

PLANNING ADVISORY COMMITTEE PUBLIC INFORMATION MEETING MINUTES
MONDAY, APRIL 12, 2021
MEETING RECOMMENDATIONS

1. To recommend that Council enter into the Development Agreement to add a third residential unit at 6 Victoria Road, PID 600557531, and give first reading and set a public hearing date to further consider same.
2. To recommend that Council enter into the Development Agreement to add a third residential unit at 185 Pelham Street, PID 60061704, and give first reading and set a public hearing date to further consider same.
3. To recommend that Council amend the text of the Land Use By-law, Part 16.1 Permitted Developments, under existing residential uses as follows, by inserting after "61 Tannery Road ABCO":
 - i. 200 Montague Street*
 - ii. 268 Montague Street*
 - iii. 272 Montague Street, converted dwelling with 3 units*

and give first reading and set a public hearing date to further consider same.

PLANNING ADVISORY COMMITTEE PUBLIC INFORMATION MEETING MINUTES

MONDAY, APRIL 12, 2021 AT 6:00 P.M.

VIA ZOOM WEBINAR

PRESENT: Councillor Susan Sanford, Chair
Councillor Stephen Ernst
Councillor Ed Halverson
Peter Goforth, Citizen Appointment
Derek Kinsmen, Citizen Appointment
Jack Strowbridge, Citizen Appointment

ALSO PRESENT: John Heseltine, Stantec Consulting, Town of Lunenburg Consultant
Heather McCallum, Assistant Municipal Clerk
Bea Renton, CAO
Dawn Sutherland, Planning and Development Manager

2. Call to Order

The Chair called the meeting to order at 6:11 p.m.

3. 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.

4. Agenda

Motion: moved and seconded to approve the agenda.

5. Planning Advisory Committee February 10, 2020 meeting minutes

Motion: moved and seconded to approve the February 10, 2020 meeting minutes.

6. Business Arising from the Minutes/Unfinished Business

7. Public Information Meeting

The Planning and Development Manager outlined the Town's public participation program relating to this application and process for the public information meetings (**Schedule "A"**).

a. Development Agreement Application for a Third Residential Unit at 6 Victoria Road

Mr. Heseltine provided a summary of his Committee report (Schedule "B") as the Town's consultant on this project.

Committee members discussed what the current parking arrangements are. There may be parking on Town lands. Staff advised that only one parking space is provided by the owner now and is intended to be maintained through the Development Agreement.

Erin Ferguson, Brighter Community Planning and Consulting Ltd., on behalf of the applicant, Jean Greige, gave an overview of her client's Development Agreement application for a third residential unit. There are currently two units in the building. One of the units is accessible.

The Planning and Development Manager advised that no public submissions have been received to date.

The Chair called for any public submissions and there were none.

b. Development Agreement Application for a Third Residential Unit at 185 Pelham Street

The Planning and Development Manager presented an overview of the application for a third residential unit at this property as well (Schedule "C"). She noted that the Town is not making any representations as to the current or future Building and/or Occupancy Permit status of the properties under review now. These are separate matters. There is off street parking at this location, but there is only one actual parking space which would meet zoning requirements. The location of the property is such that it is within walking distant of most Town services and Council earlier amended the zoning requirements to reduce on-site parking requirements to facilitate residential densification.

The Planning and Development Manager advised that no public submissions have been received to date.

The Chair called for any public submissions and there were none.

c. Land Use Bylaw Text Amendment Application respecting the Proposed Residential Designation of 200, 268, and 272 Montague Street in the Marine Residential Zone

The Planning and Development Manager gave an overview of the application and proposed Land Use Bylaw text amendment to recognize these properties as existing Residential uses (Schedule "D") so as to be considered conforming. Again, no municipal representations are being made regarding current or future Building and/or Occupancy Permit uses.

The Planning and Development Manager stated that there have been two submissions received regarding this application – one from the Applicant (**Schedule “E”**) and another from Develop NS (**Schedule “F”**). Mr. Rolfsen noted that Develop NS sold some of their lands to these residential property owners to expand their backyards.

Motion: moved and seconded to close the public information meeting portion of the Planning Advisory Committee meeting. Motion carried.

The public information meeting portion closed at 7:14 p.m.

8. New Business

- a. Development Agreement Application for a Third Residential Unit at 6 Victoria Road

The Committee considered the draft motions contained in the report (**Schedule “B”**).

Motion: moved and seconded that the Planning Advisory Committee recommends that Council enter into the Development Agreement to add a third residential unit at 6 Victoria Road, PID 600557531, and give first reading and set a public hearing date to further consider same. Motion carried.

- b. Development Agreement Application for a Third Residential Unit at 185 Pelham Street

The Committee considered the draft motions contained in the report (**Schedule “C”**).

Motion: moved and seconded that the Planning Advisory Committee recommends that Council enter into the Development Agreement to add a third residential unit at 185 Pelham Street, PID 60061704, and give first reading and set a public hearing date to further consider same. Motion carried.

- c. Land Use By-law Text Amendment Application respecting the Proposed Residential Designation of 200, 268, and 272 Montague Street in the Marine Residential Zone

The Committee considered the draft motions contained in the report (**Schedule “D”**).

Motion: moved and seconded that the Planning Advisory Committee recommends that Council amend the text of the Land Use By-law, Part 16.1 Permitted Developments, under existing residential uses as follows, by inserting after “61 Tannery Road ABCO”:

- i. 200 Montague Street*
- ii. 268 Montague Street*
- iii. 272 Montague Street, converted dwelling with 3 units*

and give first reading and set a public hearing date to further consider same. Motion carried.

9. Next Meeting Dates

- Tentative: Thursday, April 29 - full day in person workshop with Planning Advisory Committee members and Upland Planning & Design staff to review and become familiar with the draft Municipal Planning Strategy, Land Use Bylaw and Subdivision Bylaw.
- Public participation on draft planning documents should begin in May. Formal meetings will likely be held on Wednesdays.

10. Adjournment

Motion: moved and seconded to adjourn the meeting. Motion carried.

The Chair adjourned the meeting at 7:21 p.m.

Bea Renton, CAO

Public Information Meeting Process Outline

1. Opening of the Public Information Meeting

A public information meeting provides members of the public with an opportunity to learn about a proposal and make their views known to the Planning Advisory Committee. A public information meeting is required under the Town of Lunenburg's Public Participation Program.

In terms of process, after the public information meeting is held, PAC may make a recommendation to Council or defer decision to a later date if, for example, more information is requested. Please note that time for questions from the gallery is during the Public Information Meeting. Once the meeting is closed, discussion is to be between the Committee members only. The public will have another opportunity for input should Council forward the proposal to a public hearing. After the public hearing, Council will make the final decision.

2. Review of General Rules of Conduct

There are a few general rules of conduct that are to be observed so that everyone who wishes to speak can do so in an open and respectful environment. The general rules of conduct for speakers are:

- *Please state your name and civic address clearly so that it may be recorded in the minutes.*
- *We ask that you be respectful of others opinions*
- *Speakers will be limited to one presentation unless called upon by the Chair for further comment. Speakers are limited so that all may have an opportunity to participate.*
- *PAC members may question each speaker.*
- *Comments and questions by the public are to be directed to the Chair.*

3. Public Information Meeting

(a) Title of agenda item

- (i) Presentation by Town Planner Dawn Sutherland or John Heseltine, Senior Planner, Stantec
- (ii) Opportunity for presentation by applicant
- (iii) Written submissions
- (iv) Public input (oral submissions)

4. Closing of the Public Information Meeting

Motion: moved and seconded to close the Public Information Meeting portion of the Planning Advisory Committee meeting.



To: Town Council
Town of Lunenburg

From: John Heseltine, LPP MCIP
Stantec Consulting Ltd.

File: 163601438

Date: April 6, 2021

Reference: Development Agreement Application for a Third Residential Unit, 6 Victoria Road (PID 60055753)

Applicant	Mr. Jean Greige
Landowner	same
Proposal	Application to enter into a development agreement to allow for a third residential unit at 6 Victoria Road, Lunenburg
Lot Area	5,383 square feet
Designation	Residential
Zone	Residential
Surrounding uses	Mixed (Industrial, Commercial, Recreation, Residential)
Heritage	Outside the Heritage Conservation District
Site visit	

1. FACTS

A. BACKGROUND

The property at 6 Victoria Road (PID 60055753) in the Town of Lunenburg currently contains two dwelling units. A development permit and building permit have been issued to renovate the two existing units. Occupancy permit 19109 was issued on 11 November 2020.

The structure is located on an irregularly shaped 5,383 square feet (500 m²) lot at the intersection of Victoria Road and Brook Street near the western edge of downtown Lunenburg. While the building is not within the Heritage Conservation District and is not formally recognized as a heritage structure, it is listed on ViewPoint.ca as being 136 years old (i.e., circa 1885) and retains its original character.

It is currently well-maintained and fits with the character of the surrounding streetscape. The application submission from Brighter Community Planning and Consulting contained in Schedule F attached to this report includes photographs of the structure before and after recent exterior renovations. The abutting properties at 26 Brook Street and 50 Falkland Street are residential uses of a similar vintage. The wider area is more mixed. While the adjacent blocks of Brook Street are predominantly residential, Lunenburg Foundry faces 6 Victoria Road across Falkland Street. There are other commercial uses on nearby blocks of Victoria Road (e.g., Seaside Animal Hospital and NAPA Auto Parts) and Falkland Street (e.g., West Nova Fuels). Across Victoria Road, furthermore, is the Lunenburg Playground.

B. PROPOSAL

The property owner is seeking to add a third dwelling unit to the existing two-unit residential building at 6 Victoria Road. The property is currently designated Residential on the Future Land Use Map in the Municipal Planning Strategy (MPS) and zoned Residential (R) on the Town of Lunenburg Zoning Map. The R Zone permits single and two-unit dwellings as-of-right and permits the consideration of "multi-unit buildings" (i.e., buildings that contain three or more dwelling units) by development agreement.

Reference: Development Agreement Application for a Third Residential Unit, 6 Victoria Road (PID 60055753)

2. ISSUES AND OPTIONS

A. RELEVANT POLICIES

LUB Section 5.1(b)(ii) establishes the right of Council to consider the development of “multi-unit dwellings in accordance with Municipal Planning Strategy policy 5.9.” Policy 5.9 states [It shall be the policy of Council to:]

consider, only by development agreement, in areas designated Residential on Map 2, the Future Land Use Map proposals for multi-unit dwellings including conversions, expansions and new construction provided the development is in accordance with policy 5.12. [emphasis added]

The property in question is in a Residential designation, as noted, and the proposal is an internal conversion of an existing building, which is listed among the development possibilities to which the policy applies. The application of Policy 5.12 is ambiguous in Policy 5.9 as written; however, Policy 5.12, which has been amended and re-numbered as 5.12A, is clear that it applies only to “proposals for new construction of multi-unit residential buildings.” (see **Schedule A** for full policy text).

For conversions and expansions Council is to consider the application against criteria set out in MPS Policies 19.9.1 and 19.9.2 (see **Schedule B**). Policy 19.9.1 applies to all LUB amendments and development agreements, while Policy 19.9.2 adds considerations applicable to all development agreements but not LUB amendments.

Criteria for Development Agreements and Land Use By-law Amendments	
19.9.1 consider the following in addition to all other criteria set out in the various policies of this Municipal Planning Strategy when considering amendments to the Land Use By-law or development agreements:	
(a) that the proposal conforms to the intent of the Municipal Planning Strategy and to all other applicable Town By-laws and regulations, except where the application is for a development agreement and the requirements of the Land Use By-law need not be met; and	The development application is a request for a development agreement so Land Use Bylaw provisions may be varied if the outcome conforms to the intent of the Municipal Planning Strategy. The intent of the MPS is discussed in the section titled Issues Identified, below.
(b) that the proposal is not in conflict with Municipal or Provincial programs in effect in the Town; and	No conflicts have been brought to our attention.
(c) that the proposal is not premature or inappropriate by reason of:	
(i) financial ability of the Town to absorb costs related to the development; or	Town costs associated with approval should be limited to permitting and approvals. There is no indication that the Town is not able to absorb these costs, which will be partially mitigated by permit fees to be paid by the applicant.
(ii) adequacy and proximity of school, recreation and other community facilities; or	Occupants of the single additional unit will not place any pressure on the named facility types all of which are available in close proximity to the site.
(iii) negatively affecting the enjoyment of established residences; or	The additional unit is not likely to be disruptive to the current neighbourhood in which it is located and the property, in any case, is located such that activities there have little influence on even the two abutting residences.

Reference: Development Agreement Application for a Third Residential Unit, 6 Victoria Road (PID 60055753)

(iv) the creation of any undue traffic hazard or congestion; or	The property fronts on a significant traffic-bearing street but there is no reason to expect that the additional unit will add significantly to traffic volume in the town or exacerbate current traffic concerns.
(v) adequacy of Town sewer and water services, including fire flows and water pressure or the adequacy of the site for on-site services; or	The development will add a single unit that will likely accommodate one to no more than three people, who can be readily accommodated by the Town's existing water and wastewater networks and treatment facilities.
(vi) adequacy of storm drainage and effects of alteration to drainage pattern, including potential for creation of a flooding problem; or	The development is an internal conversion and as such should not result in changes to the structure or property that will increase run-off or have other effects that would influence storm drainage.
(vii) creation or worsening of a pollution problem in the area such as but not limited to soil erosion and siltation of watercourses; or	The property has a moderate slope and is located in an area of paved streets and developed properties removed from watercourses. It is not likely to be prone to erosion or similar effects and the addition of a single unit within the existing structure is unlikely to exacerbate any such effects should they exist.
(viii) suitability of site regarding grades, soils and geological conditions, location of watercourses, marshes, bogs and swamps, and proximity to utility rights-of-way; and	The building and property are well-established and existing landscaping stabilizes its soils. No significant wetlands are near the site.
19.9.2 consider the following in addition the criteria set out in 19.9.1 above, when considering development agreements:	
(a) that the proposal provides adequate off-street parking. In the case of development by development agreement, parking need not comply with the requirements of the Land Use By-law, and the intention of Council is to reduce the amount of parking required as far as reasonable in relation to the location of the property; and	Because of the irregular configuration of the lot, the presence of a wheelchair access ramp, and recently install curbing, only one parking space can be provided on the lot.
(b) that the proposal provides adequate emergency vehicle access; and	Emergency vehicle access is adequate.
(c) that the hours of operation of the proposed use will not unduly disturb nearby properties; and	N/A
(d) that the primary architectural features of the proposal, including but not limited to bulk, scale, roof shape, building materials, exterior cladding, and shape and size and relationship of doors and windows, shall be visually compatible with nearby buildings in the case of a new building, or with the original building in the case of an addition; and	The building's appearance is consistent with the fabric of the surrounding area and no changes to its exterior appearance are anticipated.
(e) that the proposal will not significantly alter the existing character or stability of the surrounding neighbourhood; and	The area has a mix of land uses but abutting structures are residential and the immediate neighbourhood incorporates single, duplex, and multi-unit buildings. As noted, the character and

Reference: Development Agreement Application for a Third Residential Unit, 6 Victoria Road (PID 60055753)

	appearance of the current building are consistent with the surrounding built environment.
(f) that the proposal will be integrated into the surrounding area by means of good landscaping and sensitive site orientation and screening adequate to eliminate the impact of any objectionable features such as parking or outdoor storage of equipment, parts and waste material; and	The property incorporates a large hedge that buffers abutting residential properties. Shifting parking from the front yard to the side of the building will enhance its appearance from the street and the park facing it across Victoria Road.
(g) that residential developments provide sufficient usable outdoor open space; and	The property area is 500 m ² or 5,382 square feet, which is 10.4% short of the 558 m ² /6,000 square foot minimum requirement in the R Zone. The property, however, was subdivided in 1852 before subdivision regulations existed and is consistent with the neighbourhood pattern. The applicant has indicated on the Site Plan provided in attached Schedule E that an amenity area of approximately 20 m ² or 215 square feet is available on the property's western side yard. Furthermore, a large park located across Victoria Road provides residents at 6 Victoria Road with ready access to additional good quality open space opportunities.
(h) that the proposal will not result in a significant risk of damage to either the natural or built environment. This determination will be made by a person deemed to be qualified by Council. Where Council determines, on the advice of a qualified person, that there is a significant risk of such damage, environmental studies shall be undertaken by the developer in order to determine the nature and extent of any likely damage. The proposal shall not be approved by Council until Council is satisfied that all concerns respecting the impact of the development have been adequately addressed; and	No potential risk has been identified.
(i) that adequate provision is made for garbage collection and industrial waste disposal, and Council is satisfied that all necessary permissions for these services have been received from the regulatory body having jurisdiction; and	The applicant has stated that a "waste collection bin" will be provided. Waste is picked up from existing units on the property without any complications that have been noted.
(j) the use shall not as a result of emissions of noise, odour, dust, or light or any other form of emission, have an undue negative effect on the enjoyment of other properties in the area.	A residential land use conventionally used should not create emissions that will cause any undue negative effect.

Reference: Development Agreement Application for a Third Residential Unit, 6 Victoria Road (PID 60055753)

B. REQUESTS FOR COMMENTS

As part of this review process, Town staff met to review the application on March 29, 2021.

Engineering and Public Works staff determined that the site is suitable for development. No grade changes are proposed, the site is not near a watercourse, and no interference with utility ROWs is required. Public water and sewer services are adequate for a third residential unit. The local storm system has been upgraded and storm drainage is also adequate. There is no known pollution on site and no noxious use is proposed.

C. ISSUES IDENTIFIED

The development agreement application is specifically required to allow the addition of a third residential unit at 6 Victoria Road. The addition of a single unit will not significantly impact municipal infrastructure and should not exacerbate any safety or nuisance concerns in the area. The lot, as noted in the foregoing table, is just more than 10% short of the LUB minimum for the R Zone and the provision of only one parking space is less than has traditionally been expected for a three-unit residential structure.

The MPS supports the intensification of residential land uses within the town given the need for affordable housing and noting that the Old Town and New Town (in which 6 Victoria Road is located) “have long since developed to the extent possible.” Given that nearly all properties in the traditional areas of the town have been built on, the Planning Strategy provides for additional units through conversion:

Conversion of large old single unit dwellings and other buildings to multi-unit dwellings serves a housing need and provides an acceptable use for the larger buildings. Small scale conversions will be permitted; larger scale conversions will require a development agreement.

Conversions to create two units are considered small-scale. The conversion applied for at 6 Victoria Road, although modest, falls into the category of larger scale conversions requiring a development agreement.

Policy 5.8 lists “conversion of buildings to three unit dwellings” as one of nine uses to be “Allowed Throughout Residential Designation[s].” The R Zone, however, only permits up to two-unit dwellings. Conversions to three units are addressed by Policy 5.9, which allows Council to consider “proposals for multi-unit dwellings including conversions ... provided the development is in accordance with policy 5.12. Policy 5.12, however, deals with new construction, effectively passing the consideration of conversion projects onto Policies 19.9.1 and 19.9.2.

As stated in Policy 19.9.1(a), the development agreement process allows Council to consider developments that would not otherwise be permitted under the LUB if the overall intent of the MPS is met. The two measures by which the proposal does not meet LUB standards are lot area and parking. The lot is 10.4% short of the 558 m²/6,000 square foot minimum area required for the R Zone. This deficiency is unlikely to affect the ability of tenants to recreate on the property and is mitigated by the availability of an open municipal park directly across the street.

