



## AGENDA

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### Planning Advisory Committee Meeting

Wednesday, November 3, 2021 at 6:00 p.m.

In Person and Via Zoom Webinar

(Agenda is subject to change due to additions and/or amendments)

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1. Call to Order – Councillor Sanford, Chair
2. Acknowledgement of Mi'kma'ki the ancestral and unceded territory of the Mi'kmaq People – Chair
3. Agenda – motion to approve

**Motion:** moved and seconded to approve the agenda.

4. Planning Advisory Committee June 2, 2021 Meeting Minutes

**Motion:** moved and seconded that the minutes of the June 2, 2021 meeting of the Planning Advisory Committee meeting be approved, as presented.

4. Business Arising from the Minutes/Unfinished Business (Nil)
5. New Business
  - a. Review of Town of Lunenburg Procedural Policies:
    - #98 Committees of Council, section 33. Planning Advisory Committee; and
    - #65 Public Participation Program.
  - b. Lunenburg Arms, Richburg LP Management Inc., 94 Pelham Street, Application to Amend Maximum Lot Size Requirements in Lot Zone 1

**Motion:** moved and seconded that PAC direct staff to set a Public Participation Meeting date in order to consider, and if deemed advisable, amend the MPS by inserting the following after “Policy 3-2”:

“3.2.4 Lot Zone 1 Maximum Lot Size Waiver by Development Agreement

Though it is the intent to maintain the historical spatial environment by regulating the maximum lot size in Lot Zone 1, there may be times that Council may wish to enable lots to exceed the maximum lot size for the wellbeing of businesses and/or community. Council shall consider such circumstances through the Development Agreement process.

**Policy 3-2A:** Council shall consider by development agreement proposals the approval of lots that exceed the maximum lot area and/or maximum lot frontage permitted in Lot Zone 1. Council shall only enter into development agreements for such proposals if:

(a) there is a clear need for the proposed lot exceeding the maximum lot area and/or maximum lot frontage and a clear benefit to the Town and residents of Lunenburg in having the development locate within Lot Zone 1; and

(b) the proposal is consistent with the general evaluation criteria for development agreements, as set out in Policy 6-19.”

c. Development Agreement Application by Lunenburg Arms Hotel, Richburg LP Management Inc., 94 Pelham Street to Approve Lot Consolidation in Excess of the Maximum Lot Size Requirements in Lot Zone 1

1) Motion: moved and seconded that PAC direct staff to set a Public Participation Meeting date in order to consider, and if deemed advisable, enter into a Development Agreement to enable the lot consolidation of the lands of the Lunenburg Arms Hotel (Richburg LP Management Inc.) located at 94 Pelham Street (PID 60061801) and 102 Pelham (PID 60061793) (Attachment C).

2) Motion: moved and seconded that PAC direct staff to set a Public Participation Meeting date in order to consider, and if deemed advisable, enter into a Development Agreement to enable the lot consolidation of lands known as PID 60061199 and PID 60061181 (Attachment D).

6. Next Meeting Dates

- As required.

7. Adjournment – Chair and draft motion

Motion: moved and seconded to adjourn the meeting.

**PLANNING ADVISORY COMMITTEE MEETING RECOMMENDATIONS**

**WEDNESDAY, JUNE 2, 2021**

To recommend that Council give First Reading and set a Public Hearing date for the draft Municipal Planning Strategy, Land Use By-law, and Subdivision By-law with specifications, dated 2 June 2021, with minor non-substantive changes (Schedule B, Municipal Planning Strategy Draft, Land Use Bylaw Draft, Subdivision Bylaw Draft, Specifications for Subdivision Draft, June 2, 2021).

**PLANNING ADVISORY COMMITTEE MEETING MINUTES**

**WEDNESDAY, JUNE 2, 2021 AT 6:00 P.M.**

**VIA ZOOM**

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**PRESENT:** Councillor Susan Sanford, Chair  
Councillor Stephen Ernst  
Councillor Ed Halverson  
Peter Goforth, Citizen Appointment  
Derek Kinsmen, Citizen Appointment  
Mayor Matt Risser, ex officio  
Gerry Rolfsen, Citizen Appointment

**ALSO PRESENT:** Steffen Käubler, Principal, Upland Planning and Design (Planning Consultant)  
Heather McCallum, Assistant Municipal Clerk  
Bea Renton, CAO  
Dawn Sutherland, Planning and Development Manager  
Ian Watson, Senior Planner, Upland Planning and Design (Planning Consultant)

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1. Call to Order

The Chair called the meeting to order at 6:06 p.m.

2. Acknowledgement of Mi'kma'ki the ancestral and unceded territory of the Mi'kmaq People

The Chair recognized Lunenburg's location on the unceded territory of the Mi'kmaq People.

3. Agenda

Motion: moved and seconded to approve the agenda. Motion carried.

4. Approval of minutes

a. Planning Advisory Committee May 19, 2021 meeting minutes

Motion: moved and seconded that the minutes of the May 19, 2021 meeting of the Planning Advisory Committee meeting be approved. Motion carried.

b. Planning Advisory Committee May 26, 2021 meeting minutes

Motion: moved and seconded that the minutes of the May 26, 2021 meeting of the Planning Advisory Committee meeting be approved. Motion carried.

5. Business Arising from the Minutes/Unfinished Business
6. Public Information Meeting – Second Session
  - a. New Draft Planning Documents (Municipal Planning Strategy, Land Use Bylaw, Subdivision By-law with Specifications – Upland Planning and Design Consultants Presentation and Public Submissions)

The Planning and Development Manager provided an overview of the public consultation, including these public information sessions ([Schedule A](#), Public Information Meeting Process Outline) and introduced the Town's Planning Consultants from Upland Planning and Design. The consultants next provided a summary of the key elements of the updated planning documents dated June 2, 2021, which they had drafted based on community consultation to date. The June 2<sup>nd</sup> drafts of the documents are attached as [Schedule B](#), Municipal Planning Strategy Draft, Land Use Bylaw Draft, Subdivision Bylaw Draft, Specifications for Subdivision Draft, June 2, 2021.

The Chair called for public submissions in relation to the proposed planning documents. There were no additional written submissions. There were on line Zoom chat questions ([Schedule C](#), Public Zoom Questions) from members of the public, to which the Planning Consultants responded referencing the relevant sections of the revised planning documents.

[Motion](#): moved and seconded to close the public information portion of the meeting. [Motion carried](#).

The Planning Consultants presented the draft documents and recapped the amendments they made since the May 26<sup>th</sup> Committee meeting in response to public comments and minor typographical and clarifications ([Schedule D](#), Presentation with updates to June 2, 2021).

[Motion](#): moved and seconded that the Planning Advisory Committee recommend that Council give First Reading and set a Public Hearing date for the draft Municipal Planning Strategy, Land Use By-law, and Subdivision By-law with specifications, dated 2 June 2021, with minor non-substantive changes ([Schedule B](#)). [Motion carried](#).

4. Next Meeting Dates
  - As required – TBA.
5. Adjournment

[Motion](#): moved and seconded to adjourn the meeting. [Motion carried](#).

The Chair adjourned the meeting at 7:27 p.m.

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Bea Renton, CAO

## PLANNING ADVISORY COMMITTEE

### Planning Advisory Committee (Committees of Council Policy excerpt)

31. The responsibilities of the Planning Advisory Committee are to:
  - a. carry out the Planning Advisory Committee duties set out in the NS Municipal Government Act;
  - b. advise Council respecting the preparation and amendment of planning documents and general planning matters; and
  - c. conduct a review of and proposed amendments to the Town's Municipal Planning Strategy, Land Use By-law and Subdivision
  - d. By-law and other relevant planning matters.
32. The Planning Advisory Committee is comprised of at least four residents appointed for two year terms and three Council members as determined by Council.

**#65. TOWN OF LUNENBURG PROCEDURAL POLICY**

**PUBLIC PARTICIPATION PROGRAM**

Council hereby adopts the following Public Participation Program pursuant to Section 204 of the Municipal Government Act (SNS 1988 Chapter 18) to identify opportunities and establish ways and means of seeking the opinions of the public concerning the review, adoption and amendment of Municipal Planning Strategies, Land Use By-laws, Subdivision By-laws and Development Agreements:

1. A notice advising of each Planning Advisory Committee Meeting shall be posted at the Town Hall prior to the meeting and through such other means as determined from time to time, e.g., Town website, social media, newspaper, etc.
2. Under the authority of section 221 of the Municipal Government Act, the Land Use By-law shall specify the class or classes of By-law amendments, development agreements or development agreement amendments that require notification of affected property owners and posting of a notification sign on the affected property.
3. Before holding any public hearing under the authority of Section 206 of the MGA, Council shall ensure that the Planning Advisory Committee or qualified staff members conduct one or more public information meetings which are advertised in a local newspaper at least four days in advance, and by a notice posted at the Town Hall. The Planner shall notify by mail affected property owners whose property lies within 30 metres (98 ft.) of a property which is the subject of a proposed amendment, development agreement or any amendment to a development agreement of the scheduled public information meeting.
4. Council may conduct opinion surveys, request written briefs or submissions, hold public meetings, or use any other appropriate means of seeking the views and opinions of residents and ratepayers.
5. Council shall make every reasonable effort to seek the opinions of the public on all matters relevant to planning, and shall reserve time for commentary, questions or presentations by the public on planning matters in all Planning Advisory Committee meetings and Council meetings.
6. Council shall provide public access to all reports, studies, maps, air photographs and other materials that are relevant to planning, and where it is feasible, provide copies of such material for distribution, purchase or loan.

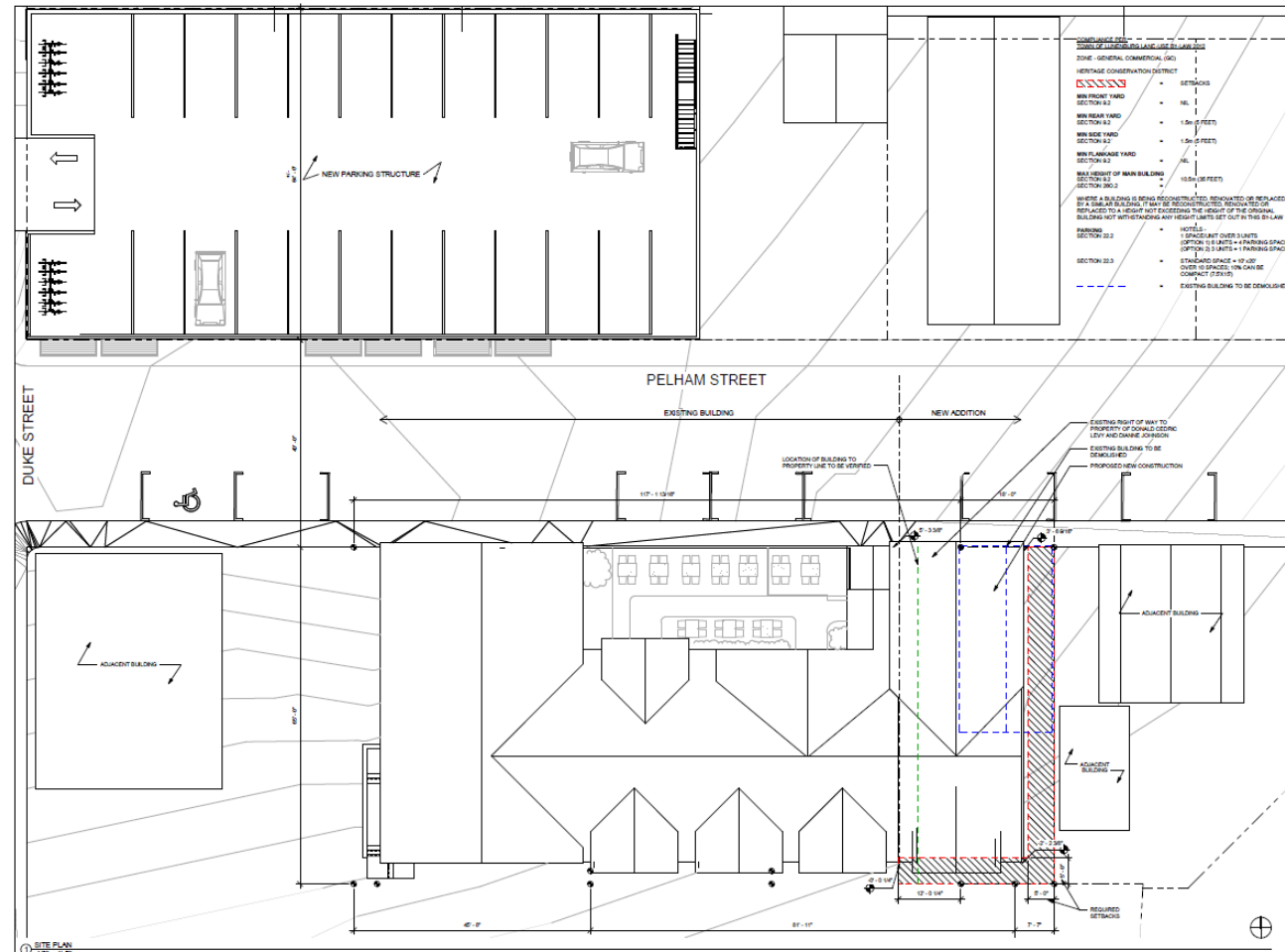
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# LUNENBURG ARMS PROPOSAL

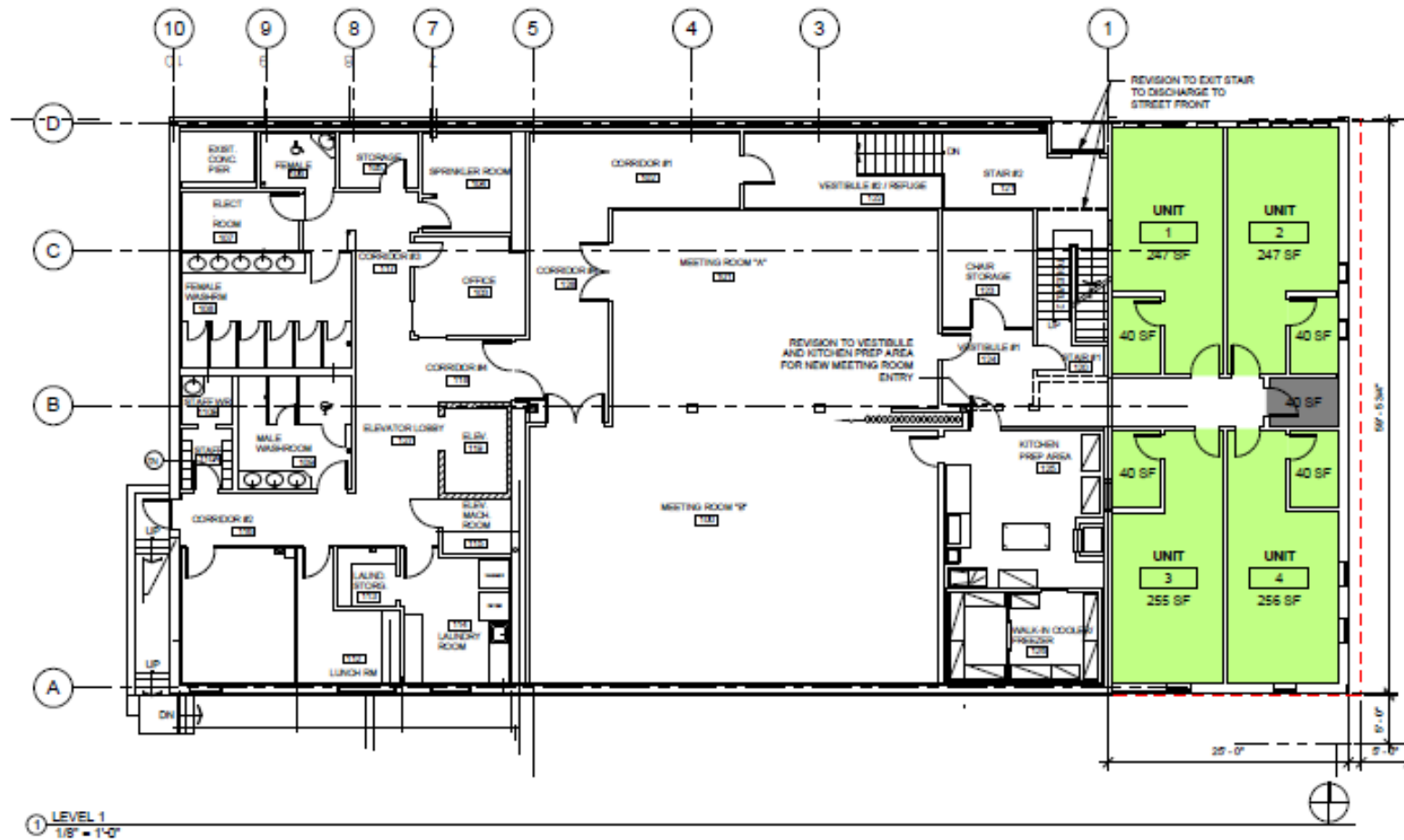
PLANNING ADVISORY COMMITTEE – NOVEMBER 3, 2021



