



**PLANNING BOARD AGENDA
NOTICE OF MEETING**

*Tuesday, September 03, 2019 at 4:30 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 Tuesday, September 03, 2019
- 4. Adoption of Minutes** - Minutes of Planning Board Meeting on Friday, August 23, 2019
- 5. Business arising from Minutes**
- 6. Reports:**
 - a) Rezoning**
 1. 38 Palmers Lane (PID #275156) Laurel
Request to rezone the property at 38 Palmers Lane from Low Density Residential Zone (R-2) to Medium Density (R-3) and amend the Official Plan Map from Low Density Residential to Medium Density Residential. Public meeting was held on August 27, 2019.
 - b) Variances**
 2. 13 Donwood Drive (PID #278531) Robert
Request to operate a counselling/therapy service with appointment based clients visiting the property. The property owner will be the sole operator of the home occupation and shall operate out of an office in the dwelling.
 3. 53 Upper Hillsborough Street (PID #360719) Robert
Request to reduce the required lot frontage from 22m (72.2 ft) to approximately 17.6m (58 ft) and to reduce the required lot area from 696 sq.m (7,491.7 sq.ft) to approximately 427 sq.m (4597 sq.ft) to establish a duplex in the Low Density Residential (R-2) Zone.
 4. 80 Longworth Ave / 46 Victory Ave (PID #364695) Robert
Request to reduce the required lot frontage from the required 30m (98.4 ft) to approximately 25m (82 ft) in order to permit three (3) residential dwelling units in the Medium Density Residential (R-3) Zone.
 5. 17 Capital Drive (PID #387654) Laurel
Request to increase the maximum residential density from 11 to 12 dwellings units; a request to decrease the left minimum side yard setbacks from 4.5 m (14.8 ft) to 3.0 m (9.8 ft); and a request to decrease the right minimum side yard setbacks from 4.5 m (14.8 ft) to 3.0 m (9.8 ft).



c) Other Business

6. Corner of Royalty Road & Upton Road (PID #388595) *Laurel*
Request for reconsideration to rezone a portion of the vacant property from the Single-Detached Residential (R-1S) Zone to the Low Density Residential (R-2) Zone.

7. Amendments to the Zoning & Development By-law (Bylaw PH-ZD.2) *Robert*
Proposed amendments to formalize standard practices dealing with measurements, restrict the expansion of legal non-conforming uses, require design review for developments that undergo a significant design alteration in the 500 Lot Area, dictate the maximum size of an attached garage, enable Heritage Board to provide a recommendation to Council on the design and placement of signage for Designated Heritage Resources, prohibit Asphalt, Aggregate and Concrete Plants in the West Royalty Business Park and establish Marijuana Production Facility parking requirements.

7. Introduction of New Business

8. Adjournment of Public Session

**PLANNING AND HERITAGE COMMITTEE – PLANNING BOARD MINUTES
TUESDAY, AUGUST 23, 2019, 12:00 P.M.
PARKDALE ROOM, 2nd FLOOR, CITY HALL**

Present: Mayor Philip Brown
Councillor Greg Rivard, Chair
Deputy Mayor Jason Coady, Vice-Chair
Councillor Bob Doiron
Councillor Julie McCabe
Basil Hambly, RM
Bobby Kenny, RM
Kris Fournier, RM
Reg MacInnis, RM

Rosemary Herbert, RM
Shallyn Murray, RM
Laurel Palmer Thompson, PII
Robert Zilke, PII
Ellen Faye Ganga, PH IA/AA

Regrets: Alex Forbes, PHM
Greg Morrison, PII

1. Call to Order

Councillor Rivard called the meeting to order at 12:03 pm.

2. Declaration of Conflicts

Councillor Rivard asked if there are any conflicts. There being none, moved to the approval of the agenda.

3. Approval of Agenda

Moved by, RM and seconded by, RM, that the agenda for Friday, August 23, 2019, be approved.

CARRIED

4. Adoption of Minutes

Moved by, RM, and seconded by, RM, that the minutes of the meeting held on Tuesday, August 06, 2019, be approved.

CARRIED

5. Business arising from Minutes

There was no business arising from minutes.

6. 320 Capital Drive (PID #387365)

This is an application with regards to the traffic study prepared for the development on the corner of Maypoint Road and Capital Drive (PID #387365) to permit a double lane drive-thru for a Tim Horton's restaurant (stacking and queuing spaces). Robert Zilke, Planner II, presented the application. See attached report.

A traffic study was prepared for D.P. Murphy on November 2016 for the proposed hotel, gas station and food outlet/convenience store/carwash. The proposed concept now includes a double lane drive thru for Tim Horton's. Because of the addition of the drive thru and the construction of the roundabout since the traffic study was made, it was determined that additional traffic study

was necessary. Based on traffic consultant's comments and additional comments from Transportation, Energy and Infrastructure, Police and Public Works Department, staff recommends that the traffic study be accepted with the conditions stated in the attached report.

Members of the Planning Board had concerns about the proposed drive thru and the concerns are outlined below:

- Stacking of northbound and southbound traffic along Maypoint Road and the roundabout;
- The bus stops near the Police Station and Beach Grove Road also causes stacking of traffic;
- Southbound traffic turning right to Maypoint Road from the roundabout and then queuing to turn left into the proposed development may cause more traffic congestion, impact the flow of traffic and can cause fender benders or increase the risk of vehicular incidents;
- The existing crosswalk is not a safe location at the moment and may even become more unsafe when the drive thru is permitted due to increase queuing and stacking of vehicles.

Mayor Brown asked where the dedicated right turning lane would be if this would be required in the future. Mr. Zilke responded that it will be along the existing sidewalk situated on the western boundary of the proposed development along Maypoint Road. Since the right lane now encroaches the existing sidewalk, the developer would be required to convey land to maintain the sidewalk in that area. Ms. Thompson also added that the cost to the upgrades in the future should be shouldered by the developer. However, there are two developers for this property in question, Cordova and DP Murphy but the developer who is involved in this drive thru would be DP Murphy only and not Cordova. The question now is who should shoulder the upgrade cost as the property is shared by both DP Murphy & Cordova's developments.

Mayor Brown asked what the traffic study recommendations were and both Ms. Thompson and Mr. Zilke indicated that the traffic study recommends that the proposed access as presented in Appendix A be accepted. Ms. Thompson noted that staff are not experts in providing a traffic study which is why we request for recommendations from a professional engineer. It was also reviewed by Public Works, Police and the Department of Transportation, Infrastructure and Energy as well and they have all provided their inputs. Staff agrees with the recommendation to accept the traffic study.

Councillor Rivard asked if the application can be deferred and then request for a meeting with Mr. Allan Aitken, DP Murphy and Cordova representatives to discuss the concerns. Ms. Thompson added she is hesitant to have this meeting since the original traffic study made in 2016 was accepted and signed off at that time. And the updated traffic study also presented that the proposed drive thru is also acceptable. If this application is deferred, there should be a justifiable reason to defer this application. Ms. Thompson also added that the board has three options: 1) To reject the recommendation; 2) To defer the recommendation and provide a justifiable reason for the deferral; and 3) to accept the recommendation with the stipulated conditions.

Councillor Rivard also asked if a different group/professional can perform a separate traffic study but staff and board members asked who should shoulder the cost for this traffic study.

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

Moved by Mayor Philip Brown and seconded by Reg MacInnis that:

- a) **The request to accept the traffic study prepared for the development on the corner of Maypoint Road and Capital Drive to permit a double drive thru Tim Horton's restaurant (stacking and queuing spaces) as proposed in the traffic study in Appendix "A" Option 3, be deferred until the City has provided a second opinion/traffic study from an independent traffic engineer;**
- b) **The request for the City to hire a traffic engineer to perform an independent review of the submitted traffic study be approved; and**
- c) **To allow Cordova's other building permit applications for the proposed development be approved independently from the application for Tim Horton's drive thru.**

CARRIED

7. New Business

8. Adjournment of Public Session

Moved by Mayor Philip Brown and seconded by Councillor Julie McCabe, that the meeting be adjourned. The meeting was adjourned at 12:48 p.m.

CARRIED

Councillor Greg Rivard, Chair



**Public Meeting of Council
Tuesday, August 27, 2019, 7:00 PM
Georgian Ballroom, Rodd Charlottetown Hotel
75 Kent Street**

Mayor Philip Brown Presiding

Present:

**Deputy Mayor Jason Coady
Councillor Alanna Jankov
Councillor Greg Rivard
Councillor Julie McCabe
Councillor Kevin Ramsay**

**Councillor Terry MacLeod
Councillor Mitchell Tweel
Councillor Mike Duffy
Councillor Robert Doiron**

Also:

**Laurel Palmer Thompson, PII
Ellen Faye Ganga, PH IO/AA**

Robert Stavert, TA

Regrets:

**Councillor Terry Bernard
Alex Forbes, PHM**

**Greg Morrison, PII
Robert Zilke, PII**

1. Call to Order

Mayor Philip Brown called the meeting to order at 7:03 pm.

2. Declarations of Conflict of Interest

There were no declarations of conflict.

3. Approval of Agenda

Mayor Philip Brown opened the meeting, introduced the members of the Council and the purpose of the meeting and turned the meeting over to Councillor Rivard, Chair of Planning Board, who explained the Public Meeting process and then proceeded to introduce the first application.

4. 38 Palmers Lane (PID #275156)

This is a request to rezone the property at 38 Palmers Lane (PID #275156) from Low Density Residential Zone (R-2) to Medium Density (R-3) and amend the Official Plan Map from Low Density Residential to Medium Density Residential. The purpose is to

construct an 18-unit apartment building. Robert Haggis, architect and representative of the developer, presented the application. Mr. Haggis indicated that the proposed development is directly adjacent to R-4 lots and also pointed out the school and Ardowan at both ends of the streets. The proposed 18-unit apartment will consist of eleven (11) 2-bedroom unit and seven (7) 1-bedroom unit apartment. Parking will be located at the back of the building and the access will be through the existing adjacent **apartment buildings. The proposed development's design will have a contemporary design and the height will not be more than 36 feet in height, lower than the maximum allowed height of 49.2 feet for an R-3 Zone.** This property has gone through several rezoning applications in the past and the owner of the property feels that there is a need for more apartment units as we have a need for housing at this time. Mr. Haggis then asked for any questions.

Bill Wicks, property owner and resident located immediately adjacent to the proposed development, spoke in opposition to the application. The lot is zoned R-2, low density residential. Two low-rise, 8-unit apartments adjacent to it, serves as a transition **between the Low Density and St. Peter's Road/Commercial areas. The lot used to have a single family dwelling but has since been vacant.** This is the third attempt by Bevan Brothers to change the zoning of this property. The first attempt was to construct a 12-unit apartment building but was then rejected by Council because it was deemed inconsistent. The second was a request to construct a townhouse development consisting of three 2-unit duplexes and was likewise rejected. Now, they are attempting to rezone the property from Low Density Residential to Medium Density Residential in order to construct a three storey, 18-unit apartment building. This proposal is considerably larger and denser.

The Official Plan does not support this. The Official Plan offers a growth management strategy. New developments are to be harmonious to its surroundings. This proposal is not the case. The Bevans have not supplied the details regarding elevations, etc. and they would also require a variance. They have not applied for a variance. The lot is smaller than the amount of density they are requesting.

Residents are not opposed to any development but are opposed to this proposed rezoning and would just like to require that the developer construct what is appropriate for the lot. This would also mean that homeowners of the neighbourhood should not be seeing the same issues over and over and come back again and again to defend our neighbourhood. It is frustrating to continually raise the same argument to defend our neighborhood against and again. The residents are requesting that this application be rejected as the neighbourhood has experienced a lot. Enough is enough.

Mr. Haggis asked if the scale was appropriate for the neighbours, would residents be willing to support the development. Mr. Wicks responded that they would not support it and would only like to see an R-2 development as to what it is currently zoned.

Mayor Brown asked if the applicants would be required to apply for a variance for 18 units and Mr. Haggis indicated that they could do 17 units as of right without a variance.

Judith Bayliss, resident, **mentioned that Palmer's Lane is a busy street.** There is an Elementary School along that street. Kids do walk around during school days and it is so busy that the City had to put speed bumps to prevent speeding cars who try to cut through Mount Edward Road to St. Peters Road. They would slow down closer to the speed bump but then speed up in between the speed bumps. Ms. Bayliss added that she has an objection to this application as it is an old neighbourhood. It is completely inappropriate for a building of this size. Ms. Bayliss realizes that there is a shortage of housing, and that is not a question. Residents are only asking for appropriate development in this mixed neighbourhood. Ms. Bayliss also commented that there is not enough parking access to this proposed development. This is a request from the hearts of people who live in this area. Please take this application into consideration because the families here can be severely disrupted.

Mr. Haggis responded to the parking access concern and mentioned that the proposed apartment will utilize the existing driveway access of the adjacent apartment so there would not be an additional curb cut. Ms. Bayliss commented that it may not be appropriate to have insufficient access to the property or not have their own access. Ms. Bayliff also feels that this property is too small to fit the development in.

Harold Snow, resident, commented that he thinks that the proposed building is ugly. It is unsightly. It does not fit in the neighbourhood. Mr. Snow has been in that neighbourhood since 1975 and expressed that the existing buildings have had a negative effect on his property. The surface water flows from the parking lot into his yard. They put their snow in his yard and damage his fence. The Bevans have shown no consideration to the neighbourhood. The letter that was received in support of the application also discussed the problems on speeding along that street and this additional development will add to this problem.

Todd Petrie, resident, asked the members of Council what do we want our neighborhoods to look like. The Downtown Area looks good. The new subdivisions now look like a cookie cutter and there are very minimal or no trees at all. Mr. Petrie recognizes that there is a housing crisis but this is not an easy fix. Mr. Petrie asked what do we **want Palmer's Lane to look like.** It is an older street. The Ardgowan is located there and Parks Canada invested in that location to preserve that historic site. The other end is Hillside Motors and apartments. We are really starting to bleed into the **neighbourhood. Mr Bliss's letter said the existing apartments are quiet and clean.** But we also have to consider the tipping point. There is a speeding and traffic problem on the street as well. Mr. Petrie also commented that this development will push the whole **street into an area that we don't want it to go.**

Elizabeth Dewolf, resident, commented that she is sorry for not being able to receive the notice earlier but she also feels that the time provided is too short to get responses in. **Ms. Dewolf added that she doesn't** have an issue with the existing buildings but does have an issue with this proposal. Her house was moved here and is a big Victorian house and she believes her property is bigger than the lot for this proposed development and does not make sense for 18 units. The former proposal required the Bevans to purchase land from the adjoining property so they must have already built the variance into their proposal. The elevation of the land rises substantially in this area so we are not talking about this building being a half story higher than the existing buildings. It will be more like a full story higher.

Mayor Brown responded to say that the residents have until 12:00pm on August 28, 2019 to send their comments to the Planning Department. These comments will be part of the package that goes to Planning Board and Council. Ms. Thompson also added that while the letter indicates 12:00pm as the deadline, the department will consider comments until 4:00pm on August 28th.

Eleanor Snow, resident, asked clarifications about the location of the parking lot and that it **doesn't look like it is meant to be shared and behind the building**. Mr. Haggis confirmed that the parking spaces will be behind the proposed building and will have a shared access with the adjacent apartment. Ms. Snow also commented that the existing 12-unit apartment building looks like it has more parking spaces compared the proposed 18-unit apartment. The parking is also visible from her backyard and she **doesn't like the look of it. There will be more gas emission, lights and cars**. This neighbour has not been easy to work with. She has approached him about obnoxious weed that is on his property and requested that it be eradicated. The owner has not done anything. Snow removal was also our concern and they keep damaging our fence. He is just not approachable as a neighbour. This does not make it encouraging for further development. Mr. Haggis also added that the new bylaw only requires one parking space per unit which this development meets. The older apartments would have more parking spaces available.

Ms. Bayliff stepped up and commented that she sees the Council sitting in front now and asked how seriously they really take the concerns. Ms. Bayliff added that their concerns are genuine and that they live there. This is their neighbourhood and they have invested in that neighbourhood. There is a creeping character that has changed the neighbourhood. Ms. Bayliff is asking for **Council's** serious consideration. They do not want to undermine any businessman's deal but this is their neighbourhood and they have invested in their properties. This is our chance to put our considerations to you. Ms. Bayliff also commented that she wants to know, in her heart, that Council will really going to listen to their concerns.

Mayor Brown responded that the Council is present here to tonight to listen to **resident's concerns**. **Mr. Brown added** that Council appreciates their comments and

reminded the public that they can still submit their comments until August 28th, which then will be part of the report that staff will prepare for Planning Board and then to Council. Ms. Thompson also responded that the Bylaw requires at least seven calendar days prior to the public meeting for notifications be posted in the newspaper and letters be sent out to residents within 100 meters of the property in question.

Mr. Haggis commented that he understands the **public's concerns and has** very little to say to ease these concerns. It is the only remaining R-2 lot on the street. The business owners see an opportunity to help with the housing crisis. I think the mass and scale can be dealt with through design.


Councillor Rivard asked a question about the height of the existing buildings. Mr. Haggis responded that the existing apartments are 2.5 storeys and about 34 feet in height. The proposed **3-storey apartment's height would be closer to 34 feet, almost the same** as the existing apartments. Mr. Rivard also reminded that the Planning Board is scheduled on Tuesday, September 3, 2019 at 4:30 p.m. at the Council Chambers. It is an open meeting so residents are welcome to attend the meeting.

Councillor Tweel commented that he wants to thank the residents for coming here and that the issues will be taken very seriously. Mr. Tweel also wanted the public to know that he really appreciates them for coming and for sending in their emails. Mr. Tweel also acknowledges that this is an older neighbourhood.

Mayor Brown asked for any further comments; there being none, the meeting proceeded to the next agenda item.

5. Adjournment of Public Session

Moved by Councillor Mike Duffy and seconded by Councillor Greg Rivard, that the meeting be adjourned. Meeting adjourned at 7:48 p.m.

TITLE: FUTURE LANDUSE MAP AMENDMENT AND ZONING AMENDMENT (PID# 275156) 38 Palmers Lane FILE: PLAN-2019-03-September - GA-1 OWNERS: Weymouth Properties Ltd. APPLICANT: Weymouth Properties Ltd.	 CHARLOTTETOWN
MEETING DATE: September 3, 2019	Page 1 of 11
DEPARTMENT: Planning & Heritage	ATTACHMENTS: A. GIS Map B. Site Plan C. Elevation Drawings D. Letters From Residents
SITE INFORMATION: Context: Mature low density neighbourhood adjacent to medium density (R-4) zoned land transitioning to Mixed Use Corridor (MUC) zoned land. Ward No: 4 Spring Park Existing Land Use: vacant R-2 lot. Official Plan: Low Density Residential Zoning: Low Density Residential	

RECOMMENDATION AFTER PUBLIC MEETING:

The Planning & Heritage Department encourages Planning Board NOT to recommend to Council for the request 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-2 (Low Density Residential) Zone to R-3 (Medium Density Residential) Zone at 38 Palmers Lane (PID #275156).

REQUEST

This is a request to rezone the property located at 38 Palmers Lane PID #'s 275156 from R-2 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 Palmers Lane with R-2 zoned properties on the opposite side of the street, to the east, by two properties zoned R-4 (Apartment Residential) transitioning further east to Mixed Use Corridor (MUC) properties, to the south with Single Detached Residential (R-1S) zoned properties and to the west with Low Density Residential (R-2) zoned properties.

LEGISLATIVE REQUIREMENTS:

Notification

In accordance with Section 3.10 of the Zoning & Development By-law, on August 16, 2019 notice was sent to forty one (41) residents located within 100 meters of the subject property advising them of the request to rezone and the date, time and location of the public meeting. The letter solicited their written comments for or against the proposed rezoning request and stated the deadline to submit written comments on the application.