The under-sized property is, however, a factor in the inability of the developer to provide more than one parking space for the building. The developer’s application acknowledges “small lot size” along with the irregular shape of the lot, the recent relocation of the curb cut such that vehicles now enter the property on the /east side of the structure, and a wheelchair ramp constructed at the northeast corner of the property as

Reference: Development Agreement Application for a Third Residential Unit, 6 Victoria Road (PID 60055753)

factors limiting his ability to provide more than one space meeting the size requirements of the LUB (i.e., at least 18 m²/200 square feet, measuring at least 3 m/10 feet by 6 m/20 feet, exclusive of driveways or aisles).

Section 26M.1 of the LUB states that developers converting buildings to increase the number of dwelling units can have no more than three dwelling units and must provide “one (1) off-street parking space ... for each dwelling unit.” Policy 19.9.2 of the MPS, which is reproduced in the table above, states, however, that “[i]n the case of development by development agreement, parking need not comply with the requirements of the Land Use By-law, **and the intention of Council is to reduce the amount of parking required as far as reasonable in relation to the location of the property.**” [emphasis added]]

The applicant has identified the key points that justify reduction of the parking requirement for 6 Victoria Road. In addition to the clear direction of the MPS that parking should be reduced “as far as reasonable,” the location of the property suits it well to occupants who do not want to or cannot own a car. The restaurants and retail businesses are located on blocks immediately around the property. A walk to the centre of the Lunenburg waterfront takes just ten minutes and it is just seven minutes walk to the nearest grocery store. As noted, the Lunenburg Playground, which has tennis courts and playground equipment, is across Victoria Road, and other recreation facilities such as the Curling Club are nearby. Residents will also have easy access to the Back Harbour Trail to reach the waterfront and downtown.

Planning regulations have historically required substantial parking provisions for residential and commercial properties to “get cars off the street.” Planners have more recently come to recognize that excessive requirements for onsite parking inhibit redevelopment potential and encourage automobile use where it is not necessary. Providing less parking ultimately reduces car ownership and vehicle trips in the community, while encouraging walking. The objective of encouraging walkability is especially important in a historic community like Lunenburg where walking reinforces traditional character and creates a more pleasant environment for visitors. It also has significant benefits for the health of community members.

D. OPTIONS

In response to the application Planning Advisor Committee may

1. Recommend that the Council enter into the development agreement to add a third residential unit to 6 Victoria Road, PID 600557531, and give First Reading and set a Public Hearing date.
2. Recommend that the application be refused if it is found not to carry out the intent of the Municipal Planning Strategy.
3. Provide alternative direction, such as requesting further information on a specific topic.

3. FINANCIAL IMPACT

None at this time.

4. STRATEGIC PLAN RELEVANCE

This project is in keeping with the following Strategic Directions and Goals approved by Lunenburg Town Council on November 17, 2020 (<https://www.explorelunenburg.ca/strategic-plan.html>):

Reference: Development Agreement Application for a Third Residential Unit, 6 Victoria Road (PID 60055753)

- *Community Structure* – A town that accommodates growth and change in a well-planned way that is respectful of its layered past and creates opportunities for its long-term future.
- *Housing* – A town that offers a wide range of high quality and affordable housing options.
- *Mobility* – A town with an integrated transportation system for all modes that can support the needs of residents and visitors without creating undue burden on the town.

5. RECOMMENDATION

Based on the foregoing review, Mr. Jean Grieg's application to enter into a development agreement with the Town to permit the conversion of the building at 6 Victoria Road to a maximum of three dwelling units notwithstanding that the proposed development will not satisfy the requirement of Section 26M.1 of the LUB requiring that such developments must have one off-street parking space per dwelling unit, is consistent with the intents of the MPS. The proposal is consistent with the Town's residential development policies and meets the intent of the MPS, particularly the intention of Council stated in MPS Policy 19.9.2(a) "to reduce the amount of parking required as far as reasonable in relation to the location of the property" for developments of the type that Mr. Grieg is proposing.

IT IS RECOMMENDED THAT Council enter into the development agreement to add a third residential unit to 6 Victoria Road, PID 600557531, and give First Reading and set a Public Hearing date.

6. APPENDICES

Schedule A – Municipal Planning Strategy Policies 5.8, 5.9, and 5.12

Schedule B – Municipal Planning Strategy Policy 19.9

Schedule C – Development Agreement Approval Process

Schedule D – Site Plan

Schedule E – Application

Schedule F – DRAFT Development Agreement

Stantec Consulting Ltd.



John Heseltine LPP MCIP
Senior Planner
Phone: 902 481 1477
John.Heseltine@stantec.com

Attachment: Schedules A through G

c.Dawn Sutherland, Development/Planning Manager

Schedule A – Municipal Planning Strategy Policies 5.8, 5.9, and 5.12

It shall be the policy of Council to:

Uses Allowed Throughout Residential Designation

- 5.8 permit in areas designated Residential and zoned Old Town Residential (OTR) or Residential (R):
- (a) business uses that are incidental and secondary to a main residential use, subject to specific requirements regarding type of use, floor area, signs and parking; and
 - (b) conversion of buildings to three unit dwellings; and
 - (c) existing commercial uses; and
 - (d) existing multi-unit dwellings; and
 - (e) existing residential and commercial storage buildings; and
 - (f) one and two unit dwellings; and
 - (g) rooming and boarding houses, subject to specific requirements regarding the maximum number of rooms available for rent; and
 - (h) visitor-oriented commercial uses existing on January 1, 2003 and listed in the Residential (R) Zone of the Land Use By-law.
 - (i) tourist homes subject to specific requirements regarding maximum size, location and parking.
- 5.9 consider, only by development agreement, in areas designated Residential on Map 2, the Future Land Use Map proposals for multi-unit dwellings including conversions expansions and new construction provided the development is in accordance with policy 5.12.
- 5.12A (1) Ensure that the following criteria are met when Council is considering proposals for new construction of multi-unit residential buildings by development agreement:
- (a) the minimum lot size must be 279 square metres (3,000 square feet) per dwelling unit up to four and 93 square metres (1,000 square feet) for each additional dwelling unit;
 - (b) residential developments of four or more units must provide 20% of the minimum lot area as dedicated green space to be maintained in plantings and not paved—the approximate location of the green space and the plan for planting it must be included in the development agreement;
 - (c) development must be screened from adjacent one and two unit residential uses by trees and shrubs according to the following requirements:
 - (i) 4 - 5 units 1.5 metres (5 feet)
 - (ii) 6 - 10 units 3 metres (10 feet)
 - (iii) 11 - 15 units 4.5 metres (15 feet)
 - (iv) 16 units and over 6 metres (20 feet)

The location, plant mix and maintenance standards must be included in the development agreement.

- (d) one and one-quarter parking spaces are required for each unit in all developments of four units and over.
 - (e) parking in the front yard is prohibited.
 - (f) location and design of parking spaces and driveways must be included in the development agreement.
- (2) In the case of additions to existing residential developments, the criteria in subsection (1) apply only to the addition.
- (3) In the case of conversions, the specific criteria in subsection (1) do not apply but the factors listed should be taken into account in the development agreement to the extent the existing lot permits.

Schedule B – Municipal Planning Strategy Policy 19.9

19.9.1 consider the following in addition to all other criteria set out in the various policies of this Municipal Planning Strategy when considering amendments to the Land Use By-law or development agreements:

- (a) that the proposal conforms to the intent of the Municipal Planning Strategy and to all other applicable Town By-laws and regulations, except where the application is for a development agreement and the requirements of the Land Use By-law need not be met; and
- (b) that the proposal is not in conflict with Municipal or Provincial programs in effect in the Town; and
- (c) that the proposal is not premature or inappropriate by reason of:
 - (i) financial ability of the Town to absorb costs related to the development; or
 - (ii) adequacy and proximity of school, recreation and other community facilities; or
 - (iii) negatively affecting the enjoyment of established residences; or
 - (iv) the creation of any undue traffic hazard or congestion; or
 - (v) adequacy of Town sewer and water services, including fire flows and water pressure or the adequacy of the site for on-site services; or
 - (vi) adequacy of storm drainage and effects of alteration to drainage pattern, including potential for creation of a flooding problem; or
 - (vii) creation or worsening of a pollution problem in the area such as but not limited to soil erosion and siltation of watercourses; or
 - (viii) suitability of site regarding grades, soils and geological conditions, location of watercourses, marshes, bogs and swamps, and proximity to utility rights-of-way; and

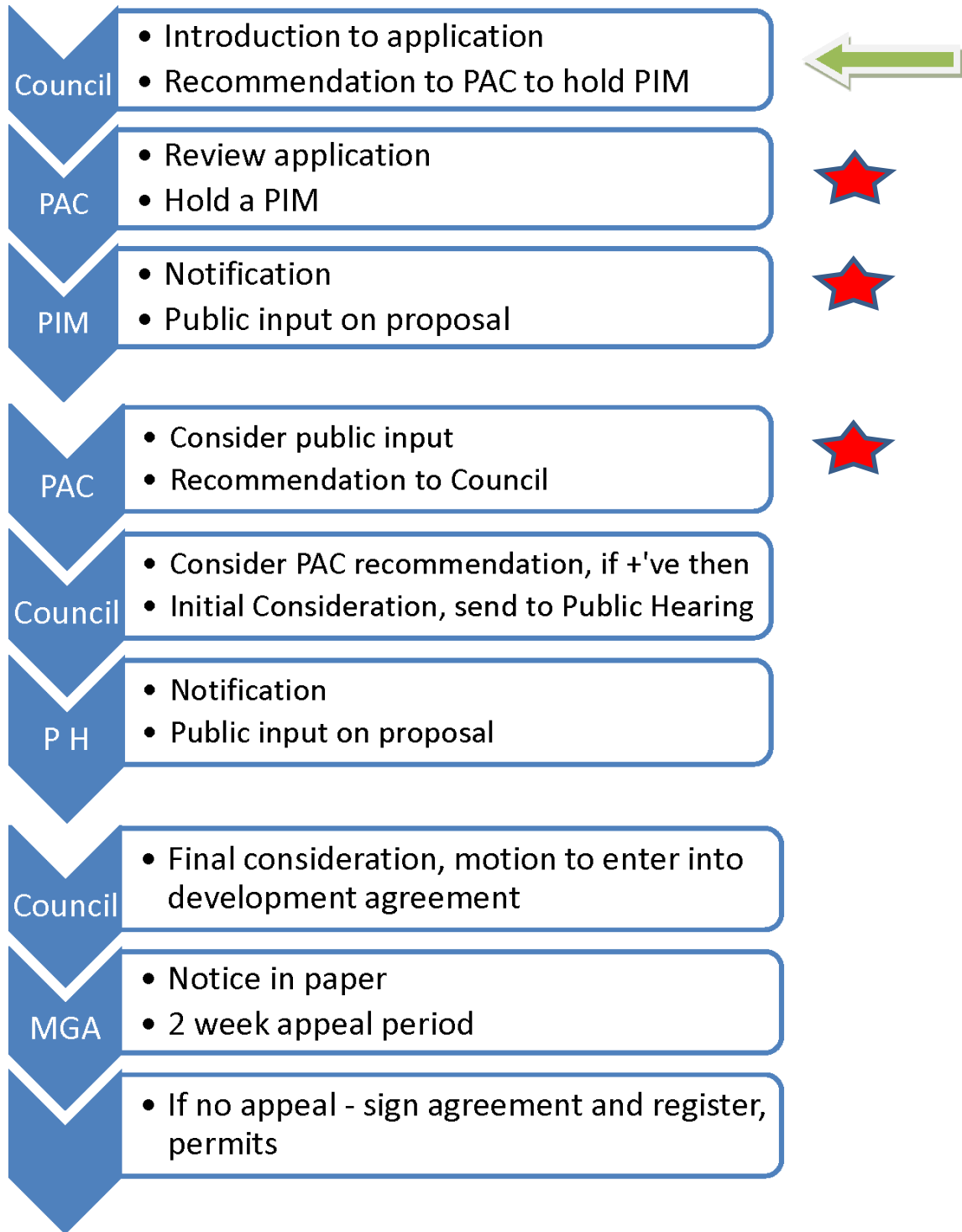
19.9.2 consider the following in addition the criteria set out in 19.9.1 above, when considering development agreements:

- (a) that the proposal provides adequate off-street parking. In the case of development by development agreement, parking need not comply with the requirements of the Land Use By-law, and the intention of Council is to reduce the amount of parking required as far as reasonable in relation to the location of the property; and
- (b) that the proposal provides adequate emergency vehicle access; and
- (c) that the hours of operation of the proposed use will not unduly disturb nearby properties; and
- (d) that the primary architectural features of the proposal, including but not limited to bulk, scale, roof shape, building materials, exterior cladding, and shape and size and relationship of doors and windows, shall be visually compatible with nearby buildings in the case of a new building, or with the original building in the case of an addition; and
- (e) that the proposal will not significantly alter the existing character or stability of the surrounding neighbourhood; and
- (f) that the proposal will be integrated into the surrounding area by means of good landscaping and sensitive site orientation and screening adequate to eliminate the impact of any

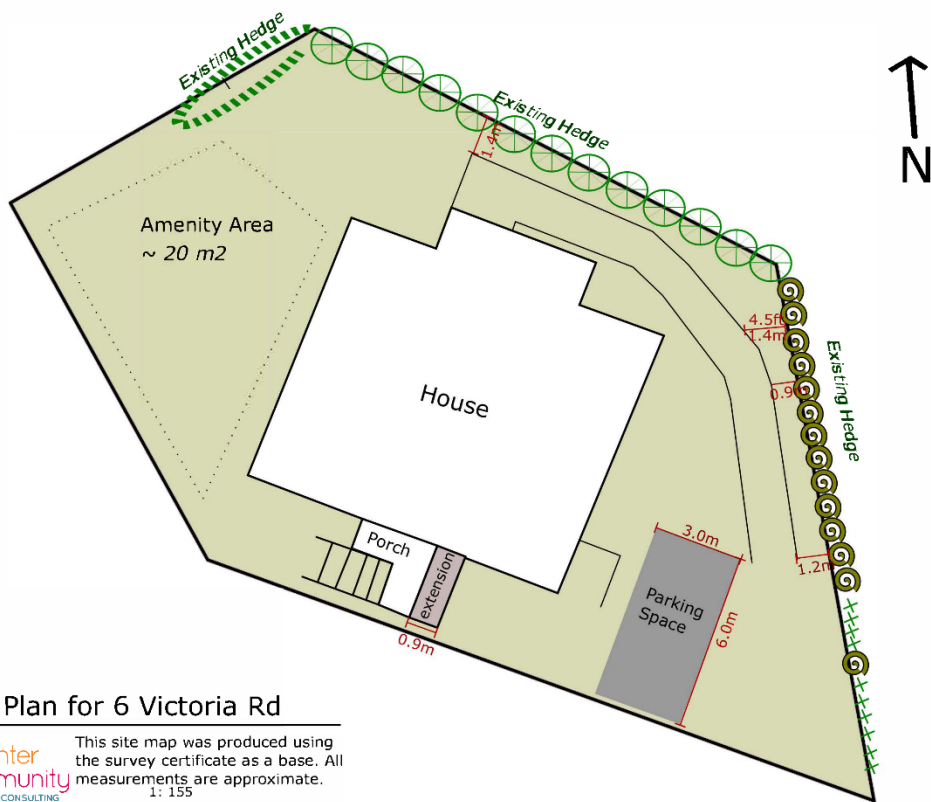
objectionable features such as parking or outdoor storage of equipment, parts and waste material; and

- (g) that residential developments provide sufficient usable outdoor open space; and
- (h) that the proposal will not result in a significant risk of damage to either the natural or built environment. This determination will be made by a person deemed to be qualified by Council. Where Council determines, on the advice of a qualified person, that there is a significant risk of such damage, environmental studies shall be undertaken by the developer in order to determine the nature and extent of any likely damage. The proposal shall not be approved by Council until Council is satisfied that all concerns respecting the impact of the development have been adequately addressed; and
- (i) that adequate provision is made for garbage collection and industrial waste disposal, and Council is satisfied that all necessary permissions for these services have been received from the regulatory body having jurisdiction; and
- (j) the use shall not as a result of emissions of noise, odour, dust, or light or any other form of emission, have an undue negative effect on the enjoyment of other properties in the area.

Schedule C – Development Agreement Approval Process



Schedule D – Site Plan



Site Plan for 6 Victoria Rd

**brighter
community**
PLANNING & CONSULTING

This site map was produced using the survey certificate as a base. All measurements are approximate.
1: 155

Schedule E – Application

Schedule A -1 Application form

Town of Lunenburg Planning Application for Development Agreements

PLEASE NOTE THAT ALL INFORMATION PROVIDED IS PUBLIC INFORMATION

APPLICANT INFORMATION	REGISTERED OWNER OF PROPERTY
Name: Erin Ferguson	Name: Jean Greige
Company Name: Brighter Community Planning & Consulting Ltd	Company Name:
Mailing Address: 80 Water Street, Windsor, BON 2T0	Mailing Address: 50 Montague Street PO Box 1709, Lunenburg, NS, B0J 2C0
Email: erin@brighterplanning.ca	Email: j3pizza@hotmail.com
Phone: [REDACTED] (home)	Phone: [REDACTED]
Cell: [REDACTED]	Cell

PLEASE NOTE: If you are not the registered owner of the property, include a letter of authorization from the owner with your application.

PROPERTY INFORMATION	APPLICATION CHECKLIST
Civic Address: 6 Victoria Rd	<input type="checkbox"/> Copy of Deed
PID: 60055753	<input checked="" type="checkbox"/> Survey Plan or Equivalent
Present Use of Property: Two Unit Dwelling	<input checked="" type="checkbox"/> A Letter Explaining the Proposal
Proposed Use of Property: Three Unit Dwelling	<input type="checkbox"/> Application and Advertising Fees \$945.15 (\$245.15 + \$700.00). NOTE PROPERTY OWNER WILL PROVIDE SEPARATELY

EXPLANATION OF PROPOSAL AND SIGNATURE

A short explanation of your proposal (please include a detailed letter with a full explanation) The proposal is to add one additional dwelling unit for a total of three dwelling units in a former single unit residence. The proposal also includes the provision of one dedicated off-street parking space.

By submitting this application I affirm that the facts set forth are true and complete.

Name (printed): Erin Ferguson Signature: [REDACTED] Date: November 13, 2020

OFFICE USE ONLY: Type of DA Application: Substantial Amendment Date received:



November 12, 2020

Town of Lunenburg
Department of Planning
Attn: Dawn Sutherland

RE: Development Agreement Application for PID 60055753 (6 Victoria Rd)

Dear Ms. Sutherland,

Please accept this letter as an application for a development agreement by my client, Jean Greige. Mr. Greige is seeking a development agreement to permit 1 additional dwelling unit at 6 Victoria Rd. This letter will serve as the development agreement application for Council's review and decision.

Attached you will find:

- Site Plan
- Application Form
- Policy Analysis

Mr. Greige will be submitting the required application fees directly to the municipality.

Introduction:

Mr. Greige is the owner 6 Victoria Road and is seeking a development agreement to permit 1 additional dwelling unit for a total of 3 dwelling units within the building. As you are aware, Mr. Greige is undertaking renovations to the building. He has secured a DP/BP for the renovation of the existing two units but wishes to add a third unit, which requires a development agreement.

The property is an irregularly shaped lot located at the corner of Victoria Road and Falkland Street. It is 5,383 square feet in area (approximately 500 square metres) and is serviced by town water and sewer. It is adjacent to existing residential development, with commercial activities and public recreational facilities in the immediate area. The property is not subject to the Town's architectural controls, but the house maintains many of its original architectural features and is very much in keeping with the existing neighbourhood's built form.

