



**PLANNING BOARD AGENDA
NOTICE OF MEETING**

*Monday, March 04, 2019 at 5:00 p.m.
Council Chambers, 2nd Floor, City Hall, (199 Queen Street)*

- 1. Call to Order**
- 2. Declaration of Conflicts**
- 3. Approval of Agenda** – Approval of Agenda for Monday, March 04, 2019
- 4. Adoption of Minutes** - Minutes of Planning Board Meeting on Monday, February 04, 2019
- 5. Business arising from Minutes**
- 6. Reports:**
 - a) Rezoning**
 1. 197 Minna Jane Drive (PID #469841) Greg
Request to proceed to public consultation in order to rezone the property from the Comprehensive Development Area (CDA) Zone to the Highway Commercial (C-2) Zone. This request includes a major height variance from 49.2 ft to approximately 69.75 ft.
 2. 185 Brackley Point Road (PID #390963) Greg
Request to proceed to public consultation in order to rezone the property from the Single-Detached Residential (R-1L) Zone / Mixed-Use Corridor (MUC) Zone to the Light Industrial (M-1) Zone.
 3. 88 Brackley Point Road (PID #396770) Laurel
Request to rezone the property from Single-Detached Residential (R-1L) to Medium Density Residential (R-3) Zone to construct a 30 unit apartment building and 16 townhouse units.
 4. 178 Lower Malpeque Road (PID #s 444687, 388439 & 388389) Laurel
Request to rezone three properties from Single-Detached Residential (R-1S) to Highway Commercial (C-2) Zone in order to construct a commercial retail centre.
 - b) Variances**
 5. Vacant lot off of Gerald Street (PID #359950) Robert
Request for three (3) major variances to decrease the rear yard, interior side yard and flankage yard variance(s) to permit the construction of a single detached dwelling.
 6. 215 Queen Street (PID #343582) Greg
Request for a temporary structure variance in order to locate a container on the vacant property to be used as commercial building for food preparation and service.



c) Others

7. 183 Great George Street (PID #344044) Greg
Request to proceed to public consultation for a site specific exemption in order to locate a mobile canteen, which would be permitted to sell food and alcohol, on the vacant property from April 1st to October 31st annually. The site specific exemption also includes the ability to utilize a container to contain washroom facilities and two variances.

8. Amendments to the Zoning & Development Bylaw (Bylaw 2018-11) Robert
Proposed amendments to allow for Transitional Housing Facility, define Dormitory, re-insert provisions for Undersized Lots, and include landscaping requirements under General Provisions for Lot and Site Design along with other general housekeeping amendments.

9. Secondary and Garden Suite Registry By-law Robert
Proposed amendments to create and implement the Secondary and Garden Suite Registry to create and make available to the public a registry of all approved Secondary and Garden Suite(s) as per the previous Affordable Housing Amendment requirements.

7.Introduction of New Business

8.Adjournment of Public Session

Note: In case of a storm day on Monday (March 4th) and offices are closed for the day, the new meeting schedule will be on Wednesday, March 6th at 5:00 pm. Thank you!

**PLANNING AND HERITAGE COMMITTEE – PLANNING BOARD MINUTES
MONDAY, FEBRUARY 4, 2019, 5:00 P.M.
COUNCIL CHAMBERS, 2nd FLOOR, CITY HALL**

Present: **Councillor Greg Rivard, Chair**
 Deputy Mayor Jason Coady, Vice-Chair
 Councillor Alanna Jankov
 Basil Hambly, RM
 Bobby Kenny, RM
 Kris Fournier, RM
 Reg MacInnis, RM

Rosemary Herbert, RM
 Shallyn Murray, RM
 Alex Forbes, PHM
 Laurel Palmer Thompson, PII
 Greg Morrison, PII
 Robert Zilke, PII
 Ellen Faye Ganga, PH IA/AA

Also: **Mayor Philip Brown**

Regrets:

1. Call to Order

Councillor Rivard called the meeting to order at 5:01 pm.

2. Declaration of Conflicts

Councillor Rivard asked if there are any conflicts. Councillor Jason Coady declared conflict of interest on agenda item number 3-Corner of Royalty Road and Upton Road (PID #388595). Councillor Rivard then moved to the approval of the agenda.

3. Approval of Agenda

Moved by Rosemary Herbert, RM, and seconded by Basil Hambly, RM, that the agenda for Monday, February 04, 2019 be approved.

CARRIED

4. Adoption of Minutes

Moved by Shallyn Murray, RM, and seconded by Bobby Kenny, RM, that the minutes of the meeting on Thursday, January 10, 2019, be approved.

CARRIED

5. Business arising from Minutes

There was no business arising from minutes.

6. 562 Malpeque Road (PID #145797) & (PID #145789)

This is a request to rezone both properties at 562 Malpeque Road (PID #145797) and the adjacent vacant parcel (PID #145789) from Single-Detached Residential (R-1L) to Medium Density Residential (R-3) Zone and designate the same properties Medium Density Residential under the Official Plan in order to allow for the construction of an 18-unit apartment building. Robert Zilke, Planner II, presented the application. See attached report.

The Department of Transportation, Infrastructure and Energy did not have concerns with this application but requires that they receive a detailed site plan, drainage and grading plans, storm-water management SWMP plan moving ahead and would require any future development along the corridor to undergo transportation study in order to determine necessary infrastructure upgrades. Staff is also exploring opportunities to cost-share future transportation studies with the Province. Public concerns raised from letters of opposition and from the Public Meeting on January 30, 2019 were on increase in traffic, scale of 18-unit apartment to adjacent single detached dwellings and green space.

Councillor Jason Coady commented that he has received comments/inputs from residents about traffic and accidents along the Malpeque Road stretch and asked when do we stop moving from single family dwellings to apartment units. Mr. Coady also added that we should protect single family dwellings from being swallowed by apartment buildings.

Councillor Rivard asked for any further comments or questions; there being none, the following resolution was put forward:

Moved by Councillor Alanna Jankov and seconded by Bobby Kenny, RM, that the request

- 1. Amend Appendix “A” – Future Land Use Map of the Official Plan from Low Density Residential to Medium Density Residential; and**
- 2. Amend Appendix “G” – Zoning Map of the Zoning & Development Bylaw from the Single-Detached Residential (R-1L) Zone to the Medium Density Residential (R-3) Zone;**

for the properties located at 562 Malpeque Road (PID #145797) and the adjacent vacant parcel (PID #145789), in order to permit the construction of an 18-unit apartment building, be recommended to Council for approval.

CARRIED

7. 14 & 18 Beasley Street (PID #277566 & 277558)

Laurel Palmer Thompson, PII, informed the Board that as of February 4th, 2019, the applicant has withdrawn his application for rezoning for the properties at 14 & 18 Beasley Street (PID #277566 & 277558).

Councillor Rivard then moved to the next application.

8. Corner of Royalty Road & Upton Road (PID #388595)

Deputy Mayor Jason Coady declared conflict of interest and has requested to step out and be taken out of the review for this application.

This is a request to rezone approximately 3.89 acres of the vacant property located at the corner of Royalty Road & Upton Road (PID #388595) from the Single-Detached Residential (R-1S) Zone to the Low Density Residential (R-2) Zone to allow for construction of two-unit dwellings. Greg Morrison, Planner II, presented the application. See attached report.

At the Public Meeting on Wednesday, January 30, 2019, a seven residents spoke in opposition of the rezoning application and one in support. Concerns raised were on density, drainage, access and traffic. On January 31st, staff spoke with the applicants and the applicants requested to defer this application to allow them an opportunity to address the concerns raised at the public meeting. The applicants would like to review the original plan and the whole property in its entirety instead of the current proposal of dealing with Phase 1 and Phase 2 in the future. There are other technical aspects that can be approved before finalizing report such as review of road network, surface water management and density. At this point, Staff is recommending that this application be deferred until the applicant is able to provide with a revised proposal to address the concerns.

Councillor Rivard asked if Mr. Forbes would like to provide more rationale to the request. Alex Forbes, PHM, added that the applicant is requesting for deferral in order for them to revisit their application and be able to provide the Board and Council with the best option for their application. Mr. Forbes explained that deferral is different than a withdrawal where, an applicant cannot withdraw an application after a public meeting has been held. However, in some cases, Council may or may not grant the request to withdraw an application. Council may proceed to reject the application and the applicant may not come back until after a year. The deferral would allow the applicants to address the concerns which cannot be done immediately or within the time after the Public Meeting and the scheduled Planning Board meeting.

The applicants are not present at the meeting but a representative of the residents, Chris Oatway, spoke on behalf of the residents. Mr. Oatway thanked Mr. Forbes for providing additional explanation on the process. At the Public Meeting, residents spoke in opposition and have had consultations with previous developers before and they would want the property to remain as R-1S. If the recommendation is for deferral, it will just give them more time when they should have had the best option the first time they submitted the application. Mr. Oatway's recommendation is to proceed with the current proposal and let Council decide whether they get or don't get the requested rezoning.

Reg MacInnis, RM, clarified that the information or history of the property were not included in the January 7 report and at the public meeting, series of property history were shared about numerous events or requests about the property. Mr. MacInnis asked if there had been applications submitted prior to this application. Mr. Morrison responded that this application is the first rezoning application made to the Planning & Heritage Department for this property. The development mentioned by the public were discussions between developers and residents conducting their own public meetings but these did not go through the Planning Department. Mr. MacInnis also commented about flooding concerns which did not come up prior to the public meeting and that they are willing to work to resolve this concern. Mr. Morrison noted that the intent of the public meeting is to listen to public's concerns which may be issues not known to the department. This then would allow staff and the applicant to look at these concerns and provide recommendations to address these concerns. Mr. MacInnis also clarified that since the applicants are asking to revise their plans, would they still request to rezone to R-2. Mr. Morrison noted that the applicant may come back with multiple options – either to keep current proposal for R-2 or another plan with completely R-1S lots. Deferring the application will allow

them to conduct informal public meeting to talk with residents about different options or what they would like to have in that area. If lots remain as R-1S, no rezoning will be required as this will be as-of-right. Mr. MacInnis also requested to elaborate on the applicant being willing to sign a development agreement. Mr. Morrison explained that having the applicants sign a development agreement after an application is approved, it would ensure that the developers would only build based on the approved plans. Mr. Rivard also added that the development agreement would be the last step once the application is approved. Mr. MacInnis recommended that he prefers rejection of the application instead of deferring it. He noted that the current application deals with Phase 1 and when this is approved, then they go ahead and do Phase 2. Mr. MacInnis would like to see the whole picture. Mr. Morrison explained that the purpose of the deferral is for the applicant to bring back a plan with the whole property instead of doing Phase 1 and Phase 2. If the current application is rejected, the applicants cannot come back until after a year and won't be able to provide recommendations for the property as a whole.

Mr. Rivard asked if it needs to come back to another Public Meeting after submitting a revised plan and Mr. Morrison noted that if it is a significant change to proposed rezoning, then it may. Mr. Forbes also added that the applicants were not dealing with other side of property for this application but the Public was geared towards wanting to know what will be done with the whole property. The deferral would allow the applicants to provide the plan in its totality. Mr. Rivard also asked if this application is rejected, it would not stop the applicants from building roads networks or building on to the other side of the property, or even building R-1S lots on the proposed. Mr. Forbes confirmed that they can build R-1S lots as-of-right, or come back with another application for the other piece of the property.

Rosemary Herbert, RM, commented that the residents at the public meeting want the application to rezone to R-2 rejected. If this application is rejected, Ms. Herbert asked if they can go ahead and build R-1S lots. The residents are shutting down the whole idea of rezoning to R-2. Mr. Rivard confirmed that even if the application is rejected, they can go ahead and build R-1S lots and Mr. Forbes also added that the board just recommends a decision to Council and Council makes the final decision.

Councillor Rivard asked for any further comments or questions; there being none, the following resolution was put forward:

Moved by Reg MacInnis, RM, and seconded by Councillor Alanna Jankov, that the request to rezone approximately 3.89 acres of the vacant property located at the corner of Royalty Road & Upton Road (PID #388595) from the Single-Detached Residential (R-1S) Zone to the Low Density Residential (R-2) Zone to allow for construction of two-unit dwellings, be recommended to Council for rejection.

***MOTION LOST
(3-4)***

Moved by Kris Fournier, RM, and seconded by Basil Hambly, RM, that the request to rezone approximately 3.89 acres of the vacant property located at the corner of Royalty Road & Upton Road (PID #388595) from the Single-Detached Residential (R-1S) Zone to

the Low Density Residential (R-2) Zone to allow for construction of two-unit dwellings, be deferred for a period of two months in order for the applicants to provide a revised plan for the property.

**CARRIED
(4-3)**

9. 68 Brackley Point Road (PID #396713)

This is a request to rezone the vacant property at 68 Brackley Point Road (PID #396713) from the Single-Detached Residential (R-1L) Zone to the Medium Density Residential (R-3) Zone to allow construction of a 48-unit apartment building with underground parking. Greg Morrison, Planner II, presented the application. See attached report.

The proposed 3-storey apartment building would contain 16 residential dwelling units on each storey. While the plans are preliminary at this stage, the applicant has proposed that 50 parking spaces would be located underground while 22 parking spaces would be located on the surface of the property. This rezoning has the potential to change the long term direction of this neighbourhood and may lead to additional rezoning requests for the rest of the properties. Ideally, the long term direction of this neighbourhood should be dealt with in a secondary planning process where the residents would be consulted for input on potential changes to the land use in this area. As a result, staff feels that this application is somewhat premature and inappropriate to deal with on a case by case basis but could be considered at a later date once a secondary plan has been created illustrating the long term direction of Brackley Point Road. Staff recommends that this be rejected to proceed to public consultation.

Chris Jette, designer for the application, provided additional information for the application. Mr. Jette commented that Charlottetown is experiencing rapid growth and thus resulting to housing shortage, less than 1% available rentals and impacting the City and its ability to bring in investment. The current site is a huge vacant lot and is appropriate for good development & intensification for this area. There is very little vacant land for development in the City and this site can be a good opportunity for housing intensification as long as it is sensitively done to mitigate concerns from neighbourhood.

Bobby Kenny, RM, asked how far the structure would be from the rear property line. Mr. Jette noted that there are tree buffers and Greg Morrison confirmed that it has a rear yard setback of 40 ft. Rosemary Herbert, RM, also asked if there were any considerations about the increase in traffic considering there are two schools nearby. Mr. Jette responded that this is an arterial street and is nowhere near its capacity and would have low impact to traffic. Basil Hambly, RM, also asked if there are no site line issues for the property being on top of a hill and Mr. Jette responded that there are no site line issues. Mr. Morrison indicated that there was discussions in the past which illustrated that there may be site line issues to the south but staff have not discuss this with the Police or Public Works Department.

Shallyn Murray, RM, asked if the secondary plan is something to be done in the immediate future. Mr. Morrison noted that this is not immediate. There should be additional interest or multiple requests for a secondary planning to be initiated. Secondary plans are not typically done

for the development of one lot but may be considered when there is a demand to change the direction of Brackley Point road by rezoning multiple lots.

Councillor Rivard asked for any further comments or questions; there being none, the following resolution was put forward:

Moved by Rosemary Herbert, RM, and seconded by, RM, that the request to:

- 1. Amend Appendix “A” – Future Land Use Map of the Official Plan from Low Density Residential to Medium Density Residential; and**
- 2. Amend Appendix “G” – Zoning Map of the Zoning & Development Bylaw from the Single-Detached Residential (R-1L) Zone to the Medium Density Residential (R-3) Zone;**

for the property located at 68 Brackley Point Road (PID #396713), be recommended to Council to reject the request to proceed to a Public Consultation.

CARRIED

10. 214 Sydney Street (PID #338509)

This is a request for a major variance to reduce the required lot frontage in order to the convert the existing one (1) unit building into a three (3) unit building for the property at 214 Sydney Street (PID #338509). The subject property is located in the Downtown Neighbourhood (DN) Zone. Greg Morrison, Planner II, presented the application. See attached report.

After a fire occurred in 2018, it was discovered that the property had five (5) units, 2 units at 216 Sydney Street and 3 units at 214 Sydney Street. Records indicate that 216 Sydney Street contains two (2) units and 214 Sydney Street only contains one (1) unit. A permit was never issued for the additional two units and these additional units are not permitted and considered non-conforming. Staff sent a letter to the applicant indicating that these units are non-conforming; therefore they either they remove the units or apply for a variance to decrease the lot frontage. The applicant since then applied for a variance. Letters were sent out and there were three responses in opposition. Concerns were raised about parking and that there is a process in place to apply for a variance or permit before proceeding with a development. It is difficult to assess applications after the development has been done and if this application is approved, the public may lose faith in the system as it may seem that they can develop properties without applying for a permit or a variance. Staff recommendation is to reject this application.

Councillor Rivard asked Mr. Morrison if the property currently had one unit and proposed to add two units, would the applicants have to go through the variance process and would staff recommend for approval. Mr. Morrison noted that the Bylaw requires at least 65 feet of frontage to be able to build at least four units. The current property has 48 feet of frontage thus would require a 17 ft variance. This not unheard of for downtown lots; but Staff would look at concerns on parking and driveway, though additional units do not require additional parking spaces. Should an application be approved to have more than three units, one existing residential parking spot on the street may have to be removed.

Councillor Alanna Jankov asked if the owner bought the property not knowing that the 5-unit apartment was non-conforming. Greg Morrison noted that it was likely purchased in 2012 when a Zoning Inquiry had been requested. The Zoning Inquiry indicated that the property had three units so it is uncertain as to when the additional two units were built. Basil Hambly, RM, asked what would happen if this application is rejected. Mr. Morrison responded that two units are to remain at 216 Sydney Street but only one unit could remain at 214 Sydney Street. The owners are then required to remove the additional units and comply with Fire/Hazard compliance. Once this is rejected, the Fire Department would then have more authority to impose removal of the additional units.

Shallyn Murray, RM, asked if the properties are treated as two different properties and Mr. Morrison confirmed that it is treated as two separate properties as both properties have their own civic address and property identification. There are also separate entries for both properties. Kris Fournier, RM, asked if parking spaces are enough for three units. Mr. Morrison noted that they meet current parking requirements and do not need additional parking spaces. Ms. Jankov also asked if they are meeting the requirement for a three unit or for a five unit apartment and Mr. Morrison mentioned that either way, they satisfy the required parking spaces.

Reg MacInnis, RM, asked if the lots were consolidated, would it allow for the five unit apartment. Mr. Morrison responded that even if lots are to be consolidated, the property would require 65 feet of frontage which the applicant would still need to apply for a variance having only 48 feet of frontage.

Councillor Rivard asked for any further comments or questions; there being none, the following resolution was put forward:

Moved by Reg MacInnis, RM, and seconded by Bobby Kenny, RM, that the request for a variance to Section 28.2.1 of the Zoning & Development Bylaw to reduce the required lot frontage from 34.8 ft to approximately 26.9 ft in order to convert the existing one (1) unit dwelling into a three (3) unit dwelling for the property located at 214 Sydney Street (PID #338509), be recommended to Council for rejection.

CARRIED

11. 58 Victoria Street (PID #353433)

This is a request for a major variance to decrease the flankage yard setback requirement from 19.7 feet to 3 feet in order to construct an attached garage and to consolidate the back portion with the front portion of the property located at 58 Victoria Street (PID #353433). The property is located in the Medium Density Residential (R-3) Zone and is a Designated Heritage Resource. Laurel Palmer Thompson, Planner II, presented the application.

The application was before the Board on January 10, 2019 and at that time staff did not support the application at a 1.1 ft. setback. During the meeting the applicant adjusted his application and asked if a 3 ft. setback could be approved. The Board voted to defer the application until staff could consult with Public Works and Police to confirm if their concerns would be resolved should the flankage yard setback be changed to 3 feet instead of 1.1ft. Since then, staff consulted

with Public Works and Police to review if moving the setback further to 3 feet would be feasible. The Police Department and Public Works still had concerns on the proximity to the road and felt that adequate site distance could not be achieved when a vehicle is driving or backing out of the garage. Both departments indicated that with the garage so close to the property boundary there is little to no visibility to assess if pedestrians or vehicles are traveling along the street. Snow clearing would still be a concern and should the City decide to widen the road in the future the garage will be too close to the road. Though it is true that other buildings along the street are very close and have very little setback to the front property boundaries these setbacks are for the façade of the house and not garages where vehicles will be entering and exiting. If the garage is set back to 6 feet, Staff would be able to support the application as this meets the minimum TAC standard/ safe distance to pull out from the driveway. In addition the existing setback for the main dwelling is 6ft. which is a legal non-conforming setback and the Bylaw allows an addition to follow the same building line. The applicant, Jason Cadman, was present to speak to his application and to respond to any possible questions.

Mr. Cadman acknowledged the safety concerns from Public Works and Police and agreed to readjust the setback to 6 feet from the flankage yard property line. Ms. Thompson added that the 6 feet meets the Bylaw for a legal non-conforming setback and will no longer require any variance application. But since the application for the variance was not withdrawn prior to the meeting the Board needs to vote on the variance application. The staff recommendation is to reject the application to reduce the flankage yard setback requirement and approve the application for lot consolidation.

Councillor Rivard asked if the 6 foot setback becomes as-of-right and Ms. Palmer Thompson confirmed that the Bylaw allows a property owner to expand a building following the same building line as the existing legal non-conforming setback. Ms. Thompson also added that since the property is a Designated Heritage Resource, this application will be advanced to the Heritage Board for the review of the garage design.

Councillor Rivard asked for any further comments or questions; there being none, the following resolution was put forward:

Moved by Councillor Alanna Jankov and seconded by Reg MacInnis, RM, that the request:

- 1) For a major variance to decrease the flankage yard setback requirement from 19.7 feet to 3 feet in order to construct an attached garage , be recommended to Council for rejection; and**
- 2) To consolidate the back portion with the front portion of the property located at 58 Victoria Street (PID #353433), be approved.**

CARRIED

12. Kensington Road (PID #278754), 74 Kensington Road (PID #278762) & 76 Kensington Road (PID #278770)

This is a request for the consolidation of three properties located at Kensington Road (PID #278754), 74 Kensington Road (PID #278762) & 76 Kensington Road (PID #278770). The properties are located in the Mixed-Use Corridor (MUC) Zone. Greg Morrison, Planner II, presented the application. See attached report.

The dwellings along 74 and 76 Kensington Road will then be demolished and if the consolidation is approved, the purpose is to be able to construct a 30-unit affordable housing apartments on this property. Should the properties be consolidated, the total number of units permitted would be 29 residential units. Since the allowed units is more than the permitted number, the applicant can either apply for a minor variance for the 30 units or apply for a lot consolidation and then wait for future Zoning & Development Bylaw amendments that would pertain to affordable housing density units. The applicant indicated that they would wait for the bylaw amendments and if the amendments are not approved, they can build 29 units or proceed to apply for a variance by then. Staff recommendation is to approve the lot consolidation. The applicants, Steve Jackson and a representative from JCJ Associates were there to speak to their application and answer any possible question

Mr. Jackson emphasized that this project is an affordable housing project and has been working with the province and other organizations to help subsidize the funding for this. The approval for a lot consolidation is key to start the development and for us to be able to apply for a permit to construct this building.

Bobby Kenny, RM, asked if a variance is required for this application because it is affordable housing units. Mr. Forbes responded that the applicants can take advantage of the proposed amendments that are being presented tonight in relation to affordable housing and may not require a variance.

Councillor Rivard asked for any further comments or questions; there being none, the following resolution was put forward:

Moved by Councillor Alanna Jankov and seconded by Rosemary Herbert, RM, that the request for a lot consolidation of three properties located at 72 Kensington Road (PID #278754), 74 Kensington Road (PID #278762), & 76 Kensington Road (PID #278770) be recommended to council for approval, subject to a final pinned survey plan.

CARRIED

13. Amendments to the Zoning & Development Bylaw (Bylaw 2018-11) on Design Review, Home Occupations, Parking, Marijuana Production Facility and Temporary Use Variances

This is a proposal to amend sections of the Zoning & Development Bylaw (Bylaw 2018-11) pertaining to Design Review, Home Occupations, Parking, Marijuana Production Facility and Temporary Use Variances. Greg Morrison, Planner II, presented the application. See attached Report.

Councillor Rivard asked for any further comments or questions; there being none, the following resolution was put forward:

Moved by Bobby Kenny, RM, and seconded by Basil Hambly, RM, that the amendments to the Zoning and Development Bylaw (Bylaw 2018-11) relating to Design Review, Home Occupations, Parking, Marijuana Production Facility and Temporary Use Variances, be recommended to Council for approval.

CARRIED

14. Amendments to the Zoning & Development Bylaw (Bylaw 2018-11) on Affordable Housing Zoning

This was to provide an update relating to the amendment of definitions of the Zoning & Development Bylaw (Bylaw 2018-11) pertaining to number of persons permitted in a dwelling unit and types of Lodging Houses. After the Public Meeting on January 30, 2019, Staff consulted with the Fire Department and Building officials to review the proposed amendments and have made revisions to definitions and terminologies relating to regulating the number of persons permitted within various types of dwelling units and housing types. Robert Zilke, PII, presented the application. See attached Report.

Rosemary Herbert, RM, noted concerns about the quality of the space and potential for overcrowding, and who will monitor the space and living conditions of these new dwellings. Mr. Forbes responded that there are current issues where people cannot afford to pay for rent and they end up living in the streets. These new affordable housing will be inspected to ensure that there is a safe living condition. Older properties are tricky but we are working with Fire on inspections to be able to address concerns. Mr. Zilke also added that by providing clear definitions and guidelines, property owners can then apply for a change of use permit and have the necessary inspections carried out to ensure safety requirements have been met.

Councillor Rivard asked for any further comments or questions; there being none, the following resolution was put forward:

Moved by Basil Hambly, RM, and seconded by Reg MacInnis, RM, that the revisions to the amendments to the Zoning and Development Bylaw (Bylaw 2018-11) relating to Affordable Housing, be recommended to Council for approval.

CARRIED

15. Renumbering of Planning Bylaws

This is a proposed renumbering of Zoning & Development Bylaw (2018-11), Building Code Bylaw (2018-12) and Heritage Preservation Bylaw (2018-07) to provide clear identifiers to Planning specific Bylaws. Alex Forbes, PHM, presented the application.

Councillor Rivard asked for any further comments or questions; there being none, the following resolution was put forward:

Moved by Basil Hambly, RM, and seconded by Bobby Kenny, RM, that following Planning Bylaws:

- **Zoning & Development Bylaw from Bylaw 2018-11 to PH-ZD.2;**
- **Building Code Bylaw from Bylaw 2018-12 to PH-BC.2; and**
- **Heritage Preservation Bylaw from Bylaw 2018-07 to PH-HP.1**

be recommended to Council for approval.

CARRIED


16. New Business

There were no new businesses discussed.

Moved by Rosemary Herbert, RM, and seconded by Councillor Alanna Jankov, that the meeting be adjourned.

The meeting was adjourned at 6:31 p.m.

Councillor Greg Rivard, Chair

TITLE: REZONING APPLICATION FILE: PLAN-2019-4-MARCH- 6A1 197 MINNA JANE DRIVE (PID #469841) OWNER: CORDOVA REALTY LTD.		
MEETING DATE: March 4, 2019		Page 1 of 4
DEPARTMENT: Planning & Heritage	ATTACHMENTS: A. GIS Map B. Building Plans	
SITE INFORMATION: Context: 3.0 Acre property containing Dr. McManaman’s Orthodontist Practice Ward No: 8 – Highfield Existing Land Use: Medical, Health and Dental Office Official Plan: Concept Planning Area Zoning: Comprehensive Development Area (CDA) Zone		
PREVIOUS APPLICATIONS: A building permit was issued on October 12, 2007 to renovate the existing building to be used as a professional office space (i.e., dentist office).		

RECOMMENDATION:

The Planning & Heritage Department encourages Planning Board to recommend to Council to approve the request to proceed to public consultation for the rezoning request to:

1. Amend Appendix “A” – Future Land Use Map of the Official Plan from Concept Planning Area to Commercial for the property located at 197 Minna Jane Drive (PID #469841); and
2. Amend Appendix “G” – Zoning Map of the Zoning & Development By-law from the Comprehensive Development Area (CDA) Zone to the Highway Commercial (C-2) Zone for the property located at 197 Minna Jane Drive (PID #469841).

The applicant is also requesting a major variance to increase the maximum height for an apartment dwelling in the C-2 Zone from 15.0 m (49.2 ft) to approximately 21.26 m (69.75 ft). The requested variance does not require public consultation but notification of this variance will be included in the public meeting notification. The proposed variance will also be included in the recommendation to Council following the public meeting.

