

Cape Breton Regional Municipality

Council Meeting

AGENDA

TUESDAY, APRIL 19TH, 2016

6:00 P.M.

Council Chambers
2nd Floor, City Hall
320 Esplanade, Sydney, NS

Cape Breton Regional Municipal Council

Tuesday, April 19th, 2016

6:00 p.m.

AGENDA ITEMS

ROLL CALL

O' Canada

Moment of Silent Reflection

1. APPROVAL OF MINUTES: (Previously Distributed)

- Special Council – Stakeholder Budget Sessions – February 19th, 2016
- Council – March 15th, 2016

2. VOLUNTEER WEEK:

2.1 Volunteer Week Proclamation

Councillor Eldon MacDonald (See page 8)

2.2 Presentation of 2016 Volunteer Awards: (See page 9)

- a) **Gary McDonald Memorial Award** - Colleen Clare, Physical Activity Strategy Coordinator

Awarded in recognition of an outstanding community project.

- b) **Anne Holland Memorial Award** – Ashley Eisan, Recreation Coordinator

Awarded in recognition of an outstanding community volunteer.

- c) **Youth Volunteer Award**- Jonathan Penney, Recreation Coordinator

Awarded in recognition of an outstanding youth volunteer.

3. PROCLAMATIONS & RESOLUTIONS:

- 3.1 Rail Safety Week:**
Councillor Lowell Cormier (See page 10)
- 3.2 Annual Day of Mourning:**
Councillor Kevin Saccary (See page 11)
- 3.3 National Hospice Palliative Care Week:**
Councillor Mae Rowe (See page 12)
- 3.4 Multiple Sclerosis Awareness Month:**
Councillor Ivan Doncaster (See page 13)
- 3.5 Air Cadet League of Canada – 75th Anniversary:**
Councillor Darrell Flynn (See page 14)
- 3.6 Louisbourg Gabarus Road:**
Councillor Ivan Doncaster
Councillor Kevin Saccary (See page 15)

4. DELEGATION:

- 4.1 Creative Economy Growth Plan:** Ms. Joella Foulds, Arts and Culture Roundtable Group, and Mayor Cecil P. Clarke (See page 16)
(Presentation to follow)

5. BUSINESS ARISING:

- 5.1 General Committee meeting – April 5th, 2016:**
 - a) Heavy Garbage Collection Timing Issue – Update on Tender Process:**

Committee approved to go forward with the tender process for heavy herbage collection for 2016, noting that the budgetary consideration regarding this issue will be dealt with during the April 19th Council meeting. Francis Campbell, Manager of Solid Waste (See page 20) (Updated Report to follow)

Continued...

Business Arising Cont'd:

b) Request for Street Closure – Bradbury Lane (near Borden Street), Whitney Pier):

Committee recommends proceeding with the street closure process for an unopened street reserve known as Bradbury Lane, located near Borden Street in Whitney Pier, following which the subject area be deemed surplus to the needs of CBRM to allow for Ms. Donna Wadden to purchase same. Demetri Kachafanas, Solicitor (See page 22)

c) Electronic Voting – 2016 Municipal and School Board Elections:

Committee recommends:

- i. Approval of electronic voting (internet and telephone) for the 2016 CBRM Municipal and School Board Elections for advanced polls only, with the voting timeframe fixed for an eight-day period, commencing at 8:00 a.m. on Wednesday, October 5th through to 7:00 p.m. on Wednesday, October 12th, 2016, and;
- ii. Authorizing the Mayor and Clerk to sign the agreement for e-voting services with ScytI Canada Inc. in accordance with the Assignment of the Standing Offer Agreement between Intelivote Systems Inc. and ScytI Canada in relation to RFP P15-327 issued by the Halifax Regional Municipality on behalf of the Nova Scotia Association of Municipal Administrators.

Deborah Campbell, Municipal Clerk (See page 25)

6. PLANNING ISSUES:

6.1 Final Approval – Public Hearing: N/A

6.2 Approval to Advertise:

a) Municipal Planning Strategy Amendment Application #1020 – Cavell McNeil and Karen McNeil, 322 Park Road, Florence, PID# 15658271:

Committee recommends approval to advertise notice of a Public Hearing to be held during a future meeting of Council to consider amending the CBRM Municipal Planning Strategy and Land Use Bylaw to allow for retail sales at 322 Park Road, Florence, PID 15658271. Karen Neville, Planner (See page 28)

Continued....

Planning Issues:

Approval to Advertise Cont'd:

- b) **Application #1021: Amendments to the CBRM Vendors and Traders of Goods By-law; Amendment to Section 44 of the CBRM Land Use By-law; and Amendment to the Section 39 of the CBRM North End Sydney Secondary Land Use By-Law:**

Committee recommends approval to advertise notice of a Public Hearing to be held during the May 2016 meeting of Council, to consider amending the Vendors and Traders of Goods By-law, and Vendors subject of the Land Use By-law and the North End Sydney Secondary Land Use Bylaw, as outlined in the staff Issue Paper dated March 18th, 2016. Karen Neville, Planner (See page 40)

- c) **Zone Amendment Application #1022 – TerraMac Contracting Ltd., Corner of Sydport Access Road & Highway 125, Point Edward (PID's 15867427 and 15061385 along with Northwest portion of PID 15530157):**

Committee recommends approval to advertise notice of a Public Hearing to be held during the May 2016 meeting of Council, to consider the zoning amendment application from TerraMac Contracting Ltd., for PIDs 15867427 and 15061385 along with the northwest portion of PID 15530157, located at the intersection of Sydport Access Road and Highway 125 in Point Edward, to operating a recycling facility that would process derelict motor vehicles on these properties. Karen Neville, Planner (See page 65)

6.3 Public Participation Program:

- a) **Municipal Planning Strategy and Land Use By-law Amendment Application #1023 – Winter Review 2016:**

Committee recommends that Council adopt, by Resolution, a Public Participation Program to be held at the May General Committee meeting, to consider the proposed Municipal Planning Strategy and Land Use By-Law amendments as outlined in the staff report dated March 31st, 2016. Karen Neville (see page 72)

- b) **Municipal Planning Strategy and Land Use Bylaw amendment #1018 – Duke Fraser - Motion to conduct a Public Participation Program:** Karen Neville, Planner (See page 84)

7. CORPORATE SERVICES ISSUES:

7.1 Implementation of the CBRM Active Transportation Plan: Grand Lake Road Multi Use Path - Routing of Path near Yolanda Drive:

Staff recommends that Council authorize the Mayor and Clerk to enter into a license agreement with the Province of Nova Scotia to allow the multi-use path to be built on land that the Province has recently acquired east of Yolanda Drive, (PID#s 15226863 and #15226855) and agree to acquire a small strip of land (currently part of PID# 15006794) from the current owner at a maximum price of \$4,500.00. Rick McCready, Senior Planner (See page 92)

7.2 Necessary Agreements to Move Harbourside Royale's Apartment Complex Project to the Permit Application Stage: Wayne MacDonald, Director of Engineering (See page 95)
(Appraisal Reports Attached Separately)

8. REPORTS:

8.1 Financial Statements to February 29th, 2016: Marie Walsh, Chief Financial Officer (See page 101)

9. BY-LAWS & MOTIONS:

9.1 By-Laws:

a) **Second / Final Reading: (Public Hearing):** N/A

b) **First Reading:** N/A

9.2 Motions N/A

Adjournment

PROCLAMATION

2016 Volunteer Week

- WHEREAS:** A sense of caring and a desire to share have motivated hundreds of men and women, and boys and girls to volunteer their time and services to the needs of others in the community whether it be by helping the sick, the needy or the disabled, children, students or the elderly, or by enriching the lives of all through the arts, recreation and cultural activities, or by serving on boards and committees; and
- WHEREAS:** Volunteer action is a powerful force for the solution of problems; and
- WHEREAS:** Volunteers are increasingly recognized as an important partner with government and industry in providing services to citizens; and
- WHEREAS:** Anyone can be a volunteer and reap the rich rewards that come from doing for others while improving one's own skills and widening one's horizons; and
- WHEREAS:** Volunteering offers all Nova Scotians, young and old, the opportunity to participate in the life of their community and to link their talents and resources to address some of the major issues facing our communities; and
- WHEREAS:** It is fitting for all Nova Scotians to join in this celebration of our rich volunteer heritage and to give special recognition to the dedicated volunteers and volunteers programs which contribute immeasurably to communities throughout the province;
- BE IT THEREFORE
RESOLVED:** That the CBRM Council proclaim April 10th to April 16th, 2016 as "Volunteer Week" in recognition of the splendid efforts of our volunteers who provide yeoman service to our residents and communities.

Councillor Eldon MacDonald
April 19th, 2016



Cape Breton Regional Municipality Special Volunteer Awards Criteria



Anne Holland Memorial Award

(in recognition of an Outstanding Community Volunteer)

To recognize an individual who has made an outstanding contribution to the inception and growth of community opportunities within the field of recreation/leisure.

Nominees must have made a significant contribution in one or more of the following criteria:

- exhibited high standards of voluntary performance (e.g. dedication, commitment, time, energy, attitude and motivation)
- contributed to a broad range of activities within the field of community volunteerism
- shown a unique and original leadership approach

Gary McDonald Memorial Award

(in recognition of an Outstanding Community Project)

Presented to a volunteer group to recognize an outstanding project that improves recreation/leisure opportunities, locally or regionally.

Projects must have accomplished one or more of the following:

- increased available opportunities that have proven to be innovative or unique
- included a significant number of participants
- endeavored to encompass all-inclusive services for community members

Youth Volunteer Award

(in recognition of an Outstanding Youth Volunteer)

Students throughout the Cape Breton Regional Municipality who attend area schools or post-secondary institutions will be considered for this Youth Volunteer Award. Open to students age 25 and younger.

The award is based on the following criteria:

- demonstrated a balance between volunteering for school, community projects and/or community organizations
- shown that his/her volunteer activities have taken place in a variety of areas or for a variety of purposes
- volunteers a significant number of hours on a regular basis for specific major projects
- shown that his/her leadership has had an impact through volunteering

CBRM PROCLAMATION

“Rail Safety Week”

<u>WHEREAS:</u>	According to Operation Lifesaver, a public/private partnership that raises awareness of rail safety, every year in Canada approximately 300 collisions and trespassing accidents occur at highway and rail crossings and along railway tracks;
<u>AND WHEREAS:</u>	Although 130 people are injured in these accidents each year, many of these collisions are avoidable;
<u>AND WHEREAS:</u>	People play a crucial role in helping to reduce avoidable accidents, injuries and damage caused by collisions at railway crossings and they can also help to prevent incidents involving trains and people by becoming more aware of their surroundings especially around railway tracks and paying attention to signs near railway crossings,
<u>AND WHEREAS:</u>	Operation Lifesaver is dedicated to making rail safety a priority for everyone through public education, enforcement of motorist and pedestrian laws and engineering that includes keeping rail crossings and rail property safe to use;
<u>BE IT THEREFORE RESOLVED:</u>	That CBRM Mayor & Council proclaim the week of April 25 th to May 1 st as “National Rail Safety Week” in the Cape Breton Regional Municipality to raise citizens’ awareness on reducing avoidable accidents, injuries and damages caused by collisions at level crossing or incidents involving trains and citizens.

Councillor Lowell Cormier – District #11 – CBRM

April 19th, 2016

CBRM PROCLAMATION

Annual Day of Mourning

Whereas: Every year, more than 1,000 Canadian workers are killed on the job;

And Whereas: Thousands more are permanently disabled;

And Whereas: Thousands of others die from cancer, lung disease, and other ailments caused by exposure to toxic substances at their workplaces;

And Whereas: April 28th of each year has been chosen by the Canadian Labour Congress as:

- A Day of Mourning for these victims of workplace accidents and disease;
- A day to remember the maximum sacrifice they have been forced to make in order to earn a living;
- A day to renew approaches to governments for tougher occupational health and safety standards, and more effective compensation;
- A day to rededicate ourselves to the goal of marking Canada's workplaces safer.

Be It Therefore Resolved: That CBRM Mayor & Council proclaim April 28th, 2016 as an annual Day of Mourning in recognition of workers killed, injured or disabled on the job.

Councillor Kevin Saccary – District #8 – CBRM

April 19th, 2016

PROCLAMATION

NATIONAL HOSPICE PALLIATIVE CARE WEEK

May 1st to May 7th, 2016

Whereas: Hospice Palliative Care strives to provide comfort and dignity for the person living with a life-threatening illness and provides support for their family and caregiver;

And Whereas: Hospice Palliative Care is an approach that improves the quality of life for patients and their families facing problems associated with life-threatening illness and services can include nursing, home support, volunteer support, comfort and care supports, educational resources, a music therapy program, family assistance and bereavement support.

And Whereas: The delivery of hospice palliative care services is a coordinated effort of funded health care staff and community volunteers;

And Whereas: It is in the interest of individuals and communities to be aware of these services and the need for growth and support of such programs;

Be It Therefore Resolved: That Mayor Cecil P. Clarke and Council of the Cape Breton Regional Municipality proclaim May 1st to 7th, 2016 as “National Hospice Palliative Care Week” in the CBRM to bring about more public awareness of the mission of the Hospice Palliative Care Society of Cape Breton County in supporting and promoting compassionate care for individuals and their loved ones who are living with a life-threatening illness;

Councillor Mae Rowe
District #3 - CBRM

April 19th, 2016

Proclamation

Multiple Sclerosis Awareness Month - 2016

- Whereas:** Multiple Sclerosis is a chronic, often disabling neurological disease affecting an estimated 100,000 Canadians;
- And Whereas:** Multiple Sclerosis symptoms vary widely and may lead to problems with numbness, coordination, vision and speech, as well as extreme fatigue and even paralysis;
- And Whereas:** There is no known cause or cure for Multiple Sclerosis;
- And Whereas:** The Multiple Sclerosis Society of Canada founded in 1948 is the only national voluntary organization in Canada that supports both MS research and services for people with MS and their families;
- Whereas:** The MS Society has provided more than \$100 million for MS research in sixty years as well as a wide range of programs and services for people with MS and social action;
- Be It Therefore Resolved:** That CBRM Mayor and Council hereby declare the month of May, 2016 as “Multiple Sclerosis Awareness Month” and encourage residents to attend a Flag Raising on Monday, May 2nd at the Civic Center to raise more awareness to finding a cure.

Councillor Ivan Doncaster
CBRM - District #7

April 19th, 2016

RESOLUTION

Air Cadet League of Canada – “75th Anniversary”

- Whereas:** The Air Cadet Squadrons in Cape Breton and all across the country will be celebrating their 75th Anniversary in April & May of this year commemorating their great history to prepare future generations of young people who will learn, serve and advance themselves through the “Air Cadet Program”;
- And Whereas:** The Local Squadrons will be holding a Wing Parade to commemorate this event on May 7th, 2016 that will consist of the parade forming up at the Open Hearth Park, up Inglis Street to Prince and down to Centre 200 where they will have displays and presentations;
- And Whereas:** As part of their 75th Anniversary celebration, they are reaching out to past cadets to share with them where being an Air Cadet has taken them;
- And Whereas:** Royal Canadian Air Cadets participate in a variety of fun and challenging activities;
- Be It Therefore Resolved:** That Mayor Cecil P. Clarke and Council of the Cape Breton Regional Municipality extend their sincere congratulations to all Air Cadet Squadrons in Cape Breton and across Canada on the celebration of their 75th Anniversary in April and May of 2016 and encourage CBRM residents to partake in the Wing Parade commemorating this historic event on May 7th, 2016 at the Open Hearth Park.

Councillor Darrell Flynn
District #10 - CBRM

April 19th, 2016

CBRM Resolution

Louisbourg-Gabarus Road

WHEREAS:

The residents of Louisbourg and Gabarus wish the Federal Government to transfer the road right-of-way between the two communities to the Province of Nova Scotia;

AND WHEREAS:

The CBRM Mayor and Council are in receipt of a Petition with over 1,200 signature petition and over 400 comments in support of the transfer of the road-right-of-way;

AND WHEREAS:

A survey of approximately 1,700 tourists indicated that 60% would travel the Fleur-de-lis trail, if it was re-opened;

**BE IT THEREFORE
RESOLVED:**

That the CBRM Mayor and Council recognize the residents, their petition and survey in having the transfer of the road right-of-way to the Province of Nova Scotia and send a letter of support on their behalf to the Federal Government to have this request approved, which would result in a 50 year old road being re-opened and an opportunity to generate considerable economic impact along the trail.

Councillor Ivan Doncaster – District #7

Councillor Kevin Saccary – District #8

April 19, 2016

3.1 Creative Economy Growth Plan for CBRM - Mayor's Roundtable:

Ms. Joella Foulds, Chair, Celtic Colours International Festival, introduced Committee members who were in attendance: Ms. Lori Burke, Cape Breton Centre for Craft & Design; Ms. Alyce MacLean, Lumiere Arts Festival; and Ms. Yvette Rogers, Celtic Colours International Festival. Ms. Foulds advised that the Committee has been meeting on a monthly basis since December 2014. A Power Point presentation was provided to Council regarding the Creative Economy Growth Plan for CBRM which included:

- Who are we?
- Fact and Figures
- Creative Industries
- What do we need?
- Why a plan?
- Why now?
- The next steps for Arts and Culture Committee- requests

A sample RFP document was also submitted.

Motion

Moved by Councillor Detheridge, seconded by Councillor Cormier, that staff be directed to prepare an Issue Paper of consideration of the request made by the Arts and Culture Committee, as a budgetary item, which includes:

- CBRM going to tender for the creation of a Creative Economy Growth Plan for the CBRM
- That the Arts and Culture Committee guide the process and lead the engagement of the creative sector through the development of the plan.

Motion Carried.

The Mayor thanked Ms. Joella Foulds for her presentation and thanked her and all the members of the roundtable for volunteering their time toward the Creative Economy Growth Plan for CBRM.

MEMORANDUM - MAYOR'S OFFICE

DATE: April 15, 2016
TO: Council
FROM: Mayor Cecil P. Clarke
RE: Creative Economy Growth Plan

Background

In August 2015, members of the Mayor's Roundtable on Arts and Culture made a presentation to Council outlining the benefits of advancing the creative economy in CBRM. The group concluded their presentation with two requests. The first was a request for CBRM to contribute financially to the creation of a Creative Economy Growth Plan. The second was that the group be able to provide research towards, and help to guide the development of, the accompanying Request for Proposals. The amount requested towards the development of the Plan was \$40,000 with completion within six months.

In response to the August 2015 presentation by the Mayor's Roundtable on Arts and Culture, staff was requested by Council to prepare an issue paper on the Creative Economy Growth Plan for consideration at budget.

Purpose

Arts and culture have long been integral components of recreation and leisure. At the same time, arts and culture are vast, unique and diverse sectors and pursuits unto itself. They are sectors, with both grassroots and professional components that have become economic and social drivers in large and small communities across North America.

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Historically, the CBRM Recreation Department has endeavored to support the organizations and individuals who provide these creative services and opportunities to residents and visitors. This support has come through the Sustainability Grant Program and through the provision of other departmental resources. The financial and other supports provided by Recreation to arts and culture initiatives should be both evaluated and streamlined to maximize potential internally and externally.

Internally, there is a need to strategically support arts and culture venues in CBRM for both economic and social reasons (see report *Vibe 2012*). A Creative Economy Growth Plan would identify how the advancement of the creative economy could be integrated within the CBRM departmental framework; extending beyond the Recreation Department to Economic Development, Planning, and others. This integration would build upon the structures and vision developed in the Recreation Master Plan.

Externally, the creative economy generates revenues from creativity, skill and talent. For CBRM, supporting a Creative Economy Growth Plan has benefits of income generation and the creation of work and career opportunities while continuing to promote social inclusion, cultural diversity and human development.

Understanding that arts and culture industries play a vital role in attracting people, business, and investment, and in distinguishing CBRM as a vibrant place to live and work, the strategy will:

- Provide a focus for the arts, culture, and creative industries;
- Support sustainable small business and cultural organization growth;
- Build on the Recreation Master Plan in terms of guiding the Recreation Dept.
- Support to the development goals of CBRM.

Recommendations

Based on the foregoing discussion, the Committee recommends:

- The development of an RFP with leadership and engagement from the Mayor's Roundtable on Arts and Culture;
- The development of the Creative Economy Growth Plan in collaboration with the Recreation Department and Mayor's Roundtable on Arts and Culture and prepared by an independent consultant;
- The assessment of further project implementation costs upon Plan completion;
- An increase in the duration of plan development from the requested six months to allow for completion within (maximum) one year;
- An increase in the funds allotted for Plan development from the requested \$40,000 to \$50,000 with the goal of attracting qualified consultants;
- For funds to be allocated from the Recreation budget through Sustainability.

continued...