Public Feedback

In response to the City's notification letter there were 7 (seven) letters received in opposition to the proposed development and 1 (one) letter received in support. Please see attached letters.

The Public meeting was held on August 27, 2019 at the Rodd Charlottetown Hotel. At the public meeting Robert Haggis the property owner's consultant presented the details of the application including parking, building design, building elevations, and site design. When Mr. Haggis finished his presentation residents were invited to ask questions and make comments.

Approximately six residents spoke at the public meeting. All were in opposition to the application. They stated that they did not feel it was an appropriate density for their neighbourhood and that this would be the start of allowing higher density to bleed further into the interior of their street. Please see attached minutes from the public meeting.

ANALYSIS FOLLOWING THE PUBLIC MEETING:

This is an application to rezone 1 lot approximately .5 of an acre located on Palmers Lane. The land is currently zoned R-2 (Low Density Residential) and is vacant. The proposal is to construct a 3 storey 18 unit apartment building on the property. The total lot area is approximately .5 of an acre or 21,780 sq. ft. and the Bylaw requires 1,237.9 sq. ft. of lot area per unit. Therefore, 17 units are permitted on a lot of this size in the R-3 zone. The applicant is proposing 18 units therefore a minor variance would be required to allow 18 units on site if the rezoning is approved. The proposed building footprint is approximately 7,520 sq. ft. and meets the setback requirements for the R-3 zone. Eighteen (18) standard parking spaces are required for the proposed building. In comparison to the two existing 12-unit buildings the proposed building; has a larger footprint, almost double in size and would be a full 3 stories tall whereas the two existing buildings are 2.5 stories in height.

Zoning within this neighbourhood is R-2 consisting of low density single family and two-unit buildings to the west as well as on the opposite side of the street, in contrast to the two 2.5-storey (R-4) apartment buildings to the east, which then transition into the commercial

properties (ie. car dealer, real estate office) on St. Peters Road. The lot in question contained a single-detached dwelling which was demolished after 2010. If a three storey apartment building is constructed on the subject property it will result in a westward shift of the low-to-high-density transition along Palmer's Lane. Given that this lot is adjacent to an R4 zone it would not be considered a spot zone if it were rezoned to R-3 Medium Density Residential. If rezoning were to occur in order to mitigate any land use conflicts a landscape buffer would be required to be retained along the property boundary of the proposed development and any low density development.

Background:

There have been several requests to rezone this property. On April 6, 2009 a request was submitted to rezone this property to R-4 (Apartment Residential Zone) to allow a 24 unit apartment building. The recommendation from planning staff at the time was to reject the request to proceed to public consultation. Following planning staff's recommendation not to proceed to public consultation the applicant revised their proposal and resubmitted an application to rezone the property to R-3 (Medium Density Residential) to permit a 12 unit apartment building on the property. Planning staff at the time recommended to advance the application to public consultation to gauge the public's opinion as staff stated the revised proposal, *"was more in line with the goals of having a gradual transition between high and low density residential, strictly from a zoning perspective."*

At the public meeting the application met with opposition from residents in the neighbourhood as they felt that higher density development was moving further into the low density neighbourhood. There were concerns that if this property was permitted to be rezoned would the trend continue along the street. In the end the recommendation was to reject the application to rezone the property to R-3 to allow a 12 unit apartment building.

In March of 2010 an application was brought to a public meeting to consolidate the two adjoining R-4 properties with 38 Palmers Lane to allow for the construction of 3 – duplex dwellings on the parcel located at 38 Palmers Lane. The two existing 12- unit apartment buildings were proposed to remain with the newly constructed duplexes as a grouped dwelling project. Although staff recommended for the consolidation of the three properties to allow a grouped dwelling project the application was also not approved due to public opposition.

Discussion:

Many sections of the Official Plan need to be considered for such an application, in order to achieve a balance between ensuring new development is harmonious with the existing neighbourhood, while also ensuring that there is an adequate supply and variety of affordable housing, and increased density in various areas of the City. Key points from the Official Plan to be considered include:

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 3.2.2 Our objective is to allow moderately higher densities and alternative forms... provided that this development is well planned overall, and harmonious with existing residential neighbourhoods.

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.*

Section 4.4.1 Our policy shall be to allow incremental growth of medium sized highway commercial, medium density residential, and residential uses along both sides of St. Peter's Road between the Sherwood Shopping Centre and the CN Rail corridor.

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 housing 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."*

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 where rents can be kept at affordable levels. The Official Plan has various policies which support the efficient use of services and making neighbourhoods stable and sustainable by supporting more infill development. The Plan also supports various housing options within existing neighbourhoods if it is appropriate in mass, scale and height and will integrate well into the surrounding neighbourhood. This proposal would provide additional housing options to assist in addressing the housing crises. 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, schools and within walkable neighbourhoods. The proposed site is within close walking distance to a school, transit and parkland. Therefore, the proposal meets many of the technical requirements stipulated in the Zoning Bylaw and policies of the Official Plan.

However, for this proposal the existing neighbourhood context must be considered. The majority of the neighbourhood is currently comprised of one and two unit dwellings to the west of the subject property as well as on the opposite side of the street. This is in contrast to the two, 2.5-storey apartment buildings on the east, which then transition into the commercial properties (ie. car dealer, real estate office) on St. Peters Road. The addition of a third, 3-storey 18 unit apartment building would result in a westward shift of the high-to-low-density transition along Palmer's Lane. Rezoning the lot to R-3 would not provide any form of transition or buffer between the existing apartment buildings and low density uses. The proposed 18-unit building is larger than the existing 12 unit buildings therefore, the density would increase between the existing apartment buildings and low density uses. The decrease in zoning (R4-R3-R2) would actually result in the same hard transition that currently exists between the 12 unit building and the single detached dwellings to the west. However, it would now be one property further westward on Palmers Lane. The general practice in zoning to mitigate land use conflicts between higher density and lower density uses is to allow a transitional use such as town houses or semi-detached dwellings between low and higher density uses. It should also be considered that the subject lot once contained a single detached dwelling. The adjoining property owners at the public meeting and in a written submission stated that they had concerns about the loss of privacy and light into their home and yard should the building be constructed next to them. They indicated that when they purchased their home they purchased it next to a low density R-2 zoned dwelling. They did not anticipate the potential for a higher density development. With that being said although the Official Plan does encourage infill development within neighbourhoods it

must be development that will not adversely impact adjoining neighbours. Therefore, there needs to be stability within existing low density neighbourhoods. In planning practice higher density is usually located along the periphery of low density neighbourhoods. The Official Plan speaks to this area of the city and states that higher density development be located along both sides of St. Peters Road in the area between the Sherwood Shopping Centre and the CN Rail corridor.

Section 4.4.1 Our policy shall be to allow incremental growth of medium sized highway commercial, medium density residential, and residential uses along both sides of St. Peter’s Road between the Sherwood Shopping Centre and the CN Rail corridor.

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 City is experiencing a demand for housing and this proposal would provide additional options for housing within a mature neighbourhood. ▪ The proposal is close to a school, parkland and public transit. ▪ The property is in an area that has municipal services. ▪ The proposal is located within a walkable neighbourhood 		<ul style="list-style-type: none"> ▪ The site is located adjacent to low density development. ▪ The development would result in a westward shift of higher density development into an existing, mature low density neighbourhood. ▪ If approved it may result in future applications for rezonings along the street to allow for higher density development. ▪ The proposal may be viewed by area residents as not compatible for the neighbourhood.

CONCLUSION:

Given the location of this proposed infill development adjacent to apartment residential development the proposal would not be considered a spot zone and technically could be considered “compatible” with the adjoining land uses to the east. If rezoned appropriate land use buffers would have to be integrated to mitigate any potential land use conflicts that may arise between lower and higher density development. It should also be considered that there is

a severe housing shortage within the City and such a development would provide housing choices within the neighbourhood.

Notwithstanding, the main issue remains to be the shifting of a higher density residential zone further into an existing, low density mature neighbourhood, which conflicts with the primary objective of Section 3.2 of the Charlottetown Official Plan which states that: *“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”*. Perhaps a more appropriate option for the site would be a town-house development that is less dense, is more fitting in mass & scale and provides a further transition between higher density development and low density development along the street.

Although a zoning change to R-3 (medium density) would not be considered spot zoning the existing neighbourhood is somewhat buffered by the density and commercial uses that currently surround it. Section 4.4.1 of the Official Plan states that *“Our policy shall be to allow incremental growth of medium sized highway commercial, medium density residential, and residential uses along both sides of St. Peter’s Road between the Sherwood Shopping Centre and the CN Rail corridor”*. Therefore, it is staff’s interpretation that medium density residential development in this area of the City should be encouraged to be located towards the Commercial Corridor of St. Peters Road rather than into the interior of the existing neighbourhoods.

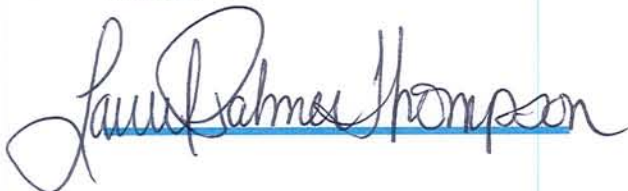
Given the direction of the Official Plan, staff is not recommending approval of this rezoning.

RECOMMENDATION:

Planning & Heritage Department encourages Planning Board not to recommend to Council the rezoning request for 38 Palmers Lane.

PRESENTER:

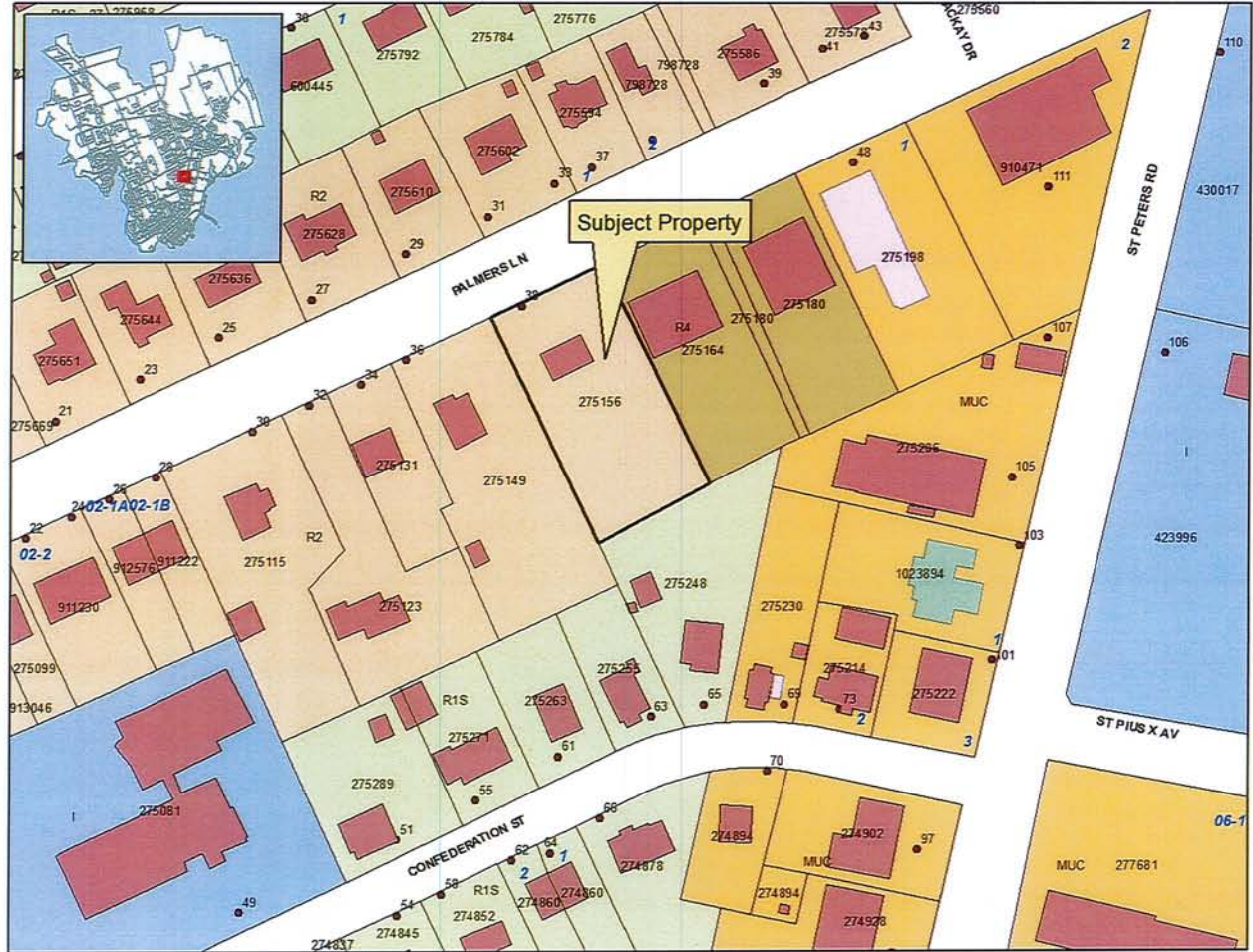
Laurel Palmer Thompson, MCIP
Planner II



MANAGER:

Alex Forbes, MCIP, MBA
Manager of Planning & Heritage

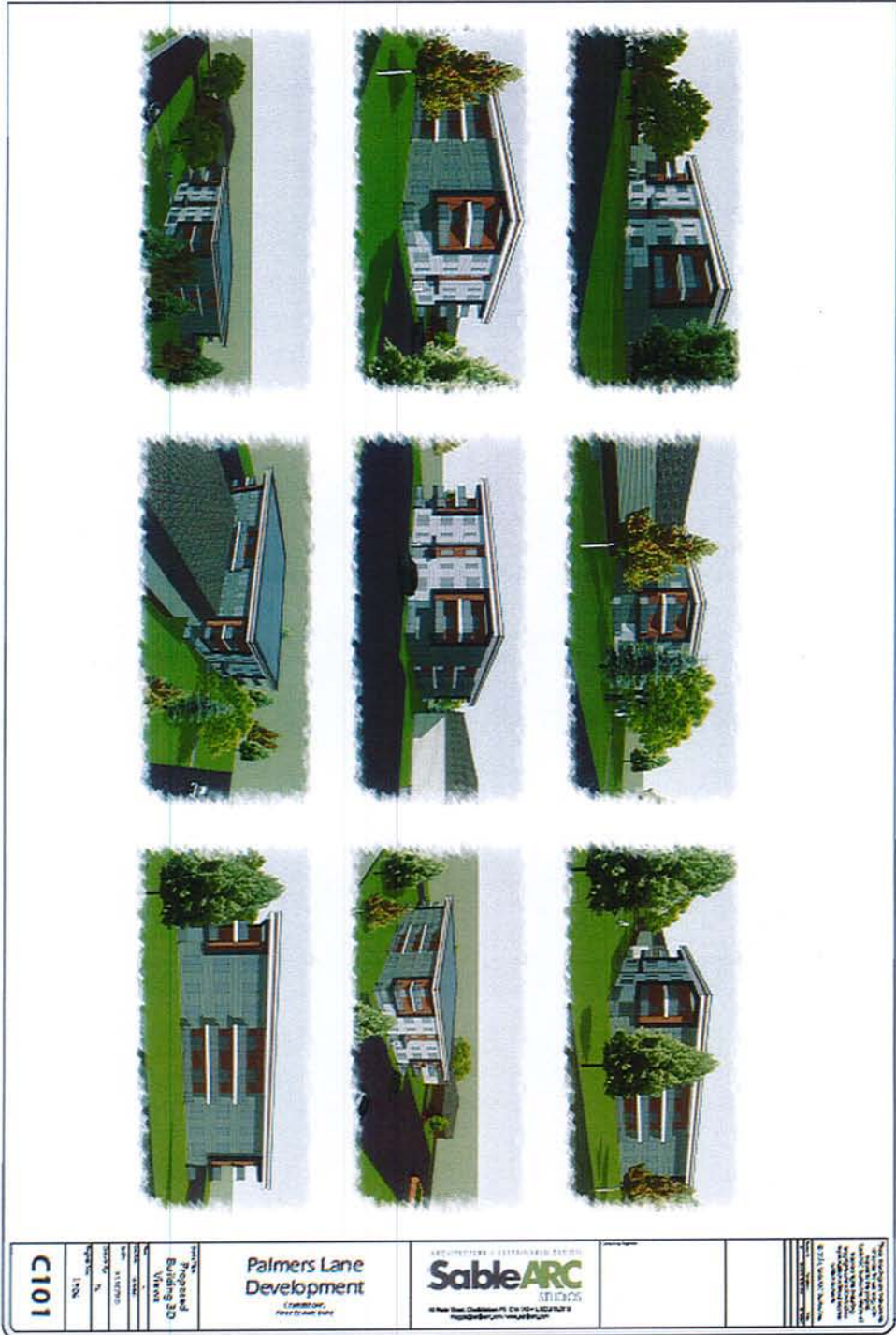
GIS Map:



Site Map:



Elevations:



Thompson, Laurel

From: Planning Department
Sent: Wednesday, August 28, 2019 1:01 PM
To: Hal and Eleanor Snow; Thompson, Laurel; Stavert, Robert
Subject: RE: rezoning request at 38 Palmer's Lane

Good day! This is to acknowledge receipt of your email and your inputs will be forwarded to our Development Officer.

Thank you!

Best Regards,
Ellen

Ellen Faye Ganga
Intake Officer/Administrative Assistant

City of Charlottetown
233 Queen Street
Charlottetown, Prince Edward Island
Canada, C1A 4B9
Office: 902-629-4112
Fax: 902-629-4156

eganga@charlottetown.ca
www.charlottetown.ca

From: Hal and Eleanor Snow [<mailto:snowz@eastlink.ca>]
Sent: Wednesday, August 28, 2019 11:54 AM
To: Planning Department
Subject: rezoning request at 38 Palmer's Lane

Following the public meeting last night where we thought we would get more information about this proposal, we have to say that not a lot of specifics were shared. We heard things like, " **I think it will be clapboard and vinyl** " and when asked the height of the building next door, we heard , " **I think it is 34 feet.**" That would make this proposed building higher if it is going to be 36 feet, which we don't think was actually stated as a certainty. The large scale depiction did not show clearly how the 18 parking spaces are supposed to fit in that space (!!!!!), especially since it will extend back further than the one next door, where they barely fit in 12 spaces. We found this lack of clarity to be very misleading and seemed to minimize that aspect of the proposal, we certainly hope not intentionally. We think when the applicant had a presenter there to show details, we should have seen details. If the applicant comes to the table unprepared, we think the proposal should be denied.

Thank you for your consideration of these comments.

Hal and Eleanor Snow

65 Confederation Street

We oppose the request for consideration of rezoning the property located at 38 Palmer's Lane (PID 275156) as outlined in the letter from the City Of Charlottetown to nearby property owners and dated August 16, 2019.

There were requests in 2009 and 2010, one for a 12 unit apartment building and one for 3 duplex dwellings which would have required a rezoning to accommodate those proposals. These requests were not welcomed by the neighborhood at that time and declined by the City. So, it will not be a surprise that we are even more opposed to an 18 unit building on the same property. At this time, we do not know what it would take for this applicant to get the message that we want this property to remain as low density residential. It would seem that there are other options for development that would comply with the current bylaws and the City's Official Plan. Surely the applicant is aware of this and of the wishes of the residents.

We live on Confederation Street and our property borders the property on Palmer's Lane. Since we are within 100 meters of this property, we have many concerns.

