

Cape Breton Regional Municipality

Council Meeting

AGENDA

TUESDAY, SEPTEMBER 18TH, 2018

6:00 P.M.

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

Cape Breton Regional Municipality

Council Meeting

Tuesday, September 18th, 2018
6:00 p.m.

AGENDA ITEMS

Roll Call

O'Canada

Moment of Silent Reflection

1. **APPROVAL OF MINUTES:** (Previously Distributed)

- Council – July 10th, 2018
- Council – August 7th, 2018

2. **APPROVAL OF AGENDA:** (Motion Required)

3. **PROCLAMATIONS & RESOLUTIONS:**

3.1 **Right to Know Week:**

Councillor George MacDonald (See page 6)

3.2 **Wrongful Conviction Day:**

Councillor George MacDonald (See page 7)

3.3 **Pregnancy & Infant Loss Awareness Day:**

Councillor Earlene MacMullin (See page 8)

3.4 **Resolution Regional Library Board Appointments:**

Councillor Kendra Coombes (See page 10)

Continued...

**Council Meeting Agenda
September 18th, 2018 (Cont'd)**

4. PLANNING ISSUES:

4.1 FINAL APPROVAL- PUBLIC HEARING: Rick McCready, Senior Planner

a) Amendments to the CBRM Municipal Planning Strategy and Land Use Bylaw to identify areas where the Commercial District Improvement Bylaw will be in effect and to ensure these areas are in appropriate commercial zone:

(See page 11)

b) Amendments to the North End Sydney Secondary Planning Strategy and Land Use Bylaw to identify areas where the Commercial District Improvement Bylaw will be in effect and to ensure these areas are in an appropriate commercial zone:

(See page 43)

4.2 North End Sydney Secondary Planning Strategy and Land Use Bylaw Amendments:

a) Request by New Dawn Enterprises Ltd. to amend the North End Sydney Secondary Planning Strategy and Land Use Bylaw to allow the conversion of St. George's Church Hall, 52 Nepean Street, Sydney, into a "microbrewery cidery" and cidery tasting room: Rick McCready, Senior Planner (See page 48)

5. BUSINESS ARISING:

5.1 General Committee – September 4th, 2018

a) Scenarios Regarding Resignation of Mayor: Demetri Kachafanas, Regional Solicitor (See page 56)

6. CORPORATE SERVICES ISSUES:

6.1 Northside Business Park – Property Management Policy:
John Phalen, Manager Economic Development and Major Projects
(See page 61)

Continued...

**Council Meeting Agenda
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7. PUBLIC SERVICES ISSUES:

7.1 Battery Point Anaerobic Digester Cost Share Amendment:

Matt Viva, Manager Waste Water (See page 64)

7.2 Possible Funding to Construct an Anaerobic Digester to Replace Compost Operations:

Francis Campbell, Manager of Operations, Solid Waste (See page 66)

8. BY-LAWS:

8.1 Second / Final Reading:

a) Proposed Commercial District Improvement Bylaw:

Public Hearing regarding the proposed amendments to the CBRM Commercial District Improvement Bylaw. Rick McCready, Senior Planner (See page 68)

**9. FINANCIAL REPORTS: Jennifer Campbell, Chief Financial Officer
For Information Only**

9.1 CBRM Statements to July 31, 2018: (See page 93)

**9.2 Port of Sydney Development Corporation to July 31, 2018:
(See page 95)**

ADJOURNMENT

CBRM PROCLAMATION

“Right to Know Week”

- Whereas:** The Cape Breton Regional Municipality has adopted the principles of openness, transparency and accountability; and
- Whereas:** Part XX of the *Municipal Government Act* gives citizens a right of access to information in the custody or under the control of the Cape Breton Regional Municipality;
- Whereas:** Access to information ensures citizens of Nova Scotia have the opportunity for meaningful participation in the democratic process; and
- Whereas:** A celebration of the right of citizens to access information will facilitate informed public participation in policy formulation, ensure fairness in government decision-making and permit the airing and reconciliation of divergent views; and
- Whereas:** Cape Breton Regional Municipality joins all other Canadian jurisdictions and democracies world – wide in acknowledging international Right to Know Week;
- Be It Therefore Resolved:** That Mayor Cecil P. Clarke and Council of the Cape Breton Regional Municipality, proclaim September 24 to September 30, 2018 to be **Right to Know Week** in the CBRM and to publicize Right to Know Week events in the area.

Councillor George MacDonald, District 9 - CBRM

September 18th, 2018

Proclamation

“Wrongful Conviction Day – CBRM”

- Whereas:** The purpose of Wrongful Conviction Day is to spread awareness about wrongful convictions and the effects that these convictions have on individuals, their families, and the society at large;
- And Whereas:** Through Wrongful Conviction Day, Innocence Canada aims to decrease the amount of wrongful convictions in Canada by encouraging the justice system to address issues that contribute to wrongful convictions and has been responsible for exonerating 21 wrongly convicted individuals;
- And Whereas:** Innocence Canada is a not-for-profit organization founded in 1993 whose mandate is to identify, advocate for, and exonerate individuals who have been convicted of a crime they did not commit and to prevent wrongful convictions through legal education and reform;
- Be It Therefore Resolved:** That Mayor Cecil P. Clarke & CBRM Council proclaim October 2nd, 2018, as “Wrongful Conviction Day” in the Cape Breton Regional Municipality.

Councillor George MacDonald – District #9 - CBRM

September 18th, 2018

Proclamation

2018 Pregnancy & Infant Loss Awareness Day

- Whereas:** October 15th is recognized worldwide and in other regions of Canada as Pregnancy and Infant Loss Awareness Day to symbolize our support of Nova Scotia's Bill 179, Pregnancy & Loss Awareness Act;
- And Whereas:** Each day in Canada five babies die within their first year, eight babies are stillborn and one in five pregnancies end in miscarriage resulting in one family in Nova Scotia per day experiencing the pain of losing a child as a result of miscarriage, stillbirth or neonatal loss;
- And Whereas:** There is a need to develop a greater awareness and understanding about the causes of pregnancy and infant loss so we can improve the healthcare provided for pregnant mothers and their babies;
- And Whereas:** The existence of babies and infants deserve to be recognized;
- And Whereas:** Increased awareness of the causes and impacts surrounding pregnancy and infant loss may lead to a greater understanding of support and resources in communities across Nova Scotia;
- And Whereas:** This declaration acknowledges the unique grief of bereaved parents and demonstrates support to the many families across Canada who have suffered a loss through miscarriage, medical termination, stillbirth or the death of their infant during delivery or shortly after birth;
- And Whereas:** Promoting awareness of pregnancy and infant loss increases the likelihood that these families will receive understanding and support as they face the challenges of their distinctive bereavement;
- And Whereas:** A day of remembrance honours the lives of the children and supports grieving parents, grandparents, siblings and other family members whose lives are forever altered by the heartbreak of losing a child;
- And Whereas:** Such activities emphasize the CBRM's commitment to supporting sensitivity and encouragement to bring this cause to light;

.../2

And Whereas: The day is observed with remembrance ceremonies and candle light vigils, concluding with the International Wave of Light, a worldwide lighting of candles from 7:00 p.m. to 8:00 p.m. as part of the International Wave of Light, where candles are lit for one hour in every time zone around the world, creating a continuous wave of light to commemorate the lost children and honor their grieving families;

And Whereas: The CBRM Mayor & Council wishes to recognize the profound grief experienced by families who lose an infant;

Be It Therefore That CBRM Mayor Cecil P. Clarke and Council hereby declare October 15th, 2018 as “Pregnancy & Infant Loss Awareness Day” in the CBRM.

Councillor Earlene MacMullin
CBRM District #2

Dated this 18th day of September, 2018

Cape Breton Regional Municipality

Resolution

Regional Library Board Appointments

Whereas:

The Cape Breton Regional Library Board has expressed concerns about the timelines for appointments or reappointments to library Boards and requested that Provincial Appointees, with their consent, be permitted to remain an active participant on the Library Board until such a time as a new appointment or reappointment is made. This would ensure full representation and allow the Board member to continue to participate at meetings until formal notification regarding a reappointment or new appointment is made;

And Whereas:

Department of Communities, Culture, and Heritage, Deputy Minister Tracy Taweel noted in correspondence dated February 15, 2018 that the request could be taken into consideration for the Fall 2018 sitting of the Nova Scotia Legislature.

Be It Therefore

Resolved:

On behalf of the CBRM Mayor and Council request staff write a letter to Deputy Minister Tracy Taweel, Minister of Communities, Culture, and Heritage Minister, Hon. Leo Glavine requesting that Provincial Appointees, with their consent, be permitted to remain an active participant on the Library Board until such a time as a new appointment or reappointment is made, allow the Board member to continue to participate at meetings until formal notification regarding a reappointment or new appointment is made and the issue be presented during the Fall 2018 sitting of the Nova Scotia Legislature. We also request that all CBRM MLAs be copied on the letter.

