for comments from the public.

***Comments from
the Public***

No comments from the public were made.

Adjournment

There being no further discussion, the Chair thanked those in attendance and adjourned the meeting.

Lindsay Slade
Recording Secretary

Appendix B General Development Agreement Criteria MPS Policy 6.3.3.1

Criteria	Comments
<i>a. the proposal is in keeping with the intent of the Municipal Planning Strategy, including the intent of any Secondary Planning Strategy</i>	The proposal conforms to all other policies outlined in the MPS. The proposal is in keeping with the intent of the MPS, specifically with policies 3.2.8.1 and 3.2.8.4
<i>b. that the proposal is not premature or inappropriate by reason of:</i>	
<i>i. the financial capability of the Municipality to absorb any costs related to the development of the subject site</i>	The proposal does not involve any development costs to the Municipality.
<i>ii. the adequacy of municipal sewer and water services if services are to be provided. Alternatively, the adequacy of the physical site conditions for private on-site sewer and water systems</i>	There is an existing private septic system on the property associated with the existing dwelling, as well as an existing private septic system associated with the business.
<i>iii. the potential for creating, or contributing to, a pollution problem including the contamination of watercourses or the creation of erosion or sedimentation during construction</i>	Storage and mitigation measures for pollution incidence have been outlined in the draft development agreement section 2.9. The draft development agreement requires controls for erosion and sedimentation controls during construction.
<i>iv. the adequacy of storm drainage and the effect of same on adjacent uses</i>	EPW does not expect any drainage issues.
<i>v. the adequacy of street or road networks in, adjacent to, and leading to, the development</i>	The Department of Transportation and Infrastructure Renewal has no concerns with regard to access or the ability to provide adequate parking on the site. .
<i>vi. the adequacy, capacity and proximity of schools, recreation and other community facilities</i>	Not applicable as this is a commercial use.
<i>vii. adequacy of municipal fire protection services and equipment</i>	Municipal Building and Enforcement Services has indicated that local fire services have enough equipment to adequately serve the proposal.
<i>viii. creating extensive intervening parcels of vacant land between the existing developed lands and the proposed site, or a scattered or ribbon development pattern as opposed to compact development</i>	Not applicable
<i>ix. the suitability of the proposed site in terms of steepness of grades, soil and/or geological conditions, and the relative location of watercourses, marshes, swamps or bogs</i>	The lot is suitable for development, and staff are not aware of any soil or geological conditions in the area that would have a

	negative impact on development.
<i>x. traffic generation, access to and egress from the site, and parking</i>	The Department of Transportation and Infrastructure Renewal is satisfied that the proposed use will not generate an undue amount of traffic on the surrounding roads.
<i>xi. compatibility with adjacent uses</i>	Staff do not expect any land use conflict to result from this development agreement.
<i>c. the Development Agreement may specify that controls are placed on the proposed development so as to reduce conflict with any adjacent or nearby land uses by reason of:</i>	
<i>i. the type of use</i>	The draft development agreement specifies the uses permitted.
<i>ii. the location and positioning of outlets for air, water and noise within the context of the Land Use Bylaw</i>	No special requirements are necessary.
<i>iii. the height, bulk and lot coverage of any proposed buildings or structures</i>	The total permitted floor area of the buildings are outlined in the draft development agreement.
<i>iv. traffic generation</i>	No special requirements are necessary.
<i>v. access to and egress from the site and the distance of these from street intersections</i>	The draft development agreement specifies that access and egress must be in general conformance with the site plan.
<i>vi. availability, accessibility of on-site parking</i>	The draft development agreement outlines minimum required parking.
<i>vii. outdoor storage and/or display</i>	The draft development agreement specifies the permitted are for outdoor storage and display.
<i>viii. signs and lighting</i>	The draft development agreement places restrictions on signs and lighting, consistent with the requirements of the MPS.
<i>ix. the hours of operation</i>	Not applicable
<i>x. maintenance of the development</i>	The draft development agreement requires reasonable maintenance of the subject property.
<i>xi. buffering, landscaping, screening and access control</i>	No buffering, landscaping or screening have been required in the draft development agreement.
<i>xii. the suitability of the proposed site in terms of steepness of grades, soil and/or geological conditions, and the relative location of watercourses, marshes, swamps, or bogs</i>	See 6.3.3.1 b. ix. Above.
<i>xiii. the terms of the agreement provide for the discharge of the agreement or parts thereof upon the successful fulfillment of its terms</i>	The draft development agreement provides for discharge of the agreement.

<i>xiv. appropriate phasing and stage by stage control</i>	Phasing is not needed and has not been requested or included within the draft development agreement.
<i>d. performance bonding or security shall be included in the agreement if deemed necessary by Council to ensure that components of the development such as, but not limited to, road construction or maintenance, landscaping or the development of amenity areas, are completed in a timely manner</i>	No performance bonding or security is needed.

Appendix C – Draft Development Agreement

THIS DEVELOPMENT AGREEMENT made this ____ day of _____, A.D., 2018

BETWEEN:

ALL BEAUTY SIDING LIMITED, of Weltons Corner, Nova Scotia, hereinafter called the "Property Owner"

of the First Part

and

MUNICIPALITY OF THE COUNTY OF KINGS, a body corporate pursuant to the Municipal Government Act, S.N.S., 1998, Chapter 18, as amended, having its chief place of business at Kentville, Kings County, Nova Scotia, hereinafter called the "Municipality",

of the Second Part

WHEREAS the Property Owner is the owner of certain lands and premises (hereinafter called the "Property") which lands are more particularly described in Schedule 'A' attached hereto and which are known as Property Identification (PID) Number 55532667; and

WHEREAS the Property Owner wishes to use the Property for an expanded rural home occupation; and

WHEREAS the Property is situated within an area designated Agricultural on the Future Land Use Map of the Municipal Planning Strategy, and zoned Agricultural (A1); and

WHEREAS Policy 3.2.8.4 of the Municipal Planning Strategy and Clause 5.2.23 of the Land Use Bylaw provide that the proposed use may be developed only if authorized by development agreement; and

WHEREAS the Property Owner has requested that the Municipality of the County of Kings enter into this development agreement pursuant to Section 225 of the Municipal Government Act so that the Property Owner may develop and use the Property in the manner specified; and

WHEREAS the Municipality by resolution of Municipal Council passed at a meeting on **DATE**, approved this Development Agreement;

Now this Agreement witnesses that in consideration of covenants and agreements contained herein, the parties agree as follows

PART 1 AGREEMENT CONTEXT

1.1 Schedules

The following attached schedules shall form part of this Agreement:

Schedule A	Property Description
Schedule B	Site Plan

1.2 Municipal Planning Strategy and Land Use Bylaw

- (a) *Municipal Planning Strategy* means Bylaw 56 of the Municipality, approved on August 6, 1992, as amended, or successor bylaws.
- (b) *Land Use Bylaw* means Bylaw 75 of the Municipality, approved on August 6, 1992, as amended, or successor bylaws.
- (c) *Subdivision Bylaw* means Bylaw 60 of the Municipality, approved September 5, 1995, as amended, or successor bylaws.

1.3 Definitions

Unless otherwise defined in this Agreement, all words used herein shall have the same meaning as defined in the Land Use Bylaw. Words not defined in the Land Use Bylaw but used herein are:

- (a) *Development Officer* means the Development Officer appointed by the Council of the Municipality.

PART 2 DEVELOPMENT REQUIREMENTS

2.1 Site Plan

The Developer shall develop and use the lands in general conformance with the Site Plan attached as Schedule B - Site Plan.

2.2 Use

2.2.1 The Property Owner's use of the Property shall be limited to:

- (a) those uses permitted by the underlying zoning in the Land Use Bylaw (as may be amended from time to time) within any existing, expanded or new buildings on the Property;

- (b) rural home occupation use operating within Building C, Building D and Building E as identified on Schedule B – Site Plan and employing no more than 15 people that do not live on the Property;
- (c) Up to 20,000 square feet gross floor area within the existing or expanded footprints of Building C, Building D and Building E, as identified on Schedule B – Site Plan provided any expanded area is not located any closer than 100 feet from any lot line. Where the existing footprint is less than 100 feet from a lot line, the expansion of the building is not permitted to be located any closer than the footprint depicted on Schedule B – Site Plan. ; and,
- (d) A total area of 2,500 square feet is permitted to be used for outdoor storage and display in an area generally consistent with the area identified on Schedule B – Site Plan.

Except as otherwise provided in this Agreement, the provisions of the Land Use Bylaw apply to any development undertaken pursuant to this Agreement.

2.3 Signs

- (a) Signs shall only be constructed of wood and/or metal;
- (b) Internally illuminated signs are prohibited;
- (c) All signs must meet the requirements of the Land Use Bylaw for signs within the Agricultural (A1) Zone; and,
- (d) The Property Owner shall obtain a development permit from the Development Officer prior to the erection or installation of any sign.

2.4 Appearance of Property

The Property Owner shall at all times maintain all structures and services on the Property in good repair and a useable state, and maintain the Property in a neat and presentable condition.

2.5 Lighting

The Property Owner shall ensure that any lights used for illumination of the Property or signage shall be so arranged as to divert light away from any streets and neighbouring properties.

2.6 Parking

The Property Owner shall meet the following criteria and standards for parking and shall locate all parking in general conformance with Schedule B – Site Plan. The Property Owner shall provide the following:

- (a) One (1) parking space for every employee up to 10 spaces within the gravelled areas depicted on Schedule B – Site Plan;
- (b) Two parking spaces for customers of the Property Owner to be located within the area identified as a parking area on Schedule B – Site Plan; and,
- (c) Parking locations shall comply with the *National Building Code*, Part 3, Fire Truck Access Route.

2.7 Access and Egress

- (a) Vehicle access and egress shall be in general conformance with Schedule 'B' – Site Plan;
- (b) The Property Owner shall submit current permits from Nova Scotia Transportation and Infrastructure Renewal, or any successor body, before receiving any development or building permits for uses permitted by this Agreement; and,
- (c) Road access points shall comply with the *National Building Code*, Part 3, Fire Truck Access Route.

2.8 Servicing

The Property Owner shall be responsible for providing adequate water and sewage services to the standards of the authority having jurisdiction and at the Property Owner's expense.

2.9 Erosion and Sedimentation Control

During any site preparation or construction of a structure or parking area, all exposed soil shall be stabilized immediately and all silt and sediment shall be contained within the site as required by the Municipal Specifications and according to the practices outlined in the Department of Environment *Erosion and Sedimentation Control Handbook for Construction*, or any successor documents, so as to effectively control erosion of the soil.

2.10 Pollution

The Property Owner agrees to use proper containment systems and spill kits for any storage, and outdoor fabrication and raw material.

2.11 Subdivision

- (a) No alterations to the lot configuration that would result in a reduced lot area are permitted without a substantive amendment to this agreement except as may be required by the road authority for the purpose of creating or expanding a public street over the Property.

PART 3 CHANGES AND DISCHARGE

3.1 The Property Owner shall not vary or change the use of the Property, except as provided for in Section 2.2, Use, of this Agreement, unless a new development agreement is entered into with the Municipality or this Agreement is amended.

3.2 Any matters in this Agreement which are not specified in Subsection 3.3 below are not substantive matters and may be changed by Council without a public hearing.

3.3 The following matters are substantive matters:

- (a) Changes to the uses permitted on the property by Section 2.2 of this Agreement.
- (b) Development that would result in any change to Schedule B - Site Plan for uses specifically enabled by this Agreement except for expansions provided for in this Agreement. Uses and structures permitted by the underlying zoning on the Property shall not require any amendment to this Agreement.

3.4 Upon conveyance of land by the Property Owner to either:

- (a) the road authority for the purpose of creating or expanding a public street over the Property; or
- (b) the Municipality for the purpose of creating or expanding open space within the Property;

registration of the deed reflecting the conveyance shall be conclusive evidence that that this Agreement shall be discharged as it relates to the public street or open space, as the case may be, as of the date of registration with the Land Registry Office but this Agreement shall remain in full force and effect for all remaining portions of the Property.

- 3.5** Notwithstanding the foregoing, discharge of this Agreement is not a substantive matter and this Agreement may be discharged by Council at the request of the Property Owner without a public hearing.

PART 4 IMPLEMENTATION

4.1 Commencement of Operation

No construction or use may be commenced on the Property until the Municipality has issued any Development Permits, Building Permits and/or Occupancy Permits that may be required.

4.2 Expiry Date

The Property Owner shall sign this Agreement within 180 calendar days from the date the appeal period lapses or all appeals have been abandoned or disposed of or the development agreement has been affirmed by the Nova Scotia Utility and Review Board or the unexecuted Agreement shall be null and void.

PART 5 COMPLIANCE

5.1 Compliance With Other Bylaws and Regulations

Nothing in this Agreement shall exempt the Property Owner from complying with Federal, Provincial and Municipal laws, bylaws and regulations in force or from obtaining any Federal, Provincial, or Municipal license, permission, permit, authority or approval required thereunder.

5.2 Municipal Responsibility

The Municipality does not make any representations to the Property Owner about the suitability of the Property for the development proposed by this Agreement. The Property owner assumes all risks and must ensure that any proposed development complies with this Agreement and all other laws pertaining to the development.

5.3 Warranties by Property Owner

The Property Owner warrants as follows:

- (a) The Property Owner has good title in fee simple to the Lands or good beneficial title subject to a normal financing encumbrance, or is the sole holder of a Registered Interest in the Lands. No other entity has an interest in the Lands which would require their signature on this Development Agreement to validly bind the Lands or the Developer has obtained the approval of every other entity which has an interest in the

Lands whose authorization is required for the Developer to sign the Development Agreement to validly bind the Lands.

- (b) The Property Owner has taken all steps necessary to, and it has full authority to, enter this Development Agreement.

5.4 Costs

The Property Owner is responsible for all costs associated with recording this Agreement in the Registry of Deeds or Land Registration Office, as applicable.

5.5 Full Agreement

This Agreement constitutes the entire agreement and contract entered into by the Municipality and the Property Owner. No other agreement or representation, oral or written, shall be binding.

5.6 Severability of Provisions

The provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision.

5.7 Interpretation

Where the context requires, the singular shall include the plural, and the masculine gender shall include the feminine and neutral genders.

5.8 Breach of Terms or Conditions

Upon the breach by the Property Owner of the terms or conditions of this Agreement, the Municipality may undertake any remedies permitted by the Municipal Government Act.

PART 6 ACKNOWLEDGEMENT OF FARMING PRACTICES

The Property Owner acknowledges that the Property is located in an area of active agricultural practices and agricultural processing industries, which may generate traffic, noise, dust, and odors. The Property Owner recognizes the right of surrounding landowners to carry on activities normally associated with farming and related businesses.

THIS AGREEMENT shall enure to the benefit of and be binding upon the parties hereto, their respective agents, successors and assigns.

IN WITNESS WHEREOF this Agreement was properly executed by the respective parties hereto and is effective as of the day and year first above written.