- Water runoff became a concern when the applicant's two existing buildings were erected and the elevation changed, so another apartment building with an asphalt parking lot will only add to that problem
- Snow from the existing apartment properties is presently placed on the property in question, so I am not sure what, if any plan, they would have for removal of snow when a new 18 unit building is on that property. Presently some of that snow ends up against our fence and even occasionally in our yard. Again....adding to the water problem. In the Spring, the ground on our property and that of neighboring ones is extremely saturated. Besides the water each Spring, we can look forward to removing pieces of asphalt and misplaced trash items from overfilled garbage bins, and frequently damage to our fence.
- The proposal would not blend with the present low density neighborhood and could adversely affect our property values.
- The addition of 18 units, virtually in our backyard would increase concerns regarding waste disposal, littering, parking, car emissions, increased traffic and noise, security and privacy, lack of green space to name only a few.
- There is an elementary school nearby and the increased traffic could prove problematic for those young children.
- There were no details provided concerning elevation or measurements, so it seems unfair to the residents not to have that information before a meeting was called. Does that information not have to be provided upon application?
- It does not appear to solve any of the issues around AFFORDABLE housing
- This appears to be an example of spot zoning.
- How many times do we have to defend our neighborhood against such a development from the same applicant ?

I can think of no situation where this applicant has shown an interest in the concerns of the neighbors. In fact, when approached about a problem with the intrusion of Japanese Knotweed, a noxious weed, onto our property from the one at 38 Palmer's Lane, we were met with a disinterest and an outright refusal to address the problem. It was the same when we tried to talk to them about our concerns over repeated damage to our fence from their snow removal equipment. A neighborhood is made up of people who work for what is best for the common space they share. This applicant has definitely not demonstrated that in the past.

For these reasons, and for the many concerns of our other neighbors, we urge you to deny this request.

Thank you,

Hal and Eleanor Snow

65 Confederation Street

Charlottetown, PE C1A 5V5

902-892-8638

Thompson, Laurel

From: Planning Department
Sent: Wednesday, August 28, 2019 9:44 AM
To: Thompson, Laurel
Subject: FW: Rezoning request at 38 Palmer's Lane
Attachments: Town Hall 2019.docx

From: Mayor of Charlottetown (Philip Brown)
Sent: Wednesday, August 28, 2019 9:06 AM
To: Planning Department
Subject: FW: Rezoning request at 38 Palmer's Lane

From: Hal and Eleanor Snow [<mailto:snowz@eastlink.ca>]
Sent: Tuesday, August 27, 2019 2:16 PM
To: Mayor of Charlottetown (Philip Brown)
Subject: Rezoning request at 38 Palmer's Lane

There is a public meeting tonight regarding a rezoning request for 38 Palmer's Lane. We have sent a submission against it to the planning committee and request that you review it as well. We are very much opposed to this 3rd request and hope that we can rely on support for this opposition, Thanks You. Hal and Eleanor Snow

Thompson, Laurel

From: Planning Department
Sent: Wednesday, August 28, 2019 11:04 AM
To: Thompson, Laurel
Subject: FW: 38 Palmers Lane

-----Original Message-----

From: Florence Hennessey [<mailto:fdrakehen@eastlink.ca>]
Sent: Wednesday, August 28, 2019 11:03 AM
To: Planning Department
Subject: 38 Palmers Lane

We are owners of Cadaco Holdings Inc. located at 103 St. Peter's Road and Hendra Holdings Inc, 69 Confederation Street and are responding to letters received from Laurel Palmer Thompson, MCIP dated August 16, 2019.

Please be advised we are 'strongly opposed' to the request to consider rezoning the above noted property on Palmers Lane.

Our dental clinic is located at 103 St. Peter's Road and we have had multiple incidents of water in the basement of our new professional building. We have previously written to the City of Charlottetown stating our concerns with regards to this matter. In our opinion, the city's antiquated storm pipe water system cannot control the amount of water drainage in our area. This has caused considerable cost to us..increased insurance premiums, cleanup cost, purchase of sump pumps, battery backups, etc.

Climate change is happening and the situation is bound to worsen. We pay substantial amounts for land tax only to end up in the basement of our clinic bailing out water. Rezoning the property at 38 Palmers Lane would add to the dilemma we and our neighbours are presently experiencing.

Please take our concerns into serious consideration.

Sincerely,

Rob and Florence Hennessey

Sent from my iPhone

Thompson, Laurel

From: Planning Department
Sent: Wednesday, August 28, 2019 11:02 AM
To: Thompson, Laurel
Subject: FW: 38 Palmers Lane (PID#275156) Revised .. Final

From: Marcel Arsenault [<mailto:marcel.arsenault5@gmail.com>]
Sent: Wednesday, August 28, 2019 10:56 AM
To: Planning Department
Subject: 38 Palmers Lane (PID#275156) Revised .. Final

Too whom it may concern,

This comment is to indicate that the residents of 23 Palmers Lane are against this development.

For the following reasons.

- Does not fit into the neighbourhood scheme
Which is low density area with a school & a Parks Canada
National office on the street

An 18 unit apartment structure makes no sense in this context.

- Is in contravention to the current City Plan (21 March 19).
- The building proposal is in contravention to current city land regulations
- Only superficial details were made available by the applicant prior to the public meeting

Thus the applicant has not submitted a formal detailed proposal prior to the meeting.

We have no concrete plan to review.

- The proposed structure is very unattractive.
- The general conduct of the applicant to date has been below standard.

The applicant is unresponsive to residents when approached for its current two apartment buildings on the street on various (snow removal etc.) issue and various historical reasons

- This is third time the applicant has applied to build on this land.
Each time the proposal is larger & imposing on the lives & homes of the residents.

It seems the applicant will continue to put forth proposals until one gets approved by city council.

When does it end.

Thompson, Laurel

From: Planning Department
Sent: Wednesday, August 28, 2019 1:01 PM
To: Elizabeth DeWolf; Thompson, Laurel
Cc: Stavert, Robert
Subject: RE: proposed rezoning to accomodate Bevans' plans for apartment building on Plamer's lane

Good day! This is to acknowledge receipt of your email and your inputs will be forwarded to our Development Officer.

Thank you!

Best Regards,
Ellen

Ellen Faye Ganga
Intake Officer/Administrative Assistant

City of Charlottetown
233 Queen Street
Charlottetown, Prince Edward Island
Canada, C1A 4B9
Office: 902-629-4112
Fax: 902-629-4156

eganga@charlottetown.ca
www.charlottetown.ca

From: Elizabeth DeWolf [<mailto:e.dewolf@eastlink.ca>]
Sent: Wednesday, August 28, 2019 11:29 AM
To: Planning Department
Subject: proposed rezoning to accomodate Bevans' plans for apartment building on Plamer's lane

TO MAYOR, COUNCIL AND PLANNING COMMITTEE

RE PROPOSED REZONING TO ACCOMODATE BEVANS' PLANS FOR APARTMENT BUILDING ON PALMER'S LANE

As a long time property owner and resident of Palmer's Lane (since 1994), I am opposed to the proposal as it stands. Bevans' other two apartments were across the street when we bought the property.. They appear to be well maintained and the tenants quiet.(the neighbors behind them has given examples of lack of co-operation in property maintenance.) The buildings themselves, although larger than the two storey houses facing them, are not so large or so radical in design that they do not fit in with the neighborhood. They both have a nice setback from the street with green lawns and trees and walkways as do all the houses and flats on the street. This is not the case with the new proposal,

The proposed building is too large for the site. I estimate that my frontage including driveway is larger than the proposed site and the depth of my property and the depth of my property is about the same. Yet my property accomodates a single family Victorian two storey house. If I remember correctly from hearings on previous (and rejected) proposals for the property, the property is deemed by city bylaws to be suitable only for a duplex. Previously, the owners had argued for a change in variance and permission to build multiple units by "borrowing" some frontage from the apartment next door. No doubt this would have put that apartment into non-compliance. It was not approved.

The incline of Palmer's Lane is very gentle as it starts up from St. Peter's Rd to Mt. Edward, but after the existing apartment buildings on that side and my house on the other the street starts to rise more steeply. That rise could make any new building higher in relation to existing buildings by probably half a storey more than its actual height.

The developer did not show a very clear picture of what the proposed building would look like - its style, its resemblance or contrast to the existing buildings and the amount of setback and green space around the building. It is possible to design buildings which fit into the style of a neighborhood. However, it is not very easy to do this when you are intent on squeezing eighteen units into a space designed for two. Is a modern little glass and cardboard sardine tin what is on offer? Have the developers' plans included the planting of trees along the back and sides of their plan to shield the neighbor's yards from balcony eyes? Probably not, because there is not enough space for such luxuries.

I do admit that I am concerned with the amount of traffic 18 units would generate on an already busy road used by trucks as a shortcut between larger roads and by school buses and parents transporting students to school. The new speed bumps have generated a lot of noise, especially in the middle of the night, but do not to me have done much to lessen speed except to create jerky speed.

The papers have been full of discussion on housing crises and the shortage of affordable housing. I see nothing in this proposal that is suggesting that any of these units are meant for low income accommodation. In fact I suspect that they will be offered at the highest market price, probably marketed to students who are willing to share small spaces because of the closeness to the university.

Palmer's Lane is a neighborhood with neighbors who greet each other, help each other out. I don't want this to change. Should this proposal pass, and should I be forced for health reasons to move, what then? Would an eighteen unit building across the way pave the way for a developer to propose a four or five storey building on my similar lot across from the building across the street on the grounds that it would not be all that much different in height or density.

I do believe that we purchase property with a knowledge of the neighborhood and the existing regulation, and that the city on its part has an obligation to live up to the planning guidelines it has commissioned.

Elizabeth DeWolf, 37 Palmer's Lane, Chalfont, Pa 18912 902-892-7096

Thompson, Laurel

From: Planning Department
Sent: Wednesday, August 28, 2019 11:02 AM
To: Thompson, Laurel
Subject: FW: 38 Palmers Lane (PID#275156) Revised .. Final

From: Marcel Arsenault [<mailto:marcel.arsenault5@gmail.com>]
Sent: Wednesday, August 28, 2019 10:56 AM
To: Planning Department
Subject: 38 Palmers Lane (PID#275156) Revised .. Final

Too whom it may concern,

This comment is to indicate that the residents of 23 Palmers Lane are against this development.

For the following reasons.

- Does not fit into the neighbourhood scheme
Which is low density area with a school & a Parks Canada
National office on the street

An 18 unit apartment structure makes no sense in this context.

- Is in contravention to the current City Plan (21 March 19).
- The building proposal is in contravention to current city land regulations
- Only superficial details were made available by the applicant prior to the public meeting

Thus the applicant has not submitted a formal detailed proposal prior to the meeting.

We have no concrete plan to review.

- The proposed structure is very unattractive.
- The general conduct of the applicant to date has been below standard.

The applicant is unresponsive to residents when approached for its current two apartment buildings on the street on various (snow removal etc.) issue and various historical reasons

- This is third time the applicant has applied to build on this land.
Each time the proposal is larger & imposing on the lives & homes of the residents.

It seems the applicant will continue to put forth proposals until one gets approved by city council.

When does it end.

- Will add traffic to already much discussed problem with speeding & not stopping at appropriate signs on Palmers Lane

Our councillor and mayor are well of the issue.

None of the solutions have worked to date.

We are very concerned that death or injury will occur given the above

- No room for parking on the premise on the land proposed
Very obvious to anyone viewing the land.

- Unconvincing presentation by the applicant

- The use of 'affordable' housing as justification at the public meeting to gain social licence to build.

The mayor, the councillors present, and concerned citizens know that this is not case.

The applicant is looking for profit.

In summation, the residents of 23 Palmers Lane do not support this development.

This development will not improve life on Palmers Lane.

The Arsenaults
23 Palmers Lane.

Thompson, Laurel

From: Planning Department
Sent: Tuesday, August 27, 2019 1:01 PM
To: Thompson, Laurel
Subject: FW: 38 Palmers Lane - Rezoning Application

-----Original Message-----

From: Jessie Frost-Wicks [mailto:j.frostwicks@gmail.com]
Sent: Tuesday, August 27, 2019 12:09 AM
To: Planning Department
Subject: 38 Palmers Lane - Rezoning Application

Attn: Laurel Palmer Thompson, MCIP

Dear Ms. Palmer Thompson,

I, together with my husband, am writing to you to express my opposition to the application which will be heard before City Council on August 27, 2019, regarding the possible rezoning of the property located at 38 Palmers Lane. My husband and I are the owners of the property immediately adjacent to this parcel, 36 Palmers Lane.

We live in a very old, very well established neighbourhood, zoned as low density residential, and comprised primarily of single family, semi-detached and duplex residences. At the bottom of the street, there are two low-rise, 8 unit apartment buildings. These buildings were constructed prior to our moving to our home 28 years ago, and they serve as a transition from the commercial corridor of St. Peter's Road into the low density residential neighbourhood that we currently enjoy. These two buildings are owned by the Applicant. The property in question this evening is located in between our home and the two low-rise buildings.

This is the third time that the Applicants have sought to obtain a variance or change the zoning of the property located at 38 Palmers Lane. This is the third time that we have been forced to defend the integrity of our neighbourhood.

The first application the same as the one currently before Council.

They are seeking a rezoning of this lot from Low Density to Medium Density. On this first occasion, however, they were only seeking to erect a 12 unit apartment building. This application was rejected by City Council, as the proposal was deemed inconsistent with the size and density of the existing structures in the surrounding area and was not appropriate as a transitional structure into an established low density residential neighbourhood.

For the second application, the Applicants sought a variance to construct a grouped dwelling on this small parcel, consisting of three – 3 storey duplexes. This, too, was rejected by City Council, for the same reasons as the first application. Now, for this third application, the Applicants are once again seeking to have the lot rezoned from Low Density Residential to Medium Density Residential to enable them to construct a three storey, 18 unit apartment building.

It is frustrating as a member of the neighbourhood, and frightening as the owner of the property immediately adjacent to this property, to again have to raise the same issues. The Applicant certainly knows the concerns of the people of this neighbourhood, and should be well aware of the limitations of the property at 38 Palmers Lane in terms of development, having already been told at least twice. This time, they have gone one step further and proposed

something even larger and more intrusive than the first two times knowing that those first two applications were turned down. At what point does Council say enough is enough?

The property that they own, 38 Palmers Lane, is zoned R2 – Low Density Residential, which is shown on the City of Charlottetown Official Plan. This Official Plan outlines the strategic directions for Charlottetown for the 21st Century and beyond, according to its title.

It was amended on March 21st of this year – it is a current official city plan that we, as taxpayers, have paid for and abide by. We expect our corporate citizens to abide by it as well.

The Official Plan for the City offers a growth management strategy.

This strategic direction articulates policies which preserve existing residential low density neighbourhoods and ensures that new residential development is physically related to its surroundings. In sustaining the existing neighbourhoods, the City's objective is to ensure that new development is harmonious with its surroundings, and to ensure that the footprint, height, massing, and setbacks of new residential development in existing neighbourhoods is physically related to its surroundings. This is simply not the case with the proposal currently before City Council. This proposed structure would have no counterpart in our neighbourhood – nothing as large, nothing as tall, nothing as imposing as this structure. I would like to offer more specifics on that point, but the Applicant has not provided the required details on elevations and measurements which we understood to be a required part of the application process. The building itself bears no resemblance to the typical style of structure in the area - it is even dissimilar to the two apartment buildings already in place there. Presumably, given that it has more than double the number of units, it is also more than twice the size of the existing apartment buildings. That, in itself does not suggest a transition into an established low density residential neighbourhood.

In addition to the concerns for the integrity of our neighbourhood, I have concerns which are unique to my husband and I, as the owners of the property immediately adjacent to this parcel. Over the past 28 years, we have invested so much time, effort and money into our property to improve it, maintain it, and build value into it such that if the day ever comes that we wish to sell it, we will be able to do so. It is troubling to think that this one application could seriously impact our property values if and when the time does come that we wish to sell. In the interim, we must face the prospect of a building much taller than ours in close enough proximity on the eastern side that we will lose most, if not all, of the morning sun - an impact on our gardens and on our light. Equally troubling is the loss of our privacy. One of the most attractive characteristics of our neighbourhood is the generous yardage surrounding the homes in it. Each property has space between it and the neighbouring property. A structure of this height, so close to the property line, with no less than 9 units facing our house in some aspect is not an welcome prospect, and represents a significant lost to our privacy and enjoyment of our own home.

We realize there is a housing crisis, and it is clearly a concern.

But, we ask that Council recognize that it doesn't mean "development at any cost" and the fact is that we aren't opposed to the development of this property. All we are asking is that the Applicants comply with the City's Official Plan. If part of their intent is to address the housing shortage, then build what is appropriate and permitted for the property. The last time the Applicants brought this property to City Council, my husband and I were approached by Mr. Bevan Jr., and rather forcefully asked 'what it would take to make us happy', At that time, we advised him that we would be very happy if they would build something in compliance with the City Plan. We maintain that position. If the Applicants were to do so, it would address their obvious desire to utilize the land. It would address our concerns as neighbours. It would allow all of us in the neighbourhood to maintain our property values. It would provide some needed housing. Lastly, it would comply with the Official City Plan, and would, once and for all, put an end to these applications which are so troubling and unsettling for us and our neighbours.

We are asking that City Council adhere to the principles outlined in the Official City Plan and reject this application for the rezoning of

38 Palmers Lane. The housing crisis cannot justify a lack of adherence to a Plan which outlines the strategy for responsible development. To ignore those principles in this instance sets a dangerous precedent for the evolution and growth of our City.

Respectfully,
Jessie Frost-Wicks
36 Palmers Lane
Charlottetown, PE

Thompson, Laurel

From: Planning Department
Sent: Wednesday, August 28, 2019 11:02 AM
To: Thompson, Laurel
Subject: FW: 38 Palmers Lane PID#275156

From: William Wicks [mailto:wgwicks@gmail.com]
Sent: Wednesday, August 28, 2019 10:40 AM
To: Planning Department
Subject: 38 Palmers Lane PID#275156

My name is Bill Wicks, and my family and I reside at 36 Palmers Lane, which is the property immediately adjacent to the lot, 38 Palmers Lane, which is under consideration this evening.

- We live in a very old, very well established neighbourhood, zoned R2 - low density residential, which is comprised of single family, semi-detached and duplex residences. Since before we moved here 28 years ago, there have been two low-rise, 8-unit apartment buildings down the street. These 8-unit buildings serve as a transition from the commercial corridor of St. Peter's Road into the low density residential neighbourhood that we currently enjoy. The property in question this evening, 38 Palmers Lane, Zoned R2, is located in between our home and those two low-rise buildings and it used to have a single-family dwelling on it, but is now vacant land, the house having been torn down some years ago.
- This is the third time that the Bevans have sought to change the zoning of the property located at 38 Palmers Lane. This is the third time that we have been forced to come before you to defend the integrity of our neighbourhood.
- The first application was for rezoning this lot from Low Density to Medium Density – in effect, exactly what they are seeking this evening. On this first occasion, however, they were seeking to erect a 12-unit apartment building. This application was rejected by City Council, as the proposal was deemed inconsistent with the size and density of the existing structures in the surrounding area and was not appropriate as a transitional structure into an established low density residential neighbourhood.
- For the second application, Bevans sought a variance to construct a grouped dwelling on this lot, consisting of three – 3 story duplexes. This, too, was rejected by City Council, for the same reasons as the first instance.
- Now, for this third application, the Applicant is once again seeking to have the lot rezoned from Low Density Residential to Medium Density Residential to enable them to construct a three story, 18-unit apartment building.
- The City of Charlottetown Official Plan shows this property at 38 Palmers Lane as zoned R2 – Low Density Residential. In addition, according to Geolink, the property is ½ acre in size.