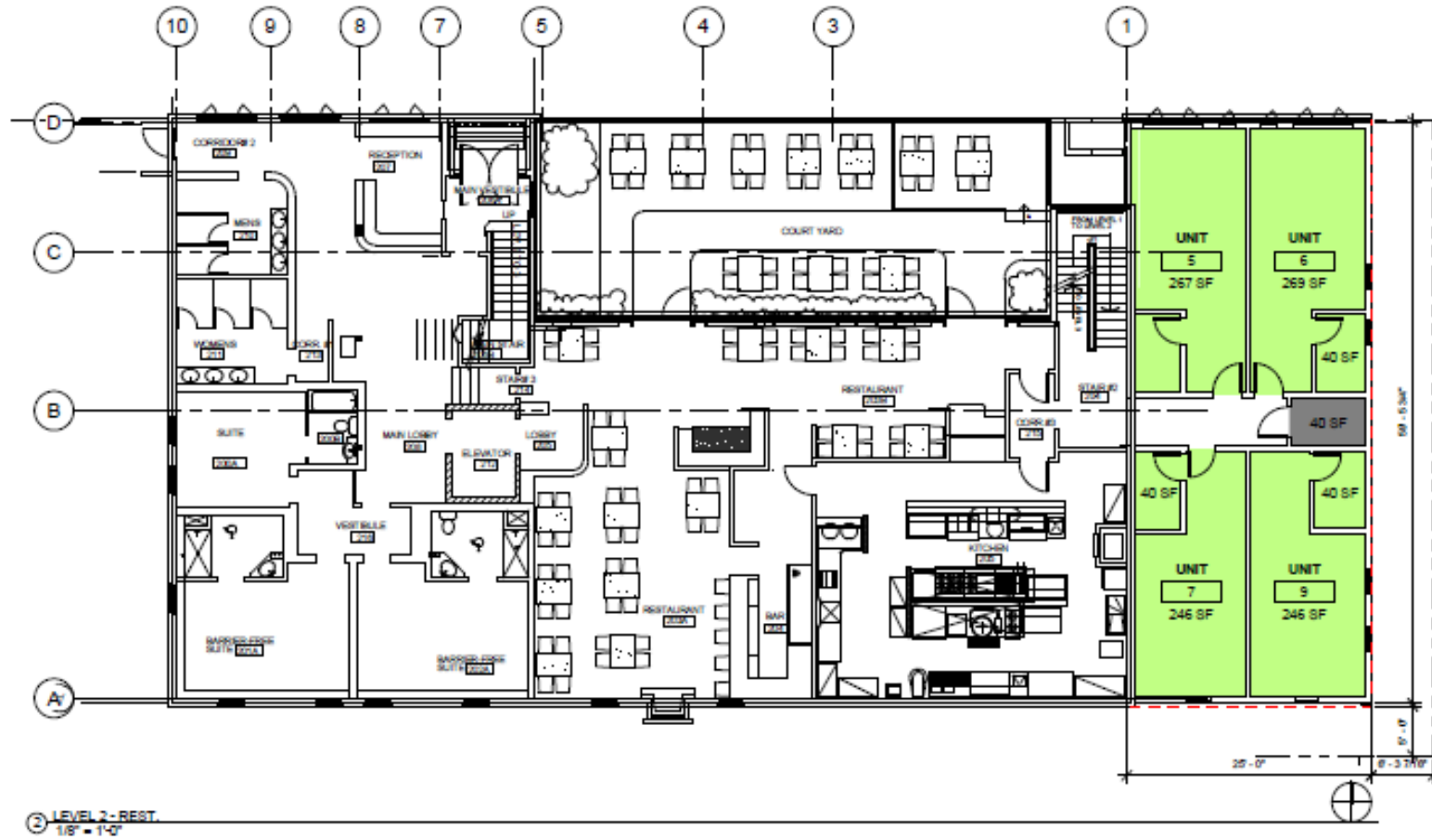
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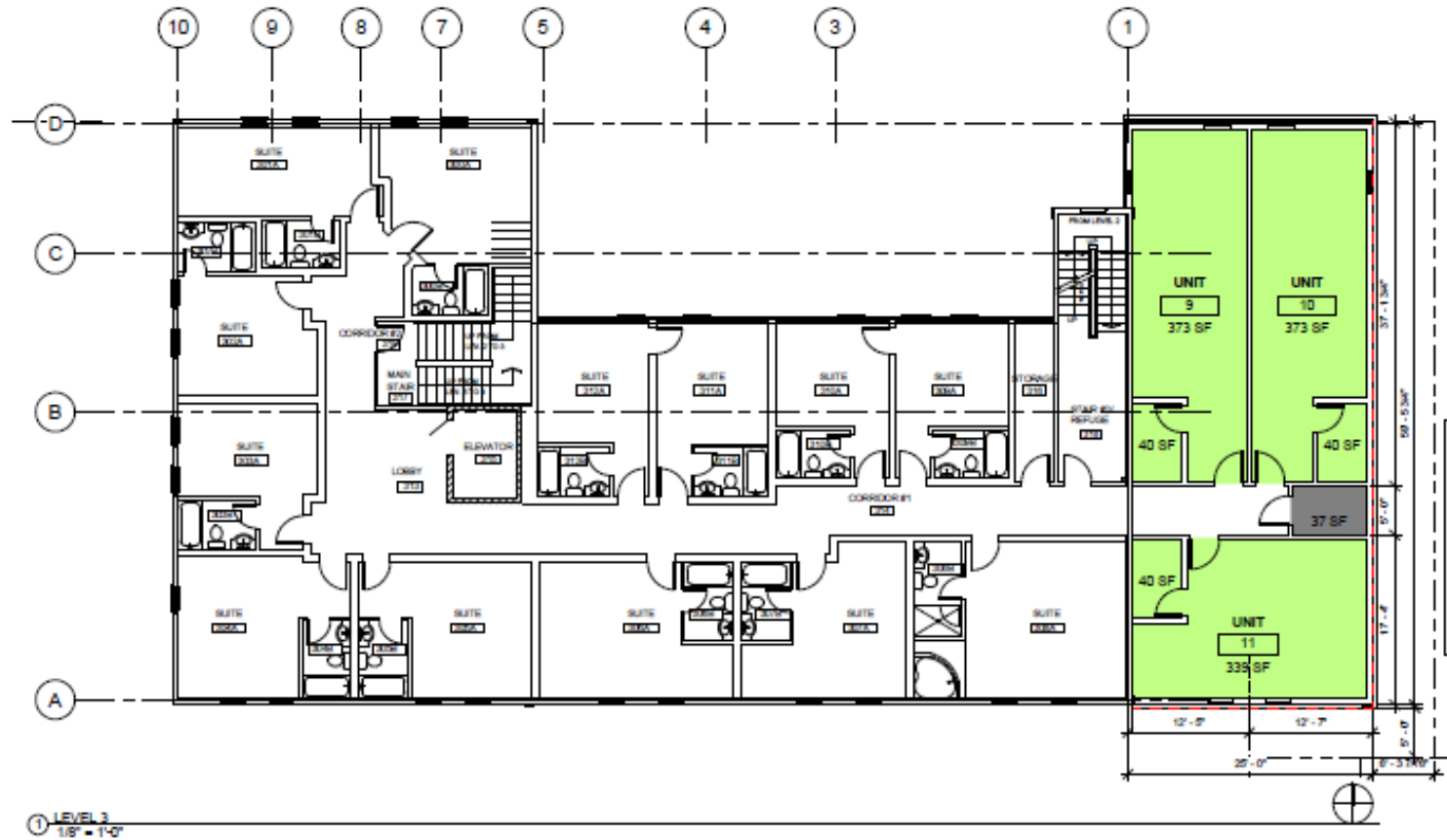
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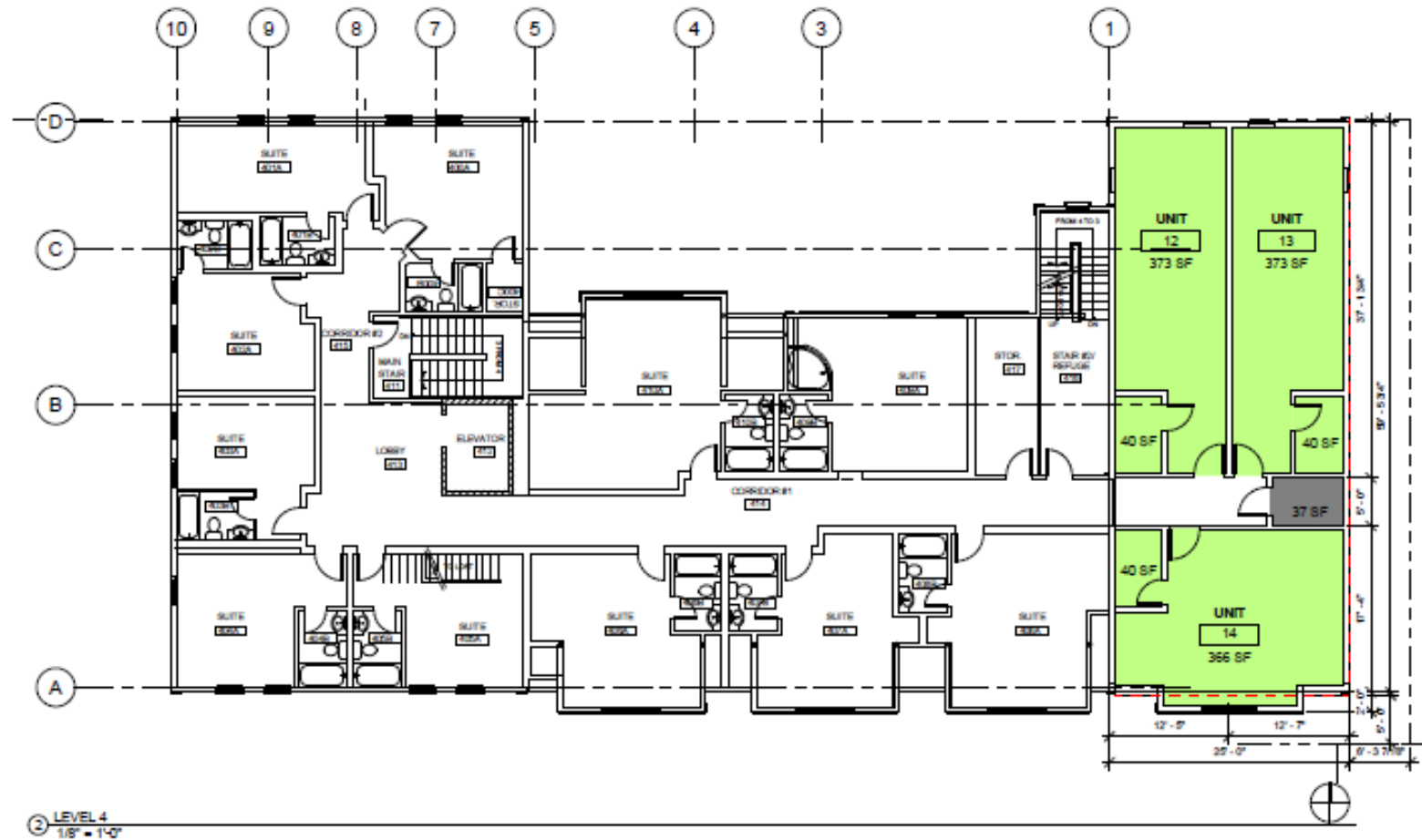
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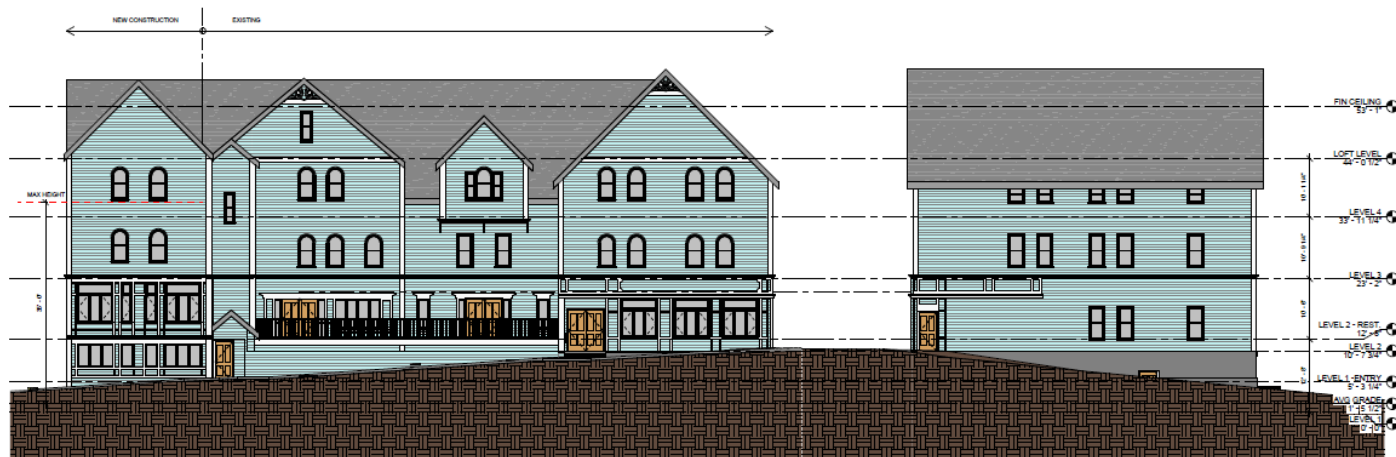
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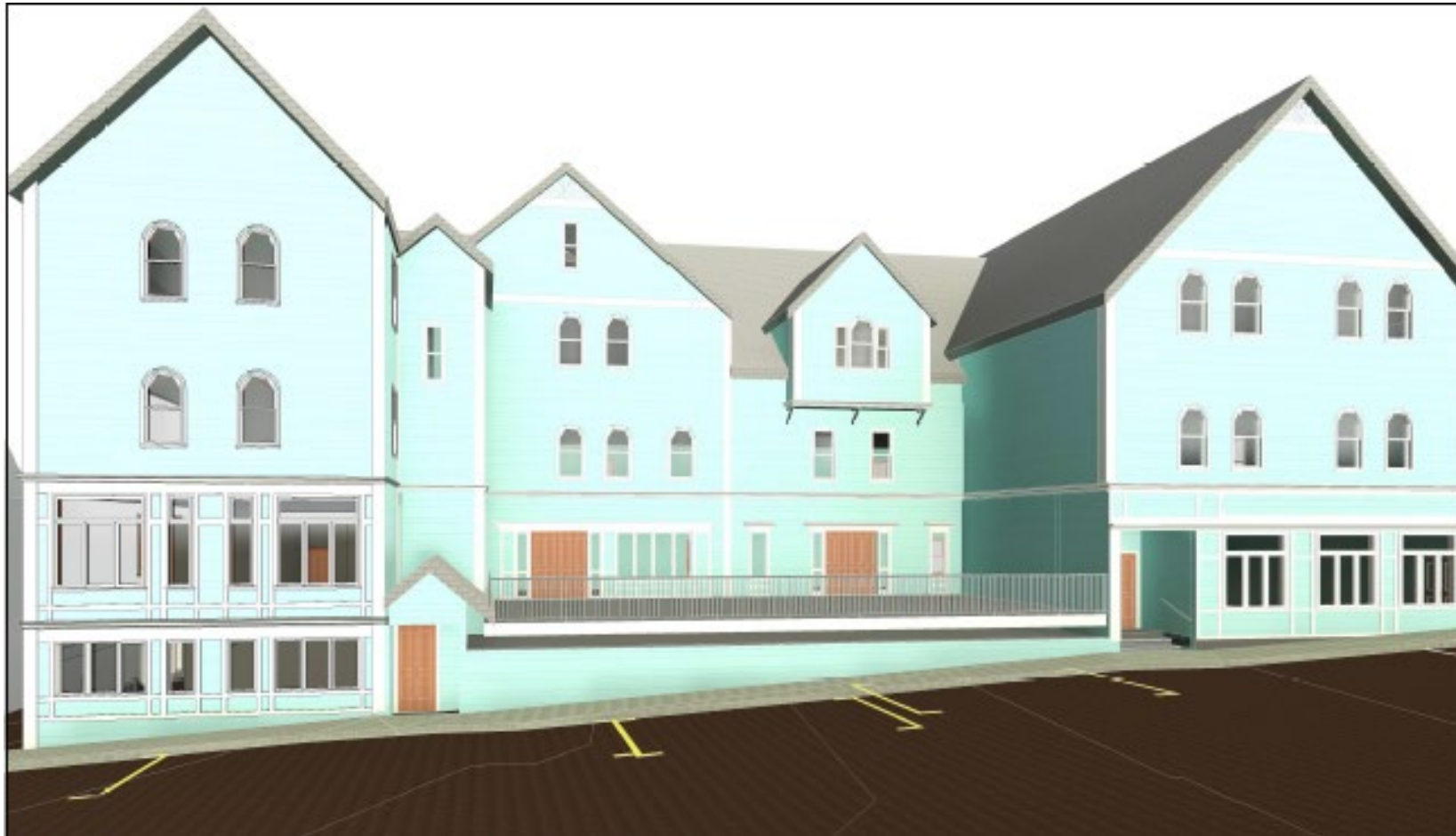
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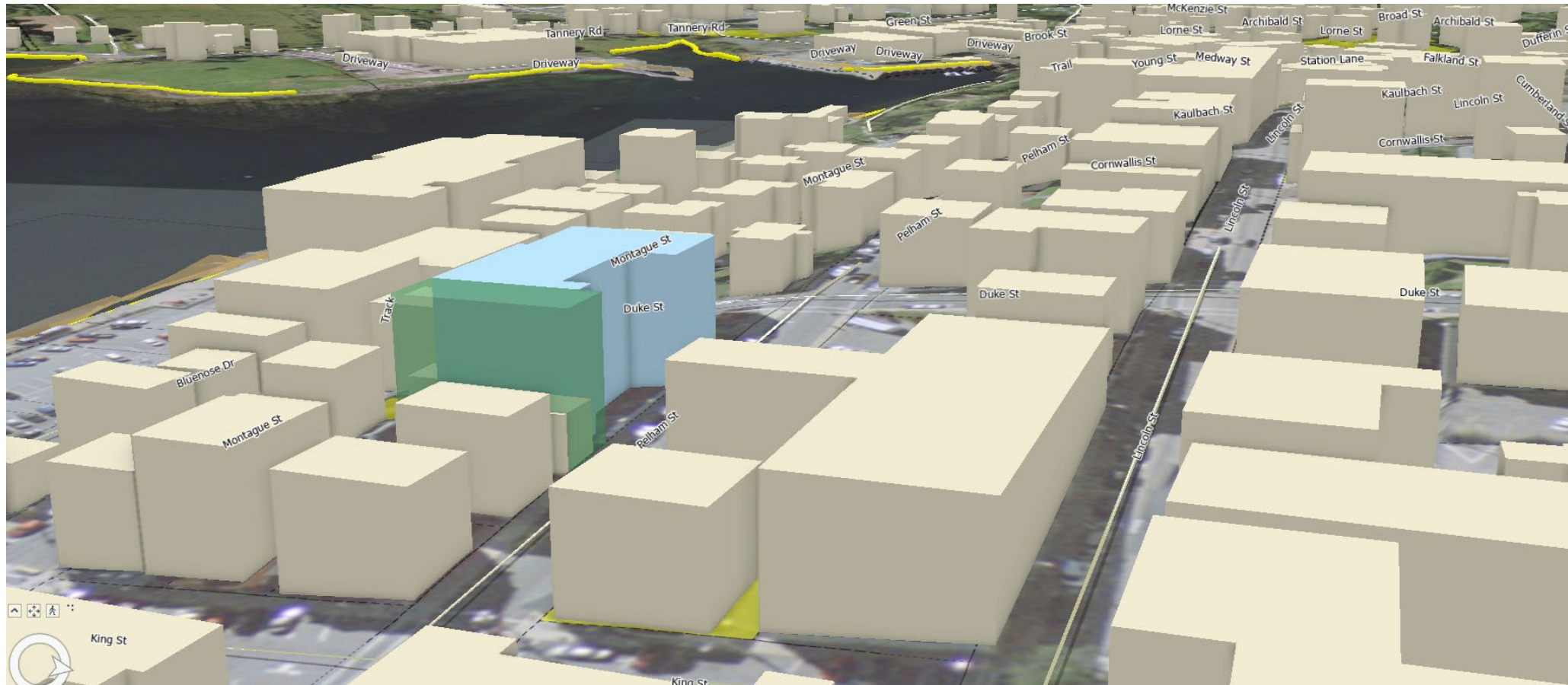
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Document No: 5(a)