SIGNED, SEALED AND ATTESTED to be the proper signing officers of the Municipality of the County of Kings, duly authorized in that behalf, in the presence of:

MUNICIPALITY OF THE COUNTY OF KINGS

Witness

Peter Muttart, Mayor

Witness

Janny Postema, Municipal Clerk

SIGNED, SEALED AND DELIVERED
In the presence of:

ALL BEAUTY SIDING LIMITED

Witness

Michael Cole, President

Schedule 'A'
Property Descriptions

Copied from Property Online on October 1, 2018

Registration County: KINGS COUNTY

Street/Place Name: NO 221 HIGHWAY /WELTONS CORNER

Title of Plan: PLAN OF S/D SHOWING DIVISION OF LOT 1-2004 LANDS CONVEYED TO MICHAEL J COLE TO FORM PARCEL A & PARCEL B PARCEL A TO BE CONSOLIDATED WITH LOT 2017 LANDS CONVEYED TO ALL BEAUTY SIDING LTD TO FORM LOT 2017A PARCEL B TO BE CONSOLIDATED WITH LOT 2018 LANDS CONVEYED TO MICHAEL J COLE TO FORM LOT 2018B NO 221 HWY WELTONS CORNER

Designation of Parcel on Plan: LOT 2017A

Registration Number of Plan: 112543062

Registration Date of Plan: 2018-05-04 09:48:08

*** Municipal Government Act, Part IX Compliance ***

Compliance:

The parcel is created by a subdivision (details below) that has been filed under the Registry Act or registered under the Land Registration Act

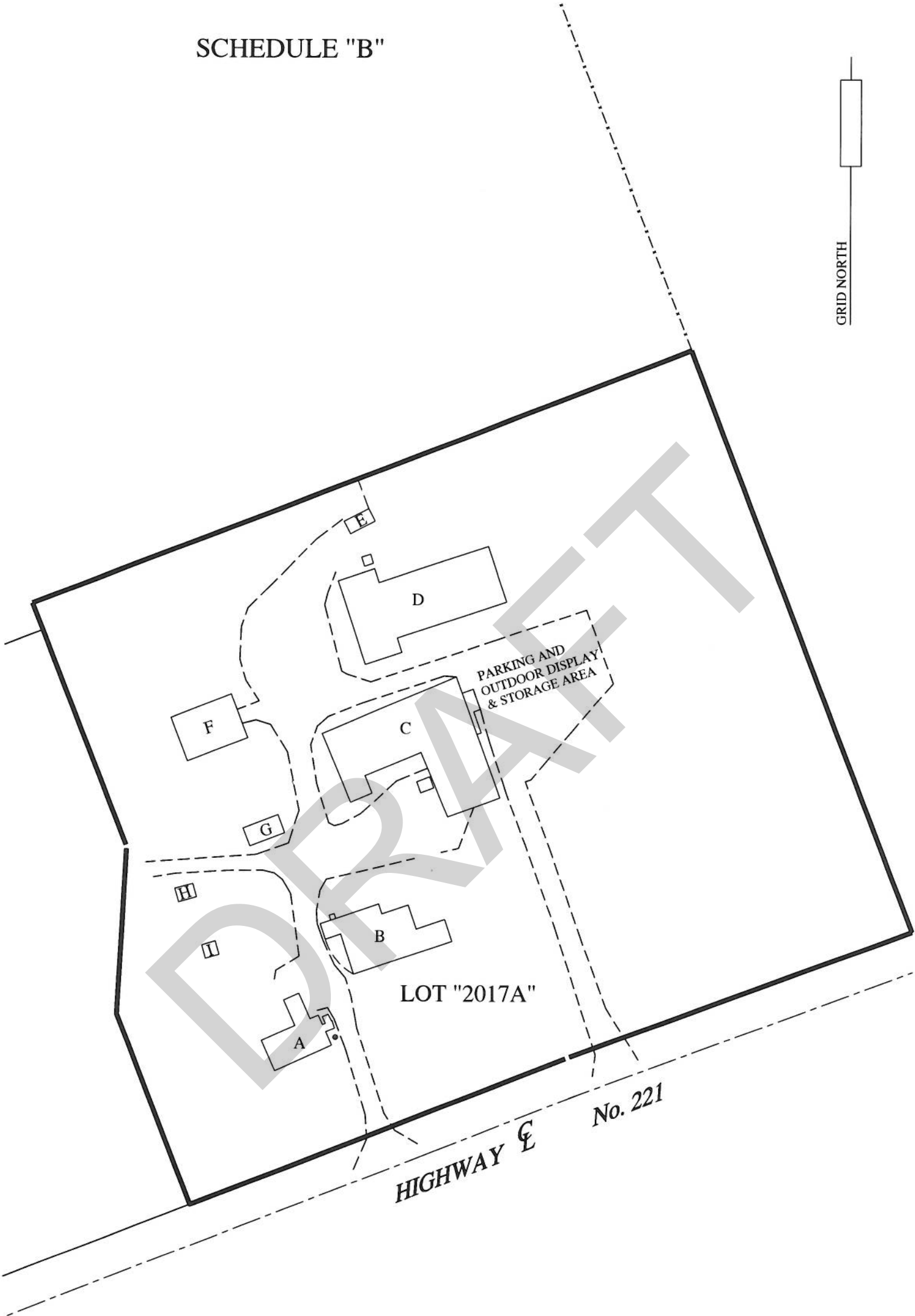
Registration District: KINGS COUNTY

Registration Year: 2018

Plan or Document Number: 112543062

SCHEDULE "B"

GRID NORTH



HIGHWAY No. 221
WELTONS CORNER
KINGS COUNTY, N.S.



BUILDINGS	USE	SQARE FOOTAGE
A	DWELLING	1986
B	BARN	3718
C	BUILDING (Business Use)	9426
D	BUILDING (Business Use)	7576
E	SHED	294
F	BARN	2256
G	BARN	533
H	SHED	196
I	SHED	150



Municipality of the County of Kings

Report to the Planning Advisory Committee

Application to rezone property from Forestry (F1) to Resource Industrial (M4) and amend the text of the M4 Zone to permit a Tidal Power Facility at 1233 Cape Split Rd, Cape Split.

(PID 55014096) (File #18-12)

Nov 13, 2018

Prepared by: **Community Development Services**

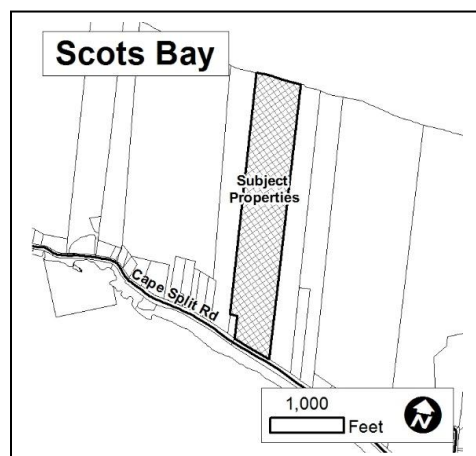
Applicant	Jamie MacNeil (Big Moon Canada Corp)
Land Owner	Ann Doyle Huntley & Joel Thomas Huntley
Proposal	Rezone a portion of the property to Resource Industrial (M4) Zone and include 'Tidal Energy Facility' as a permitted use in the Resource Industrial (M4) Zone.
Location	1233 Cape Split Road, Scots Bay. (PIDs 55014096)
Lot Area	Approximately 43.24 acres / Rezoning portion approximately 8 acres
Designation	Forestry (F)
Zone	Forestry (F1)
Surrounding Uses	Forestry, Fishing, Agriculture and Rural Residential uses
Neighbour Notification	Staff sent notification letters to the 7 owners of property within 500 feet of the subject property

1. PROPOSAL

Jamie MacNeil of Big Moon Canada Corp has applied to rezone a portion of a property at 1233 Cape Split Road from the Forestry (F1) Zone, to the Resource Industrial (M4) Zone. This portion of land is leased by Big Moon Canada, from the property owners Ann Doyle and Joel Huntley, who operate an organic farm on the same property. The Huntley's home and farming operations would remain, and not be affected by the proposed tidal power development.

The applicant's proposal will be phased and is expected to generate 5MW of renewable energy. The tidal energy for this project will be harnessed on the north side of Cape Split by a marine-based kinetic keel device and land based generators. This floating barge and keel, drifts back and forth on a cable, with the flow of the tides. This above-water approach differs significantly from the turbines and other in-water generators that other companies have attempted in the past to harness the power of the Bay of Fundy.

In addition to the map amendment to rezone a portion of land, this proposal also requires a text amendment to list 'Tidal Power Facility' as a permitted use in the Resource Industrial (M4) Zone.



2. OPTIONS

In response to the application, the Planning Advisory Committee may:

- A. Recommend that Council approve the amendments, as drafted
- B. Recommend that Council refuse the amendments
- C. Provide alternative direction, such as requesting further information on a specific topic, or making changes to the amendments

3. BACKGROUND

The subject property is currently split zoned Country Residential (R6) and Forestry (F1). The portion of land under consideration for a rezoning is zoned Forestry (F1) on the northern part of the property. On the southern part of the property is a residential dwelling with accessory structures and farm buildings. The property owners live on and farm this part of the property. Their business, Moon Tide Farm has been in operation since 2009 and a variety of vegetables and herbs are grown as well as several types of pastured animals.

Big Moon Canada Corp has leased a portion of the land from the property owners (see Appendix E). Big Moon has also received a water lease for a portion of the Minas Passage where tidal energy will be sourced (see Appendix E). The water area to be leased is one nautical mile by ten nautical miles. Prior public engagement with the local fishing community has established that this water lease area is outside of any regular fishing grounds.

Previous public consultations, independent and separate from municipal consultations, were held in the community by the applicants beginning in 2016. Big Moon Canada reached out directly to the local residents, First Nation communities, fishing organizations, over 100 individual fishermen, and held discussions with the MLA and MP for the area. Big Moon also engaged the general public at a number of independent public meetings, held in 2017 and 2018. More details of their public consultation process can be found in the submitted information package, attached as Appendix F.

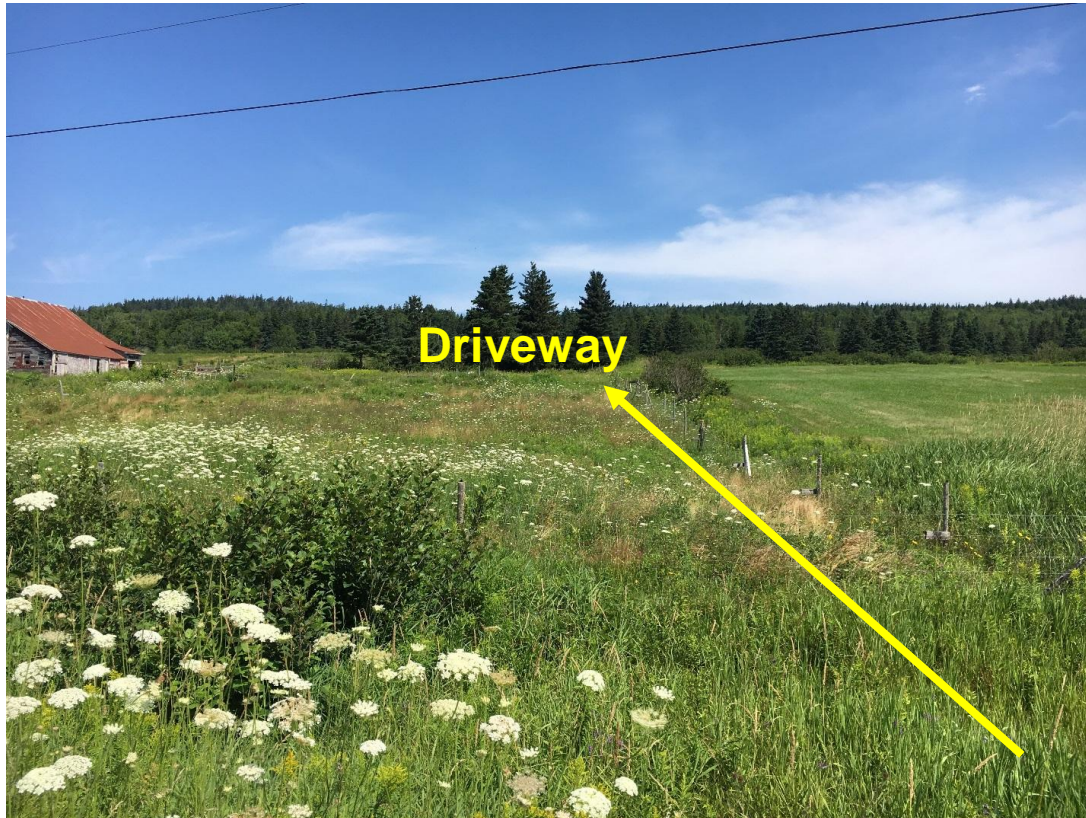
4. INFORMATION

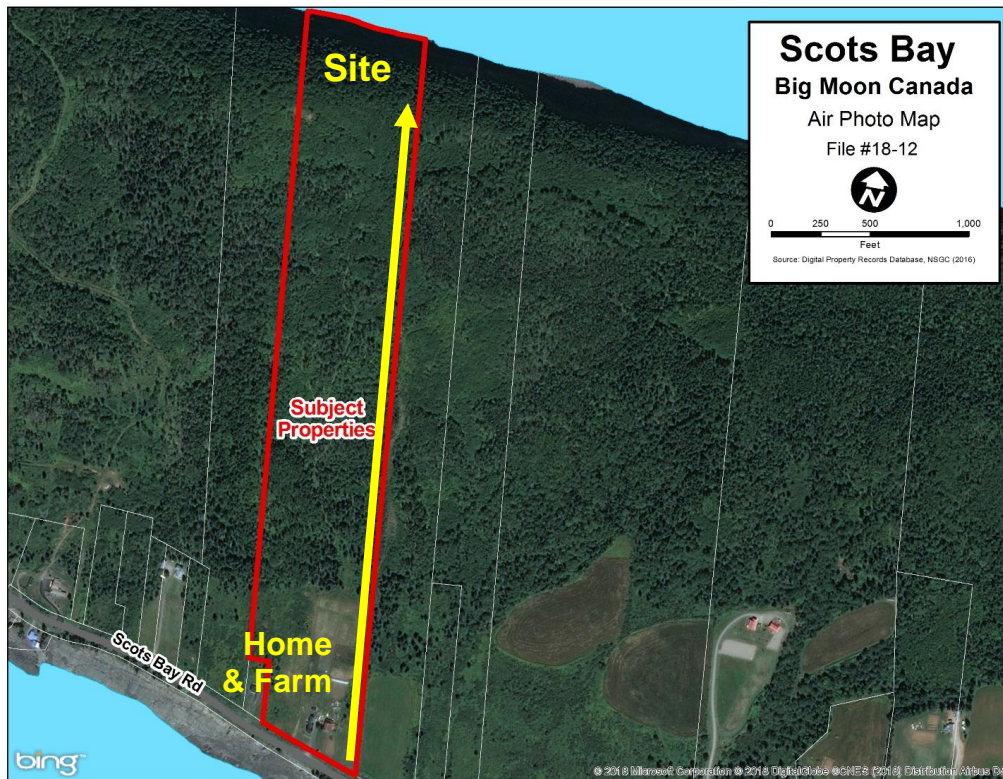
4.1 Subject Property and Surrounding Uses

The subject property is approximately 43 acres in size, with approximately 197 feet of road frontage on Cape Split Road. The majority of the property is forested land. The subject property slopes down to the south, with a steep edge on the northern coast where it descends into a cliff face, leading to a gravel beach. The majority of the subject property is sloping south, draining towards Scots Bay.

Access to the site for Big Moon Canada has been attained through a negotiated land lease between Big Moon Canada and the property owners. A driveway/access road is required to get

from Cape Split Road to the site. This driveway will be located along the eastern edge of the property line (shown on photo below). The site plan attached in Appendix E illustrates the 45 foot wide driveway. A DTIR access permit has been issued for this driveway and some trees will need to be cleared for the driveway construction.





The surrounding area of Scots Bay is made up of mostly forested lands with a few rural residential uses along Cape Split Road. The forested areas will help screen any visual aspect and help buffer any noise generated at the side.

4.2 Public Information Meeting

Under Planning Policies PLAN-09-001, any Land Use Bylaw text amendment requires a Public Information Meeting (PIM) to be held. A Public Information Meeting is also required for any Land Use Bylaw map amendment greater than one (1) acre in area.

A PIM was held on August 22nd at the Scots Bay Community Hall. Notification letters were sent to all 7 property owners within 500 feet of the subject property, notifying them of the PIM. Newspaper ads were also placed in the Canning Gazette and the Valley Journal Advertiser, prior to the meeting.

There were 22 members of the public in attendance; many were supportive and already familiar with the project from the applicant's previous public consultation efforts. The questions asked during the PIM, related to whether the zone changes would carry forward with the new planning documents that are under review by the Planning Advisory Committee, as well as the impact on nearby properties, potential for noise and whether the zoning could be changed back if the project did not proceed. The responses and more detail can be found in the PIM notes, attached as Appendix C.

4.3 Request for Comments

Staff sought feedback from internal and external departments on this application.

- Municipal Engineering and Public Works indicated there is no concern for the installation of private wells in the area. EPW also stated that the applicant is required under the Environment Act to ensure they follow the Nova Scotia Environment's Erosion Control Guidelines during construction in order to reduce risk of pollution or contamination. EPW have also stated that the proposed development is suitable for this property in terms of steepness of grade, soil and geological conditions and the locations of watercourses.
- A Municipal development officer reviewed the application and stated that they see no concern in issuing a development permit provided the rezoning and text amendment are completed prior. The Development Officer also indicated that an access permit was received from the Department of Transportation and Infrastructure Renewal.
- The Nova Scotia Department of Transportation and Infrastructure Renewal stated that they do not anticipate any concerns with the development. DTIR stated that the existing access permit has been issued and have no concerns with access or egress to and from the site. DTIR also indicated the surrounding road networks are suitable for the development and they see no issue with traffic generation as a result of the proposed rezoning.
- Nova Scotia Environment: no response
- Nova Scotia Department of Natural Resources: no response
- Building and Enforcement Services confirmed that no building permits have been issued for the property yet, and they have no concerns regarding the ability to issue permits, following the proposed amendments. Additional engineering may be required due to the nature of the project, confirming the requirements of the building code are met, and that there is adequate fire protection services and equipment in the event of an emergency.
- The Municipal Business Development Specialist provided comments on the potential impacts which may include generating business for local construction/development companies as well as marine service providers. The proposal was also considered to have the potential to lower energy costs and reduce greenhouse gases.