- The City of Charlottetown Official Plan outlines the strategic directions for Charlottetown for the 21st Century and beyond, according to its title. It was amended on March 21st of this year – it is a current official city plan.
- This Official Plan for the City offers a growth management strategy. This strategic direction articulates policies which preserve existing residential low density neighbourhoods and ensures that any new residential development is physically related to its surroundings.
- In sustaining the existing neighbourhoods, the City’s objective is to ensure that new developments are harmonious with the surroundings, and is to ensure that the footprint, height, massing, and setbacks of any new residential development in existing neighbourhoods is physically related to its surroundings. This is simply not the case with the proposal currently before City Council. This proposed structure would have no counterpart in our neighbourhood – nothing as large, nothing as tall, nothing as imposing as this structure. I would like to offer more specifics on these points, but in their application, Mistert Bevens have not provided the details on elevations and measurements which we understand is a required part of the application process. In addition, it is my understanding that the applicant has not requested a variance, which is needed as an 18-unit apartment building requires more than ½ an acre of land. Specifically, Section 15.2 of the Zoning and Development By-law states that the minimum lot area for a building with 18-units must be 1,237.9 square feet per unit, or 22,282 square feet for this proposed 18-unit apartment building. The lot size, according to Geolink, is only 21,780 square feet.
- We realize there is an affordable housing crisis, and it is clearly a concern. But, if the reason for this structure is meant to address that concerns, it doesn’t mean “development at any cost”. We aren’t opposed to the development of this property. All we are asking is that the Applicant comply with the City’s Official Plan and to build what is appropriate and permitted for the property. Doing so addresses:
 - their obvious desire to utilize the land,
 - it would address our concerns as neighbours,
 - it would allow us, the affected homeowners, to maintain our property values.
 - it would comply with the official city plan.
 - it would provide some needed housing, and
 - it would mean that the City of Charlottetown Planning Department, we the homeowners and you as City Council would not have to keep coming back again, and again and again to defend our neighbourhood from unnecessary intrusion.
- I am asking City Council and the Applicant to comply with the Official City Plan and the Zoning By-laws. Use the guidelines offered by the Official Plan to promote and approve responsible development. This is the Official Plan that we, as taxpayers, have paid for and abide by. We expect our corporate citizens to abide by it as well. Otherwise, we, as taxpayers, have invested in an Official Plan which serves no purpose.
- It is frustrating as a member of the neighbourhood and frightening as the owner of the property immediately adjacent to 38 Palmers Lane, to have to continually raise the same issues. The applicant knows the concerns of the people of this neighbourhood and they are aware of the limitations of the property at 38 Palmers Lane in terms of development. With this application they have proposed

something much larger and more intrusive than anything presented previously in their first two attempts, knowing that previous City Councils voted to turn down those previous applications. At what point does Council say enough is enough?

Thompson, Laurel

From: Planning Department
Sent: Wednesday, August 28, 2019 3:47 PM
To: Thompson, Laurel
Subject: FW: 38 Palmers Lane - PID #275156

From: Betty Carroll [<mailto:b.carroll@eastlink.ca>]
Sent: August 28, 2019 3:33 PM
To: Planning Department
Subject: Fwd: 38 Palmers Lane - PID #275156

Sent from my iPad

Date: August 28, 2019 at 3:25:17 PM ADT
To: Betty Carroll <b.carroll@eastlink.ca>
Subject: 38 Palmers Lane - PID #275156

Dear Sir/Madam

Re: 38 Palmers Lane (P.I.D. # 275156)

I have been a resident on Palmers Lane for 58 years. I attended the public meeting (August 27th) on the proposed apartment building development at 38 Palmers Lane located diagonally across the street from my property at 27 Palmers Lane.

I am strongly opposed to the proposed development as it does not conform to the Official Plan (OP). I refer you to the following subsections:

- 1.3 Strategic Directions (Page 8) . . . The Charlottetown Plan articulates policies which: preserve existing residential low density neighbourhoods , , ,
- 3. Direct Physical Growth (Page 14) The City will continue to build on its past by . . . maintaining the special qualities of charlottetown's neighbourhoods . . .
- 3.1 Guiding Settlement (Page 14) . . . Finally, it means that moderately higher density development may be permitted in existing commercial areas and arterial corridors where it does not interfere with existing built-up residential neighbourhoods . . .
- Defining Our Directions (Page 15) . . . Our policy shall be to allow moderately higher densities in neighbourhoods provided it is development at a density that will not adversely affect existing low density housing.
- 3.2 Sustaining Charlottetown's Neighbourhoods (Page 17) . . . In order to preserve the unique characteristics of Charlottetown's neighbourhoods the Charlottetown Plan

introduce policies which promote both stability and community identity. The aim is to sustain vibrant neighbourhoods which have a distinct sense of community, are places of close social contact, and are generally enjoyable. This is the clear preferences of Charlottetown's residents . . .

- Defining our Direction (Page 18) Our goal is the maintain the distinct character of Charlottetown's existing neighbourhoods, and to ensure that new development is harmonious with its surroundings . . .
- Environment for Change (Page 19) Preserving the distinctive character and identity of Charlottetown's neighbourhoods requires strategies that promote stability as well as a sense of community identity. The Charlottetown Plan incorporates policies which will help preserve the harmony and integrity in each existing neighbourhood within the City.

Previously the City has turned down development proposals for increased density on this low density residential lot in an established low density residential neighbourhood. What has changed? How many times do residents have to stand up to support the policies in the OP in the face of inappropriate development proposals on the same lot? Planning Board and City Council should refuse the development proposal since it does not conform to the OP as noted above.

The current housing shortage is not excuse for abandoning OP policies that protect established residential neighbourhoods. Approval of the development proposal would require substantive amendments to the OP beyond a simple amendment to the Future Land Use Map, If increased production of residential units is a priority I suggest consideration be given to permitting and encouraging various forms of accessory residential units in established residential areas like this one. This would be far more effective than introducing incompatible densities and uses on a piecemeal basis and be a win-win for both those seeking accommodation and owners/residents of properties in established residential neighbourhoods.

Respectfully submitted,

Betty Carroll
902-892-6698

Thompson, Laurel

From: Planning Department
Sent: Tuesday, August 20, 2019 8:13 AM
To: Forbes, Alex; Thompson, Laurel
Subject: FW: Proposed Development at 38 Palmers Lane

Best Regards,
Ellen

From: JamesBliss [<mailto:jimbliss@eastlink.ca>]
Sent: Monday, August 19, 2019 5:01 PM
To: Planning Department
Subject: Proposed Development at 38 Palmers Lane


To; [Charlottetown City Planning Department](#)

I am writing to express my support for the proposed development at 38, Palmers Lane. I have lived on this Lane for 46 years and even though I have moved 3 times during this period I have always remained on Palmers Lane.

The two apartment buildings next door to this proposed new complex have been extremely quiet and well maintained and the shared entrance has not been an issue. As a matter of fact my family wonders if anyone lives there.

My only concern that is **not related** to this development is the amount of speeding caused by non residents going well in excess of the posted 30k and 50k zones in a school district. I have reported this to Councillors Tweel and Doiron many many times and know this issue has been passed by them to the appropriate people in City Hall but nothing ever gets done about it except for the two speed bumps far away from where the vehicles are speeding!. My children are now fully grown, but I care about other peoples young children as well!. It's a pity other people don't feel this way.

Sincerely, Jim Bliss

TITLE: PLAN- 2019-03-SEPTEMBER-03-2 VARIANCE FOR HOME OCCUPATION 13 DONWOOD DRIVE (PID 278531) OWNER: PAULA MACDONALD		 CHARLOTTETOWN
MEETING DATE: September 03 2019		Page 1 of 3
DEPARTMENT: Planning & Heritage	ATTACHMENTS: A. Application related documents B. Map C. Letter of Objection	
SITE INFORMATION: Context: Residential neighbourhood Ward No: 2 Belvedere Existing Land Use: Single Detached Dwelling Official Plan: Low Density Residential Zoning: Single Detached Residential (R-1S) Zone		
PREVIOUS APPLICATIONS: N/A		

RECOMMENDATIONS:

Staff encourages Planning Board to recommend to Council to *reject* the request to operate a home occupation (i.e., counselling/therapy service) at the property located at 13 Donwood Drive (PID #278531).

BACKGROUND:

Request

The Planning & Heritage Department has received a request to operate a home occupation (i.e., counselling/therapy service) from the property located at 13 Donwood Drive (PID #278531) which is zoned Single Detached Residential (R-1S) Zone. Approval of this application will allow for a counselling/therapy service consists of appointment based visits with only one client visiting the home at a time, due to the sensitive nature of the operation. The applicant is proposing to operate the above mentioned business throughout the week, Monday to Friday during business hours of 2pm – 6pm. The total number of clients visiting per week would be around three (3) with appointments scheduled on an hourly basis, the owner identified that this could increase in the future. The owner of the dwelling would be the only employee operating the counselling service and will occupy 7.8 sq. m (84 sq ft) of the 95 sq.m (1022 sq ft) dwelling.

The property has enough room to accommodate three (3) off-street parking spaces.

Development Context

The subject site is currently developed with a single detached dwelling, and is located midblock surrounded by single detached dwellings. Donwood Drive provides a single access to the site.

ANALYSIS:

The Zoning & Development By-law 2018-11 was recently amended to state prohibited uses for a Home Occupation due to issue of compatibility in low density residential areas. One of the uses that is prohibited as a Home occupation is a *Medical, Health and Dental Office*, which is defined as *an establishment used by qualified medical practitioners and staff for the provision of medical, health and dental care on an outpatient basis. This term refers to such uses as medical and dental offices, physiotherapy services, chiropractic services, counseling services, and ancillary clinic counseling services, but does not include Veterinary Services.* It was determined by staff that these types of uses are better suited in the Institutional (I) Zone and therefore inserted a prohibited home occupation list as defined in Section 5.9.4 as follows:

The following uses are prohibited as Home Occupations:

- a. ***Medical, Health and Dental Office;***
- b. *Automobile Body Shop;*
- c. *Eating and Drinking Establishment;*
- d. *Retail Store;*
- e. *Welding and Metal Fabrication.*

Should this home occupation intensify in the future, staff does not have the ability to monitor the number of clients visiting the business on a daily or hourly basis. At the time the owner submitted the Home Occupation application the above mentioned amendments were not approved by the Province.

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"> • A goal in the Official Plan is to encourage home occupations as a platform for new economic growth. • An objective in the Official Plan is to support the creation and operation of home occupations in all residential zones. 		<ul style="list-style-type: none"> • The current the Zoning & Development By-law prohibits any Medical, Health and Dental Office. • A policy in the Official Plan is to allow home occupations that are unobtrusive. • Difficult to monitor the intensity of a home occupation of this nature.

Due to the fact that the nature of the business generally operates with frequent appointments and a home occupation of this nature is listed as a prohibited use in the recently approved Zoning & Development By-law, staff would recommend that the home occupation be *rejected*.

LEGISLATIVE REQUIREMENTS:

Notification

In accordance with Section 3.8.4 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 feet) of the subject site.

Public Feedback

On August 9th 2019, forty-six (46) letters were sent to property owners located within 100 meters of the subject property. The letter informed them of the proposed home occupation and solicited their comments, to be received in writing no later than Tuesday, August 25, 2019. After mailing letters, staff received two (2) responses, only one which was a formal objection.

The resident that opposed the home occupation had the following concerns:

- Safety concerns relating to the type of client that could possibly use the counselling service;
- The possibility that the intensity of this service could grow with more client visits to the property;
- Detrimental to the character of the existing low density residential neighbourhood;

CONCLUSION:

Staff encourages Planning Board to recommend to Council to *reject* the request to operate a home occupation (i.e., counselling/therapy service) at the property located at 13 Donwood Drive (PID #278531).

PRESENTER:



Robert Zilke, MCIP

MANAGER:



Alex Forbes, MCIP, MBA
Manager of Planning & Heritage

Charlottetown: Planning, Development & Heritage Department

Request for Minor Variance Received from: Paula MacDonald, MSW, RSW

Property Location:

13 Donwood Drive, Charlottetown Prince Edward Island C1A 5L1

Home Occupation Form

What will be the nature of the business?

I would like to operate a paramedical mental health counselling/therapy service to the public provided through my Master of Social Work license. I would like to provide cognitive-behavioral therapy services to the public. Cognitive-behavioral therapy is a type of psychotherapy where negative patterns of thoughts about the self and the world are challenged in order to alter unwanted behavior patterns or treat mood disorders such as anxiety and depression.

I will receive clients who are referred to me through various insurance companies. These insurance companies include: Homewood, Shepell:FGI, Ceridian, Blue Cross, and Green Shield. Services will be designed for community members who are seeking assistance with mild adjustment issues that can be treated within community.

The business should not directly or indirectly effect any of the neighboring properties as clients or service users will be able to part in the driveway of the property. The service is quiet and confidential. Customers who use this service value their privacy. Due to the nature of business it is likely it will not impact the surrounding neighbors.

How many Employees will you have?

I will not have any employees. I will be the only therapist operating out of this proposed location.

What is the total floor area of your dwelling?

The total floor area of my dwelling has 1022 square feet on the main level with 410 square feet in the basement. Please see a floor plan of the main floor of house, which contains most of the living space.

Floor area used for business.

I would like to use approximately 84 square feet of this dwelling to interview clients in as needed. This is approximately 8% of the total living area upstairs in the home. Its approximately 6% of the totally living space in the house.

How many parking spaces do you have?

My driveway can comfortably park three vehicles. Please see the diagram for greater clarification.

Is your property currently being used for any other uses besides a dwelling?

No

Days and hours of operation?

Monday-Friday (2pm-6pm)

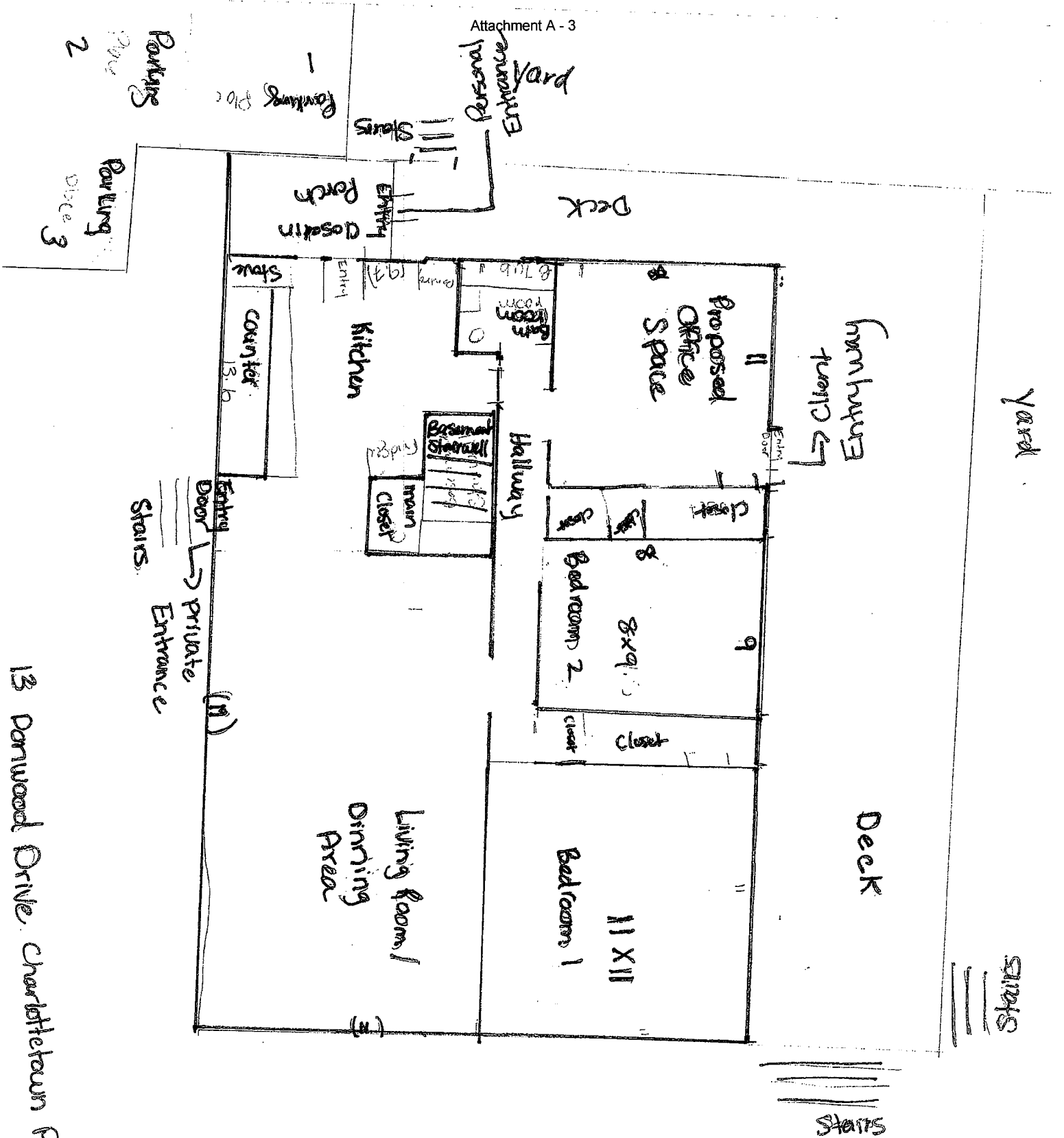
Will clients/customers visit your home?

Yes, Occasionally

How many visits per hour or day are anticipated?

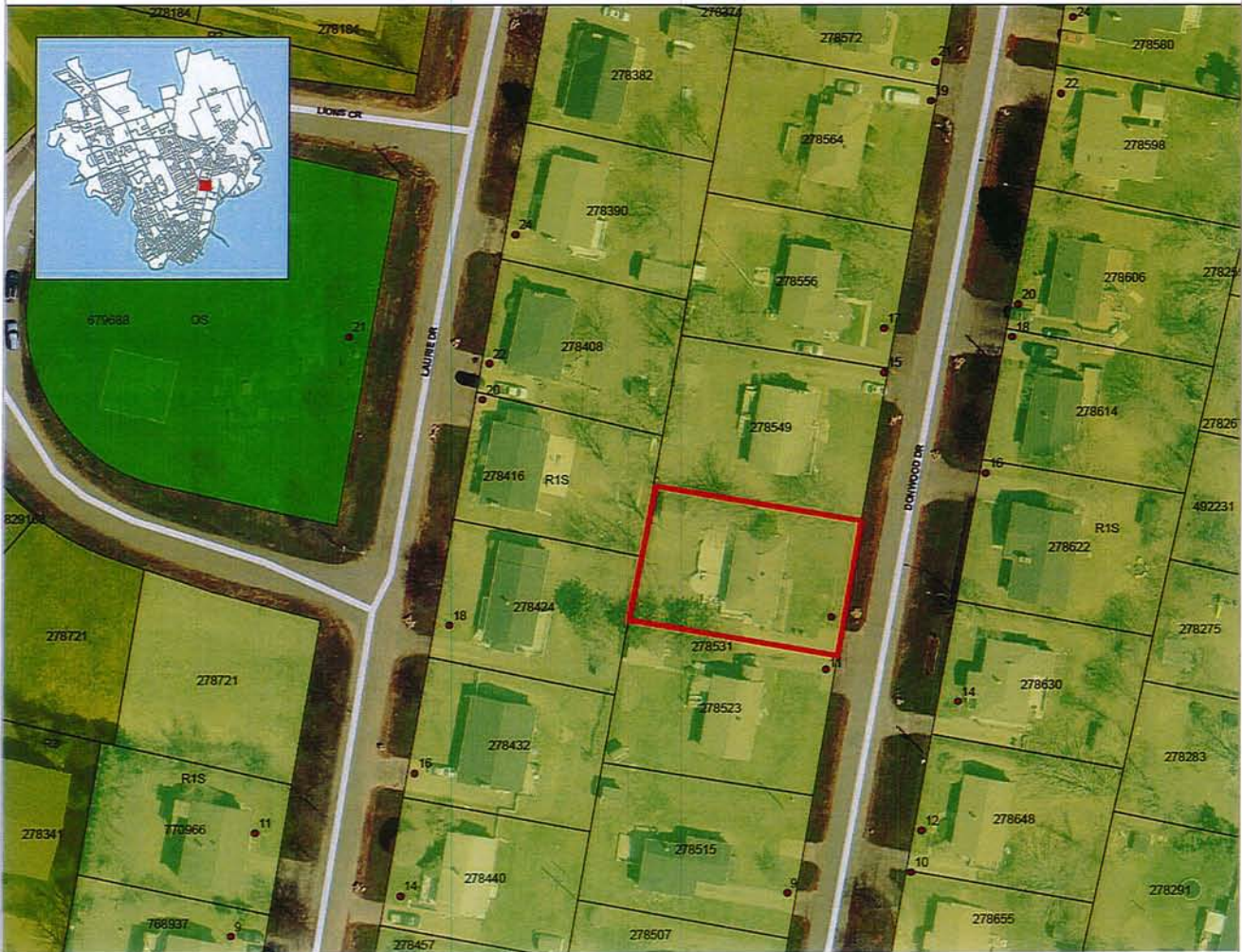
I anticipate having 3 client visits per week to begin with. Appointments will be offered in hourly increments. Clients will be scheduled with 30 minutes between client appointment times to allow for clients to arrive and leave the premise without seeing each other. This will provide clients with additional privacy and limit interactions with each other.