In summary, the financial implications of this project for Council, as recommended by the Committee, are best considered in two phases:

- Development of a Creative Economy Growth Plan: \$50,000;
- Implementation costs to be separately presented/requested as necessary upon Plan completion.

In closing, the Committee feels that the Creative Economy Growth Plan is focused on the holistic development of CBRM capitalizing on the existing and potential talent of its residents.

It is a Plan that supports a vibrant and diverse creative economy rooted in tradition and fueled by innovation. It is a Plan that will bring together like-minded people through a coordinated effort that identifies immediate and long term goals, develops policy, aligns resources, engages the wider community, and supports the next generation of up-and-coming talent through the promotion of excellence.

Respectfully Submitted,

ORIGINAL SIGNED BY

Mayor Cecil P. Clarke
On behalf of the
Arts and Culture Committee

Heavy Garbage Collection Timing Issue:

Mr. Francis Campbell, Manager of Solid Waste, spoke to the issue and advised that every year, heavy garbage collection was scheduled for late April or early May to allow the program completion before the beginning of the cruise ship season; noting that heavy garbage coincides with residential spring clean-up.

Mr. Campbell advised that as an approved budget is not expected until May 2016, in order to meet timelines, a tender should be issued immediately. He recommended that the General Committee move a motion allowing the tender to be issued, and the tender closing would coincide with the April meeting of Council and the tender award can be dealt with at that time if required.

Mr. Campbell also noted that going forward, staff will bring an Issue Paper dealing with the heavy garbage program looking at a two year (biannual) schedule.

Motion:

Moved by Councillor Saccary, seconded by Councillor Doncaster, approval to go forward with the tender process for heavy garbage collection for 2016, noting that the budgetary consideration regarding this issue will be dealt with during the April 19th Council meeting.

Discussion:

Councillor Saccary suggested that the staff Issue Paper on the future (biannual) schedule of the heavy garbage program be left for next year's Council.

Motion Carried.



A Community of Communities

MEMO

TO: GENERAL COMMITTEE

April 2016

RE: Heavy Garbage Collection Timing Issue

Each year heavy garbage collection is scheduled for late April early May. This is done so that the program is completed before the beginning of the cruise ship season. As well it coincides with many residents who regularly do a spring clean-up at home.

As an approved budget is not expected until May 2016 at the earliest; we cannot issue a tender for collection of heavy garbage for those areas not covered in the existing collection contracts. This tender should be issued immediately to meet the timelines and ensure collection is completed before the first cruise ship arrives.

We are therefore requesting that council move a motion allowing the tender to be issued. The tender would close coinciding with the April council session and award of the tender can be dealt with at this time if required.

As well going forward staff will bring forward an issue paper dealing with the heavy garbage program looking at a two year (biannual) schedule.

ORIGINAL SIGNED BY

Francis Campbell
Manager of Solid Waste

Request for Street Closure – Bradbury Lane (near Borden Street), Whitney Pier:

The Regional Solicitor provided background information concerning this issue.

Motion:

Moved by Councillor MacLeod, seconded by Councillor Eldon MacDonald, that a recommendation be made to Council to proceed with the street closure process for an unopened street reserve known as Bradbury Lane, located near Borden Street in Whitney Pier, following which the subject area be deemed **surplus** to the needs of CBRM to allow for Ms. Donna Wadden to purchase same.

Motion Carried.



CBRM

A Community of Communities

Office of the Regional Solicitor

ISSUE PAPER

TO: General Committee

FROM: Demetri Kachafanas
Regional Solicitor

SUBJECT: Request for Street Closure
Bradbury Lane (near Borden Street) Whitney Pier
My File No. 07238

DATE: 29 March 2016

I am in receipt of a request from Donna Wadden to close an unopened street reserve known as Bradbury Lane located near Borden Street in Whitney Pier, as shown on the attached plan.

Once this street reserve is closed, Ms. Wadden intends to purchase same and consolidate it with her existing adjacent property. Ms. Wadden has provided the requisite \$600.00 deposit to cover processing fees already and we hold that amount in trust. Engineering has reviewed this request and has no issue with the closing of the subject area.

I would request a Motion to proceed with the above-requested street closure.

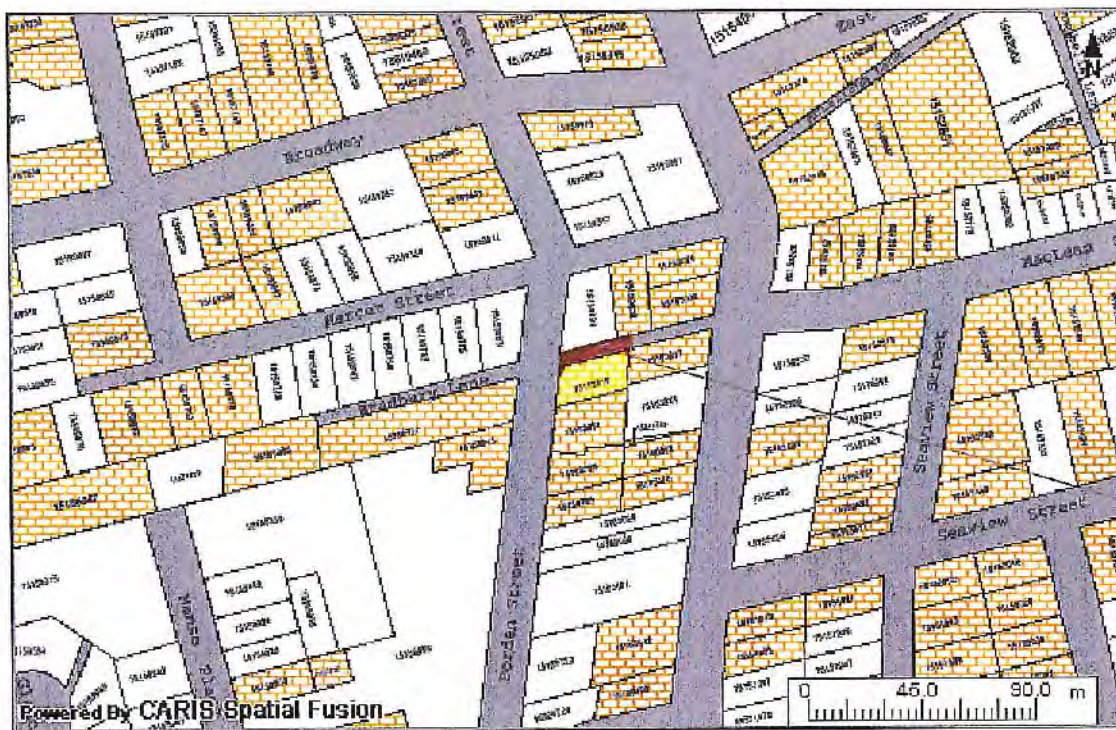
Thank you.

Sincerely,

ORIGINAL SIGNED BY

DEMETRI KACHAFANAS
Regional Solicitor

DK/er
Attachment



Electronic Voting – 2016 Municipal and School Board Elections:

The Municipal Clerk provided an updated report concerning this issue.

Motion:

Moved by Councillor Saccary, seconded by Councillor MacLeod, that a recommendation be made to Council to:

- a) Approve electronic voting (internet and telephone) for the 2016 CBRM Municipal and School Board Elections for advanced polls only, with the voting timeframe fixed for an eight-day period, commencing at 8:00 a.m. on Wednesday, October 5th through to 7:00 p.m. on Wednesday, October 12th, 2016, and;
- b) Authorize the Mayor and Clerk to sign the agreement for e-voting services with Scytl Canada Inc. in accordance with the Assignment of the Standing Offer Agreement between Intelivote Systems Inc. and Scytl Canada in relation to RFP P15-327 issued by the Halifax Regional Municipality on behalf of the Nova Scotia Association of Municipal Administrators.

Discussion:

The Municipal Clerk and Chief Administrative Officer were asked to provide an overview at the April or May meeting of Council regarding the Election process (timelines) and to invite a representative of Intelivote to provide a presentation to Council regarding electronic voting.

Motion Carried.



M·E·M·O

320 Esplanade

Sydney, Nova Scotia, B1P 7B9

902-563-5010

To: CBRM Council (Updated Report)
From: Deborah Campbell, Municipal Clerk/Returning Officer
Date: April 15, 2016
Subject: Electronic Voting – 2016 CBRM Municipal and School Board Elections

At the February 16, 2016 Council meeting, a motion was passed to approve, in principle, the use of electronic voting (i.e. internet and telephone), with a final report to be presented at a later date, on the condition that any change to the e-voting other than for advance polling would require a motion of Council. This Memo is in follow-up to that motion.

Electronic voting (i.e. via the internet or telephone) was well received by the electorate during the 2012 general elections and 2014 by-election in District 10. In 2012, approximately 57% of those who voted used electronic voting options. During the 2014 Special Election in District 10, of those who voted, approximately 53% voted electronically. Intelivote Systems Inc. from Dartmouth, NS provided the e-voting services to CBRM for both elections.

In July of 2015, CBRM Council was advised that a Request for Proposals (RFP) was issued by the Halifax Regional Municipality (HRM) on behalf of the NS Association of Municipal Administrators (AMA) for the “bulk purchase” of e-voting services for those Nova Scotia Municipalities interested in using e-voting services during the 2016 Municipal and School Board Elections. The intent of using this purchasing methodology was to achieve economies of scale and to bring consistency in approach to e-voting across the province. At that time, CBRM indicated an interest in participating in the RFP; however there was no commitment made to implement e-voting in this Municipality. I would note that this procurement process fulfills the requirements of the CBRM Purchasing Policy.

The final report on the RFP issued by HRM on behalf of the AMA (i.e. #PI5-327) was presented to their Council in November of 2015 and the Standing Offer Agreement for integrated telephone and internet voting services was awarded to Intelivote Systems Inc. (ISI) from Dartmouth.

continued...

Since that time, ISI and Scytl Canada have entered into a partnership agreement whereby Scytl Canada has agreed to deliver the e-voting services under the terms and as per the costs of the existing Contract, and Intelivote has agreed to provide Scytl with access to their application software, procedures and expertise/consulting services from May 1 to December 31 2016. HRM Council passed a motion on March 8, 2016 approving the assignment of the standing offer agreement from ISI to Scytl Canada. Any municipality who decides to enter into a contractual arrangement under RFP P15-327 will be required to do so with Scytl Canada Inc. The Halifax Regional Municipality is not party to those contracts.

Staff recommends that Council approve the use of electronic voting for the advance polls only, and that traditional paper ballots only be used on Election Day. Staff also recommends that CBRM enter into an agreement with Scytl Canada Inc. for the provision of e-voting services.

In terms of budget implications for this year's election, it is anticipated that the projected expenses will exceed the current budget reserved for election purposes by approximately \$25,000. The main reason for the shortfall is due to the costs for the administration of the special election in District 10 in 2014 (approx. \$31,000). The projected shortfall, which includes the estimated costs associated with the Swearing-In Ceremony for Council, will have to be absorbed in other cost centres. In the future, it will be staff's recommendation to increase the annual election reserve to allow for possible by-elections and increased costs for electronic voting services.

Therefore staff is recommending that a recommendation be made to Council:

- a) **For the 2016 CBRM Municipal and School Board Elections, to approve the use of electronic (internet and telephone) voting only (i.e. no paper ballots) for advance polls only, with the e-voting timeframe fixed for an eight-day period, 24 hours per day, commencing at 8:00 a.m. on Wednesday, October 5th through to 7:00 p.m. on Wednesday, October 12th, 2016, with traditional paper ballots only to be used on Election Day (October 15, 2016); and**
- b) **To authorize the Mayor and Clerk to sign the agreement for e-voting services with Scytl Canada Inc. in accordance with the Assignment of the Standing Offer Agreement between Intelivote Systems Inc. and Scytl Canada in relation to RFP P15-327 issued by the Halifax Regional Municipality on behalf of the Nova Scotia Association of Municipal Administrators.**

ORIGINAL SIGNED BY

**Deborah Campbell
Municipal Clerk/Returning Officer**

Municipal Planning Strategy Amendment Application #1020 - Cavell McNeil and Karen McNeil, 322 Park Road, Florence, PID# 15658271:

Ms. Karen Neville, Planner, provided background information concerning this issue. She advised that staff from the Planning and Development Department conducted a Public Participation Program (PPP) regarding this application. The PPP was in the form of letters being delivered by Canada Post to the assessed owners of property along Park Road and Chandelier Drive, asking for their opinion regarding the proposal to amend the Municipal Planning Strategy and Land Use By-law to allow for retail sales at 322 Park Road, Florence.

Ms. Neville stated that at the time the staff report was prepared, sixteen (16) responses were received, all but three (3) respondents, were opposed to having a retail use in their neighbourhood.

Although staff recommends Council **reject** the request to amend the Municipal Planning Strategy and Land Use Bylaw, the Councillor for District 1 suggested a Public Hearing be held to allow residents an opportunity to voice their opinion.

Motion:

Moved by Councillor Prince, seconded by Councillor Rowe, that a recommendation be made to Council for approval to advertise notice of a Public Hearing to be held during a future meeting of Council to consider amending the CBRM Municipal Planning Strategy and Land Use Bylaw to allow for retail sales at 322 Park Road, Florence, PID 15658271.

Motion Carried.



To: CBRM Council

FROM: Karen Neville

**SUBJECT: MUNICIPAL PLANNING STRATEGY AMENDMENT
APPLICATION – 1020
Cavell McNeil and Karen McNeil
322 Park Road, Florence
PID 15658271**

DATE: April 12th, 2016

Introduction

Cavell McNeil and Karen McNeil would like to establish a retail sales business on PID 15658271 in Florence (Attachment A). The applicants would like to operate a small scale buy and sell furniture and appliance store. The property in question is zoned Residential Urban D (RUD) and while the RUD zone does permit some non-residential uses, it does not permit a retail sales business.

In addition to having to amend the Land Use By-law (LUB), the Municipal Planning Strategy (MPS) would also need to be amended to permit a retail sales business on this property. Currently, the MPS does not contain policy which would support a retail sales business in an urban residential area. According to the *Municipal Government Act*, prior to considering an amendment to the MPS, Council must complete a public participation program. On March 15th, 2016, Council passed a Motion to conduct a public participation program to consider amending the MPS and LUB to allow for retail sales on Park Road, Florence. The results of the public participation program were presented to the General Committee of Council on April 5th; at that time, the General Committee of Council made a motion to recommend that Council conduct a Public Hearing.

History

In 1998 the Provincial government decided to combine all legislation relevant to municipalities, including planning legislation, into one Act called the *Municipal Government Act* (MGA). The adoption of the MGA in 1999 resulted in a few major changes in planning legislation. In particular, municipalities were required to adopt planning strategies that were consistent with Provincial Statements of Interest and replace zoning by-laws with land use by-laws. If municipal planning strategy was not adopted within a particular timeframe, any zoning by-law in effect would have been repealed by the Province.

Prior to amalgamation in 1995, the applicant's property was located in the Municipality of the County of Cape Breton and a zoning by-law was the only planning legislation in effect regulating land use. This meant when the applicant requested a zone amendment, land use policy was not a consideration. A zone amendment was approved by the County of Cape Breton Council on March 17, 1992 to permit the construction of a convenience store on the property in question. A subsequent zone amendment was

made for this property to expand the building housing the convenience store to allow for general commercial and two apartments in 1995. While the County of Cape Breton Council did approve the second zone amendment, they did so against the staff's recommendation.

According to archived land use data, in 2004 the main building on this property was classified as a vacant convenience store and three residential units. However, there is evidence that it was operated as a convenience store until 2006. Due to the predominantly residential development along Park Road and the presence of municipal water and sewer this property was included in an urban residential zone when the current LUB was adopted in 2004. Part 54 states any existing development not permitted in the zone within it is located is deemed to be a permitted use subject to:

- the assessment category is consistent with the development alleged;
- it is identified as such in the land use information data base of the CBRM's GIS; and
- it is not included in the list in Section 2 of this Part identifying developments that are not to be deemed permitted uses.

The property has not been assessed as commercial since 2007 and therefore no longer is deemed to be a permitted use under Part 54.

The CBRM permit software contains information related to permits issued from 1985 to present. As new information becomes available through the issuance of building and development permits, land use data is updated. According to today's data, the building on the applicants' property has two descriptions, three residential units and former convenient store. The CBRM permit software does have record of building/ development permits for the construction of the convenience and the subsequent addition. That being said, it would appear that the area that was once a convenience store and the general commercial space now contain dwelling units. This conversion would have taken place with obtaining a building development permit.

Municipal Planning Strategy and Land Use By-law

The applicants identify two other properties in their neighbourhood that have commercial zoning. Tim Horton's located at 366 Park Road (PID 15367212) is zoned Arterial Business Corridor (ABC), which is a sales and service zone [Attachment A]. According to the MP5, it shall be a policy of Council to permit a wide range of businesses along arterial streets/secondary regional routes with a large percent of business (Part 2, Policy 4a.). Pursuant to this policy, several corridors throughout the CBRM are zoned ABC. The Tim Horton's is located in the corridor of Villa Drive from its intersection with Park Road southeast to its end just west of Highway 125.

The other property identified by the applicants as having commercial zoning is Bonner's Denture Clinic located at 342 Park Road (PID 15253925). PID 15253925 does not have commercial zoning, it is zoned Residential Urban D which is the same zoning as the applicant's property (Attachment A). It is a policy of Council to permit certain types of service business to be operated from a residential property (Part 2, Policy 13 a. of the MP5). Bonner's Denture Clinic is a home business and would be in keeping this policy. Part 2, Section 17 Home Business identifies the following uses as home businesses:

animal (domestic) grooming	catering business
artist/artisan establishment	food processing cottage industry
bed & breakfast accommodations	personal service business
boarding homes	repair service
business offices	

A denturist is considered to a personal service business. The LUB defines a personal service business as:

an establishment where persons are employed to administer to the individual and personal health, grooming and wardrobe requests of persons and shall include hair grooming establishments, private teaching/tutoring, apparel repair, tailoring, denturists, tanning salons, aromatherapy, reiki, reflexology, massage therapy and spas.

The uses listed above are permitted as home businesses accessory to a dwelling unit on a lot parcel in all zones where the type of business is not a permitted main use. A dwelling unit or a building accessory to a dwelling unit can be used for the purpose of conducting a home business. A single unit dwelling and an accessory building can be found on PID 15253925. Bonner's Denture Clinic is operated in the accessory building located at 342 Park Road. The retail use being proposed by the applicants is not considered to be a home based business.

Surrounding Land Uses

The area surrounding the property in question is predominantly residential. Along Park Road there are sixty-six single unit dwellings and ten two units. The average assessed value of a single unit and two unit dwelling on Park Road is \$98,845 and \$151,310 respectively. The assessed value along Park Road is significantly higher than the average assessed value of a single unit and two unit dwelling within the Community i.e. Florence i.e. \$79,250 and \$106,087 respectfully.

The non-residential uses along Park Road and Chandelier Drive includes T.L. Sullivan Junior High School, Tim Hortons, an auto repair business, concrete products sales, and a home based business. The concrete product sales business, Brennan Concrete Products Ltd, located at 34 Chandelier Drive was the result of a zone amendment approved by the County of Cape Breton Council back in 1992 (Attachment B). The property is assessed as both commercial and residential and would therefore be recognized under Part 54 Existing Development of the current LUB.

In 1990, the County of Cape Breton Council approved a zone amendment for a truck repair, service centre, and depot and warehouse facility for the area which is now 292 Park Road. The property is only assessed as residential taxable and therefore would not be recognized under Part 54 Existing Development of the current LUB. In addition, it would appear that property is the site of a landscaping company, Zabaskai Landscaping Limited, which does not comply with the zone amendment approved in 1990 or the provisions of the current LUB. As result of changes to the MGA and the timing of the adoption of the CBRM MP5, there was a period of time between 2002 and 2004 when there would have been no zoning in effect for this area. Further research by staff is required to determine when the Zabaskai Landscaping Limited was established on this property to determine if it considered to legal non-conforming or is in contradiction with the CBRM LUB.

While both of these zone amendments were approved by the County of Cape Breton Council, staff was unable to find evidence of the recommendation of the staff at the time these amendments were requested. However, given the fact that there is evidence that staff did not support the zone amendment application made by the applicant back in 1995, it is very likely staff was not in support of the zone amendment referenced above.