5. POLICY REVIEW

5.1 Map Amendment (rezoning)

Resource and Rural Development Districts

The Municipal Planning Strategy (MPS) establishes objectives for rural areas (MPS 3.1) which help delineate the areas used for primary resource industries. These rural Development and Resource Districts include Agricultural, Forestry, Country Residential, Shoreland, and Hamlets.

MPS section 3.1.1 discusses Rural Planning Objectives, and states as an objective “*To provide for residential, commercial, **industrial** and community facility development opportunities which are related to, and supportive of, the primary resource industries.*”

The proposed helps to achieve this objective by utilizing a primary resource found in the Bay of Fundy – ocean tidal flows.

The subject property falls into the Forestry and County Residential districts and can be considered for a rezoning to the Resource Industrial (M4) zone to specifically enable a rural resource use to occur. Rezoning to the Resource Industrial (M4) Zone is enabled through Policy 3.7.4.3 which states *“Council may consider rezoning to M4 by an amendment to the Land Use Bylaw to permit Rural Resource Industrial Uses in the following Rural designations: a. Forestry Districts (F) b. Country Residential Districts (CR)...”* This rezoning policy requires that *“Such zoning amendment will be subject to the policies of the relevant sections including those in Sections 3.3 and 3.4 and Part 6 of this strategy.”*

Part 6 contains the general rezoning criteria which are reviewed in Appendix D. Part 3.3 and 3.4 apply to the Forestry district and Country Residential district, reviewed below.

Forestry District – MPS 3.3

MPS section 3.3 establishes the Forestry District, and places a dominant emphasis on resource production and associated industrial development. The Forestry district is intended to prioritize resource development, and Council will consider rezoning lands in the Forestry district, to a variety of other zones including Resource Industrial (M4). As provided for in MPS Policy 3.3.4.1, Council will specifically consider rezoning to the M4 zone.

3.3.4 Forestry Districts - Industrial Policies

3.3.4.1 Council may consider proposals to rezone lands in the Forestry Districts to permit the development of agricultural, forestry, fishing and aggregate related industries. Amendments to the Land Use Bylaw to rezone lands to Resource Industrial (M4) shall be in accordance with the Common Rural Policies Section 3.7 of this Strategy.

3.3.4.2 In addition to considering the Rural Common Policies of Section 3.7, Council shall consider the following in amending the Land Use Bylaw to Resource Industrial (M4):

- a. a minimum distance separation of 500 feet is maintained between lands being rezoned M4 and any residential use*
- b. a minimum 1,000 foot separation from land within a Growth Centre or Hamlet designated for residential, institutional, or open space uses*
- c. proposal can meet all applicable policies including the policies for amending the Land Use Bylaw contained in Part 6, of this Strategy*

The proposed map amendment satisfies these separation distances. The nearest residential use is over 2300 feet away from the proposed M4 zone boundary. There are also no Hamlets or Growth Centres within many kilometers. Part 6 criteria are reviewed in Appendix D.

Country Residential District – MPS 3.4

The proposed rezoning does not include any Country Residential (R6) lands. However the driveway to access the proposed site, will pass through an R6 zone. The policies concerning R6 zoned areas are reviewed below for additional information and context.

MPS Section 3.4 establishes the Country Residential District to provide a rural residential option, as well as non-residential resource development. There is recognition in this district, that residential uses are not protected from resource activity. The MPS indicates that the residents who choose a rural lifestyle must be prepared to co-exist with rural uses which may include forestry, agricultural and other resource related uses.

3.4.6 Country Residential Districts - Industrial Development

3.4.6.1 In the Country Residential District, Council may consider proposals to rezone lands for resource industrial uses pursuant to the policies contained in the Rural Common Policies of Section 3.7 of this Strategy.

3.4.6.2 In addition to those common rural policies providing for resource industrial uses, the proposed site must satisfy the following criteria in the Country Residential Districts:

a. the subject site should be at least 2,000 feet from any residential lot shown on an approved or in process subdivision plan

b. the nearest residential use must be at least 2,000 feet from the site

The proposed map amendment satisfies these separation distances. The nearest residential use is over 2300 feet away from the proposed M4 zone boundary.

*MPS 3.4.6 continued ...In considering rezoning proposals, Council shall require a proponent to have prepared a groundwater assessment by a qualified hydrogeologist satisfying Council if recommended by and in consultation with Nova Scotia Environment and/or the Department of Health that confirms that the proposed use will not create well interference on existing uses. **This requirement may be waived for industries which do not generate industrial waste such as liquid, chemical and solid residue or by-product of an industrial process.***

The functioning of a tidal energy facility is not an industrial process which generates industrial waste materials like chemical or solid residue; therefore staff are comfortable with this requirement being waived.

5.2 LUB Text Amendment – to add a permitted use in the M4 Zone

Currently, the Land Use Bylaw does not consider ‘*Tidal Energy Facility*’ as a permitted use in any land use zone. When the MPS and LUB were originally developed in 1979, the need for renewable energy was not as urgent as it is today. The tidal power technology was also not as advanced as it is today. Back in 1979 Council was not considering this new type of energy production and the ‘use’ was not listed in any zone. However the M4 zone is well suited to accommodate similar types of uses, and can be amended to add ‘*Tidal Energy Facility*’ as a permitted use. Tidal flows represent a natural resource, similar to fishing or forestry and the M4 zone is intended to provide opportunity for collecting/harvesting these natural resources.

Rural Industrial Policies

MPS 3.7.4.1 Council shall establish the Resource Industrial (M4) Zone in the Land Use Bylaw. Permitted uses in the M4 Zone shall include:

- a. agricultural related industries*
- b. forestry related industries*
- c. mineral aggregate resource related industries*
- d. fishing related industries*
- e. equipment sales and service for the above uses*
- f. business and sales as accessory uses to any of the above*

Additional uses may be permitted where such uses are consistent with the Policies of this Strategy.

Policy 3.7.4.1 states that additional uses can be added to this zone. This allowance to consider new uses may have been in recognition of the potential for new technologies and collection methods that may advance beyond what was initially defined as a resource use when these policies were first written in 1979. This allowance enables Council to consider adding permitted uses into the M4 zone. When considering adding uses into a zone, a review of the zone purpose is applicable to maintain consistency with the intent of the zone.

*The purpose of the **Resource Industrial (M4) Zone** is to provide for the development of agricultural, forestry, fishing and aggregate related industries in the Forestry and Country Residential Districts.*

6.2.1.2 It is not intended that all land shall be rezoned at the outset in the manner indicated on the Future Land Use Maps. In order that Council may maintain a comparatively high degree of control and is able to monitor future development, a number of areas will be zoned to reflect the existing land use and appropriately rezoned in compliance with the Strategy upon application.

The Land Use By-law text amendment is also enabled through Policy 3.3.2.5 which states “*The Land Use Bylaw may be amended to allow additional uses where such uses are consistent with the policies of this Strategy.*” Staff believe that adding ‘*Tidal Energy Facility*’ as a permitted use to the M4 zone is consistent with the intent of the MPS.

General LUB amendment Criteria

Section 6.2.2.1 of the MPS outlines a number of general criteria that are to be considered in all applications to amend the Land Use Bylaw. The criteria relate to the potential impacts associated with the proposed amendment on the road system, municipal services, the environment, development patterns, and municipal finances. Detailed consideration of these criteria is contained in Appendix D. Staff believe that the proposed amendments satisfy these general criteria. The proposal does not require the municipality to incur any costs, and can offer increased tax revenue. The proposal is well buffered and located in a rural area where the road authority has indicated no concerns for the road network or traffic patterns.

6. CONCLUSION

The proposed zoning amendments offer a unique economic and renewable energy opportunity in the community of Scots Bay, the Municipality of the County of Kings, and the Province of Nova Scotia. The project has received approvals from the province to operate the tidal energy facility. The Municipal zoning amendments are consistent with the MPS Objectives to support resource development in rural areas. The installation of this energy project maintains the established farm and residential use on the property, and acts as a complimentary use, utilizing another natural resource accessible from the property. The water lease area is not expected to affect any fishing grounds or cause disturbance to the ocean life.

7. STAFF RECOMMENDATION

Staff recommend that the Planning Advisory Committee recommend that Council forward positive recommendations by passing the following motions:

The Planning Advisory Committee recommends that Municipal Council give First Reading to and hold a Public Hearing regarding the map amendment to rezone a portion of the property at 1233 Cape Split Road (PIDs 55014096), Scots Bay, from the Forestry (F1) Zone to the Resource Industrial (M4) Zone, as described in Appendix A of the report dated Nov 13, 2018.

The Planning Advisory Committee recommends that Municipal Council give First Reading to and hold a Public Hearing regarding the text amendment to list '*Tidal Energy Facility*' as a permitted use within the Resource Industrial (M4) Zone, as described in Appendix B of the report dated Nov 13, 2018.

8. APPENDIXES

Appendix A – Proposed Land Use Bylaw Map Amendment

Appendix B – Proposed Land Use Bylaw Text Amendment

Appendix C – Public Information Meeting Notes

Appendix D – General Land Use Bylaw Amendment Criteria – MPS 6.2.2.1
Appendix E – Site Plan, Land/Water Lease Maps, Reference Zoning Map
Appendix F – Big Moon Canada Information Package

**Appendix A
Proposed Land Use Bylaw Map Amendment**

THE MUNICIPALITY OF THE COUNTY OF KINGS

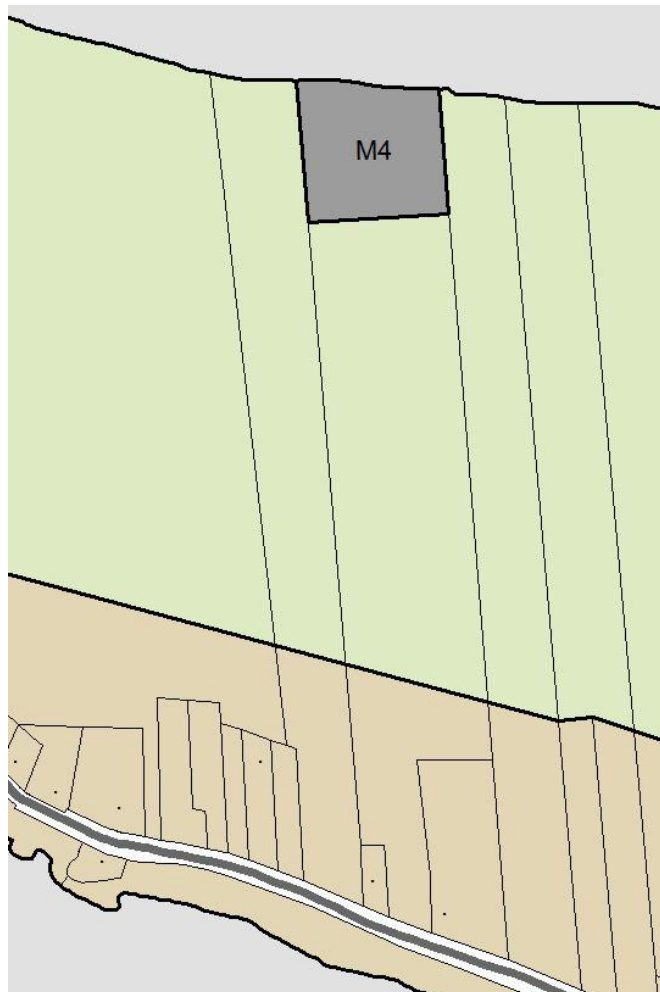
AMENDMENT TO BYLAW #75

COUNTY OF KINGS LAND USE BYLAW

Proposed map amendment to rezone property at 1233 Cape Split Road, (PIDs 55014096 & 55508998) Scots Bay from the Country Residential (R6) and Forestry (F1) Zone to the Resource Industrial (M4) Zone.

BYLAW #75

1. Amend LUB Schedule 1m, the Rural Zoning map, by rezoning a portion of the property at 1233 Cape Split Road from the Country Residential (R6) and Forestry (F1) Zone to the Resource Industrial (M4) Zone, as shown on the inset copy of a portion of Schedule 1m below.



Appendix B
Proposed Land Use Bylaw Text Amendment

THE MUNICIPALITY OF THE COUNTY OF KINGS

AMENDMENT TO BYLAW #75

COUNTY OF KINGS LAND USE BYLAW

**Proposed text amendment to list Tidal Energy Facility as a permitted use within the
Resource Industrial (M4) Zone.**

1. Replace the list of permitted uses, in section 13.2.2 with the following:
* Additional use is **highlighted** for emphasis

13.2.2 Permitted Uses

No Development Permit shall be issued in a Resource Industrial (M4) Zone except for one or more of the following uses and subject to the following requirements:

Aggregate Equipment Parts, Sales and Service
Aggregate Related Industries
Agricultural Equipment Parts, Sales and Service
Agricultural Related Industries
Bulk Chemical Storage
Bulk Fuel Storage
Cold Storage Facilities
Composting Facilities
Existing Uses as of the date of enactment of this provision
Fishing Equipment Parts, Sales and Service
Fishing Related Industries
Forestry Equipment Parts, Sales and Service
Forestry Related Industries
Light Industrial Commercial (M1) Zone Uses Within Existing Structures
Peat Moss Packaging and Processing
Septic Tank Service
Small-Scale Wind Turbines
Tidal Energy Facility
Transport and Trucking
Warehousing and Storage
Waste Transfer Stations
Well Drilling Services
Wind Monitoring (Meteorological) Towers (subject to conditions)

Appendix C – Public Information Meeting Notes

MUNICIPALITY OF THE COUNTY OF KINGS

PLANNING AND DEVELOPMENT SERVICES

PUBLIC INFORMATION MEETING NOTES

Planning Application for a rezoning and land use bylaw text amendment to allow a Tidal Power generation facility at property at 1233 Cape Split Road, Scots Bay (File 18-12)

<i>Meeting, Date and Time</i>	A Public Information Meeting was held on Wednesday Aug 22 at 7:00 p.m. in the Scots Bay Community Hall, 5796 Highway 358, Scots Bay, NS
<i>Attending</i>	In Attendance:
<i>Council Members</i>	Councilor Meg Hodges
<i>Planning Staff</i>	Mark Fredericks – GIS Planner Lindsay Slade – Summer Student
<i>Applicant</i>	Jamie MacNeil – Big Moon Canada
<i>Public</i>	22 Members
<i>Welcome and Introductions</i>	The Chair, Councillor Meg Hodges, called the meeting to order, introductions were made and the members of the public were welcomed to the meeting. The Public Information Meeting provides an opportunity for the public to express concerns and/or receive clarification on any aspect of the proposal. No evaluation has been completed and no decisions have been made at this point.
<i>Presentations</i>	<p>Lindsay Slade provided an overview of the planning process and the criteria that will be used to evaluate the application from Big Moon Canada. The proposal is to rezone a portion of the property at 1233 Scots Bay Road from Country Residential (R6) / Forestry (F1) to the Resource Industrial (M4) Zone. The application also requires a text amendment to the M4 Zone to specifically list Tidal Power Facilities as a permitted use in the zone.</p> <p>Jamie MacNeil, the representative from Big Moon Canada provided an overview of the proposed kinetic energy technology and reviewed the past number of years to explain how they reached this point. Jamie discussed the positive scientific reviews and provincial approval process, as well as the lease/land agreement process with the land owners Ann and Joel Huntley.</p>

Comments from the Public

Following the presentation, the floor was opened for comments from the public to which Mark Fredericks and Jamie MacNeil responded

- Chris Cann asked how the zone changes considered through this application would apply in the new MPS/LUB planning documents, currently under review.

Mark Fredericks responded that this application and others currently under consideration at the same time as new planning documents are being reviewed will be carried forward into the new documents.

- Janet Macinnes asked if the operations would affect other properties nearby.

Jamie MacNeil responded that at this time, the only property that would have equipment on it would be the subject property at 1233 Cape Split Road. If there was a need for further installments, a negotiated lease agreement would occur with the land owners, prior to any installations.

Jamie also described that the testing unit in operation now is a small scale version, and they intend to incrementally increase the equipment size and capacity.

- A member of the public asked about potential noise and other risks that may be associated

Jamie MacNeil responded that much of the noise generation would be located within the building on the land and not expected to generate obnoxious sounds but they will be monitoring the noise, and are working with Strum consulting on measuring and monitoring this impact. Other risks were primarily surrounding birds and the potential for bird strikes on the ropes suspended above ground. This was being addressed with a secondary parallel cable with deterrents to minimize bird strikes.