There will be no significant changes to the dwelling. Clients will enter the premise through a separate entrance that directly leads to the room where the service will be provided. There will be no external storage of materials or containers. There will be no animal enclosures, there will be no commercial vehicles. There will be no impact to adjacent properties. There will be no visible signs to assist with maintaining privacy of individuals using the service.



13 Danwood Drive, Charlestown PEI.

Attachment B



Attachment B:
Map of Subject Property
File: PLAN-2019-03-SEPT-



Attachment C

Hello Robert Zilke Planner II,

I am opposed to the request for the minor variance as per section 5.9.3.

I am an immediate neighbour that shares the driveway with the following concerns:

A para medical mental health clinic, is for recovering addicts of all types, not just drugs. Cognitive-behavioral therapy is to change negative behaviours, which is for any kind of addictions.

People need to discover what brought them to addiction. Addicts have to incorporate good healthy living to take place of the addiction. This would include recreation, family, learning to spend time with themselves, which is the hardest, and finding hobbies to occupy their time. It is a total lifestyle change that can be very hard to have a client do.

I have 2 special needs children in the home that are vulnerable and could possibly come in harm's way of an angry client or a client in relapse. I shouldn't have to worry about going outside in my yard when clients visit.

What guarantees do we have, if a client is having an off day, for our safety?

What happens if a client doesn't like their session and gets angry and comes back after hours?

We dont need a relapsed client coming into the neighbourhood, looking for quick money to feed their addiction. Relapses happen quite frequently as the behaviour therapy is a long term commitment.

If this was approved, how many clients would this build to over the course of the week?

She states 3 a week to begin with between 2 PM to 6 PM Monday to Friday but then goes on to say this may increase. Just for the hours mentioned, this could increase to 15 in a week. Once approved, who says she wouldn't work full time Monday to Friday from 8 AM to 6 PM. This would allow 30 clients a week.


There is a high demand for her services and I'm very supportive of these types of services in Charlottetown but I believe this type of service needs to be kept out of a residential area, especially with many young children in the area.

Thank you,
Linda Arain

Attachment C:
Letter of Objection
File: PLAN-2019-03-SEPT-



CHARLOTTETOWN
Planning & Heritage Department

TITLE: LOT AREA & LOT FRONTAGE VARIANCES FILE: PLAN-2019-03-SEPTEMBER- 6B-3 53 UPPER HILLSBOROUGH STREET APPLICANT: JARROD DUNN		 CHARLOTTETOWN
MEETING DATE: September 3, 2019		Page 1 of 5
DEPARTMENT: Planning & Heritage	ATTACHMENTS: A. GIS Map B. Site Plan C. Floor Plan D. Public Feedback	
SITE INFORMATION: Context: Mature neighbourhood consisting of a variety of housing types. Ward No: 4 – Spring Park Existing Land Use: Single Detached Dwelling Official Plan: Mature Neighbourhood (Low Density Residential) Zoning: Low Density Residential (R-2) Zone		
PREVIOUS APPLICATIONS: RAP 318-3		

RECOMMENDATION:

The Planning & Heritage Department recommends to Council to approve the lot area and frontage variances to establish a duplex dwelling located at 53 Upper Hillsborough Street (PID 360719) subject to the following condition:

- 1) *That an occupancy permit is issued on the additional dwelling unit based on the completion of all required work/upgrades to the dwelling unit and building as per the requirements of the Building & Development permit.*

BACKGROUND:

Request

The applicant, Jarrod Dunn, is applying to vary the lot frontage and lot area requirements as illustrated in Section 14.3 of the Zoning & Development By-law in order to construct a semi-detached dwelling at 53 Upper Hillsborough Street (PID 360719) which contains a single detached dwelling in the Low Density Residential (R-2) Zone. Approval of this application will allow for the construction of a two-storey duplex dwelling.

Development Context

The subject property is an interior lot with a single detached dwelling. The uses surrounding the site include a variety of housing types including single-detached dwelling on one side and a 2-unit on the other side of the subject property and 5-unit development across the street.

Property History

The subject property contains a single-detached dwelling; however, according to the applicant the upper level was used as a second dwelling unit for a family member. The property has been assessed as a single detached dwelling and the City has no building permit records that has ever legally established this property as a two unit dwelling.

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 variances.

Public Feedback

The Planning & Heritage Department has received two written responses in relation to this application. The first response had no concerns with the proposal and felt that due to the fact that the only exterior modification was for a separate entrance, this would not affect the streetscape. The second letter received was an objection to the proposal on the basis that they felt there was already too many duplexes and multi-unit developments on the street. The objector's main concerns was in relation to both noise and traffic.

Staff spoke with one resident who opposed the variance but did not submit a formal letter of opposition. They felt that the increase in density would not be compatible with the neighbourhood and had concerns with respect to traffic.

ANALYSIS:

While the R-2 Zone allows for the development of a duplex dwelling, Section 14.2 of the Zoning & Development By-law indicates that in order to be eligible to construct said dwelling, the property must have a lot frontage of 22 m and a lot area of 650 sq m. The subject property has a lot frontage of 17.6 m and a lot area of 427 sq m.

It is very difficult for staff to review an application of this nature when an additional dwelling unit was created without seeking the proper approvals. The applicant has stated that the upper storey was used as an independent residential unit in the past for family members, although the City has no records to indicate when this secondary unit was created. On balance, when considering the variance in question, key points from the Official Plan to be considered include:

*Section 3.1.2 - Our **policy** shall be to allow moderately higher densities in neighbourhoods ... 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 3.1.2 - 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.*

*Section 3.3.1 - Our **policy** shall be to provide medium density housing styles to meet future housing needs.*

Should the variance be approved, the property owner would be required to obtain a Building & Development permit for the additional dwelling unit which would have to conform to all applicable fire life safety standards and Building Code regulations. Also, an additional parking space would have to be provided for the second unit.

This situation is similar to the majority of dwellings on Upper Hillsborough Street. Staff would also note that there is the option to construct a secondary suite within single-detached dwellings which would allow the applicant to construct a second unit while maintaining the single-detached dwelling streetscape. However, upon review of the floor plans it is noted that the second storey which contains the proposed unit exceeds the maximum floor space permitted for a secondary

suite of 80 sq m. Staff would note that this size limitation would make it difficult to create a secondary suite.

Due to the fact that the building footprint is not being enlarged or expanded the proposed duplex dwelling could be approved since the existing structure predates all other requirements of the Zoning & Development By-law relating to setbacks, with the exception that an additional parking space would be required for the second unit. Furthermore, the surrounding area already contains a variety of housing types. While the subject property is adjacent to single-detached dwellings, there are a variety of multi-unit dwellings and a 5-unit apartment dwelling across the street.

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"> ▪ Duplex dwelling is a permitted use in the Low Density Residential (R-2) Zone. ▪ According to the site plan provided, all other requirements of the Zoning & Development By-law including setbacks and parking have been satisfied. ▪ There is a variety of housing types on Upper Hillsborough Street including single-detached dwellings, duplex dwellings and apartment dwellings. ▪ The applicant is not proposing any exterior changes except for a separate entrance to the unit. The building footprint shall remain the same and unchanged thereby not changing the streetscape or character of the area. 	<ul style="list-style-type: none"> ▪ The Zoning & Development By-law allows for secondary suites within single-detached dwellings which would allow the applicant to construct a second unit while maintaining the single-detached dwelling streetscape. However the second unit exceeds the maximum allowable floor space. 	<ul style="list-style-type: none"> ▪ Approving this variance would require an additional parking space that would require an additional access point to the street.

CONCLUSION:

The Planning & Heritage Department recommends to Council to approve the lot area and frontage variances to establish a duplex dwelling located at 53 Upper Hillsborough Street (PID 360719) subject to the following condition:

- 1) *That an occupancy permit is issued on the additional dwelling unit based on the completion of all required work/upgrades to the dwelling unit and building as per the requirements of the Building & Development permit*

PRESENTER:



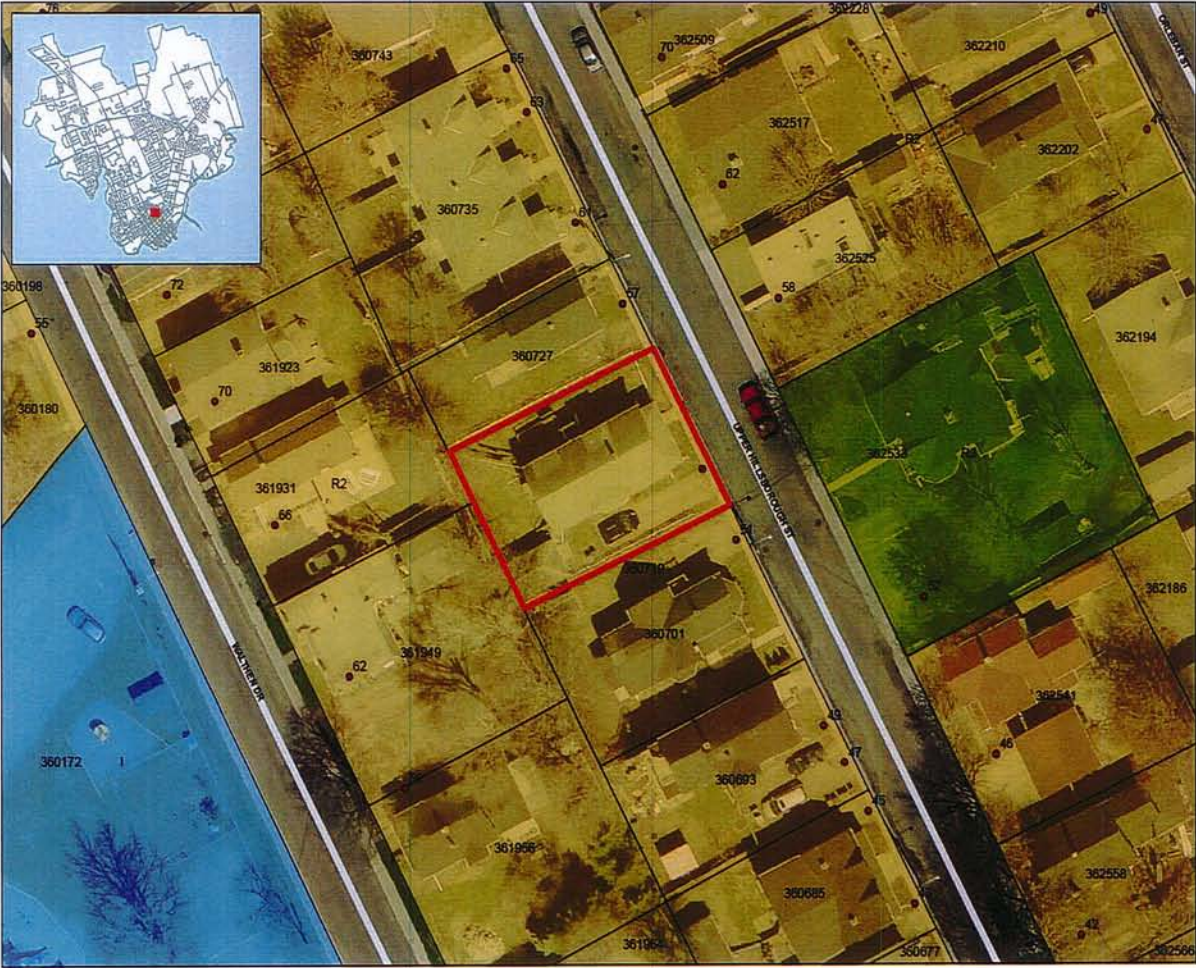
Robert Zilke, MCIP
Planner II

MANAGER:



Alex Forbes, MCIP, MBA
Manager of Planning & Heritage

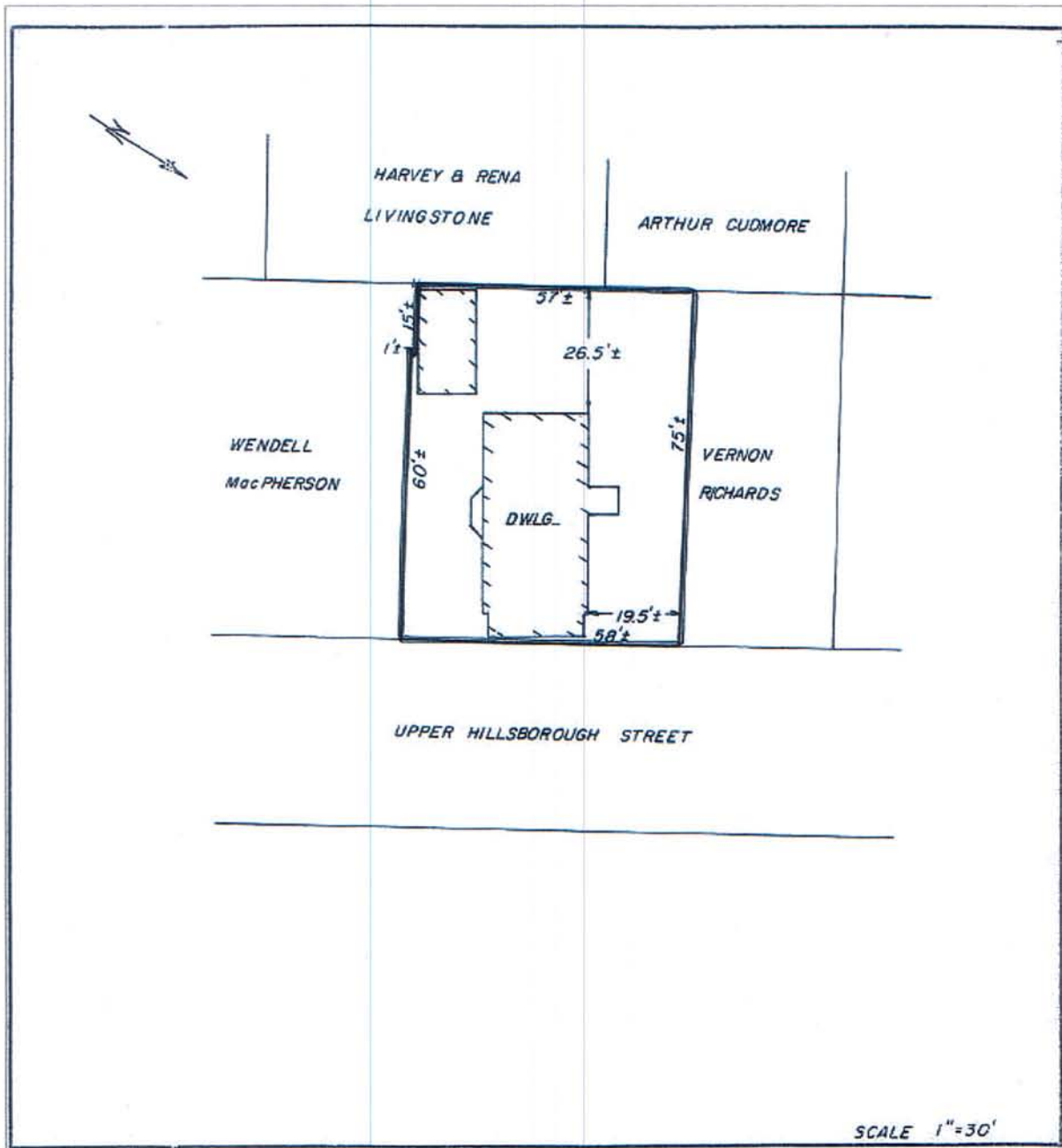
Attachment A



Attachment A: GIS Map
File: PLAN-2019-03-SEPTEMBER-
53 Upper Hillsborough
Applicant: Jarrod Dunn



Attachment B

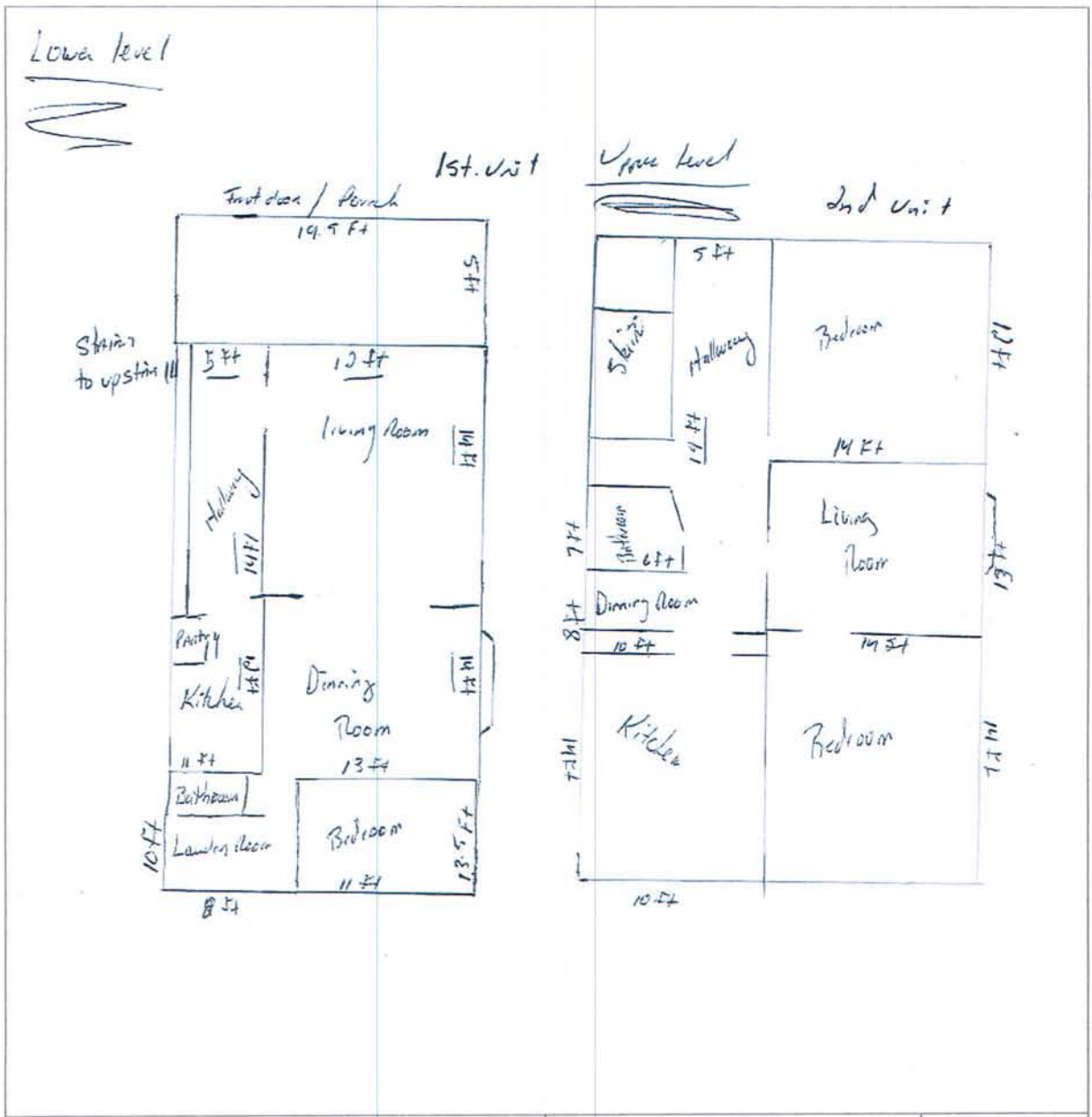


Attachment B: Site Plan
File: PLAN-2019-03-SEPTEMBER-
53 Upper Hillsborough
Applicant: Jarrod Dunn


CHARLOTTETOWN
Planning & Heritage
Department



Attachment C



Attachment C: Floor Plan
 File: PLAN-2019-03-SEPTEMBER-
 53 Upper Hillsborough
 Applicant: Jarrod Dunn



Attachment D

To whom it may concern:

We are the owners of 57 Upper Hillsborough and are vehemently **AGAINST** the variance request, as proposed by the owners of 5 Upper Hillsborough.

