



# Municipality of the County of Kings

## Request for Decision

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



Figure 1 - Aerial Photo of Subject Property and Surrounding Area



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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;*



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### **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**

- No additional expenditures beyond the normal implications for processing planning applications
- Additional property tax revenue generated by a residential tax rate applied to rural properties developed in accordance with the policies of the Municipal Planning Strategy and Land Use By-law.

### **STRATEGIC PLAN ALIGNMENT**

Check Applicable	Strategic Priority	Description
	Vision Statement	
	Good Governance	
	Environmental Stewardship	
	Economic Development	



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	Strong Communities	
	Financial Sustainability	
	Supports a Strategic Project	
	Supports a Core Program Enhancement	
✓	Not Applicable	Response to property owner application

### **ALTERNATIVES**

- That staff work within the options currently available to gain compliance with the LUB up to, and including, demolition.

### **IMPLEMENTATION**

- Policy PLAN-09-001 outlines the procedure for processing a minor MPS amendment.

### **ENGAGEMENT**

- No community engagement has occurred to date however, Policy PLAN-09-001 outlines the engagement process for minor MPS amendments.
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### **APPENDICES**

- None

### **APPROVALS**

Laura Mosher, Manager, Planning and Development	April 7, 2021
Patricia Javorek, Director, Planning and Inspections	April 7, 2021
Scott Conrod, Chief Administrative Officer	April 9, 2021