Meeting: PAC – November 3, 2021

Circulate To: PAC, Council, BR,

File:

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## M E M O R A N D U M

**TO: TOWN COUNCIL/PLANNING ADVISORY COMMITTEE**

**FROM: ARTHUR MACDONALD**

**DATE: OCTOBER 20, 2021**

**RE: LUNENBURG ARMS APPLICATION TO AMEND MAXIMUM LOT SIZE REQUIREMENTS IN LOT ZONE 1**

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### 1. FACTS

#### A. Background

The owners of the Lunenburg Arms Hotel (Richburg LP Management Inc.) located at 94 Pelham Street would like to consolidate 94 Pelham Street with 102 Pelham Street to enable a 14-suite expansion to the hotel. They would also like to consolidate the lands across the street (surface parking area at the corner of Pelham and Duke Streets) known as PID 60061199 and PID 60061181 to facilitate additional hotel suites and an accessory parking structure. They have made application to amend the maximum lot size as described for Lot Zone 1 in accordance with the Town's Land Use By-law.

The new planning documents under Project Lunenburg became effective on September 22, 2021. The Municipal Planning Strategy (MPS) and Land Use By-law (LUB) created new Lot Zones to govern lot zone standards for subdivision proposes. The relevant Policy and By-law provisions are attached in **Attachment A**.

The subject properties are in Lot Zone 1 which limits the maximum lot area to 465 m<sup>2</sup> (5,005 square feet) and the maximum lot frontage to 40 m (131 feet). The proposed lot consolidation of 94 and 102 Pelham Street will create a new lot with 823.5 m<sup>2</sup> (8864 square feet) and a frontage of 41.57 m (136.38 feet). The consolidation of PID 60061199 and PID 60061181 will create a new lot with 662.2 m<sup>2</sup> (7,127 square feet) and a frontage of 35.6 m (116.79 feet). The Lot Zoning Map is attached in **Attachment B**.

Note there is a separate application under the Heritage Conservation District (HCD) Plan and By-law to facilitate the demolition of 102 Pelham Street to make room for the hotel's expansion plans. There is also a separate application under the HCD Plan and By-law to consider the design of the new commercial building with an accessory

parking structure on the proposed consolidated lot (PID 60061199 and PID 60061181).

The planning application may necessitate a two-part process. First, the MPS amendment (development agreement) or alternatively, the LUB amendment (increasing the maximum lot sizes pursuant to Part 5.2.1 of the LUB), is required to be undertaken and become effective. If Council agrees with the recommendation to amend the MPS to enable an increase in the maximum lot size by development agreement, then a second step is required to approve the development agreement. Staff has attempted to lay out the process in **Attachment G**.

**B. Proposal**

The request is to enable subdivision approval for the proposed lot consolidations. This would require a mechanism where the maximum lot area and lot frontage requirements of the Lot Zone 1 are amended to enable the creation of lots that have 823.5 m<sup>2</sup> (8864 square feet) and a frontage of 41.57 m (136.38 feet). This may be done by increasing the maximum lot area and maximum lot frontage pursuant to Part 5.2.1 of the Land Use By-law (LUB) (an LUB amendment) or by enabling by Policy through the Municipal Planning Strategy (MPS) Council’s consideration through the development agreement process (an MPS amendment).

Lot Zone 1:	Maximum Lot Area	Maximum Lot Frontage
Part 5.2.1 of LUB	465 m <sup>2</sup> (5,005 square feet)	40 m (131 feet)
Request	823.5 m <sup>2</sup> (8864 square feet)	41.57 m (136.38 feet)

**2. ISSUES AND OPTIONS**

The development of maximum lot areas and maximum lot frontages is a relatively new planning tool that was not available to municipalities back when the Heritage Conservation District was created and when the last planning review was undertaken. Due to the Outstanding Universal Values (OUV’s) of the UNESCO World Heritage Site (WHS), the new MPS and LUB recognized the importance of preserving the traditional lot form and grid pattern of the Charles Morris 1753 Model Town Plan of Lunenburg. The Town was laid out in lots 40 feet wide and 60 feet deep which created a tight knit urban form and layout. Large lot consolidations began to erode this traditional form of development. To preserve or otherwise minimize the effect of large lot consolidations, the new MPS and LUB inserted maximum lot area and maximum lot frontage standards in the LUB (Part 5.2.1 as outlined in **Attachment A**). You may notice that the maximum lot area and maximum lot frontage provisions are only applicable in Lot Zone 1 and no other Lot Zone. Lot Zone 1 encompasses the WHS. Therefore, the decision to expand the maximum lot area and maximum lot frontage pursuant to Part 5.2.1 of the LUB should not be taken lightly.

Amendments to the MPS/LUB as well as development agreement requests are required to be reviewed by Council through Policy 6-19. Staff’s review of the evaluation review criteria pursuant to Policy 6-19 is enclosed in **Attachment C**. Please note that this review was undertaken to support Option 2 as laid out below.

## Options:

**Option 1)** To amend the LUB, Part 5.2.1, to increase the maximum lot area and maximum lot frontage as outlined in the following table:

“5.2.1. The subdivision of land within the Town shall comply with Table 1, Lot Subdivision Standards.

Table 1: Lot Subdivision Standards

	LZ1	LZ2	LZ3	LZ4
Minimum Lot Area	110 m <sup>2</sup> (1,185 ft <sup>2</sup> )	370 m <sup>2</sup> (3,983 ft <sup>2</sup> )	330 m <sup>2</sup> (3,553 ft <sup>2</sup> )	37 m <sup>2</sup> (399 ft <sup>2</sup> )
Maximum Lot Area	825 m <sup>2</sup> (8,880 ft <sup>2</sup> )	-	-	-
Minimum Lot Frontage	6 m (20 ft)	12 m (40 ft)	12 m (40 ft)	6 m (20 ft)
Maximum Lot Frontage	42 m (137 ft)	-	-	-

The proposed change in maximum lot frontage from 40 m (131 feet) to 42 m (137 feet) is not deemed a significant alteration and is well within the 10% variance enabled by the Municipal Government Act (MGA). However, the change in maximum lot area from 465 m<sup>2</sup> (5,005 square feet) to 825 m<sup>2</sup> (8,880 square feet) is deemed a significant change and is well outside the 10% variance enabled by the MGA.

Considering the above, as well as the potential impacts on the urban form of the WHS, it is not recommended at this time to enable a blanket as-of-right increase in the maximum lot area and maximum lot frontage for the entire Lot Zone 1.

## Option 2)

To address the request with minimal impact on the MPS and LUB with regards to maintaining the maximum lot area and maximum lot frontage requirements for Lot Zone 1, Council may wish to amend the MPS to enable them to be considered by development agreements. Rather than enabling a blanket as-of-right for the entire Lot Zone 1 (as outlined in Option 1), a development agreement process will enable Council to consider the applications on a case-by-case nature. This is the recommended course of action.

Such a request would require a two-stage process:

- a) First, Council may implement a new policy in the MPS to enable them to consider increasing the maximum lot area and/or maximum lot frontage by development agreement. Once the policy is effective, Council may then entertain a request through the development agreement process. The process to amend the MPS is attached in **Attachment D**.
- b) Second, once the policy is in place, Council may then entertain the request through the development agreement process. The process to enter into a Development Agreement is outlined in **Attachment E**.

**Option 3)** To refuse the application to amend Part 5.2.1 of the LUB. Reasons for such a refusal shall be provided by Council and is subject to an appeal to the Public Utilities and Review Board. Council may identify such a refusal based on Policy 6-19 (c) (vii) as reviewed and outlined in **Attachment C**. For example, concerns as expressed by Irma Da Sie, Architect as outlined in Attachment H may be used as a rationale to refuse the application.

**3. FINANCIAL IMPACT**

The applicant has paid the standard application fee to amend the planning documents (\$750) plus a deposit of \$700 to cover the associated advertisement costs. In this case as the proposal is recommended for a two-step process with one application, it is recommended that the Town include the development agreement application fee as part-in-parcel of the \$750 application fee to amend the planning documents.

The Town may incur costs if an appeal is filed with the Public Utilities and Review Board.

**4. STRATEGIC PLAN RELEVANCE**

The approval of the request is in keeping with the Town's CCP, in particular:

*Economic Development:* Direction to support economic development.  
*Urban Design:* Direction to enhance residents' and visitors' experience of the built environment.

**5. RECOMMENDATION AND DRAFT MOTION**

Motion: Moved and seconded that PAC direct staff to set a Public Participation Meeting date to consider, and if deemed advisable, amend the MPS by inserting the following after "Policy 3-2":

"3.2.4 Lot Zone 1 Maximum Lot Size Waiver by Development Agreement

Though it is the intent to maintain the historical spatial environment by regulating the maximum lot size in Lot Zone 1, there may be times that Council may wish to enable lots to exceed the maximum lot size for the wellbeing of businesses and/or community. Council shall consider such circumstances through the Development Agreement process.