Public Participation

Based on the recommendation of Council, the Planning and Development Department conducted a Public Participation Program in the form of a notification that was sent by means of a letter delivered by Canada

Post to all assessed owners of property along Park Road and Chandelier Drive. A total of eighty-eight letters were mailed asking property owners their opinion regarding this proposal. They were given the opportunity to respond by Canada Post mail, e-mail, by phoning staff or by appointment in our office.

At the time this report was prepared 16 responses were received by staff and two were received by Councillor Prince. All of the respondents, except for three, were opposed to of having a retail use in their neighbourhood. One respondent indicated that they had no opinion one way or the other, while the two others expressed support for the application.

Although the results of the survey could be interpreted to mean that the neighbourhood is opposed to this application this may not be the case. Only 20% of those in receipt of the letter responded and of those respondents, 17% were opposed. Generally when people are against a proposal they are more likely to comment; however, an overwhelming majority of those surveyed did not respond which could mean that they really are not opposed to the idea.

Evaluation of the Request

Policies within the MPS set out the general rules of land development which enables Council and Staff to consider development proposal in an impartial manner. One of the functions of land use policy is to foster sales/service development. Although the MPS was drafted as a catalyst to facilitate business development, it must also function as a legal tool to provide stability. To achieve this, policies in the MPS use a number of factors to establish a hierarchy of site compatibility for development. These factors include public street/road level, proximity to important public street/road intersections, geographic positioning, land use conflict potential, and the unique characteristics of a neighbourhood or streetscape. As a result, commercial development is discouraged in residential areas with low density (single unit dwelling) development.

It is important to note, that while amendments to MPS and LUB could permit the applicants' proposed development, the approval of those amendments would have a wider impact than one development. Presently the applicants are requesting a small retail use in an urban residential zone; however, if this business type is able to be established in an area with urban residential zoning the precedence for this type of development in a residential area will be set.

Unlike the previous applications made by the applicant, this application must be evaluated based on land use policy. According the MPS, spot zoning a commercial development in a residential area is not in compliance with land use policy. From staff's perspective it is difficult to support this request, not only because of the implications of additional commercial developments in areas with similar zoning, but because it would result in scattered commercial development. Council should be encouraging densely developed commercial areas not irregular commercial development throughout the CBRM.

Due to fact that staff is not supporting this application, Council must provide direction to staff as to how they would like the MPS and LUB to be amended to meet the applicant's request. To assist Council in this, please consider the following possible options:

Option 1

Extend the Arterial Business Corridor (ABC) zone to include both sides of Park Road to the properties just north of its intersection with Chandelier Drive. This would result in a range of sales and service use being permitted along the portion of Park Road identified on Attachment C. In addition to amending the zone

map, Part 2 Policy 3f of the MPS would need to be amended to include reference to the expanded ABC zone along Park Road. A copy of the permitted uses within the ABC zone can be found in Attachment D.

Option 2

Park Road is a Level 2 public street/road serviced by a sanitary sewer main that is linked to a Level 1 regional road, if Council feels that this situation warrants special consideration, the MPS could be amended to reflect this. The MPS would be amended by adding a policy which would permit a variety of sales and service business developments along Level 2 public streets/roads in an urban residential neighbourhood serviced by a sanitary sewer main that intersect a Level 1 regional road by zoning amendment (Attachment E). This amendment would impact not only Park Road, but other streetscapes within the CBRM. This policy change would apply to:

- Park Road, Florence
- Coxheath Road from Heathview Drive to Keltic Drive (Coxheath)
- Memorial Drive from Highway 12S to Convent Street (North Sydney)
- Lingan Road from Sydney Port Access Road to Muggah Street (Sydney)

Properties fronting on the identified streets above would be eligible to apply for a zone amendment to permit sales and service uses within these select urban residential neighbourhoods.

If this option is chosen, direction from Council would be required to determine the site specific zone developed for the applicant. Does Council want the newly created zone to only permit what is currently being requested by the applicant, a furniture sales business, or does Council feel that this new zone should permit for a range of sales and service uses to be able to be established on the property?

Next Steps

If the Council agrees to schedule a Public Hearing at their April meeting, the earliest date of the Public Hearing would be Tuesday, May 17th. Upon a decision of Council to schedule a Public Hearing, along with the required notices to be published in the Cape Breton Post, notice of this amendment application will be mailed to assessed owners of property along Park Road and Chandelier Drive encouraging them to contact the Planning and Development Department if they have any questions and of their opportunity to attend the Public Hearing.

Recommendation

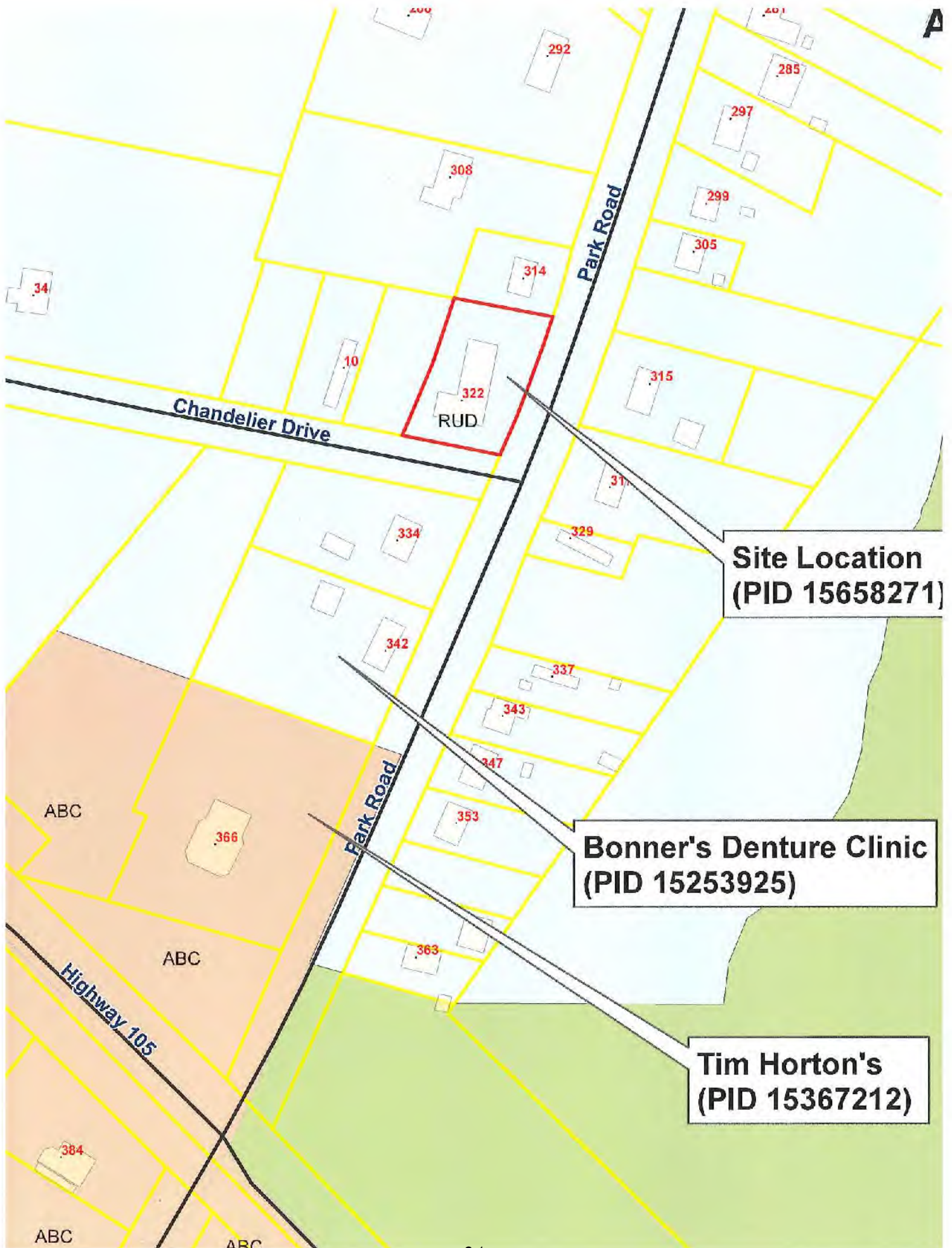
Based on the above evaluation, the proposed development is not in keeping with the intent of the policies of the Municipal Planning Strategy; therefore, I recommend that Council reject the applicants' request to amend the Municipal Planning Strategy and Land Use By-law.

However, on April 5th the General Committee of Council made a motion to recommend that Council conduct a Public Hearing to consider amending the Municipal Planning Strategy and Land Use By-law to allow for retail sales on Park Road, Florence. If a Public Hearing is scheduled, Council must direct staff as to the content of the Municipal Planning Strategy and Land Use By-law amendments to be considered at this Public Hearing. In this report I offer 2 options for Council to consider.

Submitted by:

Originally Signed By

Karen Neville
Planning and Development Department







Arterial Business Corridor (ABC) Zone Permitted Use

Development Permits shall only be issued in the ABC Zone for one or more of the following uses in compliance with any relevant section of the General Provisions Part, and any specific section of this Part devoted to the use.

- **manufacturing - only the following**
 - agricultural products processing
 - alcohol processing
 - assembly
 - bakeries
 - building supplies manufacturing
 - garment manufacturing
 - manufacturing chemicals
- **recreational – (all) both public and business establishment *except racetracks for motor vehicles***
- **residential development – all *except mobile homes***
 - apartment buildings *only in areas serviced with both Municipal water and sewer*
 - apartments within a mixed used building *only in areas serviced with both Municipal water and sewer*
 - single detached dwellings *that do not have the dimensions of a mobile home as defined by this By-law*
 - townhouses *only in areas serviced with both Municipal water and sewer*
- **sales – (all)**
- **service *all except***
 - animal shelters, and animal sitting establishments are not permitted in areas serviced with both Municipal water and sewer
 - recycling facility using outdoor storage
- **transportation – (all) *except coal retail distribution facilities***

By-law

of the Cape Breton Regional Municipality

amending the

Cape Breton Regional Municipality's Municipal Planning Strategy

Pursuant to Section 205 of the Municipal Government Act of Nova Scotia, the Council of the Cape Breton Regional Municipality hereby amends the Cape Breton Regional Municipality's Municipal Planning Strategy in the following manner:

THAT: Part 2 Sales/Service Business Development of the Municipal Planning Strategy is hereby amended by adding the following:

- 5.c It shall be a policy of Council to permit a variety of sales and service business development along Level 2 public streets/roads of an urban residential neighbourhood serviced by a sanitary sewer main that intersect a Level 1 Regional Road by zoning amendment.

A site specific, use specific, zone shall be considered for each zoning amendment application. The purpose of the zone shall be to ensure:

- the site itself;
 - the site plan; and
 - management of the business development,
- mitigate any adverse affects the development will have on low density residential development in proximity. If zone provisions cannot be established that provide reasonable protection to residential development in proximity, the application shall be denied. Council shall use the following criteria to evaluate such zoning amendment proposals:
- The development proposal must include a landscaping plan to buffer and screen low density residential uses from the starker ancillary components of the site (e.g. parking spaces, driveways, utility facilities, etc.)
 - The traffic attracted to, and leading from, the site;
 - The development proposal must respect the potential adverse affects any significant buildings will have on much smaller scale low density residential buildings;
 - Dust or fumes emanating from the site; and
 - Noise emanating from the development.

PASSED AND ADOPTED: by a majority of the whole Council at a duly called meeting of the Cape Breton Regional Municipal Council held on _____.

MAYOR

CLERK

THIS IS TO CERTIFY that the attached is a true and correct copy of the Amending By-law of the Cope Breton Regional Municipality adopted by Regional Council during a meeting held on _____ to amend the Cope Breton Regional Municipality's Municipal Planning Strategy.

Deborah Campbell, CLERK

Application #1021: Amendments to the CBRM Vendors and Traders of Goods By-law; Amendment to Section 44 of the CBRM Land Use By-law; and Amendment to the Section 39 of the CBRM North End Sydney Secondary Land Use By-law:

Ms. Karen Neville, Planner, provided background information concerning this issue. She explained that staff are recommending several amendments to the Vendors and Traders of Goods By-law, the Land Use By-laws, and North End Sydney Secondary Land Use By-law, to provide clarification for staff and applicants.

Motion:

Moved by Councillor Cormier, seconded by Councillor Eldon MacDonald, that a recommendation be made to Council for approval to advertise notice of a Public Hearing to be held during the May 2016 meeting of Council, to consider amending the Vendors and Traders of Goods By-law, and Vendors subject of the Land Use By-law and the North End Sydney Secondary Land Use Bylaw, as outlined in the staff Issue Paper dated March 18th, 2016.

Motion Carried



TO: CBRM Council

FROM: Karen Neville

**SUBJECT: APPLICATION 1021:
AMENDMENTS TO THE CBRM VENDORS AND
TRADERS OF GOODS BY-LAW
AMENDMENT TO THE SECTION 44 OF THE
CBRM LAND USE BY-LAW
AMENDMENT TO THE SECTION 39 OF THE
CBRM NORTH END SYDNEY SECONDARY
LAND USE BY-LAW**

DATE: April 13th, 2016

Introduction

Mobile vendors can have positive impacts on the community, including increasing economic development, animating streets and other public spaces, and increasing consumer food and retail choices provided appropriate measures are put into place to mitigate issues such as impacts to on-street parking. The relatively low start-up costs, overhead costs and on-going operating costs (as compared to a restaurant or a retail store) make a mobile vendor business attractive to an entrepreneur trying to establish a new business.

The current Vendors and Traders of Good By-law was adopted in 1998 with subsequent amendments in 1999 and 2000 (Attachment E). Since that time, mobile vendors, especially food trucks, have been increasing in popularity within the CBRM. As a result, staff is recommending several amendments to the Vendors and Traders By-law as well as the Land Use By-law and North End Sydney Secondary Land Use By-law in order to provide clarification for staff and applicants.

Amendments to the Vendors and Traders of Good By-law

Staff initially undertook these amendments to address concerns related to the connection between the Vendors and Traders of Goods By-law and Land Use By-laws. It is recommended that instead of zoning linking these documents, a map illustrating areas where a vendors licence can be issued should be added to the Vendors and Traders of Goods By-law. While this map correlates to zones where restaurants and sales are permitted, it is a standalone map that may be amended without amending the Land Use By-laws. Provisions were also added to clarify under what circumstances a person can apply for a vendors licence for a property not identified on this map.

In addition to clarifying where a vendor's licence can be issued, the statutory authority to adopt such a by-law needs to be amended. When this By-law was originally adopted the authority to do so was what under the *Cape Breton Regional Municipality Act*; however, this Act was repealed in 1998. The authority to adopt a vending by-law is now under the *Municipal Government Act*; as a result the Vendors and Traders of Goods By-law should be amended to reflect this change. Due to the fact that this By-law has not had a major review since its adoption in 1998, minor housekeeping amendments are also recommended (Attachment A). A copy of the draft of the CBRM Vendor By-law has been included as Attachment B for Council's consideration.

Past recipients of a vendors licence will be mailed a summary of the proposed changes to the Vendors and Traders of Goods By-law. They will also be encouraged to contact Planning and Development Department staff if they have any questions and informed of their opportunity to attend the Public Hearing.

Amendments to the CBRM Land Use By-laws

Section 44 Vendors Subject to the Vendors By-law of the CBRM Land Use By-law and Section 39 Vendors Subject to the Vendors By-law of the CBRM North End Sydney Secondary Land Use By-law have provisions stating that a vendor's site must be within a Land Use By-law Zone that permits the type of vending proposed. It is proposed that these provisions be removed because a map will be included in the Vendors By-law identifying appropriate vendor sites (Attachments C and D).

Summary Offence Ticket Regulation

In addition to having to amend CBRM By-laws, Schedule M-1 of the *Summary Offence Ticket Regulation* will also be amended. The Vendors and Traders of Goods By-law is one of CBRM's By-laws which is subject to Summary Offence Ticket. If Council approves the proposed amendment staff will begin the process to have the *Summary Offence Ticket Regulation* updated to reflect these changes.

Recommendation

Amendment to the Vendors and Traders of Goods By-law

I recommend that Council pass a motion to schedule a Public Hearing to consider amending the Vendors and Traders of Goods By-law at the May meeting of Council.

A draft of the recommended Vendors By-law can be found in Attachment B. A copy of the draft maps can be found at: <http://www.cbrm.ns.ca/municipal-planning.html>

Amendment to the Land Use By-laws

I recommend that Council pass a motion to schedule a Public Hearing to consider an amendment to Section 44 Vendors Subject to the Vendors By-law of the Land Use Bylaw and Section 39 Vendors Subject to the Vendors By-law of the North End Sydney Secondary Land Use Bylaw for the May meeting of Council.

A draft of the recommended amendments to the CBRM's Land Use By-laws can be found in Attachment C and D.

Submitted by:

Originally Signed By

Karen Neville
Planning and Development Department

Summary of proposed changes to the Vendors and Trader of Good By-law

1. The title was simplified to Vendors By-law.

2. Statutory Authority for adopting this By-law

At the time the current By-law was adopted the statutory authority to do so was under the *Cape Breton Regional Municipality Act*; however, this Act was repealed in 1998. The authority to adopt the Vending By-law is now under the *Municipal Government Act*. The Vending By-law has been amended to reflect the appropriate statutory authority.

3. Definitions

To aid in the administration and interpretation of the By-law the following definitions were added:

Auction
Auctioneer
Busking

General Committee of Council
Licencing Authority
Vendor

Definitions deleted:

Protective Service Committee

- Replaced with General Committee of Council throughout the By-law

Trade

- The current By-law has definitions for both Trade and Vend. Due to the similarity between the terms, Trade was removed.

4. Administration and Enforcement Responsibilities

Instead of Council appointing a person as the Licencing Authority, this section was amendment to state that Council shall appoint the position of Assistant By-law Manger. This would mean the authority to issue a vendors licence will be connect to the position and not a particular employee.

5. Section 3 Exceptions was added

The provisions in the section are found throughout the current By-law, they have simply been complied in one section. Also, garage or yard sales, door to door sales, and busking were added to the list of exceptions.

6. Section 4 Location was added

This section replaces Section 10 Zoning and references the designated areas where vending is permitted. Designated area are shown a Schedule "A" which accompanies the By-law. While Schedule "A" does correlate with zoning, it is a standalone map that may be amended without amending the Land Use By-law(s). Provisions were also added to clarify under what circumstances a person can apply for a vendors licence for a property not identified on Schedule "A".

7. Section 5 Licence Requirements was amended

- A provision was added to this section requiring an applications to be submitted a minimum of 30 days in prior to the applicant's intention to vend. This does not mean that it will take 30 days for the Licencing Authority to issue a vendors licence. This timeframe is meant to provide the Licencing Authority an adequate timeframe to process and evaluate each application to ensure compliance with the By-law.
- Applicants are now required to submit a site plan
- For those vendors vending from a motor vehicle they are now required to submit proof of motor vehicle registration, up-to-date motor vehicle inspection, and insurance

8. Provisions were added to the General Provisions Section

No vendor shall:

- Dump any trash or refuse or any fat or other food substances into the CBRM's sewer system
- Vend to person in motor vehicles

9. The term 'Lobster Retail' was replaced with Seafood Vending

The current By-law has provisions for the retailing of lobster but it does not reference the vending of other types of seafood.

10. The fee for Transient Vendors was changed from \$5000 to \$500

The change in fee structure for a transient vendors licence was the result of a comparing the fees charged by other municipalities.

Cape Breton Regional Municipality

By-Law _____

Vendors By-law

Adopted by CBRM Council _____

Effective Date is _____

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Cape Breton Regional Municipality

By-Law _____

Vendors By-law

Pursuant to Section 173 of the *Municipal Government Act*, BE IT ENACTED by the Council of the Cape Breton Regional Municipality (CBRM) as follows:

- (1) This By-law shall be known as the "Vendors By-law";
- (2) Where a provision of this By-law conflicts with the provisions of another By-law in force within the Municipality, the provision that establishes the higher standards to protect the health, safety, and welfare of the general public shall prevail.

WHEREAS the Cape Breton Regional Municipality intends to regulate vending:

- to ensure such facilities and their surroundings are adequately maintained;
- to ensure their customers receive a high degree of service; and

in lieu of the fact such businesses are not obliged to pay property taxes

- to ensure the taxpayer is compensated for the municipal services such businesses are the beneficiaries of; and
- to compensate for the fact businesses who are in direct competition with such vendors which are obliged to pay property taxes are burdened with a tax not imposed on vendors and traders of goods

the Council of the Cape Breton Regional Municipality hereby adopts this By-law.

1 Definitions

Auction means a publicly held sale where goods are sold to the highest bidder, but does not include local estate auctions or auctions organized by Service Clubs and non-profit organizations

Auctioneer means a person who vends goods, wares, merchandise or effects or livestock by public auction.