- Ann Huntley asked if the project was unsuccessful, could the zoning be reverted back to the Forestry zone?

Mark Fredericks responded that yes the M4 zoning would not have to stay on the property forever, and a rezoning process could be carried out to revert the zoning back to the original zone arrangement.

Adjournment

There being no further discussion, the Chair thanked those in attendance and adjourned the meeting at 8:00 p.m.

**Municipal Staff
Recording Secretary**

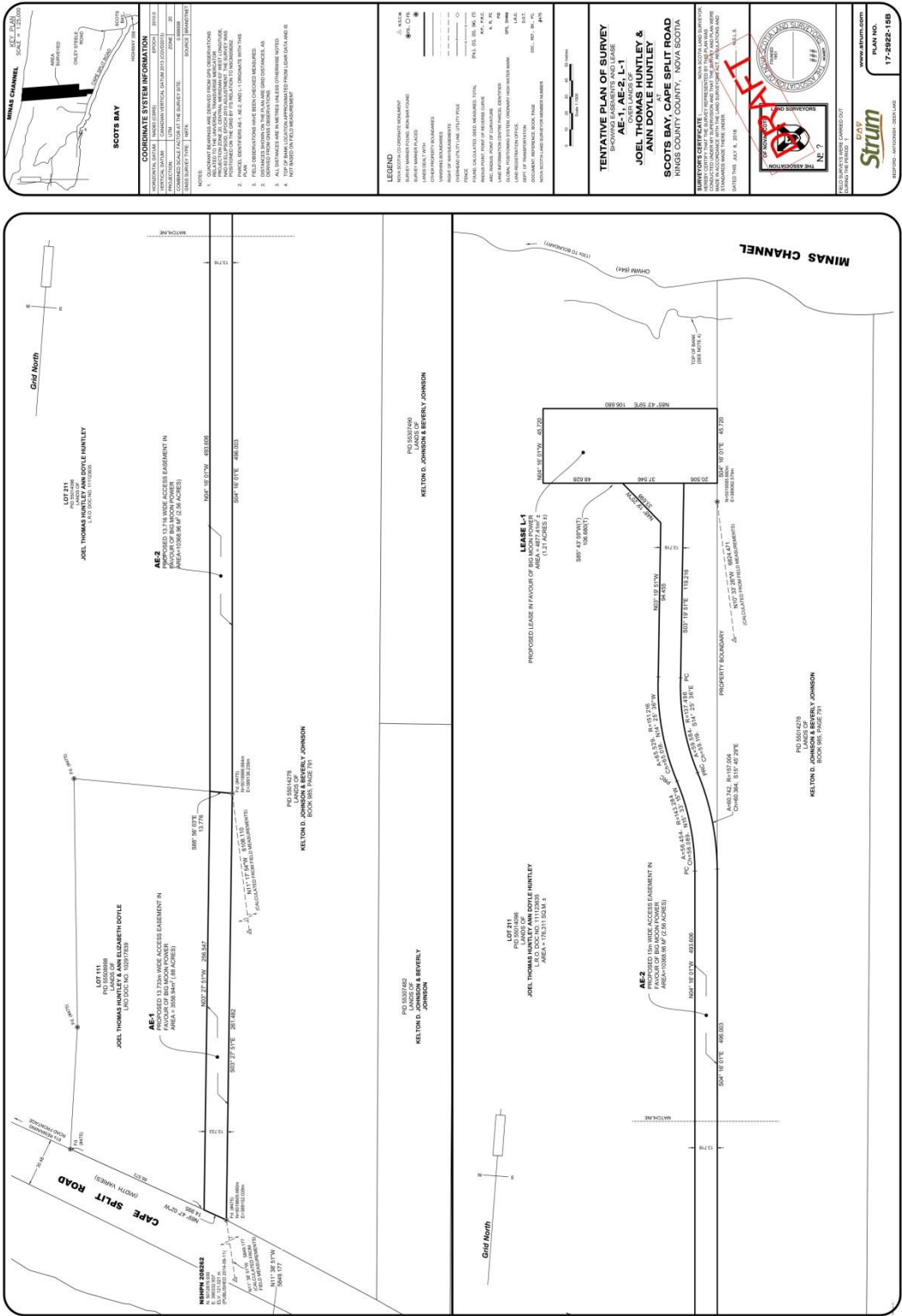
Appendix D – General Land Use Bylaw Amendment Criteria – MPS 6.2.2.1

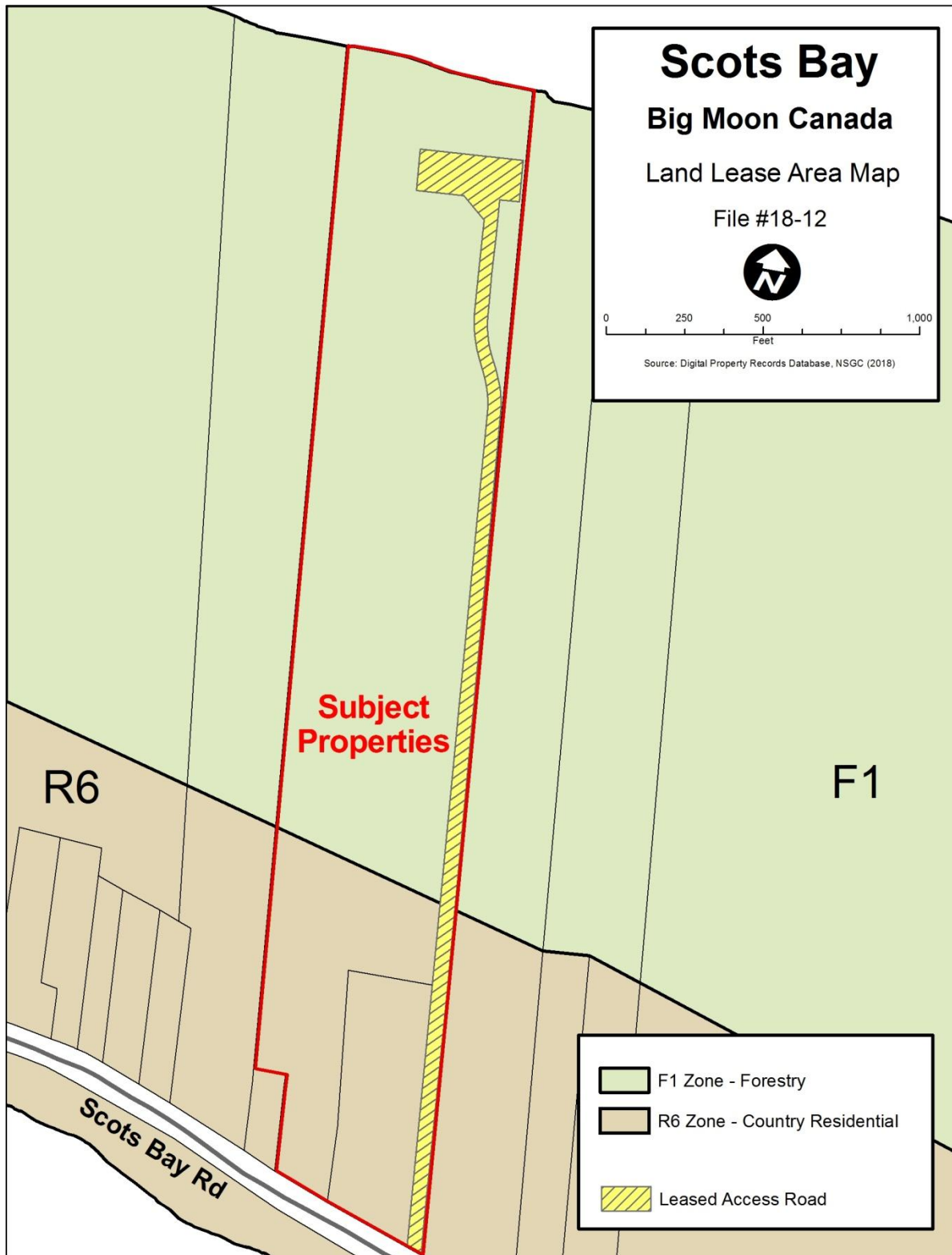
In considering amendments to the Land Use Bylaw, in addition to all other criteria as set out in various policies of this Strategy, Council shall be satisfied:

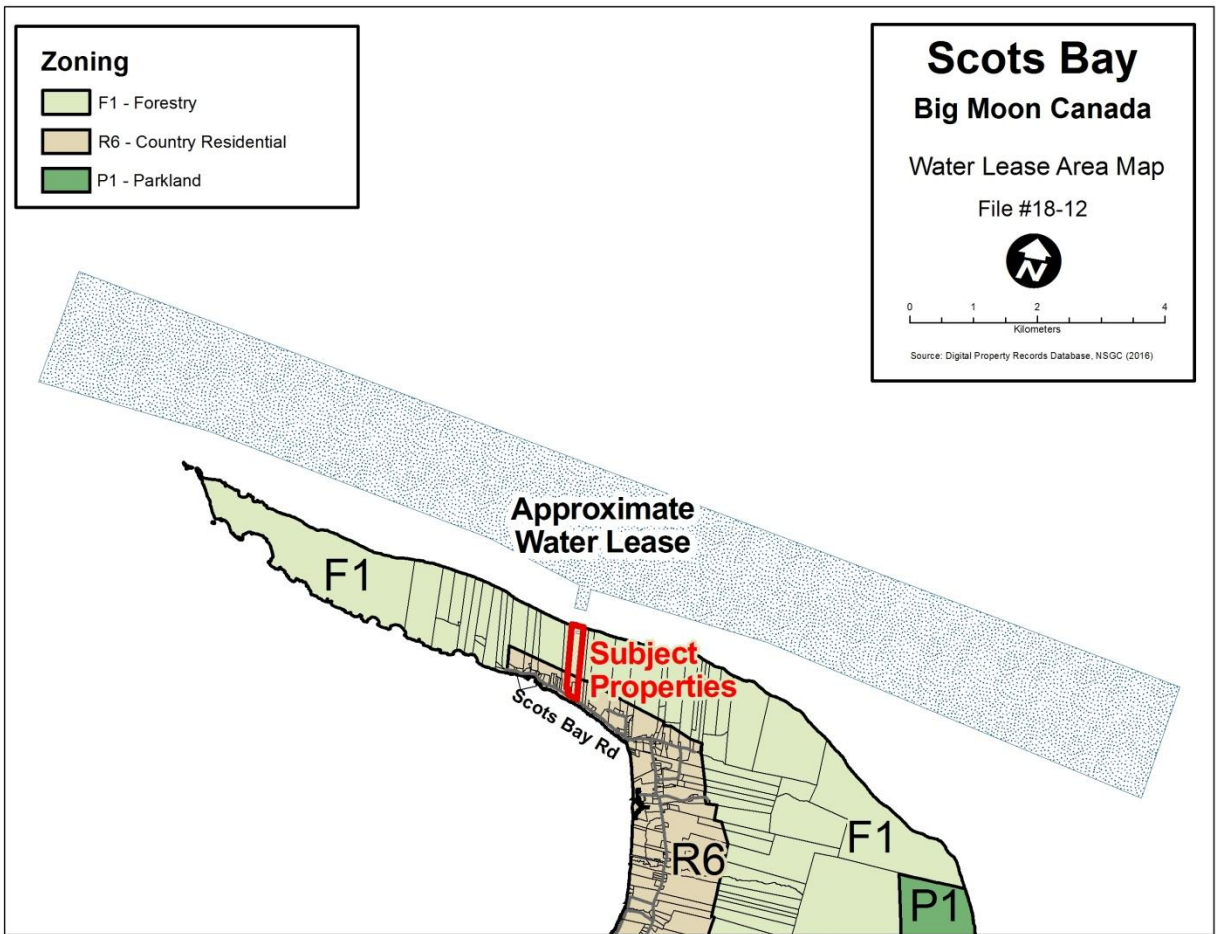
Criteria	Comments
<i>a. the proposal is in keeping with the intent of the Strategy, including the intent of any Secondary Planning Strategy, and can meet the requirements of all other Municipal Bylaws and regulations</i>	Section 3.1 of the Municipal Planning Strategy recognized the importance of natural resources in the Municipality.
<i>b. that the proposed rezoning is not premature or inappropriate by reason of:</i>	
<i>i. the financial capability of the Municipality to absorb any costs related to the development of the subject site</i>	No costs are expected to be absorbed by the Municipality. The project is expected to generate additional tax revenue for the Municipality.
<i>ii. the impact on, or feasibility and costs of, sewerage and water services if central services are to be provided, or adequacy of physical site conditions for private on-site sewer and water systems</i>	Engineering and Public Works have stated no concern regarding adequacy of private on-site sewer and water, nor concern for municipal water or sewer as the site is not connected.
<i>iii. the potential for creating, or contributing to, a pollution problem including the contamination of watercourses</i>	No concerns from EPW. The use is not expected to create or contribute to any pollution problems. Contamination of water is also not expected, as the land base generator is an enclosed structure and the marine-based component is a simple floating device.
<i>iv. the adequacy of storm drainage and the effect on adjacent uses</i>	Minimal land alterations are not expected to significantly alter current storm drainage patterns. EPW recommends the applicant provides a storm drainage management plan to mitigate any potential impacts from their proposed development.
<i>v. the adequacy and proximity of school, recreation, and any other community facilities</i>	Not applicable since the proposed use is non-residential in nature
<i>vi. the adequacy of street or road networks in, adjacent to, or leading to the subject site</i>	DTIR has indicated that the road network is sufficient to accommodate this development
<i>vii. the potential for the contamination of</i>	EPW has indicated that the applicant is

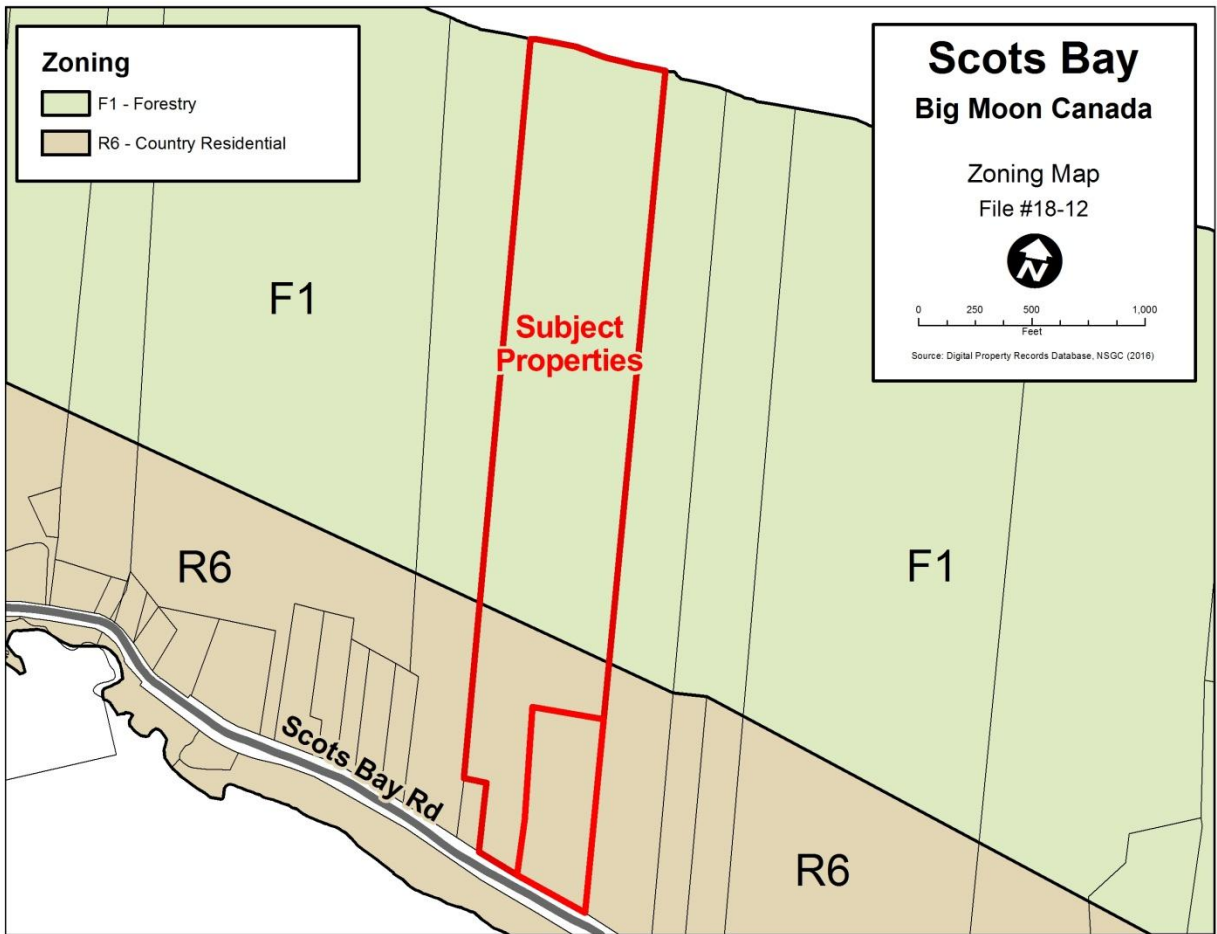
<i>a watercourse due to erosion or sedimentation</i>	required to follow the Nova Scotia Environment's Erosion Control guidelines during construction, no negative impacts on the watercourse are expected as a result of the proposed use.
<i>viii. creating extensive intervening parcels of vacant land between the existing developed lands and the proposed site, or a scattered or ribbon development pattern as opposed to compact development</i>	Not applicable – no subdivision is proposed
<i>ix. traffic generation, access to and egress from the subject site, and parking</i>	Little impact to traffic is anticipated, access to the site is permitted only to those employed at Big Moon Canada. Parking will be located at the northern portion of the site.
<i>x. incompatibility with adjacent uses and the existing development form of the surrounding area</i>	The surrounding area is comprised predominantly of forested land.
<i>xi. the potential for overcrowding on lakeshores or the reduction of water quality</i>	Not applicable – no lake shore land in the area
<i>xii. the potential for contamination of, or interference with a designated groundwater supply protection area</i>	Not applicable – none in the area
<i>c. the proposed site is suitable for development in terms of steepness of grades, soil and geological conditions, location of watercourses, marshes, swamps, or bogs and proximity of highway ramps, railway rights-of-way and other similar factors that may pose a hazard to development</i>	EPW indicated the proposed development is suitable for this property in terms of steepness of grade, soil and geological conditions and the locations of watercourses.