The neighborhood is low density residential and should stay that way. There are already too many duplexes and multi-family units on the street. Additional multi-family units would create additional traffic and noise.

We believe that additional multi-family structures would lower the value of our home and single family homes in our immediate neighborhood.

Regards,

Chris & Rick Malanczuk
57 Upper Hillsborough Street
Charlottetown, PE C1A 4X4

To the Planning Dept.

Oh, it's FIFTY THREE Upper Hillsboro street! I see; It's just the existing building to be divided into an upstairs-downstairs duplex. I have no objection at all to this change. It's a good use of the property and will not adversely affect the streetscape.

Paul Workman

Greetings to the Planning and Heritage Department of the City of Charlottetown.

We are submitting this letter to you regarding the application for variance to the property located at 52 Upper Hillsboro St. (PID #360719). Please be advised that we strenuously object to the granting of any variance regarding this property.

We are not in favour of increased density in our neighbourhood. We do not believe that the area is able to deal with increased density with out the continued degradation of the quality of life here. Greater density means more cars, more traffic, more people and more garbage. As 25 year residents of Walthen Drive, we have experienced these negative impacts caused by higher density living situations such as apartment buildings and houses which have been divided into apartments.

One could argue that past city councils and planning departments have done a disservice to the residents and home owners of this neighbourhood by allowing the creation of these higher density living spaces. They have degraded the quality of life in this area which is, for the time being, still mostly comprised of single family dwellings.

The Members of your department might say that this application is only one small change in density and therefore of little consequence. However, when taken in context with another recently approved


application for variance (at 71-73 Upper Prince) and a new apartment building located at the north end of Upper Prince St. it becomes obvious that there is pressure to change the nature of this area filled with historic assets. This latest application is an attempt at continuing this troubling trend and we are decidedly against it.

Thank you,

Tom & Diane Barnes, 58 Walthen Drive, Charlottetown

Attachment D: Public Feedback
File: PLAN-2019-03-SEPTEMBER-
53 Upper Hillsborough
Applicant: Jarrod Dunn



TITLE: LOT FRONTAGE VARIANCE FILE: PLAN-2019-03-SEPTEMBER-GB-4 80 LONGWORTH/46 VICTORY AVE OWNER: BRIAN MCMILLAN		 CHARLOTTETOWN
MEETING DATE: September 3, 2019		Page 1 of 4
DEPARTMENT: Planning & Heritage	ATTACHMENTS: A. GIS Map B. Site Plan C. Floor Plan	
SITE INFORMATION: Context: Mature neighbourhood consisting of a variety of housing types and commercial uses. Ward No: 2 – Belvedere Existing Land Use: Two-unit Dwelling Official Plan: Mature Neighbourhood (Medium Density Residential) Zoning: Medium Density Residential (R-3) Zone		
PREVIOUS APPLICATIONS: RAP 392-2		

RECOMMENDATION:

The Planning & Heritage Department recommends to Council to approve the lot frontage variance to establish a three-unit dwelling at 80 Longworth/46 Victory Ave subject to the following condition:

- 1) *That an occupancy permit is issued on the additional dwelling unit based on the completion of all required work/upgrades to the dwelling unit and building as per the requirements of the Building & Development permit.*

BACKGROUND:

Request

The applicant/owner, Brian McMillan, is applying to vary the lot frontage requirements as illustrated in Section 15.2 of the Zoning & Development By-law in order to convert an existing dwelling unit into two dwelling units located at 80 Longworth Ave / 46 Victory Ave (PID #364695) which presently contains two-unit dwelling in the Medium Density Residential (R-3) Zone. Approval of this application will allow for the establishment of a 3-unit apartment building.

Development Context

The subject property is a corner lot with a duplex dwelling. The uses surrounding the site include a variety of multi-unit housing types including single-detached dwellings to the north, a 6-unit on the east side of the subject property and two 5-unit developments, one to the west across from Longworth Ave and the other to the south across from Victory Ave. There are two institutional uses, a cemetery and school located across from the subject site.

Property History

Built c.1915 as a foursquare style influenced house was the residence of superintendent of the Island Telephone Company, D.M. Gass and his wife, Mabel in 1937. By 1950, Frank and Eileen Harsen resided and owned the home. Fire insurance plans created in 1903 and updated to 1917 indicate that a 2.5 story, single family, wood framed house was on the property by 1917. A RRAP file from 1978 indicated that this property contained two (2) dwelling units. A building permit was issued on December 20, 2005 for renovations following fire damage to the existing duplex.

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 variances.

Public Feedback

The Planning & Heritage Department has received two inquiries in relation to this application. Both required additional information/clarification on the application pertaining to exterior modifications and parking.

At the time that this report was written no objections has been received by our office pertaining to this application.

ANALYSIS:

While the R-3 Zone allows for the development of an apartment, Section 15.2 of the Zoning & Development By-law indicates that in order to establish a multi-unit development (i.e. three units or greater) for a corner lot the property must have a lot frontage of 30 m and the subject property has a lot frontage of only 25 m. Since this is a corner lot the lesser of the two street frontages is defined as the required frontage in the Zoning By-law, the other street frontage along Victory Ave

is approximately 31 m and would satisfy the frontage requirement. The subject site contains enough land that would permit up to four (4) dwelling units.

On balance, when considering the variance in question, key points from the Official Plan to be considered include:

*Section 3.1.2 - Our **policy** shall be to allow moderately higher densities in neighbourhoods ... 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 3.1.2 - 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.*

*Section 3.3.1 - Our **policy** shall be to provide medium density housing styles to meet future housing needs.*

Should the variance be approved, the property owner would be required to obtain a Building & Development permit for the additional dwelling unit which would have to conform to all applicable fire life safety standards and Building Code regulations. The proposal would result in interior renovations only and the building footprint is not being enlarged or further expanded. The building meets all other requirements of the Zoning & Development By-law relating to setbacks and parking requirements. Furthermore, the surrounding area already contains a variety of housing types and adjacent to institutional uses (i.e. school, funeral home and cemetery).

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"> ▪ An apartment is a permitted use in the Medium Density Residential (R-3) Zone. ▪ According to the site plan provided, all other requirements of the Zoning & Development By-law including setbacks and parking have been satisfied. ▪ There is a variety of multi-unit housing types and institutional uses along Longworth Ave. ▪ The applicant is not proposing any exterior changes. The building footprint shall remain the same and unchanged thereby not changing the streetscape or character of the area. 	<ul style="list-style-type: none"> ▪ The Zoning & Development By-law R-3 Zone requirements for lot area would permit this property to have four (4) dwelling units. 	<ul style="list-style-type: none"> ▪ The proposed site plan provides an additional surface parking space off of Victory Ave. This additional space is not required and would not be supported since it would introduce a new ingress/egress point for traffic on the street.

CONCLUSION:

The Planning & Heritage Department recommends to Council to approve the lot frontage variance to establish a three-unit dwelling at 80 Longworth/46 Victory Ave subject to the following condition:

- 1) *That an occupancy permit is issued on the additional dwelling unit based on the completion of all required work/upgrades to the dwelling unit and building as per the requirements of the Building & Development permit*

PRESENTER:



Robert Zilke, MCIP
Planner II

MANAGER:



Alex Forbes, MCIP, MBA
Manager of Planning & Heritage

Attachment A

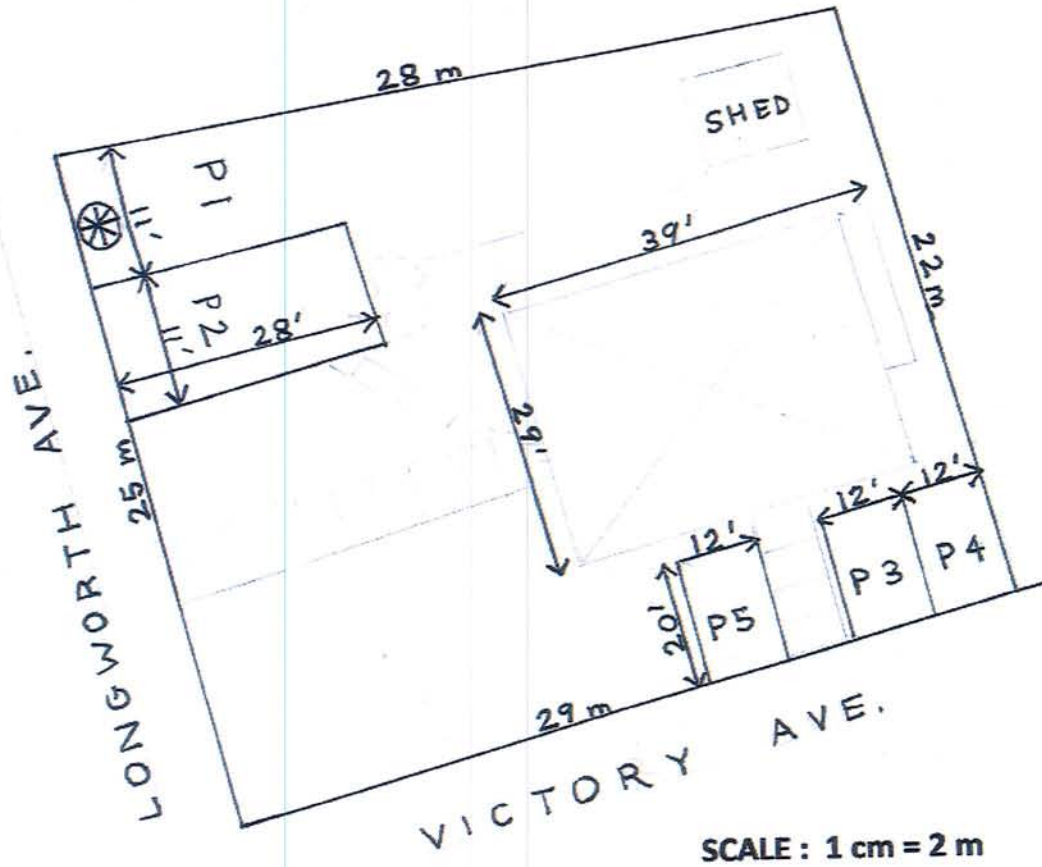


Attachment A: GIS Map
File: PLAN-2019-03-SEPTEMBER-
80 Longworth/46 Victory Ave
Applicant: Brian McMillan



Attachment B

80 Longworth Avenue / 46 Victory Avenue

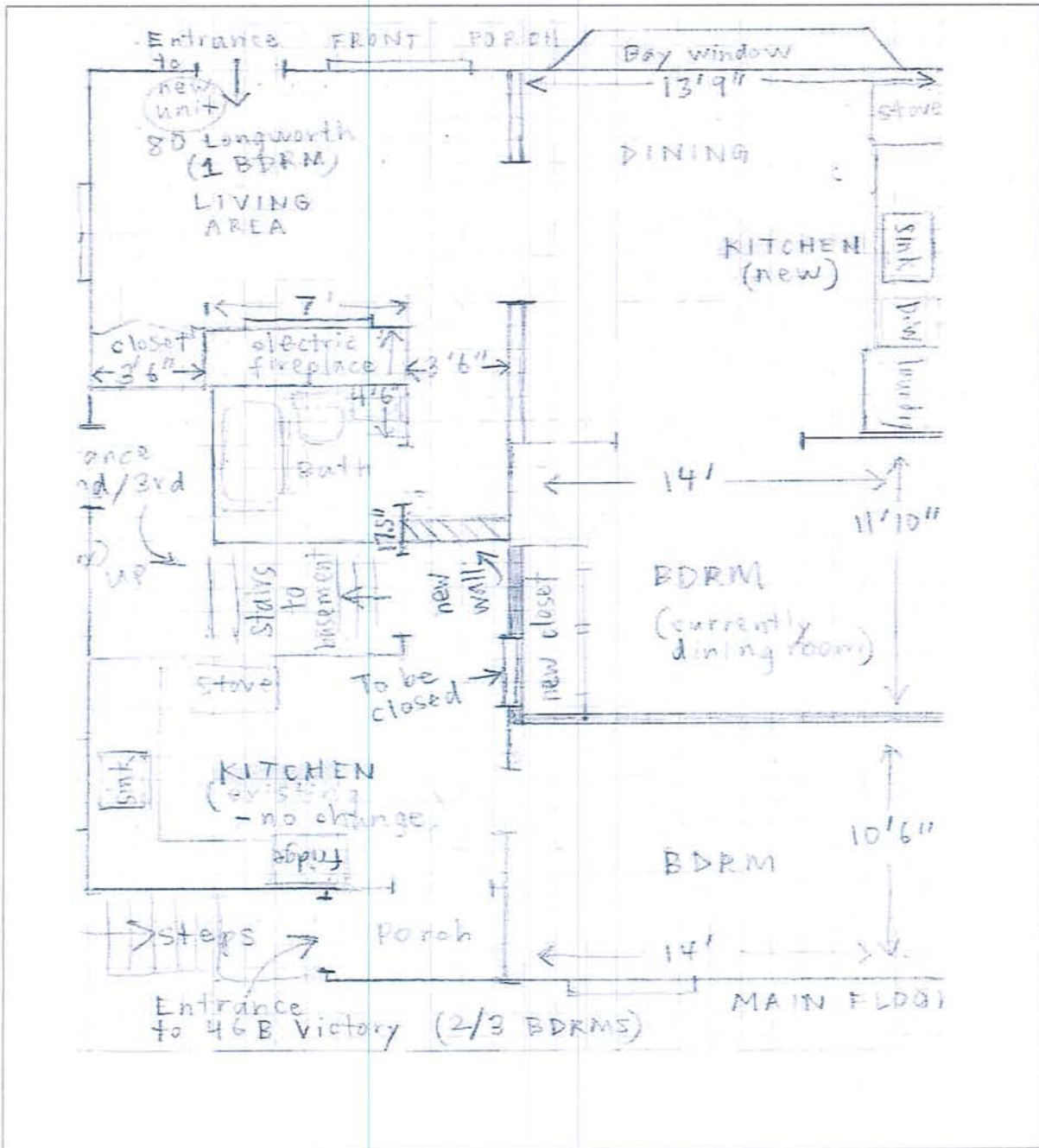


Attachment B: Site Plan
File: PLAN-2019-03-SEPTEMBER-
80 Longworth/46 Victory Ave
Applicant: Brian McMillan


CHARLOTTETOWN
Planning & Heritage
Department




Attachment C



Attachment C: Proposed Floor Plan
 File: PLAN-2019-03-SEPTEMBER-
 80 Longworth/46 Victory Ave
 Applicant: Brian McMillan



TITLE: REQUET FOR 3 VARIANCES(PID# 387654) 17 CAPITAL DRIVE FILE: PLAN-2019-03-September -6.B-5 OWNERS: Kris Rodd APPLICANT: Kris Rodd		 CHARLOTTETOWN
MEETING DATE: September 3, 2019		Page 1 of 8
DEPARTMENT: Planning & Heritage	ATTACHMENTS: A. GIS Map B. Site Map	
SITE INFORMATION: Context: Highway Commercial Zone located on busy arterial road. Ward No: 8 – Highfield Existing Land Use: existing three unit dwelling. Official Plan: Commercial Zoning: Highway Commercial (C-2) Zone		

RECOMMENDATION:

Staff encourages Planning Board to recommend to Council that:

- The major variance to decrease the left minimum side yard setbacks from 4.5 m (14.8 ft) to 3.0 m (9.8 ft) at 17 Capital Drive (PID #387654), be approved; and
- The major variance to decrease the right minimum side yard setbacks from 4.5 m (14.8 ft) to 3.0 m (9.8 ft) at 17 Capital Drive (PID #387654), be approved.

REQUEST

The Planning & Heritage Department has received a request for four (3) variances to the property located at 17 Capital Drive (PID #387654). The subject property is located in the Highway Commercial (C-2) Zone.

The applicant applied for the following four (3) variances in order to demolish the existing three (3) unit apartment building and construct a 12-unit apartment building on the subject property (see attached plan):

- A minor variance to increase the maximum residential density from 11 to 12 dwellings units;

- A major variance to decrease the left minimum side yard setbacks from 4.5 m (14.8 ft) to 3.0 m (9.8 ft); and
- A major variance to decrease the right minimum side yard setbacks from 4.5 m (14.8 ft) to 3.0 m (9.8 ft).

Development Context

The subject property is located near the intersection Capital Drive and Malpeque Road. The applicant owns the subject property, while he and his siblings own the abutting property, 21 Capital Drive which contains a 6-unit apartment dwelling.

The surrounding area is largely characterized by the Highway Commercial (C-2) Zone, which permits a variety of residential and commercial uses, while one property is located in the Institutional (I) Zone.

The northern portion of Capital Drive contains residential uses, in addition to the Calvary Church, which abuts the subject property. The southern section of Capital Drive contains commercial uses, including Rodd Royalty Hotel, U-Haul, etc.

Background

These variances were before Council on both March 13, 2017 and on May 14, 2018. On both occasions Council passed the following resolutions:

That the variance request to decrease the right and left side yard setbacks from 14.8ft to 9.9ft to permit the construction of a 12 unit apartment building at 17 Capital Drive (PID# 387654) be approved.

Further, the minor variance to increase the maximum residential density from 11 to 12 dwellings units was approved by the Planning & Heritage Department because no public complaints were received.

Section 3.9.6 of the Zoning & Development Bylaw states that:

If, after one (1) year of a variance approval by the Development Officer, no Building permit is issued or the Building permit is not acted upon (construction has not commenced), the variance and any permits Shall automatically be deemed null and void.

In light of the foregoing, these three (3) variances have expired because no permit had been issued within one (1) year. The applicant has indicated that it is his intent to begin construction this fall.

LEGISLATIVE REQUIREMENTS:

Notification

In accordance with Sections 3.8 &3.9 of the Zoning & Development By-law, on August 12, 2019 notice was sent to 12 residents located within 100 meters of the subject property advising them of the requested minor and major variances The letter solicited their written comments for or against the proposed variance requests and the deadline to submit written comments on the application.

Public Feedback

There were no comments received for or against the proposed variance requests. Therefore, the request for a minor variance to the density was approved on August 27, 2019. The two major variance requests to the side yard setbacks require Council approval.

