



Municipality of the County of Kings

Report to the Port Williams Area Advisory Committee

Planning application to rezone 1200 Parkway Drive from General Commercial (C1) to Light Industrial Commercial (M1).

(File #21-16)

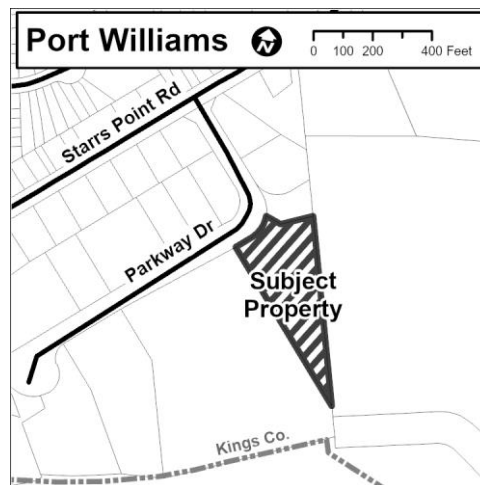
April 7th, 2022

Prepared by: Planning Services

Applicant	Tyler Fletcher
Land Owner	Lazaric Developments Inc.
Proposal	Land Use By-law Map Amendment to rezone the property at Parkway Drive (PID 55479562), Port Williams, from the General Commercial (C1) Zone to the Light Industrial Commercial (M1) Zone to enable self-storage.
Location	Lot 10AC-1B, Parkway Drive, (PID 55479562), Port Williams
Lot Area	91,722 square feet (2.1 Acres)
Designation	Commercial
Zone	General Commercial (C1) Zone , Urban Floodplain 1, Wellfield Protection Zone C, ESA Overlay (Storm Surge), Provincially Protected Marshland (Farnham Marsh)
Surrounding Uses	Agricultural or light industrial commercial uses such as manufacturing, agricultural processing, and self storage
Neighbour Notification	Staff sent notification letters to the 23 owners of properties within 500 feet of the subject property

1. Proposal

Tyler Fletcher, on behalf of Lazaric Developments Inc., has submitted an application to rezone the property at 1200 Parkway Drive (PID 55479562), Port Williams from the General Commercial (C1) Zone to the Light Industrial Commercial (M1) Zone. The purpose of the rezoning application is to enable the development of a self storage facility on the property.



2. OPTIONS

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

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

3. STAFF RECOMMENDATION

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

The Port Williams Area Advisory Committee recommends that Planning Advisory Committee recommend that Municipal Council give First Reading to and hold a Public Hearing regarding the application to rezone the property at Parkway Drive (PID 55479562), Port Williams, from the General Commercial (C1) Zone to the Light Industrial Commercial (M1) Zone as described in Appendix D of the report dated April 7th, 2022

4. BACKGROUND

The subject property is located on the easternmost corner of Parkway Drive, on the south side of the street, in the Growth Centre of Port Williams. The property is a result of a 2006 subdivision of the parent Lot 10 AC-1, which resulted in the creation of Lot 10AC-1A to the north of the subject property (civic 1206 Parkway Drive), which has an existing structure, and the property in question, Lot 10AC-1B, as vacant parcel at the time of subdivision. Prior development on the larger property, from which the current lot was created through a series of subdivisions, led to a provincial exemption from the Agricultural Marshland Conversation Act when it was enacted in 2000. This enables development to occur on a large portion of the subject property without obtaining a variance from the Provincial Department of Agriculture. However, the exemption from the need to obtain a variance does not remove the subject property from the marsh.

The subject property and neighbouring properties in the general vicinity are zoned General Commercial (C1) under the Land Use By-law. The rezoning is required because the proposed use (self-storage) is no longer a permitted use in the General Commercial (C1) Zone. The existing uses occurring on properties with frontage and access from Parkway Drive include uses permitted under the General Commercial (C1) Zone such as a distillery, landscaping, and retail businesses – as well as uses considered legal non-conforming such as self-storage, agricultural processing, and warehousing.