Property Online Map

Date: Jun 3, 2020 1:58:36 PM



Figure 1 - Location map showing subject property in yellow.



Figure 2 – Photo of the front façade.



Proposal

Mr. Greige is seeking the development agreement to permit the addition of a third dwelling unit in an existing residential building and is proposing to provide one off-street parking space.

Policy Analysis & Discussion

Mr. Grieger’s proposal to add a third dwelling unit to an existing residential building property aligns with the residential land use policies and stated objectives of the Municipal Planning Strategy (MPS).

Residential Land Use Policy and Zoning Requirements

The property is currently designated as Residential in the Municipal Planning Strategy and zoned as Residential in the Land Use Bylaw. The MPS recognizes that the demand for affordable housing has increased and supports the conversion of large old single unit dwellings to multi-unit dwellings as one approach to increase the availability of affordable housing options. Small scale conversions are considered as a permitted use while larger scale conversions may be supported under a development agreement.

The proposal is consistent with Policy 5.8 of the MPS which considers the conversion of buildings to three unit dwellings in areas designated as Residential and zoned as Residential as an allowed use. While the proposal is permitted by the MPS, the Residential zone only permits two unit dwellings and requires a development agreement for multi-unit dwellings. Therefore Mr. Greige is applying for a development agreement to add a third dwelling unit.

The Municipal Planning Strategy provides guidance when considering development agreement applications. The Residential Designation, through policy 5.9, allows Council to consider conversations to existing buildings to permit multi-unit development in compliance with Policy 5.12.

Policy 5.12 establishes the specific criteria that Council shall consider when reviewing a development agreement application for new construction. In this case, the request is for an internal conversion to permit the extra unit and, therefore, the policies of 5.12 do not apply.

In addition to any specific criteria, Council has general criteria when considering any development agreement application. Please see the chart below for a review of this proposed development against the general criteria of Policy 19.9.1 and 19.9.2.

Policy 19.9.1 Consider the following in addition to all other criteria set out in the various policies of the MPS when considering amendments to the LUB or development agreements	
(a) That the proposal confirms to the intent of the MPS and to all other applicable	The MPS enables the conversion of existing dwellings within the Residential Designation by

	Town By-laws and regulations, except where the application is for a development agreement and the requirements of the LUB need not be met; and	development agreement. Policy 5.8 permits conversion to 3 units as an allowed use while Policy 5.9 enables multi unit conversion through a development agreement.
(b)	That the proposal is not in conflict with Municipal or Provincial programs in effect in the Town; and	Not aware of any conflicts
(c)	That the proposal is not premature or inappropriate by reason of:	
(i)	Financial ability of the Town to absorb costs related to the development; or	This is an intensification of an existing property and maximizes the usage of existing municipal infrastructure.
(ii)	Adequacy and proximity of school, recreation, and other community facilities; or	Recreation facilities are located across the street from the site. The addition of 1 dwelling unit will not tax the local capacity of the school or other facilities. The school is within a 5 minute walk of the site.
(iii)	Negatively affecting the enjoyment of established residences; or	The additional dwelling unit is not expected to impact adjacent neighbours. It is an interior renovation and the site has an established landscape buffer at the rear and both sides.
(iv)	The creation of any undue traffic hazard or congestion; or	The parking area is located on a corner of the property. The addition of 1 unit will have minimal impact on traffic congestion.
(v)	Adequacy of Town sewer and water servicing, including fire flows and water pressure or the adequacy of the site for on-site services; or	Adequate.
(vi)	Adequacy of storm drainage and effects of alternation to drainage pattern, including potential for creation of a flooding problem; or	The Town of Lunenburg is (or may have already) undertaken some storm water management work on the corner. The Town upgraded the corner of Victoria and Falkland to address stormwater issues (installation of storm drains and curbing) within the last 3 years.
(vii)	Creation or worsening of a pollution problem in the area such as but not limited to soil erosion and siltation of watercourses; or	No impact
(viii)	Suitability of site regarding grades, soils and geological conditions, location of watercourses, marshes, bogs and swamps, and proximity to utility rights-of-ways; and	No impact
19.9.2 Consider the following in addition to the criteria set out in 19.9.1 above, when considering		

development agreements:	
<p>(a) That the proposal provides adequate off street parking. In the case of development by development agreement, parking need not comply with the requirements of the Land Use By-law, and the intention of Council is to reduce the amount of parking required as far as reasonable in relation to the location of the property; and</p>	<p>One parking space will be provided on site. Due to the odd configuration of the lot, existing municipal infrastructure including a recent curb installation along the street, the placement of the building on the lot, and the requirement to provide an accessibility ramp, only one parking space can be accommodated.</p> <p>The property is within reasonable walking distance of the shops and services in the downtown. It is approximately a 15-minute walk to Foodland in one direction, and a 15-minute walk to Fisherman’s Memorial Hospital in the other direction. It is also located within a 5-minute walk of Bluenose Academy.</p> <p>Section 26 of the Land Use Bylaw requires one parking space per dwelling unit for converted buildings; however, we note that purpose built single unit and two-unit dwellings do not require designated off-street parking under the Land Use Bylaw.</p> <p>Providing one parking space for the additional unit on a property located within a 15 min walk of many amenities and services, balances the need for parking with Council’s intention to reduce the amount of parking required as far as reasonable.</p>
<p>(b) that the proposal provided adequate emergency vehicle access; and</p>	<p>Adequate</p>
<p>(c) that the hours of operation of the proposed use will not unduly disturb nearby properties: and</p>	<p>N/A</p>
<p>(d) that the primary architectural features of the proposal, including by not limited to bulk, scale, roof shape, building materials, exterior cladding, and shape and size and relationship of doors and windows, shall be visually compatible with nearby buildings in the case of a</p>	<p>The exterior of the building retains the look of a single unit dwelling and is consistent with the architecture of the area.</p>

<p>new building or with the original building in the case of an addition; and</p>	
<p>(e) that the proposal will not significantly alter the existing character of stability of the surrounding neighbourhood; and</p>	<p>No impact. The area is mostly single unit dwellings but there are several multi-units within the general area as well as tourist accommodations. The recent renovations improve the appearance of the building and maintain the heritage character of the area.</p>
<p>(f) that the proposal will be integrated into the surrounding area by means of good landscaping and sensitive site orientation and screen adequate to eliminate the impact of objectionable features such as parking or outdoor storage of equipment, parts and waste material; and</p>	<p>See site plan. There is existing mature hedging along the rear and side property lines.</p>
<p>(g) that residential developments provide sufficient usable outdoor open space; and</p>	<p>There is a large grassed area on the western side of the building sufficient for residents' needs. It is also located across the street from municipal greenspace and recreational facilities.</p>
<p>(h) that the proposal will not result in a significant risk of damage to either the natural or built environment. This determination will be made by a person deemed to be qualified by Council. Where Council, determines, on advice of a qualified person, that there is significant risk of such damage, environmental studies shall be undertaken by the developer in order to determine the nature and extent of any likely damage. The proposal shall not be approved by Council until Council is satisfied that all concerns respecting the impact of the development have been adequately addressed; and</p>	<p>No impact.</p>
<p>(i) that adequate provision is made for garbage collection and industrial waste disposal, and Council is satisfied that all necessary permissions for these services have been received from the regulatory body having jurisdiction; and</p>	<p>Waste collection bin will be provided.</p>

(j) the use shall not as a result of emissions of noise, odour, dust or light or any other form of emission, have an undue negative effect on the enjoyment of other properties in the area.	No anticipated land use conflicts
--	-----------------------------------

Parking Requirements

Mr. Greige has provided one off-street parking space in the eastern side yard between the building and the accessibility ramp (Figure 6). The parking area exceeds the 3 metre by 6 metre size requirement and is surfaced in gravel. Parking for this property previously occurred in front of the building and to the side on land within the road right-of-way. The parking space included with this proposal is now located on private property using the existing access.

The ability to provide additional parking is constrained by:

- small lot size and irregular lot shape
- the location of the existing building on the site
- newly installed municipal curb and stormwater infrastructure that limits access to the western portion site
- the construction of an accessibility ramp required by building code

The central location of the site is convenient to many services, amenities, and places of employment. It is within a 15-minute walk of downtown and the hospital and is within a 5-minute walk of the local school. This location reduces the reliance on having a private automobile and makes it possible for tenants to access many daily needs on foot.

Under the Land Use Bylaw, newly constructed single and two-unit dwellings are not required to provide off-street parking but converted buildings require dedicated off-street parking. Section 26M.1 of the Land Use Bylaw states that one off-street parking space is required for each dwelling unit however Policy 19.2.2 of the MPS states that when considering a development agreement, parking need not comply with the requirements of the Land Use By-law, and the intention of Council is to reduce the amount of parking required as far as reasonable in relation to the location of the property. Providing one off-street parking space is reasonable given the context of parking regulations, the location of the site, and the physical development constraints.



Image capture: May 2009 © 2020 Google

Figure 3: Photo of building from 2009. In 2009, there were no curbs or storm water infrastructure present.



Figure 4: Photograph of home after exterior renovations in 2018 and installation of curbs and new municipal infrastructure.



Figure 5: Location of storm water management infrastructure.



Figure 6 – Photo of the new off-street parking space

Broader Objectives of MPS

The proposal will add another rental unit within a former single unit dwelling. This adaptive reuse of the property at 6 Victoria Road fits well into the existing neighbourhood and the home has maintained its look as a single unit dwelling. The proposal is consistent with residential land use policies and development agreement guidelines and aligns with broader municipal goals as stated in the MPS objectives:

- Control land use and development in a way that will reduce conflicts between incompatible uses, and which will not overburden existing services
The proposed infill development makes use of existing services and is compatible with surrounding land uses.
- Encourage preservation of the architectural and cultural heritage of the Town and minimize any negative that may result from new development or redevelopment
While not within the architectural control area, the property maintains many of its original features and has been renovated in a way that reflects the history of the home and complements the character of the neighbourhood.

- Control land use and development in a manner that will preserve, enhance, and protect both the natural and built environments of the Town.

The reuse and adaptation of an existing building is the most sustainable option. Adding one additional dwelling unit in a recently renovated home enhances the character of the surrounding neighbourhood and helps to protect the natural environment by adding density in an already built up area rather than consuming more land.

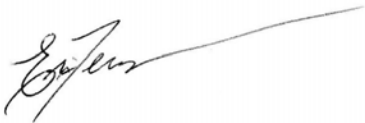
Summary

The proposal to add an additional dwelling unit at 6 Victoria Road is consistent with the Municipal Planning Strategy. Specifically, the proposal:

- Can be considered by development agreement subject to the general implementation criteria
- Converts a former single unit residence into multi-unit dwellings which is considered as an acceptable use for older buildings in the MPS
- Is compatible with surrounding land use and consistent with the established built form in the neighbourhood
- Provides much needed recently renovated rental housing units, including one accessible unit, in a central location

If you have any questions, please contact me at 902-365-2914.

Sincerely,



Erin Ferguson, MCP, MCIP Candidate Member
Planner
Brighter Community Planning & Consulting

Schedule F – DRAFT Development Agreement

THIS DEVELOPMENT AGREEMENT made this ____ day of _____, A.D. 2021

BETWEEN:

JEAN GREIGE, of Lunenburg, Nova Scotia, hereinafter called the "Property Owner" of the First Part

and

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, hereinafter called the "Town",

of the Second Part

WHEREAS the Property Owner is the owner of certain lands and premises (hereinafter called the "Property") which lands are more particularly described in Schedule A attached hereto and which are known as 6 Victoria Road and Property Identification (PID) Number 60055753; and

WHEREAS the Property Owner wishes to use the existing structure on the Property as a three-unit dwelling; and

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

WHEREAS Section 5.9 of the Municipal Planning Strategy provides that the proposed use may be developed only if authorized by development agreement; and

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

and

WHEREAS the Town by resolution of Town Council passed at a meeting on (date of motion), approved this Development Agreement;

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

PART 1 AGREEMENT CONTEXT

1.1 Schedules

The following attached schedules shall form part of this Agreement:

Schedule A Property Description

Schedule B Site Plan

1.2 Municipal Planning Strategy and Land Use By-law

(a) Municipal Planning Strategy means a By-law of the Town, approved on 13 June 1996, as amended, or any successor by-laws.

(b) Land Use By-law means a Bylaw of the Town, approved in 2012 as amended, or any successor by-laws.

1.3 Definitions

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

(a) Development Officer means the Development Officer appointed by the Council of the Town.

PART 2 DEVELOPMENT REQUIREMENTS

2.1 Use

The Parties agree that the use of the Property shall be limited to those uses permitted by the underlying zoning in the Land Use By-law (as may be amended from time to time) and a three-unit dwelling.

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

2.3 Appearance of Property

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

2.4 Waste Resource Management

Waste resource receptacles shall be screened from view from the public street and abutting properties and be located in the rear yard, as shown on Schedule B, Site Plan.

2.5 Exterior Lighting

Exterior lighting located on the Property shall be arranged so as to divert light away from public streets and neighbouring properties.

2.6 Accessory Structures

Accessory structures shall be permitted on the Property and shall be subject to the zone requirements for the underlying zone and general provisions pertaining to accessory structures contained within the Land Use By-law, as amended from time to time.

PART 3 CHANGES AND DISCHARGE

3.1 The Property Owner shall not vary or change the use of the Property, except as provided for in Section 2.1.b of this Agreement, unless a new development agreement is entered into with the Town or this Agreement is amended.

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

3.3 The following matters are substantive matters:

(a) The use of the property, as provided for in Section 2.1 of this Agreement; and

(b) The provision of one parking space meeting the general provisions pertaining to parking spaces contained within the Land Use By-law, as amended from time to time.

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

3.5 The Town may discharge this development agreement if the use described herein is discontinued to twelve (12) months or longer.

3.6 The Town may impose further regulation on the occupancy of the third dwelling unit if, in the opinion of Council, quiet enjoyment of neighbouring properties has been interrupted.

PART 4 IMPLEMENTATION

4.1 Commencement of Operation

No construction or use may be commenced on the Property until the Town has issued any required Development Permits, Building Permits and/or Occupancy Permits. Prior to the issuance of a Development Permit, the Development Officer shall be satisfied that the following matters have been adequately addressed:

(a) building plans have been approved by a building official with regard to compliance with the National Building Code.

A Development Application for the required permits must be made within sixty (60) days of this Agreement being recorded at the Land Registry Office.

4.2 Drawings to be Provided

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

4.3 Expiry Date

The Property Owner 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.

PART 5 COMPLIANCE

5.1 Compliance with Other By-laws and Regulations

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

5.2 Town Responsibility

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 Warranties by Property Owner

The Property Owner warrants as follows:

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

Lands or the Developer has obtained the approval of every other entity which has an interest in the Lands whose authorization is required for the Developer to sign the Development Agreement to validly bind the Lands.

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

5.4 Costs

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

5.5 Full Agreement

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

5.6 Severability of Provisions

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

5.7 Interpretation

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

5.8 Breach of Terms or Conditions

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

5.9 Termination of Agreement

(a) 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 described in Schedule "A";

(b) That the Council of the Town may discharge this Development Agreement if the development described herein has not been commenced within eighteen (18) months of this Agreement;

(c) That the Council of the Town may discharge this Development Agreement if the use described herein is discontinued for a period of no less than twelve (12) months;

(d) That the Council of the Town retains the option of discharging this development agreement should any fact provided to the Town by the Property Owner or its agents constitutes a material misrepresentation of the facts upon which this Agreement is based; and

(e) That the Council of the Town may discharge this Agreement if the Property Owner 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

Rachel Bailey, Mayor

Witness

Bea Renton, Town Clerk

SIGNED, SEALED AND DELIVERED
In the presence of:

PROPERTY OWNER

Witness

Jean Greige



6 Victoria Road

Development
Agreement
Application

Town of Lunenburg PAC

April 12, 2021

Application Summary

APPLICANT

MR. JEAN GREIGE

Landowner

same

Proposal

Application to enter into a development agreement to allow for a third residential unit at 6 Victoria Road, Lunenburg

Lot Area

5,383 square feet

Designation

Residential

Zone

Residential

Surrounding uses

Mixed (Industrial, Commercial, Recreation, Residential)

Heritage

Outside the Heritage Conservation District

Site visit

April 6, 2021

Policy Basis

- **LUB Section 5.1(b)(ii)** establishes the right of Council to consider the development of “multi-unit dwellings in accordance with Municipal Planning Strategy policy 5.9.”
- **Policy 5.9** states [It shall be the policy of Council to:]

consider, **only by development agreement, in areas designated Residential** on Map 2, the Future Land Use Map **proposals for multi-unit dwellings including conversions**, expansions and new construction provided the development is in accordance with policy 5.12. [emphasis added]
- 6 Victoria Road is in a **Residential** designation
- The proposal is an **internal conversion** of an existing building, which is listed among the development possibilities to which the policy applies.

Policy Review

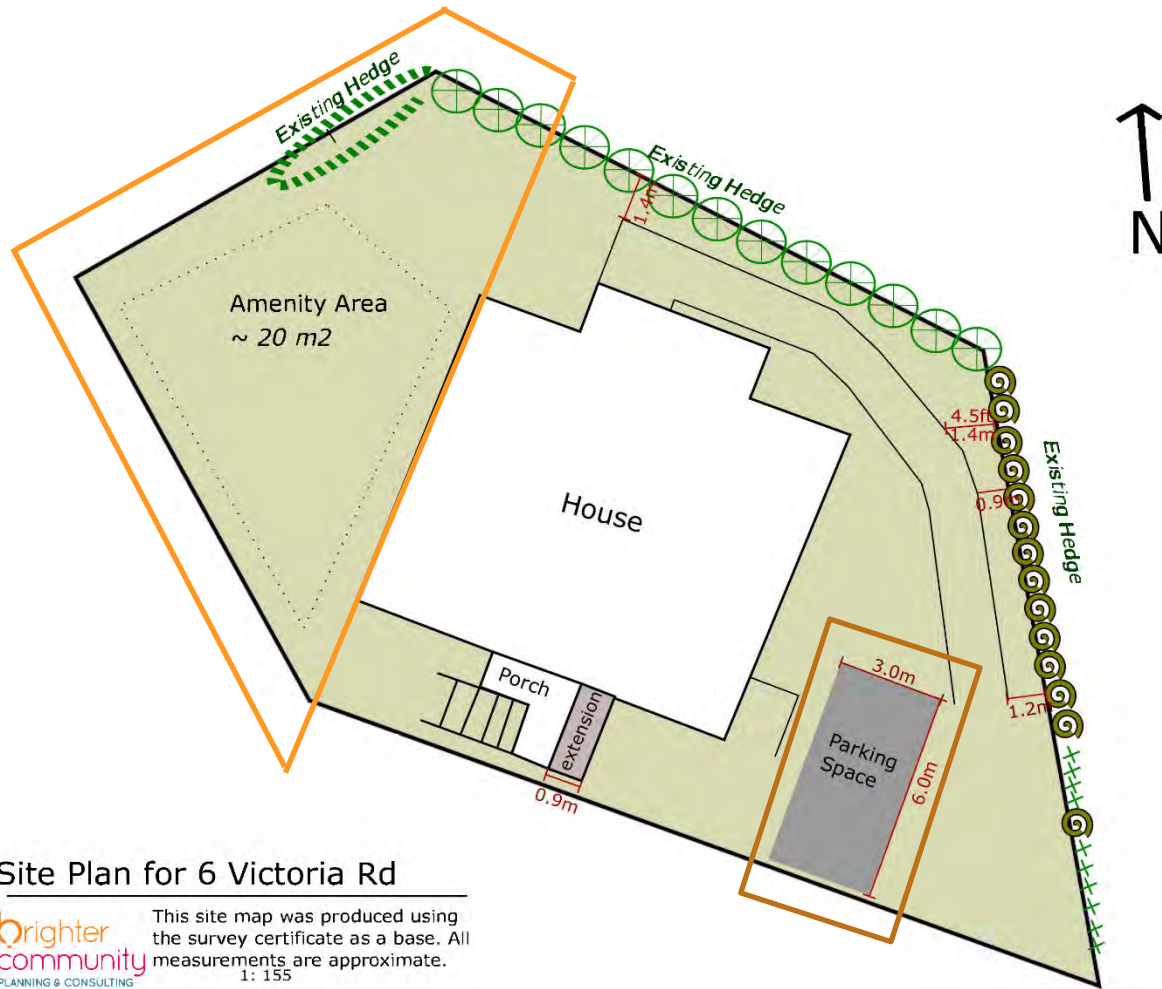
Compliance

- No significant impacts on Town infrastructure (roads, water and wastewater, stormwater)
- No expected changes to building exterior appearance
- Building is buffered from neighbours by back yard hedge a relatively isolated by its position on its block
- No anticipated environmental risks or concerns

Concerns

- Lot has roughly 10% less area than LUB requirement
- Only one parking space can be accommodated on the lot

Site Plan



Site Plan for 6 Victoria Rd

Policy Considerations

MPS SECTION 5.0 RESIDENTIAL DEVELOPMENT AND LAND USE

Conversion of large old single unit dwellings and other buildings to multi-unit dwellings serves a housing need and provides an acceptable use for the larger buildings. Small scale conversions will be permitted; larger scale conversions will require a development agreement.

