



**PLANNING ADVISORY COMMITTEE MEETING**  
**TUESDAY, March 8, 2022, 1:00 p.m.**  
**Council Chambers, 181 Coldbrook Village Park Dr.**

**A G E N D A**

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14. Adjournment

# PLANNING ADVISORY COMMITTEE

Tuesday, February 8, 2022

## Draft Minutes

<b>Meeting, Date and Time</b>	A meeting of the Planning Advisory Committee (PAC) was held on Tuesday, February 8, 2022 via Microsoft Teams following a Public Participation Meeting (PPM) which began at 6 pm. Both meetings were broadcasted live from the Municipal website.
<b>Attending</b>	In Attendance:
<b>PAC Members</b>	Councillor Martha Armstrong – District 4 (Chair) Councillor Dick Killam – District 3 (Vice Chair) Councillor June Granger – District 1 Councillor Jim Winsor – District 8 Councillor Peter Allen – District 9 Chantal Gagnon – Citizen Member Kate Friars – Citizen Member
<b>Municipal Staff</b>	Trish Javorek – Director of Planning and Inspections Laura Mosher – Manager of Planning and Development Services Mark Fredericks – Planner Will Robinson-Mushkat – Planner Laurie-Ann Clarke – Recording Secretary
<b>Public</b>	2
<b>1. Meeting to Order</b>	The Chair called the meeting to order at 6:52 p.m.
<b>2. Roll Call</b>	Roll call was taken.
<b>3. Amendments to Agenda</b>	There were no amendments to the agenda.
<b>4. Approval of the Agenda</b>	<b>On motion of Ms. Gagnon and Ms. Friars, that the agenda be approved as circulated.</b> <b>The question was called on the motion. Motion carried.</b>
<b>5. Disclosure of Conflict of Interest Issues</b>	There were no conflict of interest issues disclosed.
<b>6. Approval of Minutes</b>	
<b>a) January 11, 2022</b>	<b>On motion of Councillor Winsor and Councillor Killam that the minutes of the Planning Advisory Committee meeting held on Tuesday, January 11, 2022 be approved as circulated.</b> <b>The question was called on the motion. Motion carried.</b>

**7. Business Arising from the Minutes**

There was no business arising from the January 11, 2022 minutes.

**8. Business**

**a. Application to enter into a Development Agreement on Main Street (PID 55083208) in Kingston (File #21-13)**

Mark Fredericks, Planner, presented an application by Riley Peckford to enter into a Development Agreement to permit a self-storage facility on Main Street in Kingston.

Questions of Clarification:

Councillor Winsor asked for clarification on whether or not a school bordered the property. Mr. Fredericks explained that the piece of property in question is narrow at the front and wide at the back and that the wide piece where the self-storage facilities would be built does share a border with Kingston Elementary School.

The Committee asked if there would be limitations in the Development Agreement related to the storage of hazardous materials. Staff advised that this is outside the scope of the planning policy. Ms. Gagnon asked for clarity on liability of the Municipality and traffic concerns on provincial roads as it relates to planning issues. Staff clarified that the road authority had jurisdiction on traffic issues, not the Municipality, and that the applicant would still require an access permit at time of permitting from the provincial department of Public Works.

There was a discussion around the “opaque fence” installation requirement included in the report dated February 2, 2022. Mr. Fredericks expanded on the definition found within the report saying that the fence needs to be a physical solid barrier with minimal visual openings.

**On motion of Ms. Friars and Councillor Winsor, that the Planning Advisory Committee recommends that Municipal Council give Initial Consideration to and hold a Public Hearing regarding entering into a development agreement to permit a self-storage facility at 787 Main Street in Kingston (PID 55083208), which is substantively the same (save for minor difference in form) as the draft set out in Appendix D of the report dated February 2, 2022.**

Debate:

Ms. Gagnon reiterated that she has concerns in regards to traffic in the area but understood it was not a Municipal jurisdiction.

**The question was called on the motion. Motion carried.**

**b. Proposed text amendments related**

The Committee moved into further discussion regarding the proposed text amendments to the Municipal Planning Strategy (MPS) that Mr. Fredericks presented at the PAC meeting on January 11, 2022 as well as in the Public

**to rural rezonings (File #20-16**

Participation Meeting on February 8, 2022. The proposed text amendments would amend the criteria used to assess applications for rezoning from the Rural Mixed Use (A2) Zone to the Rural Commercial (C4) or Rural Industrial (M3) Zone.

Questions of Clarification:

A discussion occurred with regard to the proposed text amendments and the removal of policy 3.4.23, a. (ii) relating to the conversion of an existing development. Staff confirmed the removal of the requirement and acknowledged that it would be a consideration during normal staff review of planning applications; it just would not be on the list of specific criteria required in this type of rezoning.

Councillor Winsor asked if the proposed text amendment would prompt any other changes to the Municipal Planning Strategy. Mr. Fredericks indicated no further changes, as this amendment is specific to one type of rezoning.

**On motion of Ms. Friars and Councillor Allen, that the Planning Advisory Committee recommends that Municipal Council give First Reading to and hold a Public Hearing regarding the proposed text amendments to the Municipal Planning Strategy regarding rezoning criteria when rezoning from Rural Mixed Use (A2) Zone to the Rural Commercial (C4) Zone or the Rural Mixed Industrial (M3) Zone as described in Appendix B of the report dated January 11, 2022.**

Debate: None.

**The question was called on the motion. Motion carried.**

**c. Proposed text amendments to the MPS to allow alternative frontage requirements in rural areas (File #21-02)**

The Chair opened the floor to questions of clarification regarding the proposed text amendments to the MPS presented by Will Robinson-Mushkat, Planner at the PAC meeting on January 11, 2022 as well as in the Public Participation Meeting on February 8, 2022. These text amendments would allow alternative frontage requirements for development within the Rural Mixed Use (A2) Zone and Resource (N1) Zone.

Questions of Clarification:

There was a discussion between Municipal Staff and PAC members surrounding how the permitting process would function if these changes are adopted by Municipal Council as well as follow up on questions asked at the January 11, 2022 PAC meeting related to residents on private roads accessing emergency and fire services.

Staff provided clarity on the size and type of dwellings allowed within the Rural Mixed Use (A2) Zone and Resource (N1) Zone, if potential for conflict between property owners due to land-use compatibility could be expected, and answered a question regarding the length of these existing private roads.

Ms. Friars referenced the planning application (File #21-02) that brought the need for text amendments to the MPS to staff’s attention, asking if the property would be affected by the proposed changes. Mr. Robinson-Mushkat advised that the property only has a right-of-way, that did not meet the private road definition and therefore would not be positively affected and would then proceed to enforcement.

**On motion of Councillor Winsor and Councillor Granger, that the Planning Advisory Committee recommends to Municipal Council give First Reading to and hold a Public Hearing regarding the proposed amendments to the Municipal Planning Study to consider alternative frontage requirements for development within the Rural Mixed Use (A2) Zone and Resource (N1) Zones as detailed in the report dated January 11, 2022.**

Debate: None.

Chair Armstrong reminded the committee that there will be another formal opportunity for the public to express their thoughts on the changes prior to Municipal Council’s decision on the matter. Property owners and residents are always welcome to contact their Council representative or Municipal Staff if they have questions or concerns.

**The question was called on the motion. Motion carried.**

**9. Other Business**

Member of the public, Patrick Whiteway thanked the Committee for the opportunity to attend the meeting and the insight into how the PAC operates.

**10. Date of Next Meeting**

Tuesday, March 8, 2022 - 1:00 p.m.

**11. Adjournment**

**There being no further business, on motion of Councillor Killam and Ms. Friars, that the meeting adjourn.**

The meeting adjourned at 7:41 p.m.

# THE MUNICIPALITY OF THE COUNTY OF KINGS

## REPORT TO PLANNING ADVISORY COMMITTEE

**Subject: Appointment of Responsible Organization Members and Citizen Members to the Centreville Area Advisory Committee**

**From: Planning and Development Services**

**Date: March 8, 2020**

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### **Issue**

The Centreville District Community Development Association (CDCDA) is requesting the appointment of two of its members, Logan Morse and Geof Turner to sit on the Centreville Area Advisory Committee and that the following two citizen members begin a new term of office: Beverley Greening and Polena Dondale. The letter from the Centreville District Community Development Association is attached.

### **Recommendation**

**The Planning Advisory Committee recommends that Council appoint Logan Morse and Geof Turner, members of the Centreville District Community Development Association, to sit on the Centreville Area Advisory Committee for a one (1) year term and that Beverley Greening and Polena Dondale be appointed citizen members for a two (2) year term.**

# THE MUNICIPALITY OF THE COUNTY OF KINGS

## REPORT TO PLANNING ADVISORY COMMITTEE

**Subject: Appointment of Responsible Organization Members and Citizen Members to the Port Williams Area Advisory Committee**

**From: Planning and Development Services**

**Date: March 8, 2022**

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### **Issue**

The Port Williams Village Commission is requesting the appointment of three of its Village commissioners, Lewis Benedict, Ernie Hovell and Scott Leier to sit on the Port Williams Area Advisory Committee and that the following three citizen members begin a two-year term of office: David Acton, Wade Noiles and Craig Newcombe. The letter from the Village of Port Williams is attached.

### **Recommendation**

**The Planning Advisory Committee recommends that Council appoint Lewis Benedict, Ernie Hovell and Scott Leier, members of the Port Williams Village Commission, to sit on the Port Williams Area Advisory Committee for a one (1) year term and that David Acton, Wade Noiles and Craig Newcombe be appointed citizen members for a two (2) year term.**





Municipality of the County of Kings

**Report to the Planning Advisory Committee**

Planning application for a development agreement to permit a second dwelling at 10125 Highway 1, Greenwich (PID 55319412) (File #21-18)

**March 8, 2022**

**Prepared by:** Planning and Development Services

<b>Applicant</b>	Jennifer Barnard
<b>Land Owner</b>	Jennifer Barnard and Werner Barnard
<b>Proposal</b>	To permit a second dwelling in an existing detached garage
<b>Location</b>	10125 Highway 1 Greenwich (PID 55319412)
<b>Lot Area</b>	2.8 Acres (121,968 square feet)
<b>Designation</b>	Agriculture (A)
<b>Zone</b>	Country Residential (A4)
<b>Surrounding Uses</b>	Residential, Commercial and Agricultural uses nearby
<b>Neighbour Notification</b>	Staff sent notification letters to the 39 owners of properties within 500 feet of the subject property

**1. SUMMARY**

Jennifer Barnard has submitted a planning application to permit a second dwelling unit on their property at 10125 Highway 1, Greenwich which is zoned Country Residential (A4). *Two unit dwellings* are a permitted use within the Country Residential (A4) Zone but because the second residential unit would be detached from the primary dwelling this does not meet the definition of a *two unit dwelling*. This can be considered through a development agreement.