Busking – means a person or group that performs in a public place for donation.

Council means the Council of the Cape Breton Regional Municipality.

Craft Fair Organizer means the person leasing the facility used to host the craft fair.

General Committee of Council means the General Committee of the Council of the Cape Breton Regional Municipality

Licensing Authority means the Assistant By-law Manager, or such employee or agent of the Municipality as the Assistant By-law Manager may designate to receive applications for licence under this By-law;

Non-Profit Organization means an organization which is created primarily for a charitable object or purpose, is operated not for profit, with 100% of the funds raised going to the designated charity, and includes, but is not limited to a religious organization, school activities, or minor sports group.

Manufactured Products means products to be retailed, which were produced by means of a large scale assembly line operation using sophisticated technology and machinery.

Motor Vehicle means a self-propelled vehicle, as defined in the *Motor Vehicle Act*, driven otherwise than by muscular power.

Municipality means the Cape Breton Regional Municipality.

Non-Profit Organization means an organization which is created primarily for a charitable object or purpose, is operated not for profit, with 100% of the funds raised going to the designated charity, and includes, but is not limited to a religious organization, school activities, or minor sports group.

Person means an individual, guild, agency or a corporation.

Special Event means a publicized temporary festival, carnival, or fair at a particular site for no more than a few consecutive days.

Stand means any table, showcase, bench, rack, pushcart, wagon, or wheeled vehicle or device which may be moved without the assistance of a motor and which is not required to be licenced and registered pursuant to the *Motor Vehicle Act* as a motor vehicle or a trailer, used for the display, storage, transportation, or sale of food, beverages, or other merchandise by a vendor.

Street means within the entire right-of-way of a public street owned and maintained by the Cape Breton Regional Municipality or the Department of Transportation and Infrastructure Renewal.

Traffic Authority means the position of responsibility delegated by Regional Council by recorded resolution to be responsible for the powers of a traffic authority pursuant to the *Motor Vehicle Act*.

Trailer means a vehicle without motive power designed to carry property or passengers to be drawn by a motor vehicle.

Transient Vendor means a person, firm, or corporation temporarily vending manufactured products at a particular location for a specified period of time (e.g. *retailing clothing from a hotel location*) that is not operating such a business elsewhere in the Municipality from a building as defined in the Provincial Building Code which is subject to the business occupancy assessment pursuant to the *Assessment Act* of Nova Scotia.

Unprocessed products means produce in its natural state which has not been manufactured beyond harvesting.

Vend or Vending means the sale, or offering for sale of food, beverages or other merchandise or service, not in an enclosed building as defined in the Provincial Building Code, whether on public property or private property.

Vending vehicle means a vehicle used for the displaying, storing, transportation or sale of food and beverages by a vendor which is:

- required to be licenced and registered pursuant to the *Motor Vehicle Act* as a motor vehicle or a trailer; or
- propelled by human power whether required to be licenced or not.

Vendor means any person who engages in vending as defined under this By-law.

Unightly means a vending vehicle or stand which does not have a well maintained facade and site including but not limited to:

- clean and painted and rust free;
- tires with the right air pressure for traveling on public streets;
- vending site free of rubbish.

2 Administration and Enforcement Responsibilities

- (1) No person shall vend in the Municipality except in accordance with the provisions of this By-law.
- (2) Council shall appoint the position of Assistant By-law Manger as the Licencing Authority to grant or refuse any application for a licence under this By-law.
- (3) The By-law Enforcement Officers under the direction of the Manager responsible for this by-law and any Peace Officer shall have authority to enforce any and all provisions of this By-law.

3 Exceptions

- (1) This bylaw does not apply to
 - (a) A person vending fruits, vegetables and other products harvested from a farm located within the Municipality;
 - (b) A person vending forestry products from a woodlot located within the Municipality;
 - (c) A fisher licenced by the Province of Nova Scotia vending lobster, fish, oysters or any other seafood they have harvested from the sea;
 - (d) Non-profit organizations and religious organizations associated with fund-raising by community or religious not for profit groups from the CBRM;
 - (e) Estate Auctions held to dispose of property and or personnel items belonging to properties listed on the CBRM Tax Role;
 - (f) Vending by the operator of a commercial business on the sidewalk in front of that commercial business, although approval may be required from the Traffic Authority;
 - (g) A garage or yard sale held at a residential home, when conducted by the owner or legal occupant, or a group including the owner or legal occupant;
 - (h) Door to door sales; or
 - (i) Busking.

4 Location

- (1) Those areas shown on Schedule "A" attached hereto and forming part of this Bylaw are designated as authorized sites on which vending is permitted.
- (2) A person may vend on a site not shown on Schedule "A" subject to the following:

- (a) The property has been previously occupied by a business development similar or more obnoxious to the vending proposal within the last 10 years if irrefutable evidence of the former land use can be verified by an independent source other than the applicant; or
- (b) The property is owned by the CBRM and written, signed permission is received by the site's CBRM Manager; or
- (c) The mobile vehicle does not vend at any one location for a period longer than thirty (30) minutes within a street right-of-way nor vend from on any property for a period longer than sixty (60) minutes; or

5 Licence Requirements

- (1) No person shall vend in the Municipality without having obtained a licence to do so pursuant to this By-law.
- (2) A licence to vend is required for each vending stand, vending vehicle, or transient vender operating in the Municipality.
- (3) Every application for a licence to vend in the Municipality shall be made in writing to the Licencing Authority, with a minimum of 30 days advance notice of the intention to vend, shall contain:
 - (a) the name, mailing address and telephone number of the applicant;
 - (b) company name if applicable;
 - (c) description of the merchandise to be sold;
 - (d) photograph of the stand or vending vehicle;
 - (e) if the applicant is proposing to vend on property owned by the Municipality, the period of time during the year the applicant proposes to be in operation and the hours of operation;
 - (f) if the applicant is proposing to vend food prepared on-site, a copy of the licence issued by the Nova Scotia Department of Agriculture in compliance with their Regulations;
 - (g) if the applicant is proposing to cook food to be prepared for consumption by the general public, a statement from the Fire Marshall's office of the Province of Nova Scotia, or a person licenced to supply or install propane equipment by the Fire Marshall's office, that the equipment used by the vendor to cook the food is in compliance with the minimum requirements of the "Liquified Petroleum Gas Installation and Equipment Regulation" made pursuant to the *Fire Prevention Act* of Nova Scotia;
 - (h) if the applicant is proposing to vend at a particular site or sites, adequate property information to identify the specific parcel(s) of land including a site plan(s). Each site plan shall show the area being utilized by the vendor, ingress and egress, and the location of all buildings on the property;
 - (i) if the applicant is proposing to vend from a motor vehicle and said motor vehicle travels on public street, proof of motor vehicle registration, up-to-date motor vehicle inspection, and insurance;
 - (j) if the applicant is proposing to vend at a particular site and the applicant is not the owner of the parcel of land, written and signed permission from the property owner;
 - (k) if the applicant is proposing to vend on a street, written, signed permission from the Traffic Authority;
 - (l) confirmation of insurance in the amount of \$1,000,000 including the Municipality as an additional named insured, and if it is a vendor, with a cross liability clause in connection with the presence and operation of the vendor within the street, and that the Cape Breton Regional

Municipality will be notified by the insurance company if and when the insurance policy on the vehicle or stand in effect with respect to the vehicle or stand to be used has expired;
(m) Payment in accordance with Schedule "B".

- (4) After receiving a completed application, the Licencing Authority shall issue a licence in compliance with the provisions of this By-law.
- (5) A person who is issued a licence by the Licencing Authority shall operate only at the site or sites for which the licence was issued under this By-law.
- (6) Any person who has been refused a licence may appeal such licence to the General Committee of Council by writing to the Clerk of the Municipality within 15 days of the revocation. The General Committee of Council may confirm the decision of the Licencing Authority or order that a licence is issued subject to compliance with the provisions of this By-law.

6 Reasons for Revoking Licence

- (1) A licence shall be revoked by the Licencing Authority for the following reasons:
 - (a) the licence issued by the Nova Scotia Department of Agriculture is revoked;
 - (b) the vendor is vending merchandise not stipulated on the application for a licence;
 - (c) the vending business is in violation of any specific provision of this By-law;
 - (d) the vending business is in violation of any other By-law of the Municipality;
 - (e) the vending business is in violation of provisions of the *Motor Vehicle Act* or any regulations made thereunder;
 - (f) the vending business is not insured as stipulated in Section S and as confirmed on the licence application.
- (2) Any person whose licence has been revoked by the Licencing Authority may appeal to the General Committee of Council in writing to the Clerk of the Municipality within 15 days of the revocation. The General Committee of Council may confirm the decision of the Licencing Authority or order that a licence not be revoked subject to compliance with the provisions of this By-law.
- (3) A licence in respect of any site may be revoked by the General Committee of Council if, in the opinion of the Committee, the site is required for the purposes of the Municipality and the Municipality shall refund to the applicant a portion of the licence fee paid by the applicant prorated in proportion to the amount of time that the licence is revoked.

7 General Provisions

- (1) No vendor shall:
 - (a) leave any vending vehicle or stand unattended on a street;
 - (b) leave any location without first picking up, removing and disposing of all trash or refuse remaining from sales made by the vendor;
 - (c) place any items relating to the operation of the vending anywhere other than in, on or under the stand or vending vehicle with the exception of litter and recycling receptacles or a table (*if vending goods on a particular site other than a street*);
 - (d) dump any trash or refuse or any fat or other food substances into the CBRM's sewer system.
 - (e) solicit business orally or by means of any sound emitted by a device to pedestrians or persons in motor vehicles;

- (f) vend within 100 feet of a doorway of a permanent business establishment located within a building subject to property tax and selling similar products as the vendor, unless the vendor is a pedestrian powered vehicle or stand selling food in front of an eating establishment in which the restaurant is closed (*For purposes of clarity, "selling similar products" shall mean for example food vendors and restaurants, craft vendors and jewelry stores etc.*);
 - (g) allow the vending vehicle, vending stand, or any item relating to the operation of the vending of business to lean against or hang from any building on private property or any structure lawfully placed on public property without the owner's permission;
 - (h) operate such a business from a stand or vending vehicle which is unsightly because the facade has not been maintained or a particularly obnoxious part of the stand or vending vehicle is not effectively screened from outside of the stand or vending vehicle;
 - (i) locate the vending vehicle or stand in such a way as would restrict or interfere with vehicles entering or exiting a driveway accessing a street or pedestrians attempting to enter the premises of a building;
 - (j) leave a vending vehicle or stand at any location which is not being used for vending purposes for a period of time exceeding one (1) week;
 - (k) place the vending vehicle or stand so as to obstruct the view of approved signage or displays in storefront windows;
 - (l) vend to persons in motor vehicles;
- (2) In addition to the provisions of this By-law, it is the responsibility of the vendor to comply with all other applicable Municipal, Provincial and Federal Legislation.

8 Sidewalk Vending

- (1) No motor vehicle shall be used for vending purposes while on a sidewalk, and no pedestrian powered vending vehicle or stand shall be permitted on a sidewalk unless:
 - (a) the width of the sidewalk is a minimum of 10 feet
 - (b) provided the pertinent provisions of Section 4 can be met; and
 - (c) provided the pertinent provision of Section 7(1)(f) is met.

9 Special Events

- (1) A special event does not need to be located in a designated area identified in Schedule "A".
- (2) Any person vending at a special event in the Municipality shall:
 - (a) have a vending licence in compliance with this By-law; and
 - (b) acquire written invitation from the special event organizer; unless the beneficiary of the proceeds from the vending is a religious denomination or a non-profit corporation or a society incorporated under the *Societies Act*.
- (3) A person intending to vend at a special event in the Municipality may acquire a per event licence from the Regional Municipality or acquire an annual licence from the Regional Municipality.

10 Craft Fairs

It is the responsibility of the craft fair organizer to acquire a special event vendor's licence on behalf of all vendors participating in the craft fair. Each vendor is not required to be licenced individually.

11 Christmas Tree and Seafood Vending

- (1) The seasonal vending of Christmas trees during the weeks leading up to Christmas day shall be subject to a licence fee as per Schedule "B" unless:
 - (a) the retailing is being conducted by the woodlot owner who harvested the trees as described in Section 3; or
 - (b) the retailing is being conducted by, or for the benefit of, a non-profit organization registered under the *Societies Act of Nova Scotia*.
- (2) The vending of seafood in the Municipality shall be subject to a licence fee as per Schedule "B" unless:
 - (a) the vending is being conducted by the licenced fisher who caught the seafood as described in Section 3; or
 - (b) the seafood is being sold by, or for the benefit of, a non-profit organization registered under the *Societies Act of Nova Scotia*.

12 Transfer of Licence

A licence to vend may not be transferred to a new licensee.

13 Period of Time Licence in Effect

A licence to vend shall be an annual licence (*12 months*), which shall expire on the 31st day of March of each calendar year; therefore, a new application, documentation and payment of the fee for a vendor's licence is required each and every year.

14 Licence Identification and Display

Every licence shall bear a number and shall be conspicuously displayed at all times during the operation of the vending business.

15 Amendments

- (1) A person who seeks to have this By-law amended shall
 - (a) address a written and signed letter to the Clerk's Office requesting permission to present their request to the General Committee of Council; and
 - (b) pay for all costs of public notification of a Public Hearing of Council and public notice of Council's decision to adopt the amendment.
- (2) If the General Committee of Council deems it appropriate to proceed, a recommendation shall be made that the Licencing Authority prepare an Issue Paper to be presented at a subsequent meeting of Regional Council.
- (3) Prior to presenting an Issue Paper to Regional Council, the Licencing Authority shall circulate the request in Subsection (1) the Traffic Authority, the Planning and Development Department and any other relevant agencies for input.

16 Records

The Licencing Authority shall keep a record of every licence issued and every application accepted.

17 Penalties

- (1) Every person who contravenes or fails to comply with any provisions of this By-law, or any proprietor who allows un-licenced vendors the use of their premises or property, shall, for each offence, be liable on summary conviction to a penalty of not less than \$100.00 and not more than

\$200.00; and, in default of payment, the By-law Enforcement Officers under the direction of the Manager responsible for this by-law and any other Peace Officer may cancel or suspend the licence of such person. In the case of a continuing offence, a further penalty, not exceeding \$100 for each day during which the offence continues, may be imposed.

(2) Where a person is vending:

- (a) without a licence required by this By-law; or
- (b) from a space other than the space allocated to that person and specified in a Licence issued pursuant to this By-law;

in addition to any other remedy or penalty imposed by this By-law, the By-law Enforcement Officers under the direction of the Manager responsible for this by-law and any other Peace Officer may, immediately and without notice of any kind, remove any vehicle or stand used as an integral part of the vending or trading business to a place selected by the Municipality and all costs and charges incurred by the Municipality for the removal and storage shall be a lien thereon and the Municipality may, by action in any Court of competent jurisdiction, recover as a civil debt due to the Municipality by the owner, the cost of removal and storage thereof.

18 Previous By-laws Repealed

By-law No. V – 200, cited as the *Vendors and Traders of Goods By-law* and all amendments thereto are hereby repealed.

PASSED AND ADOPTED by a majority of the whole Council at a duly called meeting of the Cape Breton Regional Municipality held on _____.

MAYOR CECIL P. CLARKE

DEBORAH CAMPBELL, CLERK

THIS IS TO CERTIFY that the attached is a true and correct copy of the *Vendors By-law of the Cape Breton Regional Municipality including amendments to* _____.

DEBORAH CAMPBELL, CLERK

Schedule "B"
of the
Vendors By-law
of the
Cape Breton Regional Municipality

Fee Schedule for Vendors Licence

Type of Vendor	Period of Time Licence is in Effect	Special Provisions
Mobile motor vehicle traveling from one location to another	\$450 annual fee per vehicle	This \$450 per vehicle annual fee is replaced with a \$1,000 fleet fee for three or more vehicles owned by the same proprietor who is paying property and business occupancy tax in relation to the vending activity
Stationary motor vehicle	\$450 annual fee	Minimum site rental on CBRM property is \$350 per month; except metered parking spaces where the vendor is prohibited from locating the vending vehicle while the Parking Meter By-law is in effect, in which case the site rental fee is \$175 per month This \$450 per vehicle annual fee is replaced with a \$1,000 fleet fee for three or more vehicles owned by the same proprietor who is paying property and tax in relation to the vending or activity The vendor licenced to locate on a particular site owned by the CBRM for the previous year may renew their licence prior to the CBRM accepting applications from other vendors.
Pedestrian power stand	\$225 annual fee	
Bicycle vendors	\$50 annual fee per vehicle	
Special events and craft fairs	\$100 per event	
Christmas tree and seafood vending	\$100 per season	Refer to Section of By-law titled "Christmas Trees and Seafood Vending"
Auctioneer	\$100 per auction	
Transient vendors	\$500 per day	

Vendors and Traders of Goods By-law

Pursuant to Section 119 (1) (l) and Section 127 of the Cape Breton Regional Municipality Act, S.N.S. 1994, c.3

WHEREAS the *Cape Breton Regional Municipality Act* enables the Cape Breton Regional Municipality to regulate and licence vendors and traders of goods; and

WHEREAS the Cape Breton Regional Municipality intends to regulate vending and trading of goods:

- to ensure such facilities and their surroundings are adequately maintained;
- to ensure their customers receive a high degree of service; and
in lieu of the fact such businesses are not obliged to pay property taxes or business occupancy fees
- to ensure the taxpayer is compensated for the municipal services such businesses are the beneficiaries of; and
- to compensate for the fact businesses who are in direct competition with such vendors and traders of goods which are obliged to pay property taxes and business occupancy fees are burdened with a tax not imposed on vendors and traders of goods

the Council of the Cape Breton Regional Municipality hereby adopts this By-law.

1. Definitions

Council means the Council of the Cape Breton Regional Municipality.

Craft Fair Organizer means the person leasing the facility used to host the craft fair.

Manufactured Products means products to be retailed, which were produced by means of a large scale assembly line operation using sophisticated technology and machinery.

Motor Vehicle means a self-propelled vehicle, as defined in the *Motor Vehicle Act*, driven otherwise than by muscular power.

Municipality means the Cape Breton Regional Municipality.

Person means an individual, guild, agency or a corporation.

Protective Services Committee means the Protective Services Committee of the Council of the Cape Breton Regional Municipality.

Special Event means a publicized temporary festival, carnival, or fair at a particular site for no more than a few consecutive days.

Stand means any table, showcase, bench, rack, pushcart, wagon, or wheeled vehicle or device which may be moved without the assistance of a motor and which is not required to be licenced and registered pursuant to the *Motor Vehicle Act* as a motor vehicle or a trailer, used for the display, storage, transportation, or sale of food, beverages, or other merchandise by a trader.

Street means within the entire right-of-way of a public street owned and maintained by the Cape Breton Regional Municipality or the Department of Transportation & Public Works on behalf of the Municipality.

Trade means the sale, or offering for sale of food, beverages or other merchandise from locations other than:

- within a street;
- in a dedicated area (*other than transient traders retailing manufactured products*) within a building as defined in the Provincial Building Code which is subject to the business occupancy assessment pursuant to the *Assessment Act* of Nova Scotia, except for the following:
 - farmers retailing produce harvested from a farm located in the Municipality;
 - foresters whose woodlot is located in the Municipality;
 - fishers licenced by the Province of Nova Scotia.

Traffic Authority means the position of responsibility delegated by Regional Council by recorded resolution to be responsible for the powers of a traffic authority pursuant to the *Motor Vehicle Act*.

Trailer means a vehicle without motive power designed to carry property or passengers to be drawn by a motor vehicle.

Transient Vendor or Trader means a person temporarily vending or trading manufactured products at a particular location for a specified period of time (*e.g. retailing clothing from a hotel location*) that is not operating such a business elsewhere in the Municipality from a building as defined in the Provincial Building Code which is subject to the business occupancy assessment pursuant to the *Assessment Act* of Nova Scotia.

Unprocessed products means produce in its natural state which has not been manufactured beyond harvesting.

Vend means the sale, or offering for sale of food, beverages or other merchandise *within the confines of a street* except for the following:

- farmers retailing produce harvested from a farm located in the Municipality;
- foresters whose woodlot is located in the Municipality;
- fishers licenced by the Province of Nova Scotia.

Vending vehicle means a vehicle used for the displaying, storing, transportation or sale of food and beverages by a vendor which is:

- required to be licenced and registered pursuant to the *Motor Vehicle Act* as a motor vehicle or a trailer; or
- propelled by human power whether required to be licenced or not.