**Policy 3-2A:** Council shall consider by development agreement proposals the approval of lots that exceed the maximum lot area and/or maximum lot frontage permitted in Lot Zone 1. Council shall only enter into development agreements for such proposals if:

(a) there is a clear need for the proposed lot exceeding the maximum lot area and/or maximum lot frontage and a clear benefit to the Town and residents of Lunenburg in having the development locate within Lot Zone 1; and

(b) the proposal is consistent with the general evaluation criteria for development agreements, as set out in Policy 6-19.”

**ATTACHMENTS:**

- A.** Relevant MPS Policy and Land Use By-law Provision
- B.** Lot Zoning Map
- C.** Evaluation Criteria Policy 6-19 Review
- D.** Application Process to amend MPS
- E.** Application Process to enter Development Agreement
- F.** UNESCO World Heritage Site statements of Outstanding Universal Value (OUV's)
- G.** Planning Application Process
- H.** Written Submission from Irma Da Sie, Architect and Stephen Richards

Acknowledged by:

Bea Renton  
Town Manager/Clerk

**ATTACHMENT A**  
**Relevant MPS Policy and Land Use By-law Provision**

**Relevant MPS Policy:**

**3.2.2 Lot Zones**

Lots can vary in area and in dimensions. Lot frontage (the length of the lot line along the road) is typically the key lot dimension that affects community character, as well as the amount of infrastructure required to service each lot. The Land Use By-law contains “lot zones” that establish the standards for lot area and frontage when creating new lots. In this way the character of the various areas of Lunenburg can be reinforced.

**Policy 3-1:** Council shall, through the Land Use By-law, establish Lot Zones, shown on the Lot Zoning Map of the Land Use By-law, to establish standards for the subdivision of new lots. The Lot Zones shall generally conform to the following scheme:

- (a) Lot Zone 1 is intended to replicate the fine-grained lot pattern of development in and around Old Town. Lot Zone 1 shall contain maximum lot area and maximum lot frontage requirements to prevent large-scale consolidations that would fundamentally change the character of these areas.
- (b) Lot Zone 2 is intended to reflect the larger lots that can be found in New Town.
- (c) Lot Zone 3 is intended to enable relatively small lots in areas of new development in order to enable density and efficient use of services.
- (d) Lot Zone 4 is intended to provide very flexible lot requirements to accommodate sites with atypical development needs.

**Relevant Land Use By-law Provision:**

**5.2. Lot Standards**

**5.2.1.** The subdivision of land within the Town shall comply with Table 1, Lot Subdivision Standards.

Table 2: Lot Subdivision Standards

	LZ1	LZ2	LZ3	LZ4
Minimum Lot Area	110 m <sup>2</sup> (1,185 ft <sup>2</sup> )	370 m <sup>2</sup> (3,983 ft <sup>2</sup> )	330 m <sup>2</sup> (3,553 ft <sup>2</sup> )	37 m <sup>2</sup> (399 ft <sup>2</sup> )
Maximum Lot Area	465 m <sup>2</sup> (5,005 ft <sup>2</sup> )	-	-	-
Minimum Lot Frontage	6 m (20 ft)	12 m (40 ft)	12 m (40 ft)	6 m (20 ft)
Maximum Lot Frontage	40 m (131 ft)	-	-	-

# ATTACHMENT B - Lot Zoning Map



**ATTACHMENT C**  
Evaluation Criteria Policy 6-19 Review

**6.5.1 Amending the Land Use By-law & Entering into Development Agreements**

Amendments to the Land Use By-law and the entering into of development agreements are processes that require careful thought. As such, Council has established a set of general criteria to consider when evaluating all Land Use By-law amendments and development agreement proposals.

**Policy 6-19:** Council shall not amend the Land Use By-law or enter into a development agreement unless Council is satisfied the proposal:

- (a) is consistent with the intent of this Municipal Planning Strategy;  
The proposal is an amendment to the Municipal Planning Strategy to enable the proposal to proceed through the development agreement process. Once the amendment becomes effective, the proposal would be consistent with the intent of the strategy.
- (b) does not knowingly conflict with any Town or Provincial programs, by-laws, or regulations in effect in the municipality;  
The proposal does not knowingly conflict with any Town or Provincial programs, by-laws or regulations in effect in the municipality.
- (c) is not premature or inappropriate due to:
  - i. the ability of the Town to absorb public costs related to the proposal;  
The Town is not obligated to absorb any costs related to the proposal.
  - ii. impacts on existing drinking water supplies, both private and public;  
There is adequate public drinking water to support the development consisting of a 14 suite expansion to the Lunenburg Arms as well as the 30 micro-suites and parking structure across the street.
  - iii. the adequacy of central water and sewage services or, where such services are not available, the suitability of the site to accommodate on-site water and sewage services;  
There is adequate central water and sewage services to support the development consisting of a 14-suite expansion to the Lunenburg Arms as well as the 30 micro-suites and parking structure across the street.
  - iv. the creation of excessive traffic hazards or congestion on road, cycling, and pedestrian networks within, adjacent to, or leading to the proposal;  
It is anticipated that the proposed development will not worsen any existing traffic hazards. The development of the additional suites will increase congestion on the road, in particularly when guests are leaving or arriving. However, currently the guests are limited to on-street parking and the use of the surface parking lot. The development of a parking structure will almost double the capacity of the surface parking lot and should help to alleviate some of the increased congestion associated with the hotel's expansion. With regards to cycling, the existing circumstance should remain relatively the same. With regards to the pedestrian network, it is anticipated that

pedestrian traffic between the Hotel and the parking structure across the street will increase. There is an existing crosswalk at the corner of Duke and Pelham to enable the safe passage of clients to and from the hotel to the parking structure. There is an opportunity for businesses to benefit from the increased pedestrian traffic.

- v. the adequacy of fire protection services and equipment;  
There is adequate fire protection services and equipment to service the proposed development.
- vi. the adequacy and proximity of schools and other community facilities;  
The proposed development is in the heart of the downtown area. The adequacy and proximity of schools is not a major concern due to the type of use – servicing accommodations for the travelling public. The adequacy and proximity of community facilities are considered adequate.
- vii. impacts on UNESCO World Heritage Site statements of outstanding value;  
The UNESCO World Heritage Site statements of Outstanding Universal Value (OUV's) are attached in Attachment F. Under "Authenticity" it states:

"Old Town Lunenburg is authentic in location and setting, forms and designs, materials and substances, and uses and functions. The original British colonial town plan remains evident, including the regular layout of property parcels in a grid pattern with geometrically regular streets, central public spaces, and key community structures, with a functioning waterfront as its focus. In terms of forms and materials, there is a harmony of scale, siting and materials (predominantly wood) throughout the property, and a regional architectural vocabulary that includes the 'Lunenburg bump', an indigenous five-sided dormer. While a continuing vernacular architectural tradition is integral to the property's Outstanding Universal Value, there has been very limited infill in the modern era. Many of the property's historic uses and functions survive."

The OUV'S identifies the importance of the "original British colonial plan ... including the regular layout of property parcels in a grid pattern". The Lunenburg Plan (1753) incorporated all the principles of the model town: geometrically regular streets and blocks; the allocation of public spaces; an allowance for fortifications; and a distinction between urban and non-urban areas. The plan consists of a gridiron of six divisions, which run north from the front harbour and are divided into eight blocks. The blocks in the grid are each subdivided into fourteen building lots with 40 feet of street frontage with a depth of 60 feet. Below is an excerpt from the Heritage Conservation District Plan:

#### **"5.4 Conservation of historic Old Town lot layout and block form.**

The urban form, scale and cohesive architectural character of the Old Town is also directly related to its original lot layout, where each block was divided into fourteen 40 ft x 60 ft lots. This rectangular grid, superimposed on the Old Town's hilly topography, resulted in the construction of many houses and buildings of similar scale and orientation, densely built in close proximity to each other, and overlooking each other on sloping sites. The small lots, as well as the town planning conventions of the colonial period, predetermined that buildings would be built close to the street with narrow side yards and small rear yards.

Most blocks in the Old Town have retained their original lot divisions, with anywhere from eight to fourteen buildings (along with attendant outbuildings) situated upon them. Where lot consolidations have occurred, they have most commonly been in combinations of two - either two lots deep, running through from street to street, 40 ft wide x 120 ft deep, or two lots side by side, 80 ft wide x 60 ft deep. There are only a few instances where larger lot consolidations have occurred - the largest having been four lots combined into one 80 ft x 120 ft parcel with one house on it.

Effective conservation of the Old Town's urban form implies that there should be a limitation on the size of lot consolidations in order to limit any propensity or pressure for the construction of large, out-of-scale buildings. However, this is difficult to achieve without significant change to the Planning Act (and the new Municipal Government Act) which enables municipalities only to establish minimum lot sizes, not maximum lot sizes.

Regulation of the maximum size of buildings (rather than lot sizes), however, is permitted under both the Planning Act/Municipal Government Act (through the Municipal Planning Strategy), and the Heritage Property Act (through the heritage conservation district plan and bylaw).

The current Municipal Planning Strategy does not regulate maximum building size except indirectly through criteria for development agreements; nor do the MPS & LUB architectural controls include specific mention of scale, size, bulk or massing as criteria for evaluating proposals. Criteria for building size will therefore be included in the conservation plan and bylaw in order to ensure that new development will be in keeping with existing scale and urban form.”

In this case the proposal is located on a commercial block on one of the three prime commercial streets which include Montague Street, Pelham Street and Lincoln Street. The commercial needs for larger lot sizes derive from their inherent qualities as commercial enterprises are quite different to the needs of smaller residential developments further up the hill. The spatial relationships between commercial and residential properties are recognized as inherently different in the Heritage Conservation District Plan and By-law where the separation distances between the built environment is quite small in the commercial fabric as buildings are placed closer together, whereas there are larger spatial separations in the residential areas. This helps to frame the public realm and provide a tight commercial flavour to the commercial street. The grid patterns are more evident in the residential areas, whereas less so in the commercial areas due to these inherent qualities.

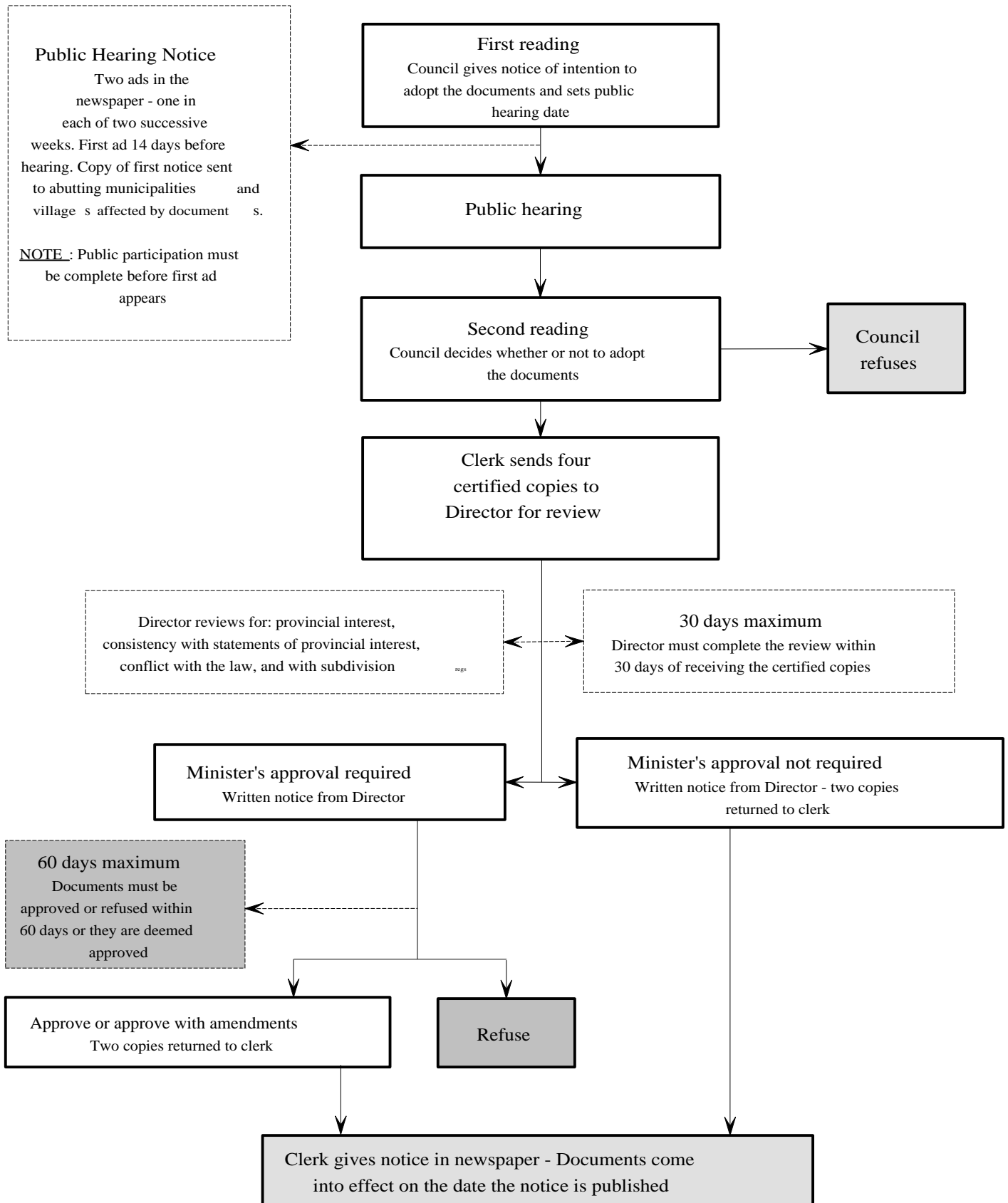
The essential blocks of the model Town Plan, consisting of the street grid pattern, will not be affected. The internal 40 ft. by 60 ft. lot pattern will be affected but many may say that it has already been affected due to the inherent qualities of the commercial layout. Many commercial lots in the commercial areas have already gone beyond the historic 40 ft. by 60 ft. lot delineations. The proposal is to help facilitate the expansion plans of an existing commercial facility catering to the travelling public in the heart of Old Town which helps promote the site to visitors, providing a heightened awareness for the Town's WHS as well as by providing an economic return to help facilitate the maintenance and well-being of the WHS.

This criterion requires Council to review as to whether Council is satisfied the proposal is not premature or inappropriate due to impacts on UNESCO World Heritage Site statements of outstanding universal value (OUV). Both lots (the Lunenburg Arms site as well as the surface parking lot site) already exceed the 40 ft. frontage as noted in the 1753 Model Town Plan. The expansion plans for the hotel will enable them to grow and expand providing life, energy, and economic benefits for the WHS. In staff's opinion, there is a balance that needs to be recognized regarding the positive and negative impacts on the statements of OUV's and the overall health for the WHS. As previously stated, the commercial nature of the site has inherent qualities that reduces such impacts – for example, a similar application in the residential areas would be seen as having more of an impact on the OUV's. In this case it is reasonable for Council to take a position that they are satisfied the proposal is not premature or inappropriate due to impacts on UNESCO WHS statements of outstanding universal value (OUV).