BACKGROUND:***Request***

The property owners, Cordova Realty Ltd, are applying to rezone the property located at 197 Minna Jane Drive (PID #463841) from the Comprehensive Development Area (CDA) Zone to the Highway Commercial (C-2) Zone. The purpose of the rezoning is to allow the uses in the C-2 Zone including a 70-unit apartment building and a future building which will likely contain a commercial daycare centre.

The proposed 70-unit apartment building is approximately 21.26 m (69.75 ft) in height and would require a major height variance as it exceeds the maximum building height for an apartment building of 15.0 m (49.2 ft).

Development Context

The subject property abuts three streets – Minna Jane Drive, Daniel Drive, and Malpeque Road. The subject property and adjacent development is bordered by Maritime Electric property and the Charlottetown Arterial Highway.

Within the development area identified above, a 60-unit apartment building is currently under construction at 215 Minna Jane Drive and it is anticipated that an additional 60-unit apartment building will be constructed at 219 Minna Jane Drive. The rest of the surrounding lands identified above is being used as commercial or is vacant within the Highway Commercial (C-2) Zone.

Property History

A building permit was issued on October 12, 2007 to renovate the existing building to be used as a professional office space (i.e., dentist office). The rest of the property has remained vacant.

Appendix B. Comprehensive Development Area (CDA) Parcels and Permitted Uses of the Zoning & Development By-law identifies the existing use of this property to be offices.

LEGISLATIVE REQUIREMENTS:***Notification***

If the proposed rezoning is approved to proceed to the public consultation phase, the Planning & Heritage Department shall notify the public of said public meeting in accordance with Section

3.10.4.c of the Zoning & Development By-law. The public notification will also include the request for variance.

ANALYSIS:

As previously explained in this report, the development context boundaries could be described as the Maritime Electric properties, Charlottetown Arterial Highway, and Malpeque Road.

All of the properties, with the exception of the subject property, are located in the Highway Commercial (C-2) Zone. These properties are primarily developed as commercial with the exception of the 60-unit apartment building to the north which received Council approval on October 10, 2017:

That the request for two variances to increase the maximum height requirements of the proposed building from 39.4 ft to approximately 65.25 ft. average grade to the top of the main roof line and to the minimum lot area requirements to increase the density from 57 units to 60 units at Lot 5-2 adjacent to 197 Malpeque Road (PID #577585) be recommended to Council for approval.

Should the rezoning be approved, the applicants are also applying for a variance to increase the maximum height requirement for an apartment building in the C-2 Zone from 15.0 m (49.2 ft) to approximately 21.26 m (69.75 ft). The proposed apartment building would only be 4.5 ft taller than the adjacent 60-unit apartment building but the applicants have indicated that due to the elevations of the land, the proposed building would appear to be approximately 3.26 m (10.70 ft) taller.

Staff discussed the application with the Traffic Operations Engineer at the Province who indicated that any new use of the property (i.e., apartment building or commercial daycare centre) could only be served from Minna Jane Drive or Daniel Drive which connects to the signalized intersection at Malpeque Road / Daniel Drive. He went on to explain that *'the only building allowed to use the right-in / right out is the Dr. McManaman's building.'* The existing access between parking lots which would allow the residents of the apartment building to access Malpeque Road would have to be removed.

Below is a quick summary of the subject application's positive attributes, neutral attributes, and shortcomings:

Positives	Neutral	Shortcomings
<ul style="list-style-type: none"> • The adjacent property obtains a similar variance in 2017. • The proposed apartment building is only 4.5 ft taller than the adjacent apartment building but appears to be 10.7 ft taller due to the change in elevation. • All adjacent properties within the development context are zoned C-2. 		

CONCLUSION:

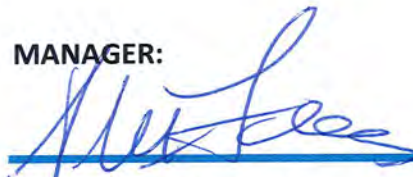
In light of the fact that all adjacent properties are located in the Highway Commercial (C-2) Zone and the adjacent 60-unit apartment building also received a major height variance for an apartment building, the Planning & Heritage Department recommends that the rezoning application be approved to proceed to public consultation to obtain feedback from the adjacent property owners.

PRESENTER:



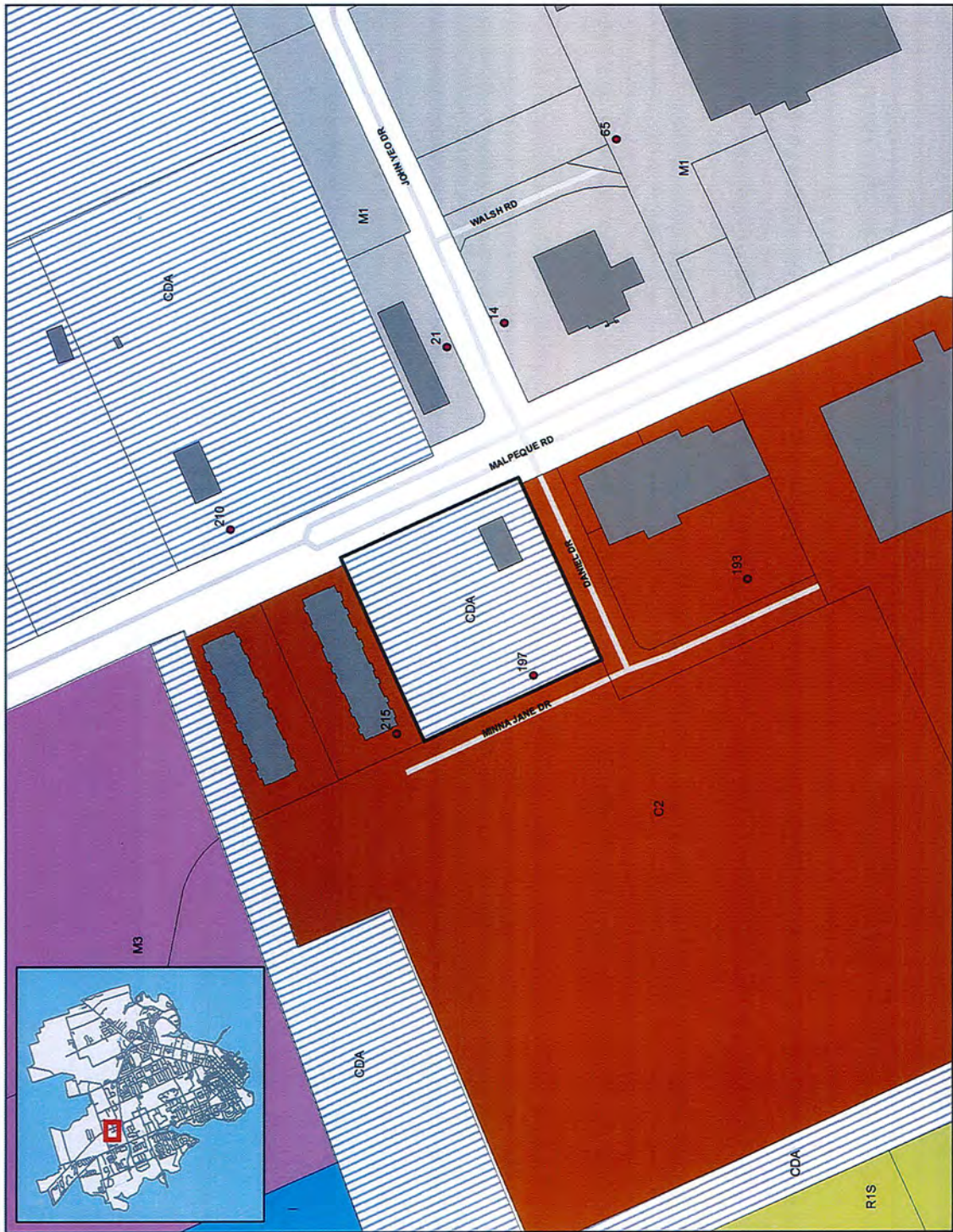
Greg Morrison, MCIP
Planner II

MANAGER:



Alex Forbes, MCIP, MBA
Manager of Planning & Heritage

Attachment A



Attachment A: GIS Map
File: PLAN-2019-4-March · **6A1**
197 Minna Jane Drive (PID #469841)
Owner: Cordova Realty Ltd.


CHARLOTTETOWN
Planning & Heritage
Department



Attachment B

Building Plans Attached:

1. Code Chart & Renderings
2. Site Plan
3. Garage & 1F
4. 2F – 6F
5. Suite Enlargements
6. Elevations
7. Elevations
8. Site Servicing and Drainage Plan

Attachment B: Building Plans
File: PLAN-2019-4-March -**6A1**
197 Minna Jane Drive (PID #469841)
Owner: Cordova Realty Ltd.





Preliminary
"Not For Construction"

NO.	DESCRIPTION	DATE

NOTES:
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 3. ALL CONTRACTORS MUST CONFORM TO ALL APPLICABLE LOCAL, STATE AND FEDERAL LAWS AND THE NATIONAL BUILDING CODE OF CANADA.
 4. ALL REQUIRED PERMITS MUST BE OBTAINED PRIOR TO ANY CONSTRUCTION.

REV #	DESCRIPTION	DATE

PROJECT:
Spitfire DESIGN CO.
 1111 St. Charles Street, Suite 100
 St. Charles, MO 63301
 Tel: 636.271.1111 Fax: 636.271.1112
 www.spitfirearchitect.com

CLIENT:
Centex - Multi Res.
 1111 St. Charles Street, Suite 100
 St. Charles, MO 63301

PROJECT NO.:
CODE CHART & RENDERS

DATE:
18-01-2019

DRAWN BY:
JP

CHECKED BY:
AD

SCALE:
AS NOTED

SHEET NO.:
AO1

TOTAL SHEETS:
42/45



SECTION	DESCRIPTION	DATE	BY
A	Structural	18-01-2019	JP
B	Architect	18-01-2019	JP
C	Electrical	18-01-2019	JP
D	Mechanical	18-01-2019	JP
E	Plumbing	18-01-2019	JP
F	Fire Protection	18-01-2019	JP
G	Energy Efficiency	18-01-2019	JP
H	Accessibility	18-01-2019	JP
I	Other	18-01-2019	JP

CODE CHART

12" = 1'-0"



NO.	DESCRIPTION	DATE	BY
1	Project Address: Spitfire Design Co., 1111 St. Charles Street, Suite 100, St. Charles, MO 63301	18-01-2019	JP
2	Project Name: Spitfire Design Co. - 1111 St. Charles Street, Suite 100, St. Charles, MO 63301	18-01-2019	JP
3	Client: Centex - Multi Res.	18-01-2019	JP
4	Project Description: Multi-Unit Residential Building	18-01-2019	JP
5	Project Location: St. Charles, MO	18-01-2019	JP
6	Project Status: Preliminary	18-01-2019	JP
7	Project Type: Residential	18-01-2019	JP
8	Project Size: 1111 St. Charles Street, Suite 100, St. Charles, MO 63301	18-01-2019	JP
9	Project Budget: \$1,000,000	18-01-2019	JP
10	Project Start Date: 18-01-2019	18-01-2019	JP
11	Project End Date: 18-01-2019	18-01-2019	JP
12	Project Team: Spitfire Design Co.	18-01-2019	JP
13	Project Manager: JP	18-01-2019	JP
14	Project Designer: JP	18-01-2019	JP
15	Project Engineer: JP	18-01-2019	JP
16	Project Architect: JP	18-01-2019	JP
17	Project Consultant: JP	18-01-2019	JP
18	Project Reviewer: JP	18-01-2019	JP
19	Project Approver: JP	18-01-2019	JP
20	Project Sign-off: JP	18-01-2019	JP
21	Project Seal: JP	18-01-2019	JP
22	Project Stamp: JP	18-01-2019	JP
23	Project License: JP	18-01-2019	JP
24	Project Registration: JP	18-01-2019	JP
25	Project Insurance: JP	18-01-2019	JP
26	Project Bond: JP	18-01-2019	JP
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100	Project Team: JP	18-01-2019	JP



Preliminary
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DATE	DESCRIPTION

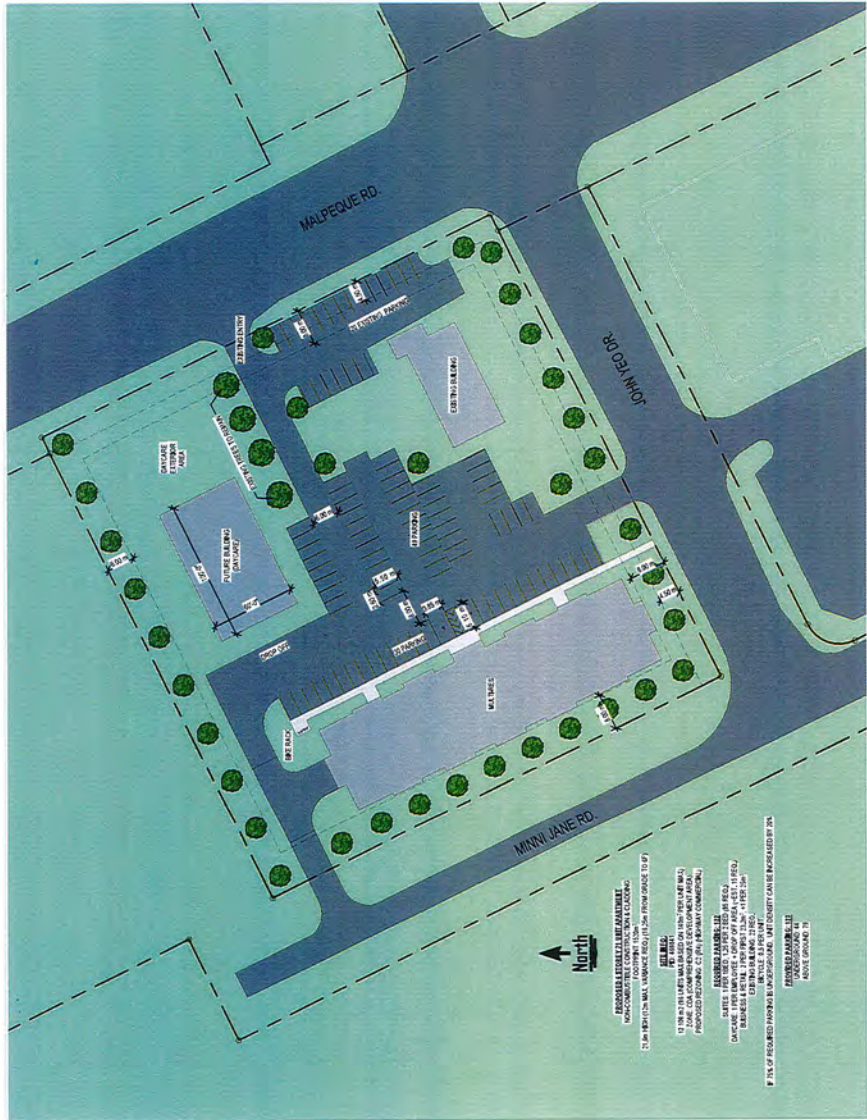
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REV #	DESCRIPTION	DATE

spitfire DESIGN CO.
 ARCHITECTURAL DESIGNER
 1501 10th Street NW, Suite 100
 Calgary, Alberta T2M 3K8
 Tel: (403) 271-1111 Fax: (403) 271-1112
 www.spitfire.ca

Client: **Carlson - Maltby Res.**
 1501 10th Street NW, Suite 100
 Calgary, Alberta T2M 3K8

Project No: **SITE PLAN**
 Date: **FEB 21, 2019**
 Drawn By: **JP**
 Checked By: **JL**
 Scale: **AS NOTED**
 Sheet No: **A02**
 Total Sheets: **4245**



SITE PLAN
1" = 500'



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NO.	REVISION	DATE

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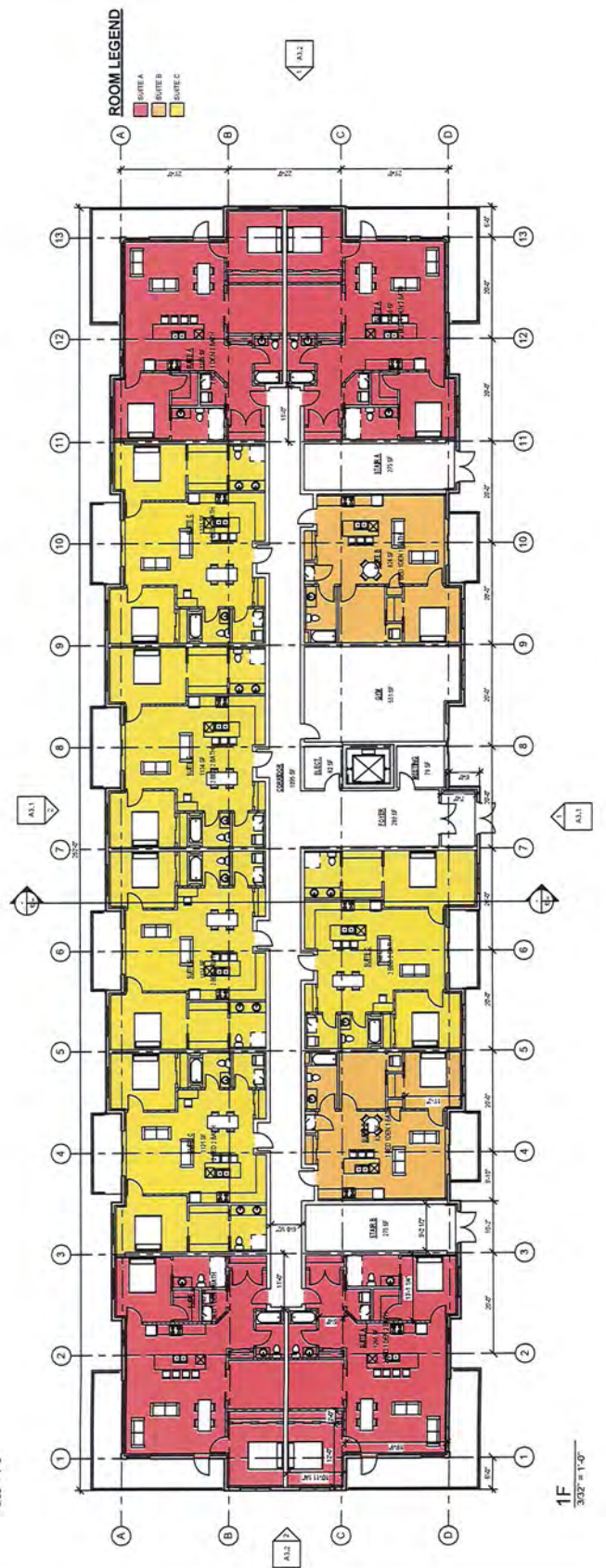
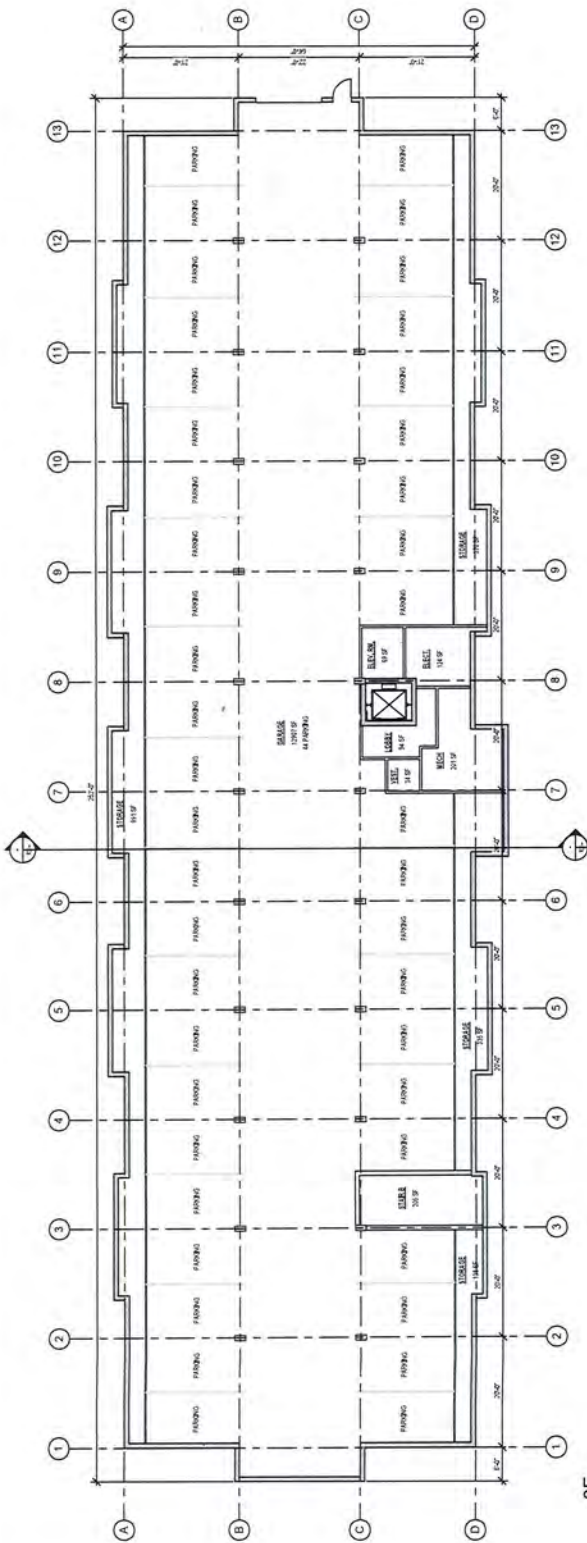
spitfire
DESIGN CO.

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ROOM LEGEND

- SUITE A
- SUITE B
- SUITE C



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NO.	DATE	DESCRIPTION	BY	CHKD.

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 DESIGN CO.
 1000 10th St. W.
 Suite 100
 Vancouver, BC V6J 1A1
 Tel: (604) 681-8777 Fax: (604) 681-8778
 www.spitfire.ca

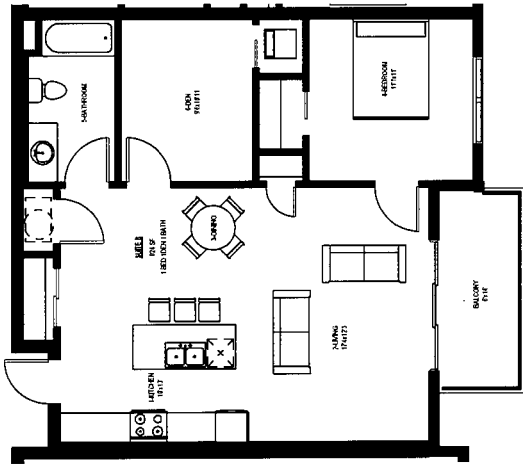
Cardinal
 Cardinal Multi Res.
 1000 10th St. W.
 Vancouver, BC

SUITE ENLARGEMENTS

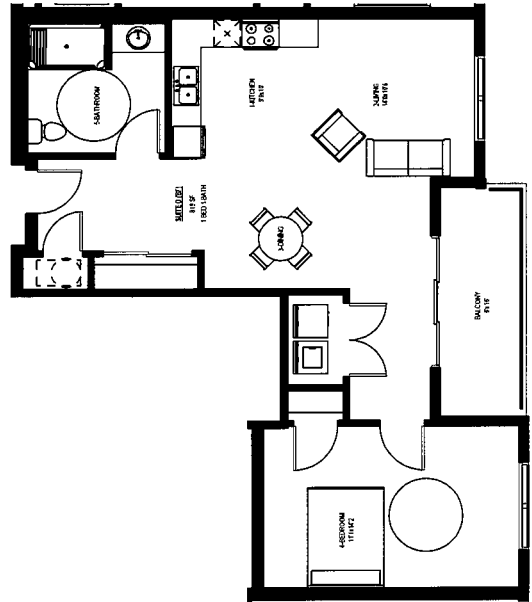
NO. 1000-10-1013
 DATE: 04-23-2013

SCALE: AS NOTED

DATE: 04/23/13



SUITE B
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SUITE D (BF)
 10'0" x 14'0"

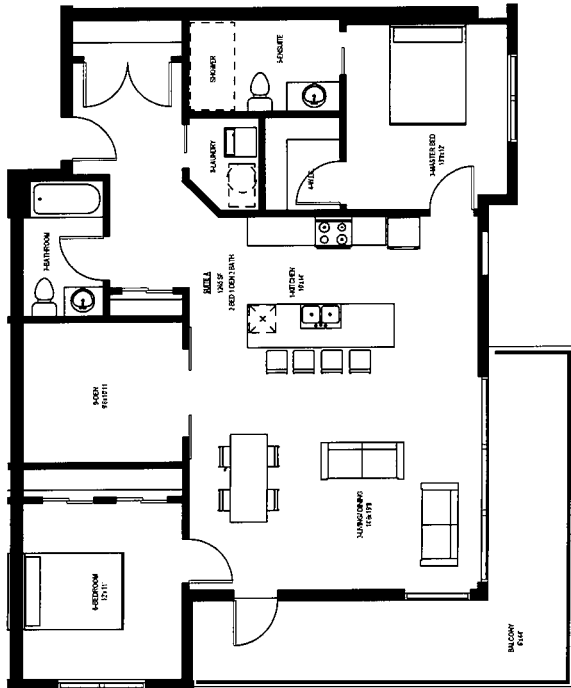
SUITE BREAKDOWN			
TYPE	COMMENTS	AREA	COUNT
SUITE A	3 BED 1 BATH	1300 SF	4
SUITE B	2 BED 1 BATH	1200 SF	2
SUITE C	2 BED 2 BATH	1300 SF	2
SUITE D (BF)	1 BED 1 BATH	1000 SF	1

SUITE BREAKDOWN PER FLOOR			
FLOOR	TYPE	AREA	COUNT
1F	SUITE A	1300 SF	4
	SUITE B	1200 SF	2
	SUITE C	1300 SF	2
	SUITE D (BF)	1000 SF	1

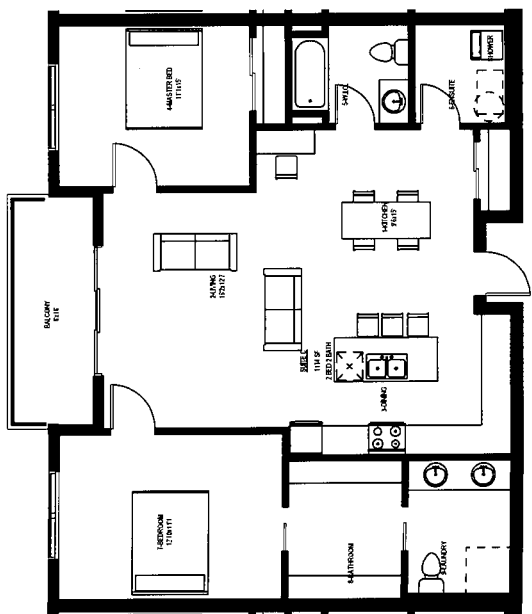
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FLOOR	TYPE	AREA	COUNT
2F	SUITE A	1300 SF	4
	SUITE B	1200 SF	2
	SUITE C	1300 SF	2
	SUITE D (BF)	1000 SF	1

SUITE BREAKDOWN PER FLOOR			
FLOOR	TYPE	AREA	COUNT
3F	SUITE A	1300 SF	4
	SUITE B	1200 SF	2
	SUITE C	1300 SF	2
	SUITE D (BF)	1000 SF	1

SUITE BREAKDOWN PER FLOOR			
FLOOR	TYPE	AREA	COUNT
4F	SUITE A	1300 SF	4
	SUITE B	1200 SF	2
	SUITE C	1300 SF	2
	SUITE D (BF)	1000 SF	1



SUITE A
 10'0" x 14'0"



SUITE C
 10'0" x 14'0"



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spitfire
DESIGN CO.
ARCHITECTURAL

1500 S. GARDEN AVENUE
SUITE 100
DENV, CO 80202
TEL: 303.277.4100
WWW.SPITFIREARCHITECT.COM

Carlotta

Carlotta - Multi Res.