5. SITE INFORMATION

5.1 Site Visit

The property has a total lot area 2.1 acres and has approximately 153 feet of road frontage on Parkway Drive. There is an existing driveway from Parkway Drive onto the subject property and there is an office building located on the subject property, which is a permitted use within the General Commercial (C1) Zone as well as the Light Industrial Commercial (M1) Zone. The subject property is zoned General Commercial (C1) Zone, is within the Urban Floodplain Overlay (UF1), within the ESA Overlay category as a Storm Surge risk and within Wellfield Protection Overlay C. As the proposed use of self-storage is not

permitted within the General Commercial (C1) zone, yet similar compatible uses exist nearby, this application is being considered through enabling Municipal Planning Strategy policy 3.2.10 which requires council to Consider proposals to rezone lands from any zone within the Commercial Designation to the Light Industrial Commercial (M1) Zone.

This land falls within the Farnham marsh, a marsh protected by the Agricultural Marshland Conservation Act (2000). The applicant has provided proof from the Department of Agriculture that the majority of subject property is within an area exempted and does not require a variance for development. Confirmation of such an exemption from Department of Agriculture was recorded on August 30, 2021, as part of the approved development and building permit application for the office building on the subject property. Further discussion in March 2022 with the Department of Agriculture confirmed that the exemption applies to a significant portion of the subject property; while a variance would be required for a small portion of the property located at the southwestern corner should the owner wish to develop this portion in the future. The property is still considered part of the marshland and the Department of Agriculture noted it has been identified as susceptible to potential flooding.

A Planner conducted a site visit on August 4th, 2021. The planner walked the subject property and took photos. A subsequent site visit was conducted on November 24th, 2021.

5.2 Public Information Meeting & Public Feedback

Under the Planning Policies of the Municipality of the County of Kings (PLAN-09-001), a Public Information Meeting is required for applications for Land Use Bylaw Map Amendments for properties with a total lot area in excess of 1 acre. A letter was sent to 23 property owners within a 500 foot radius of the subject property seeking comments and feedback on the proposed Land Use By-law Map amendment. Due to the State of Emergency declared by the Province of Nova Scotia as part of the COVID-19 pandemic, a remote Public Information Meeting was held for 30 days remotely commencing on August 26th, 2021. Staff recorded and posted a public information meeting with the area Councillor, applicant, and staff planner and posted the video to the Municipal website for a period of 30 days. The recording presented the application and enabling policies and invited members of the public to ask questions of the planner or to provide comments to the planner via telephone and email. The public had a total of 30 days to comment on the video.

One member of the public offered comment, which is included in Appendix B.

5.3 Request for Comments

Staff requested comments from both internal and external departments on the application, where necessary. The Village of Port Williams has no concerns regarding sewer or water servicing. The Department of Public Works has confirmed the existing access to the subject property is appropriate and has issued an access permit for the subject property. Building and Enforcement commented that as with any new construction, it would be required to meet the minimum applicable building code. The Port Williams Fire Chief confirmed that fire services and equipment are adequate for the proposed development.

6. POLICY REVIEW

6.1 Enabling Municipal Planning Strategy Policies

This application concerns amending the Land Use By-law to permit the rezoning of land from the current General commercial (C1) Zone to the Light Industrial Commercial (M1) Zone. The policies contained within the Municipal Planning Strategy (Municipal By-law #105) enable Council to consider this application.

Policy 3.2.3: *Permit within the Commercial Designation:*

(c) Light Industrial Commercial (M1) Zone

Land designated Commercial (C) within Growth Centres are permitted to include properties zoned Light Industrial Commercial (M1).

Policy 3.2.10 *“Consider proposals to rezone lands from any zone within the Commercial Designation to the Light Industrial Commercial (M1) Zone. In evaluating such proposals, Council shall be satisfied that the proposal:*

a) minimizes land use conflicts with adjacent or nearby commercial, mixed use or residential areas;

The subject property is located in an area that is exclusively used for commercial purposes that are similar and congruent with the uses proposed and permitted within the Light Industrial Commercial (C1) Zone.

b) maintains the existing or planned mixed use or pedestrian-oriented character of the area; and

The proposed uses would be maintain the existing, predominantly commercial character of Parkway Drive.

c) meets the general Land Use By-law amendment criteria set out in section 5.3 Development Agreements and Amendments to the Land Use By-law”.

This is discussed in greater detail in Appendix C of this report.

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

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

The Light Industrial Commercial (M1) Zone is permitted within lands designated Commercial (C).

Policy 5.3.5: *“States that Council shall 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;

This is addressed above in the evaluation of Policy 3.2.10 of the Municipal Planning Strategy.