- viii. the creation of a new, or worsening of a known, pollution problem in the area, including, but not limited to, soil erosion and siltation of watercourses;  
The proposed development will not create or worsen pollution problems in the area nor create any soil erosion and/or siltation of watercourses.
- ix. site-specific climate change risks;  
There are no known site-specific climate changes risks associated with the proposed development.
- x. the potential to create flooding or serious drainage issues, including within the proposal site and in nearby areas;  
There are no known potentials to create flooding or serious drainage issues.
- xi. impacts on known habitat for species at risk;  
There are no known impacts on known habitat for species at risk.
- xii. impacts on the navigability and environment of Lunenburg Harbour;  
There are no known impacts on the navigability and/or environment of Lunenburg's Harbour.
- xiii. the suitability of the site in terms of grades, soil and geological conditions, the location of watercourses and wetlands, and proximity to rights-of-way; and  
The sites do not impose concerns related to the suitability of grades, soil, geological conditions, watercourses, wetlands, and proximity to rights-of-ways.
- xiv. land use conflicts that could place limits on existing operational procedures at existing businesses.  
The proposed development is an extension to an existing hotel. The hotel expansion should not create any additional land use conflicts that could place limits on existing operational procedures at existing businesses other than, at times, increased traffic congestion during periods associated with arrivals and departures.

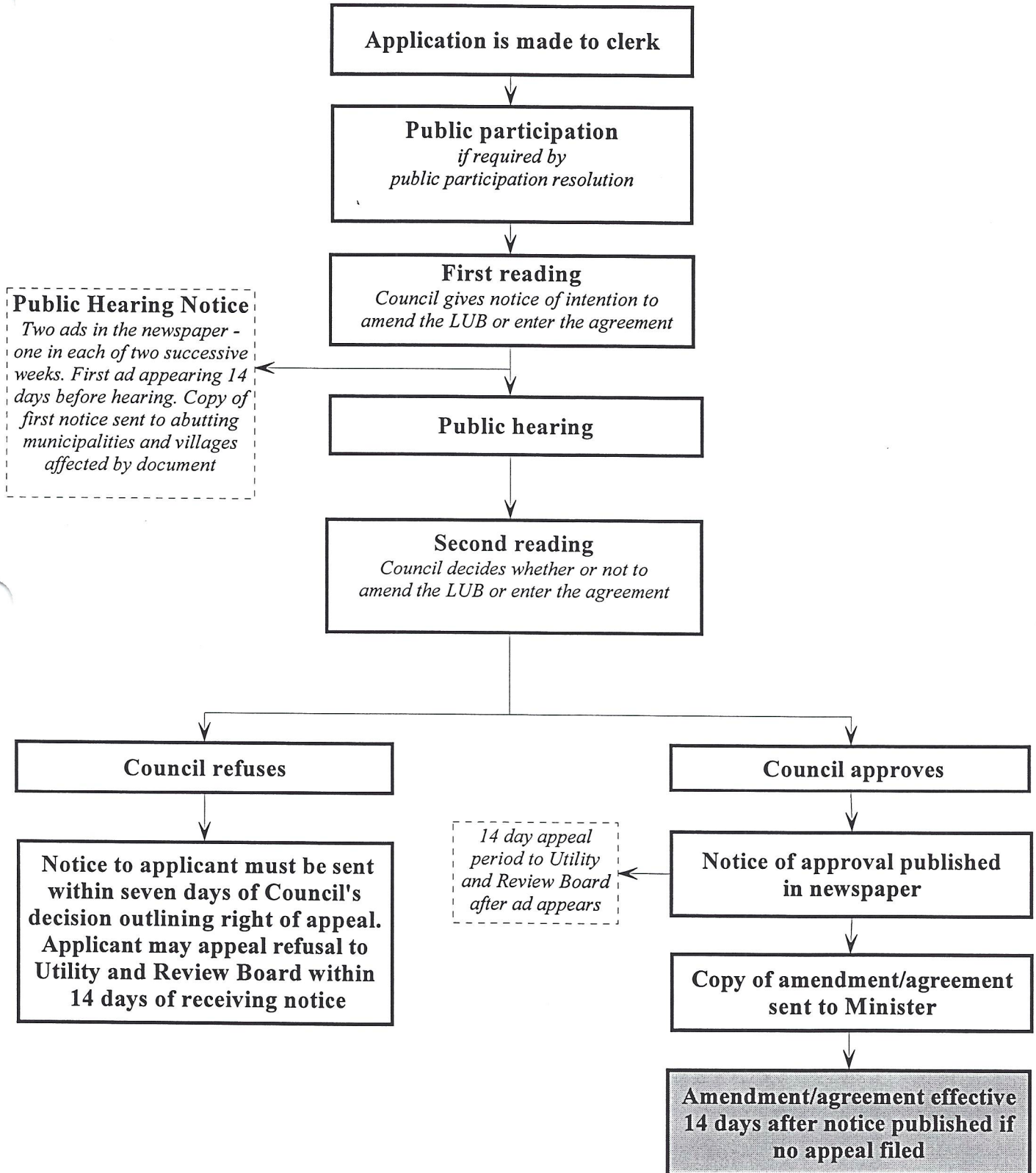
# Chart 1 - Planning Documents Approval Process

## ATTACHMENT D



# Chart 2 - Land Use Bylaw<sup>1</sup> / Development Agreement Approval Process

ATTACHMENT E



<sup>1</sup> non implementing land use bylaw amendments only  
 Shaded boxes indicate that the process has come to an end.  
 Source: MGA sections 206, 210 and 230

# ATTACHMENT F

## Old Town Lunenburg

Lunenburg is the best surviving example of a planned British colonial settlement in North America. Established in 1753, it has retained its original layout and overall appearance, based on a rectangular grid pattern drawn up in the home country. The inhabitants have managed to safeguard the city's identity throughout the centuries by preserving the wooden architecture of the houses, some of which date from the 18th century.

## Outstanding Universal Value

### Brief synthesis

Old Town Lunenburg is the best surviving example of a planned British colonial settlement in North America. Established in 1753, it has retained its original layout and overall appearance, based on a rectangular grid pattern drawn up in the home country. The inhabitants have safeguarded the town's identity throughout the centuries by preserving the wooden architecture of the houses and public buildings, some of which date from the 18th century and constitute an excellent example of a sustained vernacular architectural tradition. Its economic basis has traditionally been the offshore Atlantic fishery, the future of which is highly questionable at the present time.

**Criterion (iv):** Old Town Lunenburg is a well-preserved example of 18<sup>th</sup> century British colonial urban planning, which has undergone no significant changes since its foundation, and which largely continues to fulfil the economic and social purposes for which it was designed. Of special importance is its diversified and well-preserved vernacular architectural tradition, which spans over 250 years.

**Criterion (v):** Old Town Lunenburg is an excellent example of an urban community and culture designed for and based on the offshore Atlantic fishery which is undergoing irreversible change and is evolving in a form that cannot yet be fully defined.

### Integrity

Within the boundaries of the 33 ha property are located all the elements necessary to express the Outstanding Universal Value of Old Town Lunenburg. The property encompasses the intact original town plan in its entirety, missing only the fortifications that surrounded the town in its early years, but of which there are no surviving above-ground remains. Its boundaries adequately ensure the complete representation of the features and processes that convey the property's significance, and there is a 48.72 ha buffer zone. The property does not suffer unduly from adverse effects of development and/or neglect.

## **Authenticity**

Old Town Lunenburg is authentic in location and setting, forms and designs, materials and substances, and uses and functions. The original British colonial town plan remains evident, including the regular layout of property parcels in a grid pattern with geometrically regular streets, central public spaces, and key community structures, with a functioning waterfront as its focus. In terms of forms and materials, there is a harmony of scale, siting and materials (predominantly wood) throughout the property, and a regional architectural vocabulary that includes the 'Lunenburg bump', an indigenous five-sided dormer. While a continuing vernacular architectural tradition is integral to the property's Outstanding Universal Value, there has been very limited infill in the modern era. Many of the property's historic uses and functions survive.

Most of the recent changes to the property are renovations to specific buildings, some of which have better conveyed the heritage value of Old Town Lunenburg than others. Due to long-term economic circumstances, there are also ongoing pressures on property owners in terms of rising property values, maintenance costs, and the challenges of retaining historical accuracy in restoration planning.

## **Protection and management requirements**

Old Town Lunenburg, which is almost entirely in private ownership, is commemorated by the Government of Canada as a National Historic Site (1991) and protected under two key pieces of provincial legislation, the *Municipal Government Act* (1998) and the *Heritage Property Act* (1989), which enable the municipality to create, respectively, land-use and heritage bylaws. In this context, the municipality adopted the *Heritage Conservation District Plan, Bylaw and Guidelines* in 2000 (consolidated in 2001). In order to better manage the community as a World Heritage property and ensure the continuing protection of the town's heritage resources, the Town of Lunenburg Heritage Sustainability Strategy (2010) has been developed to guide its development, including the identification of heritage, culture and tourism prospects that may produce economic opportunities for the community.

Sustaining the Outstanding Universal Value of the property over time will require managing, to the degree possible, ongoing pressures on property owners related to rising property values, maintenance costs, and the challenges of retaining historical accuracy in restoration planning. It will also require developing and implementing mechanisms to encourage building renovations that fully respect the heritage value of Old Town Lunenburg. Special attention will be given over the long term to monitoring and taking appropriate actions related to a number of factors in and near the property. Specifically, these include the potential impacts of climate change, and the impacts of tourism and visitation.

**ATTACHMENT G**  
**Planning Application Process**

<b>Planning Application Process</b>	
<b>Step One:</b>	
1.1 PAC meeting to approve advertisement for Public Participation Meeting for MPS or LUB amendment.	November 3, 2021
1.2 PAC holds Public Participation Meeting for MPS or LUB amendment.	November 17, 2021*
1.3 Recommendation to Council to approve First Reading and advertise for a Public Hearing.	December 7, 2021*
1.4 Council holds Public Hearing and votes.	January 25, 2022*
1.5 If Council votes positive package of amendments forwarded to Province for review.	January 31, 2022*
1.6 If Province advises they are okay, advertisement is placed and the amendment becomes effective the date of the advertisement. (No appeal)	Date unknown
<b>Step Two:</b>	
2.1 PAC meeting to approve advertisement for Public Participation Meeting for Development Agreement (if MPS amendment is chosen)	Date unknown
2.2 PAC holds Public Participation Meeting for Development Agreement.	Date unknown
2.3 Recommendation to Council to approve First Reading and advertise for a Public Hearing.	Date unknown
2.4 Council holds Public Hearing and votes.	Date unknown
2.5 If Council votes positive package of amendments forwarded to Province for review.	Date unknown
2.6 If Province advises they are okay, advertisement is placed and with rights to appeal.	Date unknown
2.7 Once appeal period has elapsed, Development Agreement can then be filed at the Land Registration Office (LRO).	Date unknown
2.8 Once registered at LRO, subdivision plan consolidating the lots may be approved and filed at LRO.	Date unknown

\* Dates are approximate.

The Public Participation Meeting (Step 1.2) may be combined with Public Participation Meeting (Step 2.2) to speed up the process. However, Council cannot approve the Development Agreement until such time as the amendment to the MPS becomes effective.

# ATTACHMENT H

October 11, 2021

Irma Da Sie, Architect & Stephen Richards  
106 Pelham, PO Box 196  
Lunenburg, NS BOJ 2C0

**Town Of Lunenburg**  
**Mayor & Council Members**  
**Heritage Advisory Committee Members**  
**Planning Advisory Committee Members**

119 Cumberland Street  
P.O. Box 129  
Lunenburg, NS BOJ 2C0

Re: Demolition of 102 Pelham Street

To all concerned,

As the direct neighbour of The Lunenburg Arms Hotel, we are writing this letter to voice our objection to the demolition of 102 Pelham Street requested by Richmond LP Management Inc., as well as to object to the consolidation of the lands with 90/94 Pelham Street.

This little building is part of the UNESCO World Heritage Site & is in the Old Town Historic District and that alone makes it worthy of protection.

We strongly believe that demolition is no way beneficial to anyone residing or visiting Lunenburg and only serves to whittle away at the fabric of our UNESCO town. It is important to safeguard each individual asset, no matter how small, to preserve the value of heritage tourism that is so crucial to Lunenburg's economic well-being.

We also suggest that the application for development be focussed on the vacant lot owned by the hotel at the corner of Pelham & Duke Streets, which is a wonderful opportunity for the creation of thoughtful & innovative integration of a new building in the historic context, as well as providing the capacity to add the additional suites required for economic sustainability. In a real estate listing in which the Lunenburg Arms went up for sale in 2014, it boasts, "Across the street are two lots ... that provide...(an) opportunity to build up to an additional 35 annex rooms."

Photos #1 & #2, attached, show a historical view looking east on Pelham Street confirming that this little building has played a role, historically, in the social fabric of the town.

On the right of the bird's eye view photo #1, you can see the edge of the old Dolphin Tavern (now the main structure of the Lunenburg Arms Hotel) preserved in shape & style to its original self.

It is unfortunate that the two buildings to the east of the Tavern were demolished by the then owner of the Tavern. The Lunenburg Arms now sits where these buildings once were. Note the way these two old buildings descend in height from the Tavern, acknowledging that the street slopes to the east, thereby creating a sensitive rhythm of scale & proportion.

Photo #2 shows a more detailed in view of 102 Pelham (right) authenticating its presence as a tobacconist in the early 1900's. There is no reason to believe that this building is not the one depicted in the map of 1890, showing a structure with the same shape & height as it is today, yet simply reduced in length.

As discussed with the former owner of 102 Pelham, it is built with timber construction in the style of the local vernacular tradition of the time, an important characteristic of the UNESCO designation. The fact that alterations to the facade have been allowed to occur over the years in no way diminishes its importance to the fabric of the streetscape.

The second defining characteristic, as outlined in UNESCO's description of Old Town Lunenburg, claims of the town's authenticity;

*"The original British colonial town plan remains evident, including the regular layout of property parcels in a grid pattern with geometrically regular streets..."*

The assignment of lots by the random drawing of playing cards is a well documented & fascinating historical account of Lunenburg's history. Some of the lots have already been consolidated due to past developments, thereby highlighting the importance of preserving what is left to keep Lunenburg's character as "authentic" as possible.

Also, allowing an expansion to the Lunenburg Arms Hotel in no way guarantees its financial success in what is a struggle for most of the hotels & inns already trying to survive in such a seasonal industry. This unique little property could, one day perhaps, be sold off separately & restored as a small commercial undertaking that would truly be a valuable addition to the fabric of the street.

And what if the Lunenburg Arms is "unsustainable in its current form"? Could not the building be repurposed into long term housing? Would this be a bad thing?

#### **Review of the 94 Pelham Street Expansion Design: Attachment D**

Mr. MacDonald states that "the expansion design is considered to be in conformance with the Design Guidelines of the Heritage Conservation District By-law", yet we strongly believe that this is not the case.

#### Compatibility with the style, scale & material of the existing building:

*"The scale is similar to the western end..."*

The existing western end wall of the building is at a height of approx. **28'-6"** measured from its grade level at Pelham street with the gable roof pitch angling eastward away from the side, whereas the eastern end wall of the new addition measures approx. **39'-6"** with a gable end wall reaching a height of approx. **53'-4"** at its peak measured from its grade level at Pelham street. The soffit is approx. **4'-9"** higher on the new extension than the main building. The design does not take into account the sloping nature of the street which drops approx. **6'-9"** on the length of the properties. All of this contributes visually to a much higher structure than that of the western end & would be totally out of scale with its surroundings.

Size, massing & proportions:

*"New buildings shall not exceed 4,200 sq. ft."*

*"As the building is broken into masses that provides the appearance of a multitude of buildings."*

*"The proposed size, massing...are deemed in keeping with the intent of the design guidelines."*

The design guidelines specifies that new buildings be under 4,200 sf. The fact that the existing building is already over these guidelines should be pause for reflection, yet justifying the expansion by finding one suitable clause (under 25% expansion area) is disconcerting.