Appendix E – Site Plan, Land/Water Lease Maps, Reference Zoning Map









Appendix F – Big Moon Canada Information Package



Submitted By: Big Moon Canada Corporation.

1.0 PROJECT DESCRIPTION

1.1 Overview

Big Moon Canada Corporation (BMP) plans to install and operate a tidal energy system in the Minas Passage. This system will include a permanent 5 MW project that will be installed in phases. An initial 1 MW phase will be installed, with megawatts 2-5 being deployed in either four 1 MW units or two 2MW units. BMP did extensive site analysis and data collection that led to the selection of this proposed site in the Minas Passage, along the north shore of the Blomidon Peninsula, Kings County, Nova Scotia for the 5MW demonstration project. Other sites considered were Cape D'or Nova Scotia, and Cape Enrage, New Brunswick. After studying these locations and several others BMP selected the project location on the North Shore of Cape Blomidon. This location is considered the best match for the technology for many reasons which include:

- Long, consistent current that runs perpendicular to land (required);
- Private property to locate generators;
- Power lines within 1 km of project location;
- Access to generators via land vehicles;
- Low marine traffic (required);
- Lower Ice Volumes:
- Low visual impact to community;
- Close to industrial areas (Halifax, Dartmouth, Yarmouth, Digby);
- Wind speed and wave height relatively low;
- Close proximity to Delhaven, Scots Bay and Parrsboro Wharfs;

1.2 Project Consultation

This submission includes information about the technology that BMP will be deploying. We will show that the BMP Tidal Energy System (TES) will have a minimum environmental effect, that BMP has already conducted extensive engagement and has taken the comments from the groups we have consulted and are adjusting our project based on the concerns raised. BMP also understands that there is an opportunity to have a positive socio-economic effect on the local communities and the province overall. BMP has developed an innovative approach to producing marine renewable energy that will have less impact to the environment and will be able to decrease the levelized cost of energy at a significant rate.

BMP has been consulting with various parties since November of 2016 and these groups include local fishers in the Bay of Fundy which took place between November 2016 and May 2017. Contact was made with over 100 Fishers, fisheries organizations, First Nations and other fisheries-related persons. The Fish and Science Research Society conducted consultations in the following communities: Cheverie, Kentville, Wolfville, Truro, Parrsboro, Stewiacke, Alma and Digby.

Over the last year, Big Moon Canada Corp. has reached out to and spoken directly with each First Nation community in or around the area of activity in for our proposed project. Most communities have

had multiple discussions with BMP and all have had a formal presentation from Big Moon on our project and technology and have had opportunities to ask questions and give their opinions.

BMP has also worked closely with the KMK and the Assembly to a complete understanding of BMP and our technology throughout the First Nations government structures in Nova Scotia.

In addition to presenting before 13 communities, including; Membertou, Glooscap, Acadia, Annapolis Valley, Eskisoni, Bear River, Millbrook, Paqtnkek, Pictou Landing, Potlotek, Wagmatcook, Sipekne'katik, Waycobah. BMP has also met with the Nova Scotia Department of Energy Deputy Minister with Chief PJ Prosper, met with the Benefits Committee of the Assembly and submitted a draft MOU for the Assemblies' consideration. Big Moon has also submitted a MEKS completed by Membertou Geomatics of the area around the proposed project to the KMK and Assembly.

While each meeting held by BMP with various First Nations communities and stakeholders was unique, the results following each meeting were almost universal. First Nations groups were very appreciative that BMP were reaching out to them so early in the process and were sharing significant details about their technology. While many discussions were held about the fishing community, the technology and specific aspects of the technology (such as navigation and footprint), at the end of each meeting Big Moon walked away with the support of the community or stakeholder. In one instance during the meeting with the Benefits Committee Co-Chair, Chief Terry Paul described Big Moon's approach to relations with the Mi'kmaq as refreshing and example for others to follow. During our many meetings and discussions with Mi'kmaq communities and leaders, while advice was given on how to ensure a respectful and appropriate engagement process no issues concerning First Nations rights or title were raised.

For communities immediately adjacent our project site discussions often focused on opportunities for project participation and employment. BMP has repeatedly and sincerely offered informally and formally through the Benefits Committee an opportunity to the Mi'kmaq to become partners with BMP on this or potential future projects in Nova Scotia. BMP has also committed that any opportunities for contracts and employment for First Nations companies and people will be given high priority. To that point, BMP will be awarding the contract to clear the lumber and vegetation for the building of a driveway at our site to a joint venture between Dexter Construction and Glooscap Ventures.

The feedback from each and every First Nation meeting and communication has been extremely positive, and we expect this is but the first steps in the very long relationship with a willing First Nations partner.

While Big Moon has done the bulk of its engagement with the traditional and existing users of the Bay of Fundy, a lot of work has also gone into working with individual community members.

More specifically, Big Moon began by meeting with the Local MLA for the Scots Bay area 12 months ago to inform, educate and answer any questions he may have about the project or its possible interaction with community members. Big Moon later in that year held a meeting with the local Member of Parliament whom is also a resident of the Scots Bay area. Once again, Big Moon presented the technology, discussed any potential impacts and answered all questions that arose.

Over the last 6 months, Big Moon has been working with the owners of the land that Big Moon will access for the project. Big Moon has negotiated an agreement for land access the owners. In addition, the landowners have agreed to chair and recommend members for the Community Liaison Committee recently struck by Big Moon.

The Community Liaison Committee will hold semi-annual meetings with members and the company to discuss the project, update members on any developments take advice on community engagement

opportunities and answer any questions the CLC members may have from the community at large. While the Committee will meet quarterly it has been discussed that at times of particular activity around the project, such as build out and commencement, more frequent meetings will be held.

In addition to the CLC a Fishers Liaison Committee will also be established for the same purpose of the CLC only for specific issues coming directly from the fisher community. The Chair of the FLC will be Darren Porter, a local weir fisher and the chair of the FLC will sit Ex-Officio on the CLC and vice versa.

On December 10, 2017, Big Moon held a community meeting in Scots Bay attended by over 50 community members. The meeting lasted over 3 hours with a presentation by Big Moon and an extensive question and answer period by attendees. Most questions focused around the noise level and any possible seismic activity that may arise from the establishment of a Big Moon Project in Cape Split. Big Moon left the meeting having committed to the group to raise the issue of soundproofing all buildings higher on our priority list to ensure that the presence of Big Moon in the community does not have a negative impact on existing community members. We are also offering to do baseline acoustic and seismic testing on the site before construction and at regular intervals following construction.

On January 4, 2018, Big Moon hosted community members to visit our storage facility in Bedford, Nova Scotia to view the equipment we tested in the Bay in the Spring of 2016 and to get a better understanding of the size and scale of the proposed project. Big Moon walked the participants through the facility and answered all questions that come about the technology. Once again like the community meeting the participants reminded Big Moon of the importance of controlling noise levels and mitigating any seismic activity that may arise as a result of our project.

On March 29th, 2018 Big Moon hosted a community meeting open to all for the purpose of informing the public of the project, hearing issues and answering questions from community members. With advertisements for the meeting posted in the local media outlets and on social media. The meeting was held at the local fire hall in Canning Nova Scotia from 3:00 pm to 7:00 pm. Members of the public, agencies, Aboriginal communities, resource and recreational users of the surrounding area, and other interested persons were encouraged to attend to allow for actively participate in the planning process by attending this consultation events, submitting written comments, or contacting Project Team members directly with questions. The public was encouraged to attend and participate in helping BMP to identify issues, concerns, interests or ideas to be addressed during the Environmental Assessment process. No apparent concerns were raised during the open house and approximately 60 members of the public attended the open house.

The proposed 5 MW project represents a new project and is not tied to a previous license or permit. However, BMP has been working with the Local Fishers, First Nations, Nova Scotia Government and relevant agencies for the past 2 years to complete multiple tests of prototypes of its technology in the Bay of Fundy. Each of these prototypes have gone through the required applications and permitting process and have increased local awareness of BMP.

1.3 Project Execution

Pre-project preparation that will take place includes digging test pits to validate the geotechnical condition of the driveway, clearing of the trees for a driveway up to the generator assembly locations, and constructing the driveway. There will be a permanent driveway built for the 5 MW project. Each phase of the project will require clearing and grading that will take place in the footprint of the generator assembly's concrete pad 50 feet x 60 feet per 1MW assembly. The concrete pads will then be constructed. Following the construction of the pad, the generator assembly will be installed then the steel building will be built in place over the installed generator assembly. It is anticipated that in late

2018 the powerlines will be installed that will run from the generator assembly location, down to Cape Split Rd, where they will be interconnected.

The proposed site is currently undeveloped forestry land and will need tree clearing and a driveway built to access the site. An area will be cleared approximately 900 meters to the north of the Scots Bay road on leased land owned by the Huntley Family. An area will be cleared on the eastern end of the property

1.3.1 5-MW Demonstration Project

The 5 MW demonstration project consisting of five 1 MW or one 1 MW and two 2 MW Tidal Energy Systems. The 5MW TES will be a permanent installation that will be fully autonomous and will be connected to the Nova Scotia Power Grid. Also, the build out of the five NKK devices means that all NKKs will be linked and will be controlled to track together as they move through the tidal cycle. Below is a summary of the individual components of one 1 MW TES.

BMP intends to directly manage each of the local Nova Scotian subcontractors involved in the proposed project. Our project team will regularly visit and inspect during fabrication and will be on site during mobilization and deployment of each of the components of the system. Nova Scotian Marine Contractors primarily will be used for any marine work.

The jib mobilization will require marine contracting personnel and tugs. Smaller marine craft will be used to perform periodic maintenance on site on the jib. A tug and airbag recovery system will be used for decommissioning the site. Decommissioning consisted of raising the jib from the seafloor using existing airbag technology and towing the jib back to harbor for final demobilization of the structure.

The Keel will be fabricated at a local steel fabrication shop. It will require crane rental for initial construction. Once in the water, tug boats will be used to tow the Keel to site. After its use, tug boats will be used to tow the keel from site where it will be decommissioned.

The generator assembly will be trucked to site and assembled using cranes. The site will be maintained using standard utility vehicles. The site will be decommissioned with the similar cranes and trucking as were used in construction.

BMP's tidal energy system will produce consistent, predictable power while creating minimal impact on the surrounding environment. This is accomplished by the device's two main components: a land-based generator assembly and an unmanned, passive barge with Kinetic Keel. The barge is connected to the generator by a 96-mm diameter high strength HMPE rope. Power is generated as the ebb and flood tides push against the Kinetic Keel causing the barge to move away from the generator and the line to unspool and turn the generator. The generator assembly area will be on land, on the hilltop of property identification number (PID) 55014096, along the north side of the Blomidon peninsula. The generator will be located up on the plateau which rises to an elevation of 130-150 m above the high-water mark. An access driveway and transmission corridor will be constructed through PID 55014096 extending from Cape Split road in the south to the shoreline along the north coast. The Keel operation area will extend 5 nautical miles in each direction originating from the generator assembly. During the power production phase of the project there will only be routine driveway maintenance and checks to the gravity bases, but no new construction is scheduled to take place.

The Project consists of a marine and land-based component. The marine component will include an operational area of 10 nautical miles, within the southern extent of the Minas Passage, along the north shore of Blomidon Peninsula. An access driveway and transmission corridor will be constructed through PID 55014096 extending from Cape Split road in the south to shoreline along the north coast. The generator assembly area will be situated on land, on the hilltop of PID 55014096. High strength rope

will connect the generator to the barge.

3.5 Nova Scotia Benefits

The Project has been proposed in support of Nova Scotia's "Renewable Electricity Plan: A Path to Good Jobs, Stable Prices and a Cleaner Environment" (Renewable Electricity Plan) which is a strategic plan designed to decrease the province's dependence on carbon-based energy sources (i.e., fossil fuels) and move towards greener, more affordable and more reliable sources of electricity. Nova Scotia recognizes the numerous benefits of supporting the development of renewable energy within the province, as currently 70% of the province's energy comes from nonrenewable sources, mostly sourced from outside of the province. Dependence on fossil fuels increases the vulnerability of Nova Scotians to rising international energy prices, weakens energy security, and takes valuable revenue out of the province. Negative impacts to human health, particularly in developing countries, and the environment, mainly in the form of climate change, are among the widely cited problems associated with fossil fuel consumption around the world. Nova Scotia has legislated targets to replace power generated from fossil fuels. The legislated 2015 target of 25% renewable electricity was exceeded with 26.6% of the electricity used by Nova Scotians coming from renewable resources. By 2020, the target is 40%. It is expected that tidal energy would make a longer-term contribution to Nova Scotia's electricity mix post-2020. The province is home to the Bay of Fundy, where roughly 160 billion MTs of water flow twice a day. In 2012, the NS Department of Energy (DOE) launched the Province's Marine Renewable Energy Strategy (MRES) to outline the pathway for the development of tidal energy. The tidal energy sector is advancing quickly, and Nova Scotia is well positioned to be a global leader in the development of commercially-viable tidal energy projects and solutions. BMP technology differs from the current in-stream tidal technologies being explored within the Bay of Fundy. The application of BMP technology will therefore, provide the following benefits to Nova Scotia:

- Innovative approach to tidal energy;
- Quicker route to deployment means benefits are seen by Nova Scotia sooner;
- Can operate in areas not suited for turbines means higher value and broader application for Nova Scotia
- Help reach GHG targets;
- Local companies used for 70% of construction and procurement of demonstration and commercialized systems;
- Operations and maintenance provided by local employees and contractors;
- High value job creation;
- Attract outside investment into Nova Scotia Economy;
- Source of meaningful Nova Scotia economic growth beginning now and over the long term;
- Revenue and profit sharing model;
- Nova Scotia first in world to commercial scale tidal power production; and
- Lower cost renewable energy.

3.6 Commercial Buildout

Big Moon plans to install the 100-kW prototype at the project site in the second quarter of 2018. The 100 kW will be a 2-month temporary installation and all components will be removed from the site on completion of the testing period. The plan is to install the first 1MW system during the fourth quarter of 2018. When nearing completion of this build, the long lead time components will be ordered for the second megawatt installation. The second build will commence during the second quarter of 2019 upon successful operation of the first deployment. The full plan is to consecutively install the remaining TESs devices over a staggered build out with each additional unit being deployed every 6 to 8 months and operating in the MRE Permit area. The forecasted completion of the full 5MW system is the first quarter of 2020.

3.7 Decommissioning

Upon expiration of the PPA (2033, unless renewed or replaced with a new PPA), the decommissioning of the 5 MW demonstration project is scheduled to take place

The decommissioning process will have 2 separate components. First there is a requirement to receive an abandonment permit from Environment Canada for the assets which are sitting on the ocean floor. The rope and Kinetic Keel will be removed from the water and anticipated the steel to be sold as scrap and the rope to be repurposed if possible. The second component is the land assets. BigMoon has a land lease agreement with the private land owners where our project will be located. As part of the agreement, BigMoon is obligated to remove all assets that have been installed and remediate all land that has been impacted by the project. This will require the removal of the driveway that will run from Cape Split Road to the northern border of the property, removal of Nova Scotia Power transmission/distribution infrastructure, removal of the generator assemblies as well as the foundations and buildings that are located on the property. BigMoon's contractual obligation requires us to return the private property as close to undisturbed as possible.