CHRYSLER, FDI

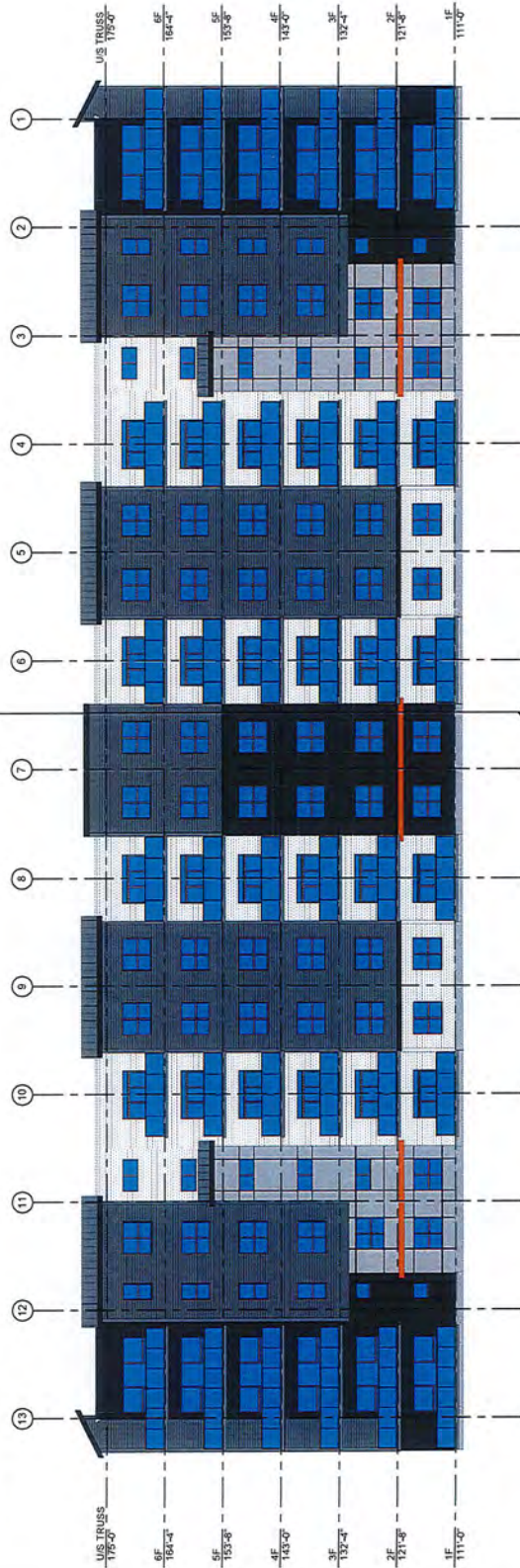
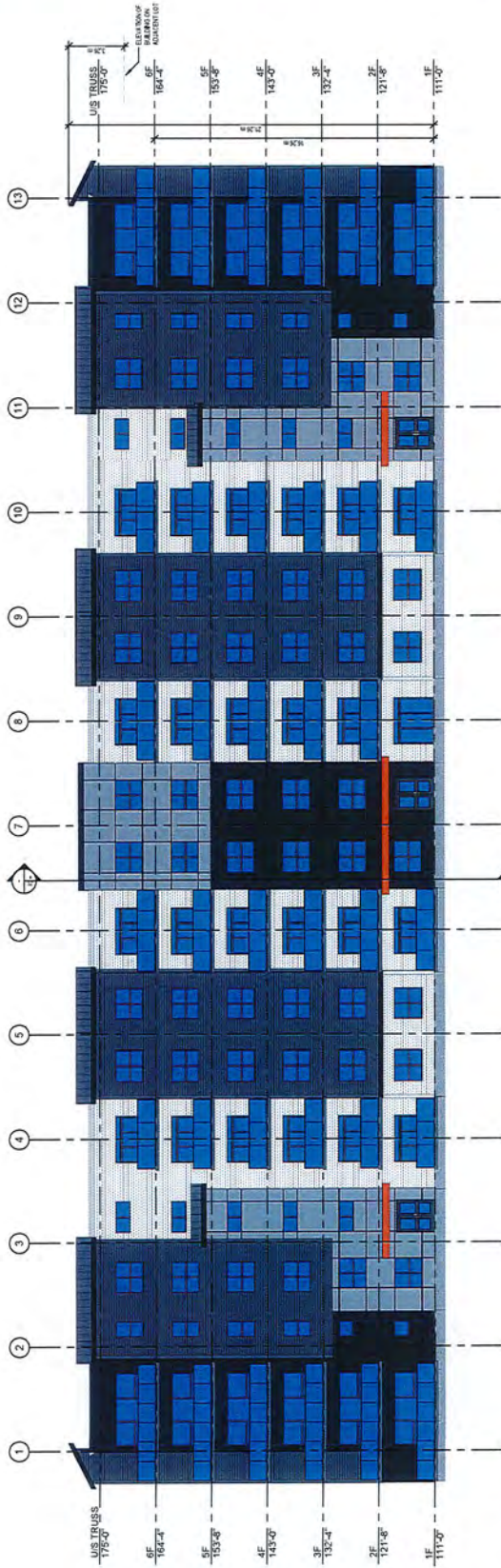
ELEVATIONS

DATE: 04-21-2019

PROJECT: 1500 S GARDEN

SCALE: AS NOTED

Sheet: **A31** of 4245





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NO.	DATE	DESCRIPTION	BY

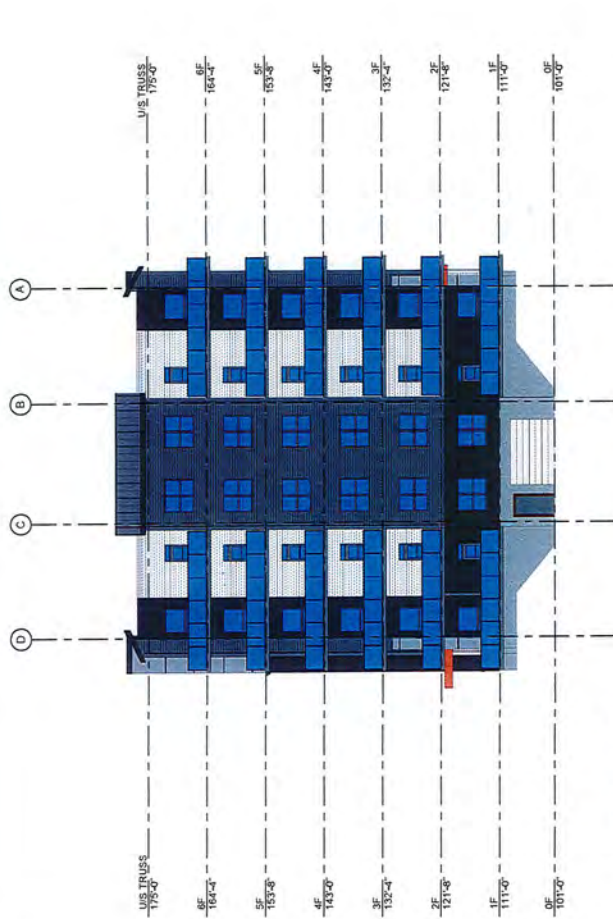
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NO.	DATE	DESCRIPTION	BY

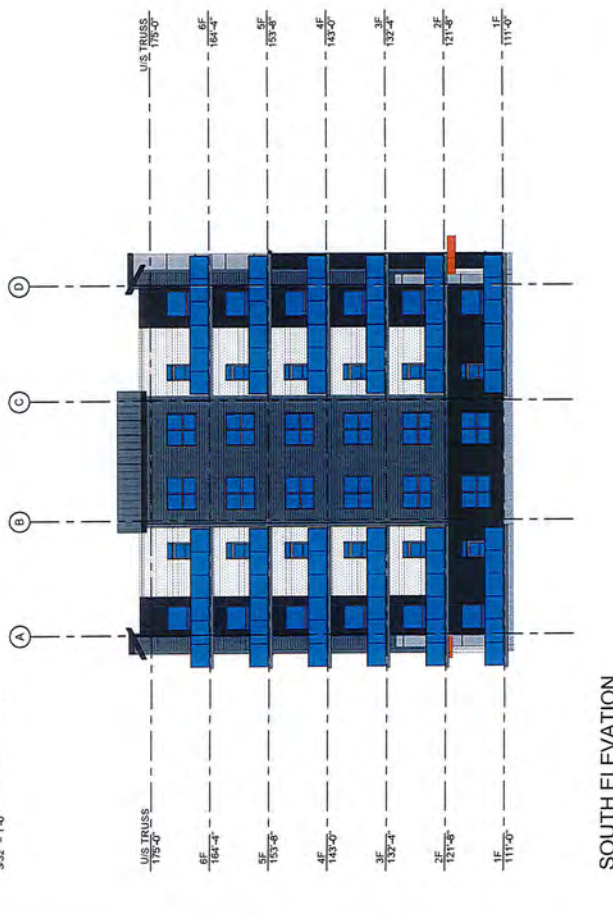
PROJECT:
Spitfire
 DESIGN CO.
 8114-39th Street, Suite 401, Burnaby, BC V5A 4E8
 Tel: (604) 291-7771 Fax: (604) 291-7772
 www.spitfire.ca

CONTRACTOR:
 Continuum
 1000-10th Street, Suite 100, Vancouver, BC V6J 1G1
 Tel: (604) 681-1111 Fax: (604) 681-1112
 www.continuum.ca

NO.	DATE	DESCRIPTION	BY



NORTH ELEVATION
 333'2" x 1'-0"



SOUTH ELEVATION
 333'2" x 1'-0"

NO.	DATE	DESCRIPTION	BY



NTS

RELOCATION

Notes:
 1. This plan is to be used in conjunction with the City of Cambridge Planning Department's Site Plan Review Process. It is not intended to be used for any other purpose.
 2. The City of Cambridge Planning Department reserves the right to require additional information or to refuse to issue a permit if the information provided is insufficient.
 3. The City of Cambridge Planning Department reserves the right to require additional information or to refuse to issue a permit if the information provided is insufficient.
 4. The City of Cambridge Planning Department reserves the right to require additional information or to refuse to issue a permit if the information provided is insufficient.
 5. The City of Cambridge Planning Department reserves the right to require additional information or to refuse to issue a permit if the information provided is insufficient.

PRELIMINARY

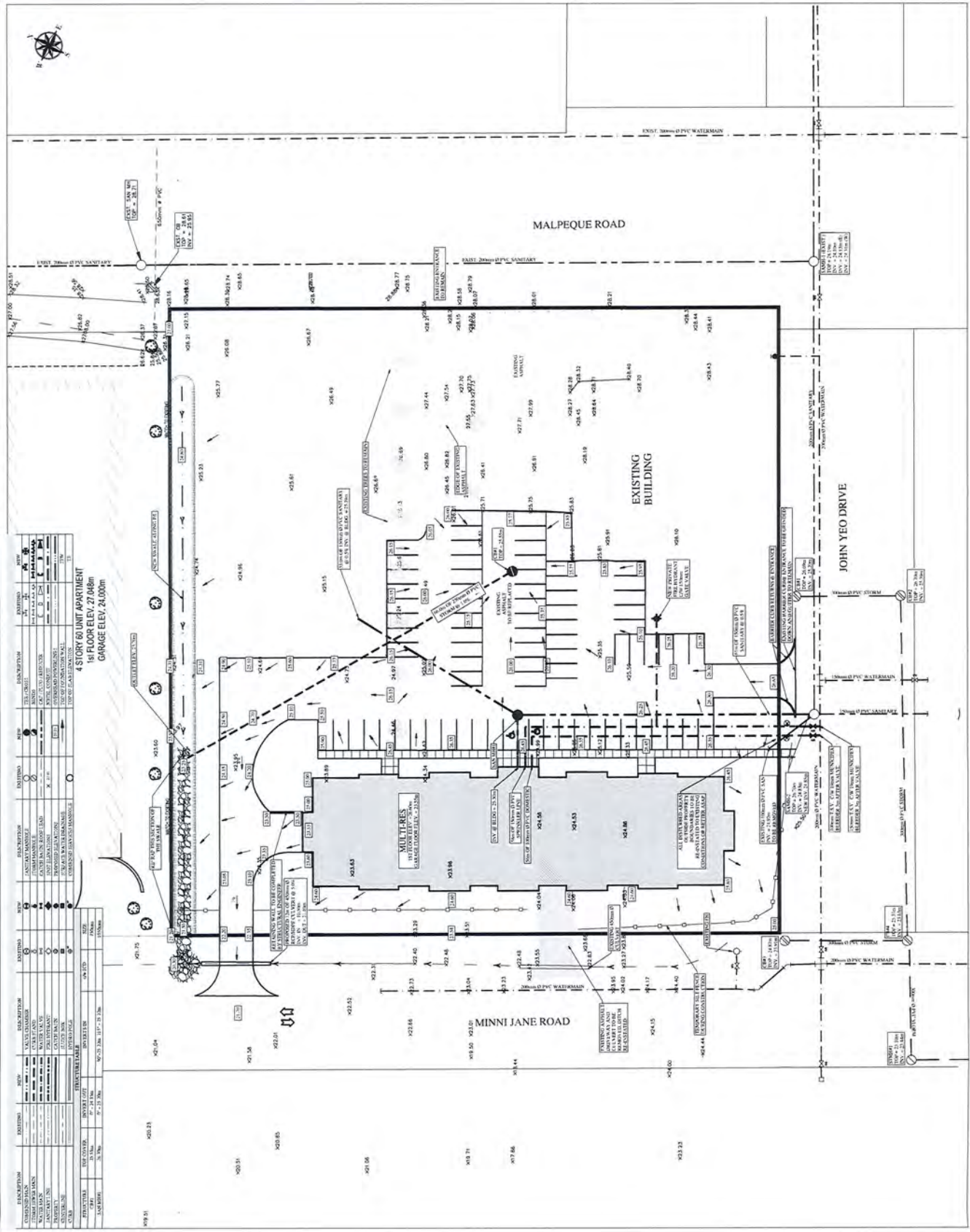
FISHER ENGINEERING LTD.
 1100 SHEPPARD AVENUE EAST
 SUITE 100
 SCARBOROUGH, ONTARIO M1B 4Y1
 TEL: (416) 291-1111
 FAX: (416) 291-1112

CORDOVA MULTI RESIDENTIAL

SITE SERVICING AND DRAINAGE PLAN


Project No: DE123
 Drawing No: DE123010
 Date: 11/11/11

Drawn By: ACB
 Checked By: MJF
 Project Manager: MJF
 Scale: C-1



DESCRIPTION	EXISTING	NEW	REMARKS
CONCRETE DRIVE	EXISTING	NEW	AS SHOWN
ASPHALT DRIVE	EXISTING	NEW	AS SHOWN
PAVING	EXISTING	NEW	AS SHOWN
LANDSCAPING	EXISTING	NEW	AS SHOWN
PLANTING	EXISTING	NEW	AS SHOWN
IRRIGATION	EXISTING	NEW	AS SHOWN
SEWER	EXISTING	NEW	AS SHOWN
WATER	EXISTING	NEW	AS SHOWN
ELECTRICITY	EXISTING	NEW	AS SHOWN
TELEPHONE	EXISTING	NEW	AS SHOWN
CABLE	EXISTING	NEW	AS SHOWN
STORMWATER	EXISTING	NEW	AS SHOWN



TITLE: REZONING APPLICATION FILE: PLAN-2019-4-MARCH- 6A2 185 BRACKLEY POINT ROAD (PID #390963) OWNER: BJS PROPERTIES INC. APPLICANT: OSAMA ABDOH			
MEETING DATE: March 4, 2019		Page 1 of 6	
DEPARTMENT: Planning & Heritage		ATTACHMENTS: A. GIS Map – Property Context B. GIS Map – Neighbourhood Context	
SITE INFORMATION: Context: Vacant property on Brackley Point Road. Ward No: 6 – Mount Edward Existing Land Use: Automobile Sales & Services (Discount Car Rental) Automobile Service Station (MP Auto Repair) Official Plan: Commercial / Low Density Residential Zoning: Mixed-Use Corridor (MUC) / Single-Detached Residential (R-1L)			
PREVIOUS APPLICATIONS: Zoning Inquiry completed on June 13, 2014. Zoning Inquiry completed on December 5, 2012. Lot Consolidation of 185 Brackley Point Road (PID #390963 & 390971) was approved by Council on July 11, 2005.			

RECOMMENDATION:

The Planning & Heritage Department encourages Planning Board to recommend to Council to reject the request to proceed to public consultation for the rezoning request to:

1. Amend Appendix "A" – Future Land Use Map of the Official Plan from Low Density Residential / Commercial to Industrial for the property located at 185 Brackley Point Road (PID #390963); and
2. Amend Appendix "G" – Zoning Map of the Zoning & Development By-law from the Single-Detached Residential (R-1L) Zone / Mixed-Use Corridor (MUC) Zone to the Light Industrial (M-1) Zone for the property located at 185 Brackley Point Road (PID #390963).

BACKGROUND:***Request***

The property owners, BJS Properties Inc., allowed Osama Abdoh to make an application to rezone the property located at 185 Brackley Point Road (PID #390963) from the Single-Detached Residential (R-1L) Zone / Mixed-Use Corridor (MUC) Zone to the Light Industrial (M-1) Zone. The purpose of the rezoning is to make existing uses (i.e., Automobile Sales and Services business & an Automobile Service Station) conform with the Zoning & Development By-law instead of recognizing this use as legal non-conforming in the Single-Detached Residential (R-1L) Zone.

Development Context

The subject property is located along Brackley Point Road between Thistle Drive and the Charlottetown By-pass.

The existing land uses surrounding the subject property are vastly different between the north side of the By-pass and the south side of the By-pass.

With the exception of the commercial property located at 180 Brackley Point Road (PID #610618) containing Needs and Greco, the properties to the south of the By-pass are generally zoned Residential, Institutional, or Open Space.

With the exception of the single-detached residential subdivision off of Brackley Point Road (MacLean Avenue, Cannon Drive, Revell Drive, etc...) the properties to the north of the By-law are generally zoned Institutional and Industrial (Airport, M-1, M-2, M-3).

Property History

Council passed the following resolution on July 11, 2005:

That the request for lot consolidation at 185 Brackley Point Road (PID#s 390963 & 390971) be approved.

The Planning Board report at that time stated:

The applicant currently owns both properties and has operated an automobile sales and service business at this location for several years. The lot consolidation is required to allow a 718 sq. ft. addition to the existing main building, which would accommodate the relocation of Brown's Volkswagen.

The Zoning Inquiry completed on June 13, 2014 stated:

Two lots, 185 Brackley Point Road (PID #390963) and 189 Brackley Point Road (PID #390971), were consolidated on July 11, 2005 to form the existing PID #390963. The property is split zoned between Mixed Use Corridor (MUC) on the north end (original 189 Brackley Pt Rd) and Single Detached Residential (R1L) on the south end (original 185 Brackley Pt Rd). The current use as an automobile shop on the R1L zoned portion of the lot is considered a legal non-conforming use within that Zone. The MUC portion of the lot allows for commercial uses (see attached uses and regulations). We were able to locate older zoning maps showing the original 185 Brackley Pt Rd property zoned MUC; however the current zoning map takes precedent. Staff is receptive to recommending the R1L portion of the lot be rezoned to MUC during the next Zoning and Development Bylaw review.

LEGISLATIVE REQUIREMENTS:

Notification

If the proposed rezoning is approved to proceed to the public consultation phase, the Planning & Heritage Department shall notify the public of said public meeting in accordance with Section 3.10.4.c of the Zoning & Development By-law.

ANALYSIS:

The subject property is unique in the fact that its zoning is split between the Single-Detached Residential (R-1L) Zone and the Mixed-Use Corridor (MUC) Zone. While the MUC Zone allows for an Automobile Sales and Services business as well as an Automobile Service Station, these uses would be considered legal non-conforming in the R-1L Zone.

On September 12, 2018, staff sent a letter to the property owner indicating that a complaint was received in relation to the subject property. The complaint received was that the use has expanded to include vehicle body repair which would be defined as an Automobile Body Shop which would not be permitted in either the Single-Detached Residential (R-1L) Zone or the Mixed-Use Corridor Commercial (MUC) Zone.

The property owner's lawyer responded with a letter on October 5, 2018 which indicated that *'I confirm my client's advice that its' tenant is not carrying on any use of the property that would not be permitted by the existing By-law i.e., he is not carrying on a vehicle body repair shop business.'*

The Light Industrial (M-1) Zone rezoning application was submitted to the Planning & Heritage Department on February 15, 2019. The applicant indicated that the present zoning of the property is *R-1L, despite the current zone, the facility has been historically used for over two decades as an automobile sales services and automobile service station.* The applicant then indicated that the proposed use of the property is *Light Industrial M-1, to comply with the current use of automobile sales services, automobile service station and basic touch painting with bodywork.*

An Automobile Body Shop means a Building or a clearly defined space on a Lot used for the repair and servicing of motor vehicles including body repair, painting, and engine rebuilding, and includes storage for an automobile towing establishments but does not include an Automobile Service Station or an Automobile Sales and Services.

In light of the foregoing, the property is currently operating with components of an Automobile Body Shop (i.e., body repair and painting) which is not permitted in the R-1L Zone or the MUC Zone. An Automobile Body shop is only permitted in the Light Industrial (M-1) Zone, Heavy Industrial (M-2) Zone, Business Park Industrial (M-3) Zone and the Airport (A) Zone.

Prior to writing this report, staff did an exercise to compare the permitted uses in the zones which allow for an Automobile Body Shop. It was determined that all of the uses identified in the M-3 Zone are permitted in the M-1 Zone with the exception of a Cultural Establishment, Parking Structure & Research and Development Facilities.

That being said, the M-1 Zone allows 18 additional uses that the M-3 Zone would not allow. These uses include, but are not limited to, Animal Shelter, Feedmill, Funeral Establishment, Heavy Equipment Repair, Recycling Depot, Cannabis Retail Store, Drive-Thru Business & Entertainment Establishment.

Staff sent an email to the property owner on February 19, 2019 explaining this and indicated that if the intention of the rezoning was to be able to utilize the property as an Automobile Body Shop the M-3 Zone may have less land use implications with adjacent low density dwellings than the M-1 Zone would. Staff also suggested that maybe the applicant would want to consider entering into a Development Agreement restricting the use of the property to an Automobile Body Shop, Automobile Sale and Services & Automobile Service Station only.

The property owner discussed this with the applicant and responded that the applicant is *'content with the uses allowed in the M-1 Zone.'*

Staff feels that the split zoning on the property is not an ideal situation and the existing uses of the property should be brought into conformance with the Zoning & Development By-law. That being said, rezoning to the M-1 Zone is not appropriate for the area and would introduce a number of uses which may conflict with the existing low density dwellings in the area.

Staff reviewed the Community of Sherwood Zoning Map dated September 1991 which illustrated that the entire subject property was located in the Commercial Retail (C1) Zone. As indicated in the Zoning Inquiry completed on June 13, 2014, *'Staff is receptive to recommending the R1L portion of the lot be rezoned to MUC.'*

When considering rezoning the property in question, key points from the Official Plan to be considered include:

*Section 4.8.1 - Our **policy** shall be to establish a Light Industrial zone which is intended for industrial activities which do not create obvious land-use conflicts.*

*Section 4.8.3 - Our **policy** shall be to minimize the land-use conflicts which might exist or arise between existing industrial zones and their non-industrial neighbours.*

Below is a quick summary of the subject application's positive attributes, neutral attributes, and shortcomings:

Positives	Neutral	Shortcomings
	<ul style="list-style-type: none"> ▪ The property is split between the MUC and R-1L Zone; rezoning the R-1L portion of the property would be appropriate. 	<ul style="list-style-type: none"> ▪ M-1 Zone may create land-use conflicts with adjacent single-detached dwellings. ▪ M-1 Zone allows for uses such as feedmill, heavy equipment repair, Animal Shelter, etc...

CONCLUSION:

Staff feels that proposed rezoning to the M-1 Zone may create land-use conflicts with adjacent low density residential dwellings. In light of the foregoing, the Planning & Heritage Department recommends that the rezoning application be rejected to proceed to public consultation.

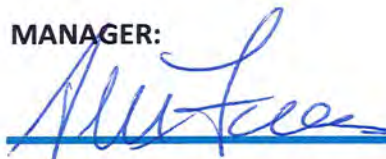
In staffs opinion, an Automobile Body Shop is not appropriate for this property; however, if the applicant / property owner wanted to the rezone the R-1L portion of the property to MUC in order to bring it into conformance with the rest of the property, staff would be more receptive to moving forward to a public hearing with this type of request.

PRESENTER:



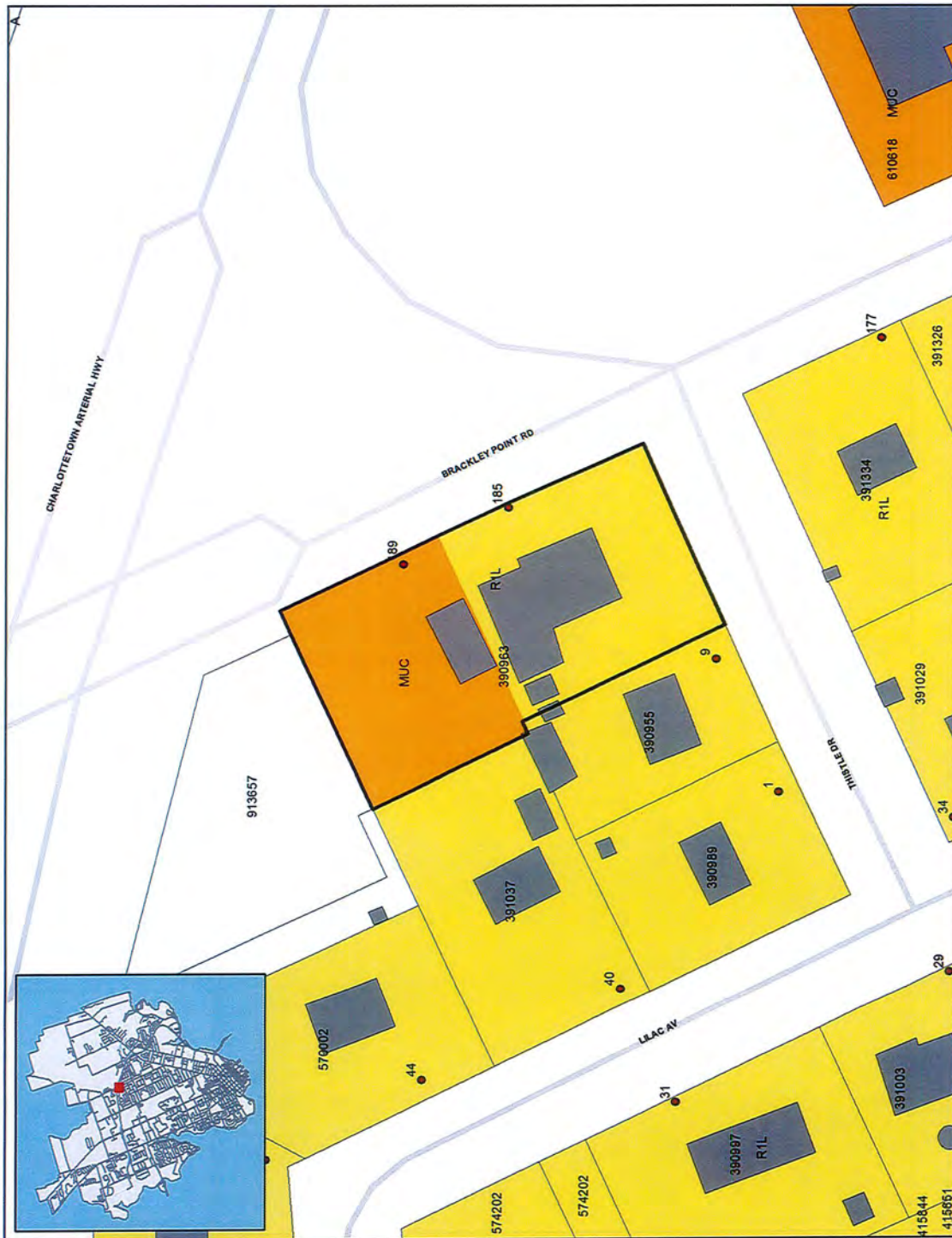
Greg Morrison, MCIP
Planner II

MANAGER:



Alex Forbes, MCIP, MBA
Manager of Planning & Heritage

Attachment A



Attachment A: GIS Map – Property Context

File: PLAN-2019-4-MARCH- **6A2**

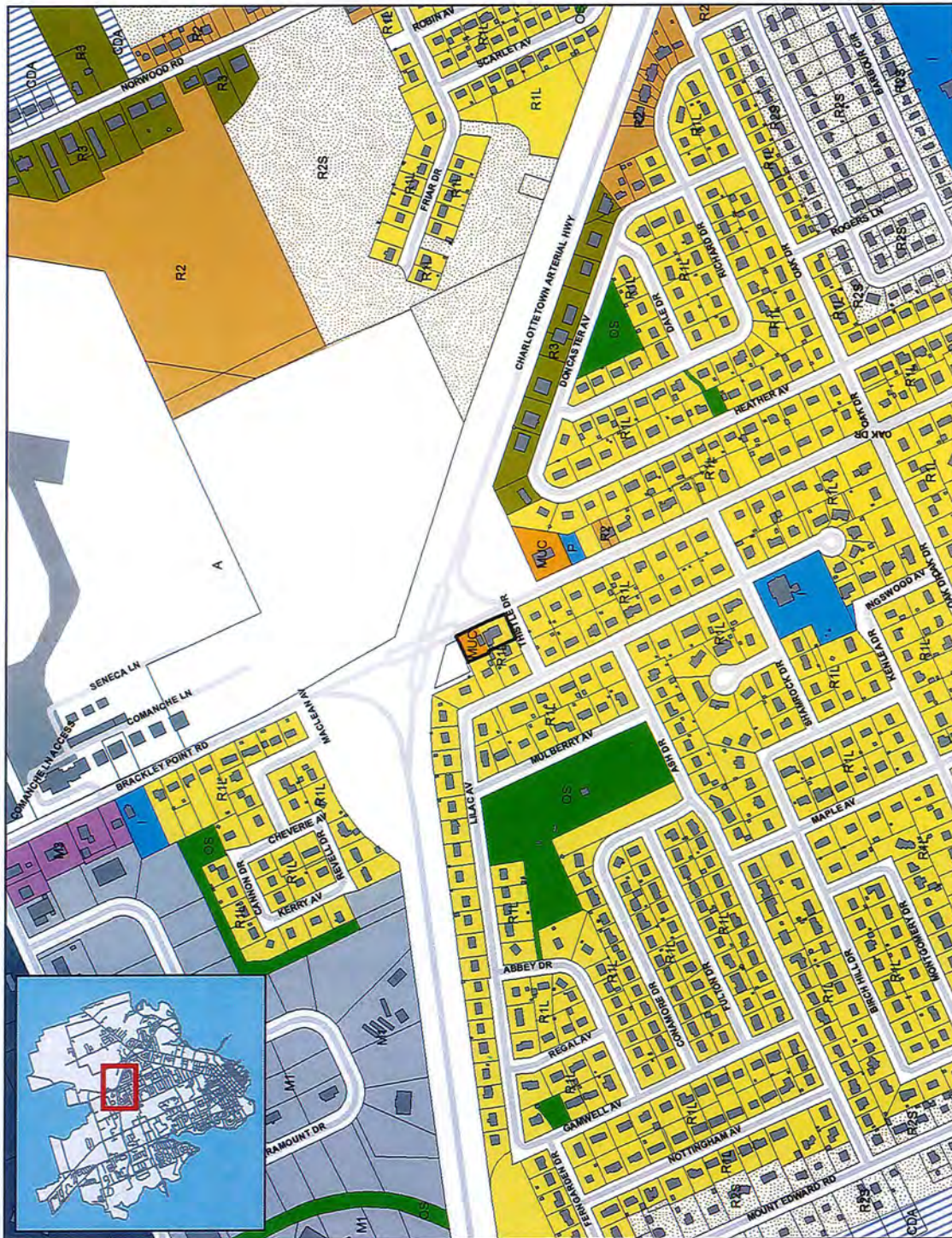
185 Brackley Point Road (PID #390963)

Owner: BJS Properties Inc.