Councillors

Kendra Coombes

District #11- CBRM

Amanda McDougall

District #9 - CBRM

Steve Gillespie

District #4 - CBRM

September 18, 2018

Tax Incentives to Promote Downtown Revitalization and Economic Development

Motion:

Moved by Councillor Bruckschwaiger, seconded by Councillor Coombes, to approve;

- First reading to the proposed Commercial District Improvement Bylaw, and set the date for a public hearing regarding this new bylaw;
- Amendments to the CBRM Municipal Planning Strategy to implement the bylaw in the eleven areas identified (the eight historic downtowns and the three business parks) and set the date for a public hearing on these amendments;
- Amendments to the North End Sydney Secondary Planning Strategy to implement the bylaw in the eleven areas identified (the eight historic downtowns and the three business parks) and set the date for a public hearing on these amendments.

Discussion:

During discussion, some of the issues raised included:

- Include information on CBRM website (i.e. videos/screen shots)
- Possible lost tax revenue
- Catalyst for economic development
- Northside Industrial Park – sale price for lots & restrictive covenants
- Tax incentive would be retroactive to January 1, 2018 if the By-law is approved in 2018
- Areas covered under the proposed bylaw (i.e. historic downtowns and 3 business parks)
- Areas excluded from proposed By-law

Mr. McCreedy encouraged all members of Council to take a close look at the maps and contact him before the public hearing regarding any minor boundary changes that may need to be tweaked.

Motion Carried.

Motion:

Moved by Councillor Gillespie, seconded by Councillor MacMullin, to approve:

- Amendments to the CBRM Land Use Bylaw to ensure that all areas affected by the proposed new bylaw will be in an appropriate commercial zone and set the date for a public hearing on these amendments;
- Amendments to the North End Sydney Land Use Bylaw to ensure that all areas affected by the proposed new bylaw will be in an appropriate commercial zone and set the date for a public hearing on these amendments.

Motion Carried.



CBRM

A Community of Communities

Cape Breton Regional Municipality

Rick McCready
Planning Department

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June 25, 2018

ISSUE PAPER

TO: Mayor and Council

FROM: Rick McCready, MCIP, Senior Planner

RE: Tax Incentives to promote downtown revitalization and economic development

Introduction

At its November 28, 2017 meeting, Council instructed staff to move forward with a proposal to implement tax incentives to promote downtown revitalization and economic development by:

1. Carrying out a public participation program to gather public input into possible amendments to the CBRM Municipal Planning Strategy to allow for tax incentives to be implemented in eleven areas of the Municipality: our eight historic downtown cores (Sydney, Whitney Pier, North Sydney, Sydney Mines, New Waterford, Dominion, Glace Bay and Louisbourg) and our three business parks (Northside, Harbourside, and Sydport)
2. Preparing a draft Commercial Development District Improvement bylaw (to implement the tax incentives) for Council's consideration

The purpose of this report is provide Council with:

- a summary of the feedback that was received during the public participation program,
- a draft Commercial Development District Improvement bylaw, and
- recommendations from staff regarding the steps that Council should take should Council wish to move forward with the proposed tax incentives.

Background Information

This section of the issue paper contains information that was included in previous issue papers that were presented to Council on this topic. The reason this information is being provided to Council once more is to ensure that all relevant information on this issue is included in one document.

As Council is aware, CBRM's downtowns are facing many challenges. Much discussion has taken place in recent months regarding various initiatives to strengthen downtown Sydney and other downtown cores within our region, including infrastructure improvements and special events. It must be recognized, however, that the crucial factor in turning around our downtowns is increased private sector investment. It has been difficult to attract investment because new commercial development (both new structures and renovated or expanded older structures) typically have high assessments and therefore bear the full brunt of CBRM's relatively high commercial property tax rates. This is a disincentive for property owners to invest in upgrades to existing buildings or to build new buildings in our downtowns.

The Municipal Government Act in Nova Scotia greatly restricts the ability of municipalities to provide tax breaks of any kind to privately owned business. However, in 2016 the Act was amended to give the municipal units the option of passing a bylaw that would phase in tax increases resulting from a significant increase in assessment.

A bylaw designed to allow the phasing in of tax increases would be limited to certain areas of the Municipality as designated by Council. **The legislation specifies that the areas must be urban in nature and must be serviced with water and sewer.**

The phasing in of the tax increases must take place over a period of up to ten years and must result in a tax reduction of no more than 50% over that period.

An example: An older commercial building in one of CBRM's downtown cores is assessed at \$100,000. The owner decides to undertake a major renovation and addition to the building. Once the work is completed, the assessment jumps to \$500,000. The property taxes owing on the difference between the original assessment and the new assessment (\$400,000) is eligible for the tax reduction for a period of up to ten years. The original \$100,000 portion of the assessment would continue to be taxed at the full rate. Once the phase-in period expired the owner would pay the full tax rate on the entire assessed value.

The tax rate itself would not change because of the bylaw so a business in a designated area that does not experience an increase in assessment resulting from an expansion or upgrading would not receive a tax reduction. The legislation does **not** provide for reductions in residential property taxes.

Where should the tax reduction policy apply?

Staff is of the opinion that the tax reduction tool could prove to be very valuable in our efforts to promote downtown revitalization and economic development in general. *The incentives should apply in those areas where we most want to encourage growth.*

If Council wishes to move forward on this, the Municipal Planning Strategy must be amended to identify the specific areas where the tax reduction bylaw would apply. As mentioned above, the areas must have urban services (water and sewer). Council, at its November 2017 meeting, instructed staff that for the purposes of public consultation all of our traditional, historic downtown cores (Sydney, Whitney Pier, New Waterford, Dominion, Glace Bay, Louisbourg, North Sydney and Sydney Mines) be included in the proposal. Although these areas vary greatly in size, they are all the traditional heart of the community in which they are located and therefore are very much associated with that community's identity. All have many older, often historic, buildings in need of renewal that potentially could benefit greatly from the tax reduction policy. CBRM has already invested a great deal in the infrastructure in these areas (such as sidewalks, boardwalks, and parking facilities) and all except Louisbourg are served by transit.

In addition to the downtown cores, CBRM's three business parks are also included in the proposed area to be subject to the tax incentives. All of CBRM's business parks have a considerable amount of vacant serviced land, and in the case of the Northside Park there are vacant buildings. Sadly, little development has taken place in these areas in recent years. Making the tax reduction policy applicable in these areas could attract new manufacturing and warehousing activities which would be very beneficial to the local economy. The intent would be to extend the tax reduction policy in the parks to these types of businesses which are better suited to a location in a business park than one downtown. In the case of Harbourside, it is proposed that the incentive not apply to the area adjacent to Ferry Street, where it is likely that service uses similar to those found in the downtown core might locate. (refer to attached map of Harbourside Commercial Park)

Why focus the benefit on downtown cores?

Much discussion has taken place in recent years about the importance of having a vibrant downtown not just in Sydney but in other smaller downtowns throughout CBRM. It is important to note that downtown revitalization is not just an issue in Cape Breton; it is an issue throughout Canada. Why is it so important for communities to encourage investment in their downtowns?

To quote from a recent report by the Canadian Urban Institute entitled *The Value of Investing in Canadian Downtowns*,

**"Downtowns are critical places for the local economy, for innovation, for learning"
"Already serviced with infrastructure, ...downtowns are economically and geographically efficient places to absorb new growth"**

“Downtowns often comprise as little as 1% of a community’s land area, but attract 10 or 20 times that in terms of contributing to the city’s assessment base and generating property tax revenues”

“without a doubt, a successful downtown is critical....downtowns don’t happen-most of them have to be nurtured and worked on from both the public and private side”

“The City of London has established a suite of downtown grant and incentive programs...that have been highly successful of attracting private sector investment”

Researching what is happening across Canada leads to the inevitable conclusion that other municipalities are focusing on their downtowns as engines of economic growth. It is also evident that they are experiencing some success. According to a report recently published by the Ontario Business Improvement Area (BIA) Association, between 2011 and 2016 the number of building permits issued in 22 Ontario downtowns surveyed grew by an average of 147%, with commercial permits in downtown areas far outpacing those in nearby commercial areas. Although regional economic conditions in most of Ontario are obviously better than CBRM, the fact that commercial development in downtowns was outpacing growth in areas further from the core suggests that downtown incentive programs are indeed working in Ontario communities.

As Council is aware, the CBRM has been working with staff with the National Trust for Canada on plans for revitalizing Sydney’s Waterfront District. Mr. Jim Mountain of the Trust has recently researched the benefits of providing tax incentives in downtown cores across Canada. A copy of Mr. Mountain’s research is attached to this report for Council’s information.