The applicant would like to convert the large detached garage, into another living space. A development agreement option is available in the Country Residential (A4) Zone that can permit up to eight dwelling units clustered together on one property, and this same policy can accommodate smaller proposals like this one, for a second dwelling unit at 10125 Highway 1 in Greenwich.



**2. STAFF RECOMMENDATION**

Staff recommend that the Planning Advisory Committee forward a positive recommendation to Municipal Council by passing the following motion.

**The Planning Advisory Committee recommends that Municipal Council give Initial Consideration to and**

hold a Public Hearing regarding entering into a development agreement to permit a second dwelling at 10125 Highway 1 (PID 55319412), Greenwich, which is substantively the same (save for minor differences in form) as the draft set out in Appendix D of the report dated March 8, 2022.

### 3. OPTIONS

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

- A. Forward to Council a recommendation to approve the Development Agreement, as drafted;
- B. Provide alternative direction, such as requesting further information on a specific topic; or
- C. Forward to Council a recommendation to refuse the proposal, as drafted.

### 4. BACKGROUND

The applicant purchased the subject property in 2020 which included a one unit dwelling built in 1994 and a large detached garage built in 1997. This large detached garage is located approximately 100 feet from the main dwelling. The applicant requested permission to add a second dwelling within this garage but the Municipality was unable to issue a permit because the Land Use By-Law requires *two unit dwellings* to be contained within a single structure, and the arrangement of the buildings on this property cannot meet this definition. There are policies in the Municipal Planning Strategy that allow situations like this within the Country Residential (A4) Zone to be considered through a development agreement.



Figure 1 - Existing Garage – potential second dwelling





## 4.2 Comments from the public

Council's Planning Policy PLAN-09-001 required a Public Information Meeting (PIM) for all new land uses to be considered by development agreement. The Public Information Meeting was held online and remained open for public comments for a period of at least 30 days. Notification letters were sent to 26 property owners within a 500 foot radius of the subject property. This letter notified the public of the requested development agreement, and shared the online meeting recording. Staff did not receive any comments from the public in response to this opportunity for public input.

## 6. POLICY REVIEW – DEVELOPMENT AGREEMENT

### 6.1 Country Residential – Zone Intent

***MPS 3.4.2** Country Residential (A4): lands located in this zone are intended to maintain onsite serviced low-density neighbourhoods, consisting primarily of one or two unit dwellings, while encouraging the efficient use of land and infrastructure in an agricultural setting. This zone has also been applied to isolated areas of serviced development in rural areas of the Municipality. In the event of a conflict between an agricultural use and a non-agricultural use, the agricultural use shall take priority;*

The development of land within the Country Residential (A4) Zone is intended for residential and agricultural activity. This zone is intended to accommodate low density residential development and also recognizes the potential for efficient use of land that is already serviced with water and/or sewer. In Greenwich, there are many existing services including sidewalks, public transit and central sewer service. The proposal to add a secondary dwelling is appropriate for the area and is consistent with the intent of the Country Residential (A4) Zone as well as recently passed motions of Council exploring new policies related to the development of housing in sewer-serviced areas.

### 6.2 Land Use By-Law

The proposal at 10125 Highway 1 in Greenwich to add a secondary dwelling can be considered as the Land Use By-law lists *clustered housing* as a potential form of development in the Country Residential (A4) Zone.

***LUB 8.6.4** Uses Considered by Development Agreement*

*Pursuant to the Municipal Planning Strategy, the uses noted below may be considered by Development Agreement within the Country Residential (A4) Zone: .....*

*(d) Clustered housing developments consisting of grouped dwellings or low-rise dwellings in accordance with policy 3.4.33 of the Municipal Planning Strategy*

...

## 6.3 Municipal Planning Strategy

### Enabling Policy and Criteria

Policy 3.4.33 of the Municipal Planning Strategy enables a development agreement within the Country Residential (A4) Zone for a group or cluster of houses on the same property. This policy can consider up to eight dwellings, but can also apply to proposals considering fewer dwellings. This policy states that Council shall:

***MPS 3.4.33 consider only by development agreement within the Country Residential (A4) Zone clustered housing developments. In evaluating such development agreements, Council shall be satisfied that the proposal:***

*(a) is on a lot with a minimum area for each proposed dwelling unit that is equal to or greater than the minimum lot size for a one-unit dwelling in the Country Residential (A4) Zone;*

*(b) consists of a maximum of eight (8) residential units contained in either grouped dwellings or low rise structure(s);*

*(c) clusters the residential buildings, lawns, on-site services and accessory structures to:*

*(i) reduce the potential for conflict between residential and agricultural uses by providing a natural buffer with any adjacent agricultural or resource uses;*

*(ii) minimize loss of productive agricultural lands; and*

*(iii) protect sensitive natural features; and*

*(d) meets the general development agreement criteria set out in section 5.3 Development Agreements and Amending the Land Use By-law; and*

The proposal for two dwellings at 10125 Highway 1 in Greenwich can meet these criteria because the lot size is more than double the minimum lot area. The proposal is under the maximum of eight dwellings and the positioning of the dwellings will not impact agricultural activity or pose any risk to productive agricultural land or sensitive natural features. The second dwelling would locate within an existing garage and utilize/share an existing driveway which ensures very little impact to the land. The general criteria are reviewed below and in more detail in Appendix C.

### General Criteria – Development Agreements

Policy 5.3.7 lists a variety of criteria to ensure the proposal is appropriate and consistent with the intent of this Strategy (See appendix C for this list, and staff comment)

The application meets all of the general criteria as it remains consistent with the intent of the Country Residential (A4) Zone and does not create land use conflicts or any costs to the Municipality. The proposal is adequately served by the local Fire Departments and does not introduce any traffic or access issues. The underlying Country Residential (A4) zoning allows two unit dwellings as-of-right, which means the traffic impact and sewer availability have each been considered through the zoning. The Country Residential (A4) Zone applies in areas where a modest level of rural density, like one and two unit dwellings can be permitted as-of-right.

## **7. SUMMARY OF DRAFT DEVELOPMENT AGREEMENT**

The draft development agreement has been attached as Appendix D to this report. The main content of the development agreement includes:

- Enabling a second dwelling on the property
- Ensuring sewer service is connected
- Lighting is not directed towards neighbouring properties

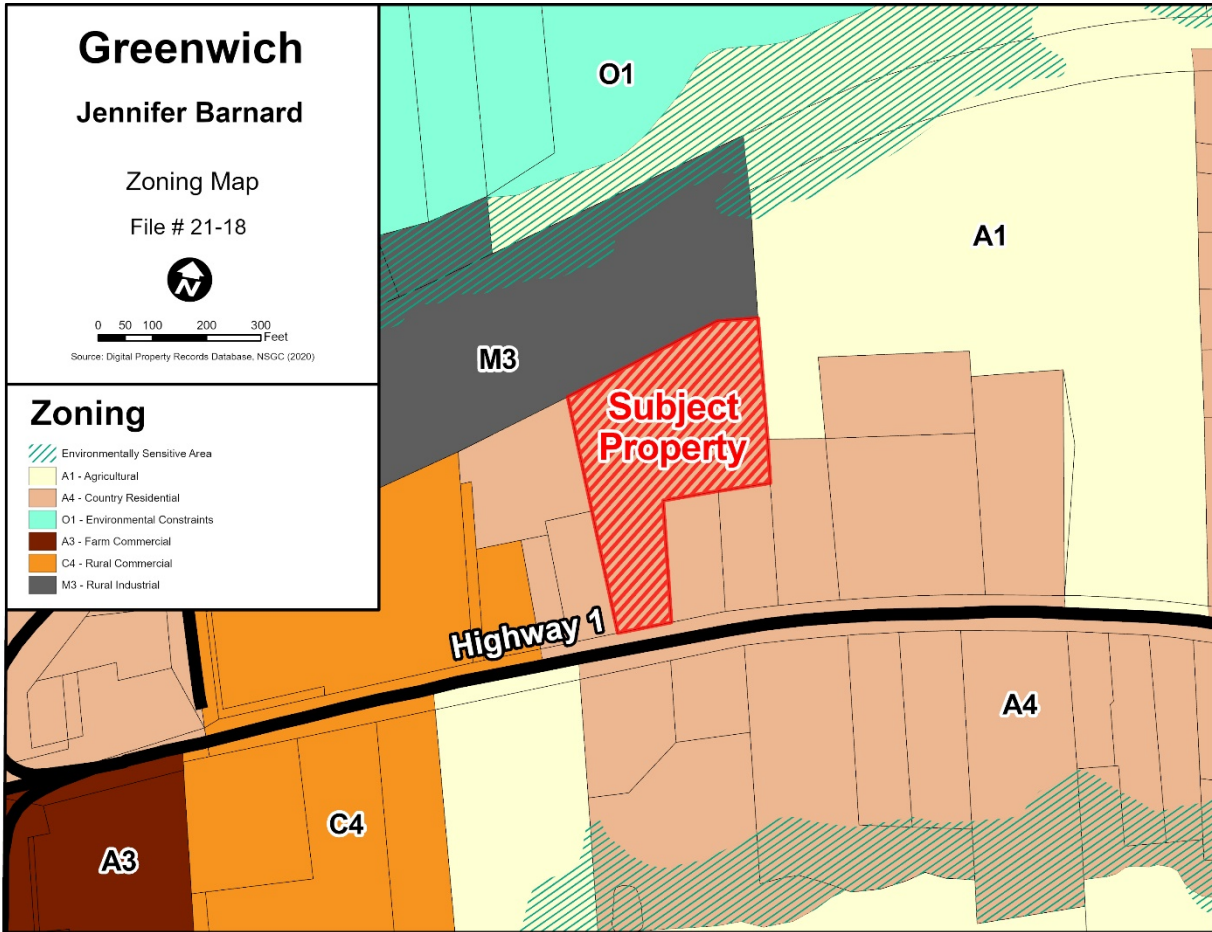
## **8. CONCLUSION**

The application meets the development agreement criteria for clustered housing projects in the Country Residential (A4) Zone. The proposal can also meet the general criteria and the scale of development will remain consistent with the surrounding community of Greenwich. As a result, a positive recommendation is being made to the Planning Advisory Committee.