Applicant: Osama Abdoh




Attachment B



Attachment B: GIS Map – Neighbourhood Context
File: PLAN-2019-4-MARCH- **6A2**
185 Brackley Point Road (PID #390963)
Owner: BJS Properties Inc.
Applicant: Osama Abdoh


CHARLOTTETOWN
Planning & Heritage
Department



TITLE: FUTURE LANDUSE MAP AMENDMENT AND ZONING AMENDMENT (PID# 396770) 88 Brackley Point Road FILE: PLAN-2019-04-March-6A3 OWNERS: Ron Wood APPLICANT: Ron Wood		
MEETING DATE: March 4, 2019		Page 1 of 13
DEPARTMENT: Planning & Heritage	ATTACHMENTS: A. GIS Map B. Concept Plan C. Concept Plan from 2016	
SITE INFORMATION: Context: Mature low density neighbourhood. Ward No: 9 – Stone Park Existing Land Use: existing single detached dwelling. Official Plan: Low Density Residential Zoning: Low Density Residential (R-1L) Zone		

RECOMMENDATION:

The Planning & Heritage Department encourages Planning Board to recommend for the request to proceed to public consultation to amend Appendix “A” the Official Land Use Map of the City of Charlottetown from Low Density Residential to Medium Density Residential and a request to amend Appendix “G” – Zoning Map of the Charlottetown Zoning and Development Bylaw from R-1L (Single Detached Residential) zone to R-3 (Medium Density Residential) zone for the property located at 88 Lower Brackley Point Road, PID #'s 396770.

BACKGROUND:

Request

An application has been received to rezone the property located at 88 Brackley Point PID # 396770 from R-1L Low Density Residential to R-3 Medium Density Residential and to amend Appendix “A” the Official Plan Map from Low Density Residential to Medium Density Residential.

Development Context

The property is bounded to the north by Pope Avenue with Institutional and R-1L zoned land, to the east, by Pope Avenue and Institutional zoned land on the opposite side of the street, to the south by R-1L zoned land and to the west by Brackley Point Road.

ANALYSIS:

This is an application to rezone 3.04 acres of land located off of Brackley Point Road. The land is currently zoned R-1L (Single Detached Residential) and is occupied by a single family dwelling. The proposal is to demolish the single detached dwelling and subdivide the property into two lots. The applicant is proposing to rezone the land to R-3 (Medium Density Residential) to facilitate the construction of a 30 unit, 3 story apartment building on one lot and a townhouse development on the other (see attached concept drawings and survey plan).

The property has frontage on both Brackley Point Road and Pope Avenue. However, the applicant is proposing to have the main access to the development on Pope Avenue. There will be a driveway restricted to right in right out off of Brackley Point Road. The Charlottetown Police Department has reviewed this access on Brackley Point Road and would only grant approval for a right in right out for the purpose of a secondary access to meet Fire Code regulations. Parking is proposed to be underground for the apartment building and surface for the town house development.

This property is located within a well-established R-1L Low Density Residential Zone. There are no other higher density developments within the immediate area. There is some higher density development within 1000 -2000 ft. of the subject property on Valdane Ave. and St. Peter's Road. There are institutional zoned properties consisting of an elementary school, a junior high school, a daycare and churches within walking distance to this property. Brackley Point Road is a minor arterial road and therefore has access to public transit near the Sherwood Shopping centre. It is beneficial for higher density developments to be located within walking distance to schools, churches and public transit. When located in proximity to such services residents do not have to rely on automobiles to access such uses. Apartment buildings also provide an alternate housing choice for young families and people looking to downsize.

There was a proposal to rezone this property in 2016 from R-1L to R-3 to facilitate the construction of two 36 unit apartment buildings. At that time the Board voted not to advance the application to public consultation. The Board felt the proposed density of 72 units was too high for the neighbourhood. As well, they also determined that the bulk, mass and scale of the proposed apartment buildings were not in keeping with the surrounding neighbourhood.

Following the Board's 2016 decision the property owner has been working on his application to develop a housing proposal that has less density and is more in keeping with the surrounding neighbourhood. The previous proposal was for two 36 unit apartment buildings for a total of 72 units. The current proposal is for a 3 story, 30 unit apartment building and 16 low rise townhouse units for a total of 46 units.

The two apartment buildings in the 2016 proposal were highly visible from both Brackley Point Road and Pope Avenue. With the current proposal the 30 unit apartment building is still visible from Pope Avenue however, it is buffered from Brackley Point Road by the proposed townhouse development. More than half of the lot where the apartment building is proposed is allocated to green space. A landscape buffer would be required to be retained along the property boundary of the proposed development and the low density development. On the current site plan the proposed apartment building is located on the 90 degree bend of Pope Avenue away from any adjoining single detached dwellings. Therefore, although larger in bulk, mass and scale than the single detached dwellings on Pope Ave. the proposed apartment building would not have a direct impact on other buildings along the streetscape. The apartment building would also be located approximately 450 feet away from any single detached dwellings on Brackley Point Road and is buffered by an existing mature tree line. The town house development also has approximately half of the property allocated to greenspace. Staff does not feel that the townhouse development is out of scale for the neighbourhood and can be integrated well.

Notwithstanding the building form on the east side of Brackley Point Road is small to medium sized single detached dwellings on large lots, approximately an acre in size. The dwellings along Pope Avenue are also located on lots of approximately 10,000 to 12,000 sq. ft. This property is approximately 3.04 acres in size and has the potential to support 107 units with surface parking and 128 units with underground parking if rezoned to R-3. The applicant has requested a total of 46 units with underground parking in the apartment building. If this rezoning is approved a condition of approval must be the requirement for the property owner to enter into a development agreement to restrict the density to the proposal as presented.

Infill development within established low density residential neighbourhoods is supported within the policies of the Official Plan. However, the Official Plan clearly states that it has to be development that will not adversely impact existing low density residential neighbourhoods.

Section 3.1.2 of the Official Plan states, "2. *Our objective is to promote compact urban form and infill development, as well as the efficient use of infrastructure and public service facilities.*

- *Our policy shall be to allow moderately higher densities in neighbourhoods, and to allow in-law suites in residential land-use designations, and to make provision for multiple-family dwellings in the downtown core, and multiple-family dwellings in suburban centres and around*

these centres provided it is development at a density that will not adversely affect existing low density housing.

Section 3.2 of the Official Plan further states,

3.2 Sustaining Charlottetown's Neighbourhoods

Defining Our Direction

Our goal is to maintain the distinct character of Charlottetown's neighbourhoods, to enhance the special qualities of each, and to help them adjust to the challenges of economic and social transformation.

1. Our objective is to preserve the built form and density of Charlottetown's existing neighbourhoods, and to ensure that new development is harmonious with its surroundings.

- Our policy shall be to ensure that the footprint, height, massing, and setbacks of new residential, commercial, and institutional development in existing neighbourhoods is physically related to its surroundings.*
- Our policy shall be to establish an appropriate relationship between the height and density of all new development in mixed-use residential areas of existing neighbourhoods.*

Section 3.2 under the heading of Environment for Change further states,

The Environment for Change

Preserving the distinctive character and identity of Charlottetown's neighbourhoods requires strategies that promote internal stability as well as a sense of community identity. The CHARLOTTETOWN PLAN incorporates policies which will help preserve the harmony and integrity of each existing neighbourhood within the City.

3.3 Housing Needs and Variety

If Charlottetown is to continue to grow as a healthy community, affordable housing for all segments of society must generally be available throughout the City. Moreover, the housing requirements of those with special needs (e.g., disabled, homeless, people in transition) also have to be addressed. Likewise, in the recent past, there has been a chronic shortage of most types of seniors housing. As the population base continues to age, this problem will become more acute unless civic decision-makers address it in a forthright manner.

These are some of the reasons why the City needs to encourage compact and contiguous development, more in-fill housing, and the efficient use of civic infrastructure. In addition, the direction of this plan is to make Charlottetown’s neighbourhoods more stable and sustainable.

Defining Our Direction

Our goal is to work with public and private sector partners to create an attractive physical environment and positive investment climate in which the housing requirements of all residents can be met (including those with special needs), and to provide clear direction as to where residential development should take place.

1. *Our objective is to encourage development in fully serviced areas of the City, to promote settlement and neighbourhood policies as mechanisms for directing the location of new housing, and to encourage new residential development near centres of employment.*
 - Our policy shall be to ensure that all new multiple dwelling unit buildings are serviced by water and wastewater systems which have the capacity to accept the development proposed.
 - Our policy shall be to base residential densities on the availability of municipal services, education facilities, recreation and open space amenities, transportation routes, and such other factors as the City may need to consider.

The Official Plan supports mixed forms of housing within existing neighbourhoods to allow for housing choices. Housing choices within neighbourhoods are important as they provide variety for people at various stages of their lives. Notwithstanding, it clearly states that *new development must be physically related to its surroundings and that there should be an appropriate relationship between height and density for new development in existing neighbourhoods. “Our Policy shall be to ensure that the footprint, height, massing, and setbacks of new residential, commercial, and institutional development in existing neighbourhoods is physically related to its surroundings.”*

With the current application it is staff’s opinion that the applicant has put more consideration into a development proposal that is more in keeping with the neighbourhood. Although the applicant is still proposing one apartment building the building density has been reduced from 36 units to 30 units. The balance of the property has been allocated to a low rise townhouse development.

However, it still must be considered that this area was developed as a low density, single detached residential neighbourhood. Higher density development was not contemplated in the

long term planning of this neighbourhood. It is difficult to evaluate this rezoning request in isolation of the existing land uses in the surrounding neighbourhood. There is a possibility that this rezoning has the potential to change the long term direction of this neighbourhood and may lead to additional rezoning requests for other properties in the area. It should be noted that a similar proposal was heard at Planning Board last month. The proposal was a request to rezone a 1.6 area lot from R-1L to R-3. The lot was half the size of the subject lot at 88 Brackley Point Road with frontage only on Brackley Point Road, a minor arterial road. Site lines on this portion of Brackley Point Road are not ideal. The Board recommended not to advance the proposal at 68 Brackley Point Road to public consultation.

Notwithstanding, this proposal at 88 Brackley Point Road is located on a 3+ acre parcel that could in itself comprise a comprehensive development plan. Although roughly the same amount of units the units are split between an apartment dwelling that is half the size in mass and scale than the proposal at 68 Brackley Point Road and a 16 unit low rise townhouse development. It should be considered that the City is currently experiencing an increased demand for housing. The vacancy rate within the City is very low. Many residents are being forced to leave the City because of the lack of housing options and affordable housing. It has been very difficult to acquire land within established neighbourhoods at reasonable prices were rents can be kept at affordable levels.

In planning practice when assessing locations that are appropriate for residential uses it is appropriate to locate residential dwellings in locations close to amenities, transit, parkland and schools within walkable neighbourhoods. The proposed site is within walking distance to schools, a daycare, churches and within a 10 minute walk to the Sherwood Shopping Centre where public transit is also accessible.

Below is a quick summary of the subject application’s positive attributes, neutral attributes, and shortcomings:

Positives

Neutral

Shortcomings

- There City is experiencing a demand for housing and this proposal would provide additional options for housing within a mature neighbourhood that is predominantly low density residential.
- The proposal is close to schools, a daycare, shopping, churches and public transit.
- Access to the site is off of a local street where it is safe to access.
- At least 50% of the site has been left as green space in the proposal.
- The site is located in a mature low density neighbourhood.
- Although the apartment building has been scaled back in density and relocated on the site away from existing housing it still could be viewed as out of scale for the neighbourhood.

CONCLUSION:

Staff does have concerns that rezoning a property within a mature neighbourhood from single detached residential to medium density residential to accommodate a 46 unit development may cause concern within the neighbourhood. This may also be viewed as a spot zone. Notwithstanding, the parcel is over 3 acres and not a small residential lot. The parcel is large enough to comprise a comprehensive development plan within the CDA Zone. In addition with the current housing demand this proposal may provide more affordable housing options within this established neighbourhood.

Therefore, the Planning & Heritage Department encourages Planning Board to recommend for the request to proceed to public consultation for the application to amend the Future Land Use map from Low Density Residential to Medium Density Residential and to rezone the properties located at 88 Brackley Point Road from R-1L Single Detached Residential to R-3 Medium Density Residential PID # 396770.

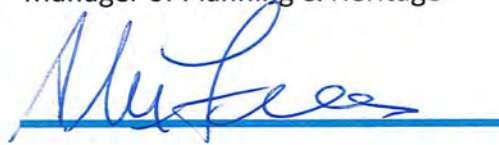
PRESENTER:

Laurel Palmer Thompson, MCIP
Planner II

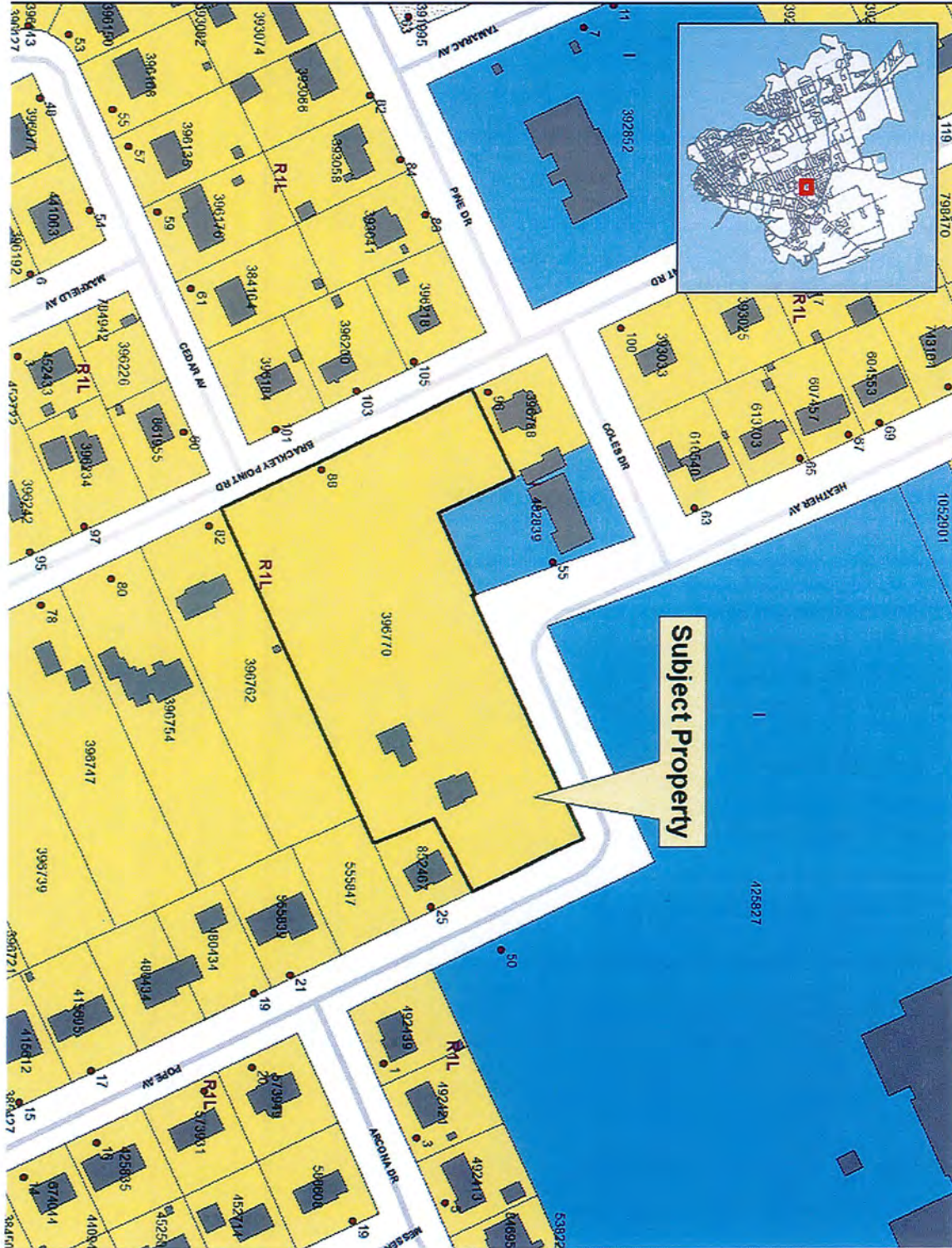


MANAGER:

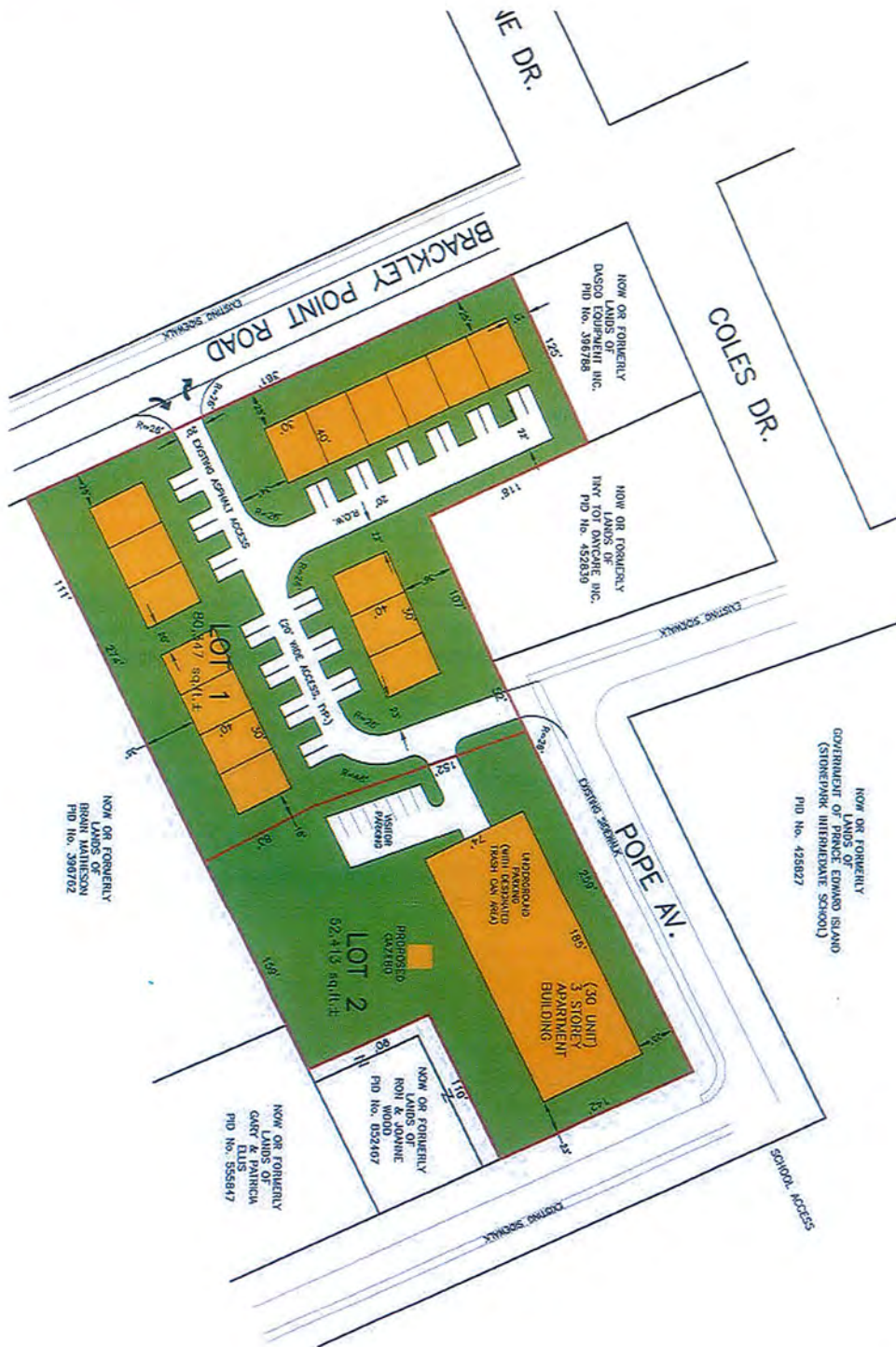
Alex Forbes, MCIP, MBA
Manager of Planning & Heritage



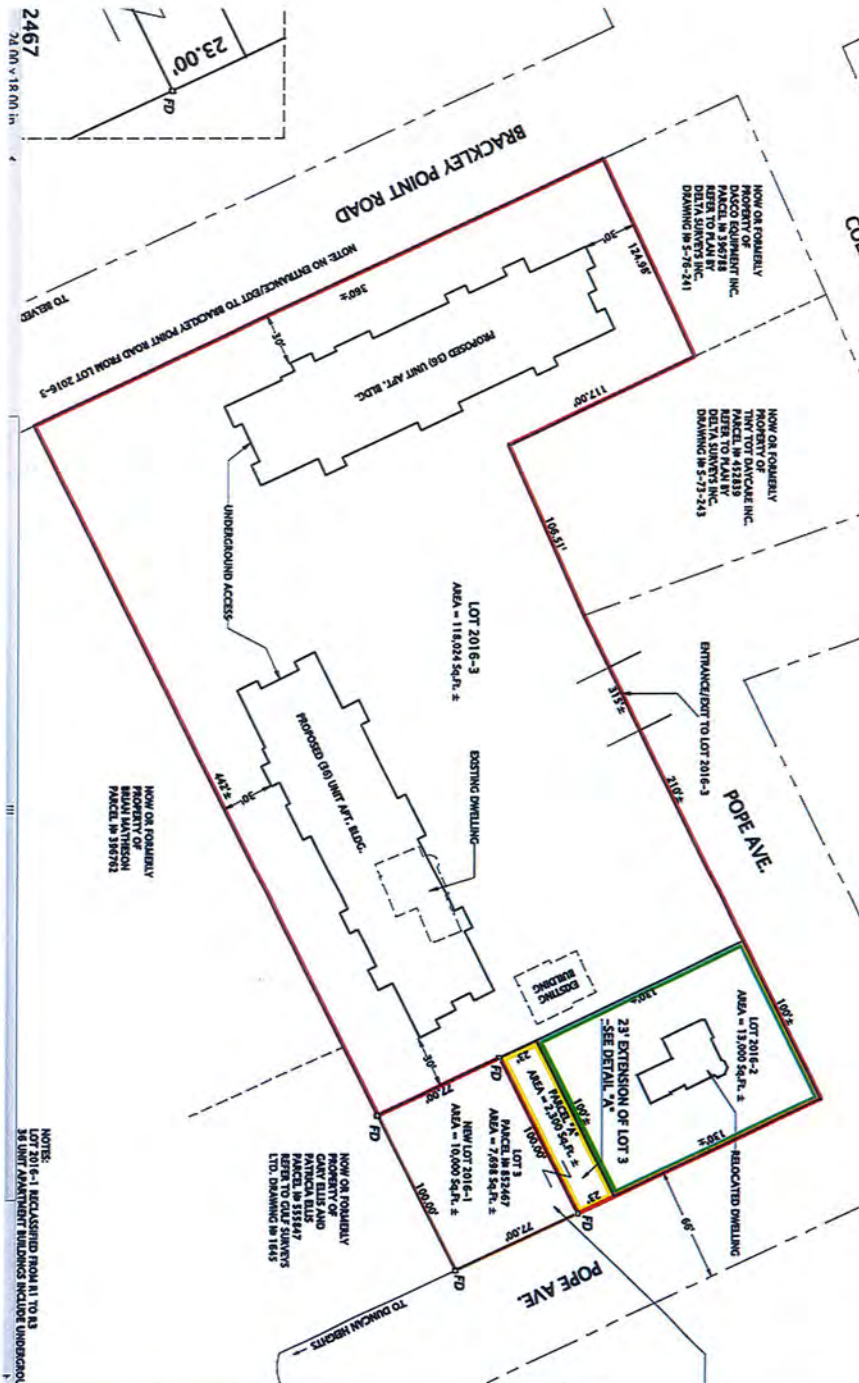
GIS Map:



Site Map:



2016 Proposal:



NOTES:
 LOT 2016-1 RECLASSIFIED FROM R1 TO B3
 35 UNIT APARTMENT BUILDINGS INCLUDE UNDERGROUND

Proposed townhouses:

PLAN NO. 5892 DP
WIDTH: 80'-0"
DEPTH: 52'-0"
MAIN FLOOR TOTAL AREA: 3000 sq.ft.
 - UNIT #1: 1000 sq.ft. / GARAGE: 247 sq.ft.
 - UNIT #2: 1000 sq.ft. / GARAGE: 247 sq.ft.
 - UNIT #3: 1000 sq.ft. / GARAGE: 247 sq.ft.