The table below shows the amount of taxable commercial assessment in CBRM’s downtowns in 2018:

Sydney	\$113.36 million
Glace Bay	\$23.52 million
North Sydney	\$13.62 million
New Waterford	\$5.23 million
Sydney Mines	\$5.2 million
Whitney Pier	\$2.75 million
Louisbourg	\$2.47 million
Dominion	\$1.53 million

The legislation that allows for these tax incentives was initiated by the Province at the request of the Towns Caucus of UNSM. The intent clearly was that this tool would be used primarily to promote the revitalization of Nova Scotia’s historic downtown cores. However, the legislation does not specifically state that it will apply only in these

downtown areas. As a result, it appears that CBRM could enact a bylaw that would include all areas of CBRM with water and sewer services. ***There are significant risks associated with this.*** In the opinion of staff, doing so would be inconsistent with our efforts to incentivize private sector development in our downtown cores. Any commercial development would be eligible for the tax reduction except for a very small number of businesses which are located in unserviced rural areas. Businesses leaving the downtown areas to relocate in peripheral areas might actually benefit from the tax reduction. Large national chains locating to the area would benefit from reduced taxation, even though the decision to locate here may be unrelated to the tax incentive. ***CBRM could lose much needed commercial tax revenue (shifting the tax burden to residential taxpayers) and still not meet its objective of revitalizing its downtown cores.***

Results of Public Participation Program

The public participation program consisted of four public meetings, two in Sydney, one in North Sydney and one in Glace Bay, as well as a survey of residents on the CBRM website. These activities are described below.

Public Meetings

The meetings were advertised in the newspaper and on the CBRM website and Facebook page. However, the sessions were not well attended. If CBRM councillors and staff are excluded, approximately 30 persons attended the four meetings combined. At all four meetings staff presented a powerpoint presentation which provided an overview of the proposed tax incentives. Paper maps showing the areas proposed to be eligible for the tax incentives were also available for the public to look at and comment on.

The public were invited to speak at the meetings, and comment forms were handed out to those wishing to comment in writing. Only three comment forms were returned, all expressing support for the concept, with one expressing the view that the downtown boundaries should be extended to include businesses close to the core, but not currently included.

Most feedback received at the meetings was very positive. However, several participants suggested that the maps showing the areas to be affected by the tax incentives be revised by including businesses located near, but not actually within, the downtown cores. In response to these concerns staff did revise the maps to include businesses located on the fringes of several of the downtown areas. However, businesses that were separated from the downtown cores by residential neighbourhoods were not included. It is the opinion of staff that the benefits of the tax incentives will be achieved by focusing the application of the incentive on the original downtown cores where businesses are clustered together. In these areas property improvements are more likely to have a positive impact on surrounding properties.

Survey Results

This survey was released on May 7th, 2018 and officially closed on May 30th, 2018.

There were 69 responses.

The survey consisted of two questions, an area to leave comments and an area to leave an email address if the citizen would like to receive updates in the future. This survey was posted on the official Cape Breton Regional Municipality Facebook Page, where it reached 1,910 people.

Question 1 : *Do you agree with the idea in principle of commercial tax incentives for downtown revitalization and economic development?*

There was a total of 69 responses to this question and the majority of votes (total of 55 or 79.7%) were in favour of the idea.

Question 2 : *Do you agree with the areas identified to receive commercial tax incentives? Those being all CBRM's traditional downtowns (Sydney, Glace Bay, North Sydney, New Waterford, Dominion, Sydney Mines, Whitney Pier, Louisbourg and Dominion), and three business parks (Sydport, Harbourside and Northside)*

There was a total of 69 responses to this question and the majority of votes (total of 53 or 76.8%) were in favour of the areas identified receiving commercial tax incentives. 8 people voted against this, and 5 people voted "maybe".

A number of people wrote comments on the website regarding the survey. The majority of the comments were positive, although several respondents suggested that the proposed tax incentives apply to all areas of the CBRM, and several others suggested that rather than implement tax incentives the CBRM should simply reduce the commercial tax rate in all areas.

Other Feedback

In addition to the activities described above, staff did make a presentation to the Board of Directors of the Sydney and Area Chamber of Commerce regarding the proposed tax incentive bylaw, and the feedback was positive at that meeting. Three telephone calls were also received at the office regarding the proposal; two comments were positive and one person expressed the view that all areas in CBRM should be eligible for the phased in taxation.

Recommendations

Staff recommends that Council move forward with the proposed tax incentives by:

1. **Adopting the attached draft Commercial Development District Improvement bylaw which would allow the phasing in of tax increases for new commercial development. The draft bylaw specifies that properties experiencing an increase in taxable commercial assessment following redevelopment of \$100,000 or more would have the tax increase phased in over a ten year period. Properties that experienced an increase in taxable assessment under \$100,000 would have their tax increase phased in over a five year period. The bylaw would provide an incentive for any scale of development, with the property owner being required to sign an agreement with the Municipality which would specify the terms and conditions under which the property tax increases would be phased in. The issuance of a building permit for the new development would be a prerequisite for eligibility to participate in the program. The program would commence in the current (2018) assessment year.**
2. **Approving an amendment to the CBRM Municipal Planning Strategy and to the North End Sydney Secondary Planning Strategy to identify the areas where the new bylaw would be in effect. Copies of the text of the amendments and the associated maps are attached for Council's review.**
3. **Approve amendments to the CBRM Land Use Bylaw and to the North End Sydney Land Use Bylaw to ensure that all properties within the areas affected by the new bylaw are in an appropriate commercial zone. This is necessary because a small number of the commercial properties on the fringes of some of the downtowns are currently in a residential zone. Copies of the required resolution and the associated maps are attached.**

Staff also recommend that a commitment be made now to conduct a thorough evaluation of the Commercial Development District Improvement bylaw and its impacts in five years. This should be sufficient time for this initiative to have the desired impact of stimulating development in our downtowns and in our business parks. Council could of course decide to extend the program beyond five years but at this point staff feel that the incentive should be available for a finite period.

If Council wishes to proceed with the above recommendations, the next step would be to schedule a public hearing on proposed bylaw and on the proposed Municipal Planning Strategy and Land Use Bylaw amendments. Staff recommends that the hearing take place at the regular Council meeting in September, 2018.

Yours very truly,

ORIGINAL SIGNED BY

Rick McCready, MCIP

Senior Planner, on behalf of the staff committee, including:

CAO Marie Walsh; CFO Jennifer Campbell; Director of Technology John MacKinnon;
Economic Development Manager John Phalen; Planner Karen Neville

A Brief Survey of Information on Municipal Incentives for Downtown Regeneration

Cape Breton Regional Municipality's consideration for implementing a tax incentive initiative to encourage investments in specified downtowns and economic zones within the CBRM communities is significant and vitally important.

Tax incentives - along with other incentive tools - are likewise being strategically implemented across Canada to continue the sustainability of traditional downtown core areas, many which have experienced declines and are striving to turn things around economically.

There is a large volume of information relevant to the CBRM initiative and this paper is but a basic summary.

For purposes of this Briefing Paper, data was collected in two ways :

- An online scan of municipalities across Canada on the subject of "Municipal Incentives for Downtown Regeneration;
- A reaching out to practitioners/consultants/municipal officials and in particular to members of the Return On Investment Advisory Committee assembled by the Ontario Business Improvement Area Association (OBIAA) which represents over 300 "BIA"s in Ontario

Planning Context For Introducing Municipal Incentives

This survey undertaken for CBRM Council's consideration showed one common characteristic across Canada : Municipal tax incentives worked best when they were part of an overall downtown revitalization plan.

CBRM's initiatives in Sydney – the *Ekistics Urban Core Plan*, and the *Sydney Waterfront District Regeneration Project with the National Trust for Canada* arguably provide the planning focus for implementing tax incentives in Sydney's commercial core area.

The CBRM communities of Glace Bay, North Sydney, New Waterford, Sydney Mines, and Louisbourg will benefit from a strategic implementation of tax incentives as a means of encouraging reinvestment into their respective historic downtown core areas.

In Ontario, *Community Improvement Plans* mandated and funded by the Province's Ministry of Municipal Affairs provide a formalized framework for municipalities to implement tax incentives for downtown revitalization.

Community Improvement Plans (CIPS) are a planning and financing development tool available to municipalities in order to use, reuse and restore lands, buildings and infrastructure through the implementation of municipal incentive programs. As permitted by the Planning Act, the incentive programs can facilitate and encourage community change by stimulating private investment. CIPS target areas that are in transition or need of repair, rehabilitation or redevelopment. General strategies can include grants, loans, tax assistance programs and other incentive programs.

The Province of British Columbia similarly encourages “downtown revitalization as an effective way to promote smart growth..and to reduce car dependence, and infrastructure costs”: That province enables municipalities to enact **Revitalization Tax Exemptions (RTE’s)** to help make it happen.

CBRM, through the exemplary work of its Planning Department and Council’s support is undertaking work very much comparable to Ontario’s “CIP” initiatives and British Columbia’s Downtown Revitalization approach.

Why Are Municipal Incentives Important Catalysts to Reinvestment ?

There is an overwhelming body of evidence to indicate that municipal tax incentives are catalysts to positive change and for strengthening the image and economies of downtowns.

Tax incentives alone are a stimulus. When combined with other tools and incentives the net effect for reinvestment is tremendously encouraging.