THE MUNICIPALITY OF THE COUNTY OF KINGS

REPORT TO PLANNING ADVISORY COMMITTEE

Subject: Proposed commercial use in New Minas (File # 18-15)

From: Planning and Development Staff

Date: November 5, 2018

Background

On November 5, 2018, the New Minas Area Advisory Committee considered the Staff report for the proposed Land Use Bylaw map amendment to permit commercial development at 5850 Prospect Road, New Minas (see the attached Staff report for more information).

The New Minas Area Advisory Committee forwarded a **positive** recommendation by passing the following motion:

“The New Minas Area Advisory Committee recommends that the Planning Advisory Committee recommend that Municipal Council give First Reading and hold a Public Hearing regarding the proposed rezoning at 5850 Prospect Road, from the Residential One and Two Unit (R2) Zone to the Major Commercial (C1) Zone, as described in Appendix E of the report dated November 5, 2018.”

Recommendation

The New Minas Area Advisory Committee recommends that the Planning Advisory Committee pass the following motion:

The Planning Advisory Committee recommends that Municipal Council give First Reading to hold a Public Hearing regarding the proposed rezoning at 5850 Prospect Road (PID 55495659 and PID 55200000), New Minas from the Residential One and Two Unit (R2) Zone to the Major Commercial (C1) Zone, as described in Appendix E of the report dated November 5, 2018.



Municipality of the County of Kings

Report to the Area Advisory Committee

Application to rezone lands from the Residential One and Two Unit (R2) Zone to the Major Commercial (C1) Zone
(File #18-15)

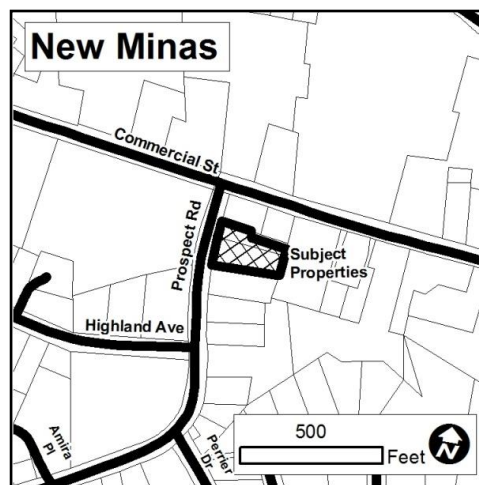
November 5, 2018

Prepared by: Planning and Development Services

Applicant and Land Owner	Greg Patterson
Proposal	To permit commercial development on the subject properties
Location	5850 Prospect Road, New Minas (PIDs 55495659 & 55200000)
Lot Area	Approximately 30,000 square feet (0.69 acres)
Designation	Residential (R) District
Zone	Residential One and Two Unit (R2) Zone & Well Capture - Zone B
Surrounding Uses	Commercial uses, residential uses and a home-based business (Appendix A)
Neighbour Notification	Staff sent notification letters to the 29 property owners within 500 feet of the subject properties.

1. Proposal

Greg Patterson has applied to rezone the two lots at 5850 Prospect Road, New Minas, from the One and Two Unit Residential (R2) Zone to the Major Commercial I (C1) Zone. The proposed rezoning would permit a broad range of commercial uses.



2. OPTIONS

In response to the application, the New Minas Area Advisory Committee may:

- Recommend that the Planning Advisory Committee forward to Council a recommendation to approve the amendments, as drafted;
- Recommend that the Planning Advisory Committee forward to Council a recommendation to refuse the amendments; or
- Provide alternative direction, such as requesting further information on a specific topic, or making changes to the draft amendments.

3. BACKGROUND

Shortly after inheriting ownership of the subject properties, the applicant submitted a rezoning application to the Municipality with the intent of improving their marketability to potential buyers. No specific development plan is proposed at this time.

4. INFORMATION

4.1 Site Description

The subject properties are located in the Growth Centre of New Minas and consist of a northern lot (PID 55495659) and a southern lot (PID 55200000). Combined, these two properties have an approximate lot area of 0.7 acres (30,000 square feet).

The subject properties fall within the Residential (R) District, in the Residential One and Two Unit (R2) Zone and the Well Capture - Zone B. The land is currently occupied by a single detached dwelling and two accessory structures. In addition to the presence of a number of trees across the lots, the northern property boundary is lined with a dense tree buffer. The subject properties have approximately 60 feet of street frontage on Prospect Road (Figure 1), which provides a connection to Highway 101 from Commercial Street. Commercial Street is the main arterial road in New Minas that facilitates major traffic movement within and between regions. The site therefore benefits from good local and regional accessibility.



Figure 1: Access to Prospect Road

The lands to the south of the subject properties are generally zoned Residential One and Two Unit (R2) and Residential Multiple Family (R3). The southern adjacent property, however, is within the R2-B sub-zone, which allows for a home-based business.

The subject properties also abut the Business District (Appendix B). Many of the lots in this district have frontage on Commercial Street and are zoned Major Commercial (C1). They consist primarily of big box retail outlets with large parking lots. This includes Jordan's Home Furnishings to the east of the subject properties and the Atlantic Superstore to the west, located on the southwest corner of the intersection of Commercial Street and Prospect Road.

The northern adjacent property is currently vacant. It was formerly an Esso gas station and has been decommissioned for some time. In 2005, the property owner received a demolition permit. The compulsory remediation measures were then followed to render the site suitable for eventual redevelopment. At this point in time, a Declaration of Properties Condition confirming compliance with the contaminated sites regulations of the Nova Scotia *Environment Act* is pending. It is the intention of the property owner to sell shortly after receiving this documentation.

It is worth noting that prospective buyers of the subject properties may be interested in acquiring the former Esso property with an aim to consolidate this property with the subject properties to increase the commercial viability of both the former Esso site as well as the subject properties. Consolidation would increase the overall lot area such that it would be consistent neighbouring commercial properties. They could therefore accommodate commercial uses similar in scale. Future commercial development could also benefit from direct frontage on both Commercial Street and Prospect Road.

4.2 Site Visit

Staff visited the subject properties on September 5, 2018 to identify site features and area characteristics.

4.3 Public Information Meeting

Council's Planning Policy PLAN-09-001 requires a Public Information Meeting (PIM) for all Land Use Bylaw map amendments for any area of land greater than one acre in size. However, because the subject properties have a total area of 0.7 acres, no PIM was held for this file.

Letters providing notification of the application were sent to the 29 property owners within 500 feet of the subject properties. A phone call was received from one resident of the area who was concerned about the noise and other nuisances that may result from the proposed commercial use of the subject properties.

4.4 Requests for Comment or Additional Information

3.3.1 Municipality of the County of Kings Development Control

- Expressed no concerns with relation to issuing permits for the proposed use.

3.3.2 Village of New Minas Water and Sewer Services

- Indicated that sewer and water services should be adequate. If greater water or sewer services are needed, they can be accessed from Prospect Road and Commercial Street.

3.3.3 Nova Scotia Environment

- Did not respond to Staff's request for comment.

5. POLICY REVIEW

The Municipal Planning Strategy (MPS) for the County of Kings specifies in Policy 2.1.8.3 that development in the Growth Centre of New Minas will be guided by the policies of the New Minas Sector Plan (NMSP).

5.1 Enabling Policy

NMSP Policy 3.9.13 states that "[a]reas contiguous to a given district may be considered for a zoning amendment to a use permitted within that district without an amendment to this Plan, and provided that all other policies of this Plan are met." Because the subject properties are adjacent to the Business District, Council is able to consider a New Minas Land Use Bylaw (NMLUB) map amendment.

5.2 New Minas Sector Plan

5.2.1 Commercial Policies

The NMSP contains a series of general goals and objectives that are intended to guide development in the Growth Centre of New Minas. Within the plan, the general goal for commercial development is identified in Policy 1.2 as the “development of a distinct and viable business district which will provide a high level and variety of commercial services that will accommodate the demands of the local and regional market area.” At the same time, the NMSP recognizes the need to minimize the potential for land use conflict.

The proposal is consistent with this goal since it would place more land within a commercial zone abutting the Business District. It has the potential to effectively serve local and regional markets due to its location relative to major roads and an established commercial area. Rather than representing a land use conflict, the proximity between commercial uses and multi-unit dwellings helps promote active transportation and the efficient use of public infrastructure. Specific development proposals on the subject properties would need to meet the requirements of the NMLUB and obtain all required permits and/or approvals prior to construction.

5.2.2 Water and Resource Protection and Management Policies

While commercial development is encouraged in the New Minas Business District, Council also recognizes that a safe and reliable water supply is critical to public health and stable economic growth. Wellfield Protection Zones protect groundwater supplies through additional restrictions and/or prohibitions on uses that carry a greater risk of water contamination. Well Capture - Zone B regulations take precedence over other zoning regulations on the subject properties and will apply to any future development proposals.

5.2.3 General Land Use Bylaw Amendment Criteria

Policy 3.3.5 contains a number of general criteria that are considered as part of every application for a rezoning. These criteria assess matters related to servicing, overall development patterns, traffic generation, drainage, the possibility for creating or worsening a pollution issue, and land use conflict. The proposed rezoning does not raise any concerns from the perspective of Staff. A full assessment of the general criteria is contained in Appendix C to this report.

6. CONCLUSION

Staff have reviewed the application for consistency and compliance with the New Minas Sector Plan including the policies for commercial development and wellfield protection. It is Staff's opinion that the proposed development is consistent with the policies of the New Minas Sector Plan and the neighbouring uses, and that it will add to the vibrancy of the New Minas Business District. The proposal meets all applicable policies and criteria regarding rezoning applications. Staff are forwarding a positive recommendation to the New Minas Area Advisory Committee.

7. STAFF RECOMMENDATION

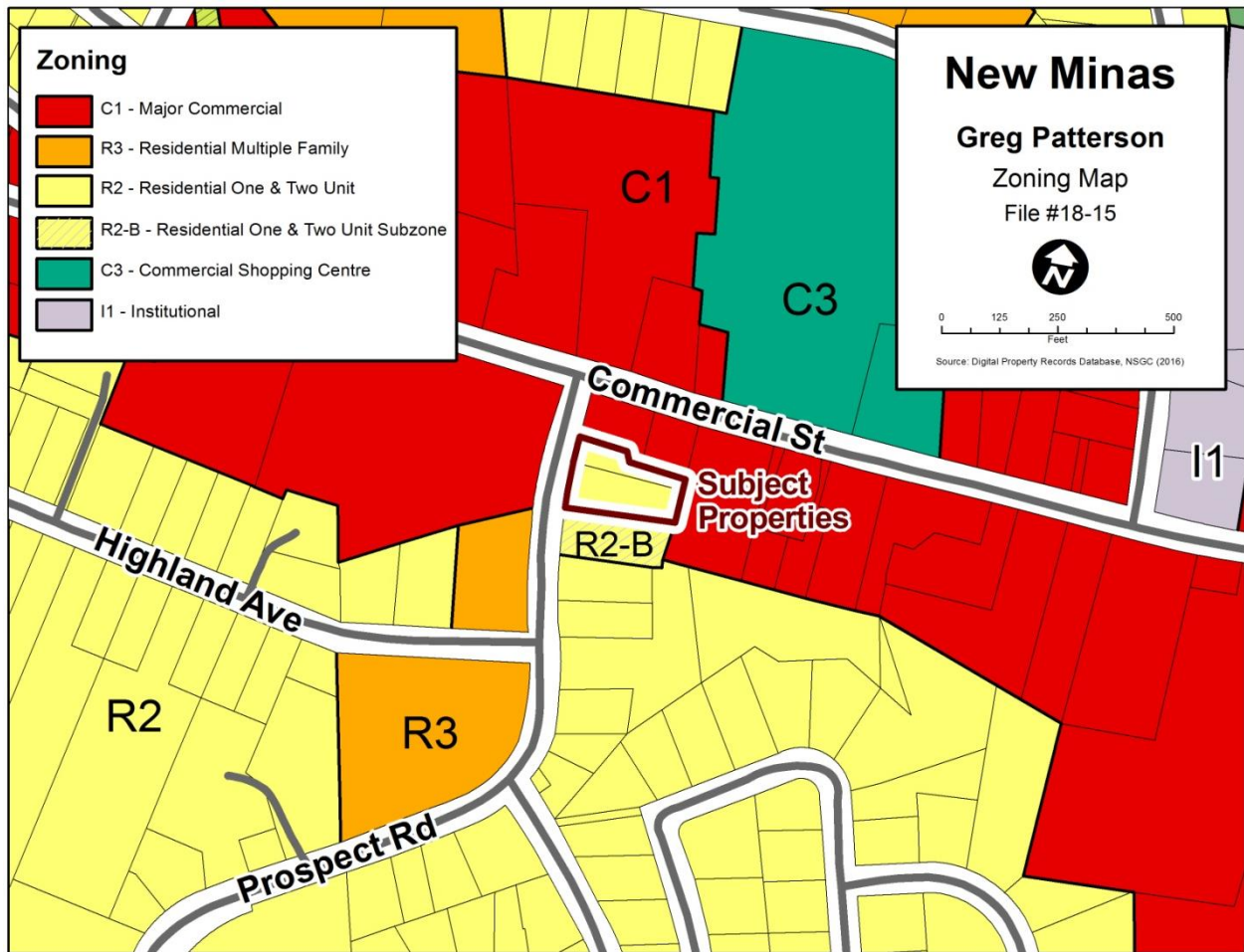
Staff recommend that the New Minas Area Advisory Committee forward a positive recommendation to the Planning Advisory Committee by passing the following motion.

The New Minas Area Advisory Committee recommends that the Planning Advisory Committee recommend that Municipal Council give First Reading and hold a Public Hearing regarding the proposed rezoning at 5850 Prospect Road, from the Residential One and Two Unit (R2) Zone to the Major Commercial (C1) Zone, as described in Appendix E of the report dated November 5, 2018.