LUB PART 26M CONVERTED BUILDINGS

26M.1 Conversion of buildings to an increased number of dwelling units is subject to the following requirements:

- (a) the maximum number of dwelling units per lot is three (3); and
- (b) one (1) off-street parking space must be provided for each dwelling unit.

MPS POLICY 19.9.2 [ADDITIONAL] CRITERIA FOR DEVELOPMENT AGREEMENTS AND LAND USE BY-LAW AMENDMENTS

“[i]n the case of development by development agreement, parking need not comply with the requirements of the Land Use By-law, **and the intention of Council is to reduce the amount of parking required as far as reasonable in relation to the location of the property.**”

[emphasis added]]

Options

1. Recommend that the Council enter into the development agreement to add a third residential unit to 6 Victoria Road, PID 600557531, and give First Reading and set a Public Hearing date.
2. Recommend that the application be refused if it is found not to carry out the intent of the Municipal Planning Strategy.
3. Provide alternative direction, such as requesting further information on a specific topic.

Recommendation

IT IS RECOMMENDED THAT Council enter into the development agreement to add a third residential unit to 6 Victoria Road, PID 600557531, and give First Reading and set a Public Hearing date.

Thank You



John Heseltine, LPP MCIP

Senior Planner

Stantec Consulting

102-40 Highfield Park Drive, Dartmouth

NS B3A 0A3

Phone: (902) 481-1477

John.Heseltine@stantec.com

Document No:
Meeting: April 12, 2021 PAC
Circulate to:
File: PAC

MEMORANDUM

TO: PLANNING ADVISORY COMMITTEE

FROM: DAWN SUTHERLAND, DEVELOPMENT/PLANNING MANAGER

DATE: April 6, 2021

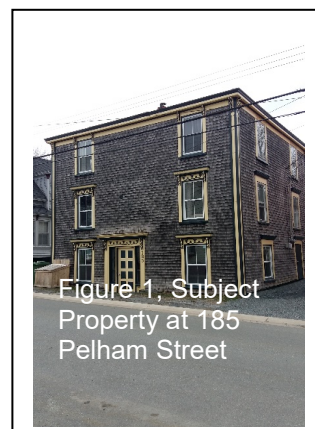
RE: DEVELOPMENT AGREEMENT APPLICATION FOR A THIRD RESIDENTIAL UNIT AT 185 PELAHM STREET, LUNENBURG, PID 60061074

Applicant	David Brix
Land Owner	Arnason Industries Ltd.
Proposal	Application to enter into a development agreement to allow for a third residential unit at 185 Pelham Street, Lunenburg
Lot Area	2760 square feet
Designation	Residential
Zone	Old Town Residential (OTR)
Surrounding uses	Residential
Heritage	Within the Heritage Conservation District
Site visit	6 April 2021

1. FACTS

A. Background

The current use of the property is a two unit dwelling, which is a permitted use in the Old Town Residential (OTR) Zone under Part 4.a. of the Land Use By-law. This property was purchased by Arnason Industries Ltd in 2019. Under project number 20074 in 2020, a development permit, certificate of appropriateness, and occupancy permit were issued for repairs to the rear yard staircase. The existing two residential units received minor (non-structural) up grades as well. The ground floor is currently vacant. An encroachment agreement and indemnity were entered into in 2019 for a ground level front entrance step. Prior to this, permit LT01031 was issued on 10 May 2001 for the removal of the old chimney and two windows and the addition of a door in the centre of the main



façade. The building is approximately 140 years old and located within the Heritage Conservation District. It is surrounded by residential uses.

B. Proposal

The applicant wishes to add a third residential unit on the ground floor. No external addition is proposed. It should be noted that any exterior changes possibly required under the building code, such as modifications to meet accessibility standards, are subject to a certificate of appropriateness under the Heritage Conservation District By-law. Council considers multi-unit dwellings through the development agreement approval process. Part 25 A of the Land Use By-law defines multi-unit dwellings as “a building that contains three or more dwelling units.” A development agreement is a contract between the Town and an owner that allows specific uses that are not normally permitted under land use zoning. There must be enabling policy in the Municipal Planning Strategy to allow for the consideration of the specific uses. While a development agreement allows for certain flexibility, it does contain conditions to which the owner must adhere. The development agreement is registered at the Land Registration Office and follows the title of the property. Subsequent owners are also bound by the development agreement.



Figure 2: Context Map

2. ISSUES AND OPTIONS

A. Relevant Policies

Municipal Planning Strategy Policy 5.9 allows Council to consider multi-unit dwellings through the development agreement approval process.

Policy 5.9 sets out that it shall be the policy of Council to:

consider, only by development agreement, in areas designated Residential on Map 2, the Future Land Use Map proposals for multi-unit dwellings including conversions, expansions and new construction provided the development is in accordance with policy 5.12.

Part 25 A of the Land Use By-law defines a converted dwelling as “a building originally intended as a single-family home that has been converted to contain three or more dwelling units”. Please note that “single-family home” should be properly referred to as a “single unit dwelling”.

Converted buildings are listed as a permitted development in certain zones, such as in the General Commercial (GC) Zone or Institutional (INS) Zone, subject to Part 26M. Converted buildings are not listed in the Old Town Residential (OTR) Zone. The use proceeds via development agreement in the Old Town Residential (OTR) Zone.

There are a number of supporting and implementation policies which Council is to consider. The application has been reviewed based the applicable policies found in the Town of Lunenburg's planning documents. These policies (Policies 19.9.1 and 19.1.2) and their analysis are set out in Schedule A.

Above referenced Policy 5.9 sets out that development is to be in accordance with Policy 5.12. Policy 5.12 was amendment on 11 June 2013 and is set out as Policy 5.12A in Schedule B. The intention of Policy 5.12A is interpreted as criteria to consider to regulate development of “new construction of multi-unit residential buildings.” Nonetheless, this policy lacks clarity as it does refer to additions and conversions as well. Policy 12.A.3. notes that criteria in subsection 1 does not apply but should be taken into account. The development agreement approval process is set out in Schedule C.

B. Requests for Comments

A staff development meeting was held between Planning and Engineering staff on 29 March 2021 as part of this review process. The summary of the meeting is set out below:

With respect to water and sewer, services are adequate for a third unit. The fire flows and water pressure were not tested and there was no request for a sprinkler system. Storm drainage is adequate for a third residential unit. There is new storm on Pelham Street. No disturbance to land is required as the proposal involves internal conversion. There is no known pollution on site. No noxious use is proposed. The site is considered suitable. No grade changes are proposed. The lot is not located near watercourse. There is no interference with utility right of ways

C. Issues Identified

The addition of a third unit in the structure is considered compatible with existing low density residential uses. It will not cause undue hardship on Town infrastructure and

can be accommodated with existing infrastructure and services. The lot has ± 46 ft. of frontage with a depth of 60 ft. The total area is 2760 sq. ft., which meets the minimum area of 2400 sq. ft. in the OTR Zone. The neighbours to the rear (north) have erected a large fence, which effectively screens the parking area on the subject lot. Screening is not required.

When the current by-law was revised in 2012, Part 26.M was changed slightly, which altered its application. An additional definition was introduced and the parking requirement that Council had removed via a text amendment in 2010 in the previous document was reintroduced. Council's intention was to reduce the residential parking requirements. Implementation Policy 19.9.2. supports this intention as it notes that when entering into a development agreement, "parking need not comply with the requirements of the Land Use B-law and the intention is to reduce the amount of parking required as far as reasonable in relation to the location and property." The subject property is located in Old Town, which is considered a "walkable" neighbourhood as it is in proximity to many amenities.

D. Options

In response to the application Council may

1. Recommend that the Council enter into the development agreement to add a third residential unit at 185 Pelham Street, PID 60061704, and give First Reading and set a Public Hearing date.
2. Recommend that the application be refused if it is found not to carry out the intent of the Municipal Planning Strategy.
3. Provide alternative direction, such as requesting further information on a specific topic.

3. FINANCIAL IMPACT

None at this time.

4. STRATEGIC PLAN RELEVANCE

This project is in keeping with the following Comprehensive Community Plan's Strategic Directions and Goals:

Community Structure: A town that accommodates growth and change in a well-planned way that is respectful of its layered past and creates opportunities for its long-term future (CCP, pg 17).

Housing: A town that offers a wide range of high quality and affordable housing options (CCP, pg 40).

Mobility: A town with an integrated transportation system for all modes that can support the needs of residents and visitors without creating undue burden on the town (CCP, pg 85).

5. RECOMMENDATION

Staff have completed a review of Mr. Brix's application to enter into a development agreement with the Town and permit a third residential unit in the ground floor at 185 Pelham Street. It is acknowledged that there are not 3 parking spaces on the lot as required in Part 26M, however, the proposal is consistent with the Town's residential development policies and meets the intent of the Municipal Planning Strategy.

IT IS RECOMMENDED THAT The Planning Advisory Committee recommend that Council enter into the development agreement to add a third residential unit at 185 Pelham Street, PID 60061704, and give First Reading and set a Public Hearing date.

6. APPENDICES

Schedule A, Municipal Planning Strategy Policy 19.8 & 19.9

Schedule B, Municipal Planning Strategy Policy 5.12A

Schedule C, Development agreement approval process

Schedule D, Photos

Schedule E, Site Plan

Schedule F, Application

Schedule G, Draft development agreement dated April 6, 2021

Schedule A
Municipal Planning Strategy Policy 19.8, 19.9

Implementation Policy 19.8	Analysis
<p>19.8 enter into development agreements pursuant to Subsection 38(2)(p) and Section 55 of the Planning Act on the terms and conditions set forth in this Municipal Planning Strategy, and a development agreement shall:</p>	<p><i>Please refer to the draft development agreement, attached as Schedule F, for relevant terms noted below.</i></p>
<p>(a) specify the development, expansion, alteration, or change permitted; and</p>	<p>Terms of the draft development agreement specify the uses (DA 2.1), as well as any substantive changes (DA 3.3)</p>
<p>(b) specify the conditions under which the development may occur; and</p>	<p>The draft development sets out conditions in DA 2.2 - 2.6</p>
<p>(c) set forth the terms by which Town Council can terminate an agreement.</p> <p>The provisions of the Land Use By-law shall prevail after discharge of an agreement</p>	<p>Terms of termination are found in DA 5.9.</p>

Implementation Policy 19.9	Analysis
<p>Criteria For Development Agreements and Land Use By-law Amendments</p> <p>19.9.1 consider the following in addition to all other criteria set out in the various policies of this Municipal Planning Strategy when considering amendments to the Land Use By-law or development agreements:</p>	
<p>(a) that the proposal conforms to the intent of the Municipal Planning Strategy and to all other applicable Town By-laws and regulations, except where the application is for a development agreement and the requirements of the Land Use By-law need not be met; and</p>	<p>The proposal is in keeping with the intent of the Municipal Planning Strategy and other applicable By-laws and regulations in the Town.</p>
<p>(b) that the proposal is not in conflict with Municipal or Provincial programs in effect in the Town; and</p>	<p>The proposal is not in conflict with Municipal or Provincial programs.</p>
<p>(c) that the proposal is not premature or inappropriate by reason of:</p> <p>(i) financial ability of the Town to absorb costs related to the development; or</p>	<p>The Town is able to absorb any costs related to the development.</p>
<p>(ii) adequacy and proximity of school, recreation and other community facilities; or</p>	<p>N/A</p>
<p>(iii) negatively affecting the enjoyment of established residences; or</p>	<p>Where this is a low density residential use, there should not be excessive nuisance related to such things as noise or odour.</p>
<p>(iv) the creation of any undue traffic hazard or congestion; or</p>	<p>No undue hazard or congestion as a result of this proposal has been identified.</p>

(v) adequacy of Town sewer and water services, including fire flows and water pressure or the adequacy of the site for on-site services; or	The Town Engineer has no concerns regarding the adequacy of Town water and sewer services.
(vi) adequacy of storm drainage and effects of alteration to drainage pattern, including potential for creation of a flooding problem; or	The storm drainage is adequate. No grade alteration is planned.
(vii) creation or worsening of a pollution problem in the area such as but not limited to soil erosion and siltation of watercourses; or	No pollution problem has been identified.
(viii) suitability of site regarding grades, soils and geological conditions, location of watercourses, marshes, bogs and swamps, and proximity to utility rights-of-way; and	The site is suitable. The rear yard is landscaped.
19.9.2 consider the following in addition the criteria set out in 19.9.1 above, when considering development agreements:	
(a) that the proposal provides adequate off-street parking. In the case of development by development agreement, parking need not comply with the requirements of the Land Use By-law, and the intention of Council is to reduce the amount of parking required as far as reasonable in relation to the location of the property; and	There is a driveway leading to a small parking area in the rear yard. The property is located within Old Town, a walkable neighbourhood. Not requiring 3 parking spaces is reasonable and in keeping with the intent of this policy.
(b) that the proposal provides adequate emergency vehicle access; and	There is no change to the structure that would interfere with emergency vehicle access. There is direct access on Pelham Street.
(c) that the hours of operation of the proposed use will not unduly disturb nearby properties; and	N/A.
(d) that the primary architectural features of the proposal, including but not limited to bulk, scale, roof shape, building materials, exterior cladding, and shape and size and relationship of doors and windows, shall be visually compatible with nearby buildings in the case of a new building, or with the original building in the case of an addition; and	No additions are proposed. Any future alterations to the exterior would require a certificate of appropriateness. The building is compatible with nearby properties.
(e) that the proposal will not significantly alter the existing character or stability of the surrounding neighbourhood; and	Use is an additional residential unit (3 units maximum) in a low density neighbourhood. It will not alter the character.
(f) that the proposal will be integrated into the surrounding area by means of good landscaping and sensitive site orientation and screening adequate to eliminate the impact of any objectionable features such as parking or outdoor storage of equipment, parts and waste material; and	No changes to the exterior are required or anticipated. Screening is not required.
(g) that residential developments provide sufficient usable outdoor open space; and	Old Town lots are small. There are seating areas on the rear yard staircase and a small amenity space in the rear yard. Amenity space is small but useable.
(h)	The lot is currently developed. There are no anticipated renovations that will negatively impact

<p>that the proposal will not result in a significant risk of damage to either the natural or built environment. This determination will be made by a person deemed to be qualified by Council. Where Council determines, on the advice of a qualified person, that there is a significant risk of such damage, environmental studies shall be undertaken by the developer in order to determine the nature and extent of any likely damage. The proposal shall not be approved by Council until Council is satisfied that all concerns respecting the impact of the development have been adequately addressed; and</p>	<p>the neighbourhood's built heritage. The proposal will not result in significant damage to the natural or built environment.</p>
<p>(i) that adequate provision is made for garbage collection and industrial waste disposal, and Council is satisfied that all necessary permissions for these services have been received from the regulatory body having jurisdiction; and</p>	<p>The Town of Lunenburg contracts for waste removal. The waste for the unit will be picked up as per usual, provided the volume and nature of waste is in accordance with By-law # 38</p>
<p>(j) the use shall not as a result of emissions of noise, odour, dust, or light or any other form of emission, have an undue negative effect on the enjoyment of other properties in the area.</p>	<p>The use is low density residential and will not create nuisance factors.</p>

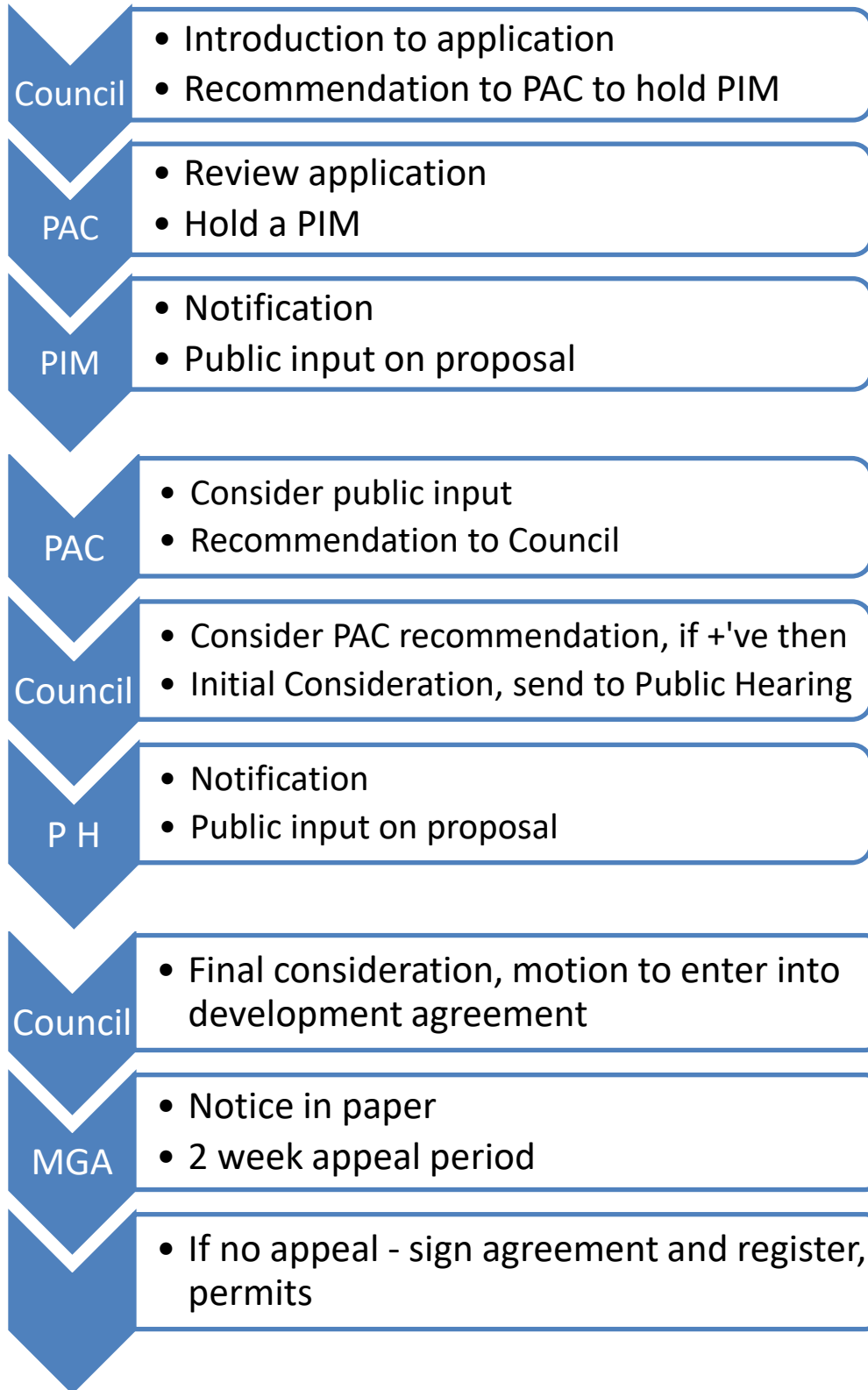
Schedule B
Municipal Planning Strategy 5.12A

- 5.12A (1) Ensure that the following criteria are met when Council is considering proposals for new construction of multi-unit residential buildings by development agreement:
- (a) the minimum lot size must be 279 square metres (3,000 square feet) per dwelling unit up to four and 93 square metres (1,000 square feet) for each additional dwelling unit;
 - (b) residential developments of four or more units must provide 20% of the minimum lot area as dedicated green space to be maintained in plantings and not paved—the approximate location of the green space and the plan for planting it must be included in the development agreement;
 - (c) development must be screened from adjacent one and two unit residential uses by trees and shrubs according to the following requirements:
 - (i) 4 - 5 units 1.5 metres (5 feet)
 - (ii) 6 - 10 units 3 metres (10 feet)
 - (iii) 11 - 15 units 4.5 metres (15 feet)
 - (iv) 16 units and over 6 metres (20 feet)

The location, plant mix and maintenance standards must be included in the development agreement.