The Ontario Business Improvement Area Association (**OBIAA**) represents over 300 Business Improvement Areas across Ontario. OBIAA’s highly regarded **2017 Return On Investment Study** indicated that the kinds of incentives considered by CBRM can generate return on investment ratios of from 2.5 to 6.6 dollars in private investment for every one dollar of municipal investment and these numbers include the impacts of tax incentives.

The qualitative benefits implementing municipal incentives are also well documented. Incentives can:

- Create new jobs and attract additional investment to the City;
- Expand and diversify existing commercial base;
- Provide a more efficient use of existing infrastructure, services and facilities;
- Increase property values resulting in an increase in property tax revenues while protecting existing property values of neighbouring properties;
- Bring potentially blighted, sites back into productive use;
- Redevelop vacant, derelict or underutilized lots and underutilized properties and buildings which have potential for infill, redevelopment or expansion to better utilize the land base or public infrastructure;

- Encourage the repair, rehabilitation or redevelopment of underutilized land and/or buildings.

Case Examples of Canadian Municipalities and Tax Incentive Programs

Many municipalities have brought in variations of tax incentives to spark private sector investment into their downtowns. This survey considered information from dozens of municipalities and the following section represents a sampling. These have been chosen for their comparisons to what CBRM is proposing for its communities, and to provide a solid rationale for CBRM Council's decision to adopt these measures.

Nanaimo BC : The City of Nanaimo offers a tax incentive program designed to spur new development and revitalization in the downtown core.

Nanaimo's downtown revitalization tax exemption program offers 10-year exemptions on the City portion of property taxes for commercial and residential projects which meet certain criteria. The goal is to not only entice new projects, but also to encourage development of some of that city's less desirable properties.

Guelph, ON: Downtown Guelph has implemented a *Community Improvement Plan* that focuses on incentives that spur private sector investment in Downtown Guelph, an area of the city that had seen little private development investment over the preceding 20 years.

To quote a report to Council .*"The programs were all designed to incent projects that would create significant tax assessment increases in areas deemed a high priority in the City. The corresponding property tax levy could be used to offset eligible costs recognized under the programs. The benefits of a long-term financial approach for redevelopment incentives are realized by both the development community and the City".*

Timmins, ON

The northern Ontario mining community of Timmins has implemented a *Tax Increment Rebate Grant (TIR)* to eligible individuals who undertake significant redevelopment that will result in an increased property assessment. A report to Timmins Council indicates "the grant shall be based on the incremental tax value based on the pre- and post - redevelopment assessment values as determined by the Municipal Property Assessment Corporation (MPAC). Based on the difference in assessment, the City will reimburse the municipal portion of the incremental increase in property taxes".

In Timmins , the property owner/ applicant "shall pay the property taxes each year and will be rebated the tax increment portion percentage applicable for the grant term. In no case will the total amount of all financial assistance provided under the tax increment rebate grant exceed the total eligible costs. "

Hamilton ON

The Hamilton Tax Increment Grant Program, provides an economic means for developing, redeveloping or renovating residential and/or commercial lands and buildings located within:

- Downtown Hamilton
- Community Downtowns
- Mount Hope/Airport Gateway
- Business Improvement Areas
- those properties within the City boundary designated under the Ontario Heritage Act

From the City of Hamilton's web site " the program approves a five-year grant, in an amount not exceeding the increase in municipal property taxes as a direct result of the development or redevelopment of the land and or building. Approved grants cannot go above 100% of the municipal realty tax increase during the first year, 80% in year two, 60% in year three, 40% in year four and 20% in year five. Grants will not go over the costs of the property's development or redevelopment. They are not assignable by the property owner to anyone, except for purchasers of new condominium units."

Winnipeg MB

Winnipeg has launched its *Live Downtown* initiative to stimulate redevelopment of upper floors and vacant lots into a combination of commercial/residential space. This initiative is funded using *Tax Increment Financing*, a subsidy which gives rental property developers an incentive to build downtown. Along with increasing downtown's population, Live Downtown seeks to reuse surface parking lots, and to accommodate a wider range of income levels.

"By increasing the mix of residential and commercial buildings we can add to the vibrancy of downtown life, accelerate the energy and vigor of activities downtown at the end of the work day, decrease infrastructure servicing costs and reduce vehicle reliance," said Premier Greg Selinger.

Chatham Kent ON

Like CBRM, Chatham Kent is an amalgamated municipality containing several communities, all with commercial core areas. The municipal web site states that "Downtowns are an important part of the economy and culture of Chatham-Kent. The Municipality of Chatham-Kent offers incentive programs designed to stimulate private investment in the revitalization of Chatham-Kent's unique downtown and main street areas. The programs are offered for the downtown areas of Blenheim, Bothwell, Chatham, Dresden, Erieau, Highgate, Merlin, Morpeth, Ridgetown, Thamesville, Tilbury, Wallaceburg, and Wheatley.

Chatham-Kent's Property Tax Increment Equivalent rebates the incremental increases in municipal portion of the property taxes as a result of building improvements, land rehabilitation and adding new residential units. Grants are for 100% of the increase in the municipal portion of the property taxes resulting from reassessment of the property following rehabilitation for 5 years following successful completion of the approved work."

Battlefords SK

This municipality in Saskatchewan has enacted several incentive programs all intended to stimulate investment downtown. These include:

- 1) building façade and site improvements incentive program that rebates 25 per cent of the combined total cost of eligible façade or site improvements
- 2) building improvements and expansion incentive program that abates taxes for existing buildings and businesses that improve their property through new construction or interior renovations. (A minimum spend of \$100,000 is going to be required to be eligible, and the greater the commitment, the greater the exemption. A project value of over \$500,000 would be eligible for a five-year exemption. It would be four years for over \$250,000 (up to \$499,999), three years for over \$200,000, two years for over \$150,000 and one year for over \$100,000 up to \$149,999.
- 3) a vacant property tax incentive program, which is coming in alongside the mill rate changes increasing taxes on vacant commercial buildings. This proposed incentive is aimed at potential new owners, and will abate taxes to offset the cost of bringing a property up to code and current standards. Eligible properties will be buildings that have been vacant for a minimum of two years. The incentive would be 100 percent for the first year and 50 percent for year two.
- 4) A new construction incentive program is also proposed, and this program is to encourage new development in the downtown. New construction on vacant properties is eligible and construction value must be greater than \$500,000. Demolition costs are not eligible under the program. The incentive runs at 100 per cent for years one-to-three, 75 per cent for year four, and 50 per cent for year five.

North Bay Ontario

North Bay has brought in a municipal *Tax Incentive Finance Program (TIF)* The City's web site indicates that the "TIF program can offer successful applicants a multi-year rebate of the incremental amount of property taxes incurred by a property owner based

on the improvements and/or renovations carried out under the North Bay DCIP. In the Downtown Target Area, the amount of the rebate is a 100% rebate of incremental property taxes in Years 1 to 5, 80% rebate in Year 6, 60% rebate in Year 7, 40% rebate in Year 8 and 20% rebate in Year 9. The applicant would be fully responsible for the incremental taxes beginning in Year 10 following the renovation project. In the Rail Lands Target Area, the amount of the rebate is 50% rebate of incremental property taxes in Years 1 to 5, 40% rebate in Year 6, 30% rebate in Year 7, 20% rebate in Year 8 and 10% rebate in Year 9. The applicant would be fully responsible for the incremental taxes beginning Year 10 following the renovation project.

Concluding Observations

Cape Breton Regional Municipality is to be applauded for considering municipal tax incentives as a tool to encourage investments into its communities and their traditional commercial core areas. Downtowns are community resources in terms of employment generation, reinforcement of pride of place, as destinations for tourists, and as incubators for new enterprises to start up and grow.

By-law
of the Cape Breton Regional Municipality
amending the

**Cape Breton Regional Municipality's
Municipal Planning Strategy**

Pursuant to Section 210 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: Council amends the text of the Municipal Planning Strategy by adding the following new section to Part 2, "Sales and Service Business Development":

Since the adoption of this Planning Strategy in 2004, the CBRM and other agencies have undertaken a variety of activities to restore vitality to CBRM's various downtown cores, including strategic infrastructure investments, façade improvement programs, and various promotional efforts. However, CBRM's high commercial tax rates continue to be a problem, discouraging the private sector from investing not only in our downtown areas but also in our three business parks. In 2016, the Province of Nova Scotia amended the Municipal Government Act to provide municipalities with a new tool to support commercial development in areas where investment was lagging: phased in tax incentives.

Council has agreed to put in place a bylaw to support phased in tax incentives for a period of five years. The bylaw will be in effect in all of CBRM's historic downtowns (Sydney, Glace Bay, North Sydney, Sydney Mines, New Waterford, Dominion, Whitney Pier and Louisbourg) as well as the three business parks (Sydport, Northside and a portion of Harbourside). In the case of Harbourside, only those areas north of the Ferry Street corridor were included, as it was felt that Ferry Street is likely to attract retail/service development that would be more appropriately located in the nearby downtown core rather than the manufacturing or warehousing activities that the business parks were primarily intended to attract.