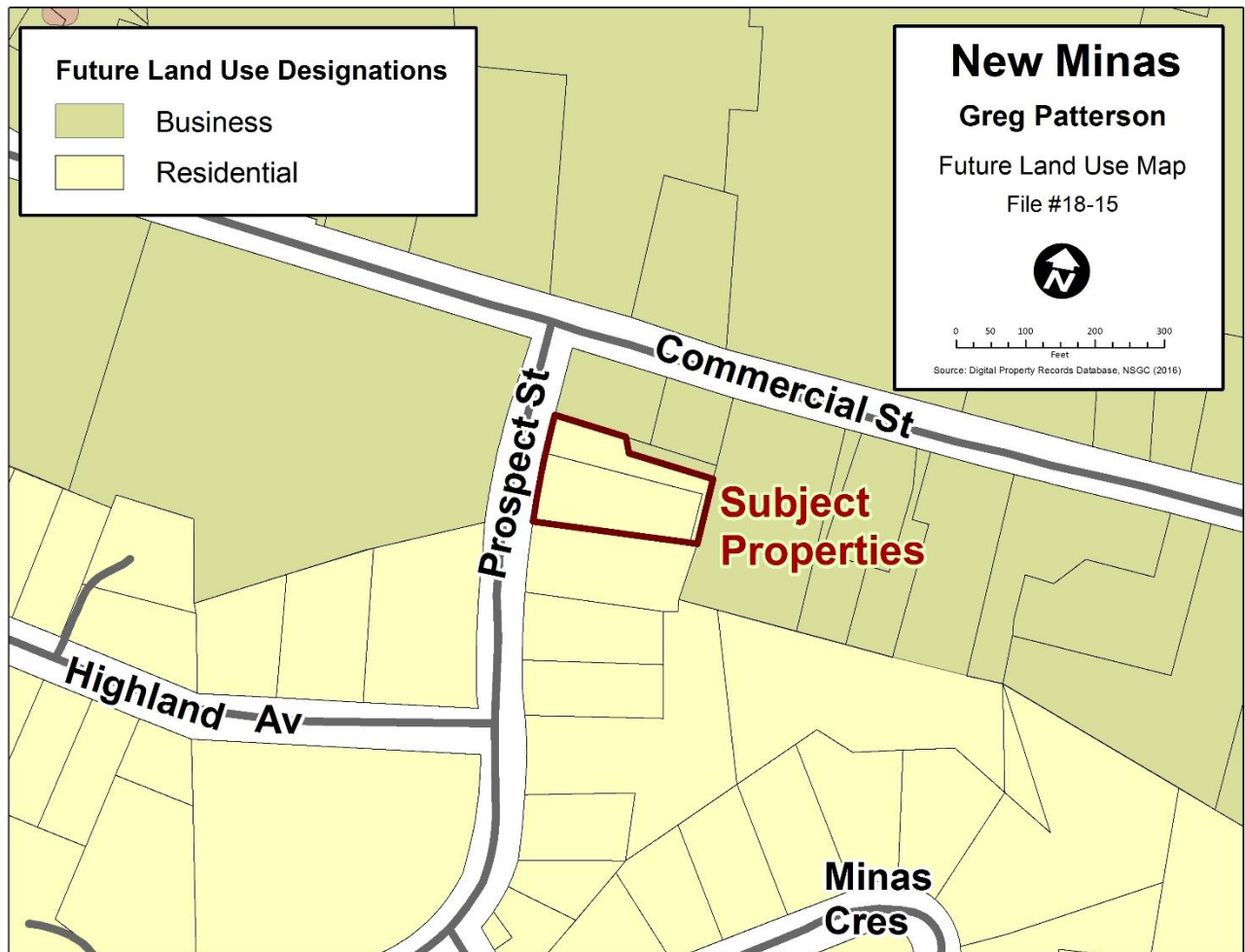
8. APPENDICES

Appendix A – Reference Zoning Map
Appendix B – Future Land Use Map
Appendix C – General Criteria for Amendments to the Land Use Bylaw
Appendix D – NMLUB Regulations in Major Commercial I (C1) Zone
Appendix E – Map Amendment

Appendix A
Reference Zoning Map



Appendix B
Future Land Use Map



Appendix C
NMSP Policy 3.3.5 - General Criteria for Amendments to the Land Use Bylaw

In considering amendments to the Land Use Bylaw, in addition to all other criteria as set out in various policies of this Plan, Council shall have regard to the following matters:

Criteria	Comments
a. That the proposal is in conformance with the intent of this Plan and with the requirements of all other Municipal Bylaws and regulations.	The proposal meets the goals of the Plan and all other requirements.
b. That the proposal is not premature or inappropriate by reason of:	
i. the financial capability of the municipality to absorb any costs relating to the development;	The Municipality does not expect to incur any development costs for the proposal.
ii. the adequacy of sewer and water services and utilities;	The Village of New Minas Water and Sewer Services indicated that sewer and water services were adequate.
iii. precipitating or contributing to a pollution problem in the area;	The rezoning is not anticipated to precipitate or contribute to a pollution problem.
iv. the adequacy of storm drainage and the effect of it on adjacent uses;	All permits related to drainage will be required at the time of development.
v. the adequacy and proximity of school, recreation and any other community facilities;	The proposal has adequate access to community facilities.
vi. the adequacy of road networks in, adjacent to, or leading to the development;	Access permits from the Department of Transportation and Infrastructure Renewal will be required at the time of permitting for a specific development proposal.
vii. the potential for the contamination of watercourses or the creation of erosion or sedimentation;	The proposed rezoning is not expected to contaminate any watercourses or create any issues related to erosion or sedimentation.
viii. creating a scattered or ribbon development pattern as opposed to compact development;	Not applicable – the proposal is within a developed area of the Growth Centre of New Minas.
ix. the potential for contamination of, or interference with, a designated groundwater supply protection area.	Redevelopment of the subject properties will be required to meet the LUB requirements related to groundwater supply protection.

Appendix D
NMLUB Regulations in Major Commercial I (C1) Zones

MAJOR COMMERCIAL I (C1) ZONE	Permitted C1 Zone Uses Excluding Automobile Service Stations	Automobile Service Stations (see also Special Requirements)
Minimum Lot Area	6,000 sq ft	20,000 sq ft
Minimum Lot Frontage	60 ft	125 ft
Minimum Front or Flankage Yard	45 ft	80 ft
Minimum Side Yard		
a) General		
i. one side	10 ft	20 ft
ii. other side	12 ft	20 ft
b) Abutting (where a C1 Zone abuts an R1, R2 or R3 Zone)	20 ft	20 ft
c) Pump Island included	No Regulation	80 ft
d) Accessory Building		
-with no opening in nearest wall	2 ft	2 ft
-with one or more opening in nearest wall	4 ft	4 ft
-abutting a residential zone	10 ft	10 ft
-abutting an O1 Zone	0 ft	0 ft
-common wall	0 ft	0 ft
Minimum Rear Yard		
a) General	25 ft	25 ft
b) Abutting (where a C1 Zone abuts an R1, R2 or R3 Zone)	40 ft	40 ft
c) Accessory Building		
-with no opening in nearest wall	2 ft	2 ft
-with one or more opening in nearest wall	4 ft	4 ft
-abutting a residential zone	10 ft	10 ft
-abutting an O1 Zone	0 ft	0 ft
-common wall	0 ft	0 ft
Maximum Height of Main Building	55 ft	35 ft
Maximum Height of Accessory Building	20 ft	20 ft
Maximum Lot Coverage	50% of lot area	50% of lot area
Minimum Distance Between Main Building and Accessory Buildings	10 ft	10 ft

**Appendix E
Map Amendment**

THE MUNICIPALITY OF THE COUNTY OF KINGS

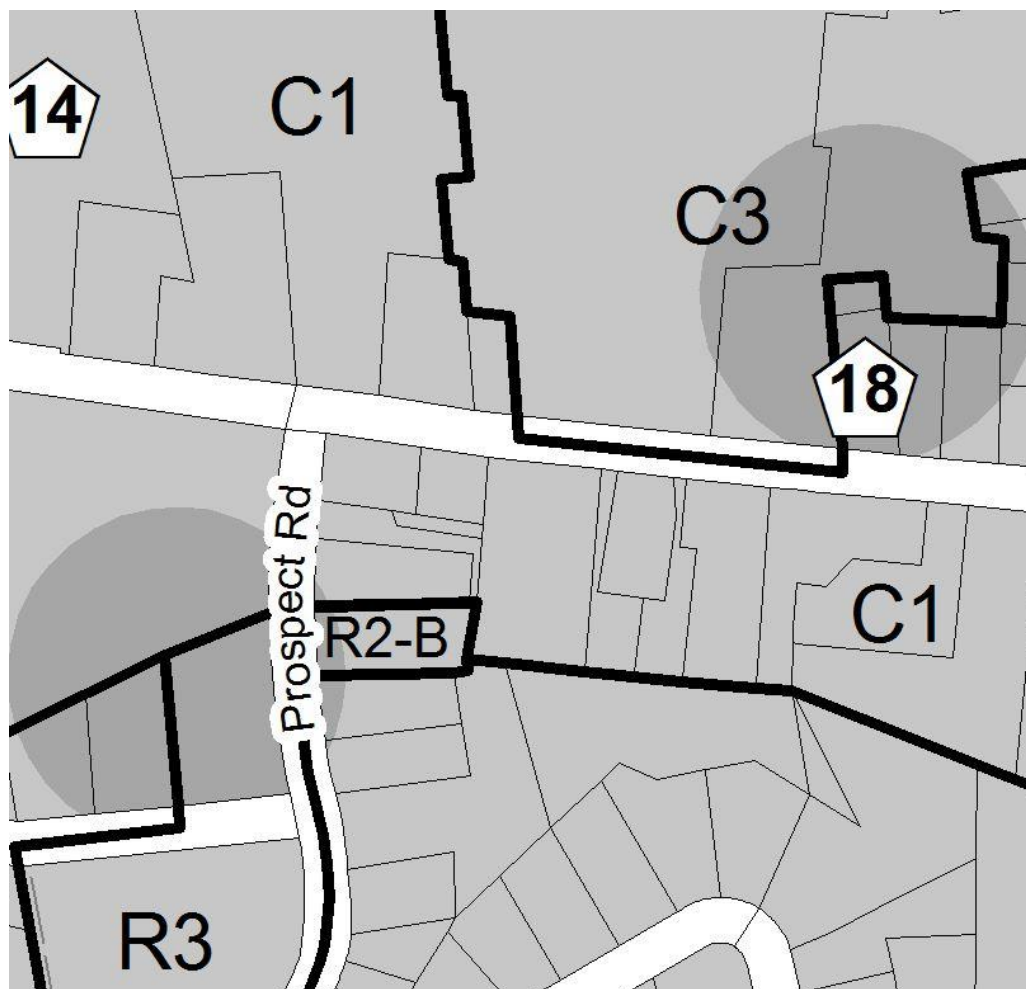
AMENDMENT TO BYLAW # 57

NEW MINAS LAND USE BYLAW

Land Use Bylaw Map Amendment to rezone the property at 5850 Prospect Road, New Minas (PIDs 55495659 and 55200000) from the One and Two Unit Residential (R2) Zone to the Major Commercial I (C1) Zone

BYLAW 57 – NEW MINAS LAND USE BYLAW

1. Amend Land Use Bylaw Schedule 11g, the Growth Centre map for New Minas, to rezone the property at 5850 Prospect Road as shown on the inset copy of a portion of Schedule 11g below.



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Municipality of the County of Kings

Report to the Area Advisory Committee

Application to rezone lands from the Residential One and Two Unit (R2) Zone to the Major Commercial (C1) Zone
(File #18-15)

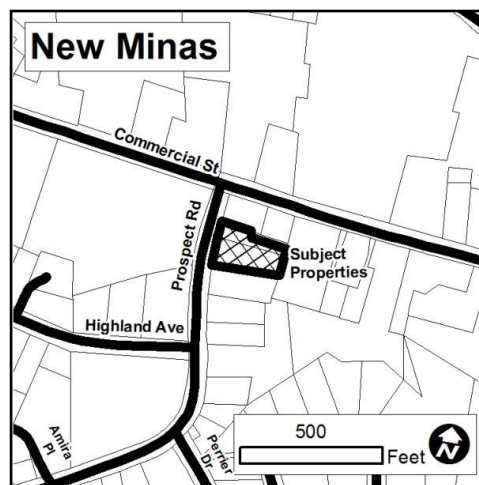
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- Provide alternative direction, such as requesting further information on a specific topic, or making changes to the draft amendments.

3. BACKGROUND

Shortly after inheriting ownership of the subject properties, the applicant submitted a rezoning application to the Municipality with the intent of improving their marketability to potential buyers. No specific development plan is proposed at this time.

4. INFORMATION

4.1 Site Description

The subject properties are located in the Growth Centre of New Minas and consist of a northern lot (PID 55495659) and a southern lot (PID 55200000). Combined, these two properties have an approximate lot area of 0.7 acres (30,000 square feet).

The subject properties fall within the Residential (R) District, in the Residential One and Two Unit (R2) Zone and the Well Capture - Zone B. The land is currently occupied by a single detached dwelling and two accessory structures. In addition to the presence of a number of trees across the lots, the northern property boundary is lined with a dense tree buffer. The subject properties have approximately 60 feet of street frontage on Prospect Road (Figure 1), which provides a connection to Highway 101 from Commercial Street. Commercial Street is the main arterial road in New Minas that facilitates major traffic movement within and between regions. The site therefore benefits from good local and regional accessibility.



Figure 1: Access to Prospect Road

The lands to the south of the subject properties are generally zoned Residential One and Two Unit (R2) and Residential Multiple Family (R3). The southern adjacent property, however, is within the R2-B sub-zone, which allows for a home-based business.

The subject properties also abut the Business District (Appendix B). Many of the lots in this district have frontage on Commercial Street and are zoned Major Commercial (C1). They consist primarily of big box retail outlets with large parking lots. This includes Jordan's Home Furnishings to the east of the subject properties and the Atlantic Superstore to the west, located on the southwest corner of the intersection of Commercial Street and Prospect Road.

The northern adjacent property is currently vacant. It was formerly an Esso gas station and has been decommissioned for some time. In 2005, the property owner received a demolition permit. The compulsory remediation measures were then followed to render the site suitable for eventual redevelopment. At this point in time, a Declaration of Properties Condition confirming compliance with the contaminated sites regulations of the Nova Scotia *Environment Act* is pending. It is the intention of the property owner to sell shortly after receiving this documentation.

It is worth noting that prospective buyers of the subject properties may be interested in acquiring the former Esso property with an aim to consolidate this property with the subject properties to increase the commercial viability of both the former Esso site as well as the subject properties. Consolidation would increase the overall lot area such that it would be consistent neighbouring commercial properties. They could therefore accommodate commercial uses similar in scale. Future commercial development could also benefit from direct frontage on both Commercial Street and Prospect Road.

4.2 Site Visit

Staff visited the subject properties on September 5, 2018 to identify site features and area characteristics.

4.3 Public Information Meeting

Council's Planning Policy PLAN-09-001 requires a Public Information Meeting (PIM) for all Land Use Bylaw map amendments for any area of land greater than one acre in size. However, because the subject properties have a total area of 0.7 acres, no PIM was held for this file.

Letters providing notification of the application were sent to the 29 property owners within 500 feet of the subject properties. A phone call was received from one resident of the area who was concerned about the noise and other nuisances that may result from the proposed commercial use of the subject properties.

4.4 Requests for Comment or Additional Information

3.3.1 Municipality of the County of Kings Development Control

- Expressed no concerns with relation to issuing permits for the proposed use.

3.3.2 Village of New Minas Water and Sewer Services

- Indicated that sewer and water services should be adequate. If greater water or sewer services are needed, they can be accessed from Prospect Road and Commercial Street.

3.3.3 Nova Scotia Environment

- Did not respond to Staff's request for comment.

5. POLICY REVIEW

The Municipal Planning Strategy (MPS) for the County of Kings specifies in Policy 2.1.8.3 that development in the Growth Centre of New Minas will be guided by the policies of the New Minas Sector Plan (NMSP).

5.1 Enabling Policy

NMSP Policy 3.9.13 states that "[a]reas contiguous to a given district may be considered for a zoning amendment to a use permitted within that district without an amendment to this Plan, and provided that all other policies of this Plan are met." Because the subject properties are adjacent to the Business District, Council is able to consider a New Minas Land Use Bylaw (NMLUB) map amendment.

5.2 New Minas Sector Plan

5.2.1 Commercial Policies

The NMSP contains a series of general goals and objectives that are intended to guide development in the Growth Centre of New Minas. Within the plan, the general goal for commercial development is identified in Policy 1.2 as the “development of a distinct and viable business district which will provide a high level and variety of commercial services that will accommodate the demands of the local and regional market area.” At the same time, the NMSP recognizes the need to minimize the potential for land use conflict.

The proposal is consistent with this goal since it would place more land within a commercial zone abutting the Business District. It has the potential to effectively serve local and regional markets due to its location relative to major roads and an established commercial area. Rather than representing a land use conflict, the proximity between commercial uses and multi-unit dwellings helps promote active transportation and the efficient use of public infrastructure. Specific development proposals on the subject properties would need to meet the requirements of the NMLUB and obtain all required permits and/or approvals prior to construction.

5.2.2 Water and Resource Protection and Management Policies

While commercial development is encouraged in the New Minas Business District, Council also recognizes that a safe and reliable water supply is critical to public health and stable economic growth. Wellfield Protection Zones protect groundwater supplies through additional restrictions and/or prohibitions on uses that carry a greater risk of water contamination. Well Capture - Zone B regulations take precedence over other zoning regulations on the subject properties and will apply to any future development proposals.

5.2.3 General Land Use Bylaw Amendment Criteria

Policy 3.3.5 contains a number of general criteria that are considered as part of every application for a rezoning. These criteria assess matters related to servicing, overall development patterns, traffic generation, drainage, the possibility for creating or worsening a pollution issue, and land use conflict. The proposed rezoning does not raise any concerns from the perspective of Staff. A full assessment of the general criteria is contained in Appendix C to this report.

6. CONCLUSION

Staff have reviewed the application for consistency and compliance with the New Minas Sector Plan including the policies for commercial development and wellfield protection. It is Staff's opinion that the proposed development is consistent with the policies of the New Minas Sector Plan and the neighbouring uses, and that it will add to the vibrancy of the New Minas Business District. The proposal meets all applicable policies and criteria regarding rezoning applications. Staff are forwarding a positive recommendation to the New Minas Area Advisory Committee.