- (d) one and one-quarter parking spaces are required for each unit in all developments of four units and over.
 - (e) parking in the front yard is prohibited.
 - (f) location and design of parking spaces and driveways must be included in the development agreement.
- (2) In the case of additions to existing residential developments, the criteria in subsection (1) apply only to the addition.
- (3) In the case of conversions, the specific criteria in subsection (1) do not apply but the factors listed should be taken into account in the development agreement to the extent the existing lot permits.

Schedule C
Development Agreement Approval Process



Schedule D
Photos

185 Pelham Street, photos dated 6 April 2021



Figure 3
Rear yard, north

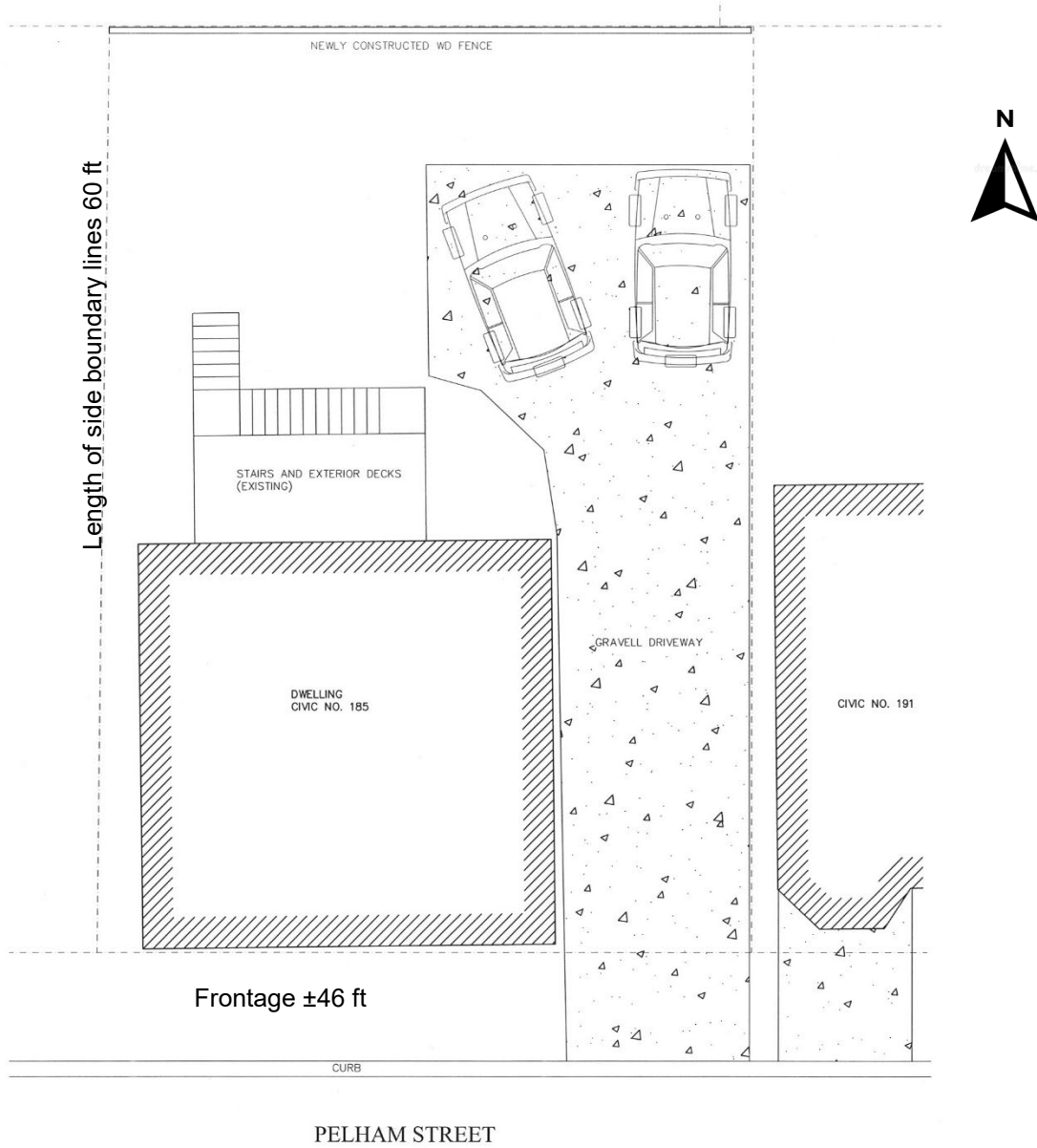


Figure 4
West side yard,
showing proximity to
neighbour's driveway at
179 Pelham Street



Figure 5
East side yard, showing
driveway and rear yard,
neighbouring property
at 191 Pelham Street

Schedule E
Site Plan



Property: 185 Pelham Street

Schedule F
Application-1

Town of Lunenburg Planning Application for Development Agreements

PLEASE NOTE THAT ALL INFORMATION PROVIDED IS PUBLIC INFORMATION

APPLICANT INFORMATION	REGISTERED OWNER OF PROPERTY
Name: David Brix	Name: Brett Arnason
Company Name Brix Design LTD	Company Name: Arnason Industries LTD

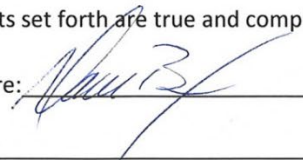
PLEASE NOTE: If you are not the registered owner of the property, include a letter of authorization from the owner with your application.

PROPERTY INFORMATION	APPLICATION CHECKLIST
Civic Address: 185 Pelham Street	<input type="checkbox"/> Copy of Deed <input checked="" type="checkbox"/> Survey Plan or Equivalent <input type="checkbox"/> A Letter Explaining the Proposal <input type="checkbox"/> Application and Advertising Fees \$945.15 (\$245.15 + \$700.00)
PID: 60061074	
Present Use of Property: Residential (2-units)	
Proposed Use of Property: Residential (3 Units)	

EXPLANATION OF PROPOSAL AND SIGNATURE

A short explanation of your proposal (please include a detailed letter with a full explanation)
Finish the main floor of the home to accommodate another residential suite of approximately 650 square feet. Access to the unit would be from the existing front door off Pelham Street.

By submitting this application I affirm that the facts set forth are true and complete.

Name (printed): David Brix Signature: 

Date: 02/17/2021

Schedule F
Application-2

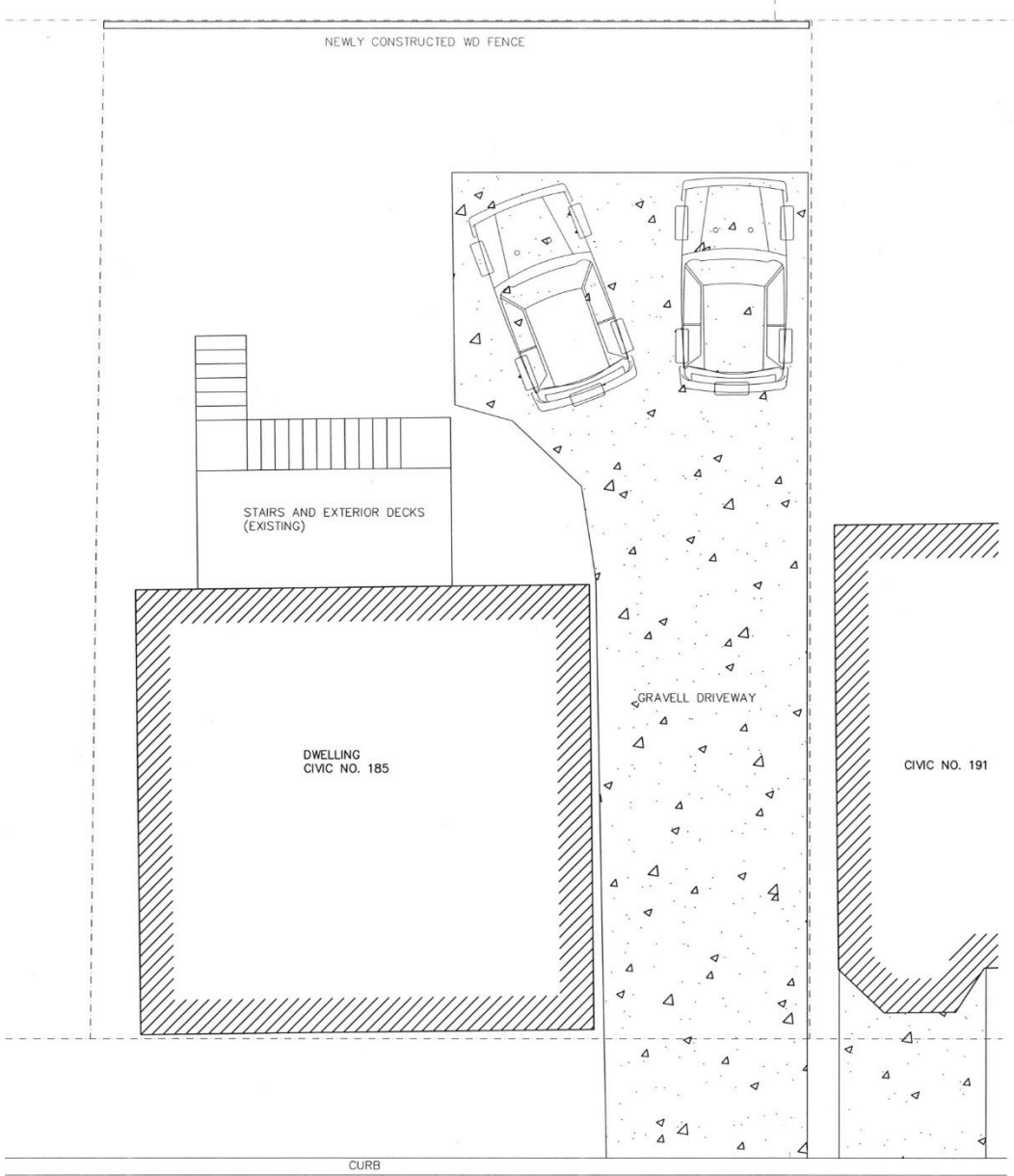
From: Eric Stefanson eric@arnasons.ca
Subject: 185 Pelham
Date: Feb 17, 2021 at 11:07:18 AM
To: Dave Brix
Cc: Brett Arnason

To Whom it May Concern:

Arnason Industries Ltd currently owns the property at 185 Pelham Street, Lunenburg, Nova Scotia B0J 2C0
Arnason Industries Ltd is selling to David Brix (Terra View Custom Homes Ltd)
Arnason Industries Ltd grants permission to David Brix (Terra View Custom Homes Ltd) to make an application gaining permission to finish the main level of the home as we await the closing on the sale of the property.

Eric G Stefanson, CPA,CA
Chief Financial Officer
Arnason Industries Ltd
Direct line: [204-261-2585](tel:204-261-2585)
Fax: [204-694-5622](tel:204-694-5622)

Schedule F
Application-3



PELHAM STREET

**Schedule F of PAC report
Draft Development Agreement, 6 April 2016**

THIS DEVELOPMENT AGREEMENT made this _____ day of _____, A.D. 2021

BETWEEN:

ARNASON INDUSTRIES LTD, of Winnipeg, Manitoba, hereinafter called the
"Property Owner"

of the First Part

and

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, hereinafter called the "Town",

of the Second Part

WHEREAS the Property Owner is the owner of certain lands and premises (hereinafter called the "Property") which lands are more particularly described in Schedule A attached hereto and which are known as 185 Pelham Street and Property Identification (PID) Number 60061704; and

WHEREAS the Property Owner wishes to use the existing structure on the Property as a three-unit dwelling and

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

WHEREAS Section 5.9 of the Municipal Planning Strategy and 4.1.b.ii. of the Land Use By-law provide that the proposed use may be developed only if authorized by development agreement; and

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

WHEREAS the Town by resolution of Town Council passed at a meeting on (date of motion), approved this Development Agreement;

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

PART 1 AGREEMENT CONTEXT

1.1 Schedules

The following attached schedules shall form part of this Agreement:

Schedule A	Property Description
Schedule B	Site Plan

1.2 Municipal Planning Strategy and Land Use By-law

(a) *Municipal Planning Strategy* means a By-law of the Town, approved on 13 June 1996, as amended, or any successor by-laws.

(b) *Land Use By-law* means a Bylaw of the Town, approved in 2012 as amended, or any successor by-laws.

1.3 Definitions

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

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

PART 2 DEVELOPMENT REQUIREMENTS

2.1 Use

The Parties agree that the use of the Property shall be limited to the following uses:

(a) those uses permitted by the underlying zoning in the Land Use By-law(as may be amended from time to time) and those uses accessory to a beverage room in accordance with the requirements of the Old Town Residential (OTR) Zone; and

(b) a three-unit dwelling

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

2.2. Operation

There are no conditions related to operations.

2.3 Appearance of Property

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

2.4 Waste Resource Management

Waste resource receptacles shall be screened from view from the public street and abutting properties and be located in the rear yard.

2.5 Exterior Lighting

Exterior lighting located on the Property shall be arranged so as to divert light away from public streets and neighbouring properties.

2.6 Accessory Structures

Accessory structures shall be permitted on the Property and shall be subject to the zone requirements for the underlying zone and general provisions pertaining to accessory structures contained within the Land Use By-law, as amended from time to time.

PART 3 CHANGES AND DISCHARGE

- 3.1** The Property Owner shall not vary or change the use of the Property, as provided for in Section 2.1.b of this Agreement, unless a new development agreement is entered into with the Town or this Agreement is amended.
- 3.2** Any matters in this Agreement which are not specified in Subsection 3.3 below are not substantive matters and may be changed by Council without a public hearing.
- 3.3** The following matters are substantive matters:
(a) The use of the property, as provided for in Section 2.1 of this Agreement; and
(b) The provision of a driveway and parking area in the rear yard, generally as shown on the Site Plan.
- 3.4** Notwithstanding the foregoing, discharge of this Agreement is not a substantive matter and this Agreement may be discharged by Council at the request of the Property Owner without a public hearing.
- 3.5** The Town may discharge this development agreement if the use described herein is discontinued for twelve (12) consecutive months or longer.
- 3.6** The Town may impose further regulation on the occupancy of the third unit, if in the opinion of Council, quiet enjoyment of neighbouring properties has been interrupted.

PART 4 IMPLEMENTATION

4.1 Commencement of Operation

No construction or use may be commenced on the Property until the Town has issued any required Development Permits, Building Permits and/or Occupancy Permits. Prior to the issuance of a Development Permit, the Development Officer shall be satisfied that the following matters have been adequately addressed:

(a) building plans have been approved by a building official with regard to compliance with the National Building Code.

A Development Application for the required permits must be made within sixty (60) days of this Agreement being recorded at the Land Registry Office.

4.2 Drawings to be Provided

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

4.3 Expiry Date

The Property Owner 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;

PART 5 COMPLIANCE

5.1 Compliance With Other By-laws and Regulations

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

5.2 Town Responsibility

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 Warranties by Property Owner

The Property Owner warrants as follows:

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

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

5.4 Costs

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

5.5 Full Agreement

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

5.6 Severability of Provisions

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

5.7 Interpretation

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

5.8 Breach of Terms or Conditions

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

5.9 Termination of Agreement

(a) 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 described in Schedule "A";

(b) That the Council of the Town may discharge this Development Agreement if the development described herein has not been commenced within eighteen (18) months of this Agreement;

(c) That the Council of the Town may discharge this Development Agreement if the use described herein is discontinued for twelve (12) consecutive months or longer.