OFFICIAL PLAN:

The Official Plan provides policy relating to allowing moderately higher densities in neighbourhoods, using existing underground services to its fullest practical capacity and encouraging development in fully services area.

*Section 3.1.2 - Our **policy** shall be to allow moderately higher densities in neighbourhoods ... 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 3.1.2 - 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.

Section 3.3.1 - Our **policy** shall be to provide medium density housing styles to meet future housing needs.

DISCUSSION:

C-2 Requirements:

Apartment dwellings are a permitted use in the C-2 Zone, and a maximum of one (1) dwelling unit is permitted per 1,237.9 sq ft of lot area. Staff determined that the maximum residential density for the subject lots is 11.9 units; however, the applicant has requested 12 units.

The minimum side yard setbacks are 14.8ft, however, the applicant has applied for two (2) major variances to reduce both side yard setbacks to 9.8 ft.

	C-2 Requirements	Proposed
Left Side Yard Setback	min 14.8ft	9.8 ft
Right Side Yard Setback	min 14.8ft	9.8 ft
Rear Yard Setback	min 26.2ft	46.03 ft
Height	max 39.4ft	35.94 ft
Density	11.96 dwelling units	12 dwelling units

Parking:

As per Section 43.1.7 of the Zoning & Development Bylaw, the minimum parking requirement for the 12-unit apartment building is 12 standard parking spaces and one (1) mobility disabled space. The applicant’s site plan shows that 11 standard parking spaces shall be provided on 17 Capital Drive.

There are an additional 19 standard parking spaces on the applicant’s abutting property, 21 Capital Drive, which requires a minimum of eight (6) standard parking spaces and one (1) mobility disabled space.

The lot area of 21 Capital Drive is in excess of what is required for a 6 unit apartment building therefore a small portion of the driveway access could be subdivided off of 21 Capital Drive and consolidated with the lot at 17 Capital Drive to allow the applicant to meet the parking requirement for the 12 unit apartment building. Section 45.3.4 of the Zoning and Development Bylaw requires approval from Council for a lot consolidation for property in the C-2 Zone.

Therefore if the applicant chooses to do this an application for a lot consolidation would be required.

Landscaping:

As per Section 6.5 of the Zoning & Development Bylaw, a minimum of 10% of the property must be used for landscaped open space. The site plan shows that this requirement shall be satisfied

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"> ▪ These variances had previously obtained approval. ▪ Increasing the capacity of existing underground services. ▪ Additional density in fully serviced areas of the City. ▪ Additional density near centres of employment. ▪ Responds to an existing shortage of apartment units. 		<ul style="list-style-type: none"> ▪ Four (3) variances is a significant request. ▪ The variances are not owing to conditions peculiar to the property or unique to the area.

CONCLUSION:

Staff feels that the proposed development could enhance the Capital Drive streetscape and is the proper location for increased density because it is along a major arterial street. Furthermore, the

apartment dwelling conforms to permitted uses of the C-2 Zone, and it aligns with general intent of the Official Plan.

The properties at 17 and 21 Capital Drive will be linked together permanently due to the shared driveway, it is preferable to have the west property line adjusted. Notwithstanding, since the properties will be interrelated the functional impact of the side property line is more administrative than functional.

RECOMMENDATION:

- Planning & Heritage Department encourages Planning Board to recommend to Council to approve the application for
- The major variance to decrease the left minimum side yard setbacks from 4.5 m (14.8 ft) to 3.0 m (9.8 ft) at 17 Capital Drive (PID #387654), be approved; and
- The major variance to decrease the right minimum side yard setbacks from 4.5 m (14.8 ft) to 3.0 m (9.8 ft) at 17 Capital Drive (PID #387654), be approved.

PRESENTER:

Laurel Palmer Thompson, MCIP
Planner II for Robert Zilkie

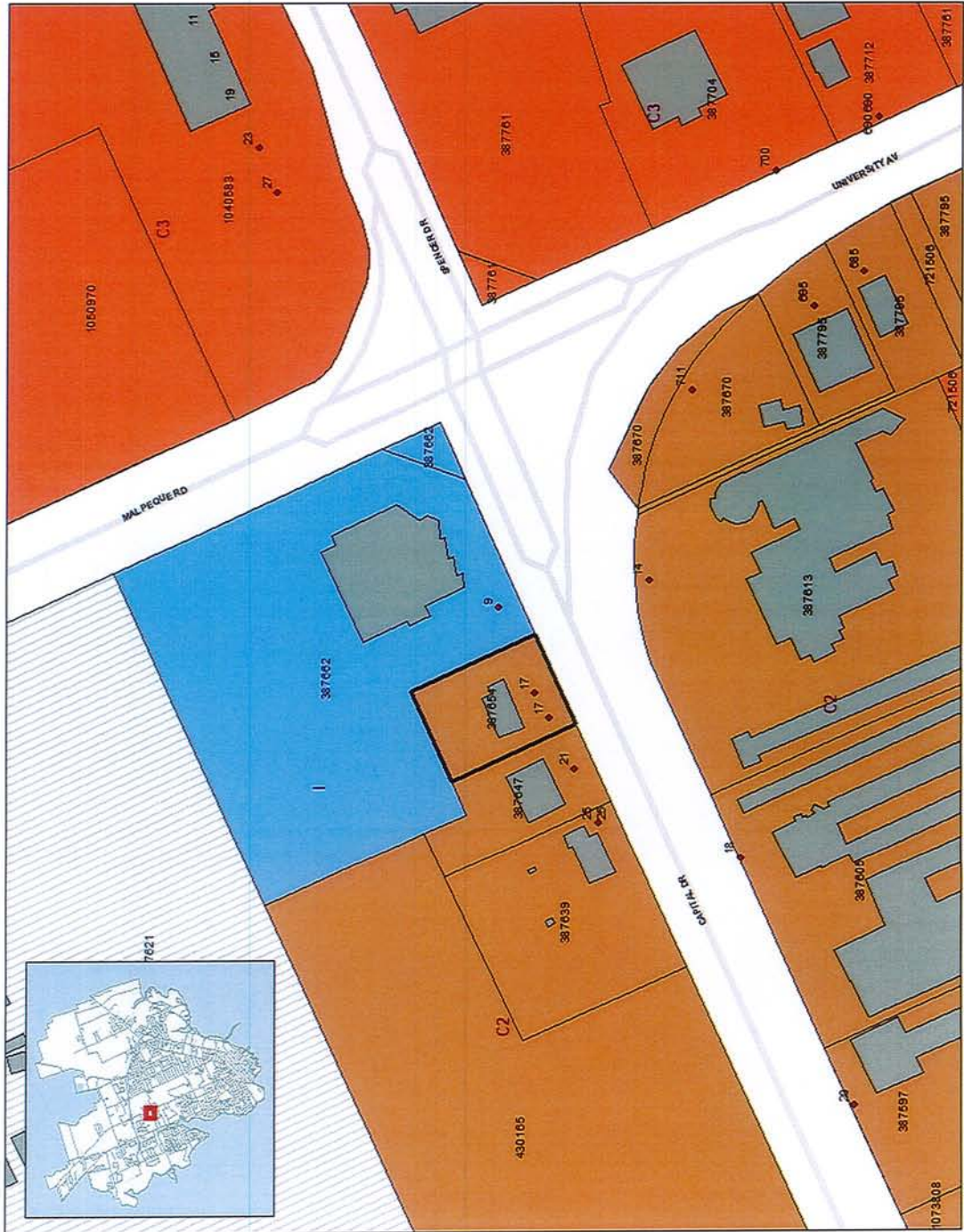


MANAGER:

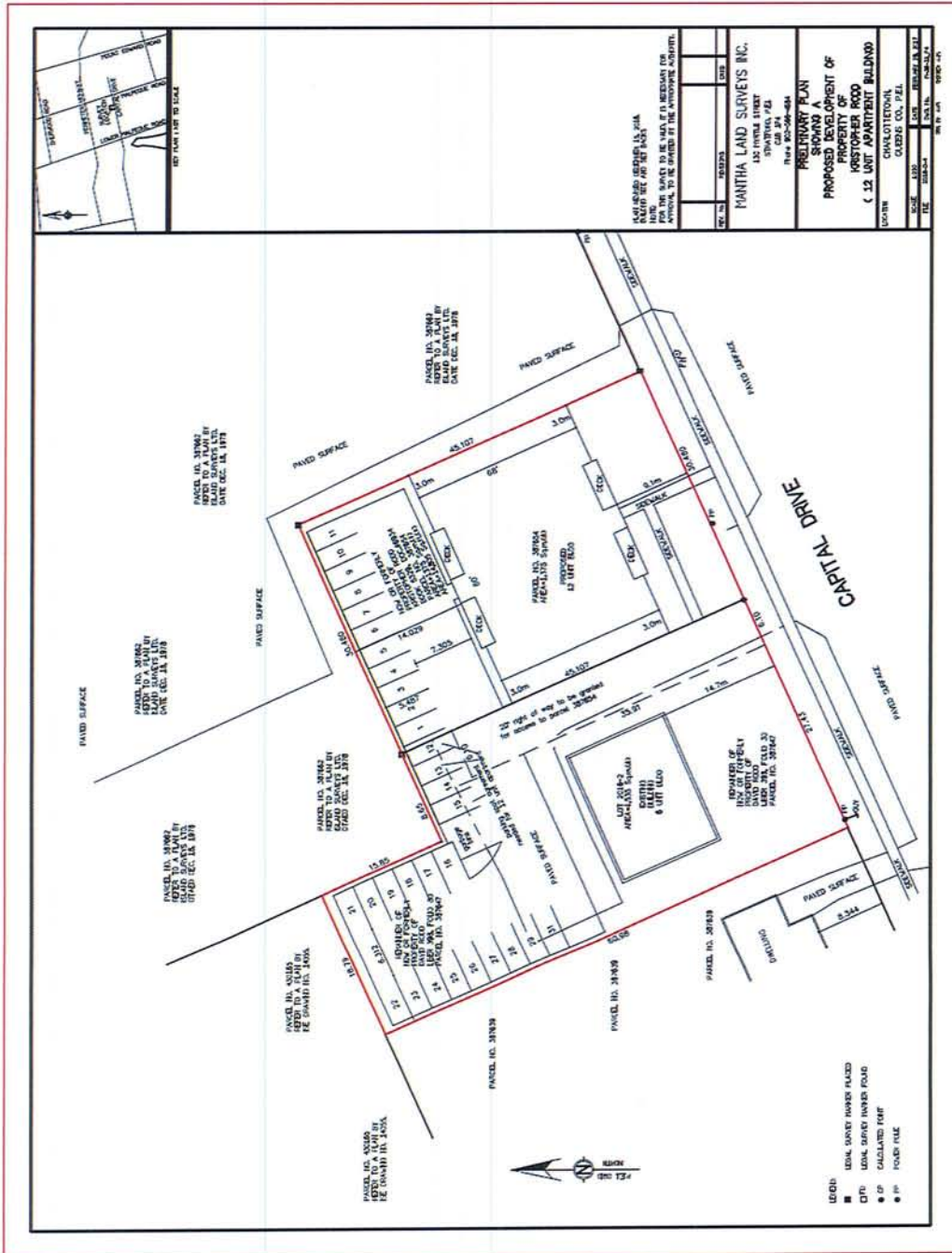
Alex Forbes, MCIP, MBA
Manager of Planning & Heritage




GIS Map:



Site Map:



TITLE: RECONSIDERATION REQUEST (PID# 388595) FILE: PLAN-2019-06-August-6B-4 03-September-6C-6 OWNERS: Royalty Ridge Estates APPLICANT: Royalty Ridge Estates		 CHARLOTTETOWN
MEETING DATE: August 6, 2019		Page 1 of 7
DEPARTMENT: Planning & Heritage	ATTACHMENTS: A. GIS Map B. Letter requesting a Reconsideration C. Notice of IRAC Appeal	
SITE INFORMATION: Context: 11.06 acre vacant property on the corner of Upton Road and Royalty Road Ward No: 8 Highfield Existing Land Use: vacant property. Official Plan: Low Density Residential Zoning: R-1S (Low Density Residential)		

RECOMMENDATION:

The Planning & Heritage Department encourages Planning Board **NOT** to recommend to Council for the request to Reconsider a decision of Council to rezone approximately 3.25 acres of vacant property located on the corner of Royalty Road and Upton Road (PID #388595) by amending Appendix "G" - Zoning Map of the Zoning & Development By-law from the Single-Detached Residential (R-1S) Zone to the Low Density Residential (R-2) Zone.

REQUEST

The City Planning Department has received a request for Reconsideration under Section 3.15 of the Zoning and Development Bylaw regarding an application to rezone approximately 3.25 acres of vacant property located on the corner of Royalty Road and Upton Road (PID #388595) by amending Appendix "G" - Zoning Map of the Zoning & Development By-law from the Single-Detached Residential (R-1S) Zone to the Low Density Residential (R-2) Zone.

The application was rejected by Council on April 8, 2019

On April 26, 2019 a letter requesting a reconsideration (attached) was received from the applicant's solicitor. Further on April 26, 2019 an email was sent to staff indicating his client's

position on the denial of the rezoning request and their reasons for requesting a reconsideration of Council. The applicant is basing their reconsideration request on that,

“Council make overriding and palpable errors in reaching the decision it did by ignoring the five “Baker” factors, failed to render a decision with procedural fairness, failed to carefully evaluate the application and failed to give reasons for declining the application. In addition the Council failed to consider the objectives and policies set out in the bylaws, failed to acknowledge that the planning board and City planners considered this to be good development and approved the duplex lots.

The decision clearly flies in the face of decided case law and Council failed to consider the factors set put in the bylaws respecting the material grounds for consideration.”

The applicant’s solicitor contends that his client’s position is that “Council failed to consider those matters referred to and gave no reasons, inter alia, for its decision.”

BACKGROUND:

The property in question is located on the corner of Upton Road and Royalty Road and is currently zoned Single-Detached Residential (R-1S). The subdivisions to the south and the west are both zoned R-1L and R-1S, while the vacant land to the east is zoned R-2. The properties to the north on the opposite side of the street with frontage on Royalty Road are located in the R-1L Zone. There is also some (M-1) Light Industrial land to the north. However, farther north there is vacant land that is zoned R-2S which allows for semi-detached and duplex dwellings as well as single detached dwellings.

The overall neighbourhood of West Royalty is mixed with single-detached dwellings and semi-detached / duplex dwellings

On November 20, 2018 an application to rezone approximately 3.25 acres from R-1S (Low Density Residential Single to R-2 (Low Density Residential) was submitted to the Planning Department. The initial application was for 9 lots. On January 10, 2019, the Planning Board met to discuss rezoning these nine lots. Planning staff recommended to the Planning Board that the rezoning application be approved to proceed to public consultation. Planning Board then recommended to Council for the application to proceed to public consultation and at the Regular Meeting of Council on January 14, 2019, Council approved that the rezoning application proceed to public consultation.

To fulfil the public consultation requirements as prescribed by the Zoning and Development Bylaw, notice was posted in the Guardian on two separate occasions (January 19, 2019 and January 26, 2019) a copy of the notice was also posted on the subject property.

Forty-five (45) notification letters were also sent to property owners located within a 100 meter radius of the property. On January 30, 2019, the Public Meeting of Council took place. At this meeting, seven attendees spoke in opposition of the rezoning. Additionally, 25 individuals wrote letters to the City of Charlottetown expressing their rezoning concerns. In response to the rezoning criticisms, the applicants requested to defer their rezoning application in order to address the concerns raised by the public. The Planning & Heritage Department accepted their deferral.

After consulting with area residents and City staff, the applicants revised their original rezoning application. In their new application, they applied to rezone seven lots from Single Detached Residential (R-1S) Zone to Low Density Residential (R-2) Zone. Planning staff recommended to City of Charlottetown Council that the rezoning application be approved. Staff's recommendation was based on the rezoning not requiring an Official Plan amendment, providing an alternative form of housing for the neighbourhood, and that two-unit dwellings on an independent cul-de-sac would have little impact on adjacent single-detached dwellings.

At the Regular Meeting of Council on April 8, 2019, Council reheard the rezoning application and decided to deny the application based on the public opposition from affected property owners who felt the rezoning would be out of character with the existing neighbourhood, the potential for reduced property values in the adjacent neighbourhood and the potential for increased traffic generated from the proposed rezoning.

THE PROCESS OF RECONSIDERATION:

In order for an application to be reconsidered there are two stages to a reconsideration request. When an applicant requests a Reconsideration the application for Reconsideration is required to pass a threshold test. To pass the threshold test, the applicant must provide sufficient particulars in the request to show that the request falls within the stated grounds contained in Section 3.15 of the By-law.

Section 3.15 of the Zoning and Development Bylaw states,

3.15 RECONSIDERATION

.3 Council May review, rescind, change, Alter or vary any order or decision made by the Development Officer or Council, and Council May reconsider any application under this section provided that:

- (a) new material facts or evidence not available at the time of the initial order or decision have come to light;*
- (b) a material change of circumstances has occurred since the initial order or decision; or*
- (c) there is a clear doubt as to the correctness of the order or decision in the first instance.*

If, after receiving a recommendation from the Board, Council determines that the request passes the threshold test, Reconsideration will be given based on the merits of the application.

The application is currently at the “Threshold Test” stage. Staff has reviewed the initial application and the grounds put forth by the applicant for the Reconsideration. The applicant is basing the request for the Reconsideration on that,

c) there is a clear doubt as to the correctness of the order or decision in the first instance.

Staff findings do not support this claim. There is no new information that has come forward since the initial decision to deny the rezoning request and having examined the contents of the file including the verbatim minutes there is no evidence to suggest that Council did not have sufficient information to formulate a decision based on both the technical requirements and the public consultation process relating to this application.

Council when assessing an application for rezoning must weigh both planning staff’s professional recommendation based on land use and planning principles and input from the public concerning their neighbourhood.

In terms of process it is evident in the contents of the file that the proper process as prescribed in Section 3.10 (Amendments to the Bylaw and Rezoning) of the Zoning and Development Bylaw were met. Section 3.10.3 states,

“Before amending the regulations of this by-law or rezoning any parcel of land, Council shall conduct a public meeting to receive the views and opinions of the public and the applicant. Council may, for reasons that are in the best interests of the City, reject a proposed amendment to this by-law without public notice and without referral to a public meeting, but if an application goes to a public meeting, then Council shall determine the disposition of the application and the applicant may not be allowed to withdraw the application after the public meeting.”

Although planning staff’s recommendation was based on the technical attributes of the application and surrounding land use as well as the input from the public. Council had to weigh the opinion of the residents regarding their neighbourhood. In doing this Council based their decision to reject the application on the policies, goals and objectives of the Official Plan.

Key sections from the Official Plan to be considered include:

Section 3.2 of the Official Plan 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.

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.

2. Our objective is to allow moderately higher densities and alternative forms of development in any new residential subdivisions which may be established, provided that this development is well planned overall, and harmonious with existing residential neighbourhoods.

Section 3.1.2 - Our policy shall be to allow moderately higher densities in neighbourhoods ... provided it is development at a density that will not adversely affect existing low density housing.

These sections of the Official Plan speak to preserving the integrity and character of existing neighbourhoods. Evidence in the file and verbatim minutes suggests that Council weighed the concerns of the residents and the integrity of their neighbourhood when they assessed the application to rezone from Single Detached Residential Zoning to Low Density Residential Zoning. When residents purchased their homes they purchased land within a low density neighbourhood. Although an Official Plan is meant to be a fluid document which may change as land use and socio-economic trends change residents should still have some security in the stability of their neighbourhoods. Council is an elected body and it is up to them to weigh all aspects of an application before determining the disposition of an application.