The bylaw will specify that commercial tax increases resulting from new development will be phased in for up to ten years where the increase in assessment meets or exceeds \$100,000, and over five years where the increase is less than \$100,000.

Policy 26

It is Council's intention to adopt a bylaw allowing for the phasing in of commercial tax increases, as outlined above, in all eight historic downtown cores (Sydney, Glace Bay, North Sydney, Sydney Mines, New Waterford, Dominion, Whitney Pier and Louisbourg) as well as the three business parks (Sydport, Northside and a portion of Harbourside) as shown on the attached maps.

AND THAT: Council amends the CBRM's Municipal Planning Strategy by adding to the Strategy a total of eleven maps (attached) depicting the areas to be affected by the new commercial development district bylaw.

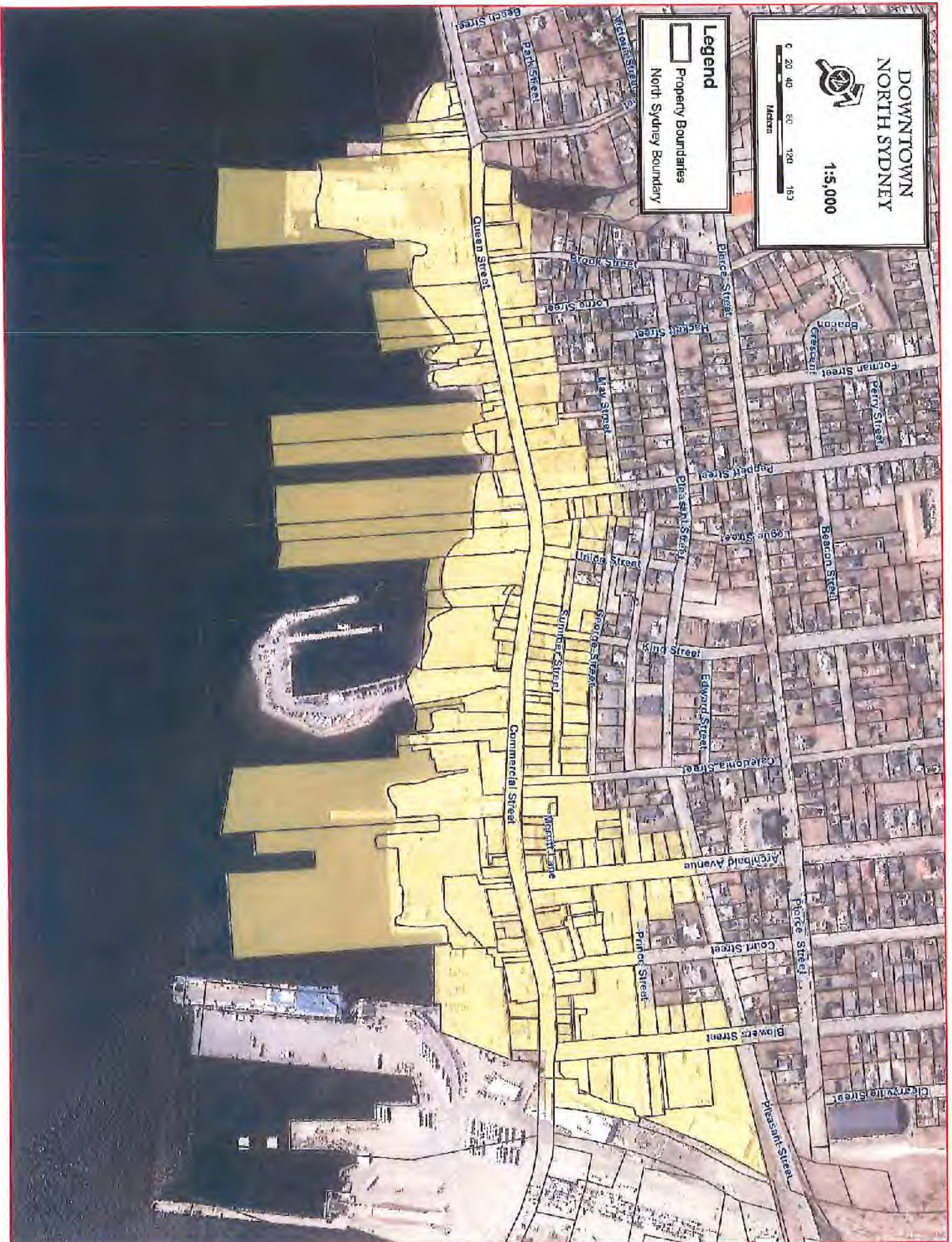
PASSED AND ADOPTED: by a majority of the whole Council at a duly called meeting of the Cape Breton Regional Municipal Council held on _____.