Unightly means a vending vehicle or stand which does not have a well maintained facade and site including but not limited to:

- clean and painted and rust free;
- tires with the right air pressure for traveling on public streets;
- vending or trading site free of rubbish.

2. Administration and Enforcement Responsibilities

- a. No person shall vend or trade goods in the Municipality except in accordance with the provisions of these regulations.
- b. Council shall appoint a person as the licencing authority to grant or refuse any application for a licence under this By-law
- c. The By-law Enforcement Officers under the direction of the Manager responsible for this by-law and any Peace Officer shall have authority to enforce any and all provisions of this By-law.
- d. Estate Auctions held to dispose of property and or personnel items belonging to properties listed on the Cape Breton Regional Municipality Tax Role have an exception from the requirements of this by-law

3. License Requirements

- a. No person shall vend or trade goods in the Municipality without having obtained a licence to do so pursuant to these regulations.
- b. A licence to vend or trade is required for each vending stand or vending vehicle to be operated in the Municipality.
- c. Every application for a licence to vend or trade in the Municipality shall be made in writing to the person (s) appointed by Council to grant or refuse any application for a licence under this By-law. An application for a licence shall contain:

- the name, mailing address and telephone number of the applicant;
- company name if applicable;
- description of the merchandise to be sold;
- photograph of the stand or vending vehicle;
- if the applicant is proposing to vend or trade on property owned by the Municipality, the period of time during the year the applicant proposes to be in operation and the hours of operation;
- if the applicant is proposing to vend or trade food prepared on-site, a copy of the licence issued by the Nova Scotia Department of Agriculture in compliance with their Regulations;
- if the applicant is proposing to cook food to be prepared for consumption by the general public, a statement from the Fire Marshall's office of the Province of Nova Scotia, or a person licenced to supply or install propane equipment by the Fire Marshall's office, that the equipment used by the vendor to cook the food is in compliance with the minimum requirements of the "Liquified Petroleum Gas Installation and Equipment Regulation" made pursuant to the *Fire Prevention Act* of Nova Scotia;
- if the applicant is proposing to trade at a particular site other than a street, adequate property information to identify the specific parcel of land including a site plan;
- if the applicant is proposing to trade at a particular site and the applicant is not the owner of the parcel of land, written permission from the property owner;
- if the applicant is proposing to vend on a street, written permission from the Traffic Authority;

- confirmation of insurance in the amount of \$1,000,000 including the Municipality as an additional named insured, and if it is a vendor, with a cross liability clause in connection with the presence and operation of the vendor within the street, and that the Cape Breton Regional Municipality will be notified by the insurance company if and when the insurance policy on the vehicle or stand in effect with respect to the vehicle or stand to be used has expired;
- d. After receiving a completed application, the licencing authority shall issue a licence unless the application is to vend or trade at a site, which is not in compliance with the zoning provisions of the land use by-law in effect.
- e. Any person who has been refused a licence may appeal such licence to the Protective Services Committee by writing to the Clerk of the Municipality within 15 days of the revocation. The Protective Services Committee may confirm the decision of the licencing authority or order that a licence is issued subject to compliance with the provisions of this By-law.

4. Reasons for Revoking Licence

- a. A licence shall be revoked by the licencing authority for the following reasons:
 1. the licence issued by the Nova Scotia Department of Agriculture is revoked;
 2. the vendor or trader is vending or trading merchandise not stipulated on the application for a licence;
 3. the vending or trading business is in violation of any specific provision of this By-law;
 4. the vending or trading business is in violation of any other By-law of the Municipality;
 5. the vending or trading business is in violation of provisions of the *Motor Vehicle Act* or any regulations made thereunder;
 6. the vending or trading business is not insured as stipulated in Part 3 and as confirmed on the licence application.
- b. Any person whose licence has been revoked by the licencing authority may appeal to the Protective Services Committee in writing to the Clerk of the Municipality within 15 days of the revocation. The Protective Services Committee may confirm the decision of the licencing authority or order that a licence not be revoked subject to compliance with the provisions of this By-law.
- c. A licence in respect of any site may be revoked by the Protective Services Committee if, in the opinion of the Committee, the site is required for the purposes of the Municipality and the Municipality shall refund to the applicant a portion of the licence fee paid by the applicant pro-rated in proportion to the amount of time that the licence is revoked.

5. General Provisions

No vendor or trader of goods shall:

- a. leave any vending vehicle or stand unattended on a street;
- b. leave any location without first picking up, removing and disposing of all trash or refuse remaining from sales made by the vendor or trader of goods;
- c. place any items relating to the operation of the vending or trading of goods anywhere other than in, on or under the stand or vending vehicle with the exception of a litter receptacle (*both vendors and traders of goods*) or a table (*if trading goods on a particular site other than a street*);
- d. solicit business orally or by means of any sound emitted by a device to pedestrians or persons in motor vehicles;
- e. vend goods within 100 feet of a doorway of a permanent business establishment located within a building subject to property and business occupancy tax and selling similar products as the vendor, unless the vendor is a pedestrian powered vehicle or stand selling food in front of an eating establishment in which the restaurant is closed (*For purposes of clarity, "selling similar products" shall mean for example food vendors and restaurants, craft vendors and jewelry stores etc.*);
- f. allow the stand or vending vehicle or any item relating to the operation of the vending or trading of goods business to lean against or hang from any building on private property or any structure lawfully placed on public property without the owner's permission;
- g. operate such a business from a stand or vending vehicle which is unsightly because the facade has not been maintained or a particularly obnoxious part of the stand or vending vehicle is not effectively screened from outside of the stand or vending vehicle;
- h. locate the stand or vending vehicle in such a way as would restrict or interfere with vehicles entering or exiting a driveway accessing a street or pedestrians attempting to enter the premises of a building;
- i. leave a vending vehicle or stand at any location which is not being used for vending or trading purposes for a period of time exceeding one (1) week;
- j. place the vending vehicle or stand so as to obstruct the view of approved signage or displays in storefront windows.

6. Sidewalk Vending

No motor vehicle shall be used for vending purposes while on a sidewalk, and no pedestrian powered vending vehicle or stand shall be permitted on a sidewalk unless:

- the width of the sidewalk is a minimum of 10 feet between the hours of 9:00 a.m. and 5:00 p.m.;
- the sidewalk is located within a zone of the Land Use By-law in effect which permits retailing the type of commodity to be vended; and
- provided the pertinent provision of Section 5.e. is met.

7. Special Events

- a. Any person vending or trading at a special event in the Municipality shall:
 - have a vending licence in compliance with this By-law; and
 - acquire written approval from the special event organizer; unless the beneficiary of the proceeds from the vending or trading is a religious denomination or a non-profit corporation or a society incorporated under the *Societies Act*.
- b. A person intending to vend or trade at a special event in the Municipality may acquire a per event license from the Regional Municipality or acquire an annual license from the Regional Municipality.

8. Craft Fairs

It is the responsibility of the craft fair organizer to acquire a special event vendor's licence on behalf of all vendors participating in the craft fair. Each vendor is not required to be licenced individually.

9. Christmas Tree and Lobster Retail

- a. The seasonal retailing of Christmas trees during the weeks leading up to Christmas day shall be subject to a licence fee as per the fee schedule unless:
 - the retailing is being conducted by the woodlot owner who harvested the trees as described in the definition to trade or vend; or
 - the retailing is being conducted by, or for the benefit of, a non-profit organization registered under the Societies Act of Nova Scotia.
- b. The retailing of lobsters during the normal lobster season in the Municipality shall be subject to a licence fee as per the fee schedule unless:
 - the retailing is being conducted by the licenced fisher who caught the lobster; or
 - the lobster is being sold by , or for the benefit of, a non-profit organization registered under the Societies Act of Nova Scotia.

10. Zoning

The parking or placement of a vending vehicle or stand for purposes of vending or trading at any location for a period of time exceeding 30 minutes shall only be permitted subject to compliance with the Land Use By-law zoning provisions in effect for the vending or trading site regulating a similar type of land use (*e.g. food vendor/restaurant, craft vendor/retail store*), either as a main use or an accessory use, except for properties in downtown Sydney between the Esplanade and shore of Sydney harbour located in the Waterfront Commercial (WC) Zone of the Sydney Land Use By-law. Any licence application to trade on such properties shall not be obliged to ensure compliance with the zoning provisions.

11. Transfer of Licence

A licence to vend or trade may be transferred to a new licensee upon receipt of a written request from both parties.

12. Period of Time Licence in Effect

A licence to vend or trade shall be an annual licence (*12 months*), which shall expire on the 31st day of March of each calendar year.

13. License Identification and Display

Every licence shall bear a number and shall be conspicuously displayed at all times during the operation of the vending and/or trading business.

14. Records

The person appointed to grant or refuse any application shall keep a record of every licence issued and every application accepted.

15. Penalties

- a. Every person who contravenes or fails to comply with any provisions of this By-law, or any proprietor who allows unlicensed vendors the use of their premises or property, shall, for each offence, be liable on summary conviction to a penalty of not less than \$100.00 and not more than \$200.00; and, in default of payment, the By-law Enforcement Officers under the direction of the Manager responsible for this by-law and any other Peace Officer may cancel or suspend the licence of such person. In the case of a continuing offence, a further penalty, not exceeding \$100 for each day during which the offence continues, may be imposed.
- b. Where a person is vending or trading goods:
 1. without a licence required by this By-law; or
 2. from a space other than the space allocated to that person and specified in a Licence issued pursuant to this By-law;in addition to any other remedy or penalty imposed by this By-law, the By-law Enforcement Officers under the direction of the Manager responsible for this by-law and any other Peace Officer may, immediately and without notice of any kind, remove any vehicle or stand used as an integral part of the vending or trading business to a place selected by the Municipality and all costs and charges incurred by the Municipality for the removal and storage shall be a lien thereon and the Municipality may, by action in any Court of competent jurisdiction, recover as a civil debt due to the Municipality by the owner, the cost of removal and storage thereof.

16. Previous By-laws Repealed

All Vendors By-laws, Traders and Hawkers, Transient Traders, Trade and Licencing By-laws or similar bylaws adopted by the former municipalities of Cape Breton County to regulate vending and trading of goods by means other than in a building as defined in the Provincial Building Code which is subject to the business occupancy assessment pursuant to the Assessment Act of Nova Scotia are hereby repealed and the provisions of this By-law substituted therefor.

PASSED AND ADOPTED by a majority of the whole Council at a duly called meeting of the Cape Breton Regional Municipality held on May 19th, 1998, including the amendments adopted by Regional Council on January 26th, 1999, and September 19th, 2000.

MAYOR

CLERK

THIS IS TO CERTIFY that the attached is a true and correct copy of the Vendors and Traders of Goods By-law of the Cape Breton Regional Municipality including amendments to September 19, 2000.

BERNIE WHITE, CLERK

Schedule "A"
of the
Vendors and Traders of Goods By-law
of the
Cape Breton Regional Municipality

Fee Schedule for Vendors Licence

Type of Vendor or Trader	Period of Time Licence is in Effect	Special Provisions
Mobile motor vehicle traveling from one location to another	\$450 annual fee per vehicle	This \$450 per vehicle annual fee is replaced with a \$1,000 fleet fee for three or more vehicles owned by the same proprietor who is paying property and business occupancy tax in relation to the vending or trading activity
Stationary motor vehicle	\$450 annual fee	Minimum site rental on C.B.R.M. property is \$350 per month; <i>except</i> metered parking spaces where the vendor is prohibited from locating the vending vehicle while the Parking Meter By-law is in effect, in which case the site rental fee is \$175 per month This \$450 per vehicle annual fee is replaced with a \$1,000 fleet fee for three or more vehicles owned by the same proprietor who is paying property and business occupancy tax in relation to the vending or trading activity The vendor or trader licenced to locate on a particular site owned by the C.B.R.M. for the previous year may renew their licence prior to the C.B.R.M. accepting applications from other vendors or traders
Pedestrian power stand	\$225 annual fee	
Bicycle vendors	\$50 annual fee per vehicle	
Special events and craft fairs	\$100 per event	
Christmas tree and lobster sales	\$100 per season	Refer to Part of By-law titled "Christmas Trees and Lobster Retail"
Transient vendors and traders	\$5,000 per visit	

Zone Amendment Application #1022 – TerraMac Contracting Ltd., Corner of Sydport Access Road & Highway 125, Point Edward (PID's 15867427 and 15061385 along with Northwest portion of PID 15530157):

Ms. Karen Neville, Planner, advised the Committee that the Planning and Development Department was in receipt of a zone amendment application from TerraMac Contracting Ltd. (TerraMac) for PIDs 15867427 and 15061385 along with a portion of PID 15530157 located at the northwest intersection of Sydport Access Road and Highway 125 in Point Edward. Ms. Neville explained that TerraMac is looking to operate a recycling facility which would process derelict motor vehicles on these properties.

Motion:

Moved by Councillor Rowe, seconded by Councillor Eldon MacDonald, that a recommendation be made to Council for approval to advertise notice of a Public Hearing to be held during the May 2016 meeting of Council, to consider the zoning amendment application from TerraMac Contracting Ltd., for PIDs 15867427 and 15061385 along with the northwest portion of PID 15530157 located at the intersection of Sydport Access Road and Highway 125 in Point Edward, to operate a recycling facility that would process derelict motor vehicles on these properties.

Motion Carried.



TO: CBRM Council

FROM: Karen Neville

**SUBJECT: Zone Amendment Application – 1022
TerraMac Contracting Ltd
Corner of Sydport Access Road & Highway 125,
Point Edward
(PIDs 15867427 and 15061385 along with
Northwest Portion of PID 15530157)**

DATE: April 12th, 2016

Introduction

The Planning and Development Department has received a zone amendment application from TerraMac Contracting Ltd (TerraMac) for PIDs 15867427 and 15061385 along with a portion of PID 15530157 located at the northwest intersection of Sydport Access Road and Highway 125 in Point Edward (Attachment A). TerraMac would like approval to operate a recycling facility which would process derelict motor vehicles on these properties (Attachment B).

Why a zoning amendment is necessary for this development?

The properties are zoned Keltic Drive Business (KBC), while the KBC zone does permit a range of service uses it specifically states that recycling facilities using outdoor storage are not a permitted use. According to the Land Use By-law (LUB), a recycling facility means:

a service establishment, the primary purpose of which is to accept used materials, equipment, machinery and parts thereof to be either sold on-site or shipped elsewhere to be processed into new products. There are three broad types of recycling facilities:

- recycling facility collection depot means an establishment which only collects used goods, materials, products, etc. and ships them to another facility for processing into other products (e.g. Enviro depots, bottle exchange).
- recycling facility and parts separation means an establishment where used materials, equipment, machinery, motor vehicles etc. are accepted and parts are separated on-site to be either sold on-site or shipped to another establishment for processing.
- recycling facility using outdoor storage means a recycling facility incorporating any combination of the two above types which uses an impound yard to store the used materials, equipment, machinery.

The storage and processing of derelict motor vehicles would meet the test of recycling facility as defined by the LUB.

What Does the Municipal Planning Strategy Say?

The Municipal Planning Strategy does have a policy specific to this area which states that it is a policy of Council to designate the eastern corridor of Keltic Drive as a diverse corridor where business service and sales uses, manufacturing uses, recreation, culture, and entertainment uses, transportation service terminals and depots, and rural residential uses are permitted (Part 3, Policy 17). This policy does not make a clear distinction about restricting recycling facilities, which is a service use, therefore amending the zoning to permit a recycling facility would not contravene Plan policy.

Evaluation

Prior to the opening of Highway 125, Keltic Drive along with Seaview Drive was the primary route linking Sydney with the Northside. Because of this, it was originally developed as a business corridor. Although Keltic Drive is no longer the main route connecting Sydney with the Northside, Keltic Drive and its surrounding area consists of a range of sales and service developments interspersed with low density residential development. The area within 500m (1640ft) of the subject properties is predominantly industrial in nature and includes an industrial cleaning contractor, fleet maintenance and repair, heavy equipment sales and service, industrial supply sales, contractors, mirror restoration and cleaning, self-storage facility, and well pump sales and service (Attachment A). In addition, there are eleven single unit dwellings in the area.

Historically, these properties have been used for the storage aggregate materials associated with construction as well as the site of a mobile asphalt plant. In fact, a permit was issued for a mobile asphalt plant back in 2005. This site has been used to process motor vehicles in the past and it is currently being used to store vehicles. The applicant was under the impression this site permitted industrial uses and was not aware they were in contravention of the LUB until they were contact by Nova Scotia Environment. TerraMac has ceased the recycling activities on this site until it receives zoning approval.

The applicant has made an application with Nova Scotia Environment to operate a salvage facility, which requires zoning approval from the CBRM prior to its issuance. Though the KBC zone does permit a wide range of uses a recycling facility using outdoor storage is not one of them. Nova Scotia Environment requires a licence for a commercial salvage facility which exceeds 0.25 ha in area which is used to salvage automobiles, transportation vehicles, or industrial equipment. The proposed site is approximately 3.7 ha (Attachment B).

While the applicant has made an application to operate a salvage facility, the site will not be a salvage yard in the traditional sense; salvage facility is simply the term used by Nova Scotia Environment for the activity of recycling vehicles. The site will not be open to the general public looking for motor vehicle parts, it will be used for the storage and crushing of motor vehicles for transport.

Planning and Development Staff meet to discuss the proposed development in more detail with the Department of Environment and Department of Infrastructure Renewal. The purpose of this meeting was to get a better understanding of the regulatory authority of these Departments in relation to this request. The property has frontage along Sydport Access Road and Cat Drive. The access for the property from Sydport Access Road was approved as a temporary access by Department of Transportation and Infrastructure and was not meant to be a permanent access. The site should be accessed via Cat Drive and not Sydport Access Road.

Nova Scotia Environment is responsible for regulating how automotive fluids are store and disposed of. According to Nova Scotia Environment's *Guidelines for Siting and Operation of Salvage Yards* a salvage yard cannot be located within:

- any area within 200 m of a domestic well or residential structure without
- the written consent of the applicable landowner 300 m of institutional, commercial, industrial, or municipal wells or wells servicing more than 10 dwellings;

The removal of fluids and the crushing of motor vehicle will take place on an engineered concrete pad. This engineered concrete pad will be of sufficient thickness and provide a gradient away from the edges to help prevent fluids from leaving the pad. As a part of the licencing process, TerraMac must also submit a contingency plan covering any spills and accidents which will be reviewed by Nova Scotia Environment.

The closest residential dwelling is approximately 315m (1033ft) from the nearest lot parcel boundary of the proposed development. The proposed operation site is further setback from this lot parcel boundary increasing the separation distance from the residential dwelling (Attachment B). Nova Scotia Environment will ensure that the proposed development is in compliance with its guidelines. That being said, the proposed amending by-law will require recycling facilities to be setback a minimum of 250m (820ft) from a residential dwelling (Attachment C).

As a part of licencing approval, if visible from an adjacent public street, dwelling or institutional uses, the salvage facility must be completely enclosed on any visible side by a fence of substantial and uniform construction. This fence must be setback a minimum of 1.0 m (3.3ft) from property boundaries. The site has a vegetative buffer along Keltic Dive Collector Road, Sydport Access Road, and Highway 125. Both Nova Scotia Transportation and Infrastructural Renewal and Environment expressed that steps should be taken to reduce the visibility of the site from adjacent public streets/road. The proposed LUB amendment includes screening provisions (Attachment C). It is the applicant's intention to plant additional trees to comply with Nova Scotia Environment requirements.

Next Steps

If the Council agrees to schedule a Public Hearing at their April meeting, the earliest date of the Public Hearing would be Tuesday, May 17th. Upon a decision of Council to schedule a Public Hearing, along with the required notices to be published in the Cape Breton Post, notice of this zone amendment application will be mailed to assessed owners of property in the vicinity PIDs 15867427 and 15061385 along with northwest portion of PID 15530157 encouraging them to contact the Planning and Development Department if they have any questions and of their opportunity to attend the Public Hearing.

Recommendation

I recommend that Council pass a motion to schedule a Public Hearing to consider this zoning amendment application during the May meeting of Council.

A draft of the recommended amendments can be found in Attachment C.