## **9. APPENDICIES**

Appendix A: Zoning Map  
Appendix B: Public Comments  
Appendix C: General Criteria  
Appendix D: Draft Development Agreement

Appendix A: Zoning Map



**Appendix B: Public Comments**

Staff did not receive any feedback from the public.



## APPENDIX C: General Criteria

### Municipal Planning Strategy, Policy 5.3.7 General Criteria to Consider for all Development Agreements and Land Use By-law Amendments

#### Policy 5.3.7

*Council expects to receive applications to amend the Land Use By-law or enter into a development agreement for development that is not permitted as-of-right in the Land Use By-law. Council has established criteria to ensure the proposal is appropriate and consistent with the intent of this Strategy.*

*Council shall be satisfied that a proposal to amend the Land Use By-law or to enter into a development agreement:*

Criteria	Comments
<i>a. is consistent with the intent of this Municipal Planning Strategy, including the Vision Statements, relevant goals, objectives and policies, and any applicable goals, objectives and policies contained within a Secondary Plan;</i>	The proposal is consistent with the intent of the MPS regarding residential development within the Country Residential (A4) Zone.
<i>b. is not in conflict with any Municipal or Provincial programs, By-laws, or regulations in effect in the Municipality;</i>	The proposed amendment is not in conflict with any Municipal or Provincial programs, By-laws, or regulations.
<i>c. that the proposal is not premature or inappropriate by reason of:</i>	
<i>i. the Municipal or village costs related to the proposal;</i>	The proposal does not involve any development costs to the Municipality.
<i>ii. land use compatibility with surrounding land uses;</i>	The proposed land use would be compatible with the surrounding rural residential/commercial uses.
<i>iii. the adequacy and proximity of school, recreation and other community facilities;</i>	The subject property is within close proximity to the Harvest Moon trail and other recreation and community facilities.
<i>iv. the creation of any excessive traffic hazards or congestion due to road or pedestrian network adequacy within, adjacent to, and leading to the proposal;</i>	Adding one dwelling on a major collector road is not expected to create traffic hazards as a two unit dwelling is already a permitted use. The surrounding road network has been considered through the zoning to be able to accommodate one or two dwelling units per property.
<i>v. the adequacy of fire protection services and equipment;</i>	The Greenwich Fire Chief confirmed their coverage to this area.
<i>vi. the adequacy of sewer and water services, including but not limited to on-site services;</i>	This area of Greenwich has central sewer service and central water service may be available from the Village of New Minas. The development agreement requires that these services are connected and approved through the authority having jurisdiction.

<p><i>vii. the potential for creating flooding or serious drainage problems either within the area of development or nearby areas;</i></p>	<p>Not applicable since no new buildings are proposed.</p>
<p><i>viii. negative impacts on identified wellfields or other groundwater supplies for the area;</i></p>	<p>A portion of the property is within the Town of Wolfville’s wellfield. The Municipality does not currently have any restrictions related to the Town of Wolfville Wellfield Protection area.</p>
<p><i>ix. pollution, in the area, including but not limited to, soil erosion and siltation of watercourses; or</i></p>	<p>The proposal is not anticipated to generate additional pollution.</p>
<p><i>x. negative impacts on lake water quality or nearby wetlands;</i></p>	<p>Not applicable.</p>
<p><i>xi. negative impacts on neighbouring farm operations;</i></p>	<p>No impacts expected. The development is contained to the front of the property which is well separated from the nearest farm operation.</p>
<p><i>xii. the suitability of the site regarding grades, soils and geological conditions, location of watercourses, marshes, bogs and swamps, and proximity to utility rights-of-way.</i></p>	<p>The subject property is suitable in terms of grades, soils, geological conditions, and proximity to natural features and rights-of-way.</p>

Appendix D: Draft Development Agreement

THIS DEVELOPMENT AGREEMENT made this \_\_\_\_ day of \_\_\_\_\_, A.D.

BETWEEN:

**Jennifer Barnard and Werner Barnard**, of Greenwich, 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 Coldbrook, 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 55319412; and

WHEREAS the Property Owner wishes to use the Property for a two dwelling units, detached from one another.

WHEREAS the Property is situated within an area designated Agricultural (A) on the Future Land Use Map of the Municipal Planning Strategy, and zoned Country Residential (A4) on the Zoning Map of the Land Use By-law and in Zone 3A of the Wolfville Wellfield Protection Overlay; and

WHEREAS policy 3.4.33 of the Municipal Planning Strategy and section 8.6.4 of the Land Use By-law 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 (add date of motion), 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

### **1.2 Municipal Planning Strategy and Land Use By-law**

- (a) *Municipal Planning Strategy* means By-law 105 of the Municipality, approved on March 5, 2020 as amended, or successor by-laws.
- (b) *Land Use By-law* means By-law 106 of the Municipality, approved on March 5, 2020 as amended, or successor by-laws.
- (c) *Subdivision Bylaw* means Bylaw 60 of the Municipality, approved September 5, 1995, as amended, or successor by-laws.

### **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 Use**

That the Parties agree that the Property shall be limited to the following uses:

- (a) those uses permitted by the underlying zoning in the Land Use By-law (as may be amended from time-to-time); and
- (b) two dwellings each containing one residential unit, either attached or detached, subject to the requirements of the underlying zone for main buildings.

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

### **2.2 Lighting**

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

### **2.3 Servicing**

The Property Owner shall be responsible for providing adequate water services. A connection to municipal sewer services shall be required in accordance with Municipal servicing regulations and at the Property Owner's expense.

## **2.4 Subdivision**

Subdivision of the Property shall comply with the requirements of the Subdivision By-law. The property shall not be subdivided in an arrangement that reduces the current lot area.

## **2.5 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.

## **PART 3 CHANGES AND DISCHARGE**

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

**3.2** The following matters are substantive matters:

a) The uses permitted on the property as listed in Section 2.1 of this Agreement;

Uses and structures permitted by the underlying zoning on the Property shall not require any amendment to this Agreement.

**3.3** 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.

**3.4** 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 Drawings to be Provided**

When an engineered design is required for any portion of a development, record drawings shall be provided to the Development Officer within ten days of completion of the work which requires the engineered design.

## **4.3 Completion and Expiry Date**

- (a) The Property Owner shall sign this Agreement within 120 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;
- (b) The Developer shall commence construction within ten (10) years of recording this Agreement at the Registry of Deeds.

## **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.

### **5.5 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.

## **5.6 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.

## **5.7 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.

## **5.8 Interpretation**

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

## **5.9 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.

**THIS AGREEMENT** shall ensure 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 designing 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:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Jennifer Barnard

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Werner Barnard



## Schedule A – Property Description

### Parcel Description

Location: Greenwich

Designation of Parcel on Plan: Lot 1B

Title of Plan: Plan of Survey Showing Subdivision of Lands of James B Legge & Carol M Legge

Registration County: Kings

Registration Reference of Plan: P9540

Registration Date of Plan: 21 February 1994

The parcel complies with the subdivision provisions of Part IX of the Municipal Government Act.



Municipality of the County of Kings

## Report to the Planning Advisory Committee

Application to rezone the property located at 9635-9637 Commercial Street (PID 55210868), New Minas, from the Residential One and Two Unit (R2) Zone to the Residential Mixed Density (R3) Zone.

(File #21-28)

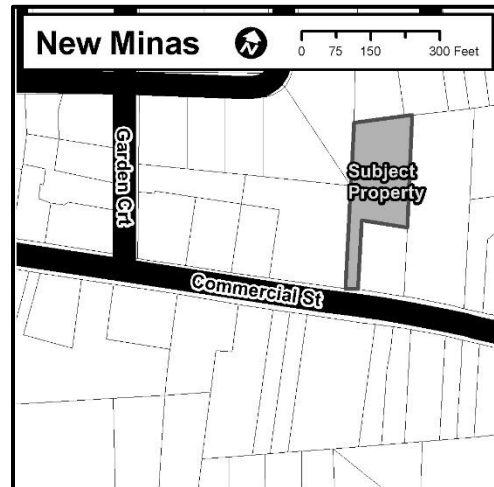
March 8<sup>th</sup>, 2022

Prepared by: Planning and Development Services

<b>Applicant</b>	David Webster
<b>Land Owner</b>	David Webster Alter Ego Trust
<b>Proposal</b>	To rezone the property from Residential One and Two Unit (R2) Zone to the Residential Mixed Density (R3) Zone to permit the development of additional residential units.
<b>Location</b>	9635-9637 Commercial Street (PID 55210868), New Minas
<b>Lot Area</b>	33,260ft <sup>2</sup> (0.76 acre)
<b>Designation</b>	Residential (R)
<b>Zone</b>	Residential One and Two Unit (R2) Zone within New Minas Wellfield Zone D
<b>Surrounding Uses</b>	Primarily residential dwellings consisting mainly of one and two unit dwellings, along with mixed and high density dwellings and a commercial recreation use (Ken-Wo Country Club)
<b>Neighbour Notification</b>	60 Letters providing notification of the planning application were mailed to property owners within 500 feet of the subject property

### 1. PROPOSAL

David Webster has applied to rezone the property located at 9635-9637 Commercial Street (PID 55210868), New Minas. Currently, it is zoned Residential One and Two Unit (R2) and there is a two-unit residential dwelling located on the subject property. If approved by Council, the property would be rezoned Residential Mixed Density (R3). The applicant is seeking to develop additional residential units on the subject property and would, optimally, seek to maximize the land development potential on the property subject to the proposed zoning. This could potentially enable up to an additional six residential units on the subject property, in addition to the current two units, for a total of eight units, provided all other requirements of the Land Use By-law can be met.