(d) That the Council of the Town retains the option of discharging this development agreement should any fact provided to the Town by the Property Owner or its agents constitutes a material misrepresentation of the facts upon which this Agreement is based; and

(e) That the Council of the Town may discharge this Agreement if the Property Owner 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:

PROPERTY OWNER

Witness

ARNASON INDUSTRIES LTD

Schedule A

PID 60061704

ALL that certain town lot of land situate on the Northern side of Pelham Street in the Town Plot of Lunenburg, in the County of Lunenburg, in Steinfeld's Division Letter "B", the said lot measuring on Pelham Street 46 feet, more or less, and 60 feet from front to rear line and bounded as follows:

ON the eastern side by the property formerly of G. Abraham Smith and now of Mrs. Clarence Smith;

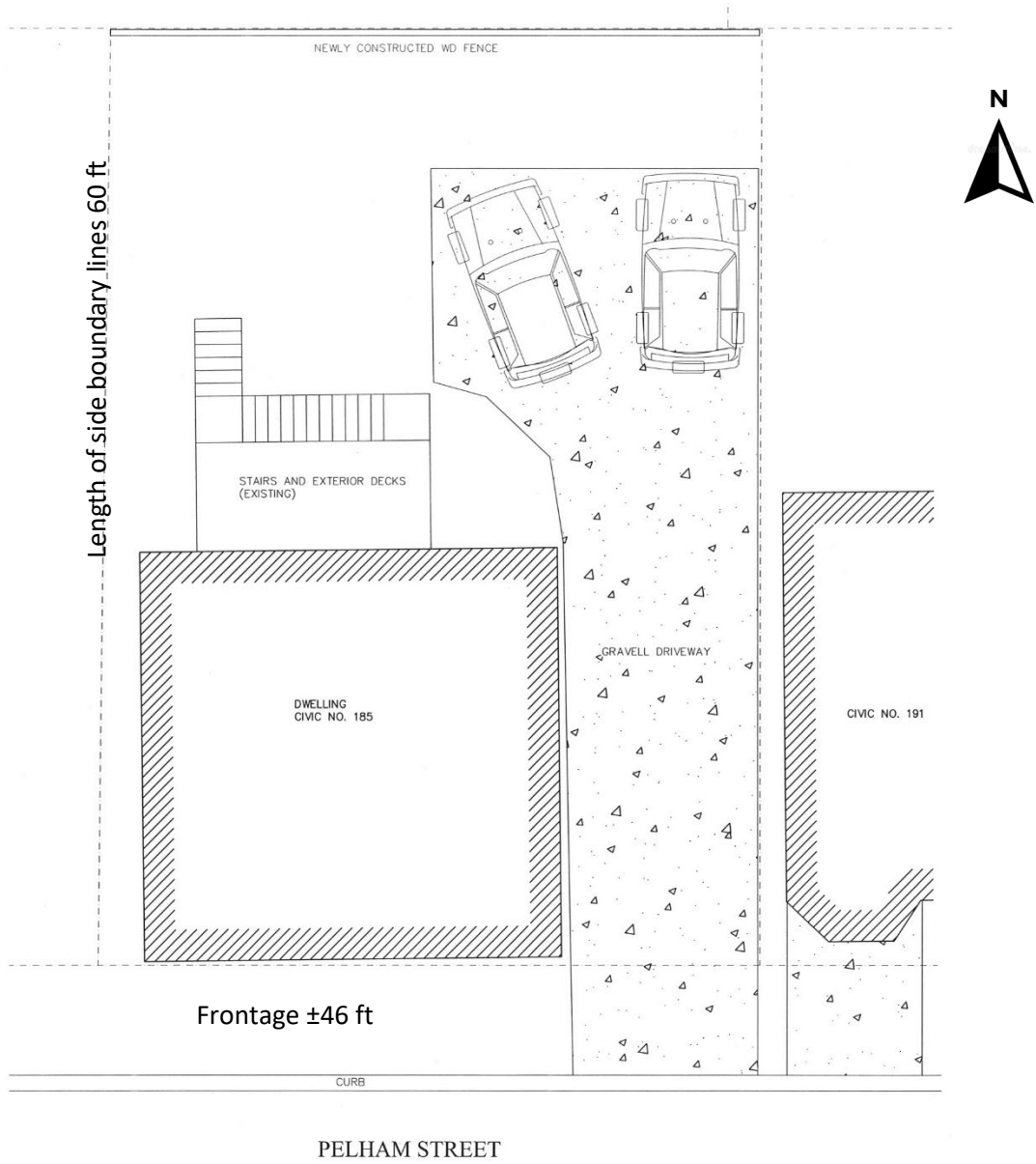
ON the West by the property formerly of Mrs. Russell Silver and now of Norman Meisner;

ON the North by the property formerly of Thomas Kennedy and now of Mrs. Sydney Miller and;

ON the South by Pelham Street, and being the same property as conveyed to the said Simeon Mosher by Abigail Mosher, by deed dated December 29, A.D., 1920, and duly recorded in the office of the Registry of Deeds at Bridgewater, N.S., in Book 112, at Page 163, under No. 253;

THE description for this parcel originates with a deed dated December 29, 1920 registered in the registration district of Lunenburg in book 112 at page 163, document no. 253 and the subdivision is validated by Section 291 of the Municipal Government Act.

**Schedule B
Site Plan**



Property: 185 Pelham Street

Document No:
Meeting: April 12, 2021 PAC
Circulate to:
File: PAC

MEMORANDUM

TO: PLANNING ADVISORY COMMITTEE

FROM: DAWN SUTHERLAND, DEVELOPMENT/PLANNING MANAGER

DATE: April 6, 2021

RE: LAND USE BY-LAW TEXT AMENDMENT APPLICATION TO ADD 200, 268, & 272 MONTAGUE STREET TO THE LIST OF EXISTING RESIDENTIAL USES IN THE MARINE INDUSTRIAL (MI) ZONE

Applicant	Elizabeth and Thomas Barclay, Helen & Tom Ross, Marilyn Hebb
Land Owner	Elizabeth and Thomas Barclay, 272 Montague Street Helen & Tom Ross, 268 Montague Street, Marilyn Hebb <i>et al.</i> , 200 Montague Street
Proposal	Application to add 200, 268, & 272 to the list of residential use in the Marine Industrial (MI) Zone.
Lot Area	N/A
Designation	Industrial
Zone	Old Town Residential (MI)
Surrounding uses	Residential, Marine Industrial, Commercial
Heritage	Within the Heritage Conservation District
Site visit	6 April 2021

1. FACTS

A. Background

The current Municipal Planning Strategy was adopted in 1996. The previous 2016 Land Use By-law listed 6 properties as existing uses in the Marine Industrial (MI) Zone. On 10 April 1997, the Land Use By-law was amended to add commercial uses to MI Zone and add 29 Falkland Street to list of existing residences. The 1996 Land Use By-law was replaced by a revised By-law in 2012. The current 2012 By-law lists 7 properties and the owners at the time of listing as existing residential uses. These existing residential uses are permitted developments under Part 16.1 of the Land Use By-law, as shown in Figure 1.

existing residential uses as follow:

Civic Address	Owner
29 Falkland Street	Cynthia and Adam Dial
49 Falkland Street	Lunenburg Foundry & Engineering
175 Montague Street	Adams and Knickle
43 Tannery Street	Clarence Dauphinee
49 Tannery Road	ABCO
57 Tannery Road	ABCO
61 Tannery Road	ABCO

**Figure 1. 2012 Land Use By-law (existing).
Part 16.1, Permitted Development, excerpt showing existing residential
uses**

The M1 Zone does not permit any new residential development, however, residential development listed under Part 16.1 are afforded full property rights as a virtue of being listed. The residential use of properties that are not listed in Part 16.1 is a considered non-conforming use, with limited property rights.

Part 191.j Interpretation, of the Municipal Government Act (MGA), sets out that a “nonconforming use of land” means a use of land that is not permitted in the zone. Please note that this report refers to use, not the structure. Simply put, if the residential use is not listed in Part 16.1, then it is not permitted, and, therefore, considered a non-conforming use of land. The MGA places limits on the non-conforming use of lands, as set out below in an excerpt from the MGA:

MGA Nonconforming use of land

240 A nonconforming use of land may not be

- (a) extended beyond the limits that the use legally occupies;
- (b) changed to any other use except a use permitted in the zone; and
- (c) recommenced, if discontinued for a continuous period of six months. 1998, c. 18, s. 240.

The non-conforming use may not expand or begin again if it stops for 6 continuous months. If discontinued, the next use would have to be a permitted use in the zone, such as shipbuilding and repair as is listed under Part 16.1 of the Land Use By-law. Other uses may also proceed by way of the development agreement approval process.

The MGA also speaks to a non-conforming use in a structure.

Nonconforming use in a structure

241 (1) Where there is a nonconforming use in a structure, **the structure may not be**

(a) expanded or altered so as to increase the volume of the structure capable of being occupied, except as required by another Act of the Legislature;

(b) repaired or rebuilt, if destroyed or damaged by fire or otherwise to the extent of more than seventy-five percent of the market value of the building above its foundation, except in accordance with the land-use by-law and after the repair or rebuilding it may only be occupied by a use permitted in the zone.

(2) Where there is a nonconforming use in a structure, the nonconforming use

(a) may be extended throughout the structure;

(b) may not be changed to any other use except a use permitted in the zone;

(c) may not be recommenced, if discontinued for a continuous period of six months. 1998, c. 18, s. 241.

If not listed in 16.1, if a house that is being used for residential purposes burns down completely, it may not be rebuilt. The property can be redeveloped but the proposed use for the new structure would have to be a use permitted in the MI Zone under 16.1. If a house that is listed as an existing residential use in Part 16.1 burns down, then it can be rebuilt, subject to MI Zone standards.

B. Proposal

The initial applicants are the Barclays, with Rosses and Hebbs being added later. Applicants wish to have their properties listed as existing residential uses in Part 16.1 of the MI Zone so that the properties will be considered conforming uses. Conforming status will give the owners greater property rights, including those rights related to MGA 239, Nonconforming structure for residential use, as set out below, should they apply:

Nonconforming structure for residential use

239 (1) Where a nonconforming structure is located in a zone that permits the use made of it and the structure is used primarily for residential purposes, it may be

(a) rebuilt, replaced or repaired, if destroyed or damaged by fire or otherwise, if it is substantially the same as it was before the destruction or damage and it is occupied by the same use;

(b) enlarged, reconstructed, repaired or renovated where
(i) the enlargement, reconstruction, repair or renovation does not further reduce the minimum required yards or separation distance that do not conform with the land-use bylaw, and

(ii) all other applicable provisions of the land-use by-law except minimum frontage and area are satisfied.

(2) A nonconforming structure, that is not located in a zone permitting residential uses and not used primarily for residential purposes, may not be rebuilt or repaired, if destroyed or damaged by fire or otherwise to the extent of more than seventy-five percent of the market value of the building above its foundation, except in accordance with the land-use by-law, and after the repair or rebuilding

it may only be occupied by a use permitted in the zone. 1998, c. 18, s. 239; 2004, c. 44, s. 2.

It should be noted that no surveys or location certificates accompanied the application so there was no analysis done or required as it relates to nonconforming structures only. If listed, MGA 239 would apply to the property. If not listed, MGA 239 would not apply.

2. ISSUES AND OPTIONS

A. Relevant Policies

Municipal Planning Strategy (MPS) Policy 8.1 establishes the Industrial designation on Map 2 and MPS Policy 8.5 establishes the Marine Industrial (MI) Zone. Policy 8.6 sets out the uses in the MI Zone and reads as follows:

8.6 permit in the Marine Industrial (MI) Zone:

- (a) conversion of buildings a maximum of three (3) dwelling units; and
- (b) existing residential uses; and
- (c) industrial developments; and
- (d) marine developments; and
- (e) a broad range of commercial developments.

Part 16.b.1. of the original 1996 By-law allowed for converted buildings, subject to other requirements. This provision was removed in the 2012 By-law. The Barclay property at 268 Montague was impacted by this by-law change, effectively making the property with 3 residential units a non-conforming use. The single unit dwellings at 200 and 268 Montague Street were non-conforming under the 1996 Land Use By-law and 2012 Land Use By-law.

Currently converted buildings are listed as a permitted development in certain zones, such as in the General Commercial (GC) Zone or Institutional (INS) Zone, subject to Part 26M. Converted buildings are not listed in the Marine Industrial (MI) Zone.

The 1996 Land Use survey, which is part of the Municipal Planning Strategy's mapping, shows residential uses and specifically shows the property at 272 Montague Street as containing 3 units. The properties at 200 and 268 are shown as residential, with no number of units indicated, meaning it is a single unit dwelling on the site.

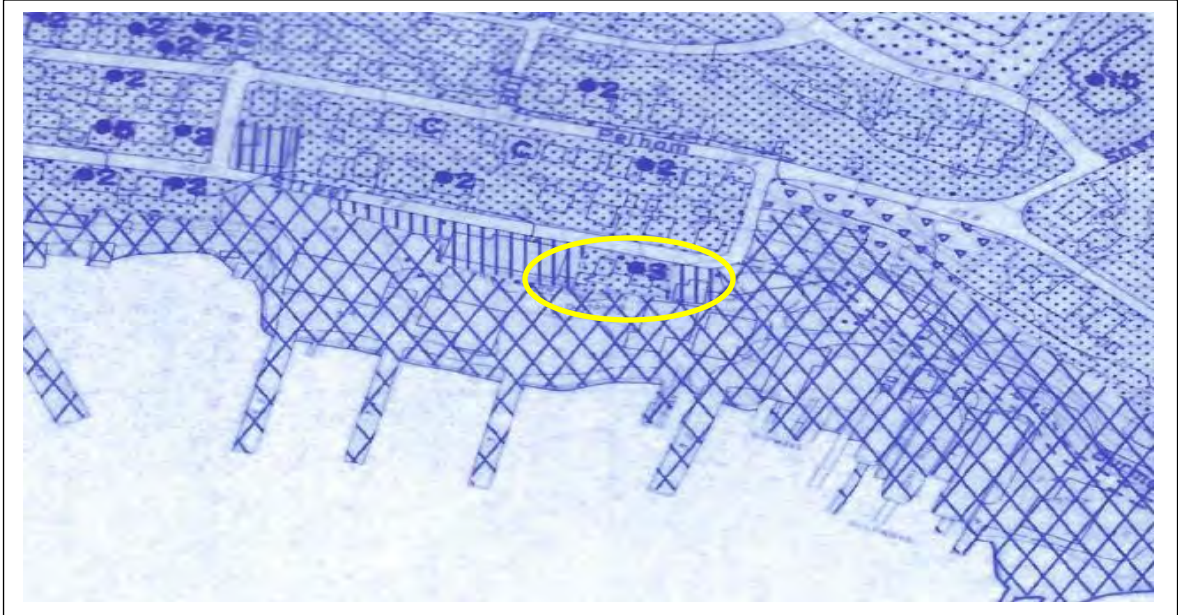


Figure 2. Excerpt from the 1996 MPS - Map 1, Existing Land Use Map. Dots indicate residential uses. Parallel lines indicate commercial and hatched are industrial uses.

Where certain existing residential uses are enabled in the MI Zone through policy and are listed in the Land Use By-law, one may conclude that there is not a change in the direction Council's policies. Adding existing residential uses is not a departure from existing policy. Therefore, a plan amendment is not required. A Land Use By-law text amendment will allow additional existing residential uses in the MI Zone. Policy 19.5 Land Use By-law Amendments, sets out that it "shall be the policy of Council to amend the Land Use By-law provided that the amendment reflects the intent of the Municipal Planning Strategy."

There are a number of supporting and implementation policies which Council is to consider. The application has been reviewed based on the applicable policies found in the Town of Lunenburg's planning documents. Policies 19.9.1 and its analysis is set out in Schedule A.

In 1996, the area was in an Architectural Control Area. On 18 October 2000, Map 2 of the Municipal Planning Strategy was amended. The Old Town area under Architectural Controls became part of the Old Town Heritage Conservation District. The subject properties are in the District. Policy 10.4 enables the designation on Map 2. Policy 10.5 ties the Heritage Conservation District Plan and By-law to the planning documents and sets the Heritage Conservation District documents as the guiding policy with respect to architectural conservation.

B. Requests for Comments

A staff development meeting was held between Planning and Engineering staff on 29 March 2021 as part of this review process. The summary of the meeting is set out below:

Water and sewer are adequate for existing residential units. Fire flows and water pressure were not tested and there was no request for sprinkler systems. There is existing storm drainage. It is not known whether there is pollution on the residential properties. With respect to site suitability, the proximity to MI uses can result in land use compatibility issues.

C. Issues Identified

C.1 Property rights

Although a new LUB was adopted in 2012, polices in the MPS did not change. The 1996 MPS is still in effect and guiding planning decisions. Both the 1996 and 2012 LUB have residential properties in the MI Zone that are listed as permitted developments and some that are not. As a land use survey was undertaken and the results shown on the 1996 MPS - Map 1, Existing Land Use Map, it is likely that the authors were cognizant of the omission of certain residential properties and that the omission was purposeful. One may speculate that the listed properties were seen to have less land use conflict, perhaps as a result of the distance from the industrial operations and/or from the nature and intensity of the industrial operations themselves. Those not listed are in close proximity to industrial uses.

As noted above, those properties not listed do not enjoy the same property rights as those listed. Specifically, if the non-conforming use ceases, then it may not recommence. A new use on the site must be a permitted use in the zone. Not listing residential uses along the area of Montague Street would support the long term conversion of non-industrial uses to industrial uses. Where the area is designated Industrial and in the MI Zone, the intended future use of the land is for industrial related purposes.

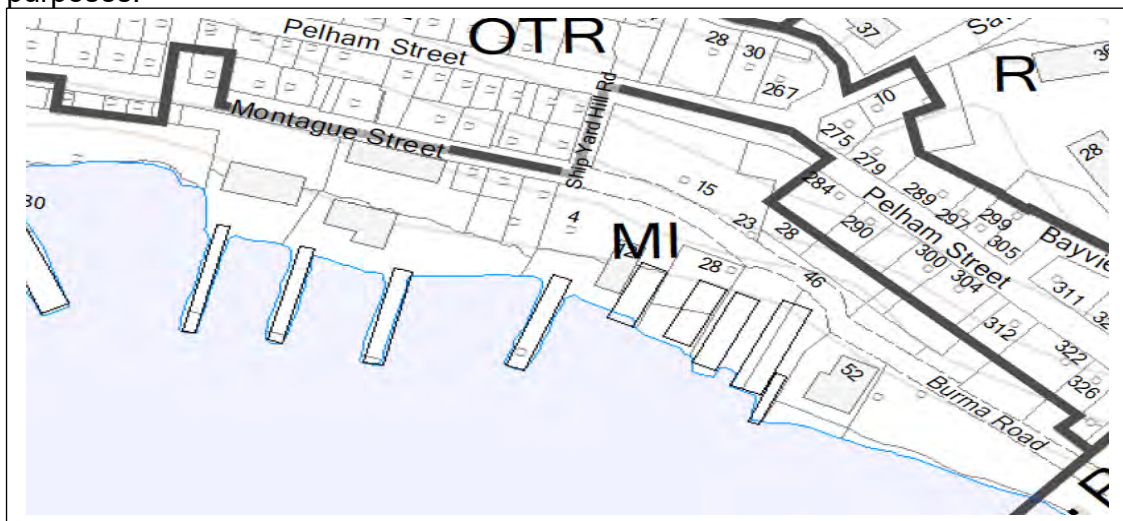


Figure 3. Excerpt, Zoning Map
(Note: Iron Works amendment extending the MI Zone is not shown)

C.2 Long term goals

A purposeful omission of these properties from the list is likely, given other residential uses along the Tannery Road area are listed and the 1996 Map 1 Existing Land Use Map shows the uses as residential. This approach is acceptable. One may look to the Village of New Minas as an example. Original planning policy was aimed at turning Highway 1 in New Minas into a commercial strip. It has been ribbon residential development interspersed with commercial as much of Highway 1 in the Wolfville to Coldbrook corridor had been. Residential uses were made non-conforming. Now New Minas is a very successful commercial hub along Highway 1, with very few of the original homes remaining.

C.3 Land use conflict

Not listing the subject properties could also be attributed to land use compatibility and conflict issues. Noise, odours, and extended operating hours are nuisance factors for residential development but are often associated with industrial activity. Land use planning tends to separate residential uses from uses that create nuisance so that there is not a negative impact on the quiet enjoyment of residential properties. Complaints often arise as a result of incompatible uses. Complaints can have a negative impact on the viability of the location for industrial uses or on the business itself. Complaints may result in political pressure on the business to modify or cease operations or negative public opinion resulting in damage to the business' reputation and corporate image.

C.4 Lot characteristics

The subject properties front on Montague Street and slope downward toward the rear of the lot. Marine Industrial uses are located at the lower elevations, generally on flatter grounds. The grade of the subject lots would be a hindrance in developing these lots for industrial uses.

C.5 Working waterfront

Lunenburg has a working waterfront as well as a picturesque harbour and shops in the commercial core. Lunenburg draws tourists and new residential from a far. Newer residents may not be aware or as tolerant of waterfront operations. The Town had received complaints in the past from residents along Pelham Street regarding noise from marine industrial operation on the waterfront. It is not a matter of who was here first has the most rights. The Town has policies to protect and promote the working waterfront. The protection and promotion of the working waterfront has been identified as an important issue in Lunenburg and was identified in public engagement activities of Project Lunenburg.