- LIST OF DRAWINGS**
1. COVER PAGE
 2. FRONT ELEVATION
 3. REAR ELEVATION
 4. MAIN FLOOR PLAN
 5. SECTION A-A
 6. SECTION B-B
 7. FOUNDATION PLAN



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SHERWOOD TIMBER MART
 PROJECT: AARON MACADYEN
 TITLE: 1. COVER PAGE
 SCALE: N.T.S.
 DATE: MAY 07/2018
 DRAWN BY: 3D HOME DESIGN
 REVISIONS: 2. JUN 09/2018

PLAN NO. 1087A DP

WIDTH: 48'-0"
 DEPTH: 42'-0"

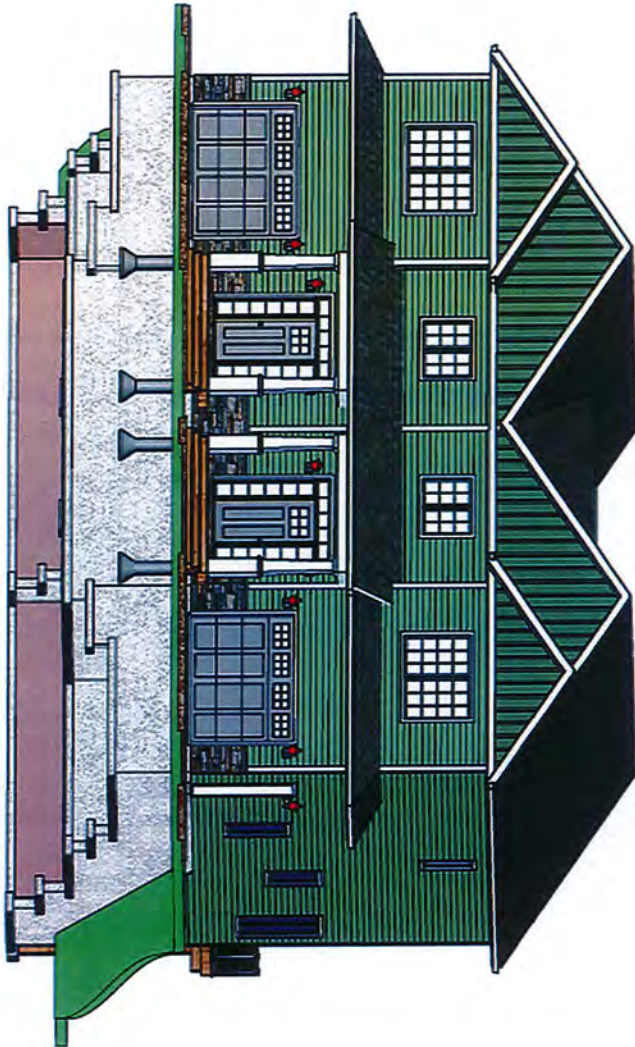
MAIN FLOOR TOTAL AREA: 1433 sq ft
 - UNIT #1: 718 sq ft. / GARAGE: 265 sq ft
 - UNIT #2: 718 sq ft. / GARAGE: 265 sq ft
SECOND FLOOR TOTAL AREA: 1700 sq ft.
 - UNIT #1: 875 sq ft.
 - UNIT #2: 875 sq ft.
TOTAL LIVING AREA
 - UNIT #1: 1613 sq ft.
 - UNIT #2: 1613 sq ft.

LIST OF DRAWINGS


1. COVER PAGE
2. FRONT & RIGHT ELEVATION
3. REAR & LEFT ELEVATION
4. MAIN FLOOR PLAN
5. SECOND FLOOR PLAN
6. BASEMENT FLOOR PLAN
7. KITCHEN PLAN
8. SECTION A-A
9. SECTION B-B
10. FOUNDATION PLAN

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SHERWOOD TIMBER MART
 PROJECT: MOVING/CONVERT HEIGHTS
 TITLE: 1. COVER PAGE
 SCALE: N.T.S.
 DATE: SEP 17/2018
 DRAWN BY: 3D HOME DESIGN
 REVISIONS: 1. DEC 14/2018

TITLE: FUTURE LANDUSE MAP AMENDMENT AND ZONING AMENDMENT (PID#'S 444687, 388439 & 388389) 178 Lower Malpeque Road FILE: PLAN-2019-04-March-6A4 OWNERS: CLIFFORD MCQUAID APPLICANT: PAN AMERICAN PROPERTIES		 CHARLOTTETOWN
MEETING DATE: March 4, 2019		Page 1 of 8
DEPARTMENT: Planning & Heritage	ATTACHMENTS: A. GIS Map B. Concept Plan	
SITE INFORMATION: Context: Vacant woodland containing a single detached dwelling adjacent to a watercourse and a subdivision consisting of single detached dwellings. Ward No: 8 – Highfield Existing Land Use: existing single detached dwelling wooded lots. Official Plan: Low Density Residential Zoning: Low Density Residential (R-1S) Zone		

RECOMMENDATION:

The Planning & Heritage Department encourages Planning Board to reject the request to proceed to public consultation to amend Appendix “A” the Official Land Use Map of the City of Charlottetown from Low Density Residential to Commercial and a request to amend Appendix “G” – Zoning Map of the Charlottetown Zoning and Development Bylaw from R-1S (Single Detached Residential) zone to C-2 (Highway Commercial) zone for the properties located at 178 Lower Malpeque Road, PID #'s 444687, 388439 & 388389.

BACKGROUND:

Request

An application has been submitted for a request to amend the Future Land Use Map from Low Density Residential to Commercial and to rezone three properties located at 178 Lower Malpeque Road PID #'s 444687, 388439 & 388389 from R-1S, Single Detached Residential Zone to C-2, Highway Commercial Zone.

Development Context

The subject properties are located at 178 Lower Malpeque Road. To the north is land zoned institutional and R-1S (Single Detached Residential). To the east is a Maritime Electric utility easement and land zoned C-2 Highway commercial. To the south is the Charlottetown Arterial Highway with R-1L zoned land on the opposite side of the highway and to the west is Low Density Residential zoned land designated R-1L, R-1S and R-2S.

ANALYSIS:

This is an application to rezone approximately 24.19 acres of land located north of the Charlottetown Arterial Highway. The land is currently zoned R-1S (Low Density Residential) and the applicant is proposing to rezone the land to C-2 (Highway Commercial) to expand a retail shopping centre. The subject property abuts existing low density residential development. A watercourse (part of the Ellen’s Creek Watershed) separates the subject property from the existing low density developed land. The applicant has provided a site plan of the proposed development showing approximately 84,000.00 sq. ft. of retail space and a storage facility on the subject property. If the property were rezoned to Highway Commercial the overall total retail space within the shopping centre would be approximately 461,200 sq. ft. plus a storage facility, hotel, bank, office space, and multi-unit residential.

The applicant has not provided a traffic impact study to accompany their application. The site plans shows a series of internal private streets within the development. The primary access to the site is Mina Jane Drive located off of Malpeque Road. Mina Jane Drive is a private road not maintained by the City. It has a signalized intersection with Malpeque Road. The site plan also shows three additional accesses to the site. 1) An off ramp from the development to the arterial highway. 2) An access road crossing Ellen’s Creek through low density residential development to Lower Malpeque Road and 3) a road marked as future development leading from the shopping centre to Sherwood Road.

The arterial highway is a Provincial road and therefore is regulated by the Provincial Department of Transportation and Infrastructure Renewal (TIR). Staff consulted with the Department of TIR regarding this proposed off ramp and they confirmed that, “absolutely no form of access on or off the arterial highway will be permitted”.

The second proposed access to the site crosses Ellen’s Creek through a low density residential neighbourhood. Staff has significant concerns about funneling traffic from an intensive commercial development through a low density residential neighbourhood. Commercial

development of this intensity has the potential to generate significant volumes of traffic and is not compatible with a low density residential neighbourhood. In addition approvals would have to be granted by the Provincial Department of Environment to allow a road to be constructed through a watershed. It is unclear at this time if the Provincial Department of Environment has been consulted regarding this proposal.

The future access shown to Sherwood Road does not funnel through residential development. This portion of Sherwood Road is zoned for commercial and industrial development. However, it is located within approximately 650 feet of the intersection of Malpeque Road and Sherwood Road therefore; a traffic study would need to be completed to determine the effects this access may have on the signalized intersection.

An easement owned by Maritime Electric separates the subject property from the existing C-2 zoned shopping center. The easement is approximately 100 ft. in width and contains a power line corridor. The easement currently provides a separation and defines a boundary between the existing C-2 zoned land that forms part of the shopping centre and the subject property. Staff spoke to Maritime Electric to determine if they granted approval for the applicant to cross the powerline easement with access roads. Maritime Electric indicated that the applicant has not approached them to seek approval. They indicated there would be a process for the applicant to go through to seek approval. If Maritime Electric allowed them to cross the easement more than likely it would result in infrastructure having to be moved at a significant cost to the applicant.

With respect to land use, there is no commercial development located along Lower Malpeque Road. Development along Lower Malpeque Road consists of low density residential development. Commercial and industrial development has been designated along Malpeque Road. Development started on the Royalty Power Centre in the early to mid 2000's. Only approximately 1/3 of the land has been developed to date. The balance still remains vacant.

The subject property is zoned low density residential and is located adjacent to existing residential subdivisions. It is staff's opinion that allowing commercial development of this nature to locate this close to low density residential would lead to incompatible land use. In addition given that land within the shopping centre is not currently "built out" staff would view this as premature development. It is staff's opinion that this proposal is not consistent with good planning principles.

Staff has examined sections of the Official Plan and the Official Plan supports a major commercial suburban centre to be located in the area around the Charlottetown Mall and Buchanan Drive area. Although the Official Plan was originally adopted in 1999 the area around the Charlottetown Mall continues to grow. The official Plan does not support scattered commercial development throughout the City. If the Royalty Power centre is permitted to expand into the residential area located off of Lower Malpeque Road such an approval would not promote contiguous development and compact urban form.

The Environment for Change

*One of the primary thrusts of the **CHARLOTTETOWN PLAN** is to promote efficient growth and development, and compact urban form. The designations of the major commercial suburban centre and the suburban neighbourhood commercial centre are designed to reduce the land-use conflicts which arise from scattered commercial development throughout the City, and to encourage the establishment of a mixed-use centre which will serve the needs of residents in Charlottetown's suburban and rural neighbourhoods.*

Section 4 Encouraging Prosperity:

*4. Our **objective** is to ensure that economic development is focused in those areas of the City where it will provide long-term benefit as well as result in optimal use of our physical and financial resources.*

- Our **policy** shall be to establish commercial and industrial land-use categories in which specific types of activities will be permitted. The boundaries of these zones will generally be established in accordance with previous or projected land-use patterns, the City's policy to promote compact urban form, the ability of the location to support the use and/or provide necessary services, as well as the need to address the various land-use requirements of our commercial and industrial sectors.*

4.3 Creating Suburban Centres

Given the size and established nature of the Charlottetown Mall, the developing Wal-Mart site and the lands in that vicinity yet to be developed, this plan recognizes the importance of the area as a defined suburban commercial centre with a regional focus. While the downtown core will continue to remain as the principal focus of commercial and institutional growth and development in Charlottetown, the Charlottetown Mall and surrounding lands will continue to develop as a mixed-use area supporting a range of commercial, institutional, and residential

facilities. The Charlottetown Mall/Wal-Mart suburban centre as shown on the Future Land-Use Map will require concept plans.

Below is a quick summary of the subject application’s positive attributes, neutral attributes, and shortcomings:

Positives	Neutral	Shortcomings
<ul style="list-style-type: none"> ▪ The proposal would provide additional tax dollars to the municipality. 	<ul style="list-style-type: none"> ▪ The existing Maritime Electric Easement provides a buffer between the C-2 Highway Commercial development and the R-1S Low Density Residential development. 	<ul style="list-style-type: none"> ▪ There is still vacant land within the Royalty Power Centre. This may be considered premature development. ▪ Accesses to the site are onto the Charlottetown Arterial Highway which is not permitted by the Province and through a low density residential neighbourhood. ▪ Concerns surrounding impacts this development may have on the watershed. Destruction of habitat and surface water runoff from parking lots. ▪ Incompatible land use with neighbouring low density residential development.

CONCLUSION:

Given that development along Lower Malpeque Road is low density residential staff has concerns with allowing commercial development of this intensity to expand from Malpeque Road across Ellen’s Creek into a low density residential area. The Official Plan supports efficient growth and development, and compact urban form and looks to direct commercial development toward a suburban centre that is designed to reduce land use conflicts with low density residential development. Royalty Power Center was developed approximately 15 years ago and has not yet reached its full build out potential. Staff has concerns that the subject properties were

designated under the Official Plan as an area for residential growth and not intended for commercial development. The boundary between these two zones (Low Density Residential and Highway Commercial) is clearly separated by a 100 ft. wide easement owned by Maritime Electric which is zoned CDA (Comprehensive Development Area). It is staff's interpretation that this commercial area was not intended to expand west of this easement into a residential area.

Staff also views this proposal as premature considering that the Royalty Power Center has not yet been fully developed and a traffic impact study has not been completed.

There are also issues with the proposed accesses shown on the site plan. Without an environmental impact assessment it is unclear about the impacts this development may have on the Ellen's Creek watershed. As well, the site plan shows streets crossing the Maritime Electric easement that runs north – south. The applicant has not confirmed with Maritime Electric if these roads would be permitted to cross the easement. Many of these issues would have to be resolved prior to this application even proceeding to public consultation.

Therefore, the Planning & Heritage Department encourages Planning Board to recommend to reject the request to proceed to public consultation for the application to amend the Future Land Use map from Low Density Residential to Commercial and to rezone the properties located at 178 Lower Malpeque Road from R-1S to C-2 Highway Commercial PID #'s 444687, 388439 & 388389.

PRESENTER:

Laurel Palmer Thompson, MCIP
Planner II

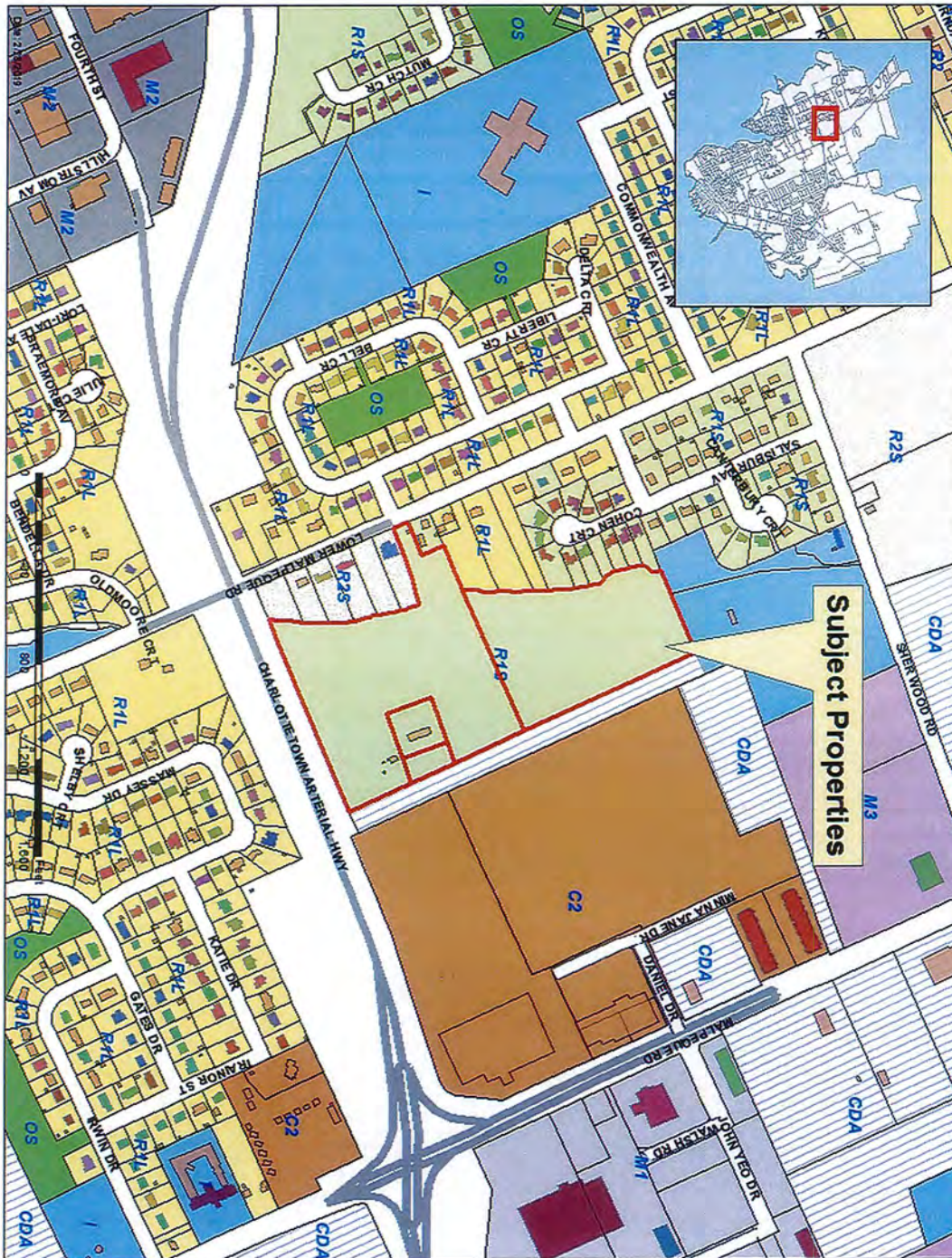


MANAGER:

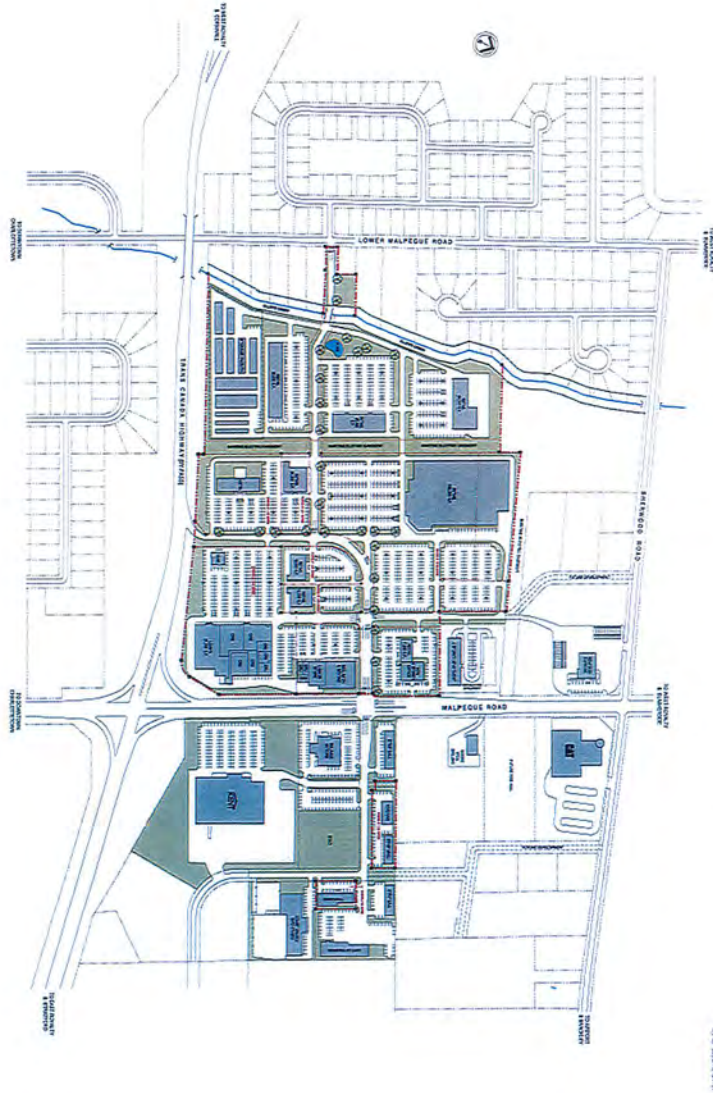
Alex Forbes, MCIP, MBA
Manager of Planning & Heritage




GIS Map:



Site Map:



TITLE: <p style="text-align: center;">VARIANCE FILE: PLAN-2019-4-MARCH-6b-5 PROPERTY PID #359950 GERALD STREET OWNERS: ROGER GREAVES & CAROLINE ROGERSON</p>		 CHARLOTTETOWN
MEETING DATE: March 4 th 2019		Page 1 of 5
DEPARTMENT: Planning & Heritage	ATTACHMENTS: A. Map of Site B. Application related documents C. Public Works comments D. Letter of Opposition	
SITE INFORMATION: Context: Vacant and undeveloped Ward No: 4 Existing Land Use: Vacant Official Plan: Low Density Residential Zoning: Low Density Residential (R-2) Zone		
PREVIOUS APPLICATIONS: 09-594		

RECOMMENDATIONS:

Staff encourages Planning Board to recommend to Council to **approve** only one (1) of the three (3) variances. The variance being to:

- 1) Decrease the minimum interior side yard setback requirement of 1.83 m (6 ft.) to 1.2 m (4 ft).

in order to permit the construction of a Single Detached Dwelling on the property identified as PID #359950 on Gerald Street.

BACKGROUND:

Request

The Planning & Heritage Department has received an application in accordance with Section 3.9, Major Variances of the Zoning and Development Bylaw, for a variance to the property located along Gerald Street PID 359950. The subject site is zoned Low Density Residential (R-2) Zone and is currently vacant and undeveloped. The site is undersized in terms of both lot frontage and area as per the R-2 Zone requirements.

The owner is seeking three (3) variances to:

- 1) decrease the rear yard setback requirement from 7.5 m (24.6 ft) to 2.1 m (7 ft);

- 2) decrease the flankage yard requirement from 6 m (19.7 ft) to 2.44 m (8 ft); and
- 3) decrease the interior side yard setback from 1.83 m (6 ft) to 1.2 m (4 ft).

The purpose of the variances is to construct a single detached dwelling that is approx. 1,100 sq.ft. Please refer to the attached site plan.

The site requirements for a single detached dwelling in the R-2 Zone is subject to the Single Detached Residential (R-1S) Zone regulations illustrated in the table below:

	Interior Lot	Corner Lot
1 Lot Area (Minimum)	540 sq. m (5,812.5 sq ft)	686 sq. m (7,384.0 sq ft)
2 Lot Frontage (Minimum)	18 m (59.1 ft)	22 m (72.2 ft)
3 Front Yard (Minimum)	6.0 m (19.7 ft)	6.0 m (19.7 ft)
4 Rear Yard (Minimum)	7.5 m (24.6 ft)	7.5 m (24.6 ft)
5 Side Yard (Minimum)	1.83 m (6 ft)	1.83 m (6 ft)
6 Flankage Yard (Minimum)		6.0 m (19.7 ft)
7 Height (Maximum)	11.0 m (36.1 ft)	11.0 m (36.1 ft)

Development Context

The subject site is 0.09 acres (335 sq.m.) in size with approximately 11 metres (36 ft) of frontage, which is an undersized lot. The site is mainly vacant with a large tree in the centre of the property. The owner wishes to decrease the minimum flankage, interior side and rear yard setbacks(s) to accommodate a single detached dwelling. The property has access to infrastructure services (i.e. sewer and water) and access would be provided off of Gerald Street.

History

In 2009 the owner applied for a permit on the property to construct a large single detached dwelling to similar setbacks. At the time the Zoning By-law contained regulations that allowed for decreased setbacks for an undersized lot, however these regulations have been removed since the last major amendment and the owner is now required to apply for three (3) variances.

ANALYSIS:

Section 15 of the Zoning and Development Bylaw, the R-3 (Medium Density Residential Zone) requires a flankage yard setback of 19.7 feet. The proposed dwelling would have a flankage yard setback at the closest point to the property boundary of 2.44 m (8 ft.), a reduced rear yard setback of 2.1 m (7 ft.) and reduced interior side yard setback of 1.2 m (4 ft.) to construct a single detached dwelling. The owner is also proposing an attached garage that is recessed in from the main dwelling but due to the close proximity to the street would result in compromised sight lines for a vehicle exiting the subject site.

Consistency with the Official Plan

The Official Plan provides policies allowing for infill development in existing neighbourhoods, using existing underground services to its fullest capacity and encouraging development in fully serviced areas.

Section 3.1.2 - *Our policy shall be to use existing underground services to its fullest practical capacity before public funds are used to extend new water and wastewater lines into areas that are essentially undeveloped.*

Section 3.3.1 - *Our objective is to encourage development in fully serviced areas of the City, to promote settlement and neighbourhood policies as mechanisms for directing the location of new housing, and to encourage new residential development near centres of employment.*

Consistency with the Zoning By-law

Section 3.9.1 b. of the Zoning and Development Bylaw states,

“b. the need for consideration of a Major Variance is owing to conditions specific to the property and is unique to the area and not the result of actions by the Owner, and a literal enforcement of this Bylaw would result in unnecessary and undue hardship;”

In review of the proposed site plan Public Works feels that due to the property being a corner lot the reduction of the flankage yard would bring the proposed dwelling too close to the street, which would compromised sight lines for a vehicle exiting the garage that could result in a collision. The ROW is extremely narrow and the further reduction of required setbacks would make it more difficult for Public Works activities such as snow clearing.

In regards to the rear yard reduction there is more than enough space to move the proposed building further into the front yard in order to accommodate the required rear setback of 7.5m (24.6 ft.) setback. Staff also notes that if such a large reduction of the rear yard setback was approved the owner would be able as of right to construct a further 6m (20 ft.) addition afterward into the front yard that would result in the overdevelopment of the lot.

Therefore, staff does not view that two (2) of the variance requests for the reduction of the flankage and rear yard requirements would be viewed as an unnecessary and undue hardship. Being new construction the applicant has the option of decreasing the size of the proposed dwelling and could instead make up for the reduced floor area by increase the building's height rather than constructing a one-storey bungalow.

The reduction of the required interior side yard could be supported on the basis that the proposed dwelling could better maintain the flankage yard requirements for public safety purposes. The lot is undersized in terms of frontage (width) so by reducing the interior side yard would be considered reasonable request to accommodate the development of the property.

The table below provides a summary of the positives and shortcomings of the requested variance(s):

Positives	Neutral	Shortcomings
<ul style="list-style-type: none"> ▪ Increasing the capacity of existing underground services. ▪ Infill development in a fully serviced area of the City. 		<ul style="list-style-type: none"> ▪ Egress from proposed garage would have compromised sight line issues for a vehicle backing directly onto Gerald Street. ▪ Significant number of variance requests. ▪ Proposed dwelling would result in the overdevelopment of the lot and have negative drainage impacts due to the increase of impervious surface area.

LEGISLATIVE REQUIREMENTS:

Notification

In accordance with Section 3.9.3 of the Zoning & Development By-law, on February 14, 2019 notice of the Planning Board meeting regarding this application was sent to owners of property within 100 metres (328.1 ft) of the subject property soliciting their written comments for or against the proposed variance and lot consolidation. The deadline to submit written comments on the application was Friday, March 1st, 2019.

Public Feedback

In response to the City's notification letter One (1) letter in opposition of the major variance was received. The letter stated that they feel the proposal would negatively impact the neighbourhood with compromised sight lines for traffic, increase in non-permeable surface for drainage, snow clearing issues and more on-street parking. See attached letter.

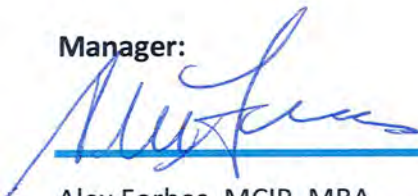
CONCLUSION:

Staff encourages Planning Board to recommend to Council to **approve** only one (1) of the three (3) variances. The variance being to:

- 1) Decrease the minimum interior side yard setback requirement of 1.83 m (6 ft.) to 1.2 m (4 ft).

In order to permit the construction of a Single Detached Dwelling on the property identified as PID #359950 on Gerald Street.