### 2. OPTIONS

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

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

### 3. STAFF RECOMMENDATION

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

**The Planning Advisory Committee recommends that Council give First Reading to and hold a Public Hearing regarding the map amendment to the Land Use By-law to rezone the property at 9635-9637 Commercial Street, (PID 55210868), New Minas from the Residential One and Two Unit (R2) Zone to the Residential Mixed Density (R3) Zone, as described in Appendix C of the report dated March 8<sup>th</sup>, 2022.**

### 4. BACKGROUND

In 1964 a subdivision occurred which resulted in the creation of the subject property and in 1975 a further subdivision from the subject property resulted in the creation of the “flag lot” configuration of the subject property. In 1995 a two unit dwelling was developed on the subject property. The current configuration of the subject property is considered an existing undersized lot which enables permits to be issued even though it does not meet the lot requirements of the Land Use By-law. This was true in 1995 when the two unit dwelling was developed.

The applicant/property owner is seeking to further develop the subject property with additional residential units. Given the subject property is currently developed with a two unit dwelling, in line with the current Residential One and Two Unit (R2) Zoning, a Land Use By-law map amendment to rezone the property to the Residential Mixed Density (R3) Zone is necessary to permit additional residential units on the subject property.

### 5. SITE INFORMATION

#### 5.1 Subject Property Information

A site visit was conducted on January 12<sup>th</sup>, 2022 by the planner on the file. The planner walked the subject property and discussed the intent behind the planning application with the applicant. The planner took photos of the subject property.

The subject property has a total approximate lot area of 33,260 square feet, (0.76 acre) and approximately 30 feet of road frontage. The lot is considered an existing undersized lot because it does not meet the

minimum lot frontage requirement, however the lot meets the minimum total area requirement. The subject property is developed with an existing two-unit dwelling and is generally flat. There is a driveway extending from the access point of Commercial Street to the main portion of the property where the existing dwelling is located. There are no identified watercourses, wetlands, or other physical features located on the subject property. Nearby properties in the vicinity are primarily zoned Residential One and Two Unit (R2), however there are some properties zoned Residential Mixed Density (R3), and Residential Multi-unit (R4), within proximity (under 1,500 feet) to the subject property. There is a large property zoned Comprehensive Neighbourhood Development (R5) approximately 300 feet east of the subject property developed with a 40-unit apartment building and a Commercial Recreation (P1) Zoned property, Ken-Wo Country Club, approximately 1,500 feet west of the subject property. This mix of zoning has also resulted in a mix of uses including several forms of residential development.

The subject property is located in the eastern portion of the Growth Centre of New Minas. New Minas is the largest Growth Centre within the Municipality in terms of population and serves as a commercial hub for the eastern end of the Municipality and the larger Annapolis Valley region. It is also an employment centre within the Municipality. The principal commercial and employment uses are located along Commercial Street (Highway #1), which serves as a spine through the Growth Centre. A number of businesses front along Commercial Street, ranging from small businesses to larger “big-box” retailers, however these commercial land uses taper off towards the eastern edge of the Growth Centre, where the subject property is situated. Residential uses, of varying types and densities, are located on the streets and subdivisions that branch off Commercial Street as well as towards the eastern end of New Minas. There are also a number of recreational and institutional land uses in proximity to the subject property.

## **5.2 Comments from Public**

Under the Planning Policies of the Municipality of the County of Kings (PLAN-09-001), a Public Information Meeting was not required because the application concerns a Land Use By-law map amendment for a portion of a property with a total lot area consisting of less than one (1) acre. A letter was sent to 60 property owners within a 500 foot radius of the subject property seeking comments and feedback on the proposed Land Use By-law map amendment. Staff received one phone call and one email regarding the planning application. One neighbouring property owner was opposed to the proposed Land Use By-law map amendment due to the impact it would have on their views, the increased density on the subject property, noise generated by further development and disruption during construction. Another member of the public sought additional information on what would be permitted to occur on the subject property if the rezoning was approved, whether the proposed rezoning was specific to this subject property and voiced concerns pertaining to increased traffic and wider changes to zoning within New Minas as a community.

## **5.3 Requests for Comments**

Staff requested comments from both internal and external departments on the application, where necessary. Development Control noted that the property is considered an existing undersized lot due to the lot frontage but noted the total area met the Residential Mixed Density (R3) Zone requirements. Civic addressing commented that, if approved, additional units will necessitate the requirement for renumbering and the naming of the driveway for emergency services purposes. The Department of Public

Works did not offer comment but has issued an access permit for multi-unit residential uses. Building and Enforcement staff commented that any permits applied for in the future would be required to meet all building code requirements, including barrier free requirements that are in place at the time of permitting. The New Minas Fire Chief confirmed that fire services and equipment are adequate for the proposed development and shared services are available if necessary. The Village of New Minas confirmed that the sewer and water infrastructure is adequate to support an increase in residential units at the subject property.

## 6. POLICY REVIEW

### 6.1 Enabling MPS Policies

This application concerns amending the Land Use By-law to permit the rezoning of land from the current Residential One and Two Unit (R2) Zone to the Residential Mixed Density (R3) Zone. The policies contained within the Municipal Planning Strategy (Municipal By-law #105) enable Council to consider the application.

#### **Municipal By-Law #105**

5.3.3 *“consider amendments to any one of the zoning maps in the Land Use By-law provided the application is for a specific development and:*

*(a) is to rezone land to another zone enabled within the same designation, unless the zone change is specifically prohibited within this Strategy;”*

The subject property is within the Residential (R) designation.

5.3.4 *“consider, an application for an amendment to any one of the zoning maps of the Land Use By-law only if the site meets all of the zone requirements for the zone sought, with the following exceptions:*

*(a) a rezoning may be granted for a lot or lots that meet all of the zone requirements but has less than the required frontage and area specified for the zone sought;”*

The existing frontage for the subject property (30 feet) does not meet the Residential Mixed Density (R3) Zone. However, it does meet all other standards for the zone. The subject property is considered an existing undersized lot.

5.3.5 *“consider, in relation to all applications to rezone land:*

*(a) the applicable zone placement policies, including any specific policy criteria for applying the proposed zone set out within this Strategy;”*

Policy 3.1.2 of the Municipal Planning Strategy notes the following:

3.1.2 *“establish the following Residential Zones in the Land Use By-law:*

*(b) Residential Mixed Density (R3): lands located in this zone are intended to contribute to a sense of activity and liveliness in the community and shall be generally located on main transportation corridors within Growth Centres. This zone is intended to include up to eight (8) residential units in a dwelling in a variety of building types;*

The subject property is located within a portion of New Minas that features a range of land uses including an established stock of residential housing. The subject property is used for residential purposes. There is a mixture of residential densities and building forms within New Minas. While Residential One and Two Unit (R2) Zoned properties are predominant within the areas surrounding the subject property, Residential Mixed Density (R3), and Residential Multi-unit (R4) zoned properties are also found within reasonably close proximity to the subject property.

The subject property fronts Commercial Street, which is the principal transportation corridor through New Minas. The intent behind the Residential Mixed Density (R3) Zone is transitional in nature, moving away from higher density developments oriented towards main transportation and commercial nodes towards lower density forms of residential housing; the subject property, if rezoned to Residential Mixed Density (R3), would meet this objective of the zone. It features frontage along Commercial Street but is set back from the road, with low density housing located abutting the rear property line, accessed via local streets. Staff are of the opinion that the applicable zone placement policies pertaining to the proposed Residential Mixed Density (R3) Zone are met through amending the land use by-law map to include the subject property within the requested zone.

5.3.5 *“consider, in relation to all applications to rezone land:*

*(b) the impact of both the specific development proposal and of other possible uses permitted in the proposed zone;”*

Section 2.1 of the MPS outlines the concept of Growth Centres. The Municipality is divided into two broad identifications that guide many of the policy directives: Rural Areas and Growth Centres. The overarching goal of the Growth Centres is, *“To provide vibrant, complete communities in Growth Centres with municipal servicing, economic development, a high quality of life and distinct character.”* MPS Policy 2.1.2 states that Council shall, *“2.1.2 identify Growth Centres as the primary growth areas within the Municipality;”* Growth Centres are characterized by features that separate them from the rural areas of the Municipality. These can include, but are not necessarily limited to centralized water and sewer services, active transportation corridors, community, recreation, and educational facilities, a diverse range of housing options, and/or concentrated commercial and/or industrial opportunities.

Given the specific nature of the proposed zone and the current use of the property – residential dwelling – amending the zoning to the Residential Mixed Density (R3) Zone would not cause undue negative impacts on surrounding residential properties. The new zone would enable further diversification of housing stock and type within a growing Growth Centre, in a location that is in close proximity to a variety of commercial uses and recreational amenities. It would contribute to meeting the objective of the Municipal Planning Strategy pertaining to settlement *“through the diversification of urban development...supported by cost-effective delivery of services”*. It would also meet the objective pertaining to transportation given its location along a major transportation corridor by promoting *“the development*

*of compact, complete communities with accessible and active transportation options.”* Further, the Residential Mixed Density (R3) Zone limits permitted uses primarily to residential uses of which grouped dwellings, multi-unit dwellings (up to 8 units) and townhouses are the most impactful in nature. Other permitted uses are low density, as is currently found on the subject property, and community facility, indoor recreation, and places of worship.

## **6.2 General LUB amendment Policies**

Section 5.3 of the Municipal Planning Strategy (By-law #105) contain a number of general criteria for applications for a map amendment to the applicable land use by-laws (Appendix B). These criteria 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 planning strategy. In terms of the other general development criteria contained in the Municipal Planning Strategy there are no additional costs to the Municipality related to the rezoning and development of the subject property. There are no concerns regarding storm drainage, road networks leading to the subject property, or traffic generation.

## **7. CONCLUSION**

The proposed rezoning is in keeping with the intent of the policies found in the Municipal Planning Strategy. The proposed rezoning meets the goals and objectives outlined in the Municipal Planning Strategy. The proposal meets all of the general criteria to permit the rezoning of the subject property. As a result, a positive recommendation with regard to the application is being made to the Planning Advisory Committee.