Submitted by:

Originally Signed By

Karen Neville

Planning and Development Department





**Proposed Recycling
Facility Footprint**

Cape Breton Regional Municipality's Land Use Bylaw

Pursuant to Section 210 of the Municipal Government Act of Nova Scotia, the Council of the Cape Breton Regional Municipality hereby amends the text and map of the Cape Breton Regional Municipality's Land Use By-law in the following manner:

THAT: Part 10 Keltic Drive Business Corridor (KBC) Zone, Section 1 KBC Uses Permitted of the Land Use Bylaw is hereby amended by deleting 'service all except' and replacing it with the following:

- **service – (all)**
 - recycling facility using outdoor storage *shall only be permitted in compliance with Section 7*
 - animal shelters and animal sitting establishments are only permitted in areas not serviced with both Municipal water and sewer

THAT: Part 10 Keltic Drive Business Corridor (KBC) Zone of the Land Use Bylaw is hereby amended by adding the following:

Section 7 Recycling Facility Using Outdoor Storage

1. **All buildings, parking lots/areas, outdoor storage areas** shall be a minimum of 10 feet from any lot parcel boundary shared with a public street/road or a lot parcel occupied by a non-residential use.
2. **All buildings, parking lots/areas** shall be a minimum of 20 feet from any lot parcel boundary shared with a lot parcel occupied by a residential use.
3. **Outdoor storage areas** shall not be located within 820 feet (250 metres) of a residential dwelling.
4. All **outdoor storage areas** shall be screened from any public street/road or lot parcel occupied by a residential use by an opaque vegetative, topographic screen, or fence or combination thereof.

PASSED AND ADOPTED: by a majority of the whole Council at a duly called meeting of the Cape Breton Regional Municipal Council held on _____.

MAYOR

CLERK

THIS IS TO CERTIFY that the attached is a true and correct copy of the Amending By-law of the Cape Breton Regional Municipality adopted by Regional Council during a meeting held on _____ to amend the Cape Breton Regional Municipality's Land Use By-law.

Deborah Campbell, CLERK

Municipal Planning Strategy and Land Use By-law Amendment Application #1023 – Winter Review 2016:

Ms. Karen Neville, Planner, provided background information concerning this issue. It was advised that due to staffing issues, a winter review has not taken place for a number of years. She informed the Committee that the review process is initiated by staff at the end of each building season to improve the implementation of planning documents for the next building season.

Mr. Malcolm Gillis, Director of Planning, and Ms. Neville, reviewed the proposed amendments to the Municipal Planning Strategy and the CBRM Land Use By-Law.

After discussion, the following motion was put forth;

Motion:

Moved by Councillor MacLeod, seconded by Councillor Rowe, that a recommendation be made to Council, to adopt by Resolution a Public Participation Program to be held at the May General Committee meeting, to consider the proposed Municipal Planning Strategy and Land Use By-Law amendments as outlined in the staff report dated March 31st, 2016.

Motion Carried.



TO: CBRM Council

FROM: Karen Neville and Malcolm Gillis

SUBJECT: Municipal Planning Strategy and Land Use By-law Amendment Application – 1023 Winter Review 2016

DATE: April 13th, 2016

Introduction

The CBRM's first Municipal Planning Strategy (MPS) and Land Use By-law (LUB) were adopted in the summer of 2004, since that time it has been the practise of the Planning and Development Department to undertake a winter review of each document. Due to staffing issues, a winter review has not taken place for a number of years. The purpose of these winter reviews was to put forth amendments initiated by staff at the end of each building season to improve the implementation of planning documents for the next building season beginning in the spring.

Planning documents are not static documents, but rather are meant to evolve as a community grows and changes. Because of this it is important that these documents are reviewed periodically to ensure they are still achieving the goals of the community. To achieve this staff would like to put forward a series of proposed amendments to the MPS and LUB that should be considered. These amendments are not meant to change the substance or direction of the LUB, but rather make the LUB easier to read for those who administer and those who must comply with its provisions.

Proposed Amendments to the Municipal Planning Strategy and Land Use Bylaw**Part 2, Policy 5.a**

Part 2 of the Planning Strategy is focused on sales and service business developments. The objective of Policy 5 of this Part is to recognize the legitimacy of established business developments along major transportation corridors where commercial zoning would not be appropriate to be in effect throughout the corridor e.g. Alexandra Street Sydney , Halfway Road Sydney Mines. However, the Policy 5.a doesn't make it clear additional business developments could co-exist at any of these sites and that a change in land use or an additional land use would be appropriate if regulated by Site Plan Approval. Staff does not believe it was intended to read that way and it should be revised to give clear direction to the Land Use Bylaw regarding the range of development options.

Policy S of Part 2 is implemented in Part 51 of the Land Use Bylaw. The above referenced clarification in policy direction should be reflected with appropriately re-worded provisions in the Land Use Bylaw.

It is recommended that Part 2, Policy 5.a be revised to make it clear the Land Use Bylaw should permit additional business developments and conversions of existing business developments by Site Plan Approval at sites subject to this Policy and that Part 51 of the Land Use Bylaw also be amended accordingly.

Part 2, Policy 5.b.3

This Policy is focused on the corridor of Grand Lake Road/Sydney Road where the speed limit is 80 kilometers. It was the subject of a traffic study approximately 10 years ago commissioned by CBRM and the Nova Scotia Department of Transportation and Infrastructure Renewal. The study's recommendation was that the primary function of this corridor was to be an efficient commuter route between Sydney and Glace Bay.

The objective of the study was included as policy in the CBRM Planning Strategy and its recommendations were implemented as provisions in the CBRM Land Use Bylaw including the following.

- While expansion of existing developments, or a change in business use of these existing sites within a range of similar uses will be permitted,
- No new business developments on previously undeveloped sites, or sites unoccupied with business development, are permitted, unless the site can be accessed via a signalized intersection.
- No residential developments large enough to generate more than a minimum use generation of motor vehicle traffic, unless the site can be accessed via a signalized intersection.
- All building lots must have a minimum of 150 ft. of Road frontage and flag shaped lot development is banned.

One minor change is proposed to Planning Strategy policy that will provide more flexibility allowing other business developments along with the current business provided there is no significant increase in the volume of traffic generated.

While the study advocated existing business developments should not be legally classified as non-conforming, the current range of optional permitted uses for each existing business development site in the Land Use Bylaw is too broad to comply with the traffic management objectives. In other words the Land Use Bylaw is contradicting the direction of the Planning Strategy it is supposed to be implementing.

It is recommended that Part 51 of the Land Use Bylaw be amended to bring the range of permitted optional uses for each current business development along the corridor of Grand Lake Road where the speed limit is 80 kilometer in compliance with the objectives of the study, the Planning Strategy and the Province's Traffic Authority.

Part 3 Policy 19 Novaporte

Almost 40 years ago the Agricultural Division of DEVCO assembled approximately 1,300 acres of land in the Point Edward Peninsula and started an experimental farm. Only a very small percentage of it was ever utilized for agricultural production and the buildings now have a different purpose. It is the larger undeveloped part of this land assembly which has recently been conveyed by Public Works Canada to the CBRM and First Nations to be held in reserve for future port development associated with the Sydport and Novaporte sites (a.k.a. the Greenfield site in Edwardsville). Planning Strategy policy deliberately remained neutral as to the appropriate designation for this large landholding until "... discussions with ECBC ..." were to take place to determine its highest and best use. That's been answered with the

willingness of the Federal Government to convey it to the CBRM to be used in conjunction with Novaport. Now that this conveyance has taken place Planning Strategy policy should be updated to reflect this. Since its adoption in 2004, Planning Strategy policy designated Sydport and the Greenfield site for port related development, but policy should be updated to reflect the clear connection amongst the three above referenced sites.

It is recommended that Part 3, Policy 19 of the Planning Strategy be revised to articulate the interrelationship among Sydport, the Greenfield site, and the lands assembled by DEVCO in support of port development.

Proposed Amendments to just the Land Use By-law

Part 2 General Provisions for All Zones

Section 1 Accessory Buildings

The provisions associated with accessory buildings are some of the most implemented in the LUB, as a result, staff have several recommendations to improve their implementation. When it comes to a maximum size for accessory buildings there needs to be a clear distinction of between detached and attached accessory buildings. An attached accessory building is considered to be part of the main building and as a result should comply with the development standards of a main building and not the development standards for a detached accessory building. Because of this Section 1 should be amended to distinguish between the development standards that apply to a detached accessory building vs an attached accessory building.

It is recommended that Sections 1 be amended to identify the development standards for detached and attached accessory buildings.

Detached accessory buildings with a floor area of 100ft² or less do not require a Development Permit; however, detached accessory buildings with a floor area of 100ft² or less are still used when calculating the total lot coverage.

It is recommended that a statement be added to Subsection a. 4. and Subsection d. which references the fact that detached accessory building with a floor area of 100ft² or less will be used in the calculation of the total lot coverage for accessory buildings.

Currently Subsection c. identifies the minimum setbacks for detached or attached accessory buildings when in fact an attached accessory building must comply with the setbacks for a main building.

It is recommended that 'attached' be removed from Subsection c.

To aid in its implementation, Section 1 should be reformatted to clearly identify the provisions that apply to all accessory buildings and those that apply specifically to residential accessory buildings.

It is recommended that Section 1 be reformatted to clearly identify which provisions apply to residential accessory buildings and those provisions that apply to all accessory buildings.

Section 6 Conversion of former community or educational service building

As the result of changing economic, demographic, and social conditions many community and educational service buildings are no longer being used for the purposes for which they were originally intended. To prevent these buildings from remaining empty, the LUB allows this buildings to be converted to a range of optional uses.

The range of optional uses includes apartment buildings and dwelling units within a mixed use building, but townhouse is not listed as one these optional uses. Apartment buildings and townhouses are both residential buildings with three or more dwelling units, so it is reasonable that a townhouse be included in the list of optional uses permitted in the conversion of former community or educational service buildings.

It is recommended that townhouse be added to list of optional uses for former community or educational service buildings.

In addition, nursing home are considered to be permitted in former community or educational service buildings; however nursing homes are permitted in all zones, except the Public Water Supply zone, in accordance with the provisions of Section 2S of the LUB. Because of this it is not necessary for nursing home to be listed in Section 6.

It is recommended that nursing home be deleted from Section 6 Conversion of former community or educational service building.

There are a number of large municipally owned buildings, in particular buildings with recreational uses, which are located within residential neighbourhoods. Similar to community or educational service buildings these building should have the opportunity to be converted to the list of optional uses in Section 6.

It is recommended that Section 6 should be amended to include municipally owned buildings.

Section 9 Existing Buildings and Non-compliance with Lot parcel development Requirements – Repair, Reconstruction and Additions

The LUB recognizes the legitimacy of buildings that were established prior to the adoption of the LUB that are unable to meet lot parcel development requirements. The third bullet of Section 9 includes the phrase ‘having less the minimum’, however it is not necessary due to the fact this phrase is also included in the introductory text. Because of this ‘having less the minimum’ should be deleted from the third bullet.

It is recommended that the phrase ‘having the minimum’ be removed from Section 9.

Section 16 Frontage on a Public street/road

According to the LUB, Development Permits shall not be issued unless the lot parcel has frontage on a public street. That being said, the LUB does identify a number of exceptions to that rule. One such exception enables a Development Permit to be issued for a lot parcel serviced by a Municipal sewer main which has frontage along a private road (S16 b.4.). The use of the term private road in this provision is incorrect, the term used should be unlisted road. There are other provisions with found in Subsection b. which apply to lot parcels fronting on a private road.

It is recommended that private road be removed from Subsection 16 b. 4. and replaced with unlisted road.

Section 17 Home Business

The LUB recognizes a range of service businesses permitted to be operated from a residential property. Home businesses are becoming more common; as a result staff have several recommendations to improve the implementation of the home business provisions.

The LUB permits a home business to be operated within the residential dwelling or within a residential accessory building. There are specific provisions that limit the floor area within a dwelling unit devoted to a home business, but there is no such provision for an accessory building.

It is recommended that a provision be added to Section 17 to regulate the floor area devoted to a home business within a residential accessory building.

Due to the increase in popularity of home businesses, we are experiencing an increase in business vehicles associated with a home business being stored on residential property. There is a provision within the LUB which restricts the storage of motor vehicles associated with a business development to one on properties where the type of business use is not permitted (Section 31). This provision does not apply to motor vehicles related with a home business, because the use is permitted on the property. Because of this, it would be beneficial to add provisions regulating business vehicles connected with a home business in both Section 17 and Section 31 of the LUB. To aid in the implementation of these provisions a definition for business vehicle should also be added to the LUB.

It is recommended that Section 17 Home Business and Section 31 Parking of Motor Vehicles Owned by a Business Development be amended by adding provisions limiting the number of business vehicles associated with a home business to be kept on a property to two. In addition, a provision should be added to Section 17 identifying signage that is acceptable on a business vehicle.

Animal (domestic) grooming is considered to be an acceptable home business, but animal sitting is not. Because of a provision should be added to Section 17 that states that animal (domestic) grooming does not include animal sitting. For further clarification a definition for animal (domestic) grooming and animal sitting should be added to the LUB.

It is recommended that a provision be added to Section 17 Home Business that states animal (domestic) grooming does not include animal sitting.

Section 18 Irregular, or Flag-Shaped Lot Parcel

The LUB allows for lot parcels with a minimum lot parcel frontage of 20 feet, however there are zones within the LUB that have specific lot parcel frontage requirements that are larger than 20 feet.

It is recommended that Section 18 Irregular, or Flag-Shaped Lot Parcel be amended to include the statement 'unless there is a specific provision for a land use in the text of a particular zone'.

Section 19 Lot Parcel Development Requirements

The LUB has a provision that waives the side yard setback requirement for a select number of building types. This provision is most often used for semi-detached dwellings. The so-called company homes, which are so prevalent in the coal colliery towns and in neighbourhoods of Sydney in proximity to the former steel plant site, are the best and most common examples of this type of residential construction. This provision also applies to any sales or service establishment, but it does not apply to recreational buildings. The exception to lot boundary setback does not except compliance with all other applicable provisions of the LUB as well as the CBRM Subdivision and Building By-laws and the Provincial Building Code.

It is recommended that recreational buildings be added to the list of uses that are eligible to waive yard setbacks found in Section 19 Lot Parcel Development Requirements.

Section 29 Parking Area Standards

When the LUB was drafted it was envisioned that the By-law would come into effect as of July 1st, 2004; however, its effective date was not until August of 2004. Part 2, Section 29, Subsection c.9 includes a provision which references buildings that existed as of July 1, 2004, which is actually prior to the By-law coming into effect.

It is recommended that the date July 1st, 2004 be removed from Subsection c. 9 of Section 29 Parking Area Standards and replaced with the phrase 'meet the definition of existing in this By-law'.

The provisions for parking area standards are separated into standards for more than three parking spaces and three or fewer parking spaces. The provisions for parking areas of three or fewer parking spaces requires that driveways be setback 3ft from a lot parcel boundary; however, this is not meant to apply to residential development.

It is recommended that Subsection 29 d.3 of Part 29 Parking Area Standards be amended by adding a sentence stating that the requirement for a driveway to be setback 3ft from a lot parcel boundary does not apply to residential development.

Section 30 Parking Requirements According to Land Use Type

The intention of the introductory text for Section 30 Parking Requirements According to Land Use Type is to identify that the off-street parking area for a building is required to be on the same lot and within a zone that permits the building or use; however the wording of this Section could be modified to clarify this intent.

It is recommended that Section 30 Parking Requirements According to Land Use Type be amended to clarify that the parking areas for every building must be located on the same lot and within a zone that permits the use.

Section 42 Utility Scale Wind Turbines

While the municipality has the authority to regulate utility scale wind turbines, the CBRM is also obligated to inform the Department of National Defense when it is in receipt of an application for a utility scale wind turbine. To aid in this notification process a mailing address was included in Section 42, Part 2 of the LUB; however, there is a possibility that this address could change overtime. Therefore, it should be removed from the LUB.

It is recommended that the address for the Department of National Defense be removed from Section 42 Utility Scale Wind Turbines.

Part 3 Downtown Central Business District (CBD) Zone

The Downtown Central Business District (CBD) Zone permits a wide range of business uses with little or no development restrictions. In the CBD a building can occupy 100% of the lot area, which results in densely development downtowns; however, this can become problematic when the CBD zone abuts a residential zone. Because of this, a provision should be added to the CBD zone that requires a business to be screened from a property in an abutting residential zone.

It is recommended that screening provisions from an adjacent residential zone be added to the Downtown Central Business District (CBD) Zone.

Part 4 Downtown Sydney Waterfront (DWZ) ZONE

Restaurants serving alcohol beverages is listed as permitted use within the Part 4 Downtown Sydney Waterfront (DWZ) ZONE. The phrase 'serving alcohol beverages' should be removed because the serving of alcohol beverage is considered to be an accessory use to a restaurant and alcohol beverage service establishment is also listed as a permitted use within this zone.

It is recommended that restaurants serving alcohol beverages be replaced with restaurants in Section 1 of Part 4 Downtown Sydney Waterfront (DWZ) ZONE.

Part 5 Arterial Business Corridor (ABC) Zone

The ABC zones permits a range of manufacturing, recreational, residential, sales, service, and transportation uses. The ABC zone identifies that animal shelter and animal sitting establishment are only permitted in areas without municipal water and sewer. It is proposed that a definition of animal sitting establishment be added to the LUB which limits animal sitting to a period less than 24 hours. This definition is in contrast to an animal shelter which permits animals to be kept on site for a period longer than 24 hours. Due to the limited timeframe for an animal sitting establishment and the range of uses within the ABC zone, it would be appropriate for animal sitting establishments to be permitted throughout the ABC zone regardless of municipal servicing.

It is recommended that animal sitting establishment be considered a permitted uses in Part 5 Arterial Business Corridor (ABC) Zone.

Lot parcel development standards within the ABC zone requires a minimum public street frontage of 150ft. While this 150ft public street frontage is not intended to apply to a single unit dwelling or a two unit dwelling within the ABC zone, this intention is not clear; because of this Subsection 2 b. 1 should be amended.

It is recommended that Subsection 2 b.1 of the Arterial Business Corridor zone be amended to state that the minimum 150ft public street frontage does not apply to a single unit dwelling or a two unit dwelling.

Part 6 Boularderie Island Business Corridor (BBC) ZONE

Currently kennels, animal shelter, and animal sitting establishments are not permitted in areas serviced with both municipal water and sewer in the Boularderie Island Business Corridor (BBC) zone. However, there are no areas within the BBC zone that are serviced by both municipal water and sewer.

It is recommended that Part 6 Boularderie Island Business Corridor (BBC) ZONE be amended by deleting 'kennels are not permitted in areas serviced with both Municipal water and sewer' and 'animal shelters, and animal sitting establishments are not permitted in areas serviced with both Municipal water and sewer' from the list of permitted uses.

Part 18 Residential Urban C (RUC) Zone and Part 42 Rural CBRM (RCB-NM) Zone

Both the Residential Urban C (RUC) and the Rural CBRM (RCB-NM) Zones have special provisions for Grand Lake Road/Sydney Road. These provisions recognize existing businesses and properties along the 80km speed limit of Grand Lake Road and Sydney Road. The inclusion of these provisions takes direction from Policy S.b.3 of Part 2 of the Municipal Planning Strategy as well as Part 51 of the LUB. The special provisions for Grand Lake Road and Sydney Road state that no Development Permit shall be issued for a list of uses on lot parcels that are not identified in Part 51 of the LUB. One of those uses is private recreational; however, there is no definition for private recreational use. That being said, the LUB does define recreational business establishment.

It is recommended that private recreational be replaced by recreational business establishment in the Special Provision for Grand Lake Road/Sydney Road Sections of the Residential Urban C (RUC) and Rural CBRM (RCB-NM) Zones of the LUB

Part 18 Residential Urban C (RUC) Zone and Part 19 Residential Urban D (RUD) Zone

The MPS recognizes agricultural livestock operations as an inappropriate type of development in business development zones and higher density residential zones, that being said some of the urban residential zones contain large lot parcels in areas of low density. Because of this, Part 18 Residential Urban C and Part 19 Residential Urban D have provisions regulating agricultural uses. These provisions include setback requirements for new agricultural buildings; however it is not clear if this setback applies to all agricultural buildings or only those buildings housing livestock.

It is recommended that Subsection 4.c. of Part 18 Residential Urban C and Part 19 Residential Urban D be amended to identify a setback for new agricultural buildings used for the purposes of rearing and caring for animals.

Part 24 Apartment Building A (ABA), Part 25 Apartment Building (ABB) Zone, and Part 26 Apartment Building X (ABX) Zone

All of the Urban Residential Zones, with the exception of the Apartment Building A (ABA), Apartment Building B (ABB), and Apartment Building X (ABX) Zone, includes day cares as a permitted use.

It is recommended that day care be added to the list of permitted uses in the ABA, ABB, and ABX zones.

Part 29 Northside Business Park (NBP) Zone

Animal care is listed as a permitted use within the Northside Business Park (NBP) Zone, yet the LUB does not define animal care.