C.6 Heritage

These properties are located in the Heritage Conservation District. There are policies and regulation that protect the architectural heritage (built form) of the buildings in the District. The planning documents recognize this in policy. The Heritage Conservation Plan and By-law contribute to the protection of the area. Land use policy aimed at eliminating these existing residential uses, which can often be extrapolated to include the structure, are at odds with the objectives of the Heritage Conservation District Plan.

The homes are part of the visual character of Montague Street. Not allowing repair or replacement in keeping with the Heritage Conservation District Plan and By-law after substantive damage to the property would have a negative effect on the established streetscape.

C.7 Traditional use

Despite the factors of nuisance, the residential uses in the subject properties have existed for over a hundred years without any known incident or conflict. The working waterfront and abutting residential uses have co-existed as the working waterfront and fishery have evolved. Such co-existence can be seen as part of the culture of Lunenburg. For example, the Barclay property at 272 Montague Street is 136 years old, being built in 1885. Figure 4 shows the proximity of machinery working between 268 & 272 Montague Street. It would be difficult for any new owners to not be aware of the uses occurring on abutting marine industrial lands. With continued mutual understanding and respect, it is conceivable that these two uses may continue in close proximity without jeopardizing the integrity of the MI Zone and working waterfront.

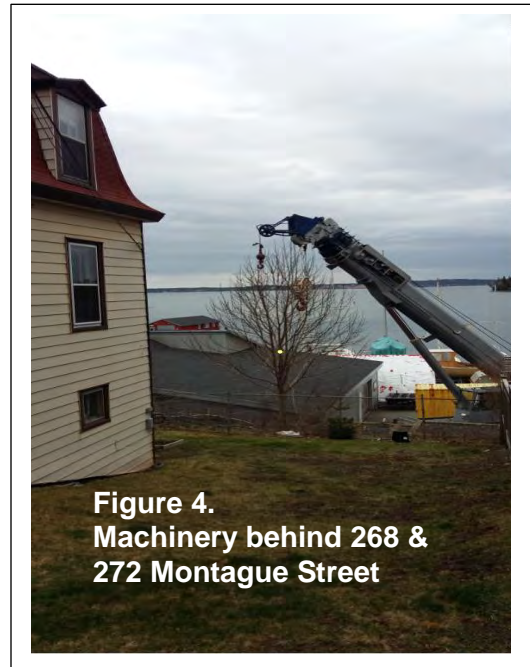


Figure 4.
Machinery behind 268 & 272 Montague Street

C.8 Conclusion

Should PAC members feel that the risk to the integrity of the Marine Industrial (MI) Zone and the working waterfront is too great, then the status quo should prevail. PAC would recommend to Council that there be no changes to the MI Zone provisions.

Should PAC members feel that these residential properties should have additional property rights and be conforming uses, PAC would recommend to Council that the text be amended to add them to the list of existing residential uses in Part 16.1.

There are many reasons in support of and against amending the Land Use By-law in this case. Given that the residential uses have abutted marine industrial lands for over 100 years without known incident or negative impact on the working waterfront, the lands are sloped which limits industrial uses, the character of the area would be negatively impacted should the homes cease to exist, and there appears to be an understanding of the nature of marine industrial uses by the owners, it is reasonable to add the properties to the list of existing residential uses in the MI Zone.

D. Options

In response to the application Council may

1. Recommend that the Council amend Part 16.1 Permitted Developments, under existing residential uses as follows, by inserting after 61 Tannery Road ABCO:

200 Montague Street
268 Montague Street
272 Montague Street, converted dwelling with 3 units

2. Recommend that the application be refused if it is found not to carry out the intent of the Municipal Planning Strategy.

3. Provide alternative direction, such as requesting further information on a specific topic.

3. FINANCIAL IMPACT

None at this time.

4. STRATEGIC PLAN RELEVANCE

This project is in keeping with the following Comprehensive Community Plan's Strategic Directions and Goals:

Community Structure: A town that accommodates growth and change in a well-planned way that is respectful of its layered past and creates opportunities for its long-term future (CCP, pg 17).

2.6 Working Waterfront – General (pg 30).

a) Support the Working Waterfront in remaining the backbone of Lunenburg's economy and safeguard its vitality.

(Supports objective C4)

b) Develop the Working Waterfront area in keeping with the goals established in the Lunenburg Waterfront Master Plan.

(Supports objectives C1, C2 and C6)

Land Use

c) Limit uses to those directly associated with marine industries.

(Supports objectives C1 and C4)

Housing: A town that offers a wide range of high quality and affordable housing options (CCP, pg 40).

5. RECOMMENDATION

Staff have completed the analysis of the application to add 200, 268, and 272 Montague Street to the list of existing residential uses in Part 16.1 of the :Land Use By-law. Where there are existing residential uses currently listed under Part 16.1., adding additional existing residential uses continues to be in keeping with the intent of the Municipal Planning Strategy. The proposal is consistent with the Town's industrial policies and meets the intent of the Municipal Planning Strategy.

IT IS RECOMMENDED THAT The Planning Advisory Committee recommend that Council amend the text of the Land Use By-law, Part 16.1 Permitted Developments, under existing residential uses as follows, by inserting after 61 Tannery Road ABCO:

200 Montague Street

268 Montague Street

272 Montague Street, converted dwelling with 3 units

and give First Reading and set a Public Hearing date.

6. SCHEDULES

Schedule A, Municipal Planning Strategy Policy 19.9.1

Schedule B, Part 16 Marine Industrial (MI) Zone

Schedule C, Land Use By-law approval process

Schedule D, Photos

Schedule E, Original 1996 Certified Zoning, Future Land Use, and Existing Land Use

Maps excerpts

Schedule F, Application

Schedule A
Municipal Planning Strategy Policy 19.9.1

Implementation Policy 19.9	Analysis
<p>Criteria For Development Agreements and Land Use By-law Amendments</p> <p>19.9.1</p> <p>consider the following in addition to all other criteria set out in the various policies of this Municipal Planning Strategy when considering amendments to the Land Use By-law or development agreements:</p>	
<p>(a) that the proposal conforms to the intent of the Municipal Planning Strategy and to all other applicable Town By-laws and regulations, except where the application is for a development agreement and the requirements of the Land Use By-law need not be met; and</p>	The proposal is in keeping with the intent of the Municipal Planning Strategy and other applicable By-laws and regulations in the Town.
<p>(b) that the proposal is not in conflict with Municipal or Provincial programs in effect in the Town; and</p>	The proposal is not in conflict with Municipal or Provincial programs.
<p>(c) that the proposal is not premature or inappropriate by reason of:</p> <p>(i) financial ability of the Town to absorb costs related to the development; or</p>	Development is existing – no additional burden on the Town.
<p>(ii) adequacy and proximity of school, recreation and other community facilities; or</p>	N/A
<p>(iii) negatively affecting the enjoyment of established residences; or</p>	Existing use – no negative impact anticipated.
<p>(iv) the creation of any undue traffic hazard or congestion; or</p>	No undue hazard or congestion has been identified.
<p>(v) adequacy of Town sewer and water services, including fire flows and water pressure or the adequacy of the site for on-site services; or</p>	Existing and adequate services.
<p>(vi) adequacy of storm drainage and effects of alteration to drainage pattern, including potential for creation of a flooding problem; or</p>	The storm drainage is adequate. No grade alteration is planned.
<p>(vii) creation or worsening of a pollution problem in the area such as but not limited to soil erosion and siltation of watercourses; or</p>	No pollution problem has been identified.
<p>(viii) suitability of site regarding grades, soils and geological conditions, location of watercourses, marshes, bogs and swamps, and proximity to utility rights-of-way; and</p>	Suitable.

Schedule B-1
Part 16 Marine Industrial (MI) Zone

PART 16 MARINE INDUSTRIAL (MI) ZONE

16.1 Permitted Developments

Developments Permitted

- any use permitted in the Industrial (I) Zone
- any use permitted in the General Commercial (GC) Zone, **with the exception of residential uses**
- dry cleaning or laundry establishments or depots
- funeral homes
- medical clinics
- places of entertainment, recreation and assembly
- boatyards, including boat storage
- existing residential uses as follow:

Civic Address	Owner
29 Falkland Street	Cynthia and Adam Dial
49 Falkland Street	Lunenburg Foundry & Engineering
175 Montague Street	Adams and Knickle
43 Tannery Street	Clarence Dauphinee
49 Tannery Road	ABCO
57 Tannery Road	ABCO
61 Tannery Road	ABCO

- fish uses, including fish processing
- marinas, including boat rentals and charters, fuel sales, and pump-out facilities
- marine railways
- marine uses
- marine-related commercial uses
- parking lots
- parks
- public uses and buildings
- sale of fish and other seafood
- shipbuilding and repair
- ship chandlery and provisioning
- storage buildings for commercial fishing gear
- wharves and docks
- wholesale fish establishments
- outdoor yacht and boat sales and displays, including yachting and boating merchandise

16.2 Developments Permitted by Development Agreement

- (i) industrial development which may create land use conflicts in accordance with Municipal Planning Strategy policy 8.7
- (ii) Places of entertainment, recreation or assembly in accordance with Municipal Planning Policy 8.7A.

Schedule B-2
Part 16 Marine Industrial (MI) Zone

16.3 **Marine Industrial (MI) Zone Standards**

Minimum Front Yard	nil
Minimum Side Yard	nil
Minimum Rear Yard	nil
Maximum Height of	13.5 metres (45 feet)
Minimum Lot Area	37 square metres (400 square feet)
Minimum Frontage	nil

- 16.4 Notwithstanding section 16.3, a boathouse may be erected on a lot that is at least 37 square metres (400 square feet).

Schedule C
Land Use By-law Amendment Approval Process



Schedule D
Photos

Montague Street, photos dated 6 April 2021



Figure 5
200 Montague Street

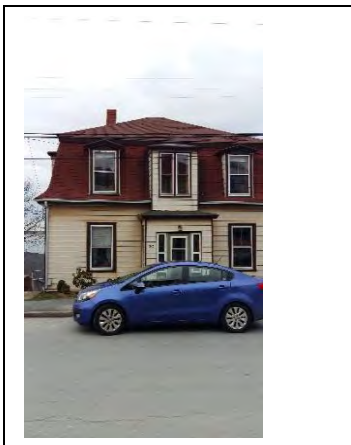


Figure 6
272 Montague Street

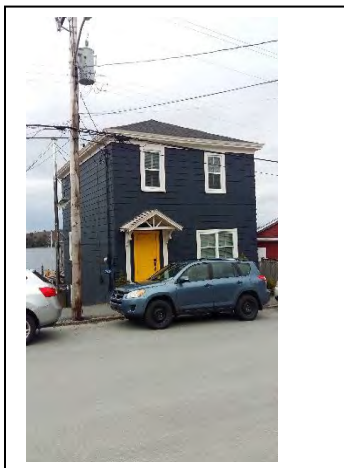


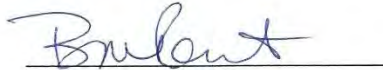
Figure 6
268 Montague Street

Schedule E-1

Original 1996 Certified Zoning, Future Land Use, and Existing Land Use Maps excerpts

Certified Town of Lunenburg Document

I, Bea Renton, Town Manager/Clerk of the Town of Lunenburg in the County of Lunenburg, Nova Scotia, do hereby certify that this Municipal Planning Strategy and Land Use By-law of the Town of Lunenburg (Exhibit "D") is a true copy of the Municipal Planning Strategy and Land Use By-law adopted by a majority of the whole Council of the Town of Lunenburg at a meeting duly called and held on the 15th day of April, 1996, and who were present at the March 21 Public Hearing.



Bea Renton
Town Manager/Clerk
Town of Lunenburg



Province of Nova Scotia
County of Lunenburg

I hereby certify that this is a true copy of an instrument filed in the Registry of Deeds Office at Bridgewater in the County of Lunenburg, N.S. on the 29 day of June A.D., 1996 as No. 10,221 Certified by my hand and seal this 23 day of July A.D., 1996
.....*LaCaine Smith*.....
Registrar of Deeds for the Registration District of Lunenburg County.

Schedule E-2

Original 1996 Certified Zoning, Future Land Use, and Existing Land Use Maps excerpts

TOWN OF LUNENBURG

LAND USE BY-LAW SCHEDULE "A" ZONING MAP

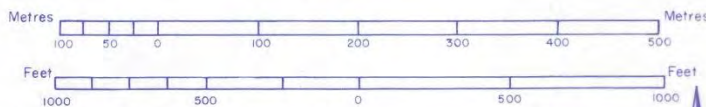
LEGEND

OTR	Old Town Residential	MI	Marine Industrial
R	Residential	I	Industrial
RR	Rural Residential	RI	Rural Industrial
GC	General Commercial	INS	Institutional
RC	Restricted Commercial	REC	Recreation
HC	Highway Commercial	OS	Open Shoreline
CS	Commercial Shoreline	—	Zone Boundary
TM	Tourism Marine		

Adopted by Council 15 April 1996

This map forms part of the Land Use Bylaw approved by the Minister of Municipal Affairs on June 13, 1996.

SCALE 1:5000



This base map was prepared by the Lunenburg County District Planning Commission in November 1994 from Topographic Series Mapping (scale 1:2000) produced by Land Registration and Information Service (LRIS) from aerial photography flown in May 1981.



Schedule E-4

Original 1996 Certified Zoning, Future Land Use, and Existing Land Use Maps excerpts

Plan # 10,221

*June 27/96
4423*

TOWN OF LUNENBURG

MUNICIPAL PLANNING STRATEGY

MAP 2

FUTURE LAND USE

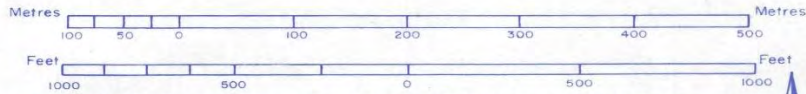
LEGEND

- INS INSTITUTIONAL
- REC RECREATION
-  ARCHITECTURAL CONTROL AREA

Adopted by Council 15 April 1996

This map forms part of the Municipal Planning Strategy approved by the Minister of Municipal Affairs on *June 13, 1996*.

SCALE 1:5000



This base map was prepared by the Lunenburg County District Planning Commission in November 1994 from Topographic Series Mapping (scale 1:2000) produced by Land Registration and Information Service (LRIS) from aerial photography flown in May 1981.



Schedule E-5

Original 1996 Certified Zoning, Future Land Use, and Existing Land Use Maps excerpts



Schedule E-6

Original 1996 Certified Zoning, Future Land Use, and Existing Land Use Maps excerpts

10, 221

June 27/96

4423








TOWN OF LUNENBURG

MUNICIPAL PLANNING STRATEGY

MAP I

EXISTING LAND USE

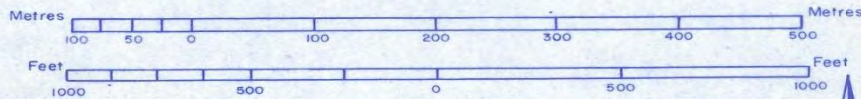
LEGEND

-  Residential *
-  Commercial
-  Industry
-  Civic & Cultural Uses (Includes Public Utilities)
-  Education
-  Open Space
-  Agriculture, Forestry & Open Country
- C** Commercial Use In Residential Dwelling
- G3** Private Garage On Separate Lot (Includes No. Of Units)

* •2 Indicates Number Of Dwelling Units

Based On Existing Land Use Survey Done Oct. 14 & 30, & Nov. 14, 1994

SCALE 1:5000

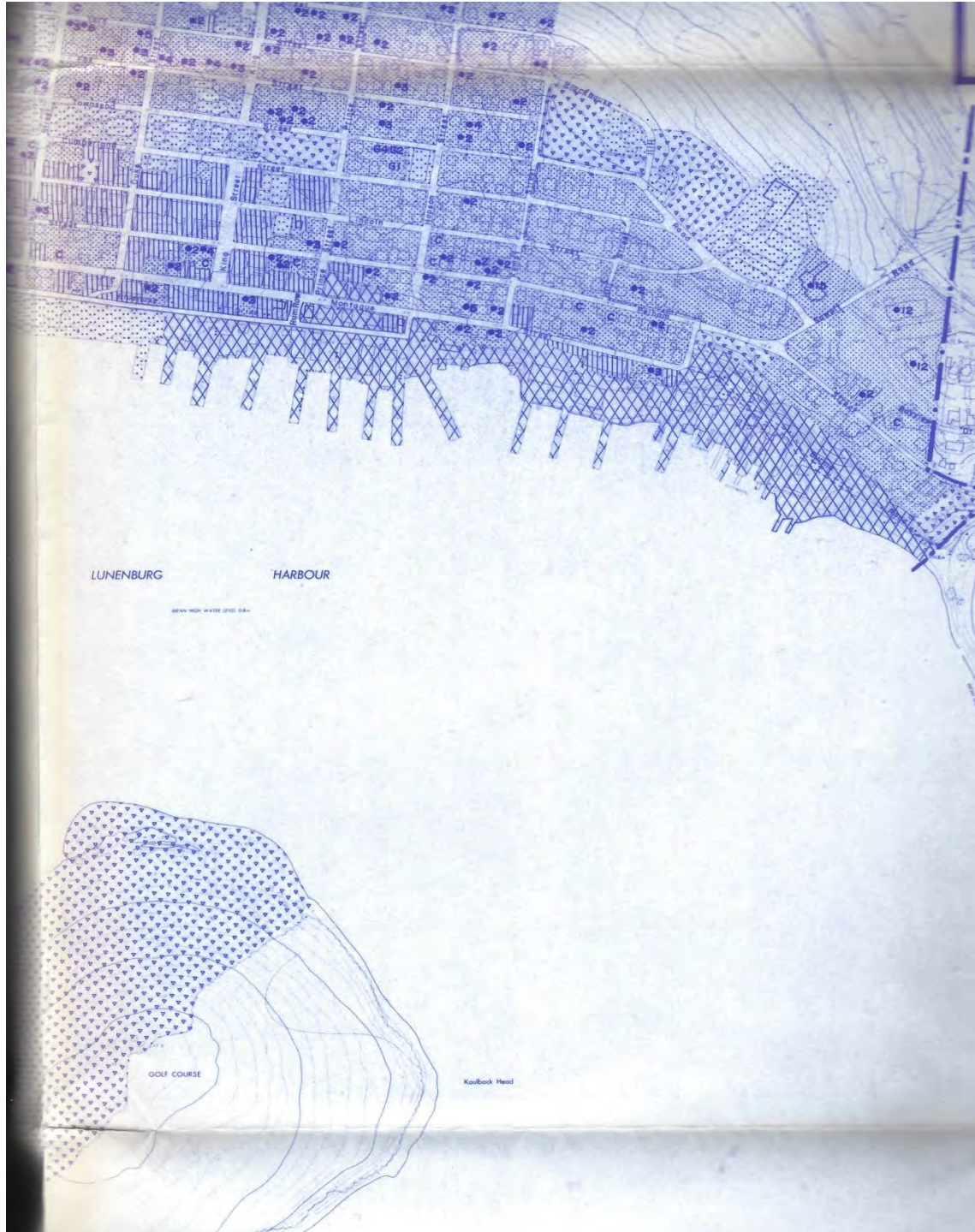


This base map was prepared by the Lunenburg County District Planning Commission in November 1994 from Topographic Series Mapping (scale 1:2000) produced by Land Registration and Information Service (LRIS) from aerial photography flown in May 1981.