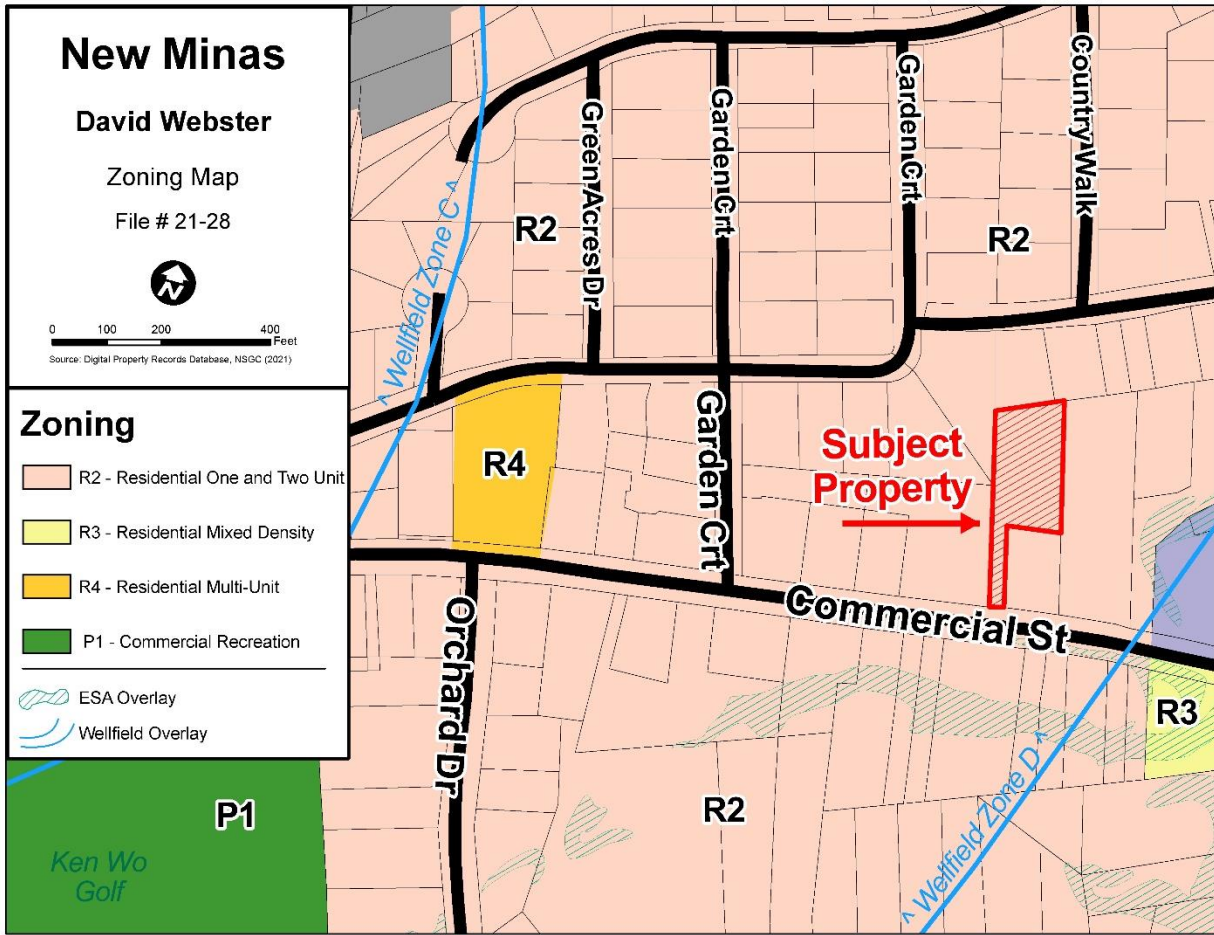
## **8. APPENDIXES**

**Appendix A: Zoning Map**

**Appendix B: Municipal Planning Strategy (By-law #105), Section 5.3. – General Criteria to Consider for all Development Agreements and Land Use By-law Amendments**

**Appendix C: Proposed Land Use By-law Map Amendment (By-law #106)**

Appendix A: Reference Zoning Map





**Appendix B: Municipal Planning Strategy (By-law #105), Section 5.3. – General Criteria to consider for all Development Agreements and Land Use By-law Amendments**

**Policy 5.3.7**

*Council expects to receive applications to amend the Land Use By-law or enter into a development agreement for development that is not permitted as-of-right in the Land Use By-law. Council has established criteria to ensure the proposal is appropriate and consistent with the intent of this Strategy.*

*Council shall be satisfied that a proposal to amend the Land Use By-law or to enter into a development agreement:*

<b>Criteria</b>	<b>Comments</b>
<i>a. is consistent with the intent of this Municipal Planning Strategy, including the Vision Statements, relevant goals, objectives and policies, and any applicable goals, objectives and policies contained within a Secondary Plan;</i>	The proposed land use by-law map amendment is consistent with the intent of the Municipal Planning Strategy, and the applicable goals, objectives and policies contained within the Municipal Planning Strategy.
<i>b. is not in conflict with any Municipal or Provincial programs, By-laws, or regulations in effect in the Municipality;</i>	The proposed amendment is not in conflict with any Municipal or Provincial programs, By-laws, or regulations. Civic renumbering is required upon issuance of development/building permits for additional residential units.
<i>c. that the proposal is not premature or inappropriate due to:</i>	
<i>i. the Municipal or village costs related to the proposal;</i>	The proposal does not involve any development costs to the Municipality.
<i>ii. land use compatibility with surrounding land uses;</i>	The proposed land use would be compatible with the surrounding land uses.
<i>iii. the adequacy and proximity of school, recreation and other community facilities;</i>	The subject property is within close proximity to schools, recreation and other community facilities.
<i>iv. the creation of any excessive traffic hazards or congestion due to road or pedestrian network adequacy within, adjacent to, and leading to the proposal;</i>	The subject property has frontage on Commercial Street (Highway #1), a main transportation corridor through New Minas. There is also sidewalk access for pedestrian use and a public transit stop approximately 450 feet from the subject property.
<i>v. the adequacy of fire protection services and equipment;</i>	The New Minas Fire Chief confirmed adequate fire protection services and equipment for the proposed use.
<i>vi. the adequacy of sewer and water services;</i>	Central sewer and water services are available to service the subject property and adequate capacity has been confirmed by the Village of New Minas. Permits will be required from the Village.
<i>vii. the potential for creating flooding or serious drainage problems either within</i>	Uses permitted through the proposed rezoning are not expected to generate issues.

<i>the area of development or nearby areas;</i>	
<i>viii. negative impacts on identified wellfields or other groundwater supplies for the area;</i>	The subject property is within New Minas Wellfield Overlay “D” which permits multi-unit residential development.
<i>ix. pollution, in the area, including but not limited to, soil erosion and siltation of watercourses; or</i>	The property owner will be required to follow provincial specifications regarding soil erosion during construction phases which is a provincial enforcement issue.
<i>x. negative impacts on lake water quality or nearby wetlands;</i>	Not applicable – subject property is not in close proximity to identified lakes or wetlands.
<i>xi. negative impacts on neighbouring farm operations;</i>	Not applicable – there are no farming operations in proximity to the subject property.
<i>xii. the suitability of the site regarding grades, soils and geological conditions, location of watercourses, marshes, bogs and swamps, and proximity to utility rights-of-way.</i>	The subject property is suitable in terms of grades, soils, geological conditions, and proximity to natural features and rights-of-way.

Appendix C: Proposed Land Use By-law Map Amendment (By-law 106)

THE MUNICIPALITY OF THE COUNTY OF KINGS

AMENDMENT TO BY-LAW 106  
COUNTY OF KINGS LAND USE BY-LAW

Land Use By-law Map Amendment to rezone the property at 9635-9637 Commercial Street (PID 55210868), New Minas from the Residential One and Two Unit (R2) Zone to the Residential Mixed Density (R3) Zone.

BY-LAW 106 Land Use By-law

1. Amend Map 9, New Minas, by rezoning PID 55210868, New Minas from the Residential One and Two Unit (R2) Zone to the Residential Mixed Density (R3) Zone, as shown on the inset copy of a portion of Map 9 below.



# THE MUNICIPALITY OF THE COUNTY OF KINGS

## REPORT TO PLANNING ADVISORY COMMITTEE

**Subject:** LUB Text Amendment to Accompany Proposed MPS Amendments to Consider Alternative Frontage Requirements for Development in Rural Zones. File 21-02 (Lissa Elaine Conrad)

**From:** Planning Staff

**Date:** March 8, 2022

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### **Background**

The Planning Advisory Committee (PAC), at their meeting held February 8<sup>th</sup>, 2022, passed a motion recommending that Municipal Council adopt a minor amendment to the Municipal Planning Strategy that would permit residential development on properties with frontage on private roads in existence on November 21<sup>st</sup>, 2019, within the Rural Mixed Use (A2) Zone and the Resource (N1) Zone.

The Municipal Planning Strategy (MPS) establishes the goals and objectives of land use planning within the Municipality. The MPS also sets out the enabling policies for Council to consider discretionary planning applications. However, policies within the MPS do not allow for administration for a particular zone or zones. The Land Use By-law implements the policies of the MPS by establishing regulations related to the development of land. In order for a new policy in the MPS to be administered an accompanying text amendment to the Land Use By-law is required. Accordingly, proposed text amendments to the Land Use By-law, which would allow for the administration of the proposed minor MPS amendments, are necessary, in accordance with the amendments outlined and discussed in the report dated X and included as Appendix B to this report.

### **Potential Motion:**

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

**The Planning Advisory Committee recommends that Municipal Council give First Reading to and hold a Public Hearing regarding the proposed text amendment to permit residential use on properties with frontage on a private road, in existence on November 21<sup>st</sup>, 2019 as described in Appendix A of this report.**

### **Appendices**

**Appendix A: Proposed LUB Text Amendment**

**Appendix B: Report to Planning Advisory Committee, Jan. 11<sup>th</sup>, 2022**

APPENDIX A

**Proposed Land Use Bylaw Text Amendment (By-law 106)**

**THE MUNICIPALITY OF THE COUNTY OF KINGS**

**AMENDMENT TO BY-LAW 106  
COUNTY OF KINGS LAND USE BYLAW**

**Land Use Bylaw Text Amendment to add Frontage on a Private Road within the Rural Mixed Use (A2) Zone and the Resource (N1) Zone.**

**BY-LAW 106 Land Use By-law**

1. Amend section 8.4.4 of the Land Use By-Law, Additional Requirement within the Rural Mixed Use (A2) Zone, by adding sub-section 8.4.4.2, Frontage on a Private Road.