It is recommended that animal care be removed from the permitted uses in NBP zone and replaced with animal (domestic) care facilities.

Part 34 Regional Industrial Utility (IUR) Zone

Part 34 Regional Industrial Utility (IUR) Zone identifies coal retail distribution facilities as a sales use; however, coal retail distribution facilities is a transportation use.

It is recommended that coal retail distribution facilities be deleted from Section 1 of Part 34 Regional Industrial Utility (IUR) Zone.

Part 35 Langan Corridor Comprehensive Development District (LCD) Zone

Part 35 Langan Corridor Comprehensive Development District (LCD) Zone identifies amusement park as a service use; however, an amusement park is a recreational use.

It is recommended that amusement park be deleted from Section 2 of Part 35 Langan Corridor Comprehensive Development District (LCD) Zone.

Part 41 Rural CBRM (RCB) Zone, Part 42 Rural CBRM-NM (RCB-NM) Zone, and Part 43 Rural Gavel Deposit (GDR) Zone

Part 41 Rural CBRM (RCB) Zone, Part 42 Rural CBRM-NM (RCB-NM) Zone, and Part 43 Rural Gavel Deposit (GRD) Zone identify fitness centres as a service use; however, fitness centres are a recreational use.

It is recommended that fitness centre be deleted from Section 1 of Part 41 Rural CBRM (RCB) Zone, Part 42 Rural CBRM-NM (RCB-NM) Zone, and Part 43 Rural Gavel Deposit (GDR) Zone.

Part 46 Louisbourg Highway Parkway 1 (LP1) Zone and Part 47 Louisbourg Highway Parkway 2 (LP2) Zone

Beginning in the very early 1960's, the largest historical reconstruction in Canada began at the site of former French fortress Town of Louisbourg. As part of this investment, the Federal Government partnered with the Province of Nova Scotia to reconstruct the Sydney-Louisbourg Highway into an efficient conveyor of vehicular traffic linking the Fortress directly with the primary regional transportation artery in Cape Breton County.

To ensure this investment in an efficient highway infrastructure would not be squandered by ribbon development, the Province of Nova Scotia proclaimed significant sectors of this Highway as a Parkway. The purpose was to severely limit development, especially business development. The objective was to ensure the efficient and safe movement of traffic to and from the Fortress of Louisbourg National Historic Park for the future. Regulations were put into effect establishing a corridor from the Highway's intersection with the Morrison Road several kilometers north of Albert Bridge all the way to the boundary of the former Town of Louisbourg. The Louisbourg Highway Parkway 1 (LP1) and Louisbourg Highway Parkway 2 (LP2) Zones are intended to mirror these Regulations.

It is recommended that provisions be added to both the Part 46 Louisbourg Highway Parkway 1 (LP1) Zone and Part 47 Louisbourg Highway Parkway 2 (LP2) Zone to reference the fact that there is nothing in the LUB that exempts an applicant from complying with the Provincial Parkway Development Standards Regulations under the *Public Highway Act*.

The minimum building setback from the Louisbourg Highway in the LP1 and LP2 do not match those found in the Parkway Regulation.

It is recommended that Section 2 of Part 46 Louisbourg Highway Parkway 1 (LP1) Zone and Part 47 Louisbourg Highway Parkway 2 (LP2) Zone be amended to match the minimum building setback from the Louisbourg Highway found in the Parkway Regulation.

Part 54 Existing Developments

The LUB acknowledges the legitimacy of a range of sale/service businesses that were in existence prior to its adoption. Part 54 Existing Developments states that any existing development is deemed to be permitted if that development:

- is not included in the Uses Permitted Section of the Zone within which it is located; or
- if it is permitted, only as an optional use;
- or any land use not permitted throughout all Zones as a General Provision (refer to the Sections of Part 2)

This proposed amendment is intended to clarify the second bullet listed above. The intention of this proposed amendment is to ensure that if a use is deemed to be existing as defined by the LUB and it is listed in a zone as an optional use (subject to specific standards), it is still considered to be permitted even if it does not meet those specific standards.

It is recommended that the second bullet of Part 54 Existing Development, Section 1 Land Uses Deemed Permitted be amended to read 'if it is permitted, only as an optional use, and it does not meet the specific conditions referenced in that Zone'.

Part 54 applies to existing buildings; however, the LUB defines existing as from the date of the adoption of the LUB. This definition becomes increasingly problematic as the time since the LUB was adopted continues to increase. Therefore, how existing is defined and applies in Section 1 of Part 54 should be amended. The timeframe to determine existing should be five years less a day for a development. Meaning that at the time an applicant submits a Development Permit Application the development would had to have been in operation within the past 5 years. When it comes to determining existing buildings a six month timeframe is appropriate. This would mean that if a building is demolished it would still be deemed to be existing if the demolition took place less than six months ago. It is the applicant's responsibility to provide evidence or documentation to substantiate the existence of the development or building based on the timeframe listed above. For further clarification the definition for existing in the LUB should be revised.

It is recommended that Part 54 Existing Development, Section 1 Land Uses Deemed Permitted be amended to update the use of the term existing.

Part 89 Definitions

For the purposes of clarification several definitions are proposed to be added or revised to the LUB. It is proposed that definitions for Animal (Domestic) Grooming, Animal Sitting Establishment, Business Vehicle, and Reconstruction be added to the LUB. It is proposed that the following definitions found in the LUB be revised:

Boutique	Existing	Self-storage facility
Boathouse	Derelict motor vehicle	Townhouse
Crop farming	Parking lot	
Entertainment service	Parking space	

To review the definitions in their entirety please see the LUB Amending By-law found in Attachment B.

LUB Zone Map

Arterial Business Corridor (ABC) Zone – Rose Street and Rose Court, Sydney River

Arterial Business Corridor (ABC) Zone north of the railway tracks running parallel to Kings Road, Sydney River, in the vicinity of Rose Street and Rose Court should be replaced with the Residential Urban C (RUC) Zone. The ABC zone permits a range of manufacturing, recreational, residential, sales, service and transportation uses. Manufacturing, recreational, sales, service and transportation uses should not be accessed via unlisted roads. Rose Street and Rose Court are unlisted roads.

It is recommended that the Arterial Business Corridor (ABC) Zone in effect for the area north of the railway track running parallel to Kings Road, Sydney River, in the vicinity of Rose Street and Rose Court should be removed and replaced with the adjacent Residential Urban C (RUC) Zone.

Rural Zones with Municipal Water and Sewer

Overtime, Municipal sewer mains have been extended in areas that have Rural zoning. Areas with Municipal sewer should not be located in a rural zone, but rather an urban residential zone.

It is recommended that area that are Zoned Rural CBRM (RCB), Rural CBRM-NM (RCB-NM), and Rural Gavel Deposit (GRD) that have Municipal sewer mains be replaced with the adjacent Urban Residential Zone.

It is recommended that the lot parcels fronting on Rendell Drive, Little Bras D'Or be rezoned from Rural Residential Subdivision (RRS) to Residential Urban C (RUC).

Phased Residential Subdivisions

As residential subdivisions expand overtime into rural areas the zoning is not always updated.

It is recommended that PIDs 15831688, 15831696, 15831712, and 15831720 found on Patnic Avenue, Mira Road be rezoned from Rural CBRM (RCB) to Residential Urban C (RUC).

It is recommended that PIDs 15867617, 15867625, 15867682, 15867674, 15867666, 15867633, 15867641, 15867658, 15867716, and 15867708 found on Hampton Drive and Hawthorne Court, Sydney River be rezoned from Rural CBRM (RCB) to Rural Residential Subdivision (RRS).

Green Link Trail System Recreation (GLT) Zone

The Green Link Trail was a signature project of the CBRM's Active Transportation Plan which was adopted by Council in 2008. The Green Link Trail System Recreation (GLT) Zone was established to recognize this project. There is a lot parcel east of the dammed part Wentworth Creek in Rotary Pak that should have been included in the GLT zone.

It is recommended that PID 15869308 be rezoned from Residential Urban C (RUC) to Green Link Trail System Recreation (GLT).

Boularderie Island Business Corridor (BBC) Zone

The Boularderie Island Business Corridor (BBC) Zone applies to TransCanada Highway on Boularderie Island from the bridge across the Little Bras D'Or Channel west to its easternmost intersection with Russell Drive. The boundary of the BBC zone has been amendment to comply with lot parcel development requirements.

Recommendation

I recommend Council to schedule a public participation program for the May meeting of the General Committee to consider the amendments to the Municipal Planning Strategy and Land Use By-law found in Attachments A and B.

Submitted by:

Originally Signed By

**Karen Neville and Malcolm Gillis
Planning and Development Department**

Municipal Planning Strategy Amendment Application by Gratten (Duke) Fraser, 762 King Street, New Waterford (PID 15466840) Case G- 1018:

Ms. Karen Neville, Planner, provided background information concerning this issue. She explained that when Mr. Fraser purchased the property next to the New Waterford Consolidated Hospital, he believed the property was zoned for commercial development; however, the property is zoned Residential Urban C (RUC) which would not permit Mr. Fraser to construct a Robin's Donut shop on this property.

Ms. Neville stated that for a restaurant to be permitted on this property, the Land Use Bylaw and the Municipal Planning Strategy would have to be amended to consider commercial development.

Motion:

Moved by Councillor Cormier, seconded by Councillor Flynn, to adopt, by resolution, a Public Participation Program to explore the possibility of amending the Municipal Planning Strategy to allow a former medical clinic located at 762 King Street, New Waterford, to be converted into a drive thru coffee shop.

Motion Carried.

April 14, 2016

Mr. Duke Fraser
Millennium Contracting Services Ltd.
15 Alder Point Road
Bras D'or, NS B1Y 2K2

[Email: mcs1@eastlink.ca]

**Re: Sight Distance Review, Proposed Commercial Driveway Access
762 King Street, New Waterford, NS**

Dear Mr. Fraser,

Further to our recent site visit and correspondence by email and telephone, we are writing to summarize the findings of the sight distance review for potential access to your property at 762 King Street in New Waterford.

Proposed Development Site- The proposed development site is located on the east side of King Street between Macleod Avenue and the New Waterford Consolidated Hospital. The site, which is currently occupied by a small vacant building that formerly operated as a medical office, has one existing driveway located approximately 50m north of Macleod Avenue (See Figure 1).

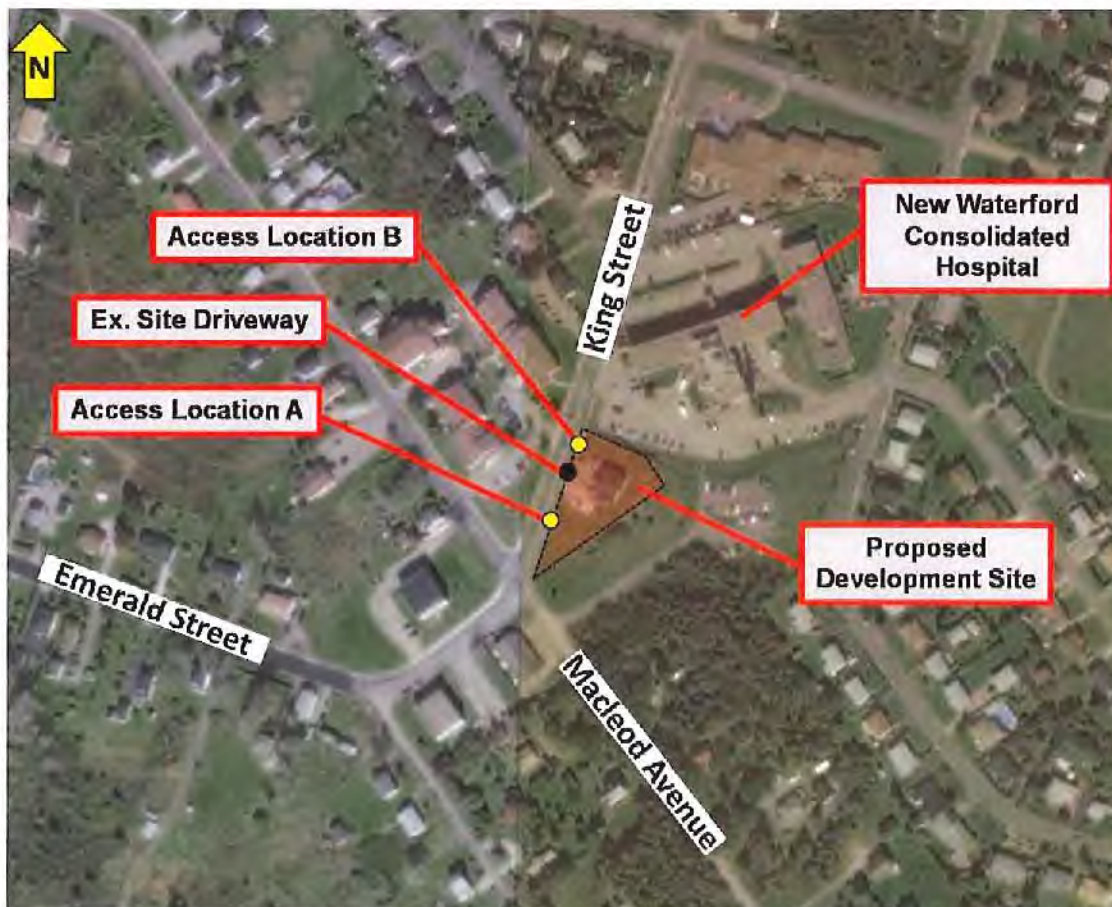


Figure 1: Proposed Development Site

Description of King Street- King Street is a 2-lane, undivided collector street that runs north-south approximately 1.8km between Emerald Street and Atlantic Avenue. In the vicinity of the proposed development site, it has a posted speed limit of 50km/h. There is a crest that peaks approximately 50m south of the site at Macleod Avenue; the street slopes downward from south to north at approximately 3%.



Photo 1: Looking south on King Street. The site's existing driveway is visible on the left.

Stopping Sight Distance Review: Sight distance investigations were completed during a site visit on Friday, April 8, 2016. Stopping sight distance was measured for the existing site driveway as well as other locations being considered as candidates for new driveways for the redeveloped site. Results are summarized below:

- **Existing Site Access:** The existing site driveway is located near the centre of the lot's King Street frontage, approximately 50m north of Macleod Avenue.
 - Stopping sight distances (SSD), measured from a driver eye height of 1.05 m to a 150 mm object, indicated approximately 63m on the northbound approach.
 - On the southbound approach, SSD exceeds 200m.
 - Available SSD for the northbound approach is less than the 65m required for a -3% grade and 50km/h approach speed. Observed SSD is adequate for the southbound approach.
- **Access Location A:** A potential driveway location approximately 25m south of the existing site driveway was investigated.
 - Stopping sight distances (SSD), measured from a driver eye height of 1.05 m to a 150 mm object, indicated approximately 43m on the northbound approach.
 - On the southbound, approach SSD exceeds 200m.
 - Available SSD for the northbound approach is less than the 65m required for a -3% grade and 50km/h approach speed. Observed SSD is adequate for the southbound approach.
 - Observations indicate that since SSD is less than minimum requirements at this location as well as at the existing site driveway, it is not expected that any locations south of the existing site driveway will meet minimum SSD requirements.

- **Access Location B:** A potential driveway location near the northern limit of the site's King Street frontage was investigated.
 - Stopping sight distances (SSD), measured from a driver eye height of 1.05 m to a 150 mm object, indicated approximately 80m on the northbound approach.
 - On the southbound approach, SSD exceeds 200m.
 - Available SSD for the northbound approach exceeds the 65m required for a -3% grade and 50km/h approach speed. Observed SSD is also adequate for the southbound approach.



Photo 2: Looking south on King Street from Access Location B. The site's existing driveway is visible on the left.



Photo 3: Looking north on King Street from Access Location B.



Photo 4: Looking north on King Street toward Access Location B.



Photo 5: Looking across King Street toward Access Location B.

Summary and Recommendations:

1. Plans are being prepared for a proposed commercial development at 762 King Street, a site currently occupied by a vacant building that previously operated as a medical office.
2. A sight distance review has been completed in order to identify location(s) for access to the proposed development site that meet minimum stopping sight distance (SSD) requirements.
3. On the southbound approach to the entire frontage of the site, SSD exceeds 200m and is adequate based on a 50km/h approach speed on a +3% grade
4. On the northbound approach, a crest that peaks at Maclean Avenue limits available sight distance. Stopping sight distance (SSD) measurements indicate that the existing driveway and all locations south of it do not meet the minimum SSD for a 50km/h approach speed on a -3% grade. At a location near the northern edge of the site (Location B), SSD measurements indicate 80m of available SSD, which exceeds the minimum requirement of 65m for a -3% grade and provides SSD for an approach speed of about 55km/h.

5. It is recommended that the site driveway for the proposed development be located near the northern edge of the site (Location B) to allow for maximum available SSD along the frontage of the site.

If you have any questions or require additional information, please contact me by Email at mike.connors@wspgroup.com or by telephone at 902-835-9955.

Sincerely:



Mike Connors, MScE, P. Eng.
Transportation Engineer
WSP Canada Inc.



TO: CBRM Council

FROM: Karen Neville

**SUBJECT: MUNICIPAL PLANNING STRATEGY
AMENDMENT APPLICATION – 1018
Gratten (Duke) Fraser
762 King Street, New Waterford
(PID 15466840)**

DATE: November 27th, 2015

Introduction

At the November 2nd General Committee of Council meeting, Planning Director Malcolm Gillis presented a letter from Gratten (Duke) Fraser requesting a Municipal Planning Strategy (MPS) amendment to allow a former medical clinic to be converted into a drive thru coffee shop. The motion of the General Committee was for staff to prepare an issue paper and present it a future meeting of the General Committee. This issue paper is in response to that motion.

When Mr. Fraser purchased the property next to the New Waterford Consolidated Hospital, which is outlined in red on Attachment A, he was lead to believe that the property was zoned for commercial development. The building was once a medical office and it was Mr. Fraser's intention to construct a Robin's Donuts on the property; however, the property is zoned Residential Urban C (RUC) which does not permit this type of land use. Currently, the MPS does not contain policy which would support the establishment of a restaurant in this residential area. So in addition to having to amend the Land Use By-law (LUB), the MPS would also need to be amended to permit a restaurant on this property.

Planning staff believe there are two possible MPS policy changes worthy of consideration.

1. The MPS does have a policy that recognizes existing sales/service developments along urban and rural Level 1 and Level 2 public streets or in the central business districts of small communities where there is already a mix of land uses types (MPS Part 2, Policy S.a). The sector of Emerald Street in New Waterford from its intersection with Mahon Street and Larch Street is one of these areas (MPS Part 2, Policy S.b). One option could be to extend this designation to include the property in question. However, the distance between Larch Street and Mr. Fraser's property approximately 1700 feet and the most of the development is single detach dwellings, because of this staff would not be advocating this option.

2. While the majority of the immediate area is zoned RUC, which permits one and two-unit residential development, there are a number of large complexes in the area. In addition to the New Waterford Consolidated Hospital, the larger developments in the area include a 50 unit nursing home, a 24 unit seniors complex, two 15 unit seniors complexes, and two 12 unit apartment buildings, all of which are closer to the subject site than the low density residential developments that dominate the streetscape of the greater neighbourhood. In the vicinity of Mr. Fraser's property there is also a medical office and a three unit apartment building.

The former medical clinic building purchased by Mr. Fraser is an example of an isolated business development subject to the range of optional permitted uses identified in Part 54 of the LUB and supported by Municipal Planning Strategy Policy 14 of Part 2. However, the range of optional uses must be similar to the former use (e.g. converting the medical clinic into a real estate office). It really is too much of a stretch to consider a take-out restaurant a reasonable optional use to an office building in an urban residential neighbourhood. This above referenced MP5 policy could be revised to allow for a business development outside the range of "similar uses" by zoning amendment. In situations like this, where the subject site is buffered from the low density residential development prevalent throughout much of the neighbourhood by a collection of large residential and institutional complexes, a zoning amendment application to convert to a non-similar business development may have a fair chance of being successful. The policy could also require that new sales/service development be subject to a combination of development control tools that are available under the *Municipal Government Act*.

In cases where an individual is requesting an amendment to the MP5, Council can simply reject the requested amendment and the proponent has no right to appeal. Regarding this proposal, staff believes the above referenced 2nd option is at least worthy of consideration.