7. STAFF RECOMMENDATION

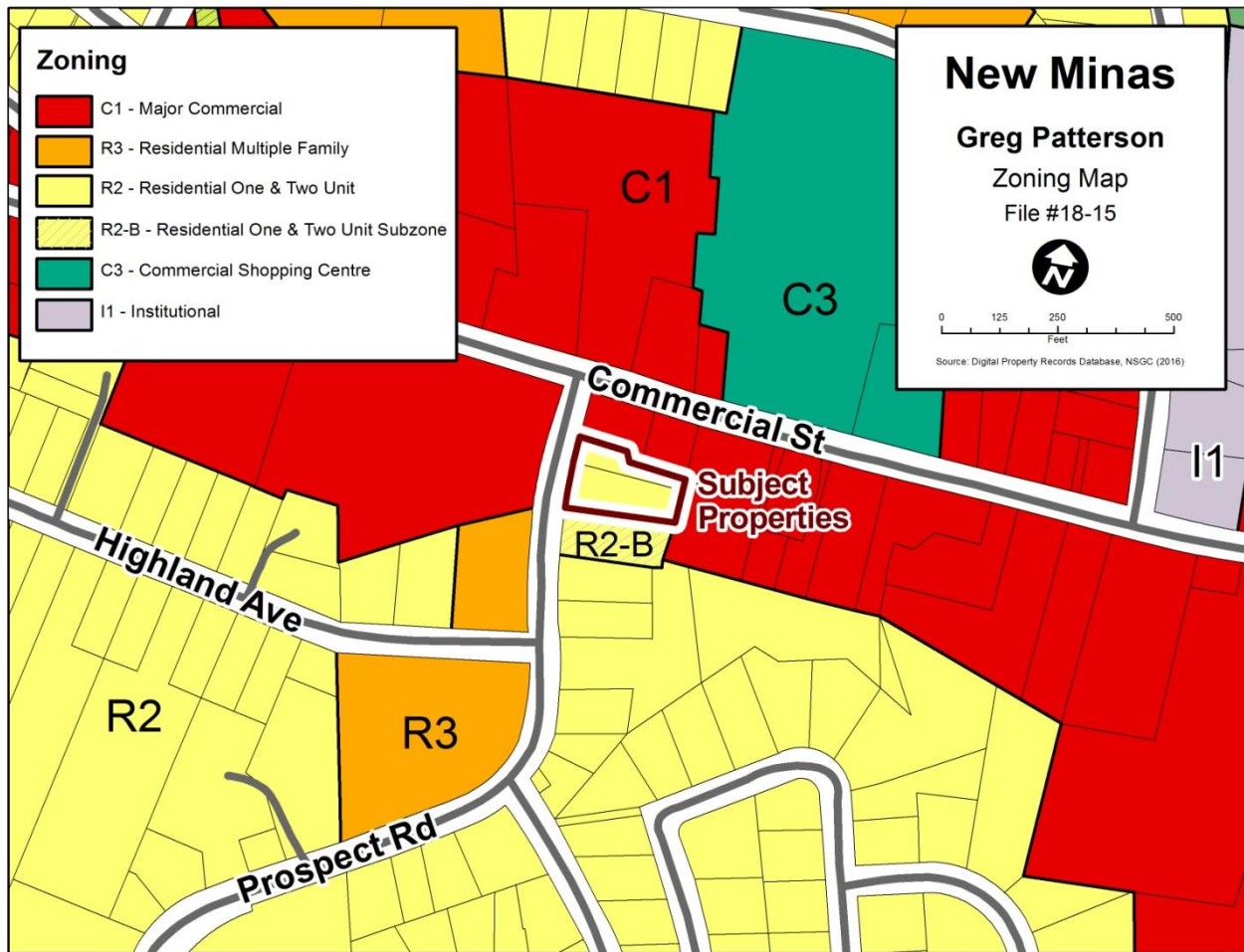
Staff recommend that the New Minas Area Advisory Committee forward a positive recommendation to the Planning Advisory Committee by passing the following motion.

The New Minas Area Advisory Committee recommends that the Planning Advisory Committee recommend that Municipal Council give First Reading and hold a Public Hearing regarding the proposed rezoning at 5850 Prospect Road, from the Residential One and Two Unit (R2) Zone to the Major Commercial (C1) Zone, as described in Appendix E of the report dated November 5, 2018.

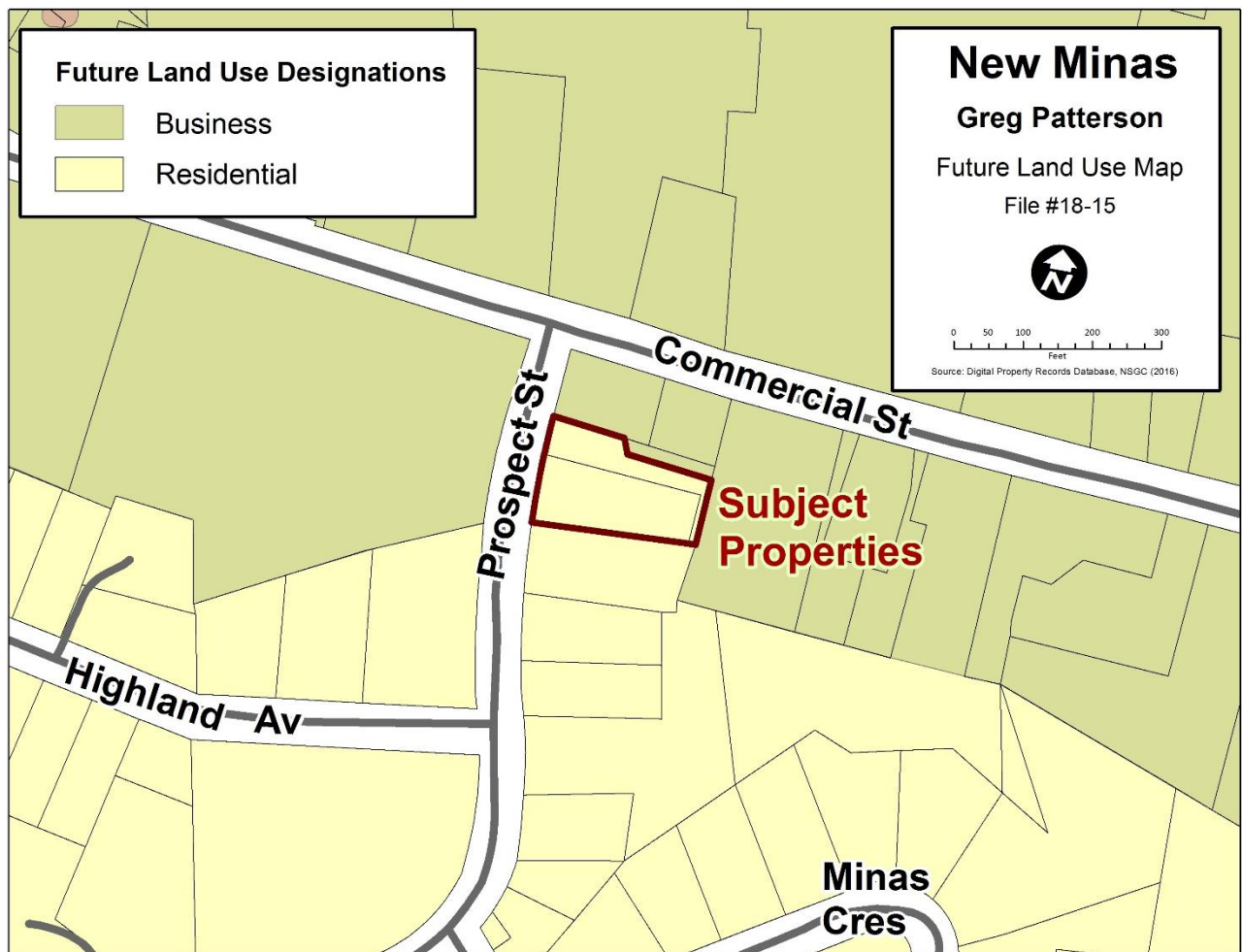
8. APPENDICES

Appendix A – Reference Zoning Map
Appendix B – Future Land Use Map
Appendix C – General Criteria for Amendments to the Land Use Bylaw
Appendix D – NMLUB Regulations in Major Commercial I (C1) Zone
Appendix E – Map Amendment

Appendix A
Reference Zoning Map



Appendix B
Future Land Use Map



Appendix C
NMSP Policy 3.3.5 - General Criteria for Amendments to the Land Use Bylaw

In considering amendments to the Land Use Bylaw, in addition to all other criteria as set out in various policies of this Plan, Council shall have regard to the following matters:

Criteria	Comments
a. That the proposal is in conformance with the intent of this Plan and with the requirements of all other Municipal Bylaws and regulations.	The proposal meets the goals of the Plan and all other requirements.
b. That the proposal is not premature or inappropriate by reason of:	
i. the financial capability of the municipality to absorb any costs relating to the development;	The Municipality does not expect to incur any development costs for the proposal.
ii. the adequacy of sewer and water services and utilities;	The Village of New Minas Water and Sewer Services indicated that sewer and water services were adequate.
iii. precipitating or contributing to a pollution problem in the area;	The rezoning is not anticipated to precipitate or contribute to a pollution problem.
iv. the adequacy of storm drainage and the effect of it on adjacent uses;	All permits related to drainage will be required at the time of development.
v. the adequacy and proximity of school, recreation and any other community facilities;	The proposal has adequate access to community facilities.
vi. the adequacy of road networks in, adjacent to, or leading to the development;	Access permits from the Department of Transportation and Infrastructure Renewal will be required at the time of permitting for a specific development proposal.
vii. the potential for the contamination of watercourses or the creation of erosion or sedimentation;	The proposed rezoning is not expected to contaminate any watercourses or create any issues related to erosion or sedimentation.
viii. creating a scattered or ribbon development pattern as opposed to compact development;	Not applicable – the proposal is within a developed area of the Growth Centre of New Minas.
ix. the potential for contamination of, or interference with, a designated groundwater supply protection area.	Redevelopment of the subject properties will be required to meet the LUB requirements related to groundwater supply protection.

Appendix D
NMLUB Regulations in Major Commercial I (C1) Zones

MAJOR COMMERCIAL I (C1) ZONE	Permitted C1 Zone Uses Excluding Automobile Service Stations	Automobile Service Stations (see also Special Requirements)
Minimum Lot Area	6,000 sq ft	20,000 sq ft
Minimum Lot Frontage	60 ft	125 ft
Minimum Front or Flankage Yard	45 ft	80 ft
Minimum Side Yard		
a) General		
i. one side	10 ft	20 ft
ii. other side	12 ft	20 ft
b) Abutting (where a C1 Zone abuts an R1, R2 or R3 Zone)	20 ft	20 ft
c) Pump Island included	No Regulation	80 ft
d) Accessory Building		
-with no opening in nearest wall	2 ft	2 ft
-with one or more opening in nearest wall	4 ft	4 ft
-abutting a residential zone	10 ft	10 ft
-abutting an O1 Zone	0 ft	0 ft
-common wall	0 ft	0 ft
Minimum Rear Yard		
a) General	25 ft	25 ft
b) Abutting (where a C1 Zone abuts an R1, R2 or R3 Zone)	40 ft	40 ft
c) Accessory Building		
-with no opening in nearest wall	2 ft	2 ft
-with one or more opening in nearest wall	4 ft	4 ft
-abutting a residential zone	10 ft	10 ft
-abutting an O1 Zone	0 ft	0 ft
-common wall	0 ft	0 ft
Maximum Height of Main Building	55 ft	35 ft
Maximum Height of Accessory Building	20 ft	20 ft
Maximum Lot Coverage	50% of lot area	50% of lot area
Minimum Distance Between Main Building and Accessory Buildings	10 ft	10 ft

**Appendix E
Map Amendment**

THE MUNICIPALITY OF THE COUNTY OF KINGS

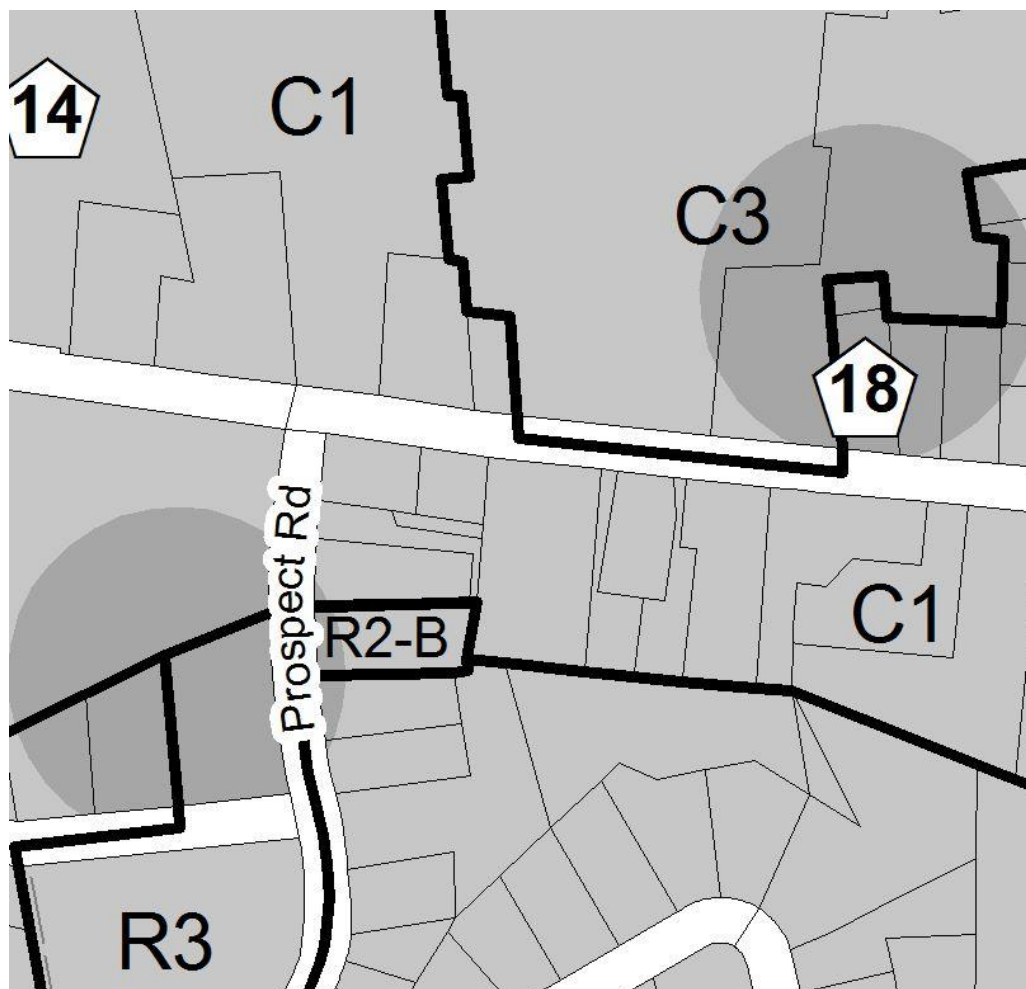
AMENDMENT TO BYLAW # 57

NEW MINAS LAND USE BYLAW

Land Use Bylaw Map Amendment to rezone the property at 5850 Prospect Road, New Minas (PIDs 55495659 and 55200000) from the One and Two Unit Residential (R2) Zone to the Major Commercial I (C1) Zone

BYLAW 57 – NEW MINAS LAND USE BYLAW

1. Amend Land Use Bylaw Schedule 11g, the Growth Centre map for New Minas, to rezone the property at 5850 Prospect Road as shown on the inset copy of a portion of Schedule 11g below.



Laura Mosher

From: Beth Keech <jbethkeech@gmail.com>
Sent: October-29-18 4:56 PM
To: PAC Members
Cc: Peter Allen
Subject: Infill lots

Dear PAC members,

As someone who has been watching and presenting over a number of years on the preservation of farmland, our greatest natural resource in Kings County, it is with concern that I learn that PAC is considering keeping infill lots with a 500 ft distance between houses and the right to develop 2 building lots.

I would like to know the impact this will have. How many acres of good farmland can potentially be lost by allowing this type of infilling? How will this negatively affect farmers trying to acquire additional farmland? How does infilling impact agricultural operations? Why is it that with all the recent awareness of the supporting local farmers, eating local, global warming and sustainability, the County isn't leading the way in being proactive in protecting farmland?

When infilling was allowed in the Niagara region of Ontario (so similar to the Annapolis Valley) a lot of problems were created. We have lived in a rural, farming community in Kings County for over 40 years and have heard neighbours (who moved here for the rural lifestyle) complain when manure is being spread, 'smelly' farm equipment is passing by or there is spraying being done. In fact, while we were farming, we were very conscious of trying not to upset the adjacent property owners when we had to spray our orchards.

I've said it before, and I will ask again: if Kings County is trying to accommodate those people who want to 'enjoy life in the country' so that the farmers have to adapt their farm practises to appease these new dwellers, then the same accommodation should be asked of the townsfolk for the small farmer who wants to live and farm in a growth area. It seems so ridiculous when you look at it this way!

Sincerely,
Beth & Jim Keech
Grand Pre, NS