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

The specific use enabled by the proposed zoning change, self-storage, is congruent with the neighbouring land uses. There are other self-storage facilities operating in close proximity to the subject property, as well as other commercial and light industrial business in operation. Many other uses permitted in the Light Industrial Commercial (M1) Zone would also be harmonious with the surrounding land uses.

(c) the general criteria for amending the Land Use By-law set out in section 5.3 Development Agreements and Amending the Land Use By-law”

This is discussed in greater detail in Appendix C of this report.

6.2 Related MPS policies (Flood Risk and Wellfields)

The subject property, and those in the surrounding vicinity, are located in the Environmentally Sensitive Area (ESA), which has been applied to properties that are not located within the Environmental Open Space (O1) Zone but have been identified as flood risk areas by 2012 AGRG mapping. This includes areas with steep slopes, around or near watercourses, or those that could be susceptible to erosion and flooding.

Policy 2.4.6 “within the Environmentally Sensitive Area (ESA) overlay:

- (a) require new structures to incorporate flood resistant building techniques;*
- (b) require engineered design, to the satisfaction of the Municipal Engineer, for development that requires land level alteration; and*
- (c) require uses permitted in the underlying zone to meet the Environmentally Sensitive Area Overlay in the Land Use By-law;*

New structures permitted as a result of the proposed rezoning would be required to incorporate flood resistant building techniques at the time of permitted and any development requiring land level alteration would be subject to approval by the Municipal Engineer at the time of permitting.

Within Port Williams Urban Floodplain Overlay (UF1) Property owners are required to provide written acknowledgement indicating that the subject property is located within an area identified as being vulnerable to the predicted worst case storm surge and level rise scenario prior to development occurring. Property owners are responsible for all risks associated with development, including the effectiveness of flood resistant measures, and the impacts of development on neighbouring properties.

The subject property is located within Wellfield Protection Overlay C. The proposed use for the subject property (self-storage), provided it is rezoned, is not listed as a prohibited within Wellfield Protection Overlay C.

6.3 Port Williams Secondary Plan

The Village of Port Williams adopted a Secondary Plan in 2010 as a means of guiding growth and development, while respecting the distinctive character of the community. The Secondary Plan notes the following with regard to commercial development, pertaining to the application at hand:

...The Growth Centre of Port Williams should maintain and expand its role as a commercial centre for the area, with new commercial developments directed to the commercial core and adjacent waterfront lands. A variety of commercial uses should be welcomed, including residential and light industrial mixed-used proposals.

Goal

To expand the Growth Centre's role as a commercial destination serving the immediate community, surrounding area and travelling public.

Objectives

....To allow for commercial, residential and light industrial mixed-use development proposals within the commercial core...

The Growth Centre, and waterfront area, of Port Williams is intended for expanded commercial uses, including light industrial commercial uses. This contributes to the Goal and Objectives of the Port Williams Secondary Plan. The zone placement policies for the Light Industrial Commercial (M1) Zone indicate that these zones are ideal for the development of less intense commercial uses requiring large areas of land. This is consistent with the neighbouring uses. The general amendment criteria are reviewed in greater detail in Appendix C of this report.

The Port Williams Secondary Plan is located adjacent to the Cornwallis River, a tidal river with water levels that rise and fall in conjunction with the tides in the wider Minas Basin and Bay of Fundy. Both the north and south banks of the Cornwallis River are bound by dyke walls developed by Acadian and New England Planter settlers. They offer protection to inland areas but extreme weather events have occurred that have seen the dykes breached.

MPS 4.5.7 states Council Shall:

Require the following in addition to the requirements of the underlying urban zoning in the Urban Floodplain (UF1) Overlay:

- (a) new buildings and additions shall use flood resistant construction methods to a height of 28.2 feet above mean sea-level, the approximate height of nearby dyke walls; and*
- (b) flood resistant construction requirements contained in (a) above may be reduced or waived for additions to existing buildings, as well as small accessory structures;*

In accordance with this policy, the intended development and use shall require flood resistant building techniques to a height of 28.2 feet above mean sea-level, engineered design any required land level alteration, and only allow for permitted within the Environmentally Sensitive Area Overlay in the Land Use By-law. The proposed self-storage use is permitted within the noted Overlay.