Manager:



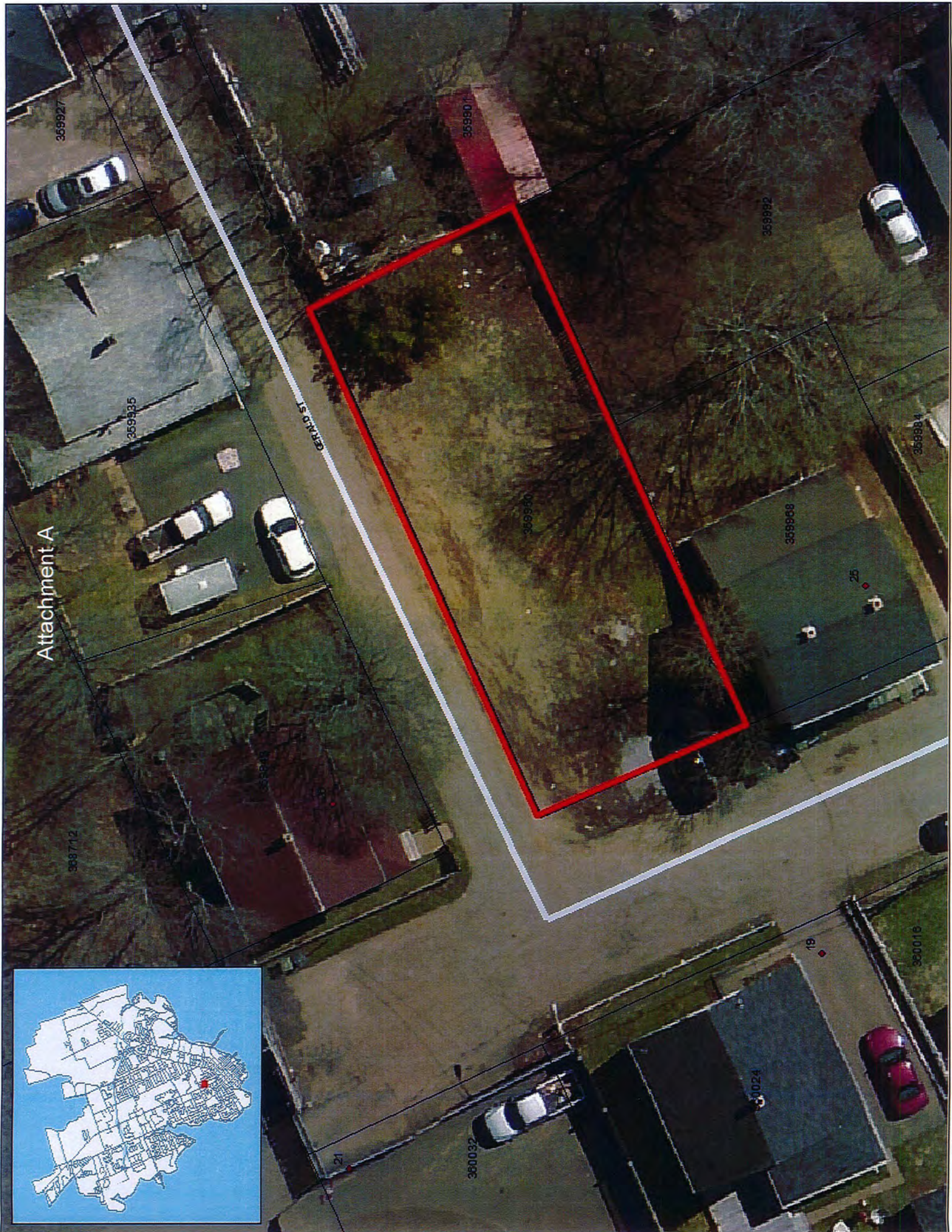
Alex Forbes, MCIP, MBA
Manager of Planning & Heritage

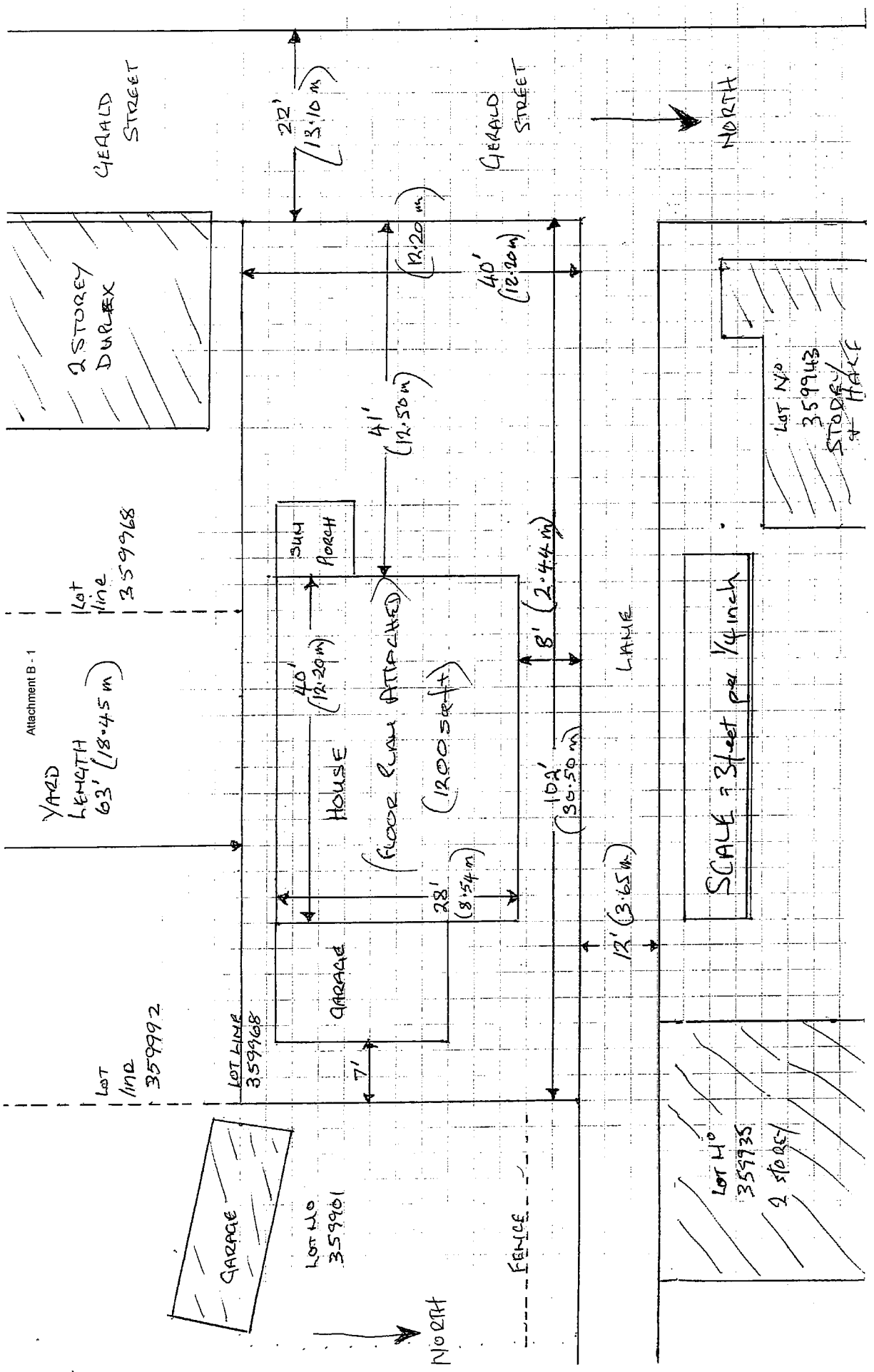
Presenter:



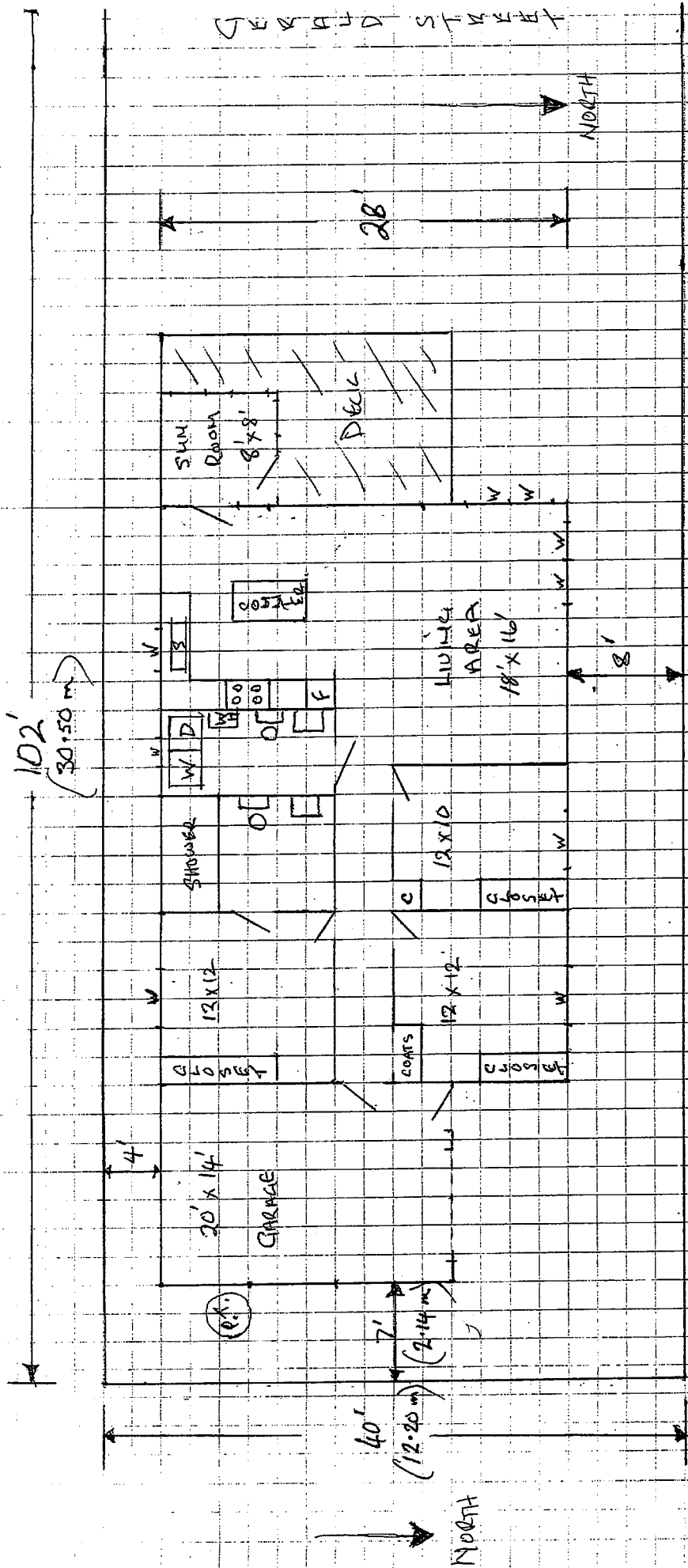
Robert Zilke, MCIP
Planner II

Attachment A





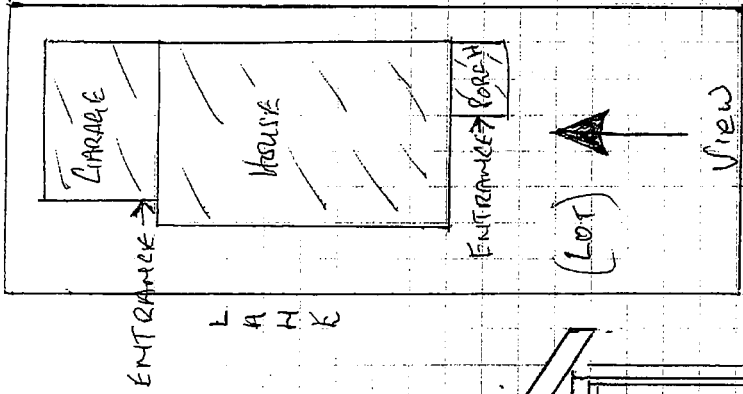
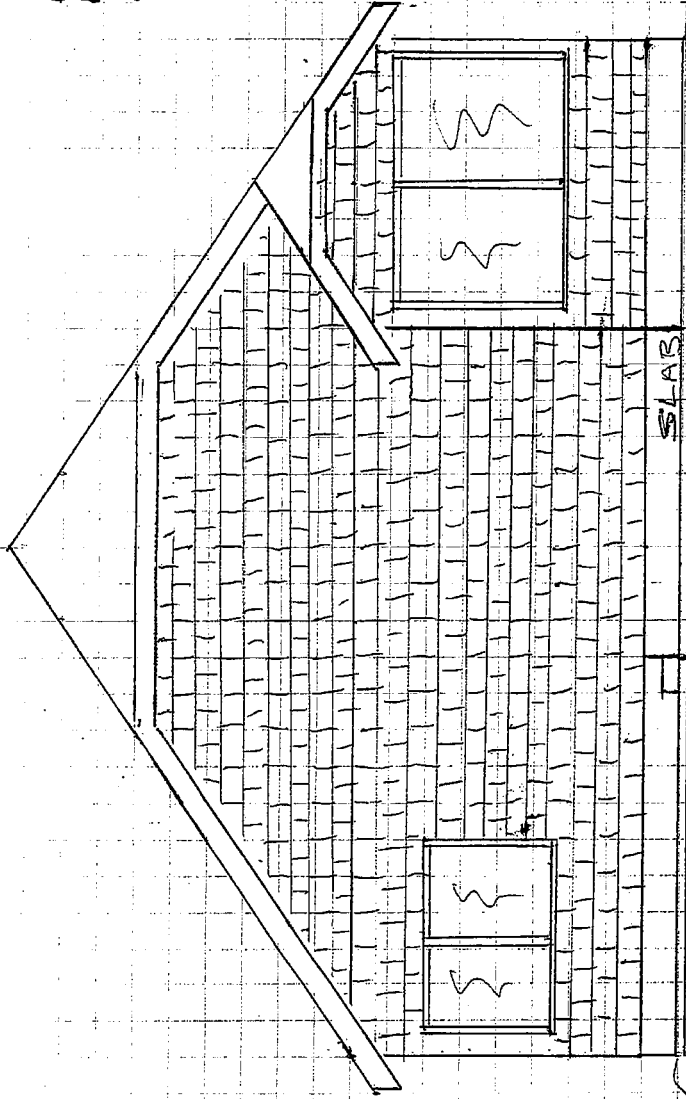
BUNGALOW APPROX 1200 sq ft with GARAGE (SCALE = 2 ft per 1/4")



Attachment B - 3

SIDE VIEW - SCALE = 1 foot = 1/4 inch

ROOF - 8 X 12 PITCH / COULD CHANGE TO 6 X 12 PITCH



ROAD

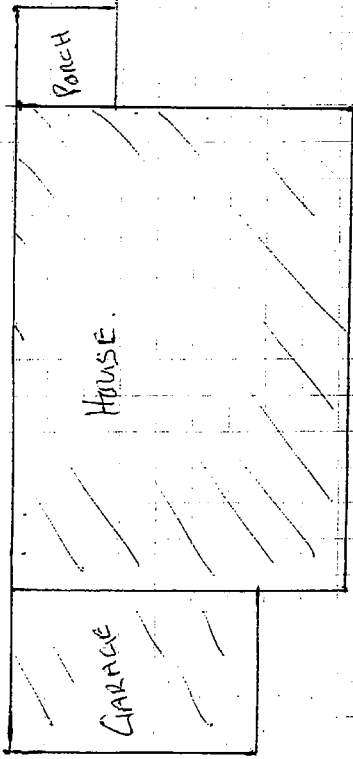
SLAB

ENTRANCE → PORCH

(LOT)

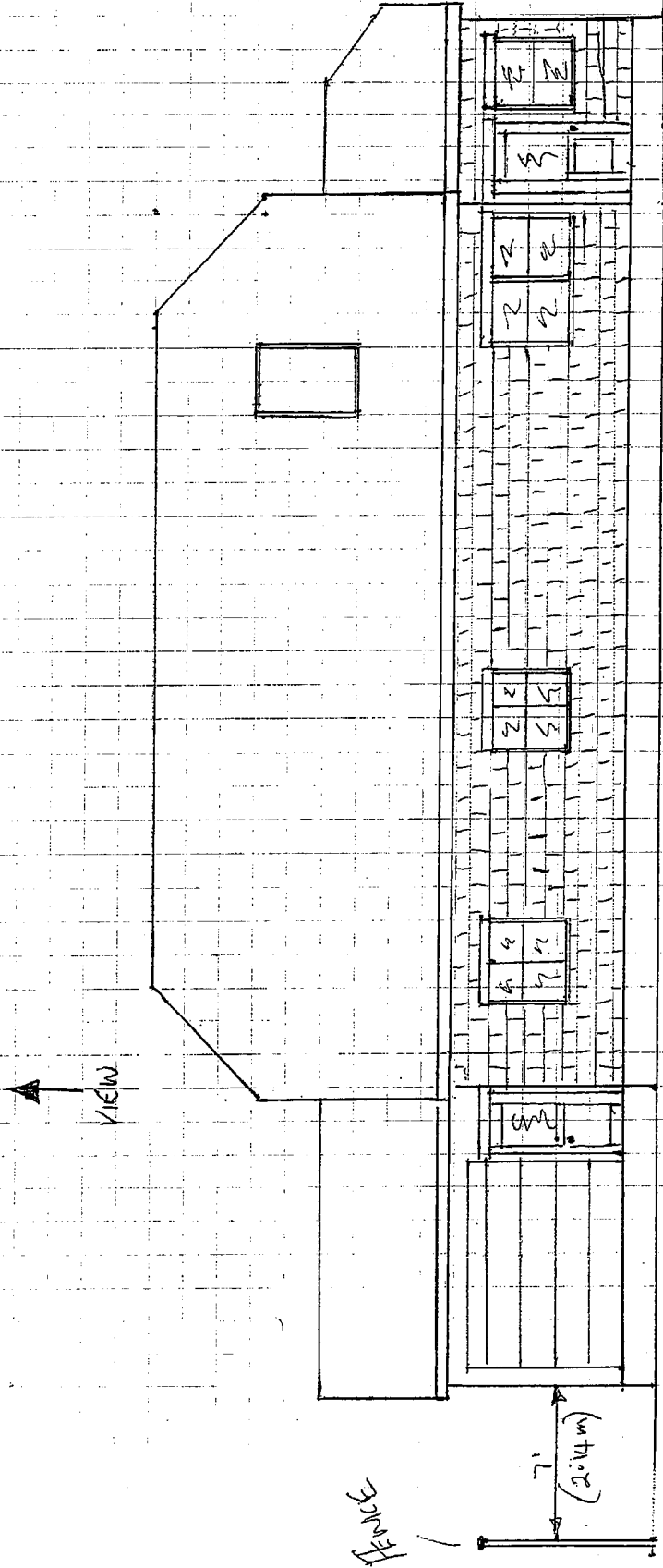
View

L A H K E



FRONT VIEW - SCAFF 18 INCHS = 1/4 INCH.

ROOF = 8 x 12 pitch - COULD CHANGE TO 6 x 12 pitch.



Public Works has a few concerns with this request

- 1) The ROW along this section of Gerald street extremely narrow. By reducing setbacks, this will make it more difficult for Public Works activities on a go forward basis.
- 2) There is also a safety concern for sight lines for vehicles entering and exiting the property. By building so close to the ROW, with an already narrow ROW than current standards, would only reduce sight lines more. This could create unsafe condition for vehicles in this area.

It is in the best interest of the City to maintain their setback requirements for this property, and reject the request.

Thank you,

Scott

Scott Adams, MEng., P.Eng.
Manager of Public Works

City of Charlottetown
PO Box 98, 199 Queen Street
Charlottetown, Prince Edward Island
Canada, C1A 7K2
Office: 902-629-4009
Fax: 902-894-7094

February 22, 2019

RE: PID #359950

Dear Committee,

I am writing to oppose the application made for the property at Gerald Street. I do not consider that the three variances requested are "minor" in nature, nor do they respect the intent of the zoning by-law.


The applicants are seeking a reduction in the minimum lot size clearance for a single dwelling and garage. There is no clearance allowance for a driveway entering onto an extremely narrow lane (Upper Prince Lane). No sight lines for traffic. They are also requesting very significant reductions in the backyard area for this property, as well as very significant reductions in the required front-yard and side-yard setbacks. The increase in non-permeable space is very concerning. Water drainage, fire safety, waste collection and snow removal, more vehicles, and more parking on the street. All major issues on this narrow lane. There is no clearance for parking now. Waste pick up and proper snow removal is often not done as a result of a vehicle is blocking the narrow street.

This will cause a significant increase in traffic and parking on the street and will indeed cause issues for many of us accessing our driveways.

Has anyone on the committee visited the area and viewed the property? If so then you would recognize that the lot in question is too small for a home and garage while maintaining the property value and distinction of the area.

Respectfully,

Mac Donald Family

TITLE: TEMPORARY STRUCTURE VARIANCE FILE: PLAN-2019-4-MARCH- 686 215 QUEEN STREET OWNER: 100390 PEI INC. C/O MEHRNOOSH AGHDASSI		
MEETING DATE: March 4, 2019		Page 1 of 5
DEPARTMENT: Planning & Heritage	ATTACHMENTS: A. GIS Map B. Site Plan C. Rendering	
SITE INFORMATION: Context: Vacant Property in the 500 Lot Area. Ward No: 1 – Queens Square Existing Land Use: Vacant Property Official Plan: Downtown Main Street Zoning: Downtown Main Street (DMS) Zone		
PREVIOUS APPLICATIONS: A building permit was issued on February 2, 2009 to demolish the former restaurant.		

RECOMMENDATION:

The Planning & Heritage Department encourages Planning Board to recommend to Council to approve the request for a variance under Section 3.9.1.g. of the Zoning & Development By-law in order to locate a container on the vacant property located at 215 Queen Street (PID #343582) to be used as a commercial building where food is prepared and served.

BACKGROUND:

Request

The property owner, Mehrnoosh Aghdassi, is proposing to locate a container on the vacant property to be used as a commercial building where food is prepared and serviced.

As per Section 5.2.2 of the Zoning & Development By-law, *no vehicle body, truck trailer, or container shall be used as a commercial or accessory building except as specifically permitted by other legislation.*

In light of foregoing, the property owner is applying for a variance under Section 3.9.1.g. in order to locate a temporary structure in a manner otherwise prohibited by this by-law for a period to last no longer than one (1) year.

Development Context

The vacant property is currently located along Queen Street between Kent Street and Fitzroy Street. There are four other commercial buildings in the block - City Hall, Island Optical, Ceridian and Bell Aliant.

Property History

The subject property was formally home to the Town & Country Restaurant; however, a building permit was issued on February 2, 2009 to demolish said restaurant. At the time of demolition, the owner did not have any plans to rebuild but planned to construct a fence on the Queen Street side of the property and fill / gravel the vacant lot.

The property has remained vacant since that time and no building or development permits have been submitted or approved. Staff would note that in the summer of 2018, the City of Charlottetown landscaped the property following a verbal agreement to do so with the property owner.

LEGISLATIVE REQUIREMENTS:

Notification

In accordance with Section 3.9.3 of the Zoning & Development By-law, notice of the Planning Board meeting regarding this application was sent to owners of property within 100 metres (328.1 ft) of the subject property soliciting their written comments for or against the proposed variance. The deadline to submit written comments on the application is 12:00 p.m. (noon) on Friday, March 1, 2019.

Public Feedback

At the time of writing this report, the Planning & Heritage Department did not receive any written comments. If any written comments are received prior to the deadline, they will be brought to the attention of the Planning Board members at the meeting on March 4, 2019.

ANALYSIS:

The concept of operating an Eating & Drinking Establishment within a container is becoming a popular seasonal offering around the world. While this concept is relatively new to Charlottetown, the Merchantman has created an outdoor environment Next Door which has been successful over the past few years.

The applicant is proposing to prepare and serve food (no liquor sales proposed) within an 8' x 20' container on the subject property, 215 Queen Street, this year. The applicant is hoping to operate this container for three years minimum.

In the first year, the applicant is proposing a container, washroom, planters and picnic table seating only. Should this concept be successful, future years would include more elaborate seating and a new fence to create a semi-enclosed environment.

The owner must recognize that this application is for a temporary structure which is not permitted within the Zoning & Development By-law and if approved, is only valid for one (1) year. In light of the foregoing, they should not be expecting that it will be renewed on an annual basis. If the operation is successful and the applicant wishes to continue the operation in future years, then:

1. The applicant may have to reapply for a temporary structure for an additional year;
2. The applicant may have to apply for a site specific exemption to allow this use on a more permanent basis; or
3. The City of Charlottetown may wish amend the By-law to allow such a use within a container.

The applicant is proposing to clad the exterior of the container in corrugated steel cladding unless the container is in good condition, then only paint would be required. The proposed container will be connected to City Water & Sewer and Maritime Electric will be connecting power to the container. Washrooms will be provided on-site, either in the container or in a separate unit. If the washrooms are provided within the container, they may be larger than 8' x 20'.

This type of temporary restaurant plays an important role in the foodservice industry. They can deliver restaurant quality food and provide quick food service. These structures are being located throughout the country and have shown to be popular and can provide another food option late at night. However, the concept is to provide food to under-utilized and under-serviced areas and not compete with established foodservice establishments. These structures operate using lower overhead costs due to their temporary nature while traditional restaurants pay significant property taxes.

In the past, Restaurant Canada provided staff with some information specifically related to food trucks and indicated that Restaurant Canada supports the expansion of food truck licensing with the following conditions:

1. *Food trucks must meet and follow the same regulatory requirements as restaurants including food safety, signage, solid waste separation, waste water disposal and the availability of washrooms for staff and the public.*
2. *Food trucks should only be located in under-serviced areas. Food trucks are prohibited from locating directly in front of or adjacent to an existing restaurant and have a buffer zone of at least 100 meters from existing foodservice establishments.*

Restaurants within a 100m of the subject property include, but may not be limited to, Taste of India, Chambers Restaurant & Bar, and Dundee Arms Inn Restaurant & Pub.

In light of the fact that this container is being located in an area of the City which is arguably underserviced, staff feel that allowing it on a temporary basis would be reasonable and then the applicant would have to reapply in future years. At that time, the City may wish to approve or deny it in the future depending on feedback received this year.

Below is a quick summary of the subject application’s positive attributes, neutral attributes, and shortcomings:

Positives	Neutral	Shortcomings
<ul style="list-style-type: none"> ▪ Utilizes the vacant land for more than just a landscaped open space. 	<ul style="list-style-type: none"> ▪ Could argue that it is in an underserviced area as there are only restaurants in two hotels 	<ul style="list-style-type: none"> ▪ Temporary structure instead of a proper infill development within the 500 Lot Area.

- The applicant has developed a successful restaurant already in the 500 Lot Area. and The Taste of India within 100m.

CONCLUSION:

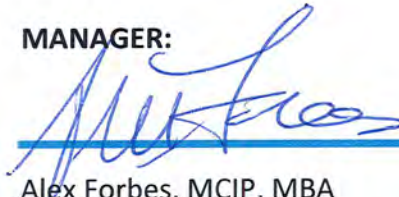
The Planning & Heritage Department recommends that the temporary structure variance application, be approved.