Schedule E-7

Original 1996 Certified Zoning, Future Land Use, and Existing Land Use Maps excerpts



Schedule F Application-1

Town of Lunenburg Planning Application for Land Use By-Law Amendment

PLEASE NOTE THAT ALL INFORMATION PROVIDED IS PUBLIC INFORMATION

APPLICANT INFORMATION	REGISTERED OWNER OF PROPERTY
Name ELIZABETH & THOMAS BARCLAY	Name same
	Company Name
	Mailing Address
	Email
	Phone
Cell	Cell

PLEASE NOTE: If you are not the registered owner of the property, include a letter of authorization from the owner with your application.

PROPERTY INFORMATION	APPLICATION CHECKLIST
Civic Address 272 MONTAGUE ST LUNENBURG, NS	<input type="checkbox"/> Copy of Deed
PID #	<input checked="" type="checkbox"/> Survey Plan or Equivalent
Present Use of Property	<input type="checkbox"/> A Letter Explaining the Proposal <i>see below</i>
Proposed Use of Property	<input checked="" type="checkbox"/> Application and Advertising Fees \$949.10 (\$249.10 + \$700.00)

EXPLANATION OF PROPOSAL AND SIGNATURE

A short explanation of your proposal (please include a detailed letter with a full explanation)

IT HAS COME TO OUR ATTENTION THAT THE PROPERTY IS IN THE MARINE INDUSTRIAL ZONE, NON CONFORMING USE, WE WOULD LIKE IT ADDED TO THE LIST OF RESIDENTIAL PROPERTIES IN THE MARINE INDUSTRIAL ZONE WITH RESIDENTIAL(1-3 UNIT) USE ALLOWED AND CONFORMING

By submitting this application I affirm that the facts set forth are true and complete.

E Barclay
 Name (printed): J Barclay Signature: *[Signature]* Date: Feb 3/21

OFFICE USE ONLY: Type of LUB Application: _____ Date received: *[Signature]*

From: [Beth Barclay](#)
To: [Bea Renton](#); [Matt Risser](#)
Cc: [Peter Mosher](#); ssanford@explorelunenburg; [Stephen Ernst](#); [Jenni Birtles](#); [Melissa Duggan](#); [ED Halverson](#); [Dawn Sutherland](#)
Subject: 272 Montague St. Land Use Bylaw Amendment Application (final copy)
Date: February-04-21 7:53:54 AM
Attachments: [Map Land Use.pdf](#)
[MPS LUB Map 1 Existing Land Use 1994_02-2011.pdf](#)

CAUTION: EXTERNAL MAIL. DO NOT CLICK ON LINKS OR OPEN ATTACHMENTS YOU DO NOT TRUST.

Dear Mayor and Council,

On February 1, during the sale of our property at 272 Montague Street, we discovered that the Town's zoning map indicates that our property is zoned Marine Industrial (MI). The zoning map delineates each zone with a wide line that in some cases bisect individual properties and structures. By contrast, the companion Municipal Planning Strategy Land Use Map, more accurately depicts property boundaries and clearly shows our property, and the neighbouring residential home, to be of residential land use. It is clear when looking at the zoning map, that every intention was made to place residential homes adjacent to MI land use on Montague Street in the Old Town Residential (OTR) zone, as the line that delineates MI and OTR zones jogs around individual properties and does not follow street.

We believe that 272 Montague St was excluded from the OTR zone and accidentally included in the MI zone by error and omission when the zoning map was originally produced. The result has put us in a position of non-conforming use, which means that the structure can not be repaired or rebuilt if damaged to a degree of 75% of its value, expanded or altered in any way and should it be unoccupied for six months for what ever reason, failing health, medical issues, or even an extended vacation, future occupancy would be technically illegal. We feel pretty certain that it was never the Town's intention to place the residential use of this property in jeopardy, considering the property has been continuously used as a residential dwelling since its construction in 1885.

In 2012, the land use by-law was amended and was written in a way to unencumber residential homes that had been placed inside the MI zone. A list of specific addresses with existing residential use was included under the list of permitted developments in the MI zone. 272 Montague Street and the neighbouring property were not included on this list.

So this begs the question: If our property was intentionally included in the MI zone at the time the by-law was amended and is known to have residential use per the land use strategy map, why was the property excluded from the list? I was a Town Councillor in late 2012 and I can assure you that I was not part of any zoning/by-law discussions about my own property; otherwise, this issue would have been addressed at the time.

Thank you in advance for your attention to this time sensitive matter. Below is a summary of the timeline of this issue for your review. The Municipal Planning Strategy (MPS) Land Use map and zoning map referred to above are attached.

Sincerely,
Thom & Beth Barclay

Summary Notes

- The house (272 Montague St) has been a residence continuously since its construction in 1885.
- In 1976, the land was separated from the Smith and Rhuland property and approved by both the Town's Planning Department and Council.
- In 1996, a municipal planning strategy (MPS) and zoning map were adopted by Council and approved by the Minister of Municipal Affairs.
 - The MPS shows the existing land use as residential and indicates that there are 3 dwelling units on the property.
 - The zoning map shows that the property is zoned Marine Industrial (MI).
 - Per the Municipal Government Act (219,1) - where a council adopts a municipal planning strategy or a municipal planning strategy amendment, the council shall, at the same time, adopt a land-use by-law or land-use by-law amendment that shall enable the policies to be carried out.
 - The zoning map and MPS contradict each other and the zoning map does not enable the MPS policies to be carried out as intended.
 - We feel this was an administrative error in the execution of the zoning map, considering the use of the property has always been residential and has never changed and residential use is not permitted in a MI zone.
- In 2012, the land-use by-law was updated. A list of specific addresses with existing residential use permitted in a MI zone was included in the by-law.
 - 272 Montague St and the neighbouring residential home were not included on that list.
 - The Town indicated that the property may have been intentionally rezoned MI in 2012, although it was already zoned MI per the zoning map.
 - The Town hasn't provided any documentation of the amendment and I haven't been able to find any amendments noted on the zoning map or in the 1996 or 2012 by-law to confirm this. .
- I was elected to Council in October 2012 and have no recollection of any discussions about the zoning of 272 Montague St.
- The property was purchased from an estate in October 2012.

TOWN OF LUNENBURG

LAND USE BY-LAW SCHEDULE "A" ZONING MAP

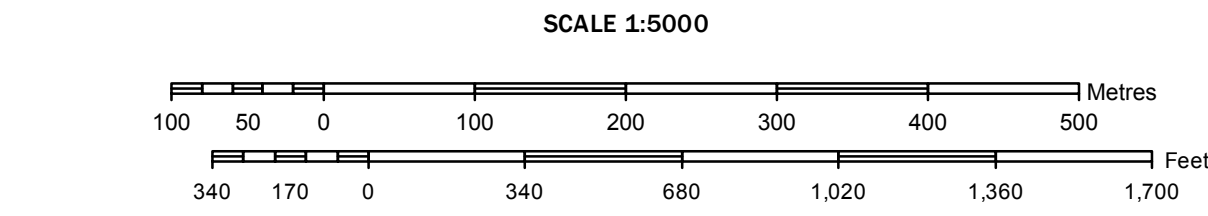
LEGEND

OTR	Old Town Residential	MI	Marine Industrial
R	Residential	I	Industrial
RR	Rural Residential	RI	Rural Industrial
GC	General Commercial	INS	Institutional
RC	Restricted Commercial	REC	Recreation
HC	Highway Commercial	OS	Open Shoreline
CS	Commercial Shoreline	MDR	Medium Density Residential
TM	Tourism Marine	—	Zone Boundary

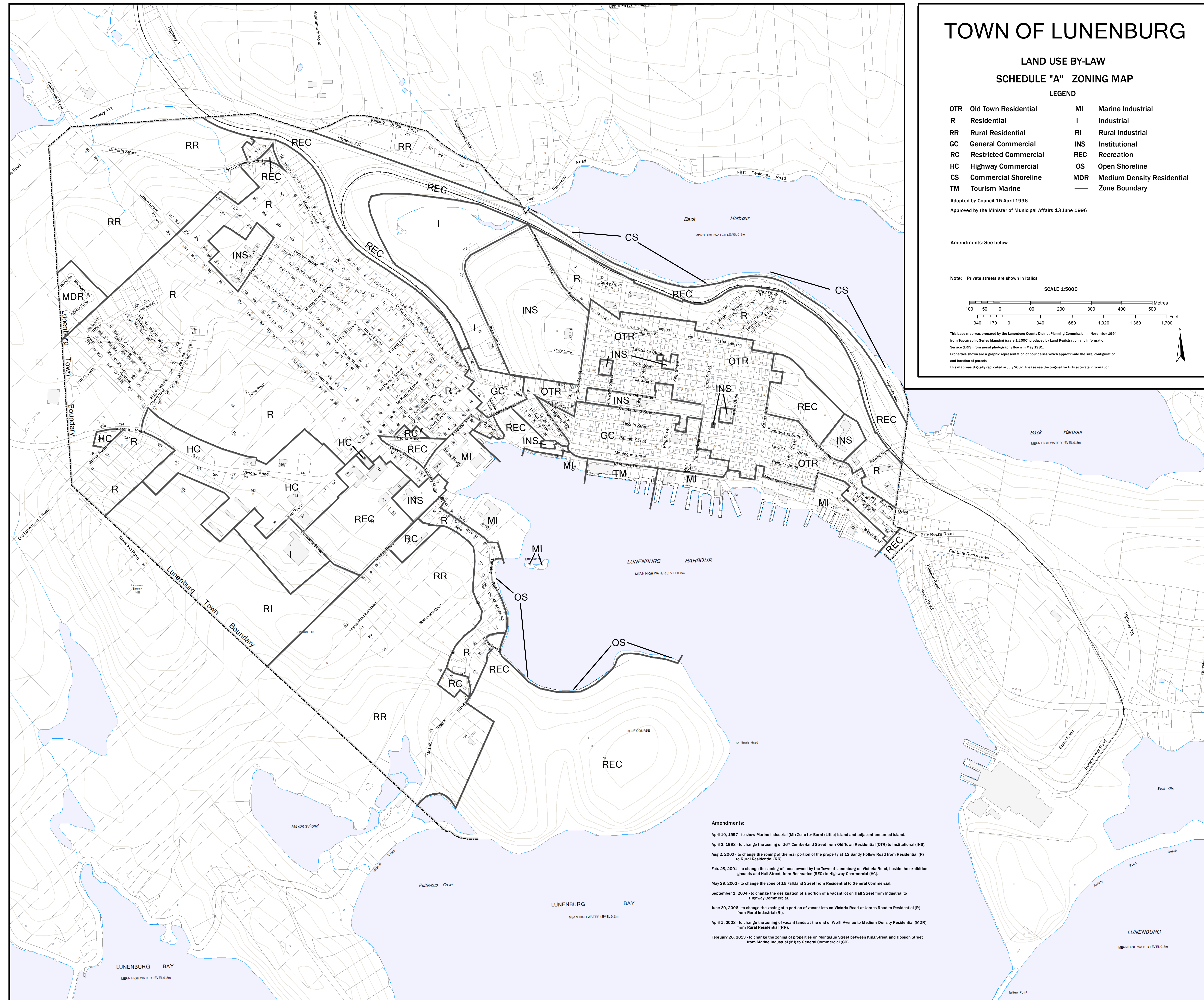
Adopted by Council 15 April 1996
Approved by the Minister of Municipal Affairs 13 June 1996

Amendments: See below

Note: Private streets are shown in italics



This base map was prepared by the Lunenburg County District Planning Commission in November 1994 from Topographic Series Mapping (scale 1:20000) produced by Land Registration and Information Service (LRIS) from aerial photography flown in May 1985. Properties shown are a graphic representation of boundaries which approximate the size, configuration and location of parcels. This map was digitally replicated in July 2007. Please see the original for fully accurate information.



- Amendments:**
- April 10, 1997 - to show Marine Industrial (MI) Zone for Burnt (Little) Island and adjacent unnamed island.
 - April 2, 1998 - to change the zoning of 367 Cumberland Street from Old Town Residential (OTR) to Institutional (INS).
 - Aug 2, 2000 - to change the zoning of the rear portion of the property at 12 Sandy Hollow Road from Residential (R) to Rural Residential (RR).
 - Feb. 28, 2002 - to change the zoning of lands owned by the Town of Lunenburg on Victoria Road, beside the exhibition grounds and Hall Street, from Recreation (REC) to Highway Commercial (HC).
 - May 29, 2002 - to change the zone of 25 Falkland Street from Residential to General Commercial.
 - September 1, 2004 - to change the designation of a vacant lot on Hall Street from Industrial to Highway Commercial.
 - June 30, 2009 - to change the zoning of a portion of vacant lots on Victoria Road at James Road to Residential (R) from Rural Industrial (RI).
 - April 1, 2008 - to change the zoning of vacant lands at the end of Wolff Avenue to Medium Density Residential (MDR) from Rural Residential (RR).
 - February 26, 2013 - to change the zoning of properties on Montague Street between King Street and Hopson Street from Marine Industrial (MI) to General Commercial (GC).

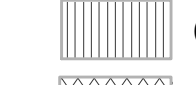
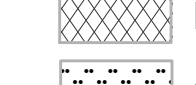


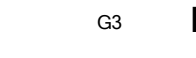
TOWN OF LUNENBURG

MUNICIPAL PLANNING STRATEGY

MAP 1

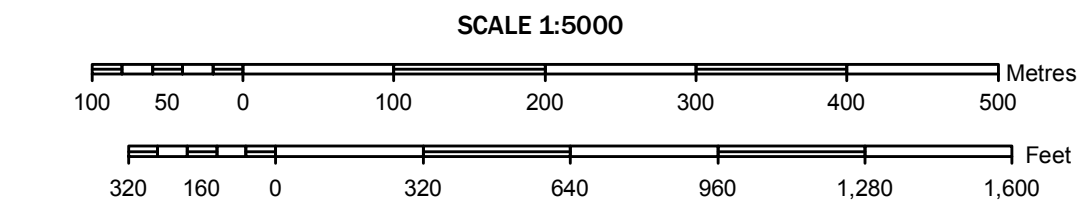
EXISTING LAND USE

LEGEND

-  Residential *
-  Commercial
-  Industry
-  Civic and Cultural Uses (Includes Public Utilities)
-  Education
-  Open Space
-  Agriculture, Forestry & Open Country
-  Commercial Use in Residential Dwelling
-  Private Garage On Separate Lot (Includes No. Of Units)

* * * Indicates Number of Dwelling Units
Based on Existing Land Use Survey Done Oct. 14 & 30, & Nov. 14, 1994

NOTE: Private streets are shown in italics

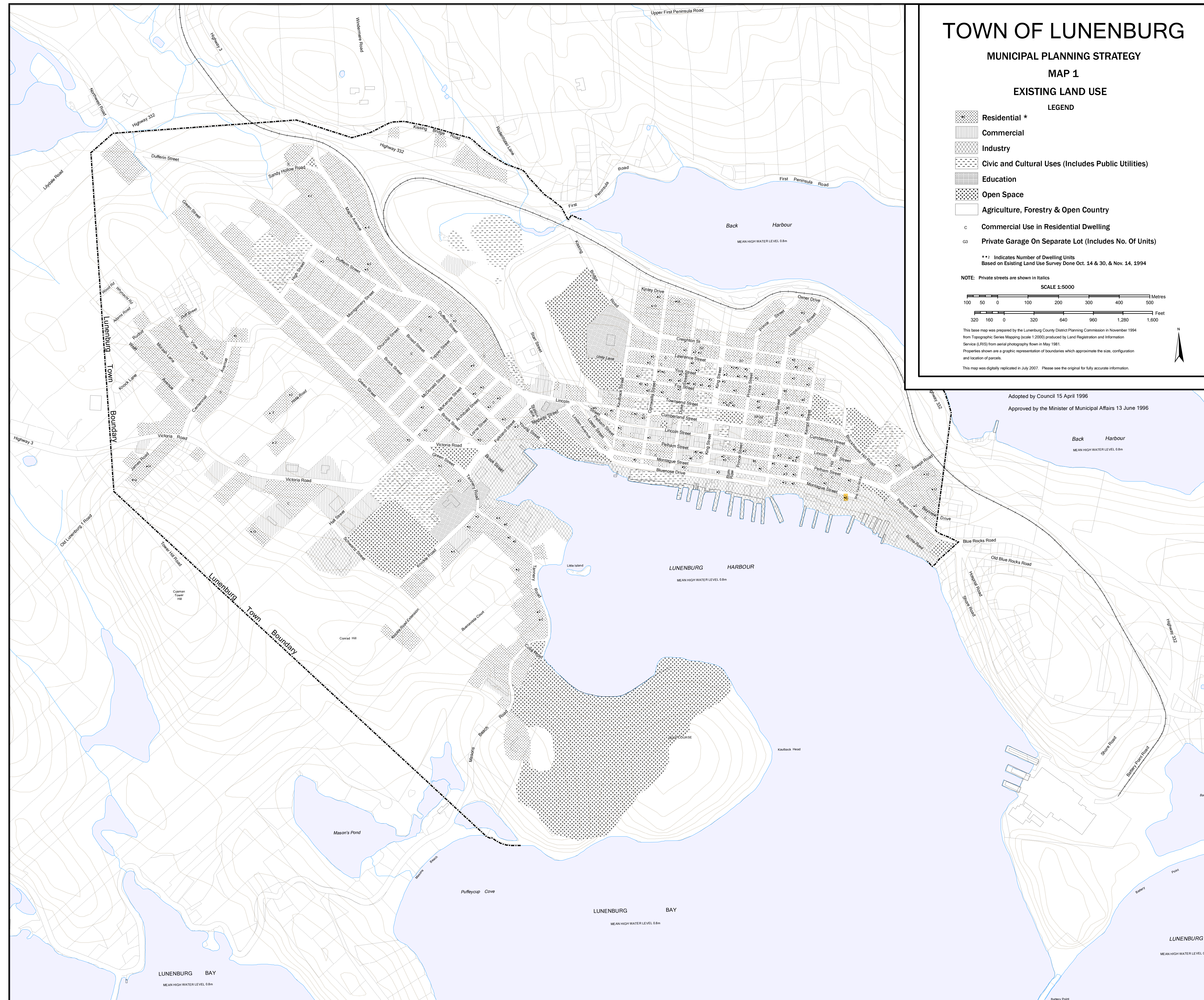


This base map was prepared by the Lunenburg County District Planning Commission in November 1994 from Topographic Series Mapping (scale 1:2000) provided by Land Registration and Information Services (LRIS) from aerial photography from May 1985. Properties shown are a graphic representation of boundaries which approximate the size, configuration and location of parcels.

This map was digitally replicated in July 2007. Please see the original for fully accurate information.

Adopted by Council 15 April 1996

Approved by the Minister of Municipal Affairs 13 June 1996



From: [Terry Drisdelle](#)
To: [Dawn Sutherland](#)
Subject: Re: [External] Lunenburg Planning Application - Existing Res Uses in Marine Industrial Zone April 12, 2021
Planning Advisory Committee Public Meeting Agenda Package
Date: April-12-21 1:50:52 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)

CAUTION: EXTERNAL MAIL. DO NOT CLICK ON LINKS OR OPEN ATTACHMENTS YOU DO NOT TRUST.

Hi Dawn:

Thanks for the info and links to this evenings meeting used as residential for over 100 years? Yeah, safe to say we're ok with your recommendation.

Hope all is well

Cheers,

Terry

Terry Drisdelle MCIP, LPP
Senior Planner & Project Manager

Develop Nova Scotia

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