*8.4.4.2 Frontage on a Private Road*

*A development permit may be issued for a residential use on lots without frontage on a public road subject to the criteria noted below.*

- (a) If the lot has the equivalent minimum lot frontage on an existing private road.*
- (b) A residential use shall be subject to the required minimum front or flankage setback measured from the extent of the right-of-way.*

2. Amend section 10.3.4 of the Land Use By-Law, Additional Requirement within the Resource (N1) Zone, by adding sub-section 10.3.4.2, Frontage on a Private Road.

*10.3.4.2 Frontage on a Private Road*

*A development permit may be issued for a residential use on lots without frontage on a public road subject to the criteria noted below.*

- (a) If the lot has the equivalent minimum lot frontage on an existing private road.*
- (b) A residential use shall be subject to the required minimum front or flankage setback measured from the extent of the right-of-way.*

APPENDIX B



**Municipality of the County of Kings  
Report to the Planning Advisory Committee**

MPS amendments to consider alternative frontage requirements for development in rural zones.

(File # 21-02)

January 11<sup>th</sup>, 2022

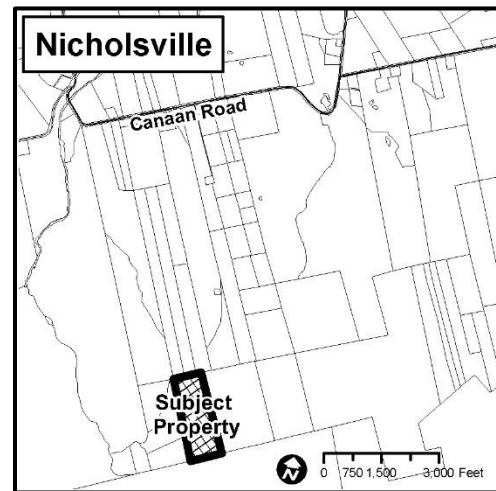
Prepared by: Planning Staff

<b>Applicant</b>	Lissa Elaine Conrad
<b>Land Owner</b>	Lissa Elaine Conrad
<b>Proposal</b>	To amend the text of the Land Use By-law to enable residential development without any road frontage
<b>Location</b>	Applicant's property is PID 55123764, Nicholsville
<b>Lot Area</b>	Applicant's property is approximately 30 acres
<b>Designation</b>	Resource (N)
<b>Zone</b>	Resource (N1)
<b>Surrounding Uses</b>	Isolated location, principally resource uses and forested land, rural residential uses over two kilometres from subject property
<b>Neighbour Notification</b>	Staff sent notification letters to the 10 owners of properties within 500 feet of the subject property

**BACKGROUND**

Planning and Development Services is in receipt of an application from Lissa Elaine Conrad that seeks to legalize a residential dwelling through a text amendment to the Land Use By-law (LUB) that would permit residential development on properties that do not have public road frontage within the Resource (N1) Zone.

The Municipal Planning Strategy (MPS), currently permits residential development in the Resource (N1) zone only on properties with frontage on along public roads that were in existence on November 21, 2019; the date Council adopted the existing MPS. Since the LUB is required to be consistent with the policies of the MPS, this means the text of the Land Use By-law cannot be amended to permit development on this property, or others within Resource (N1) zoned lands since it would be in conflict with the policies of the MPS. Staff are of the opinion that a minor amendment to the specific MPS policies regarding lands in rural areas zoned either Rural Mixed Use (A2) or Resource (N1) would allow for a more reasoned, flexible approach to limited residential development opportunities while maintaining the overarching goals and objectives of



the designation to provide large tracts of land for agricultural and resource development and extraction uses.

This report contains proposed text amendments to the MPS for the rural areas classified under the Resource (N) and Agricultural (A) designations but does not apply to lands that are zoned Agriculture (A1).

## STAFF RECOMMENDATION

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

**That Planning Advisory Committee hold a Public Participation Meeting regarding the proposed amendments to the Municipal Planning Strategy to enable limited residential development on lands with private road frontage in existence on November 21, 2019 within the Rural Mixed Use (A2) Zone and the Resource (N1) Zone.**

## OPTIONS

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

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



## BACKGROUND

The applicant, Lissa Elaine Conrad, has illegally constructed a one unit dwelling on the subject property, without the required development and building permits. The subject property is located in the rural community of Nicholsville, in an area designated as Resource (N) and zoned Resource (N1). The property is approximately 2.1 kilometres south of Canaan Road and accessed via a legal right-of-way (deeded access), historically known as the Single Mill Road, which traverses five properties to reach the subject property. This legal right-of-way has been, and is currently, used by various landowners to access properties located north and south of the subject property.

The dwelling was discovered in 2019 by the Property Value Services Corporation and reported to the Municipality. Building and fire inspections were conducted in November 2019 to ensure life/safety

standards were met and municipal planning staff contacted the property owner regarding her illegal dwelling and outlined what potential avenues existed to legalize the residential dwelling, s. During the review process Staff identified a significant barrier to this application to legalize and/or permit residential development on properties that lacked public or no road frontage within the Resource (N1) and Rural Mixed Use (A2) Zones.

The proposed text amendment cannot be enabled under the current policies of the Municipal Planning Strategy. Specifically, within the Resource (N1) Zone, policy 3.6.5 enables residential development only on properties with frontage along public roads existing on the date of adoption of the MPS by Council. The development of new private roads in the Resource (N1) Zone is also prohibited:

*3.6.4 zone as Resource (N1) land that currently comprise large tracts of unfragmented forested lands and are intended to remain so, and may contain limited community development;*

***3.6.5 permitted within the Resource (N1) Zone;***

- (a) residential development only along public roads in existence on November 21, 2019;***
- (b) outdoor recreational uses that require large tracts of undeveloped land; and***
- (c) industrial development such as forestry, energy development, and aggregate uses that require large tracts of land; and***

The requirement emphasized above, introduce a significant barrier for the subject property and other instances whereby a residential dwelling has been constructed, or a property owner wishes to construct, a dwelling on land located in a rural area, zoned either Rural Mixed Use (A2) or Resource (N1). Overall, this policy helps achieve the objective of “settlement” within the Municipal Planning Strategy; it is an effective means of controlling residential development within land that falls under the noted zones. However, it leaves a distinguishable gap in that there are property owners who may wish to develop and live in residential dwellings on properties that are located in areas without public road frontage, such as the applicant for this file.

In April and May 2021, Planning Staff brought a report to PAC and Council, respectively, for their approval to explore potential minor amendments to the Municipal Planning Strategy to consider enabling “limited residential development” under different conditions in areas outside of identified Growth Centres. This planning report and context is attached as Appendix C.

Adjusting this limiting criteria is the focus of this report, which provides potential amendments to the text of the MPS so that a greater degree of flexibility in providing limited residential development within the aforementioned zones is achieved while maintaining the goals and objectives of Rural Areas within the Municipality.



### **Municipal Planning Strategy**

The Municipal Planning Strategy of the Municipality of the County of Kings operates under an overarching distinction between two types of land areas – Growth Centres and Rural Areas. Growth Centres are characterized by urban services such as central water and sewer, sidewalks, recreation and community facilities, and other amenities. They are centres of local and regional employment, commercial nodes, and vibrant neighbourhoods of varying densities. The evolving development of Growth Centres serves two purposes. The first is to maximise infrastructure investment for the most efficient use of existing capital and the second is to concentrate development within these identified areas in order to better preserve and protect rural areas from superfluous development.

The characteristics of rural areas contrast those of Growth Centres; these areas make up the majority of land within the Municipality. Rural areas are characterized by large tracts of land intended for agriculture and resource uses and are important economic drivers for the agricultural, forestry, and aggregate industries along existing roads within the Municipality and wider region. Limited residential development within rural areas seeks to fulfill the demand for rural living without the addition of new infrastructure, such as roads. The Growth Centres and rural areas work in tandem to provide economic prosperity. Rural areas also contain lands that are identified as ecologically sensitive, such as wetlands, marshes, and waterbodies. The MPS states the following goal for the rural areas of the Municipality:

***“To identify lands where the existing rural character, ecological value and economic functions of rural areas is protected.”***

Council, through the MPS, does not support *significant expansions* to the developed area in these rural locations. However, there is a recognized understanding that there is both a need and allowance for some forms of limited residential development along existing road infrastructure. The MPS speaks to this in the following overarching policy pertaining to rural areas:

*2.2.1 identify areas located outside of Growth Centres as rural areas on Schedule A – Municipal Structure. These areas are intended to contain primarily agricultural and resource uses and their related industries, rural commercial uses, rural industrial uses, recreational uses, renewable energy uses, and **limited residential development**;*

The Rural Mixed Use (A2) Zone and the Resource (N1) Zone acknowledge limited residential development to accommodate reasonable demand; this is highlighted in policies specific to each respective zone.

*3.4.2 establish the following Agricultural Zones in the Land Use By-law:*

*(b) Rural Mixed Use (A2): lands located in this zone are intended for a mix of agricultural, **residential**, and resource uses to enable the agricultural industry expansion as well as **to accommodate rural housing demand**. In the event of a conflict between an agricultural use and a non-agricultural use, the agricultural use shall take priority;*

The Rural Mixed Use (A2) Zone is applied to large areas of the North and South Mountains, as well as smaller pockets of the Valley floor. Unlike the Agricultural (A1) Zone, for which agricultural uses are paramount due to the highly fertile soil and productive growing conditions which make the lands in the

zone the economic, social, and cultural driver of the Municipality and wider Annapolis Valley, the Rural Mixed Use (A2) Zone – while containing some agriculturally productive land – also features forest, resource, and residential uses. While agricultural uses shall remain the priority in this zone, residential uses are explicitly an intended use for this zone as well.

A significant portion of the South Mountain contains the last areas within the Municipality of the County of Kings that are large tracts of undeveloped land. The primary characteristic of the Resource (N1) Zone is intended to maintain these tracts of undeveloped land for resource development and recreational uses, while ensuring there is sufficient space for large resource-based industries to locate and expand in these areas. However, the MPS also recognized the need to permit limited residential development within rural areas of the Municipality.