PRESENTER:



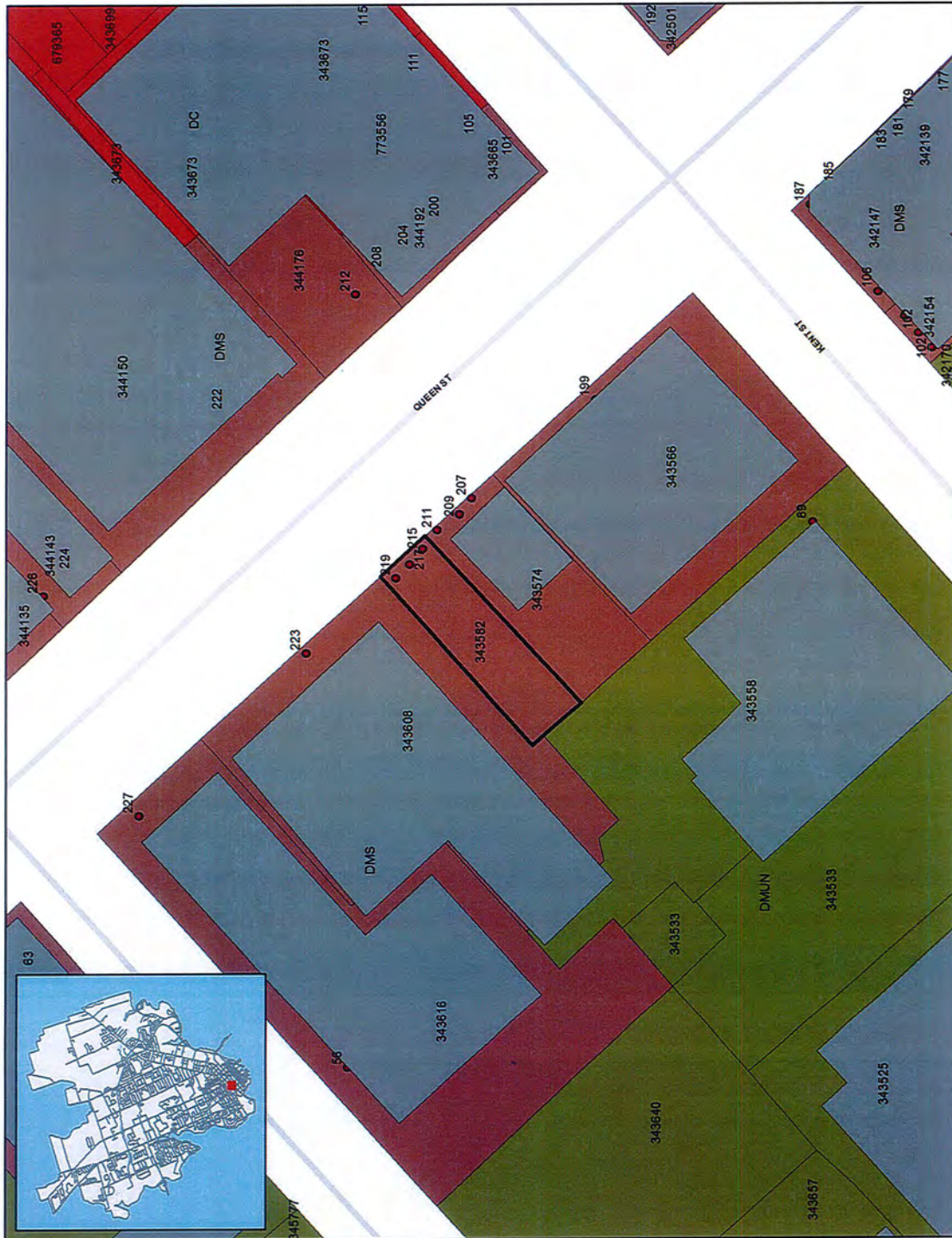
Greg Morrison, MCIP
Planner II

MANAGER:



Alex Forbes, MCIP, MBA
Manager of Planning & Heritage

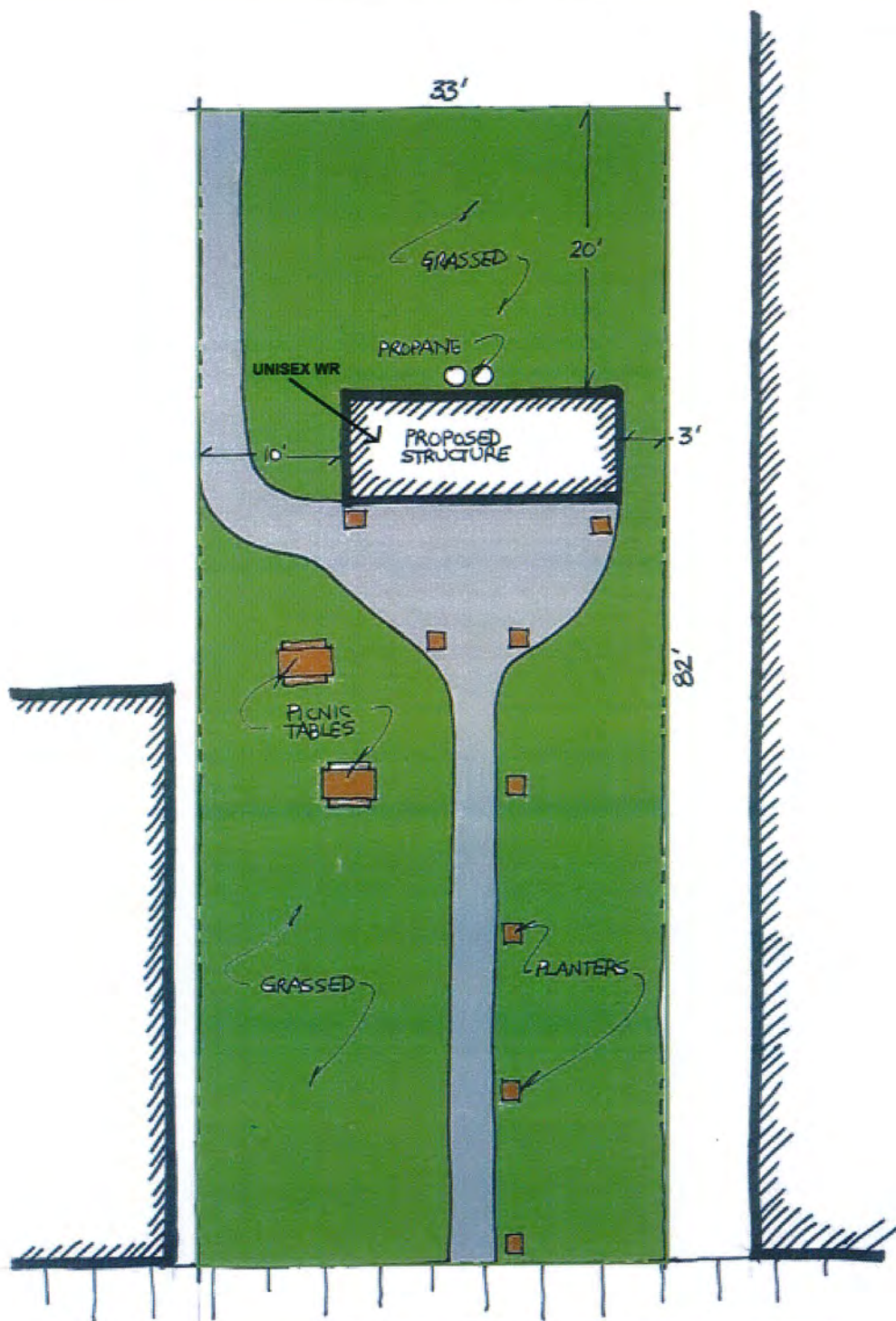
Attachment A



Attachment A: GIS Map
 File: PLAN-2019-4-MARCH-686
 215 Queen Street (PID #343582)
 Owner: 100390 PEI Inc.
 C/O Mehrnoosh Aghdassi



Attachment B



Attachment B: Site Plan
File: PLAN-2019-4-MARGH-686
215 Queen Street (PID #343582)
Owner: 100390 PEI Inc.
C/O Mehrnoosh Aghdassi



CHARLOTTETOWN
Planning & Heritage Department

Attachment C



Attachment C: Rendering
File: PLAN-2019-4-MARCH-686
215 Queen Street (PID #343582)
Owner: 100390 PEI Inc.
C/O Mehrnoosh Aghdassi


CHARLOTTETOWN
Planning & Heritage Department

TITLE: SITE SPECIFIC EXEMPTION APPLICATION FILE: PLAN-2019-4-MARCH- 6C7 183 GREAT GEORGE STREET (PID #344044) OWNER: 2950243 CANADA INC. APPLICANT: MICHAEL WASNIDGE		
MEETING DATE: March 4, 2019		Page 1 of 7
DEPARTMENT: Planning & Heritage	ATTACHMENTS: A. GIS Map B. Building Plans	
SITE INFORMATION: Context: Vacant property on Great George Street Ward No: 1 – Queens Square Existing Land Use: Vacant Official Plan: Downtown Core Zoning: Downtown Core (DC) Zone		
PREVIOUS APPLICATIONS: Council passed the following resolution on May 12, 2014: <i>That the request to permit a temporary use of a food trailer on the property located at 83 University Avenue (PID #344044) for the 2014 season be rejected.</i>		

RECOMMENDATION:

The Planning & Heritage Department encourages Planning Board to recommend to Council to approve the request to proceed to public consultation in order to obtain a site specific exemption in the Downtown Core (DC) Zone of the Zoning & Development By-law as it pertains to 183 Great George Street (PID #344044) in order to:

1. Allow the sale of alcohol within in a mobile canteen which is contrary to the definition of a mobile canteen in the Zoning & Development By-law (2018-11.009);
2. Allow the mobile canteen to operate from April 1 to October 31 annually which is contrary to Section 5.11.2 of the Zoning & Development By-law (2018-11.009); and
3. Utilize a container to contain washroom facilities which is contrary to Section 5.2.2 of the Zoning & Development By-law (2018-11.009).

The site specific exemption also includes the following two (2) variances:

1. Increase the maximum height for a fence in the front yard (i.e., front property line) from 3.3 ft as permitted in Section 4.4.2.a. of Zoning & Development By-law (2018-11.009) to approximately 6.5 ft; and
2. Increase the maximum front yard setback for a building in the Downtown Core (DC) Zone from 3.3 ft as permitted in Section 31.2.2 of Zoning & Development By-law (2018-11.009) to approximately 52.5 ft.

BACKGROUND:

Request

The applicant, Michael Wasnidge, obtained permission from the property owner to apply for a site specific amendment at the property located at 183 Great George Street (PID #344044). The purpose of the site specific exemption would be to create an outdoor atmosphere where alcohol and food is sold from a mobile canteen within a fenced in property. Seating would be located throughout the property and the washrooms would be located in a container at the rear of the property. Finally, two trellises would cover a portion of the property.

Development Context

The vacant property is located on Great George Street between Fitzroy Street and Kent Street. The adjacent properties include Cedars Restaurant and the Old Triangle patio.

Property History

The former building was demolished in 1998 and remained vacant since that time. Applications were made in 2013 and 2014 to locate a mobile canteen on the property but ultimately Council passed the following resolution on May 12, 2014:

That the request to permit a temporary use of a food trailer on the property located at 83 University Avenue (PID #344044) for the 2014 season be rejected.

LEGISLATIVE REQUIREMENTS:

Notification

If the proposed site specific exemption is approved to proceed to the public consultation phase, the Planning & Heritage Department shall notify the public of said public meeting in accordance with Section 3.10.4.c of the Zoning & Development By-law.

ANALYSIS:

Historically mobile canteens were not permitted to be located on private property without obtaining a temporary use variance through Council. An application for a temporary use (mobile canteen) was made on the subject property, formerly 83 University Avenue, and Council passed the following resolution on May 12, 2014:

That the request to permit a temporary use of a food trailer on the property located at 83 University Avenue (PID #344044) for the 2014 season be rejected.

In addition to said resolution, Council passed the following resolution on May 16, 2014:

That staff be directed to review and develop policies relating to food trailers or vendors on private property for the consideration of Council and that such provisions be in place by March 1, 2015.

Regulations pertaining to mobile canteens were first presented to the Planning Board on February 2, 2015 and eventually were approved by the Minister of Communities, Land and Environment on May 27, 2015.

As part of these amendments, the definition for Mobile Canteens was established as **Mobile Canteen** means any trailer or motorized vehicle used for the display, storage, or sale of food and/or non-alcoholic beverages on a temporary basis.

In light of the fact the applicant is requesting to sell alcohol from the mobile canteen, it cannot be classified as such and must be considered a restaurant. Because of that, it must meet the requirements in the National Building Code, including washroom facilities.

The applicant is proposing to locate the required washroom facilities within a container at the rear of the property. As per Section 5.2.2 of the Zoning & Development By-law, *no vehicle body, truck trailer, or container shall be used as a commercial or accessory building except as specifically permitted by other legislation.*

Allowing the washrooms to be located within a container would be included in the site specific exemption request.

Other items included in the site specific exemption request include the months of operation, fencing along the front property line and the setback distance of the mobile canteen.

Months of Operation

A typical mobile canteen is only permitted to operate on private property from May 1st to October 31st. That being said, the applicant would like to operate from April 1st to October 31st to be included in Burger Love which happens annually during the month of April. They are not requesting to operate from the property in April this year, but would be looking to do so in future years.

Fencing

As per Section 4.4.2.a. of the Zoning & Development By-law, *the maximum height for a fence ... in the front or flankage yard ... shall not exceed 1.0 m (3.3 ft) in the 500 Lot Area.*

The applicant is proposing to locate a 6.5 ft custom perforated metal fence along the front property line. They will be *'using a local metal fabricator to laser-cut a custom design that is being developed by local illustrator, Ali McNeil. The panels will piece together to create a wide panoramic image that will feature the familiar site of trees and crows on PEI. This will not only be a privacy fence, but also a one-of-a-kind piece of art for the downtown.'*

A fence up to 8.2 ft can be located along the sides and rear of the property.

Typically this request would require a major variance but in this circumstance, it can be included within the site specific exemption with Council approval.

Front Yard Setback

The subject property is located in the Downtown Core (DC) Zone. A mobile canteen or a typical building must adhere to the regulations of Section 31.2 in the Zoning & Development By-law. The

front yard setback in the DC Zone is a minimum 0 m (0 ft) and maximum 1.0 m (3.3 ft). It appears as though all of the buildings on the block have a 0 ft front yard setback; however, the applicant is proposing to locate the mobile canteen approximately 16 m (52.5 ft) from the front property line.

Typically this request would require a major variance but in this circumstance, it can be included within the site specific exemption with Council approval.

Finally, the applicant is also requesting to locate seating for up to 75 people and two trellises. One would be located above the mobile canteen and the other would be above a portion of the seating.

If applications for mobile canteens do not meet the requirements of Section 5.11 in the Zoning & Development By-law, staff would prefer to deal with them as a temporary use variance; however, the complexity of this application lends itself to be better handled as a site specific exemption. The applicant will be undertaking a significant initial cost to begin this operation and they need some certainty that they are able to obtain annual approval and be able to sell alcohol from the structure. Operating this business for a one year period only or doing so for multiple years without the ability to sell liquor does not make the project viable due to the economics. In light of the foregoing, the applicant is requesting more permanent approval from Council through a site specific exemption to ensure that the business model is possible, not only this year, but into the future as well.

Notwithstanding the significant amount of requests included in the site specific exemption, staff feels that a public meeting of Council should be held to discuss the merits of this application with adjacent business owners and residents.

Mobile canteens play an important role in the foodservice industry. They can deliver restaurant quality food and provide quick food service. These structures are being located throughout the country and have shown to be popular and can provide another food option late at night. However, the concept is to provide food to under-utilized and under-served areas and not compete with established foodservice establishments. These structures operate using lower overhead costs due to their temporary nature while traditional restaurants pay significant property taxes.

In the past, Restaurant Canada provided staff with some information specifically related to food trucks and indicated that Restaurant Canada supports the expansion of food truck licensing with the following conditions:

1. *Food trucks must meet and follow the same regulatory requirements as restaurants including food safety, signage, solid waste separation, waste water disposal and the availability of washrooms for staff and the public.*
2. *Food trucks should only be located in under-serviced areas. Food trucks are prohibited from locating directly in front of or adjacent to an existing restaurant and have a buffer zone of at least 100 meters from existing foodservice establishments.*

If this type of application does not have adverse negative effects on adjacent businesses, it could provide a unique atmosphere to the downtown which is not common. Similar examples of the type of atmosphere that the applicant is aiming for would be Sugar Skull Cantina and the Merchantman Next Door.

Below is a quick summary of the subject application’s positive attributes, neutral attributes, and shortcomings:

Positives	Neutral	Shortcomings
<ul style="list-style-type: none"> • This type of unique atmosphere in the downtown is uncommon. • The property is currently vacant so having infill development, even on a temporary basis, is positive. 		<ul style="list-style-type: none"> • Cannot be defined as a mobile canteen because of the sale of alcohol. • The washrooms are located in a container which is not permitted in the By-law. • A 6.5 ft fence is not permitted in the front yard of any downtown property.

- The mobile canteen exceed the maximum front yard setback for the DC Zone.
- The concept is not serving an underserviced-area.

CONCLUSION:

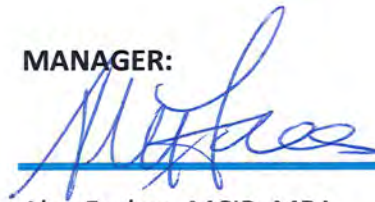
The Planning & Heritage Department recommends that the site specific exemption application be approved to proceed to public consultation to obtain feedback from the adjacent property owners.

PRESENTER:



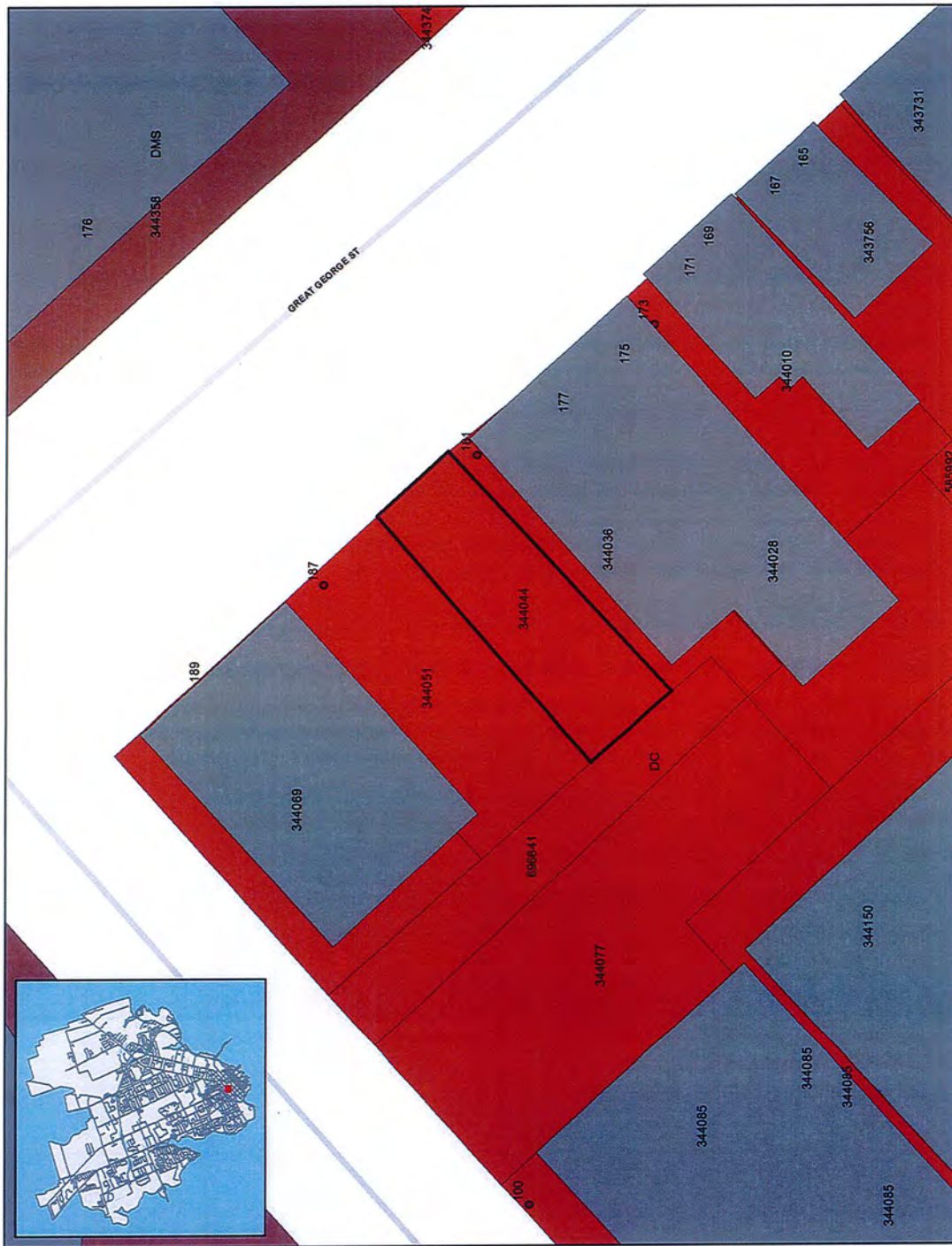
Greg Morrison, MCIP
Planner II

MANAGER:



Alex Forbes, MCIP, MBA
Manager of Planning & Heritage

Attachment A



Attachment A: GIS Map
File: PLAN-2019-4-March - **bct**
183 Great George Street (PID #344044)
Owner: 2950243 Canada Inc.
Applicant: Michael Wasnidje



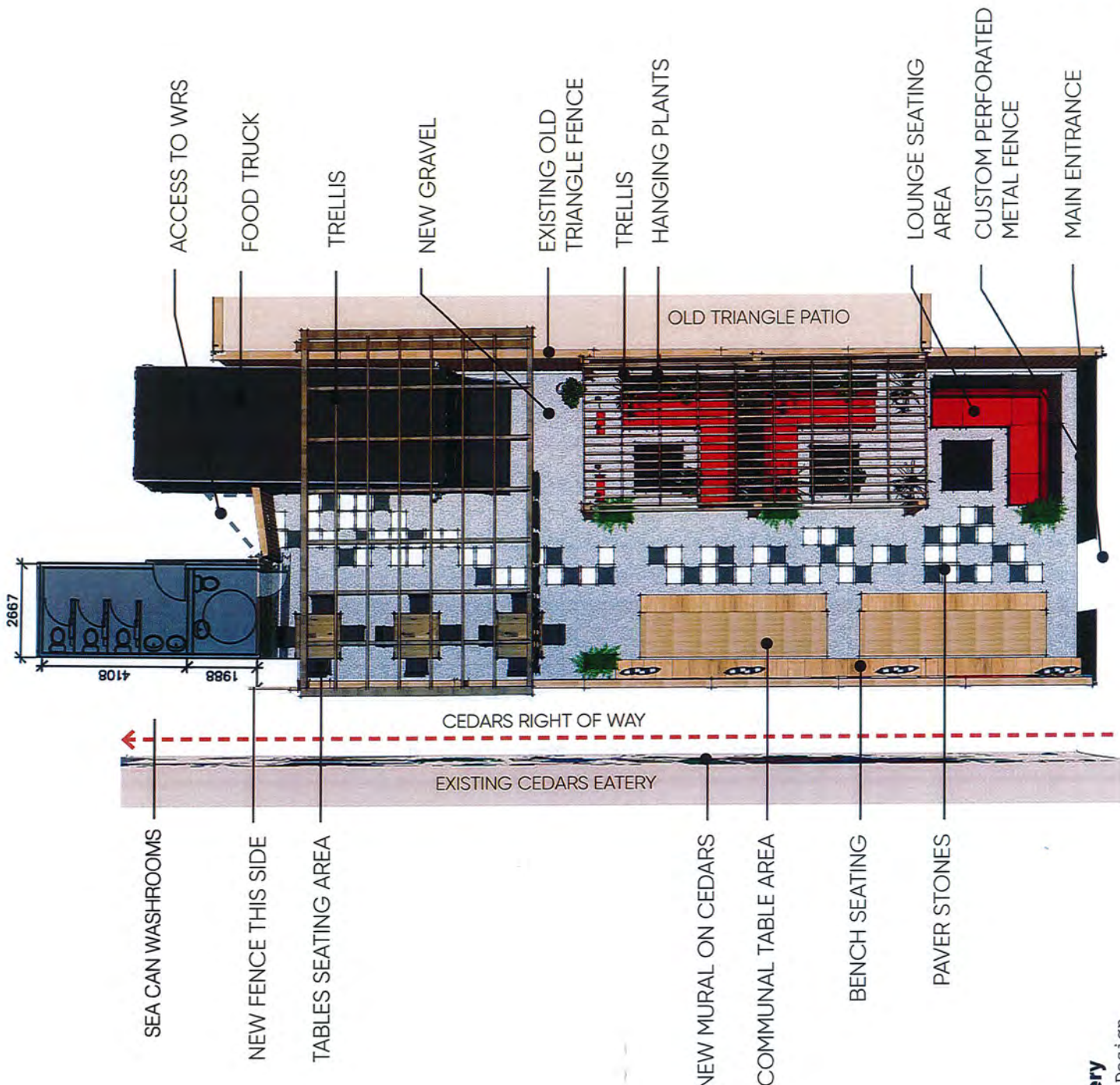
Attachment B

Building Plans Attached:

1. Site Plan
2. Birds Eye Rendering
3. Interior View Rendering
4. Interior View Rendering
5. Entering the Space Rendering
6. Existing Mobile Canteen

Attachment B: Building Plans
File: PLAN-2019-4-March -**6C7**
183 Great George Street (PID #344044)
Owner: 2950243 Canada Inc.
Applicant: Michael Wasnidge



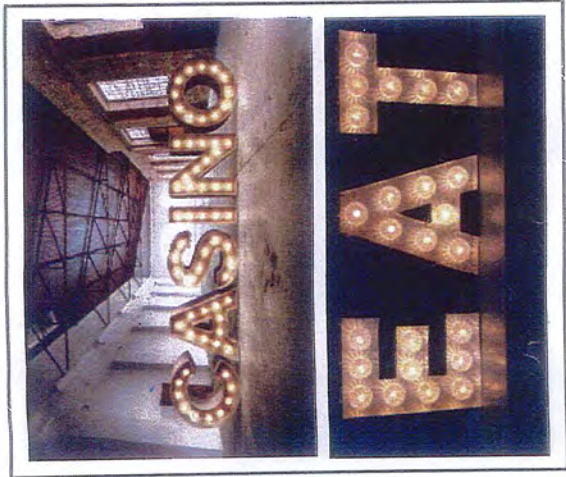




Birds Eye View

NINE
YARDS

Nimrods Eatery
Preliminary Design

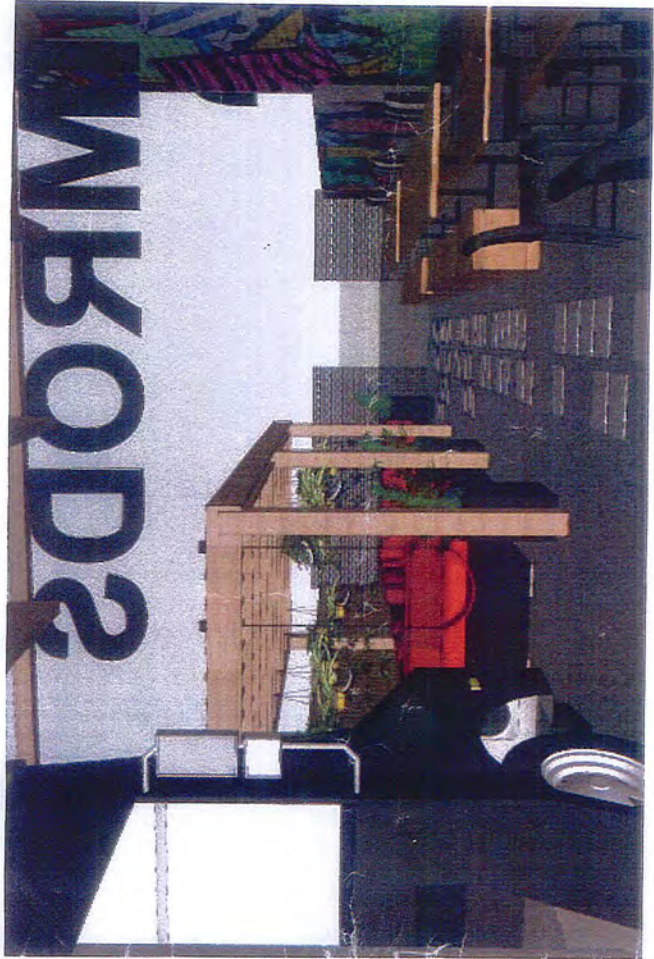


SIGNAGE INSPIRATION



INTERIOR VIEW

**NINE
YARDS**



INTERIOR VIEWS

NIMRODS
V.A.

Nimrods Eatery
Preliminary Design




ENTERING THE SPACE

**NINE
YARDS**

Nimrods Eatery
Preliminary Design



TITLE: ZONING & DEVELOPMENT BY-LAW AMENDMENTS FILE: PLAN-2019-4-MARCH- 6C-8		
MEETING DATE: March 4, 2019		
DEPARTMENT: Planning & Heritage	ATTACHMENTS:	

RECOMMENDATION:

The Planning & Heritage Department encourages Planning Board to recommend to Council that the request to amend the following sections of the Zoning & Development By-law definitions/regulations pertaining to Housing Transitional Facility, site regulations for Lodging Houses, Group Homes, site Landscaping requirements, Undersized Lot regulations and General Housekeeping amendments, be approved to proceed to public consultation:

Section 1.7.1 is amended as follows:

This by-law shall come into force effective the date of the Minister's approval with the exception of Section 5.6.2 and the definition for the Secondary and Garden Suite Registry (Appendix A of this By-law) shall come into force upon adoption of a By-law to create this Registry.

Section 1.4.3 is amended as follows:

The reference to Appendix "D" be changed to Appendix "G"

Section 2.2 is amended as follows:

To replace the text "appointed by Mayor" with "appointed by Council"

Section 2.2.7 be removed.

Section 5.6.2 is amended as follows:

The Secondary Suite shall be approved pursuant to the Charlottetown Secondary and Garden Suite Registry By-law.

Section 5.7.3 is added as follows:

The Garden Suite shall be approved pursuant to the Charlottetown Secondary and Garden Suite Registry By-law.

Section 5.18 is added as follows:

ENVIRONMENTAL IMPACT ASSESSMENT

Any development that may:

- i) cause the emission or discharge of any contaminant into the environment;
- ii) have an effect on any unique, rare or endangered feature of the environment;
- iii) have a significant effect on the environment or necessitate further development which is likely to have a significant effect on the environment; or
- iv) cause public concern because of its potential effect on the environment

Shall provide written confirmation from either the Federal or Provincial Government agency or both having jurisdiction that an Environmental Impact Assessment was completed (or not required) to that agency's satisfaction prior to a permit being issued for said development.

Section 6.2. is amended as follows:

Notwithstanding any other requirements of this By-law:

no Person who owns a Lot held in separate Ownership from adjoining parcels on the effective date of this By-law, having less than the minimum frontage or area required by this By-law, shall be deprived of the ability to make reasonable Use of said Lot in accordance with the zone in which it is located;

With all corresponding sections renumbered.

Section 6.5 is amended as follows:

A minimum of ten percent (10%) of the Lot Area on which a Building or Structure is Erected shall be used for no other purpose than Landscaped Area.

Where the minimum ten percent (10%) Landscaped Area cannot be provided and the proposed Development meets the minimum Setback regulations within the Waterfront Zone, an outdoor Amenity Area and/or Green Roof may be provided as an alternative.