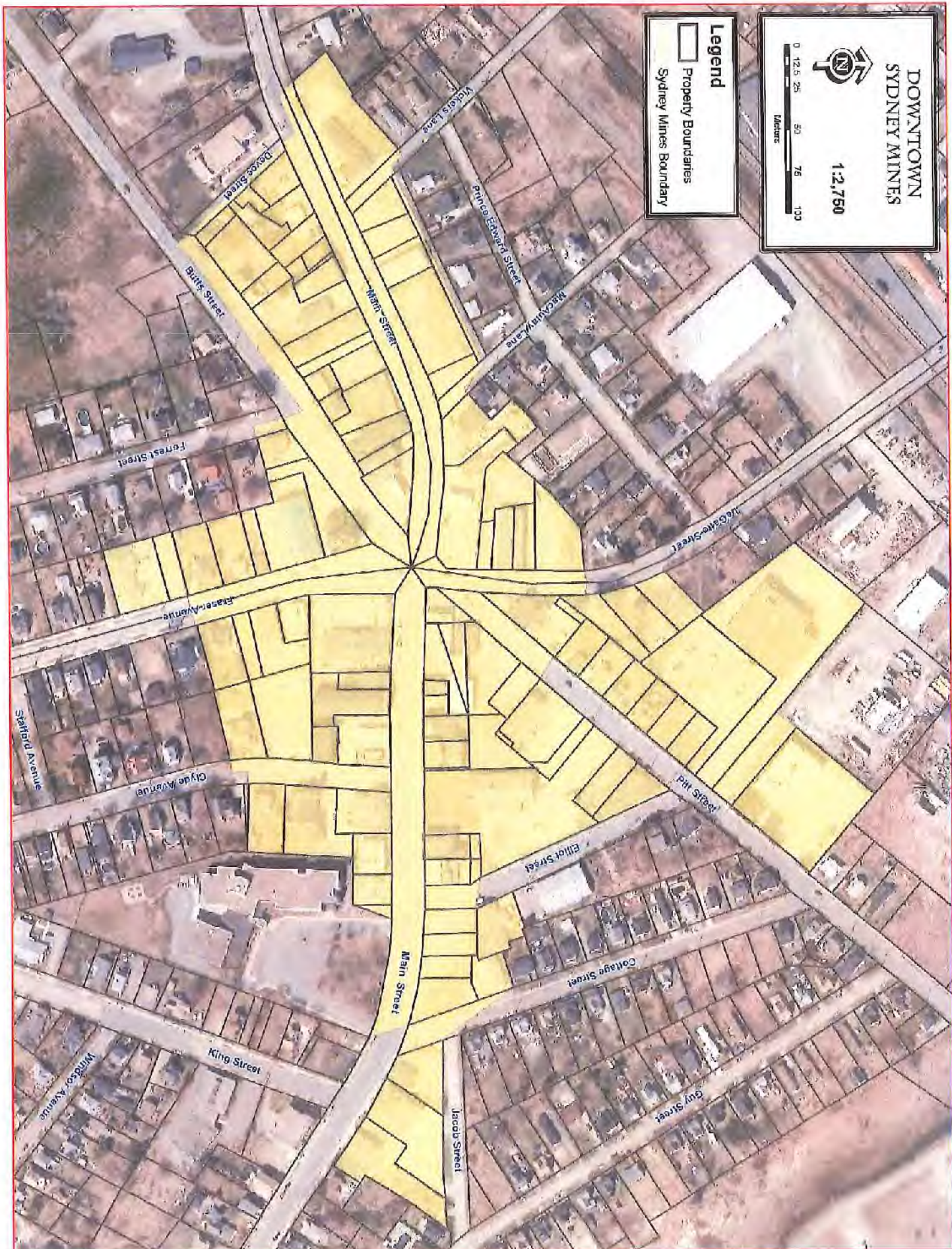
MAYOR

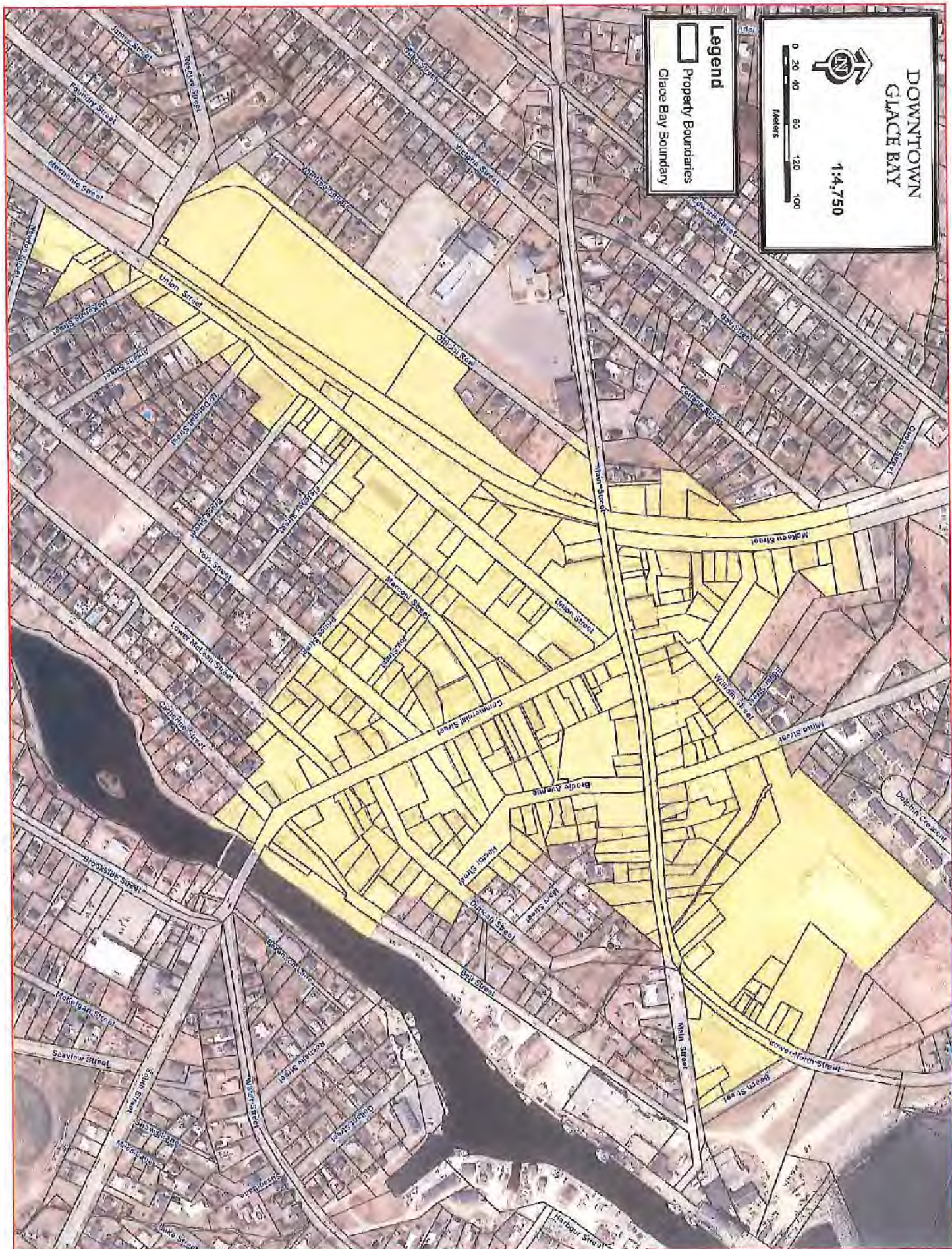
CLERK

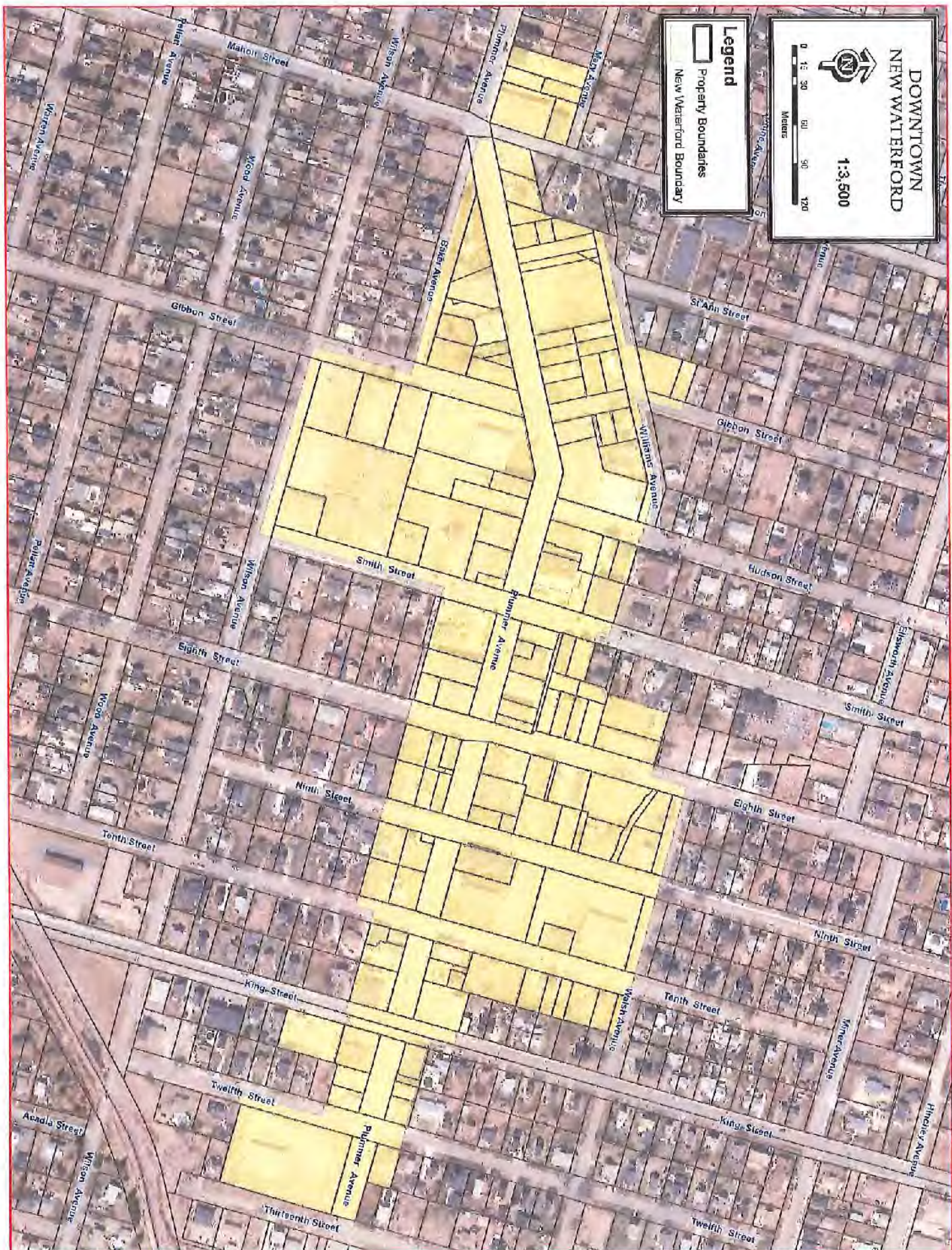
THIS IS TO CERTIFY that the attached is a true and correct copy of the Municipal Planning Strategy Amendment amending By-law of the Cape Breton Regional Municipality adopted by Regional Council during a meeting held on _____ to amend the Cape Breton Regional Municipality's Planning Strategy.