*3.6.2 establish the following Resource Zones in the Land Use By-law:*

*(a) Resource (N1) Zone: this zone is intended to maintain large tracts of uninhabited forested land for resource development, and recreation uses while **providing limited residential development** to ensure there is sufficient space for large resource-based industries to locate and expand in these areas. Where there is conflict between resource uses and residential uses in a Resource (N1) Zone, the resource use shall take priority;*

It is fair to suggest that some low-density, sparse residential development in rural areas is fundamental to maintaining the existing rural character of these areas given that rural dwellings have been a part of the fabric of the Rural Areas of the Municipality throughout its history. The majority of residents within the Municipality choose to live in Growth Centres, or other areas that have a developed settlement pattern and character. Some residents will, inevitably, wish to live in Rural Areas. Further, of these residents who desire to live in Rural Areas, some wish to live deep within them, at a greater distance from higher density development and services. However, policies in the MPS are constricting in permitting development in these areas. Specifically, the following policies, as currently written in the MPS, put severe constraints on residential development within the noted zones.

***2.2.4 limit development on lots without frontage on public roads, except within the Shoreland Designation;***

***3.4.20 permit within the Rural Mixed Use (A2) Zone:***

***(c) residential development on public roads in existence on November 21, 2019 consisting of a single dwelling containing up two (2) residential units;***

***3.6.5 permit within the Resource (N1) Zone:***

***(a) residential development on public roads in existence on November 21, 2019;***

The constraints that are placed on residential development in rural areas through these policies could be interpreted as too restrictive to property owners, or would be owners, who wish to live in rural areas. With limited lands available with frontage on public roads and the highly unlikelihood of the construction of new public roads, the opportunities for these types of development are severely restricted and may not be financially viable for some individuals. For those that do wish to live in rural areas and in particular deep within them they are making an active, informed choice to live further away from services and

amenities. Given that there is an explicit acknowledgement in the policies of the MPS that for both the Rural Mixed Use (A2) Zone and the Resource (N1) Zone the respective agricultural and resource uses are prioritized over any residential use, providing a degree of leeway in permitting residential development on properties that lack public road frontage does not inhibit or obstruct the overall goals and objectives found in the MPS.

### **Amendment Options**

Staff looked at a number of potential options to amend the Municipal Planning Strategy that ranged from maintaining the current approach of restricting residential development within rural areas to a prescribed ability to only permit development along existing public roads to the opposite end of the spectrum, enabling development on all properties located within the Rural Mixed Use (A2) and Resource (N1) Zones. Staff have provided four potential amendment options, outlined below:

1. Permit residential development on properties within the Rural Mixed Use (A2) and Resource (N1) Zones provided said property has the required frontage on a public or private road, in existence on November 21, 2019;
2. Permit residential development on properties without any road frontage, public or private, via a development agreement in the Rural Mixed Use (A2) and Resource (N1) Zones;
3. Permit residential development on all properties within the Rural Mixed Use (A2) and Resource (N1) Zones, regardless of whether the property has public or private road frontage;
4. Maintain the current approach to residential development within the Rural Mixed Use (A2) and Resource (N1) Zones by electing to not amend the policies within the MPS as there are written.

The first option noted in this report may strike an appropriate balance for a greater margin of flexibility and interpretation of where limited residential development can occur in rural areas, particularly those that are zoned Rural Mixed Use (A2) and Resource (N1). This approach is more equitable for individuals who elect to live further away from services and amenities but does not compromise the overall goals and objectives contained within the MPS. This option also permits the use of existing private roads, some of which may give access to lake lots that are permitted to have development on private roads.

The second option would permit residential dwellings via a development agreement on properties without road frontage provided the total area of the property meets a minimum threshold to qualify. The benefit of this approach is that it would place controls on properties through the development agreement, which would maintain the intent of preserving large tracts of land in the Rural Mixed Use (A2) and Resource (N1) Zone while still allowing a property owner who wishes to use their property for a residential dwelling to do so. This option could either be included in addition to the amendment approach highlighted as option 1 in the report, or it could stand as a separate alternative.

The third option would permit residential development on all properties within the Rural Mixed Use (A2) and Resource (N1) Zones. While this option would provide the greatest amount of leeway for residential development in rural areas, it would mark a noted departure from the goals and objectives of the MPS. Further, it introduces greater potential for land use conflict. This is fairly common in areas where residential uses are introduced to areas that have traditionally been used for resource extraction. Often residents, who have an expectation of quiet enjoyment of their property, were not aware of the impacts

associated (noise, dust, odors, vibration etc.) with resource uses and were not aware that these impacts can extend significant distances away from their source. Staff do not recommend this option; it is contrary to the goals and objectives of the Municipal Planning Strategy and the Municipality's model for land use planning.

The fourth option is to maintain MPS policies pertaining to the Rural Mixed Use (A2) and Resource (N1) Zones as they are currently written. This scenario would continue to restrict and control rural residential opportunities.

Based on the overarching goals and objectives of the Municipal Planning Strategy, it is in staff's opinion that the first option outlined is the preferred option to amending the MPS to accommodate for greater flexibility in providing limited residential development within the aforementioned rural zones. It strikes a fair and reasoned approach to enabling slightly more flexibility in providing limited residential opportunities but maintains the priority of agriculture and resource uses in the Rural Mixed Use and Resource Zone.

## **CONCLUSION**

The intent of the proposed text amendments to the MPS policies pertaining to limited forms of rural residential development within the Rural Mixed Use (A2) and Resource (N1) Zone reflect a balance between the desire of a select, small number of individuals who wish to live further afoot from services and amenities but still enable the primary land uses intended for these zoned to thrive. The proposed amendments provide fair means of achieving a desired residential living situation for some while maintaining the goals and objectives of the MPS. Staff's recommendation does not assist the applicant and enforcement will commence.