Where an existing parking area is located in front of any building, a 2.0 meter (6.6

ft.) landscaped buffer shall be provided between the Parking area and the Front Lot Line.

In all Zones with the exception of the R-1L, R-1S, R-1N, R-2, R-2S and the A Zones, in the minimum Front Yard Setback, a strip of land of not less than 3.7 m (12 ft) in width shall be provided along a Lot Line(s) which abut a Street Line and shall:

- a. Comprise a portion of the required ten percent (10%) Landscaped Area and be used for no other purpose thereof;
- b. This provision shall not prevent the provision of an access driveway across the strip of land;
- c. A minimum of one tree per 10m of site frontage shall be provided;
- d. Required landscaping in the form of trees shall be a minimum of 1.5 meters in height with a caliper of at least 45 mm at the time of planting and shall be salt tolerant;
- e. Tree species and planting requirements shall be in accordance with Appendix I: Landscape Standards & Specifications;
- f. A variety of sizes and species of both deciduous and coniferous plants should be provided to provide year-round interest, colour and aesthetic appeal;
- g. All private landscaped areas, including shrub and tree plantings shall be completed in accordance with the approved site plan and maintained to a standard as defined at the time of the building permit;
- h. Where there is any outstanding landscaping work that has not been completed as per the approved plans of a development, the Development Deposit shall be forfeited and directed to a fund for public landscaping.

Where there are site constraints regarding the planting of trees a landscaping alternative shall be provided in the form of planting beds, ornamental grasses, hard/soft landscaping or a combination thereof.

The removal or alteration of any tree located partially or fully on public property shall be in accordance with the City of Charlottetown Tree Protection By-law.

Section(s) 15.4, 16.4, 21.4 are amended and added as follows:

REGULATIONS FOR LODGING HOUSES AND GROUP HOMES

	Interior Lot	Corner Lot
1 Lot Area (Minimum)	325 sq. m (3,498.3 sq. ft)	395 sq. m (4,251.9 sq. ft)
2 Lot Frontage (Minimum)	10.6 m (34.8 ft)	15 m (49.2 ft)
3 Front Yard (Minimum)	6.0 m (19.7 ft)	6.0 m (19.7 ft)
4 Rear Yard (Minimum)	6.0 m (19.7 ft)	6.0 m (19.7 ft)
5 Side Yard (Minimum)	1.5 m (5 ft)	1.83 m (6 ft)
6 Flankage Yard (Minimum)		6.0 m (19.7 ft)
7 Height (Maximum)	12.0 m (39.4 ft)	12.0 m (39.4 ft)

The number of rooms is determined by the following:

- a. for the first 325 sq. m (3,498.3 sq. ft.) for an interior lot and 395 sq. m (4,251.7 sq. ft.) for an corner lot of Lot Area, four (4) bedrooms are permitted;
- b. for every additional bedroom over four (4) bedrooms, the Lot must be increased by 90 sq. m (968.7 sq. ft.).

Section 21 is amended as follows:

Insert Transitional Housing Facility under Permitted Uses as subsection 21.1.21; and Remove "NON-RESIDENTIAL" from section 21.2 REGULATIONS FOR PERMITTED NON-RESIDENTIAL USES

Section 36.1.2 is amended as follows:

Adding the term "Asphalt, Aggregate, Concrete Plant" under Permitted Uses.

Appendix A: Definitions are amended and added as follows:

Add definitions for:

Asphalt, Aggregate, Concrete Plant means a use where the production of asphalt, aggregate or concrete products take place and may include the stockpiling and storage and sale of finished products manufactured on the premises.

Transitional Housing Facility means a facility for the temporary placement of people until they can be placed in a more permanent residence and/or temporary placement of people to be reestablished into society after receiving supervised care/rehabilitation at a previous facility but does not include a Group Home, Lodging House, Nursing Home, Hotel, Motel or a Hostel; and

Amend the definitions of:

Registry of Approved Secondary Suites to Secondary and Garden Suites Registry means a publically accessible registry or list of Secondary and Garden Suites which have been legally approved through the Building and Development Permit process;

Land Use Buffer means a portion of any Lot or parcel of land that is set aside to serve as a visual and spatial separation through the use of a landscaped berm, trees or a man-made feature such as a wall, fence, or walkway between a specified land use that is carried out on the Lot and a different land use that is carried out on the adjacent Lot;

Landscaped Area means a portion of a Lot which is not used for Buildings or Structures, Parking Spaces or a driveway, and which shall contain a combination of trees, shrubs, flowers, grasses or other horticultural elements, decorative stonework, pavers, screening or elements, all of which are designed to enhance the visual amenity of a property or to provide an amenity for common use by the occupants of a Building.

APPENDIX I: LANDSCAPE STANDARDS & SPECIFICATIONS is added as follows:

New planting sites for trees must meet the following criteria:

On major arterial streets planting sites will be setback the recommended distance of 4m from the curb. When this cannot be achieved planting sites may be added up to the minimum setback of 2m on major arterial streets and 1.5m on minor arterial streets.

Large statures trees cannot be placed underneath existing utility transmission lines.

Plantings should not impede sight lines or create a visibility hazard.

Plantings should be near the City property line. If room allows, trees can be planted on public property but must follow the setbacks outlined below.

Tree Sizing Requirements

Caliper range: 50-75mm

Root ball size: 70-90cm

Setback for trees:

Streets, lanes and sidewalks – 1m

Fire hydrants - 3m

Electrical boxes on ground – 2m

Sewer/water grates – 2m

Surface utility equipment – 3m

Underground services – 3m

Private approaches – 3m

Light poles and poles with transformer boxes in residential areas - 6-8m

Bus stops - 8-10m from the approach direction

Stop signs - 8-10m

Light poles and poles with transformer boxes on arterial roads - 10m

Signal regulated street intersections - 10-15m

Setback for Shrubs:

Surface utility equipment – 0.5m

Streets, lanes and sidewalks – 1m

These plants have been identified by the PEI Invasive Species Council as invasive and should not be planted on properties within the City of Charlottetown:

Species List:

Norway maple, *Acer platanoides*

Manitoba maple, *Acer negundo*

Sycamore maple, *Acer pseudoplatanus*

Scots (Scotch) pine, *Pinus sylvestris*

Silver (White) poplar, *Populus alba*

European mountain ash, *Sorbus aucuparia*

Sycamore maple, *Acer pseudoplatanus*

White fringe tree, *Chionanthus virginicus*, is also a host to emerald ash borer (EAB). Avoid planting to help combat EAB.

Glossy buckthorn, *Frangula alnus*, *Rhamnus frangula*

Common buckthorn, *Rhamnus cathartica*

Blackthorn, *Prunus spinosa*

Scotch broom, *Cytisus scoparius*, *Sarothamnus scoparius*

Salt cedar (Tamarisk), *Tamarix spp.*

Oriental bittersweet, *Celastrus orbiculatus*

Virginia creeper, *Parthenocissus quinquefolia*, *Parthenocissus vitacea*

Multiflora rose, *Rosa multiflora*

Species of Note

Ribes spp. (currents and gooseberries) can be the secondary host for white pine blister rust which is a devastating disease for white pine trees.

Berberis spp. (barberry) can be an alternate host for stem rust of wheat.

American elms, *Ulmus americana*, are susceptible to Dutch elm disease (DED). Cultivars and hybrids have been developed that are resistant to DED and are good alternatives to native elm trees.

All true ash trees are susceptible to emerald ash borer (EAB). There are two ash species native to Prince Edward Island – white ash, *Fraxinus americana* and black ash, *Fraxinus nigra*. Choose

alternate species to plant. If planting native ash trees, also plant a variety of other species to increase biodiversity.

BACKGROUND / ANALYSIS:

The City of Charlottetown Planning & Heritage Department had recently hired Dv8 Consulting to develop a new Zoning & Development By-law which was implemented by the City on October 1, 2018. Zoning & Development By-laws in their nature are fluid documents with amendments required on a frequent basis in order to respond to the Departmental requirements. Since the adoption of the Zoning & Development By-law on October 1, 2018 it has been determined that some sections were removed relating to regulations pertaining to undersized lots, landscaping requirements for major developments and siting requirements for Lodging and Group Homes. The proposed amendments helps to further clarify how to regulate these uses when they come up for review. Additional amendments consist of general housekeeping items that involve corrections to text and Bylaw references.

Housekeeping Amendments

The purpose of the housekeeping amendments is to make corrections to references and update previous regulations that have been altered or changed. Some changes relate to references for the appointment or recommendation of committees residing with Council as per the recent changes to the Municipal Government Act (MGA). Other references to the Secondary Suite Registry relate to the inclusion of Garden Suites. The other housekeeping amendments are to recognize as-of-right development for undersized lot(s) in the City and include lot siting regulations for both Lodging Houses and Group Homes since these regulations were removed from the last major By-law amendment.

New Permitted Uses and Regulations Amendments

Recently, the department has received either inquiries or applications for two different land uses that are not specifically defined in the Zoning & Development; Asphalt Plant and Transitional Housing Facility. The analysis for each use is as follows:

Asphalt, Aggregate, Concrete Plant is proposed as both a definition and permitted use in the Heavy Industrial (M-2) Zone. Historically, the City has approved such a use through the Discretionary use

approval process that has been removed from the existing By-law. Due to substantial land use impacts this use can have on adjacent properties (i.e. noise, odour, dust), staff is bringing this type of land use forward to Council for direction to determine if it should be included as a permitted use in the Heavy Industrial (M-2) Zone. If so, then staff is also bringing forward Environmental Impact Assessment requirements for land uses that could potentially present a nuisance or could have a negative environmental impact. These requirements are based on those regulations set out in the provincial *Environmental Protection Act* R.S.P.E.I. 1988, Cap. E-9 for developments that may cause the emission or discharge of contaminants that would have a significant effect on the environment. The purpose of this requirement is to ensure that the proposed development operations were analyzed under an Environmental Impact Assessment to the satisfaction of either the Federal or Provincial agency having jurisdiction. This is to ensure that the proposed development is operating under all applicable government environmental regulations and will not have a detrimental impact on adjacent properties.

Transitional Housing Facility is proposed as both a definition and permitted use in the Institutional (I) Zone. Recently, the Provincial government has received funding to construct dwelling units to temporarily house vulnerable segments of the population. This land use is unique in that it provides rotating accommodation for people from a state of homelessness or who resided in a facility that received supervised care and will transition to independent living. Given the nature of transitional housing, staff feels that this type of use would be best accommodated in the Institutional Zone where other community based residential uses are permitted.

Landscaping Requirement Amendments

Staff is proposing Landscaping requirements for multi-residential, commercial, business industrial and institutional type developments. This is to bolster and support community beautification through the provision of trees, ornamental planting beds and hard landscaping (decorative stonework) for larger more intensive developments. These requirements also support other City initiatives and plans such as the Integrated Sustainability Plan, Parks Master Plan and enhance the existing urban forest/tree canopy. Some benefits from landscaping include the following:

- i) Reduction of air pollution and provide oxygen;
- ii) Reduction of the urban heat island effect and reduce the temperature of cities that assist with the effects of climate change;
- iii) Improve water filtration, store water and help preserve biodiversity;
- iv) Increase property values;

- v) Create attractive business/commercial districts; and
- vi) Improve a visitor's perception of the community;

The landscaping regulations seek to enhance existing landscaping throughout the City, provide standardized siting requirements for landscaping and restrict the planting of invasive species. There is also a landscaping deposit requirement where developers submit a financial security to the City that would be returned if the required landscaping work is completed as per the final approved site plan. If the developer does not install the required landscaping they will forfeit their deposit and the money will go into a City tree fund which will be used for the planting of trees in public space. The remainder of the proposed landscaped amendments consist of providing additional landscaping within land use buffer areas for enhanced mitigation and visual appeal.

LEGISLATIVE REQUIREMENTS:

Notification

If the proposed amendment to the Zoning & Development By-law is approved to proceed to the public consultation phase, the Planning & Heritage Department shall notify the public of said public meeting in accordance with Section 3.10.4.c of the Zoning & Development By-law.

CONCLUSION:

The Planning & Heritage Department recommends that the proposed Zoning & Development By-law amendments, be approved to proceed to public consultation.

PRESENTER:




Robert Zilke, MCIP
Planner II

MANAGER:



Alex Forbes, MCIP, MBA
Manager of Planning & Heritage

TITLE: CITY OF CHARLOTTETOWN SECONDARY AND GARDEN SUITE REGISTRATION BY-LAW FILE: PLAN-2019-4-MARCH- 6C-9		
MEETING DATE: March 4, 2019		Page 1 of 2
DEPARTMENT: Planning & Heritage	ATTACHMENTS: A) City of Charlottetown Secondary and Garden Suite Registration By-law	

RECOMMENDATION:

The Planning & Heritage Department encourages Planning Board to recommend to Council that the proposed Secondary and Garden Suite Registration By-law, be approved to proceed to public consultation.

BACKGROUND:

In the fall of 2018, Council adopted amendments to the Zoning & Development By-law that would permit secondary suites in single-detached dwellings. As part of those amendments Council directed staff to develop and implement a Secondary Suite Registry (The Registry) that would become a public database of legally approved secondary suites in the City of Charlottetown.

Since that time staff is also proposing to include garden suites on the Registry, since they operate and are similar in nature from a land use perspective – providing a secondary residential use on a property. The Registry will also inform and support a future strategy to track and implement regulations relating to short-term rentals.

ANALYSIS:

The Registry is intended to give owners or principle residents a “stamp of approval” that can be easily verified by tenants and prospective purchasers of properties with suites. Once the suite is approved, the onus of ensuring the basic conditions of approval are in place and maintained at all times during occupancy will be on the owner or principle resident. It also makes it easier for an enforcement officer to identify potentially illegal suites. The suites can be identified with a unique civic address (#a = main dwelling; #b = secondary or garden suite) thereby improving emergency response services to the property, inform additional services such as refuse bins to the units and provides confirmation to the Province that property owners are paying their required taxes.

The Registry is considered as a necessary part of a strategy to legalize existing accessory dwelling units that may or may not require upgrades to meet the By-law and Building/Fire Code requirements. New suites that go through the permit process are expected to be added to the Registry systematically as those permits are approved. A transition or grace period of two (2) years will be provided to allow property owners with illegal suites to make an application to legalize and register undocumented suites without repercussions. To incentivize owners to register existing in-law suites or undocumented suites, the department will waive certain registration fees (up to January 1st 2021) for the following situations:

- i) In-law suites or non-conforming suites approved since July 10, 2011 (adoption of the 2010 National Building Code) will be exempted from the registration fee; and
- ii) In-law suites or non-conforming suites prior to July 10, 2011 will be exempted from the registration fee and the inspection fee will be decreased by 50%.

After the end of the grace period any suite that is undocumented would be subject to full registration fees and an inspection. The intention is to have both existing and new suites be registered with the City and made available to the general public.

LEGISLATIVE REQUIREMENTS:

Notification

If the proposed amendment to the Zoning & Development By-law is approved to proceed to the public consultation phase, the Planning & Heritage Department shall notify the public of said public meeting in accordance with Section 3.10.4.c of the Zoning & Development By-law.

CONCLUSION:

The Planning & Heritage Department recommends that the proposed Secondary and Garden Suite Registration By-law, be approved to proceed to public consultation.

PRESENTER:



Robert Zilke, MCIP
Planner II

MANAGER:



Alex Forbes, MCIP, MBA
Manager of Planning & Heritage

BEING A BY-LAW OF THE CITY OF CHARLOTTETOWN WITH RESPECT TO THE REGISTRATION OF SECONDARY AND GARDEN SUITES PURSUANT TO THE PROVISIONS OF THE *MUNICIPAL GOVERNMENT ACT* R.S.P.E.I. 1988, CAP. M-12.1.

BE IT ENACTED BY THE COUNCIL OF THE CITY OF CHARLOTTETOWN AS FOLLOWS:

1 TITLE AND AUTHORITY

- 1.1.1 This by-law may be cited as the *City of Charlottetown Secondary and Garden Suites Registration By-law (By-law PH-SS.1-000)* and may also be referred to as the 'Secondary Suites By-law' or 'the by-law' within the context of this document.
- 1.1.2 This by-law is enacted under the authority of the *Municipal Government Act (MGA)* R.S.P.E.I. 1988, Cap. M-12.1.

2 SCOPE

- 2.1.1 This by-law applies to all lands, buildings, structures and Developments within the City on which a Secondary or Garden Suite has been established.
- 2.1.2 Every person who establishes, operates or permits the occupancy of a legally existing or new Secondary or Garden Suite shall register the Secondary or Garden Suite in accordance with this by-law.
- 2.1.3 This by-law prescribes the:
- a. Provisions for the registration of a Secondary or Garden Suite; and
 - b. Provisions for revoking the registration of a Secondary or Garden Suite.
- 2.1.4 Nothing in this by-law shall relieve any person from the obligation to comply with the requirements of any other by-law of the City in force from time to time, or the obligation to obtain any license, permit, authority, or approval required under any by-law of the City, or statute or regulation of the Province of Prince Edward Island or the Government of Canada.

3 ADMINISTRATION

- 3.1.1 Council shall appoint a Registrar who shall administer this by-law.
- 3.1.2 The Registrar has the authority to register, to refuse to register or to revoke a registration of a Secondary or Garden Suite.
- 3.1.3 The Registrar may delegate any responsibilities conferred to the Registrar to a designee according to this by-law.

4 EXISTING DWELLING UNITS

4.1 IN-LAW SUITES

- 4.1.1 An In-law Suite which is lawfully in existence on the effective date of this by-law and which may not conform to the regulations pertaining to the Development, use, or occupancy of a Secondary Suite, may continue to exist.
- 4.1.2 All conditions as stated on the Building and/or Development Permit, and in the In-law Suite Agreement shall remain in effect and the In-law Suite shall be removed from the Dwelling when the named resident of the In-law Suite ceases to live there.
- 4.1.3 In-law Suites will not be included in the Registry of Secondary Suites unless an application is made and approved to register the In-law Suite as a Secondary Suite.

4.2 LEGAL NON-CONFORMING UNITS IN A SINGLE-DETACHED DWELLING

- 4.2.1 A subordinate Dwelling unit which is lawfully in existence on the effective date of this by-law and which may not conform to the regulations pertaining to the Development, use or occupancy of a Secondary Suite, may continue to exist.
- 4.2.2 Legal non-conforming units will not be included in the City's Registry of Secondary Suites unless an application is made and approved to register the unit as a Secondary Suite.

5 REGISTRATION APPLICATION

5.1 THE APPLICANT

- 5.1.1 An application to register a Secondary or Garden Suite shall be made by the Owner of the property using the appropriate form provided by the Registrar.
- 5.1.2 If the Owner is not the Principle Resident of the of the Secondary Suite:
 - a. Both the Owner and Principle Resident shall be required to authorize the application to register the Secondary or Garden Suite; and
 - b. The Principle Resident shall be responsible for overseeing the use and occupancy of the Secondary or Garden Suite and shall be identified as the primary contact on the property in relation to the Registry.

5.2 REGISTRATION OF EXISTING DWELLING UNITS

- 5.2.1 An In-law Suite in a Single-Detached Dwelling, for which a Building and/or Development Permit and Occupancy Permit has been issued since July 10 2011, may be registered as a Secondary Suite based on the previously approved Building and/or Development Permit and Occupancy Permit.

- 5.2.2 An In-law Suite or legal non-conforming unit, which was lawfully in existence prior to July 10 2011, may be registered as a Secondary Suite through the same application process as described for a new Secondary Suite.
- 5.2.3 An application to register an In-law Suite or Legal Non-Conforming Unit for which a Building and/or Development Permit and Occupancy Permit has been issued since July 10 2011, shall be submitted with the following information:
- a. A completed Secondary Suite Registration Form;
 - b. A copy of the previously approved Building and/or Development Permit and Occupancy Permit verifying the date of the permit approval for the In-law Suite or Legal Non-conforming Unit;
 - c. Payment of all required fees.
- 5.2.4 Where copies of the previously approved Building and/or Development Permit and Occupancy Permit for the In-law Suite or legal non-conforming unit are not available, the Owner may make application to the City of Charlottetown Planning and Heritage Department for a records search and additional fee shall apply accordingly.

5.3 NEW SECONDARY OR GARDEN SUITES

- 5.3.1 An application to register a new Secondary or Garden Suite shall be made at the same time as the Building and/or Development Permit application and shall be submitted with the following:
- a. A completed Secondary Suite Registration Form;
 - b. Payment of all required fees.
- 5.3.2 The new Secondary or Garden Suite will be registered upon approval of the Building and/or Development Permit and issuance of the Occupancy Permit.

5.4 APPLICATION REVIEW

- 5.4.1 The Registrar or their designate shall receive, process and review all applications to register a Secondary or Garden Suite.
- 5.4.2 The Registrar or their designate shall maintain a record showing all applications received, pending, approved, and registrations renewed or revoked, in order to create and maintain the Registry.
- 5.4.3 The Registrar shall refuse to register a Secondary or Garden Suite if:
- a. The application to register an Secondary Suite is not compliant with the requirements of this by-law; or
 - b. An application form or any other document provided by the Owner contains a false statement or false information.
- 5.4.4 The Owner bears the onus of proving that a Secondary or Garden Suite meets the requirements of this by-law to the Registrar's satisfaction.

- 5.4.5 The Registrar may deem an application abandoned if all requirements of the registration pursuant to this by-law have not been fulfilled to the Registrar's satisfaction three (3) months from the date that the Registrar receives the application.
- 5.4.6 An Owner may re-apply for registration when an application has been deemed abandoned.
- 5.4.7 All notices with regards to the status of the application and revoking of a registration of a Secondary or Garden Suite shall be sent to both the Owner and the Principle Resident if they are not the same person, as identified on the application form.

6 REVOKING A REGISTRATION

- 6.1.1 The Owner bears the onus of providing updated information as necessary to maintain the registration of the Secondary Suite in good standings to the Registrar's satisfaction.
- 6.1.2 The Registrar shall revoke the registration of a Secondary or Garden Suite if:
 - a. A Secondary or Garden Suite is found to be in violation of this or any other by-law;
 - b. An Owner fails to renew the registration of a Secondary Suite after taking ownership of the property;
 - c. An Owner fails to renew the registration when there is a change in the Principle Resident, if they are not the same person;
 - d. If the Secondary or Garden Suite is being used as a short-term rental; or
 - e. The information contained in the application or any other document provided by the Owner is found to contain a false statement, false information or the information previously provided is no longer accurate.
- 6.1.3 If the registration of a Secondary or Garden Suite is revoked, the Registrar may order that the Secondary or Garden Suite shall not be occupied as a secondary suite, in accordance with the *Municipal Government Act (MGA – Part 9 Section 238)* until the renewal application is approved.

7 REGISTRATION RENEWAL

- 7.1.1 Once a Secondary or Garden Suite has been registered according to this by-law, the Suite shall remain registered unless:
 - a. The registration is revoked;
 - b. The Property Ownership changes; or
 - c. The Principle Resident changes.
- 7.1.2 If the registration of a Secondary Suite has been revoked due to non-compliance with regards to a violation in the *Zoning and Development By-law* and/or *Building Code By-law*, the registration renewal shall also require a copy of a new Occupancy Permit to confirm the violation has been addressed prior to the renewal being approved.

8 FEES

8.1 REGISTRATION, INSPECTION AND RENEWAL FEES

8.1.1 The City shall collect registration fees for the administration of the application process and ongoing maintenance and upkeep of the Registry as follows:

a.	Registration of an existing In-law Suite or Legal Non-conforming Unit approved since July 10, 2011	\$100 (waived until Dec 31, 2020)
b.	Registration of a new Secondary Suite	\$ 100 (does not include fees pursuant to the <i>Zoning and Development By-law Fee Schedule</i>)
c.	Building and/or Development Permit and Residential Inspection	As per <i>Zoning and Development By-law Fee Schedule</i>
d.	Registration Renewal	\$50
e.	Re-inspection of Secondary Suite	\$200 (\$100 until Dec 31, 2020)

9 BY-LAW ENFORCEMENT, PENALTIES AND APPEAL

9.1.1 By-law enforcement may be undertaken by the City in accordance with the *Municipal Government Act. (MGA – Part 9)*

9.1.2 A person who, being the Owner or occupant of any land, Building, or Structure to which this by-law applies:

- a. Fails to register a Secondary or Garden Suite;
- b. Permits an unregistered Secondary or Garden Suite to be occupied; or
- c. Alters a Secondary or Garden Suite in any way that violates this or any other by-law without first seeking the necessary permit approvals and a registration renewal;
- d. Uses the Secondary or Garden Suite as a short-term rental.

is guilty of an offence of this by-law.

Attachment A - 6
City of Charlottetown Secondary Suites Registration By-law

- 9.1.3 A person who is guilty of an offence of this by-law is liable on summary conviction to:
- a. a fine in an amount
 - i. not less than \$200 and not more than \$10000, and
 - ii. an additional fine in an amount not less than \$500 and not more than \$2,500 for each day or part of a day on which the offence continues after the first day;
 - b. imprisonment for up to one year; or
 - c. both a fine in accordance with clause (a) and imprisonment in accordance with clause (b).
(MGA – Section 234)
- 9.1.4 When an offence under this by-law is committed or continued for more than one (1) day, the person who committed the offence is liable to be convicted for a separate offence for each day on which the offence is committed or continued. *(MGA – Section 234 (3))*
- 9.1.5 A person who is dissatisfied with the administration or an order issued by an employee of the City under this by-law may appeal the decision or order to council. *(MGA – Section 239)*
- 9.1.6 A person who is appealing a decision to council made under this by-law must submit a written statement outlining the reason for appeal. *(MGA – Section 239 (2))*

10 DEFINITIONS AND INTERPRETATION

10.1.1 For the purposes of this by-law:

- a. **Building and/or Development Permit** means an official document giving authorization to proceed with a proposed action as regulated under the Zoning and Development By-law (2018-11) and/or Building Code By-law.
- b. **Building Code By-law** means the *City of Charlottetown Building Code By-law (2018-##)*.
- c. **City** means the City of Charlottetown;
- d. **Council** means the duly elected Mayor and Councilors of the City.
- e. **Development** means a change in the use of land, building, structure or sign for any purpose, and shall include the carrying out of any building, engineering, construction, or other operation in, on, over, or under land and water; or the construction, addition, erection or alteration of any building, structure or sign.
- f. **Dwelling** means a building or portion thereof used for residential occupancy.
- g. **Garden Suite** means a self-contained Dwelling Unit that is located in the Rear Yard of a Single-Detached Dwelling.
- h. **In-law Suite** means a legal non-conforming use, similar to a Secondary Suite but with specific regulations pertaining to who is permitted to live within the subordinate Dwelling Unit and a requirement that it is to be removed from the Single Detached Dwelling when the named individual no longer lives there.
- i. **MGA** means the *Municipal Government Act R.S.P.E.I. 1988, Cap. M-12.1* of the Province of Prince Edward Island.
- j. **Occupancy Permit** means an Occupancy Permit as required and/or obtained pursuant to the *City's Zoning and Development By-law*.
- k. **Owner** means a person who legally owns a lot and is a registered land Owner; or an executor, administrator, trustee, agent, or other person managing the subject lot or building for the registered land Owner.
- l. **Principle Resident** means the individual who resides within a Dwelling and who lives, makes their home and conducts their daily affairs within this Dwelling, including, without limitation, paying bills and receiving mail, and is generally the Dwelling unit with the residential address used on documentation related to billing, identification, taxation and insurance purposes, including, without limitation, income tax returns, Medical Services Plan documentation, driver's licenses, personal identification, vehicle registration and utility bills.
- m. **Registrar** means the person appointed by Council to administer this by-law and unless otherwise appointed shall be the City's Manager of Planning and Heritage;

Attachment A - 8
City of Charlottetown Secondary Suites Registration By-law

- n. **Registry, or Registry of Secondary Suites** means a publically accessible Registry or list of Secondary Suites which have been reviewed by the City and approved based on conformance with the Zoning and Development and Building Code By-law regulations as well as other best practices for supporting safe and affordable housing.
 - o. **Secondary Suite** means a subordinate Dwelling unit located within a Single-Detached Dwelling.
 - p. **Short-term Rental** means the rental of a dwelling unit or a portion of a dwelling unit (including a Secondary Suite within a dwelling) for a period of less than 30 consecutive days. **Single-Detached Dwelling** means a building which is a completely detached Dwelling unit, and whose main walls have a minimum width of not less than 5.5 m (18 ft).
 - q. **Zoning and Development By-law** means the *City of Charlottetown Zoning and Development By-law (2018-11)*.
- 10.1.2 In this by-law words used in the present tense include the future; words in the singular number include the plural and words in the plural number include the singular, all as the context allows; and the word 'shall' is mandatory and is not permissive.