6.2 General Amendment Criteria

Municipal Planning Strategy section 5.3.7 contains the general criteria used to consider all proposals to amend the Land Use By-Law. These criteria consider the impact of the proposal on the road network, services, development pattern, environment, finances, and wellfields, and environmental impacts. No comments or concerns have been noted, the proposed use is not listed as a prohibited use in the identified wellfield, and additional engineering reports shall be required from the applicant as part of building permit application. It is Staff's opinion that the proposal meets the criteria for rezoning to Light Industrial Commercial (M1) development, as the proposed service meets the goals and objectives of the Municipal Planning Strategy.

7. CONCLUSION

The application meets the policy requirements for the proposed land use by-law map amendment to rezone the subject property from the current General Commercial (C1) Zone to the Light Industrial Commercial (M1) Zone. 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. APPENDICIES

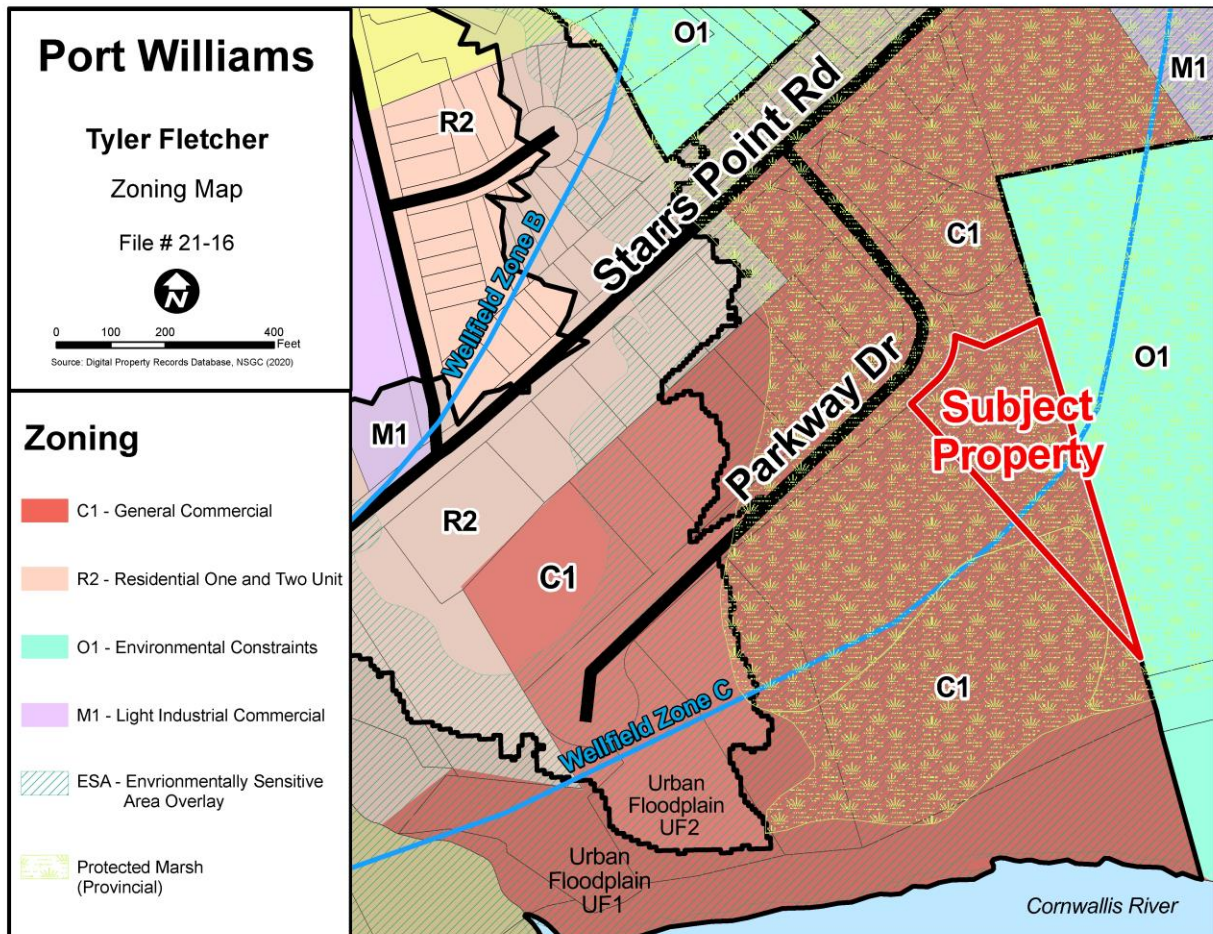
Appendix A: Zoning Map

Appendix B: Public Comment

Appendix C: By-law 105 - Municipal Planning Strategy, Policy 5.3.7 General Criteria to Consider for all Development Agreements and Land Use By-law Amendments