Section 3 of the guidelines stresses the importance that buildings not be too large or bulky for their context. Allowing expansion to an already massive structure to be almost 7,000 sf in no way satisfies the intent of the by-law.

**"Massive buildings under single roof forms can appear visually dominant in the small scale varied context of the Old Town." (3.3 of the guidelines)**

As viewed from the south, the waterfront or across the harbour, (the iconic Lunenburg Town photo), the current building has the appearance of one massive form under one roof with dormers applied. This new extension only amplifies the size of its massive form and makes no attempt to break it up or **"to have an additive form with varied rooflines..." (3.3 of the guidelines)**. The hotel is already a dominant feature of the town & looms over the 2 & 3 storey heritage buildings below. Allowing the addition of 20% of its mass would be offensive & would be a serious fail to the protection of the charm of the Heritage Old Town. (see photo #3 & #4)

Facade Design should...have a rhythm along the street:

As viewed from one of the most prominent intersections of town, the corner of King & Pelham, the existing Lunenburg Arms does have the appearance of varied roof forms, & its current setbacks create a rather interesting streetscape. Its current design plays off rather sympathetically with the form of 102 Pelham. (photo #5)

Yet, when compared to the proposed view (photo #6), the addition of an overpowering "4<sup>th</sup> element" will only obscure the rhythm pattern of the street and does not reinforce it at all.

Compatibility with the character of the streetscape:

*"The 3 ½ storey addition is considered compatible with the character of the street"*

**Additions shall be designed "in a manner which is compatible with the ... character of the immediate neighbourhood." (7.2 of the guidelines)**

**"Maximum height restrictions of 35 ft." (3.2 of the guidelines)**

All the buildings in the immediate neighbourhood are 2 or 3 storeys maximum. Our 3 storey building at 104/106 Pelham has a height of **31'-6"** from the average grade to the very peak of the gambrel. The hotel's new extension will have a peak height of aprox. **53'-6"** from the average grade. It will have the appearance of a high 4 storey structure & if the upper suites are similar to the existing building, they may even have an additional mezzanine level within the roof space (mezzanine levels of the existing upper floor suites are omitted on the plans). This new addition will have the appearance of being the equivalent of 2 storeys higher than the neighbouring building & other buildings in the vicinity, not to mention being way over the maximum 35 ft allowable height.

Off-set from Main facade:

**“Additions... should be offset from the main facade...to visually distinguish the addition from the main facade” . (7.5 of the guidelines)**

Height should not exceed original structure:

**“An addition should be visually subordinate to the original structure and distinguishable from it...” (7.6 of the guidelines)**

The analysis put forward in the above 2 items addresses only the Pelham street facade & does not address the more visually prominent South facade. The addition as viewed from the south is such that it is designed as a continuation of the existing building. There is no set-back, nor any height variation that distinguishes it from the original structure. Consequently, the design, form & height of the new addition is not in keeping with the intent of the design guidelines.

In conclusion, it is our position that this demolition permit, as well as the demand for the consolidation of lands, be denied as it does not, in any way, contribute positively to the needs of the town. It does not respect the Heritage Conservation District Plan’s Design Guidelines nor satisfy its intent. It does not respect the newly drafted Comprehensive Community Plan which calls for a focus for the continued preservation & enhancement of the Old Town core. It is an insult to all of the residents & businesses of the Town that have been required to developed their properties in compliance with the current zoning by-laws.

Given that a perfectly acceptable alternative solution is available by developing their vacant properties, the argument that demolition is the only solution for economic sustainability seems misguided.

Respectfully yours,

The image shows two handwritten signatures in blue ink. The top signature is 'Irma Dasie' and the bottom signature is 'Stephen Richards'. Both are written in a cursive, flowing style.

Irma Da Sie, Architect & Stephen Richards  
irma.dasie@gmail.com  
(902) 298-1556



PHOTO #1 - Early 1900's view of Pelham looking East

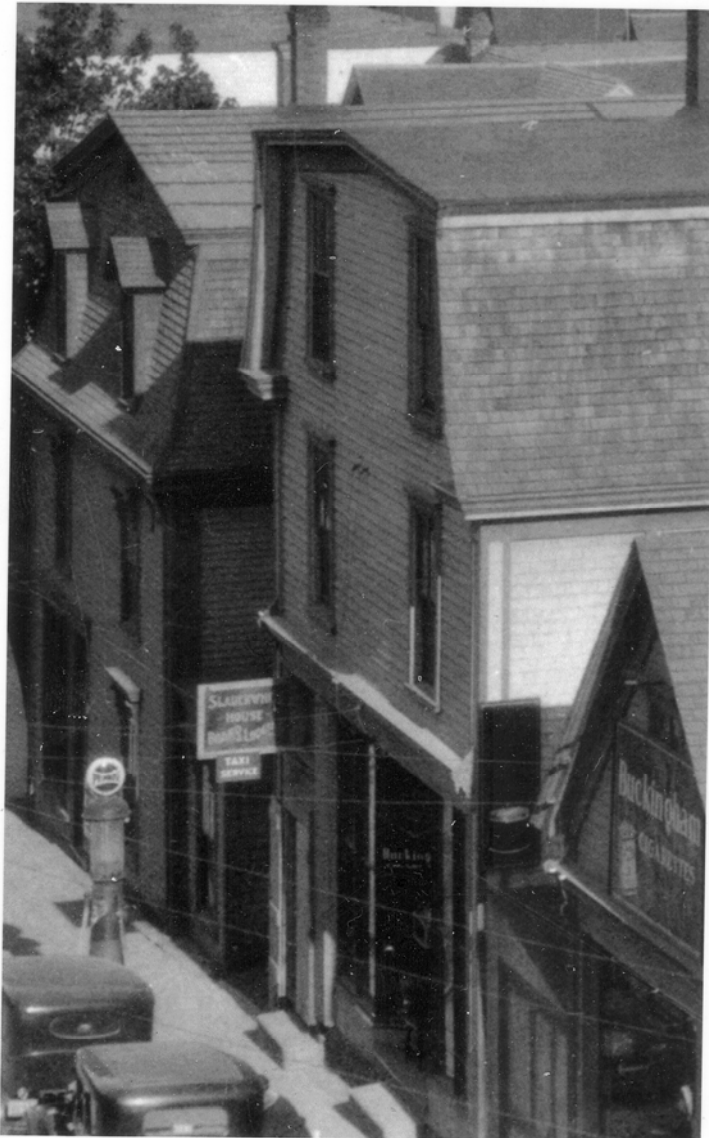


PHOTO #2

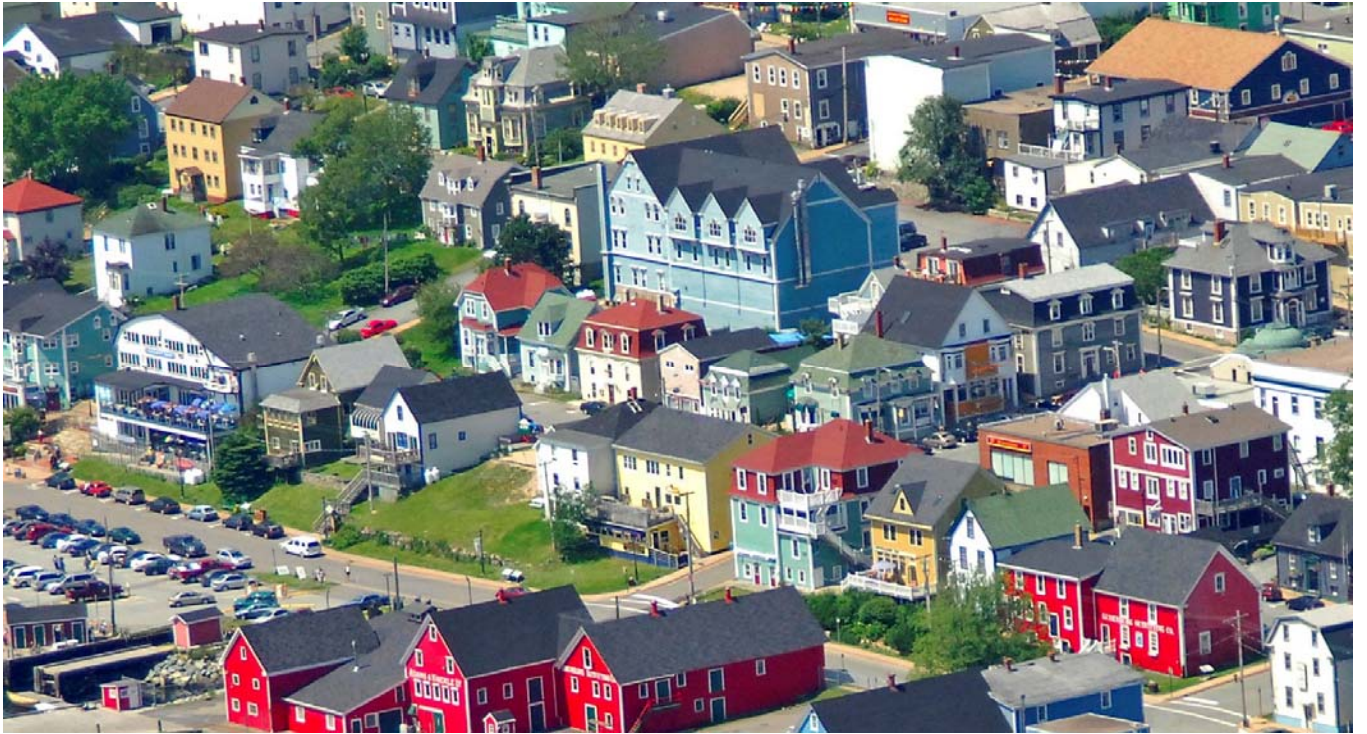


PHOTO #3 - Current view of the Lunenburg Arms Hotel looming over the neighbouring 2 & 3 storey structures



PHOTO #4 - Lunenburg Town view from the Harbour



PHOTO #5 - Current view from the corner of King St. & Pelham



PHOTO #6 - View showing the massing of the proposed addition

Circulated: \_\_\_\_\_

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Document No: 5(c)

Meeting: PAC – November 3, 2021

Circulate To: PAC, Council, BR,

File:

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## M E M O R A N D U M

**TO: TOWN COUNCIL/PLANNING ADVISORY COMMITTEE**

**FROM: ARTHUR MACDONALD**

**DATE: OCTOBER 18, 2021**

**RE: DEVELOPMENT AGREEMENT APPLICATION BY LUNENBURG ARMS HOTEL TO APPROVE LOT CONSOLIDATION IN EXCESS OF THE MAXIMUM LOT SIZE REQUIREMENTS IN LOT ZONE 1**

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### 1. FACTS

#### A. Background

The owners of the Lunenburg Arms Hotel (Richburg LP Management Inc.) located at 94 Pelham Street would like to consolidate 94 Pelham Street with 102 Pelham Street to enable a 14 suite expansion to the hotel. They would also like to consolidate the lands across the street (surface parking area at the corner of Pelham and Duke Streets) known as PID 60061199 and PID 60061181 to facilitate additional hotel suites and an accessory parking structure. They have recently made application to amend the maximum lot size as described for Lot Zone 1 in accordance with the Town's Land Use By-law. Council will be considering an amendment to The Municipal Planning Strategy (MPS) to enable larger maximum lot sizes (frontage and area) through the development agreement process pursuant to a new Policy as outlined below:

#### **“3.2.4 Lot Zone 1 Maximum Lot Size Waiver by Development Agreement**

Though it is the intent to maintain the historical spatial environment by regulating the maximum lot size in Lot Zone 1, there may be times that Council may wish to enable lots to exceed the maximum lot size for the wellbeing of businesses and/or community. Council shall consider such circumstances through the Development Agreement process.

**Policy 3-2A:** Council shall consider by development agreement proposals the approval of lots that exceed the maximum lot area and/or maximum lot frontage permitted in Lot Zone 1. Council shall only enter into development agreements for such proposals if:

(a) there is a clear need for the proposed lot exceeding the maximum lot area and/or maximum lot frontage and a clear benefit to the Town and residents of Lunenburg in having the development locate within Lot Zone 1; and

(b) the proposal is consistent with the general evaluation criteria for development agreements, as set out in Policy 6-19.”

The subject properties are located in Lot Zone 1 which limits the maximum lot area to 465 m<sup>2</sup> (5,005 square feet) and the maximum lot frontage to 40 m (131 feet). The proposed lot consolidation of 94 and 102 Pelham Street will create a new lot with 823.5 m<sup>2</sup> (8864 square feet) and a frontage of 41.57 m (136.38 feet). The consolidation of PID 60061199 and PID 60061181 will create a new lot with 662.2 m<sup>2</sup> (7,127 square feet) and a frontage of 35.6 m (116.79 feet).

## B. Proposal

The request is to enable subdivision approval for the proposed lots consolidations as shown in **Attachment A**. Policy 3-2A and Policy 6-19 are reviewed in **Attachment B**.

Lot Zone 1:	Maximum Lot Area	Maximum Lot Frontage
Part 5.2.1 of LUB	465 m <sup>2</sup> (5,005 square feet)	40 m (131 feet)
Lunenburg Arms Hotel	823.5 m <sup>2</sup> (8864 square feet)*	41.57 m (136.38 feet)*
PID 60061199 and PID 60061181	662.2 m <sup>2</sup> (7,127 square feet)*	35.6 m (116.79 feet)*

\* Approximate – plus or minus

## 2. ISSUES AND OPTIONS

The Town has recently approved an amendment to the Municipal Planning Strategy by inserting a new policy, Policy 3-2A, as envisioned by this application. This new Policy enables Council to enter into a Development Agreement to enable the consolidation of lots in excess of the maximum lot size (frontage and area) outlined in the Land Use By-law. Council may either approve the entering into the proposed Development Agreements or may refuse to enter into the proposed development agreements. The Developments agreements will be tied to all applicable lots and run with the title of the properties.

### Options:

**Option 1)** To enter into a Development Agreement to enable the lot consolidation of the lands of the Lunenburg Arms Hotel (Richburg LP Management Inc.) located at 94 Pelham Street (PID 60061801) and 102 Pelham (PID 60061793) (**Attachment C**) as well as for the lot consolidation of PID 60061199 and PID 60061181 (**Attachment D**).

**Option 2)** To refuse the request to enter into a Development Agreement to enable the lot consolidation of the lands of the Lunenburg Arms Hotel (Richburg LP Management Inc.) located at 94 Pelham Street (PID 60061801) and 102 Pelham (PID 60061793) as well as for the lot consolidation of PID 60061199 and PID 60061181.

**3. FINANCIAL IMPACT**

The applicant has paid the standard application fee to amend the planning documents (\$750) plus a deposit of \$700 to cover the associated advertisement costs. In this case as the proposal is for a two-step process with one application, it is recommended that the Town include the development agreement application fee as part-in-parcel of the \$750 application fee to amend the planning documents.

The Town may incur costs if an appeal is filed with the Public Utilities and Review Board.

**4. STRATEGIC PLAN RELEVANCE**

The approval of the request is in keeping with the Town's CCP, in particular:

*Economic Development:* Direction to support economic development.

*Urban Design:* Direction to enhance residents' and visitors' experience of the built environment.