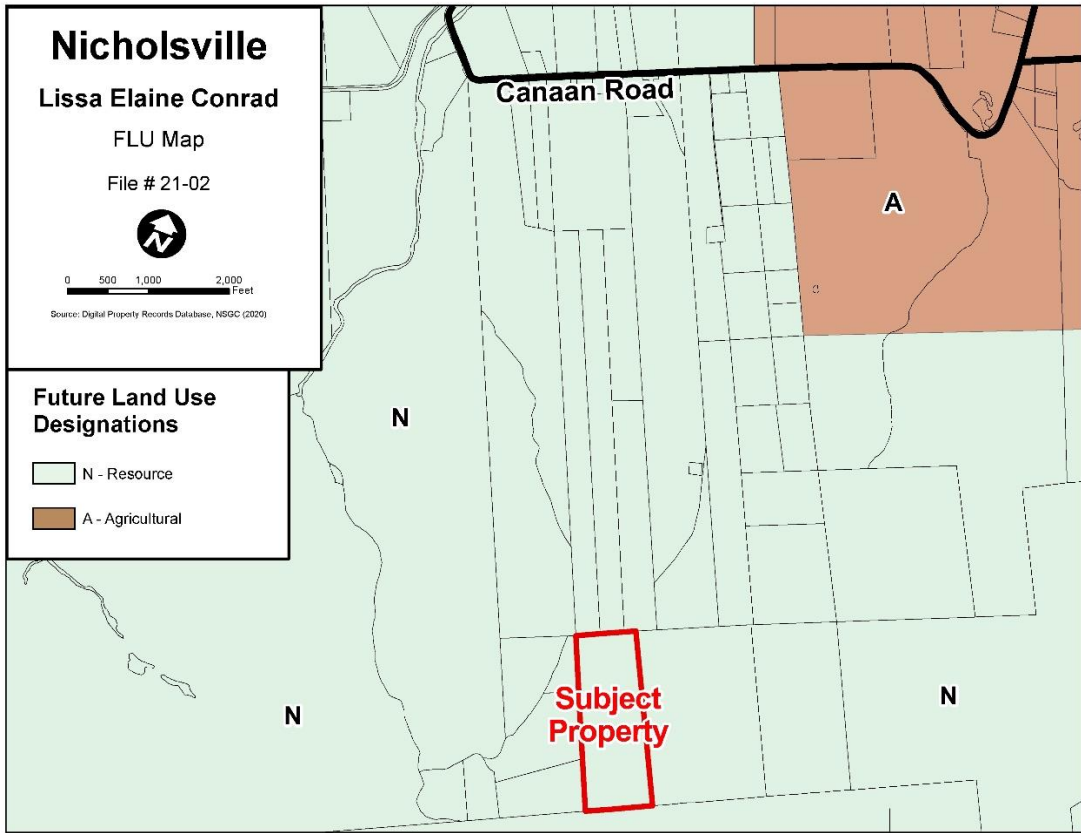
## **APPENDICES**

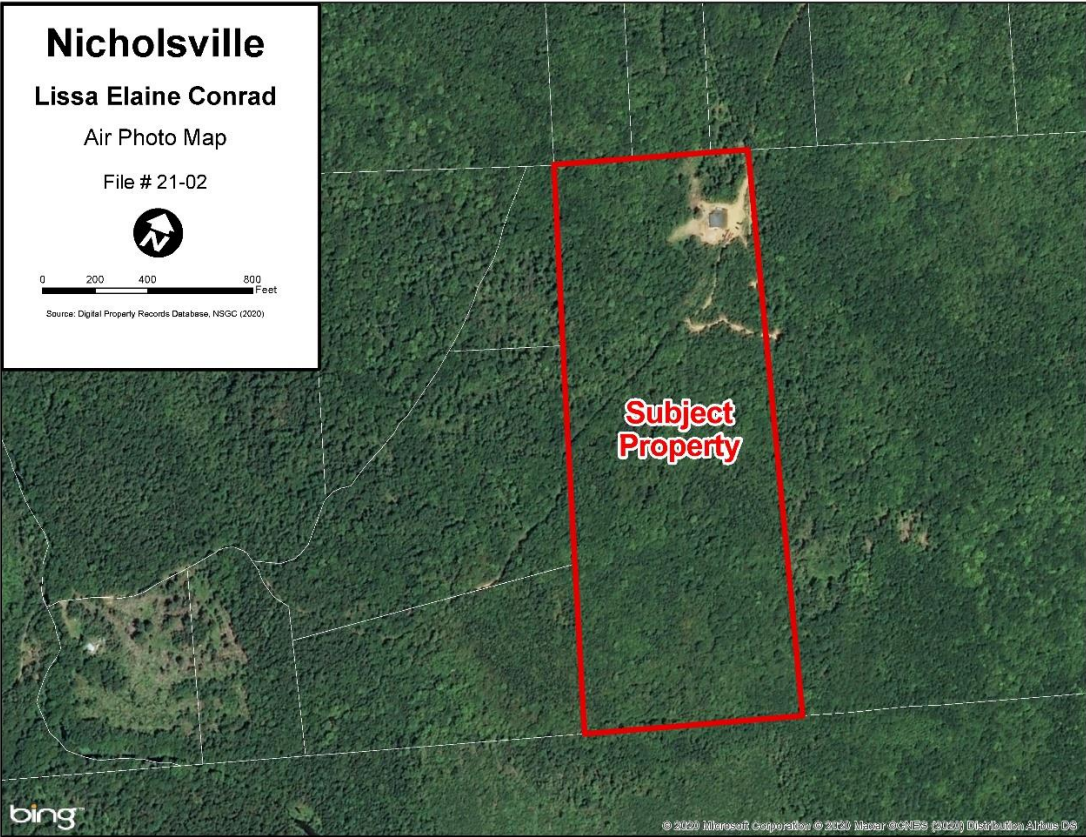
Appendix A: Maps

Appendix B: Proposed MPS text amendments

Appendix C: December 2020 PAC report – MPS Amendment

Appendix A: Maps





APPENDIX B - Proposed MPS text amendments

**Proposed Municipal Planning Strategy Amendment (By-law 105)**

**THE MUNICIPALITY OF THE COUNTY OF KINGS**

**AMENDMENT TO BY-LAW 105  
COUNTY OF KINGS MUNICIPAL PLANNING STRATEGY**

**Enable Municipal staff to amend the MPS policies pertaining to the permitted location of residential development within rural areas zoned Rural Mixed Use (A2) and Resource (N1).**

Proposed amendments are highlighted for emphasis. Removals are shown with ~~strikethrough~~ text.

**BY-LAW 105 Municipal Planning Strategy**

- 1 Amend MPS policy 2.2.4 to enable residential development on lots with private road frontage, provided the private road was in existence on the date the MPS was approved by Council

*MPS 2.2.4 limit development on lots without frontage on public or private roads in existence on November 21, 2019;*

- 2 Amend MPS policy 3.4.20 to enable residential development on lots with private road frontage, provided the private was in existence on the date the MPS was approved by Council

*3.4.20 permit within the Rural Mixed Use (A2) Zone:*

*(c) residential development on public and private roads in existence on November 21, 2019 consisting of a single dwelling containing up two (2) residential units;*

- 3 Amend MPS policy 3.6.5 to enable residential development on lots with private road frontage, provided the private was in existence on the date the MPS was approved by Council

*3.6.5 permit within the Resource (N1) Zone:*

*(a) residential development on public and private roads in existence on November 21, 2019;*



Appendix C: April 2021 PAC report – MPS Amendment

**TO** Planning Advisory Committee

**PREPARED BY** Will Robinson-Mushkat – Planner, Planning and Development Services

**MEETING DATE** April 13, 2021

**SUBJECT** Request for a Minor Municipal Planning Strategy Amendment

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**ORIGIN**

- Application from Lissa Elaine Conrad for a Land Use By-law Text Amendment to enable residential development with no public road frontage
- [Policy PLAN-09-001: Planning Policies](#)

**RECOMMENDATION**

That the Planning Advisory Committee recommend Municipal Council, in accordance with Policy PLAN-09-001, direct the Chief Administrative Officer to investigate a minor Municipal Planning Strategy Amendment related to the development of specific criteria for enabling limited residential development on properties that lack road frontage.

**INTENT**

For the Planning Advisory Committee to consider recommending that Council undertake a minor Municipal Planning Strategy (MPS) Amendment to enable the development of specific criteria that would enable limited residential development located on properties within the Resource (N1) Zone that do not have road frontage.

**DISCUSSION**

Planning and Development Services is in receipt of an application from Lissa Elaine Conrad that seeks to legalize a residential dwelling through a text amendment to the Land Use By-law (LUB) that would permit residential development on properties that do not have public road frontage within the Resource (N1) Zone. The applicant has constructed a one unit dwelling on the subject property without the required development and building permits. The subject property is located in the rural community of Nicholsville, in an area designated as Resource (N) and zoned Resource (N1). The property is approximately 2.1 kilometres south of Canaan Road and accessed via a legal right-of-way, historically known as the Single Mill Road, which traverses five properties (Figure 1). This legal right-of-way has been, and is currently used by various landowners

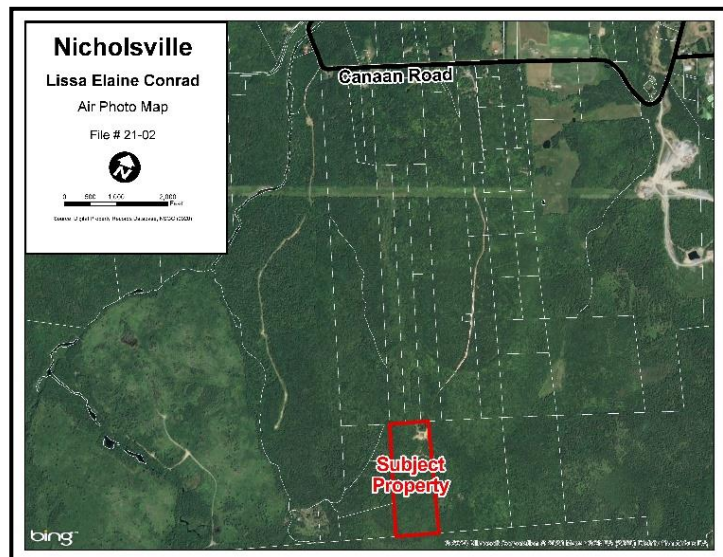


Figure 1 - Aerial Photo of Subject Property and Surrounding Area



to access properties located north and south of the subject property. This access is acknowledged and evidenced via recorded statutory declarations.

The proposed text amendment cannot be enabled under the current policies of the Municipal Planning Strategy. Specifically, within the Resource (N1) Zone, policy 3.6.5 enables residential development only on public roads:

*3.6.4 zone as Resource (N1) land that currently comprise large tracts of unfragmented forested lands and are intended to remain so, and may contain limited community development;*

**3.6.5 permitted within the Resource (N1) Zone;**

- (a) residential development only along public roads in existence on November 21, 2019;**
- (b) outdoor recreational uses that require large tracts of undeveloped land; and*
- (c) industrial development such as forestry, energy development, and aggregate uses that require large tracts of land; and*

The Resource designation (N) recognizes the need for large, fragmented tracts of land for efficient operation. The uses and activities intended for these lands can often create a working landscape that is noisy, dusty, and visually undesirable. This can potentially lead to conflict between residential and non-residential land uses if two incongruent uses are occurring in close proximity. Policies 3.6.1 and 3.6.2 (a) address the intents of the Resource (N) Designation and Resource (N1) Zone, respectively.

*3.6.1 designate as Resource remote areas of the South Mountain that contain few public roads and few houses and are characterised by large tracts of forested land. The Resource Designation is intended to encompass the rural parts of the Municipality where uses requiring large, unfragmented tracts of land are dominant;*

*3.6.2 establish the following Resource Zones in the Land Use By-law:*

*(a) Resource (N1) Zone: this zone is intended to maintain large tracts of uninhabited forested land for resource development, and recreation uses while **providing limited residential development** to ensure there is sufficient space for large resource-based industries to locate and expand in these areas. Where there is conflict between resource uses and residential uses in a Resource (N1) Zone, the resource use shall take priority;*

The intent of the Resource (N1) Zone is chiefly for resource development. However, the MPS and the prescribed zoning contained within the LUB recognizes a need to strike a limited balance between the resource land use and other uses, such as recreation (hunting, fishing, camping, etc.) and limited residential development. This form of residential development is intended to be sparse in nature, as a principle of the MPS is to encourage concentration of development in the identified Growth Centres.

Alternatively, Section 2.2 of the MPS speaks specifically to land use within the rural areas of the Municipality, which also encompasses the Agricultural and Shoreland Designations:

**2.2.1 identify areas located outside of Growth Centres as rural areas on Schedule A – Municipal Structure. These areas are intended to contain primarily agricultural and resource uses and their related industries, rural commercial uses, rural industrial uses, recreational uses, renewable energy uses, and limited residential development;**

**2.2.4 limit development on lots without frontage on public roads, except within the Shoreland Designation;**

**2.2.6 implement setbacks, coverage, and buffering controls to ensure that large tracts of undeveloped rural land are maintained.**

The policies currently enacted in the Municipal Planning Strategy intend to minimize residential development within the rural land use designations and encourage residential development to occur in Growth Centres and other zones more appropriate for residential development. Further, the current policies prevent the construction of additional public and private roads within rural designations (except for within the Shoreland Designation), as new and additional roads contribute to the overall cost of infrastructure maintenance and municipal services.

Staff are aware of other, similar examples of dwellings and recreational cabins located on properties within the Resource and Agricultural designations that lack road frontage. At this time, the only recourse to gain compliance with the Land Use By-law is for the dwelling on the subject property to be decommissioned or converted to a building to be used as part of a forestry use, which is permitted under the LUB without road frontage. Inhabitation of a forestry building is not permitted.

Staff are requesting authorization to investigate a minor amendment to the MPS that would permit limited residential development to be located on properties that lack public road frontage within rural designations that do not permit development on private roads. This would include zones enabled within the Agricultural and Resource Designations, with the exception of the Agricultural (A1) Zone.

Policy PLAN-09-001 outlines the ability to explore minor MPS amendments by stating the following:

*“Staff may bring forward minor amendments to the MPS within a report regarding a requested LUB amendment if such amendment provides for a more reasonable or effective LUB amendment. The process for amending the MPS would then be followed, with no additional charges or requirements being placed on the applicant.”*

Staff are proposing that a review of the policies and regulations of neighbouring municipalities be conducted to gain an understanding of how other areas address this matter. Staff would then prepare a report outlining the findings and alternatives to address the matter and make a recommendation to the Planning Advisory Committee, in conjunction with the application to amend the text of the LUB submitted by Ms. Conrad.

The typical process for amending the LUB as outlined in Policy PLAN-09-001 would be followed, with the exception of a requirement for the Planning Advisory Committee to hold a minimum of one Public Participation Meeting to present the amendments to the public and seek comments and feedback, prior to moving the item forward to Council.

## **FINANCIAL IMPLICATIONS**