Based on various sections of the Official Plan it is evident that Council considered the residents' concerns with protecting the stability, harmony and integrity of their neighbourhood. Therefore, it is staff's opinion that Council considered the Zoning and Development Bylaw as well as the Official Plan when determining the application.

CONCLUSION:

The applicant has based their request for reconsideration on (c) *there is a clear doubt as to the correctness of the order or decision in the first instance.*

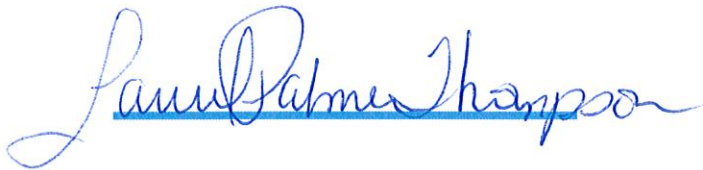
Staff findings do not support this claim. It is evident from the file materials that Council followed the process as prescribed in Section 3.10 (Amendments to the Bylaw and Bylaw Amendments) and it appears that Council’s decision follows the policies, objectives and goals of the Official Plan. In addition, there is no new information that has come forward since the initial decision to deny the rezoning request and further a material change of circumstances has not occurred since the original decision.

RECOMMENDATION:

Therefore, staff does not recommend for reconsideration of the original decision of the Council to deny a request to rezone approximately 3.25 acres of vacant property located on the corner of Royalty Road and Upton Road (PID #388595). Staff recommends the rejection of the request for Reconsideration as the grounds proposed for the Reconsideration by the applicants do not meet the requirements of Section 3.15.3 of the Zoning and Development By-law (Threshold Test).

PRESENTER:

Laurel Palmer Thompson, MCIP
Planner II



MANAGER:

Alex Forbes, MCIP, MBA
Manager of Planning & Heritage



T. DANIEL TWEEL

BARRISTER & SOLICITOR
NOTARY PUBLIC

105 KENT STREET
P.O. BOX 3160
CHARLOTTETOWN, P.E.I.
CANADA C1A 7N9

TELEPHONE : 902-368-8600
FACSIMILE : 902-368-8810
E-MAIL : office@tweellaw.ca

April 26, 2019

City of Charlottetown
ATTN: Mr. Greg Morrison
233 Queen Street
Charlottetown, PE C1A 8B9

Dear Mr. Morrison:

RE: Royalty Ridge Estates Inc.
Our File No. 5936-10/TDT

We write on behalf of Royalty Ridge Estates Inc..

Your letter of April 12th was received by our clients on the 18th instant.

We are formally requesting a reconsideration of Council's position on the issue of the seven (7) lots which our client sought to have re-zoned for duplex use.

Yours truly,

P. Campbell

TD T. Daniel Tweel
TDT/pmc

PLANNING
Rec'd April 26, 2019 Int EG

PLANNING
Rec'd May 2, 2019 Int EG



April 30, 2019

Via: Email and Regular Mail
aforbes@charlottetown.ca

City of Charlottetown
Planning and Heritage Department
233 Queen Street
Charlottetown, PE C1A 4B9
Attention: Alex Forbes, Manager

Dear Mr. Forbes:


RE: Appeal #LA19007 – Royalty Ridges Estates Inc. v. City of Charlottetown

The Island Regulatory and Appeals Commission has received a Notice of Appeal from T. Daniel Tweel, on behalf of Royalty Ridges Estates Inc., against the April 8, 2019 decision of the City of Charlottetown with respect to the application to rezone 7 lots from R1S to R2. I have enclosed a copy of the Notice of Appeal for your records.

The Appellant has apparently requested a reconsideration by the City of Charlottetown and therefore, the Commission agrees to hold this matter in abeyance during the reconsideration process and no further action will be taken by the Commission until further notified.

Any questions or concerns can be directed to myself by telephone at 902-892-3501 or email at pjrafuse@irac.pe.ca

Yours truly,



Philip J. Rafuse
Appeals Administrator
Corporate Services and Appeals Division

Enclosure

RECEIVED
 APR 26 2019
 The Island Regulatory and Appeals Commission
 Handed in 3:48 PM
 ML/A

Notice of Appeal
 (Pursuant to Section 28 of the *Planning Act*)

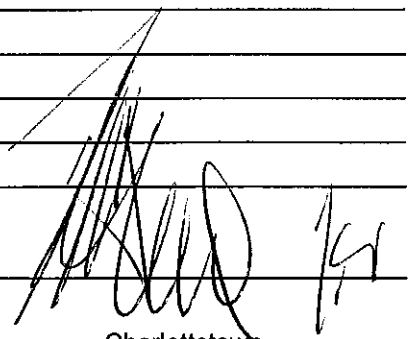
TO: The Island Regulatory and Appeals Commission
 National Bank Tower, Suite 501, 134 Kent Street
 P.O. Box 577, Charlottetown PE C1A 7L1
 Telephone: 902-892-3501 Toll free: 1-800-501-6268
 Fax: 902-566-4076 Website: www.irc.pe.ca

NOTE:
 Appeal process is a public process.

TAKE NOTICE that I/we hereby appeal the decision made by the Minister responsible for the administration of various development regulations of the **Planning Act** or the Municipal Council of Charlottetown (name of City, Town or Community) on the 8th day of April, 2019, wherein the Minister/Community Council made a decision to deny the application of Royalty Ridge Estates Inc. to re-zone 7 lots from R1S to R2. The grounds for the appeal are as follows: Council in making its decision, did not consider:
 a. the fact that the planning board had approved the subdivision; see attached (attach a copy of the decision).

AND FURTHER TAKE NOTICE that, in accordance with the provisions of Section 28.(5) of the *Planning Act*, the grounds for this appeal are as follows: (use separate page(s) if necessary)
 We seek the following relief - that the decision of Charlottetown City Council of April 8th, 2019, to deny re-zoning be set aside and that an Order be issued directing the City to re-zone the lots to R2.

AND FURTHER TAKE NOTICE that, in accordance with the provisions of Section 28.(5) of the *Planning Act*, I/we seek the following relief: (use separate page(s) if necessary)

Name(s) of Appellant(s): Royalty Ridge Estates Inc. Signature(s) of Appellant(s): 
Please Print
 Mailing Address: c/o T. Daniel Tweel 105 Kent St. City/Town: Charlottetown
 Province: Prince Edward Island Postal Code: C1A 1N3
 Email Address: office@tweellaw.ca Telephone: 902-368-8600

Dated this 26 day of April, 2019.
day month year


IMPORTANT

Under Section 28.(6) of the *Planning Act*, the Appellant must, within seven days of filing an appeal with the Commission serve a copy of the notice of appeal on the municipal council or the Minister as the case may be.

Service of the Notice of Appeal is the responsibility of the Appellant

Information on this Form is collected pursuant to the *Planning Act* and will be used by the Commission in processing this appeal. For additional information, contact the Commission at 902-892-3501 or by email at info@irc.pe.ca.

- b. the planners for the City considered this good development application and worthy of consideration;
- c. the City did not consider the benefit to the City of mixed zoning nor did it consider the factors set out in the by-laws respecting the material grounds for consideration;
- d. the Council ignored the objectives and policies of the City of Charlottetown's planning and developing by-laws;
- e. Council ignored the five "Baker" factors, failed to render a decision with procedural fairness, failed to carefully evaluate the application, and, failed to give reason for declining the application. The decision of Council flies in the face of decided case law, and, decisions rendered by IRAC.

TITLE: ZONING & DEVELOPMENT BY-LAW AMENDMENTS FILE: PLAN-2019-03-SEPTEMBER- GC-7	 CHARLOTTETOWN
MEETING DATE: September 03, 2019	Page 1 of 4
DEPARTMENT: Planning & Heritage	ATTACHMENTS: Attachment A – Calculation of Numerical Requirements & Measurements Attachment B – Design Review Attachment C – Attached Garages and Carports Attachment D – Non-Conforming Buildings Attachment E – Asphalt Plant in the West Royalty Business Park Attachment F – Marijuana Production Facility Parking Space Requirements Attachment G – Designated Heritage Resource Sign Exemptions

RECOMMENDATION:

The Planning & Heritage Department recommends that the proposed Zoning & Development By-law amendments pertaining to:

- Section 2 Operation;
- Section 3.14 Design Review;
- Section 4 Accessory Structures;
- Section 4.6 Non-Conforming Buildings;
- Section 36.2 Regulations for Industrial and Commercial Uses;
- Section 43.1 Parking Space Standards;
- Section 44.21 Exemptions to Sign Regulations

be *approved* to proceed to public consultation.

BACKGROUND / ANALYSIS:

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 staff have encountered some applications that require a review or insertion of additional regulations relating to formalizing standard practices dealing with measurements, restrict the expansion of legal non-conforming uses, require design review for developments that undergo a significant design alteration in the 500 Lot Area, dictate the maximum size of an attached garage, prohibit Asphalt, Aggregate and Concrete Plants in the West Royalty Industrial Park, establish Marijuana Production Facility parking requirements and enable Heritage Board to provide a recommendation to Council on the design and placement of signage for Designated Heritage Resources.

Measurements under Operation Section (Attachment A)

Currently the Zoning & Development does not contain provisions to deal with calculations of numerical measurements. For example both density and parking calculations could result in fractions thereby leaving some ambiguity to the final calculation. Currently, staff have been using common practices to determine final dwelling unit or parking space counts, instances whereby a calculation results in a fraction of a whole number staff either rounds up or down if it is less than 0.5 or greater than 0.5 of the whole number. The other proposed amendments is to clarify situations that pose discrepancies between metric and imperial measurements and applying setback measurements from a building or structure to property lines. The proposed amendments are to formalize measurement practices.

Criteria for Design Review Requirements (Attachment B)

The Zoning & Development By-law requires any new construction, multi-unit residential, increase in a Building's footprint/GFA by 20 sq.m or greater, or development that requires a land use approval application (i.e. subdivision, major variance, bonus height) in the 500 Lot Area to undergo the Design Review process. Staff is recommending that in addition to the above criteria that any development proposal that results in a significant alteration to a Building's design should also be subject to the Design Review process. This is to ensure that the unique architectural character of the 500 Lot Area is not only maintained but enhanced in the future.

General Provisions for Buildings and Structures – Attached Garage (Attachment C)

The Zoning & Development By-law does not regulate maximum sizes for attached garages for residential properties. Over the past couple of years the Planning office has been receiving inquiries and at times applications for large attached garages for residential properties. In some instances, the attached garage has been larger than the residential floor area of the dwelling. This has led to massive garages that is out of scale and character of a typical residential area that has

caused various neighbourhood complaints. To address this staff is proposing a limit to the size of an attached garage for residential dwellings. Presently, the size of detached accessory structures (i.e. sheds, garages) are regulated in the Zoning & Development By-law. As per jurisdictional research and a scan of permits that have been previously approved staff is recommending that attached garages be restricted to a maximum gross floor area of 40% of the residential dwelling.

Non-Conforming Buildings (Attachment D)

Jurisdictional scan of other municipalities show that non-conforming buildings may be reconstructed, repaired or renovated but does not necessarily allow the non-conforming building to be enlarged. To allow for a non-conforming building to be enlarged undermines the purpose for discontinuing the non-conforming building to encourage compliance with the Zoning standards of the day. The purpose of the amendment is to remove references of enlargement of a non-conforming building.

Prohibit Asphalt, Aggregate and Concrete Plant in the West Royalty Business Park (Attachment E)

West Royalty Business Park is unique as it contains few heavy industrial uses and is well on its way transitioning into an established business park. This is reflective of the surrounding sensitive land uses such as low density residential, commercial and institutional uses. Due to the close proximity of residential uses in the adjacent area and preliminary conversations with the Province, staff feels that an Asphalt, Aggregate and Concrete Plant would be regarded as an incompatible land use in the West Royalty Business Park area. Staff would also note that when the Zoning & Development By-law undergoes a comprehensive review it is recommended that properties located within the West Royalty Business Park that are zoned Heavy Industrial (M-2) be down zoned to a less intensive industrial zone.

Marijuana Production Facility Parking Requirements (Attachment F)

Staff previously included amendments to address a Cannabis retail use but since then there has been an application made to construct a marijuana production facility in the City. The Zoning & Development By-law does not include a parking standard for this particular use, but due to its unique nature as a land use and operation it would require a specific standard. Through research staff recommends that "1 space per 200 sq. m (2,152.8 sq. ft) of *Floor Area* or 1 space per employee per shift, whichever is greater" be inserted into the General Provisions for Parking.

Enable Heritage Board to make a recommendation to Council for Variance of Signage on Designated Heritage Resources (Attachment G)

Clarification on the variance process for signage on Designated Heritage Resources is required to ensure that both the Zoning & Development By-law and the Heritage Preservation By-law is consistent. The proposed amendments seek to enable Heritage Board to provide a recommendation to Council for signs on designated heritage properties relating to the design and placement.

LEGISLATIVE REQUIREMENTS:

Notification

If the proposed amendments to the Zoning & Development By-law PH-ZD.2 are 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 PH-ZD.2.

CONCLUSION:

The Planning & Heritage Department recommends that the proposed Zoning & Development By-law amendments pertaining to:

- Section 2 Operation;
- Section 3.14 Design Review;
- Section 4 Accessory Structures;
- Section 4.6 Non-Conforming Buildings;
- Section 36.2 Regulations for Industrial and Commercial Uses;
- Section 43.1 Parking Space Standards;
- Section 44.21 Exemptions to Sign Regulations

be *approved* to proceed to public consultation.

PRESENTER:



Robert Zilke, MCIP
Planner II

MANAGER:



Alex Forbes, MCIP, MBA
Manager of Planning & Heritage

Attachment A

Section 2.0 OPERATIONS is amended by adding the following section:

2.7 CALCULATION OF NUMERICAL REQUIREMENTS & MEASUREMENTS

2.7.1 All numerical requirements in this By-law are provided in metric units of measurement. Imperial units of measurement, where provided, are for user convenience only. Where a discrepancy between metric and imperial measurements occurs, the metric measurement shall prevail.

2.7.2 In this By-law, unless otherwise stated:

(a) metric fractions of one-half (0.5) or greater must be rounded up to the nearest whole number and fractions of less than one-half (0.5) must be rounded down to the nearest whole number; but

(b) when measuring the required distance between a property line and a building or structure or between two (2) buildings or structures, the measurement is made at the closest point distance between the two;

(c) all measurements and distances must be made along the horizontal planes and not by following the topography or slope of land.

Attachment A:
Amendments to Operation
File: PLAN-2019-6-SEPT-


CHARLOTTETOWN
Planning & Heritage Department

Attachment B

Section 3.14 DESIGN REVIEW is amended by adding an additional subsection as follows:

3.14.1 The Design Review process shall apply to the following Building and/or Development Permit applications for any Affordable Housing development(s) in or outside the 500 Lot Area and properties located within the 500 Lot Area, as defined and described in Appendix H:

- a. New construction of any non-residential use or of a Multi-unit Residential Building;
- b. An increase in an existing Building's footprint or Gross Floor Area by 20 sq. m (215 sq ft) or more, excluding residential properties with less than four (4) Dwelling Units;
- c. A Development application that involves a Subdivision/Consolidation, Major Variance, Bonus Height and/or a Site Specific Exemption;
- d. *A significant alteration to the Building's original style, design or materials.*

Attachment B:
Amendments to Design Review
File: PLAN-2019-03-SEPT-


CHARLOTTETOWN
Planning & Heritage Department

Attachment C

Section 4 is amended by adding an additional section as follows:

4.2 Attached Garages and Carports

4.2.1 Attached Garage may be added to any dwelling, but the following requirements shall apply:

- a. The maximum size of the attached garage cannot exceed 40% of the gross floor area of the residential dwelling unit space;
- b. The setback requirements for a garage or carport shall follow the same setback requirements for the dwelling unit for that zone;
- c. Attached garages for semi-detached dwellings may be centered on the shared property line if erected simultaneously on both lots as one structure.

All corresponding sections to be renumbered.

Attachment C:
Amendments to General Provisions for
Buildings and Structures
File: PLAN-2019-03-SEPT-



Attachment D

Section 4.6 Non-Conforming Buildings is amended by removing the words “enlarged” and “enlargement” as follows:

Section 4.6.1 is amended as follows:

By deleting the words “enlarged” and “enlargement” as follows:

4.6.1 Where a Building has been Erected on or before the effective date of this by-law, on a Lot having less than the minimum Lot Frontage or Lot Area , or having less than the minimum Setback required by this by-law, the Building may be ~~enlarged~~, reconstructed, repaired, renovated, or demolished provided that:

a. The ~~enlargement~~, reconstruction, repair, Renovation, or new Building does not further reduce the existing Setback that does not conform to this by-law, and in the case of a Demolition, a new Building is constructed within two (2) years;

4.6.3 If a Building that is non-conforming under the provisions of this by-law is destroyed by a fire, or is otherwise damaged by fire to an extent of 75% or more of the assessed value of the property, it shall not be rebuilt or repaired unless:

a. It is rebuilt or repaired in conformity with the permitted land uses of this by-law;

b. Such rebuilding, ~~enlargement~~, reconstruction, repair, Renovation, or new Building does not further reduce a required Front Yard or Side Yard that does not conform to this By-law;

Attachment D:
Amendments to Non-Conforming Buildings
File: PLAN-2019-03-SEPT-


CHARLOTTETOWN
Planning & Heritage Department

Attachment E

Section 36.2.3 under REGULATIONS FOR INDUSTRIAL AND COMMERCIAL USES is added as follows:

By inserting the following:

36.2.3 That an Asphalt, Aggregate and Concrete Plant is prohibited from being established in the West Royalty Business Park.

Attachment E:
Amendment to the Heavy Industrial (M-
2) Zone
File: PLAN-2019-6-AUG-


CHARLOTTETOWN
Planning & Heritage Department


Attachment F

Section 43.1 the parking table is amended as follows:

By inserting the Use "Marijuana Production Facility," following the Use "Funeral Establishment" but preceding the Use "Hospital" as follows:

Dwelling Unit in the 500 Lot Area	1 space per <i>Dwelling Unit</i> in a <i>Building</i> with three or few <i>Dwelling Units</i> ; and in a <i>Building</i> with more than three <i>Dwelling Units</i> the parking shall be 1 space for every two <i>Dwelling Units</i> with no <i>Parking Lot</i> to have less than three <i>Parking Spaces</i> .
Funeral Establishment	A minimum of 15 spaces plus 1 space for each 5 seats
Marijuana Production Facility	1 space per 200 sq. m. (2,152.8 sq. ft.) of <i>Floor Area</i> or 1 space per employee per shift, whichever is greater.
Hospital	1.25 spaces per bed

--	--

Attachment F: Amendments to Parking File: PLAN-2019-03-SEPT-	 <p>CHARLOTTETOWN Planning & Heritage Department</p>
--	--

Attachment G

Section 44.21 EXEMPTIONS TO SIGN REGULATIONS is amended as follows:

44.21 EXEMPTIONS TO SIGN REGULATIONS

44.21.1 Heritage Board shall ~~review~~ make a recommendation to Council on sign Permit applications for Designated Heritage Resources that do not adhere to the Sign Design Criteria and/or the placement of the sign, but not allow an increase to the permitted sign face area..

44.21.2 Planning Board shall review applications and make a formal recommendation to Council for applications:

a. for Off-premise Signs for Special Events where there is a request to erect Signs that exceed the maximum duration;

b. for Off-premise Signs for Special Events where there is a request to erect Signs on an annual basis; and

~~c. where a Variance is being sought due to conditions peculiar to the property or unique to the area. This request shall only pertain to the placement and design of Signs, not an increase to the permitted Sign Area.~~

Attachment G:
Amendments to Exemptions to Sign
Regulations
File: PLAN-2019-03-SEPT-


CHARLOTTETOWN
Planning & Heritage Department