Recommendation:

It is staff's recommendation that Council pass a Motion giving Planning and Development Department staff and local Councillor Lowell Cormier the authority to conduct a Public Participation Program to introduce concept #2 of this report by means of either:

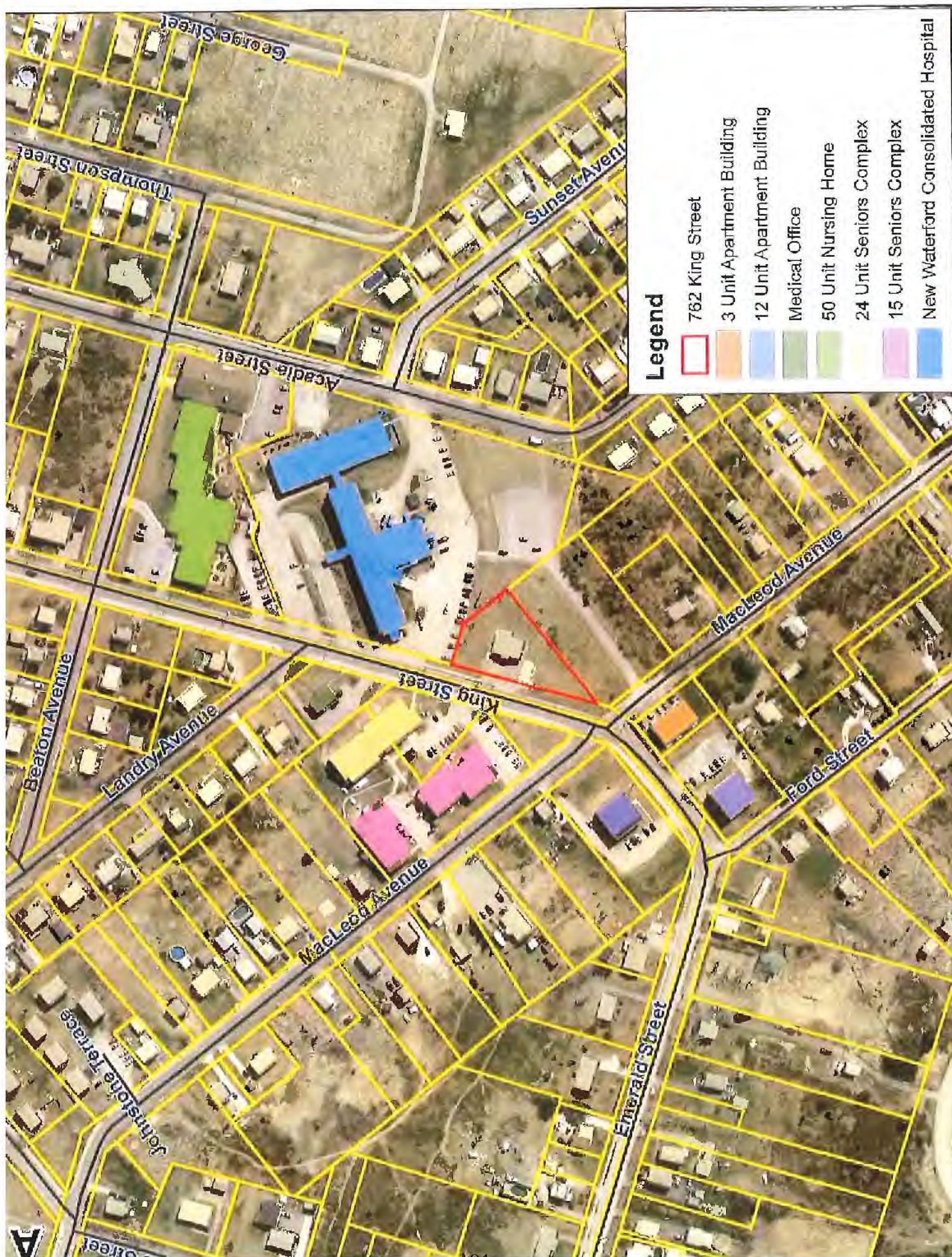
- a public meeting to be held in the community with notices going to the surrounding neighbourhood; or
- a survey via by means of a letter delivered by Canada Post to the assessed owners of property in the neighbourhood asking for their opinion regarding this proposal.

The results of the Public Participation Program would be brought back to Council's General Committee with a recommendation on how to proceed.

Submitted by:

Originally Signed by

Karen Neville
Planner





CBRM

A Community of Communities

Cape Breton Regional Municipality

Rick McCready
Planning Department

320 Esplanade
Sydney, Nova Scotia
B1P 7B9
Tel: 902-563-5072
Fax: 902-564-0481

email: rgmccready@clrm.ns.ca

April 12, 2016

MEMO TO: CBRM Council

FROM: Rick McCready, MCIP, Senior Planner

RE: Implementation of the CBRM Active Transportation Plan: Grand Lake Road Multi Use Path –Routing of Path near Yolanda Drive

Background

One of the signature projects in the CBRM Active Transportation (AT) Plan which was approved by Council in 2008 is the Grand Lake Road Multi Use Path. This path will be a 3 metre wide pathway extending from the Mayflower Mall to CBU and Reserve Mines, a distance of 10 km.

Funding has been committed from ACOA for this project this year, and it is hoped that a significant section of pathway can be completed.

Plans for the pathway east of Yolanda Drive have been altered to move the pathway further from highway. This has been done because of changes to the intersection of Yolanda and Grand Lake Road which have been undertaken by the Department of Transportation and Infrastructure Renewal, and because of the acquisition of several former residential properties by the Province in this area.

Staff are of the opinion that the new route for the pathway is greatly preferred over the original route. The new route does, however, require Council approval. Specifically, if Council wishes to have the path built on the new route it will have to:

1. Enter into a license agreement with the Province of Nova Scotia to allow the path to be built on land that the Province has recently acquired (PID's # 15226863 and #15226855). This agreement will be similar to other agreements that have been approved by Council for path construction in that the CBRM will build and maintain the path but will not pay the owner any rent;
2. Acquire a small strip of land (currently part of PID# 15006794) from the current owner, Dougall MacAulay. (refer to attached sketch) This piece of land is

approximately 2100 sq. ft. in area and the owner is willing to sell the land for \$4,500. The land has been appraised at a value of \$2,500, but staff feel that locating the path in this location will result in a safer crossing for path users at Yolanda Drive and for that reason the modest additional amount requested by the property owner is warranted.

Recommendation

Staff recommends that Council:

- 1. Authorize the Mayor and Clerk to enter into a license agreement with the Province of Nova Scotia to allow the path to be built on land that the Province has recently acquired just east of Yolanda Drive. (PID's # 15226863 and #15226855)**
- 2. Agree to acquire a small strip of land (currently part of PID# 15006794) from the current owner at a maximum price of \$4,500.**

Yours very truly,

ORIGINAL SIGNED BY

**Rick McCreedy, MCIP
Senior Planner**





TO: CBRM Council

FROM: Engineering, Planning, and Legal Department staff

**SUBJECT: NECESSARY AGREEMENTS TO MOVE
HARBOUR ROYALE'S APARTMENT COMPLEX
PROJECT TO THE PERMIT APPLICATION
STAGE**

DATE: April 14th, 2016

During its November 2015 meeting Council passed a Motion, supported by a staff recommendation, adopting the necessary amendments to the North End Sydney Municipal Planning Strategy and Land Use Bylaw to permit the development of Harbour Royale's apartment complex at the location along downtown Sydney's waterfront shown on the site plan included with this issue paper. In its issue paper to Council in support of its recommendation, staff expressed its confidence this development proposal was in compliance with the recommendations of the Sydney Harbourfront Conceptual Vision and Design.

The final step before an application for a Building/Development Permit can be accepted is to reach agreement on how this site and the remaining CBRM lands in the surrounding area are to be accessed and what lands are to be conveyed to the developer to facilitate the development of the submitted site plan. Staff has completed its negotiations with the developer and we are asking that Council accept our recommendation divided into the following four components.

Aspect 1 – "Land Parcel A"

A portion of the former Esplanade road "right-of-way" has been closed and deemed surplus and has been offered to Harbour Royal Developments for purchase by Council. This piece is critical to the development.

Recommendation #1 – *Council agree to sell the land parcel denoted as "Land Parcel A" on attached plan to Harbour Royal Development for the Market Assessed Value of \$10,000. To facilitate this sale Council already passed a Motion in November 2015 declaring this parcel surplus.*

Aspect 2 – “Land Parcel B”

A small portion of CBRM land (181 sq.m.) located immediately west of the Harbour Royale Developments is required by the Developer to meet the setback requirements of the Land Use Bylaw.

Recommendation #2 – *Council deem land parcel noted as “Land Parcel B” on attached plan surplus to CBRM and made available for purchase at market value of \$6,000 to Harbour Royale Developments so that the development can meet the setback requirements of the Land Use Bylaw.*

Aspect 3 – “Stairway”

A major component of this development requires Harbour Royale Developments to construct an elaborate step/plaza/walk-way to allow for the general public to fully access the boardwalk through the Harbour Royale site.

This substantial signature piece will be open to the general public and will be fully maintained by the developer. The developer sees this substantial piece greatly accenting the overall streetscape and being open to the public warrants some contribution by CBRM

Recommendation #3 – *CBRM Council agree, in principal to a “one time” contribution of \$10,000.00 towards the construction and perpetual maintenance of the step/plaza/walkway facility and that this contribution be included in the Capital Budget to be approved by CBRM Council in May 2016.*

Aspect 4 – “Listed Road”

The developer requires the construction of a north-side driveway access to properly service his apartment tower/2 level internal parking development.

CBRM sees the very high potential for future developments of the adjacent, CBRM owned “waterfront lands” post the Harbour Royale development. The developer has agreed to partner in the construction of a fully listed road to service the entire waterfront site, which include the adjacent lands indicated on attached plan.

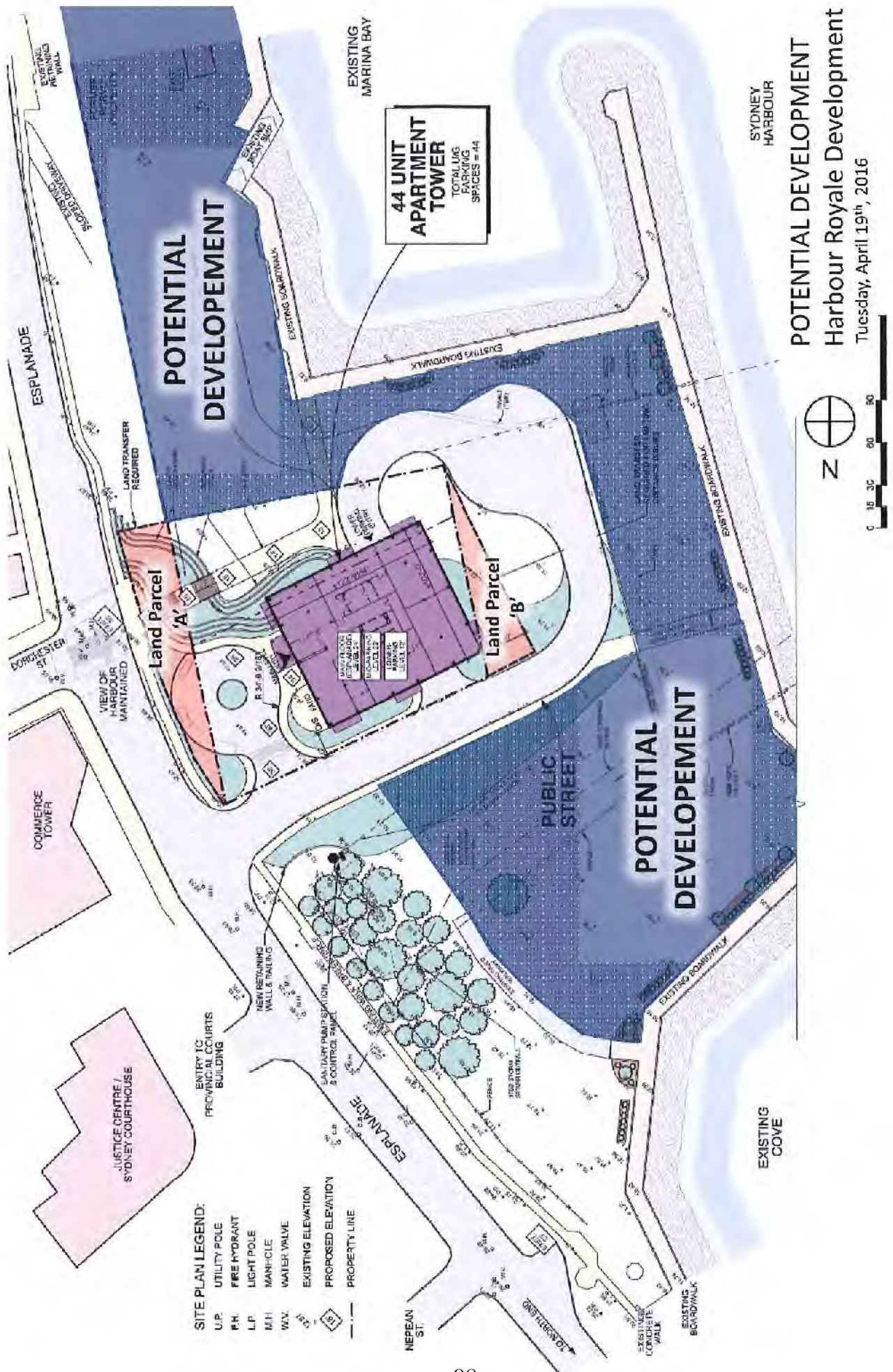
CBRM would gain great flexibility and attractiveness as it pertains to future developments on the adjoining “waterfronts lands” (effective build-out of the “waterfront lands”, ability to subdivide, public site access, street frontage). A fully listed street would also allow for consistent municipally maintained servicing of the street to the “waterfront lands” for parking, recreation programming and boardwalk access. As a point of note, Public access through the developed waterfront properties, directly to the boardwalk and other waterfront amenities, is a key recommendation of Sydney Harbourfront Conceptual Vision and Design. Preliminary cost estimate to construct a fully listed road is \$330,000.

Recommendation #4 – *CBRM Council agree, in principal the construction of a fully listed public street to access the CBRM “waterfront lands” and that Harbaur Royale Developments partner in the costs to construct at 25% of actual costs and that the capital costs to construct be included in the Capital Budget to be approved by CBRM Council in Moy 2016.*

Submitted by:

ORIGINAL SIGNED BY

Wayne MacDonald, P.Eng.
Director of Engineering and Public Works



Mackey Appraisals Ltd.

Professional Real Estate Appraisers
& Consultants

Parcel A

February 11, 2016

The Breton Law Group
Charlotte Street,
Sydney NS

Attention: Mr. D. Rudderham

Re: Market Valuation: Parcel 1 – Verner Surveys Ltd. – Plan S-993-2 (Nov. 12, 2015)

Mr. Rudderham;

In accordance with your request, I have completed the following appraisal report providing my opinion of current market value for the subject property as of the effective date, February 7, 2016.

Based on the above noted plan completed by Verner Surveys Limited, the subject property is located between the sidewalk on the western side of Esplanade and Harbour Royale Development Lands described as being PID 15058712 & 15697568. The subject lot is located at the top of a relatively steep incline and appears to be subject to a power line easement. The subject parcel appears to be part of the Esplanade and is to be closed by the Cape Breton Regional Municipality in order to facilitate the transfer of the subject parcel to Harbour Royale Development Limited.

The following pages with addenda and exhibits outline the valuation methodology and supporting data, which must be read as a whole, as sections taken out of context may be misleading. This valuation has been carried out through the exclusive use of the Sales Comparison Approach.

As will be developed throughout this appraisal report, the current market value of the subject site (as if vacant) subject to the attached Special Limitations, is as follows;

Ten Thousand Dollars (\$10,000.00)

Respectfully submitted:
Mackey Appraisals Ltd.



William R. Martheleur, BSc. DAC (CNAREA)

Mackey Appraisals Ltd.
Professional Real Estate Appraisers
& Consultants

Parcel B

April 7, 2016

The Breton Law Group
Charlotte Street,
Sydney NS

Attention: Mr. D. Rudderham

Re: Market Valuation: A 2,946 Sq.Ft. portion of PID 15860786, Esplanade, Sydney, NS

Mr. Rudderham;

In accordance with your request, I have completed the following appraisal report providing my opinion of the hypothetical (after subdivision) market value for the subject property as of the effective date, April 6, 2016.

The subject lot is located at the eastern end of PID 15860786 and abuts the land currently owned by Harbour Royal Development Limited. This site, following subdivision, will be triangular in shape and occupy an area of approximately 2,946 square feet (Verner Survey information). This report has been completed under the extraordinary assumption that the lot has already been subdivided from the parent parcel.

The following pages with addenda and exhibits outline the valuation methodology and supporting data, which must be read as a whole, as sections taken out of context may be misleading. This valuation has been carried out through the exclusive use of the Sales Comparison Approach.

As will be developed throughout this appraisal report, the current market value of the subject site (as if vacant) subject to the attached Special Limitations is as follows;

Six Thousand Dollars (\$6,000.00)

Respectfully submitted:
Mackey Appraisals Ltd.



William R. Martheleur, BSc. DAC (CNAREA)

Summary

Statement of Revenue

February 29, 2016

Revenue	Year To Date Assigned	11 Month Budget	11 Month Budget Variance	Annual Budget	Annual Budget Remaining
Total Taxes	\$ 93,837,386	\$ 93,393,625	\$ 443,761	\$ 101,883,955	\$ 8,046,569
Total Federal Government	2,419,345	2,324,718	94,627	2,536,056	116,711
Total Federal Government Agencies	1,089,634	1,079,384	10,250	1,177,510	87,876
Total Provincial Government	1,725,594	1,214,490	511,104	1,324,898	(400,696)
Total Provincial Government Agencies	2,433,567	2,684,064	(250,497)	2,928,070	494,503
Total Services to Other Local Government	393,965	393,964	1	429,779	35,814
Total Transit	541,906	577,500	(35,594)	630,000	88,094
Total Environmental Development Services	261,692	238,487	23,205	260,168	(1,524)
Total Licenses & Permits	138,743	164,083	(25,340)	179,000	40,257
Total Fines & Fees	467,551	507,240	(39,689)	553,353	85,802
Total Rentals	561,951	504,167	57,785	550,000	(11,951)
Total Concessions & Franchises	364,989	335,974	29,016	366,517	1,528
Total Return on Investments/Interest on Taxes	1,464,167	1,146,292	317,876	1,250,500	(213,667)
Total Finance Revenue	26,840	27,958	(1,118)	30,500	3,660
Total Solid Waste Revenue	2,134,427	2,047,500	86,927	2,267,000	132,573
Total Recreation & Cultural Service Programs	1,528,674	1,578,197	(49,523)	1,789,105	260,431
Total Water Utility Charges	4,538,884	4,538,884	(0)	4,951,510	412,626
Total Unconditional Transfers	14,550,619	14,594,670	(44,051)	15,921,458	1,370,840
Total Conditional Transfers	3,411,848	3,411,853	(5)	4,178,021	766,173
Year To Date Assigned	131,891,783	\$ 130,763,051	\$ 1,128,733	\$ 143,207,400	\$ 11,315,617

ORIGINAL SIGNED BY

Departmental

ORIGINAL SIGNED BY

Reviewed

Summary

Statement of Expenditures

February 29, 2016

Expenditures	Year to date Expended	11 Month Budget	11 Month Budget Variance	Annual Budget	Annual Budget Remaining
Legislative	\$ 1,291,236	\$ 1,311,712	\$ 20,476	\$ 1,415,714	\$ 124,478
Administration	868,790	932,390	63,600	995,609	126,819
Finance	2,369,540	2,561,731	192,191	2,739,607	370,067
Legal	479,594	521,991	42,397	565,444	85,850
Human Resources	1,440,227	1,475,815	35,588	1,600,549	160,322
Technology & Communications	964,870	1,023,602	58,731	1,153,099	188,229
Municipal Clerk	312,644	353,844	41,199	480,466	167,822
Fiscal Services	33,074,134	33,208,768	134,634	34,772,031	1,697,897
Occupational Health & Safety	181,853	199,682	17,829	215,532	33,679
Facilities: Centre 200 & Arenas	3,199,576	2,966,927	(232,649)	3,127,620	(71,956)
Police Services	22,994,791	23,290,127	295,336	25,110,074	2,115,283
Fire Services (Incl EMO)	15,424,133	15,403,847	(20,286)	16,550,728	1,126,595
Engineering & Public Works	44,949,073	44,968,132	19,059	48,849,744	3,900,671
Planning	2,283,703	2,398,043	114,340	2,650,361	366,658
Recreation	3,032,220	2,901,450	(130,769)	2,980,821	(51,399)
Total expended to date	\$ 132,866,385	\$ 133,518,062	\$ 651,677	\$ 143,207,400	\$ 10,341,014

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