Appendix D: Proposed Land Use Bylaw Map Amendment (Bylaw #106)

Appendix A: Zoning Map



APPENDIX B: Public Comment

Jeremy Banks

From: Tom Cosman <tomcosman@novascotiahoney.com>
Sent: Friday, September 3, 2021 2:02 PM
To: Jeremy Banks
Cc: Tom Cosman
Subject: File 21-16

Jeremy Banks, Planning officer
Municipality of the County of Kings

Re Planning Application at lot 10AC-1B, Port Williams, File 21-16

I am the president / owner of Cosman and Whidden Honey Limited which owns the property at 1206 Parkway Drive, Port Williams. Our facility there is used for packaging the honey production of our farm. Our property is the immediate neighbour of the lot in this Planning Application.

I would like to express a concern about potential flooding or serious drainage problems. In this area the water table is very near the surface. Additionally the area is below sea level and protected from seawater incursion by a dyke system.

Our building was constructed prior to more recent standards that require buildings to be constructed with potential flooding in mind. Even minor flooding could be catastrophic to our farming operation.

I am in no way opposed to the proposal to rezone and permit building on the property as the applicant has requested. I do request the construction and land contouring be done in a careful manner that does not direct ground water or flood water to adjacent properties. My hope would be that drainage in the area may actually be improved by this construction.

Sincerely,

Tom Cosman

APPENDIX C: By-law 105 - 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 proposed land use by-law map amendment is consistent with the intent of the MPS, and the applicable goals, objectives and policies contained within.
<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 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>	Not applicable.
<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 Department of Public Works has issued an access permit for the proposed use.
<i>v. the adequacy of fire protection services and equipment;</i>	The Port Williams Fire Chief confirmed adequate fire protection services and equipment for the proposed use.
<i>vi. the adequacy of sewer and water services;</i>	Port Williams has confirmed that central sewer services are available to service the subject property. The applicant has indicated that there is no intention to connect the self-storage units to sewer and water services.
<i>vii. the potential for creating flooding or serious drainage problems either within the area of development or nearby areas;</i>	The proposed use is not anticipated to create additional concerns pertaining to flooding beyond what is currently identified given the location of the subject property and surrounding properties, within the ESA and UF1. MPS policy 2.4.6 requires

	new structures, to incorporate flood resistant building techniques and requires engineered design for any development that incorporated land level alteration. The designs must meet the satisfaction of the Municipal Engineer.
<i>viii. negative impacts on identified wellfields or other groundwater supplies for the area;</i>	The proposal is not expected to have any negative impacts on groundwater supplies. The proposed use is not prohibited in Wellfield Overlay C. Other uses of the property permitted within Light Industrial (M1) Zone will only be permitted subject to wellfield protection regulations.
<i>ix. pollution, in the area, including but not limited to, soil erosion and siltation of watercourses; or</i>	The proposal is not anticipated to have any negative impacts related to pollution, erosion or siltation.
<i>x. negative impacts on lake water quality or nearby wetlands;</i>	The subject property is not in proximity to any lakes and the Department of Agriculture has confirmed that the majority of the property is exempt from Marshland protection and does not require a variance. There is a small portion of the property, located at the Southern corner that is not exempt and would require a variance for future development.
<i>xi. negative impacts on neighbouring farm operations;</i>	The proposal is not anticipated to change existing conditions.
<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 should be suitable in terms of grades, soils, geological conditions, and proximity to natural features and rights-of-way. Given the location of the subject property within Urban Floodplain Overlay 1 (UF1) the developer is required to provide written acknowledgement that the development is located in an area identified as being vulnerable to storm surge and sea level rise.

Appendix D: 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 Parkway Drive (PID 55479562), Port Williams, from the General Commercial (C1) Zone to the Light Industrial Commercial (M1) Zone.

BY-LAW 106 Land Use By-law

1. Amend Map 11, *Growth Centre Port Williams Land Use By-law* for the Municipality of the County of Kings, by rezoning the property at Parkway Drive (PID 55479562), Port Williams, from the General Commercial (C1) Zone to the Light Industrial Commercial (M1) Zone as shown on the inset copy of a portion of Map 11, below