**5. RECOMMENDATION AND DRAFT MOTION**

- 1) Motion: Moved and seconded that PAC direct staff to set a Public Participation Meeting date in order to consider, and if deemed advisable, enter into a Development Agreement to enable the lot consolidation of the lands of the Lunenburg Arms Hotel (Richburg LP Management Inc.) located at 94 Pelham Street (PID 60061801) and 102 Pelham (PID 60061793) (Attachment C).
- 2) Motion: Moved and seconded that PAC direct staff to set a Public Participation Meeting date in order to consider, and if deemed advisable, enter into a Development Agreement to enable the lot consolidation of lands known as PID 60061199 and PID 60061181 (Attachment D).

**ATTACHMENTS:**

- A. Site Plan shown Proposed Lot Consolidations
- B. Review of Policy 3-2A and Policy 6-19
- C. Proposed Development Agreement for Lot Consolidation of 94 Pelham Street (PID 60061801) and 102 Pelham (PID 60061793)
- D. Proposed Development Agreement for Lot Consolidation of PID 60061199 and PID 60061181

Acknowledged by:

Bea Renton  
Town Manager/Clerk

**ATTACHMENT B**  
**Review of Policy 3-2A and Policy 6-19**

**Policy 3-2A:** Council shall consider by development agreement proposals the approval of lots that exceed the maximum lot area and/or maximum lot frontage permitted in Lot Zone 1. Council shall only enter into development agreements for such proposals if:

- (a) there is a clear need for the proposed lot exceeding the maximum lot area and/or maximum lot frontage and a clear benefit to the Town and residents of Lunenburg in having the development locate within Lot Zone 1; and

There seems to be a clear need to exceed the maximum lot area and/or frontage in this particular circumstance. For 94 Pelham Street, without the proposed lot consolidation, Lunenburg Arms Hotel would not be able to expand. For the lot across the street, the potential number of hotel suites and number of potential on-site parking spaces would be severely affected due to the Building Code set-back requirements as well as the set-back standards of the Land Use By-law. The ability to undertake a lot consolidation waives the internal side yard set-backs between existing lots and enables this space to be used in a more functional way.

Lunenburg Arms Hotel is a positive asset to the health and wellbeing of the WHS. It provides services to the travelling public and provides local employment for the citizens. The hotel is an existing asset that cannot be easily moved to another location. The economic benefits for maintaining the hotel and enabling its expansion suggest that it would be a benefit to the Town and the residents of Lunenburg.

- (b) the proposal is consistent with the general evaluation criteria for development agreements, as set out in Policy 6-19.”  
Policy 6-19 is reviewed below:

**Policy 6-19:** Council shall not amend the Land Use By-law or enter into a development agreement unless Council is satisfied the proposal:

- (a) is consistent with the intent of this Municipal Planning Strategy;  
The proposal is an amendment to the Municipal Planning Strategy to enable the proposal to proceed through the development agreement process. Once the amendment becomes effective, the proposal would be consistent with the intent of the strategy.
- (b) does not knowingly conflict with any Town or Provincial programs, by-laws, or regulations in effect in the municipality;  
The proposal does not knowingly conflict with any Town or Provincial programs, by-laws or regulations in effect in the municipality.
- (c) is not premature or inappropriate due to:
- i. the ability of the Town to absorb public costs related to the proposal;  
The Town is not obligated to absorb any costs related to the proposal.

- ii. impacts on existing drinking water supplies, both private and public;  
There is adequate public drinking water to support the development consisting of a 14 suite expansion to the Lunenburg Arms as well as the 30-34 micro-suites and parking structure across the street.
- iii. the adequacy of central water and sewage services or, where such services are not available, the suitability of the site to accommodate on-site water and sewage services;  
There is adequate central water and sewage services to support the development consisting of a 14 suite expansion to the Lunenburg Arms as well as the 30-34 micro-suites and parking structure across the street.
- iv. the creation of excessive traffic hazards or congestion on road, cycling, and pedestrian networks within, adjacent to, or leading to the proposal;  
It is anticipated that the proposed development will not worsen any existing traffic hazards. The development of the additional suites will increase congestion on the road, in particular when guests are leaving or arriving. However, currently the guests are limited to on-street parking and the use of the surface parking lot. The development of a parking structure will almost double the capacity of the surface parking lot and should help to alleviate some of the increased congestion associated with the hotel's expansion. With regards to cycling, the existing circumstance should remain relatively the same. With regards to the pedestrian network it is anticipated that pedestrian traffic between the Hotel and the parking structure across the street will increase. There is an existing crosswalk at the corner of Duke and Pelham to enable the safe passage of clients to and from the hotel to the parking structure. There is an opportunity for businesses to benefit from the increased pedestrian traffic.
- v. the adequacy of fire protection services and equipment;  
There is adequate fire protection services and equipment to service the proposed development. The proposed development will not hinder the Town's ability to provide adequate fire protection services to the area.
- vi. the adequacy and proximity of schools and other community facilities;  
The proposed development is located in the heart of the downtown area. The adequacy and proximity of schools is not a major concern due to the type of use – servicing accommodations for the travelling public from afar. The adequacy and proximity of community facilities are considered adequate.
- vii. impacts on UNESCO World Heritage Site statements of outstanding value;  
The UNESCO World Heritage Site statements of Outstanding Universal Value (OUV's) are attached in Attachment F. Under "Authenticity" it states:

"Old Town Lunenburg is authentic in location and setting, forms and designs, materials and substances, and uses and functions. The original British colonial town plan remains evident, including the regular layout of property parcels in a grid pattern with geometrically regular streets, central public spaces, and key community structures, with a functioning waterfront as its focus. In terms of forms and materials, there is a harmony of scale, siting and materials (predominantly wood) throughout the property, and a regional architectural vocabulary that includes the 'Lunenburg bump', an indigenous five-

sided dormer. While a continuing vernacular architectural tradition is integral to the property's Outstanding Universal Value, there has been very limited infill in the modern era. Many of the property's historic uses and functions survive."

The OUV'S identifies the importance of the "original British colonial plan ... including the regular layout of property parcels in a grid pattern". The Lunenburg Plan (1753) incorporated all the principles of the model town: geometrically regular streets and blocks; the allocation of public spaces; an allowance for fortifications; and a distinction between urban and non-urban areas. The plan consists of a gridiron of six divisions, which run north from the front harbour and are divided into eight blocks. The blocks in the grid are each subdivided into fourteen building lots with 40 feet of street frontage with a depth of 60 feet. Below is an excerpt from the Heritage Conservation District Plan:

#### **"5.4 Conservation of historic Old Town lot layout and block form.**

The urban form, scale and cohesive architectural character of the Old Town is also directly related to its original lot layout, where each block was divided into fourteen 40 ft x 60 ft lots. This rectangular grid, superimposed on the Old Town's hilly topography, resulted in the construction of many houses and buildings of similar scale and orientation, densely built in close proximity to each other, and overlooking each other on sloping sites. The small lots, as well as the town planning conventions of the colonial period, predetermined that buildings would be built close to the street with narrow side yards and small rear yards.

Most blocks in the Old Town have retained their original lot divisions, with anywhere from eight to fourteen buildings (along with attendant outbuildings) situated upon them. Where lot consolidations have occurred, they have most commonly been in combinations of two - either two lots deep, running through from street to street, 40 ft wide x 120 ft deep, or two lots side by side, 80 ft wide x 60 ft deep. There are only a few instances where larger lot consolidations have occurred - the largest having been four lots combined into one 80 ft x 120 ft parcel with one house on it.

Effective conservation of the Old Town's urban form implies that there should be a limitation on the size of lot consolidations in order to limit any propensity or pressure for the construction of large, out-of-scale buildings. However, this is difficult to achieve without significant change to the Planning Act (and the new Municipal Government Act) which enables municipalities only to establish minimum lot sizes, not maximum lot sizes.

Regulation of the maximum size of buildings (rather than lot sizes), however, is permitted under both the Planning Act/Municipal Government Act (through the Municipal Planning Strategy), and the Heritage Property Act (through the heritage conservation district plan and bylaw).

The current Municipal Planning Strategy does not regulate maximum building size except indirectly through criteria for development agreements; nor do the MPS & LUB architectural controls include specific mention of scale, size, bulk or massing as criteria for evaluating proposals. Criteria for building size will therefore be included in the

conservation plan and bylaw in order to ensure that new development will be in keeping with existing scale and urban form.”

In this case the proposal is located on a commercial block on one of the three prime commercial streets which include Montague Street, Pelham Street and Lincoln Street. The commercial needs for larger lot sizes derive from their inherent qualities as commercial enterprises are quite different to the needs of smaller residential developments further up the hill. The spatial relationships between commercial and residential properties are recognized as inherently different in the Heritage Conservation District Plan and By-law where the separation distances between the built environment is quite small in the commercial fabric as buildings are placed closer together, whereas there are larger spatial separations in the residential areas. This helps to frame the public realm and provide a tight commercial flavour to the commercial street. The grid patterns are more evident in the residential areas, whereas less so in the commercial areas due to these inherent qualities.

The essential blocks of the model Town Plan, consisting of the street grid pattern, will not be affected. The internal 40 ft. by 60 ft. lot pattern will be affected but many may say that it has already been affected due to the inherent qualities of the commercial layout. Many commercial lots in the commercial areas have already gone beyond the historic 40 ft. by 60 ft. lot delineations. The proposal is to help facilitate the expansion plans of an existing commercial facility catering to the travelling public in the heart of Old Town which helps promote the site to visitors, providing a heightened awareness for the Town’s World Heritage Site (WHS) as well as by providing an economic return to help facilitate the maintenance and well-being of the WHS.

This criteria requires Council to review as to whether Council is satisfied the proposal is not premature or inappropriate due to impacts on UNESCO World Heritage Site statements of outstanding universal value (OUV). Both lots (the Lunenburg Arms site as well as the surface parking lot site) already exceed the 40 ft. frontage as noted in the 1753 Model Town Plan. The expansion plans for the hotel will enable them to grow and expand providing life, energy and economic benefits for the WHS. In staff’s opinion, there is a balance that needs to be recognized regarding the positive and negative impacts on the statements of OUV’s and the overall health for the WHS. As previously stated the commercial nature of the site has inherent qualities that reduces such impacts – for example, a similar application in the residential areas would be seen as having more of an impact on the OUV’s. In this case it is reasonable for Council to take a position that they are satisfied the proposal is not premature or inappropriate due to impacts on UNESCO World Heritage Site statements of outstanding universal value (OUV).

viii. the creation of a new, or worsening of a known, pollution problem in the area, including, but not limited to, soil erosion and siltation of watercourses;

The proposed development will not create or worsen pollution problems in the area nor create any soil erosion and/or siltation of watercourses.

ix. site-specific climate change risks;

There are no known site-specific climate changes risks associated with the proposed development.

- x. the potential to create flooding or serious drainage issues, including within the proposal site and in nearby areas;  
There are no known potentials to create flooding or serious drainage issues.
- xi. impacts on known habitat for species at risk;  
There are no known impacts on known habitat for species at risk.
- xii. impacts on the navigability and environment of Lunenburg Harbour;  
There are no known impacts on the navigability and/or environment of Lunenburg's Harbour.
- xiii. the suitability of the site in terms of grades, soil and geological conditions, the location of watercourses and wetlands, and proximity to rights-of-way; and  
The sites do not impose concerns related to the suitability of grades, soil, geological conditions, watercourses, wetlands and proximity to rights-of-ways.
- xiv. land use conflicts that could place limits on existing operational procedures at existing businesses.  
The proposed development is an extension to an existing hotel. The hotel expansion should not create any additional land use conflicts that could place limits on existing operational procedures at existing businesses other than, at times, increased traffic congestion during particular periods associated with arrivals and departures.

**Attachment C**  
**Proposed Development Agreement for Lot Consolidation of 94 Pelham Street**  
**(PID 60061801) and 102 Pelham (PID 60061793)**

**THIS DEVELOPMENT AGREEMENT** made this \_\_\_\_ day of \_\_\_\_\_, A.D., 2022.

**BETWEEN:**

**RICHBURG LP MANAGEMENT INC.**

(a body corporate, incorporated pursuant to the laws of the Province of Nova Scotia,  
hereinafter called the "Developer")

**OF THE FIRST PART**

- and -

**THE TOWN OF LUNENBURG,**

(a body corporate pursuant to the *Municipal Government Act*, S.N.S., 1998, Chapter 18, as amended,  
having its chief place of business at Lunenburg, Lunenburg County, Nova Scotia, an incorporated Town  
hereinafter called the "Town")

**OF THE SECOND PART**

**WHEREAS** the Developer has agreed to enter into this Agreement with the Town pursuant to Section 225 of the *Municipal Government Act*, S.N.S., 1998, Chapter 18, as amended, and Policy 3-2A of the *Municipal Planning Strategy*; and

**WHEREAS** the Developer is the owner of certain lands and premises (hereinafter called the "Property 1" which lands are more particularly described in Schedule A attached hereto and which are known as 94 Pelham Street and Property Identification (PID) Number 60061801; and

**WHEREAS** the Developer is the owner of certain lands and premises (hereinafter called the "Property 2" which lands are more particularly described in Schedule B attached hereto and which are known as 102 Pelham Street and Property Identification (PID) Number 60061793; and

**WHEREAS** the Developer has made application to the Town for subdivision approval in order to consolidate Property 1 with Property 2; and

**WHEREAS** Policy 3-2A of the Town's *Municipal Planning Strategy* implemented on September 22, 2021, A.D., and amendments thereto enables the Town to enter into a Development Agreement to enable subdivision approval for lot consolidations that exceed the Maximum Lot Area and Maximum Lot Frontage as prescribed in the *Land Use By-law*; and

**WHEREAS** the Town by resolution of Town Council passed at a meeting on \_\_\_\_ day of \_\_\_\_, 2022, approved this Development Agreement;

**NOW THIS AGREEMENT WITNESSETH** that in consideration of the sum of \$1.00 now paid by the Developer to the Town, the receipt of which is hereby acknowledged, the parties here to mutually covenant and agree to the Lot Consolidation of Property 1 with Property 2 subject to the following terms and conditions:

### **1. Subdivision Approval**

**1.1** The Developer hereby agrees to submit a Subdivision Plan for the lot consolidation of Property 1 and Property 2 as shown in Schedule C in conformance to the Town's Subdivision By-law by no later than December 31, 2025.

**1.2** The Town shall here by approve the Subdivision Plan for the lot consolidation of Property 1 and Property 2 provided the newly created Lot does not exceed 825 m<sup>2</sup> (8880.2 square feet) in area and provided all other requirements of the Land Use By-law and Subdivision By-law are adhered to.

**1.3** The Town shall here by approve the Subdivision Plan for the lot consolidation of Property 1 and Property 2 provided the newly created Lot does not exceed 42 m (137.8 feet) in street frontage and provided all other requirements of the Land Use By-law and Subdivision By-law are adhered to.

### **2. Amendments and Discharge**

**2.1** Any amendments to this Agreement which are substantive shall be made subject and pursuant to requirements set forth in the *Municipal Government Act, S.N.S., 1998, Chapter 18*, as amended and shall require a public hearing.

**2.2** Any and all amendments to this Agreement shall be substantive.

**2.3** Notwithstanding Section 2.2 of this Agreement, discharge of this Agreement is not a substantive matter and this Agreement may be discharged by Council at the request of the Developer without a public hearing.

**2.4** Notwithstanding Section 2.2 and 2.3, Council may discharge this Agreement without the consent of the Developer if the developer fails to submit a Subdivision Plan in accordance with the Town's Subdivision By-law for approval by December 31, 2025. This discharge shall be defined as not substantive under the meaning of the *Municipal Government Act, S.N.S., 1998, Chapter 18*, as amended and shall not require a public hearing.

### **3. Signing of Development Agreement**

**3.1** The Developer shall sign this Agreement within sixty (60) 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.

### **4. Warranties by Developer**

**4.1** The Developer warrants as follows:

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

## **5. Compliance with other By-laws and Regulations**

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

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

**5.4** 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.

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

## **6. Provisions of Land Use By-law**

**6.1** Any provisions or regulations not set out or specifically mentioned in this Agreement shall be governed by the provisions of the Town's Land Use By-law, implemented on September 22, 2021 and any amendments thereto.

## **7. Breach of Terms or Conditions**

**7.1** Upon the breach by the Developer of the terms or conditions of this Agreement, the Town may undertake any remedies permitted by the *Municipal Government Act*, S.N.S., 1998, Chapter 18, as amended.

## **8. Termination of Agreement**

**8.1** That this Agreement shall be in effect until discharged by resolution of the Council of the Town in accordance with the relevant statutes; whereupon the Land Use By-law shall apply to the lands.

**8.2** That the Council of the Town retains the option of discharging this development agreement should any fact provided to the Town by the Developer or its agents constitutes a material misrepresentation of the facts upon which this Agreement is based.

**8.3** That the Council of the Town may discharge this Agreement if the Developer breaches any terms of the Agreement.

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

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

SIGNED, SEALED AND ATTESTED to be the proper signing officers of the Town of Lunenburg, duly authorized in that behalf, in the presence of: **TOWN OF LUNENBURG**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Matt Risser, Mayor

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Bea Renton, Town Clerk

SIGNED, SEALED AND DELIVERED  
In the presence of:

**DEVELOPER**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
**RICHBURG LP MANAGEMENT INC.**

**PROVINCE OF NOVA SCOTIA  
LUNENBURG COUNTY**

**ON THIS \_\_\_\_\_ day of \_\_\_\_\_, 2021, before me, the subscriber personally came and appeared \_\_\_\_\_, a subscribing witness to the annexed Indemnity, who having been by me duly sworn, made oath and said that \_\_\_\_\_ one of the parties thereto, signed, sealed and delivered the same in their presence.**

\_\_\_\_\_  
**A COMMISSIONER OF THE SUPREME  
COURT OF NOVA SCOTIA**

**PROVINCE OF NOVA SCOTIA  
LUNENBURG COUNTY**

**I CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_, 2021, one of the parties mentioned in the foregoing and annexed Indemnity, signed, and executed the said Indemnity in my presence and I have signed as witness to such execution.**

\_\_\_\_\_  
**A COMMISSIONER OF THE SUPREME  
COURT OF NOVA SCOTIA**

## Schedule A – Property 1 Description

### PID 60061801

MUNICIPALITY/COUNTY: Town of Lunenburg, Lunenburg County

REGISTRATION COUNTY: Lunenburg

LOCATION: Pelham Street

DESIGNATION OF PARCEL ON PLAN: Lot 4

TITLE OF PLAN: Plan Showing Consolidation of Lot 1, Lot 2 & Lot 3 to create Lot 4, Property of GMT Software Systems Ltd., 90 Pelham Street, Town of Lunenburg, Lunenburg County, Nova Scotia

REGISTRATION DATE OF PLAN: June 11, 1999

REGISTRATION REFERENCE OF PLAN: Plan No. 11165

TOGETHER WITH the Grantors right to continue the encroachment of the building and any land occupied by the said building as it may extend over the land to the west hereof, as referenced in the Statutory Declaration in Book 261 at Page 1079 and in Deed in Book 488 at Page 102.

TOGETHER WITH the benefit of the Utility Easement running over a 10 foot strip of land from the above described Lot 4 to Montague Street, over lands now or formerly owned by CIBC Mortgage Corporation, as defined and described in the Grant of Utility Easement in Book 355 at Page 766 and shown on the above referenced plan of Lot 4.

SUBJECT TO a Right of Way for the benefit of Lands at 102 Pelham Street, formerly owned by Vera Louise Levy, being shown on the above referenced plan, and also on Plan No. 75788969, and further defined and described in the Deed in Book 138 at Page 450 and further defined by the Right of Way Agreement in Book 956 at Page 399.

SUBJECT TO the Restrictive Covenant defined in the Deed in Book 300 at page 973.

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

Compliance:

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

Registration District: LUNENBURG COUNTY

Registration Year: 1999

Plan or Document Number: 11165

## Schedule B – Property 2 Description

**PID 60061793**

MUNICIPALITY/COUNTY: Town of Lunenburg, Lunenburg County

REGISTRATION COUNTY: Lunenburg

LOCATION: Pelham Street

DESIGNATION OF PARCEL ON PLAN: Property of Donald Cedric Levy & Dianne Johnson

TITLE OF PLAN: Plan Showing Survey of Property of Donald Cedric Levy & Dianne Johnson, Property of Mary Elizabeth Jordan and Property of Kathryn Ann White at 102 Pelham Street, 106 Pelham Street and 103 Montague Street, respectively, Town of Lunenburg, Lunenburg County, Nova Scotia

REGISTRATION DATE OF PLAN: August 25, 2005

REGISTRATION REFERENCE OF PLAN: Plan No. 82833733

TOGETHER WITH the Grantors right, title and interest in the building and any land occupied by the said building as extends over the land hereinbefore described as referenced in the Deed in Book 732 at Page 764.

TOGETHER WITH the Right of Way over the existing driveway located along the western boundary of the land hereinbefore described, as shown on the aforementioned plan and further shown on Plan No. 75788969, and as referenced in the Deed in Book 120 at Page 534 and further defined and described in the Right of Way Agreement in Book 956 at Page 399.




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

Not Subject To:

The parcel was created by a subdivision that predates subdivision control or planning legislation or by-laws in the municipality and therefore no subdivision approval was required for creation of this parcel.



# SCHEDULE C Site Plan

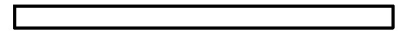
-  Proposed Consolidation
-  Edge of Pavement
-  Parcels

North



1:500

25



Metres

Duke St

Lincoln St

Pelham St

Montague St

PID: 60061801  
Property 1

PID: 60061793  
Property 2

**Attachment D  
Proposed Development Agreement for Lot Consolidation of  
PID 60061199 and PID 60061181**

**THIS DEVELOPMENT AGREEMENT** made this \_\_\_\_ day of \_\_\_\_\_, A.D., 2022.

**BETWEEN:**

**RICHBURG LP MANAGEMENT INC.**

(a body corporate, incorporated pursuant to the laws of the Province of Nova Scotia,  
hereinafter called the "Developer")

**OF THE FIRST PART**

- and -

**THE TOWN OF LUNENBURG,**

(a body corporate pursuant to the *Municipal Government Act*, S.N.S., 1998, Chapter 18, as amended,  
having its chief place of business at Lunenburg, Lunenburg County, Nova Scotia, an incorporated Town  
hereinafter called the "Town")

**OF THE SECOND PART**

**WHEREAS** the Developer has agreed to enter into this Agreement with the Town pursuant to Section 225 of the *Municipal Government Act*, S.N.S., 1998, Chapter 18, as amended, and Policy 3-2A of the Municipal Planning Strategy; and

**WHEREAS** the Developer is the owner of certain lands and premises (hereinafter called the "Property 1" which lands are more particularly described in Schedule A attached hereto and which are known as Property Identification (PID) Number 60061199; and

**WHEREAS** the Developer is the owner of certain lands and premises (hereinafter called the "Property 2" which lands are more particularly described in Schedule B attached hereto and which are known as Property Identification (PID) Number 60061181; and

**WHEREAS** the Developer has made application to the Town for subdivision approval in order to consolidate Property 1 with Property 2; and

**WHEREAS** Policy 3-2A of the Town's Municipal Planning Strategy implemented on September 22, 2021, A.D., and amendments thereto enables the Town to enter into a Development Agreement to enable subdivision approval for lot consolidations that exceed the Maximum Lot Area and Maximum Lot Frontage as prescribed in the Land Use By-law; and

**WHEREAS** the Town by resolution of Town Council passed at a meeting on \_\_\_\_\_ day of \_\_\_\_\_, 2022, approved this Development Agreement;

**NOW THIS AGREEMENT WITNESSETH** that in consideration of the sum of \$1.00 now paid by the Developer to the Town, the receipt of which is hereby acknowledged, the parties here to mutually covenant and agree to the Lot Consolidation of Property 1 with Property 2 subject to the following terms and conditions:

### **1. Subdivision Approval**

**1.1** The Developer hereby agrees to submit a Subdivision Plan for the lot consolidation of Property 1 and Property 2 as shown in Schedule C in conformance to the Town's Subdivision By-law by no later than December 31, 2025.

**1.2** The Town shall here by approve the Subdivision Plan for the lot consolidation of Property 1 and Property 2 provided the newly created Lot does not exceed 825 m<sup>2</sup> (8880.2 square feet) in area and provided all other requirements of the Land Use By-law and Subdivision By-law are adhered to.

**1.3** The Town shall here by approve the Subdivision Plan for the lot consolidation of Property 1 and Property 2 provided the newly created Lot does not exceed 42 m (137.8 feet) in street frontage and provided all other requirements of the Land Use By-law and Subdivision By-law are adhered to.

### **2. Amendments and Discharge**

**2.1** Any amendments to this Agreement which are substantive shall be made subject and pursuant to requirements set forth in the *Municipal Government Act, S.N.S., 1998, Chapter 18*, as amended and shall require a public hearing.

**2.2** Any and all amendments to this Agreement shall be substantive.

**2.3** Notwithstanding Section 2.2 of this Agreement, discharge of this Agreement is not a substantive matter and this Agreement may be discharged by Council at the request of the Developer without a public hearing.

**2.4** Notwithstanding Section 2.2 and 2.3, Council may discharge this Agreement without the consent of the Developer if the developer fails to submit a Subdivision Plan in accordance with the Town's Subdivision By-law for approval by December 31, 2025. This discharge shall be defined as not substantive under the meaning of the *Municipal Government Act, S.N.S., 1998, Chapter 18*, as amended and shall not require a public hearing.

### **3. Signing of Development Agreement**

**3.1** The Developer shall sign this Agreement within sixty (60) 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.

### **4. Warranties by Developer**

**4.1** The Developer warrants as follows:

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

## **5. Compliance with other By-laws and Regulations**

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

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

**5.4** 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.

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

## **6. Provisions of Land Use By-law**

**6.1** Any provisions or regulations not set out or specifically mentioned in this Agreement shall be governed by the provisions of the Town's Land Use By-law, implemented on September 22, 2021 and any amendments thereto.

## **7. Breach of Terms or Conditions**

**7.1** Upon the breach by the Developer of the terms or conditions of this Agreement, the Town may undertake any remedies permitted by the *Municipal Government Act*, S.N.S., 1998, Chapter 18, as amended.

## **8. Termination of Agreement**

**8.1** That this Agreement shall be in effect until discharged by resolution of the Council of the Town in accordance with the relevant statutes; whereupon the Land Use By-law shall apply to the lands.

**8.2** That the Council of the Town retains the option of discharging this development agreement should any fact provided to the Town by the Developer or its agents constitutes a material misrepresentation of the facts upon which this Agreement is based.

**8.3** That the Council of the Town may discharge this Agreement if the Developer breaches any terms of the Agreement.

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

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

SIGNED, SEALED AND ATTESTED to be the proper signing officers of the Town of Lunenburg, duly authorized in that behalf, in the presence of: **TOWN OF LUNENBURG**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Matt Risser, Mayor

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Bea Renton, Town Clerk

SIGNED, SEALED AND DELIVERED  
In the presence of:

**DEVELOPER**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
**RICHBURG LP MANAGEMENT INC.**

**PROVINCE OF NOVA SCOTIA  
LUNENBURG COUNTY**

ON THIS \_\_\_\_\_ day of \_\_\_\_\_, 2021, before me, the subscriber personally came and appeared \_\_\_\_\_, a subscribing witness to the annexed Indemnity, who having been by me duly sworn, made oath and said that \_\_\_\_\_ one of the parties thereto, signed, sealed and delivered the same in their presence.

\_\_\_\_\_  
A COMMISSIONER OF THE SUPREME  
COURT OF NOVA SCOTIA

**PROVINCE OF NOVA SCOTIA  
LUNENBURG COUNTY**

I CERTIFY that on this \_\_\_\_\_ day of \_\_\_\_\_, 2021, one of the parties mentioned in the foregoing and annexed Indemnity, signed, and executed the said Indemnity in my presence and I have signed as witness to such execution.

\_\_\_\_\_  
A COMMISSIONER OF THE SUPREME  
COURT OF NOVA SCOTIA

## Schedule A – Property 1 Description

**PID# 60061199**

ALL those two certain lots of land situate in the Town Plot of Lunenburg, being lots numbered 1 and 2 in Block "B" in Moreau Division of the Town Plot of Lunenburg, measuring on Pelham Street a frontage of eighty feet (80), more or less, and sixty feet (60) on Duke Street and being the same land conveyed from Bluenose Motors Limited to Ronald Beatty by Deed dated the 24th day of November, 1966 and recorded in the Office of the Registrar of Deeds at Bridgewater, N.S., in Book 136 at page 2 under number 4.

This land was conveyed by Ronald Beatty, et ux, to Dolphin Tavern Limited by Deed dated April 1, 1970 and registered in the Registry of Deeds at Bridgewater, N.S., on April 23 1970 in Book 141 at page 110 under number 168.

BEING AND INTENDED to be the same property conveyed by Dolphin Tavern Limited to Lunenburg Dinner Theatre Company Limited by deed dated August 2, 1994 and recorded at the Office of the Registrar of Deeds at Bridgewater, N.S., on August 6, 1994 in Book 570, Page 910, under No. 5849.

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

Not Subject To:

The parcel was created by a subdivision that predates subdivision control or planning legislation or by-laws in the municipality and therefore no subdivision approval was required for creation of this parcel.

## Schedule B – Property 2 Description

### PID# 60061181

All that certain lot of land situate in the Town of Lunenburg, in the County of Lunenburg and Province of Nova Scotia, shown as 'Remaining Property of Weldon Allen, Remaining Area = 1935 Sq. Ft' on a plan of subdivision prepared by Lester W. Berrigan, N.S.L.S. No. 409, dated September 18, 1992 and filed at the Registry of Deeds Office, Bridgewater on October 14, 1992 as plan number 9125, described as follows:

Beginning at a survey marker on the northern boundary of Pelham Street and at the southeast corner of property of Stellar Investments Inc., formerly of William Patrick Towndrow;

Thence North 07 degrees 19 minutes 23 seconds East along the property of Stellar Investments Inc. , for a distance of 59.56 feet, more or less, to a survey marker on the Southwest corner of property now or formerly of Himmelman's Jewelers Limited, formerly J. Nelson Dibbin and G. Annette Dibbin;

Thence in a northwesterly direction, along the southern boundary of the property of Himmelman's Jewelers Limited, for a distance of 32.5 feet, more or less, to the northeastern corner of property of Atcan Hotels Inc.;

Thence South along the property of Atcan Hotels Inc., sixty feet, more or less, to a stake on the Southwest corner of the property of Atcan Hotels Inc. and the north boundary of Pelham Street;




Thence in an southeasterly direction along the north boundary of Pelham Street for a distance of 32.5 feet, more or less, to the survey marker at the place of beginning.

#### MGA Compliance Statement:

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



# SCHEDULE C Site Plan

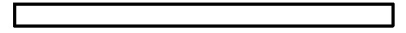
-  Proposed Consolidation
-  Edge of Pavement
-  Parcels

North



1:500

25



Metres

Duke St

Lincoln St

PID: 60061199  
Property 1

PID: 60061181  
Property 2

Pelham St

Montague St