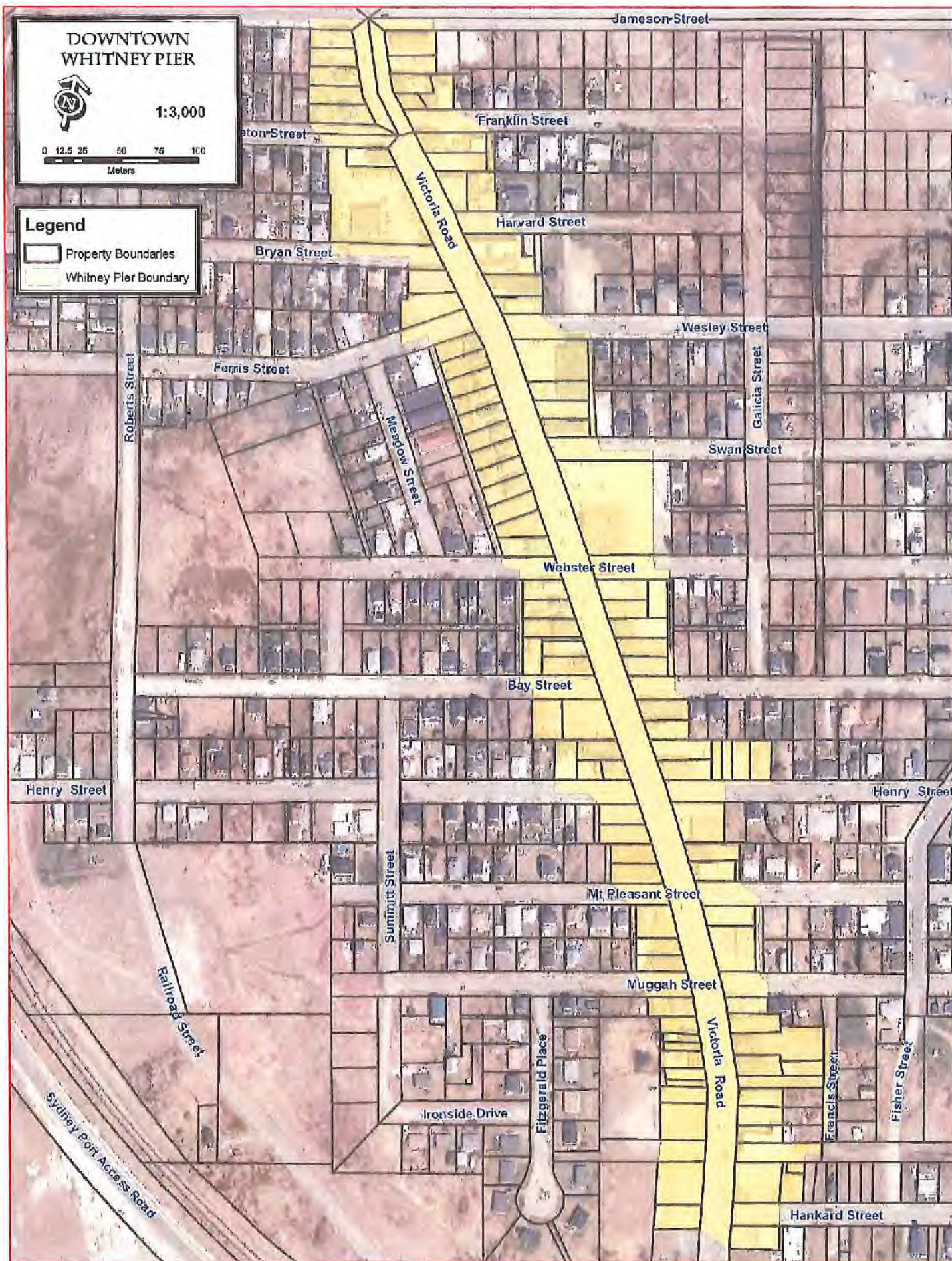
Deborah Campbell Ryan, CLERK











HARBOURSIDE INDUSTRIAL PARK

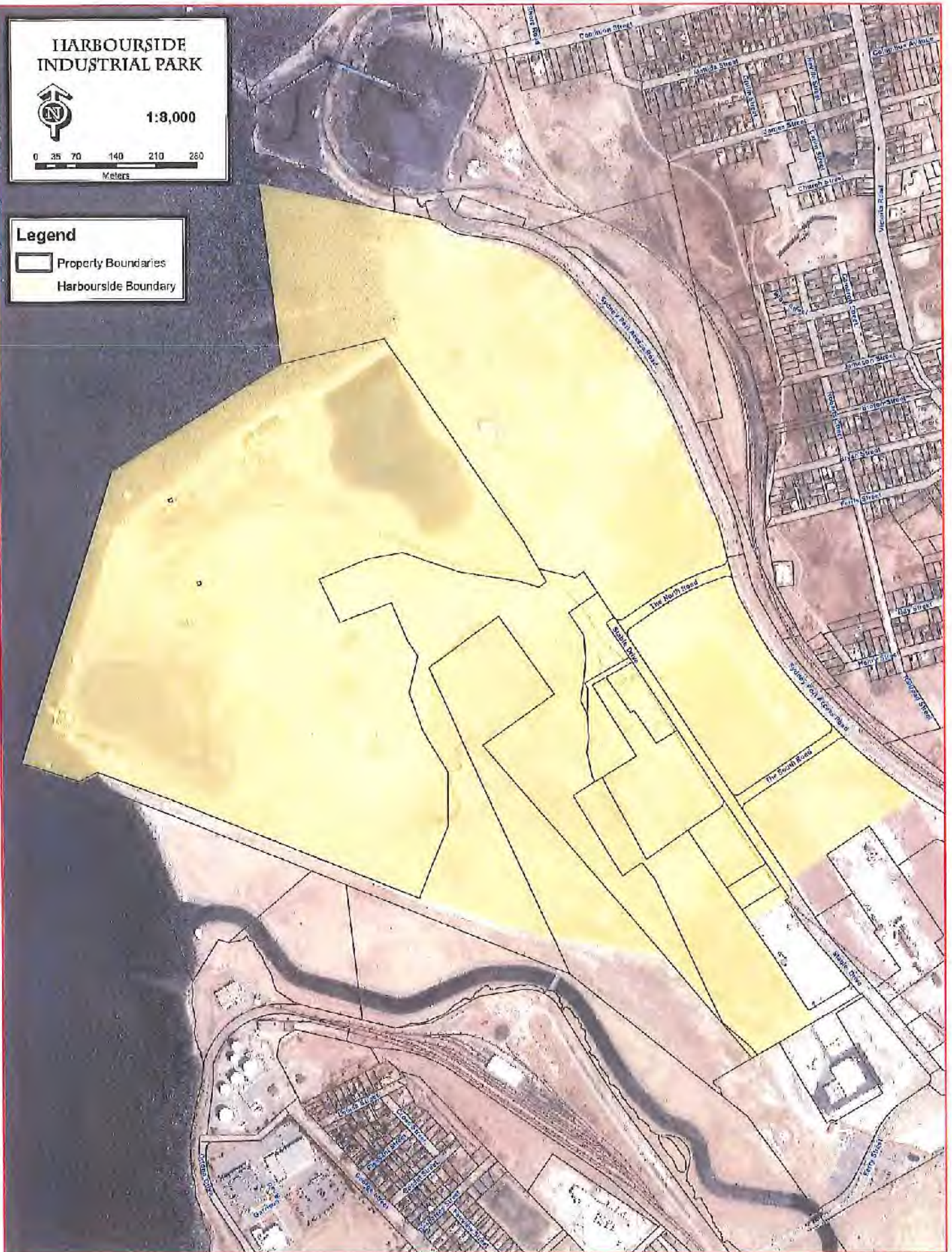


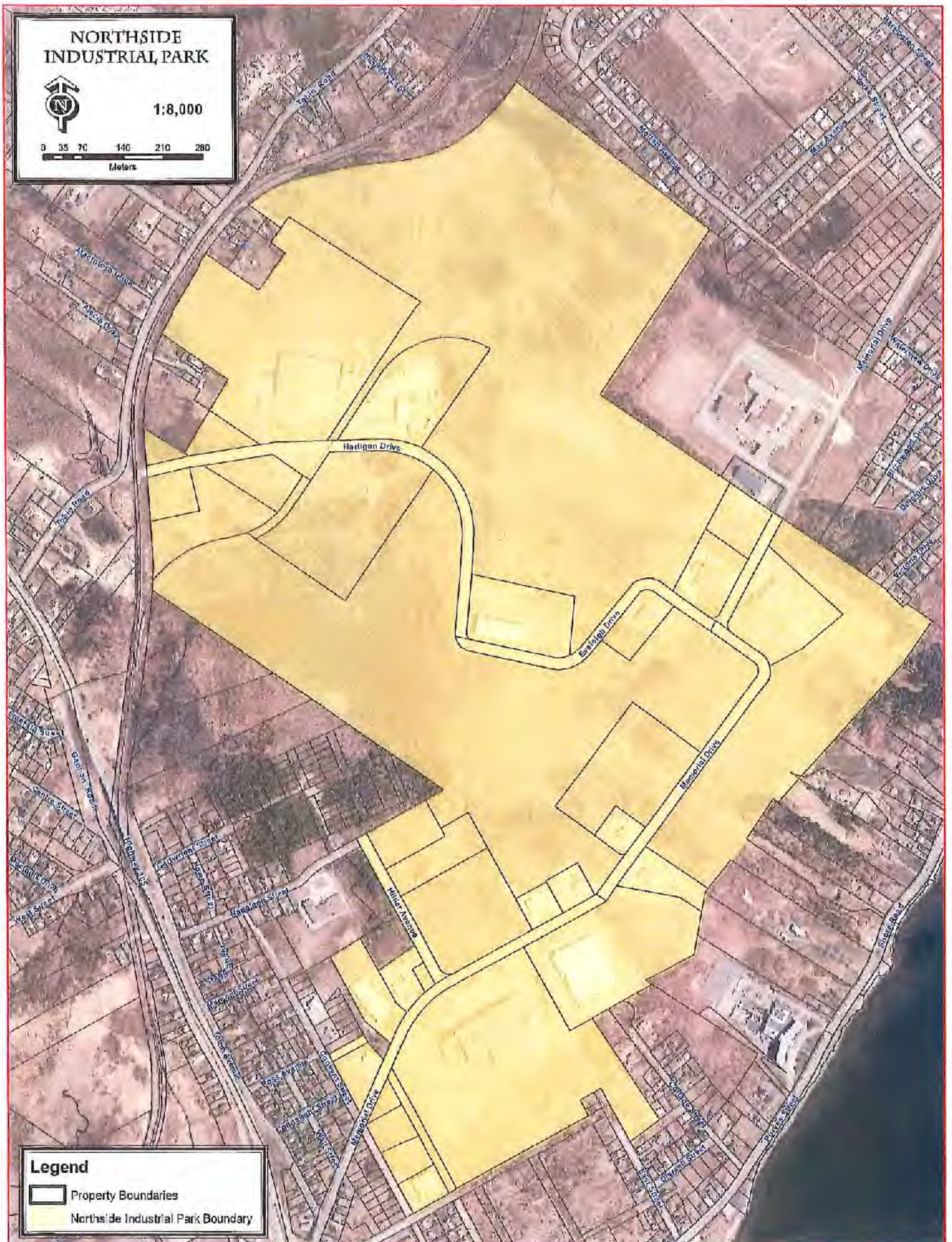
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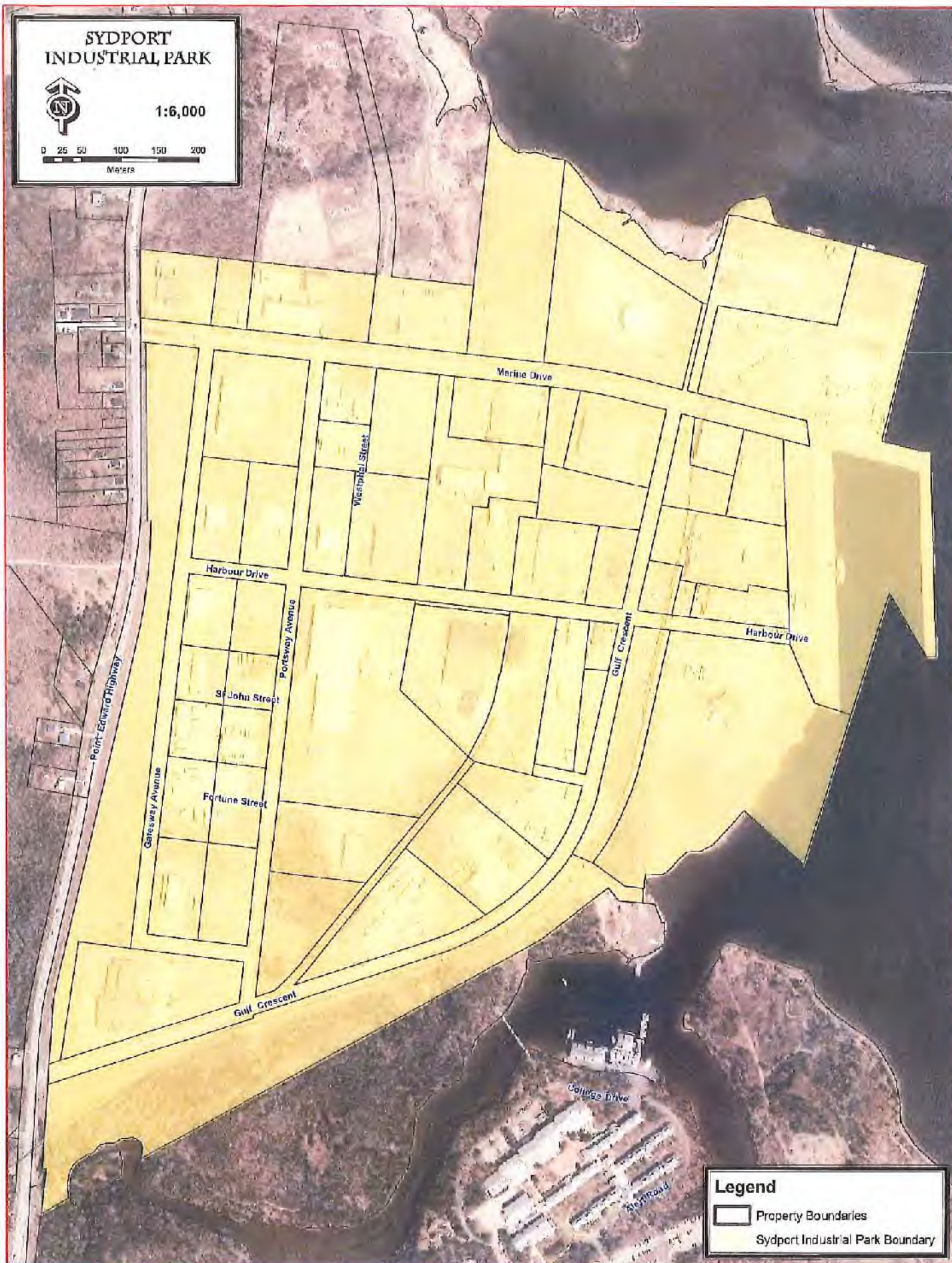
0 35 70 140 210 280
Meters

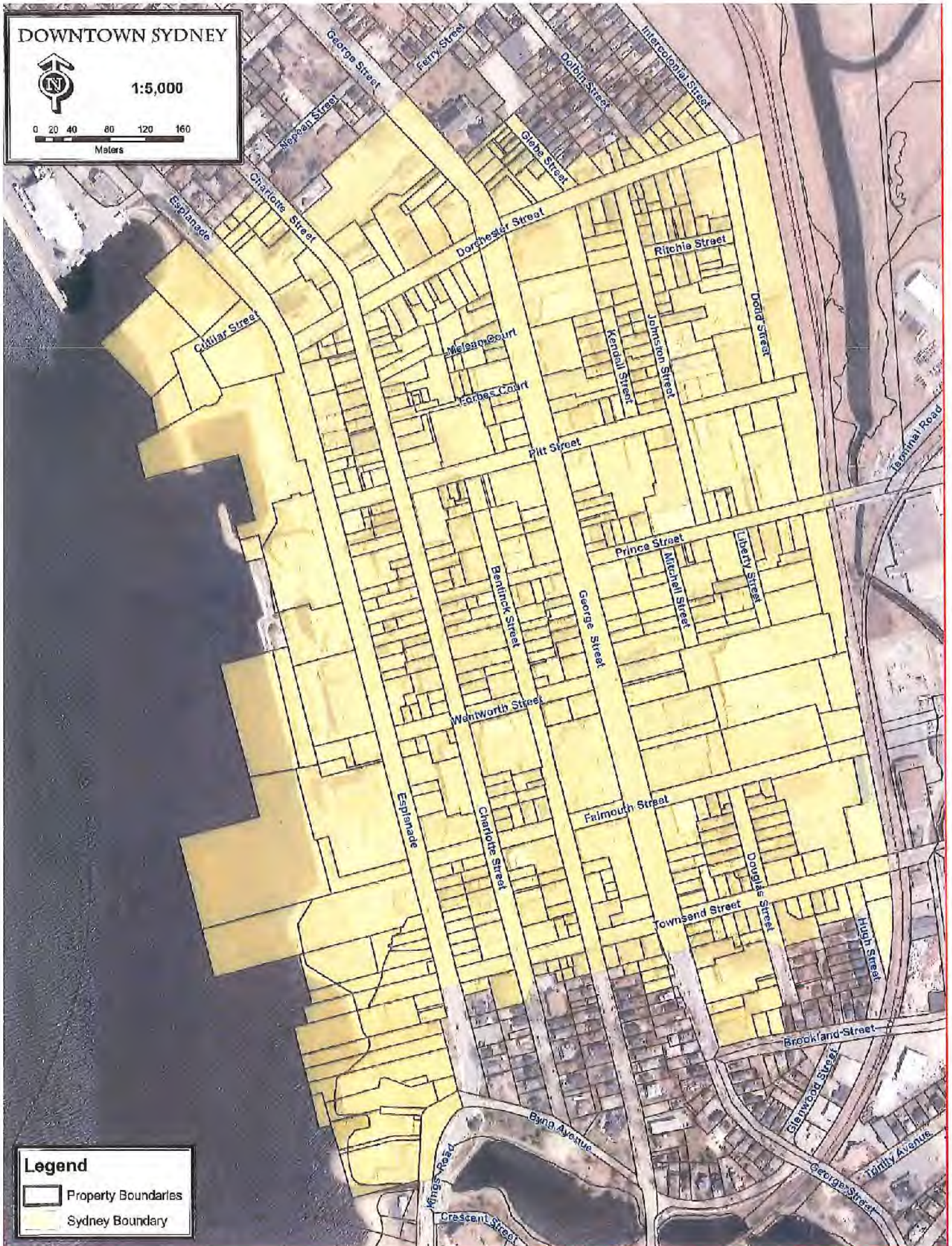
Legend

-  Property Boundaries
-  Harbourside Boundary









By-law
of the Cape Breton Regional Municipality
amending the

**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 of the Cape Breton Regional Municipality's Land Use By-law in the following manner:

- THAT:** Council amends the CBRM's Land Use Bylaw map by deleting the Residential Urban C (RUC) Zone for PID 15468069 and replacing it with the to Downtown Central Business District (CBD) Zone.
- THAT:** Council amends the CBRM's Land Use Bylaw map by deleting the Louisbourg Mini Home (LMH) Zone and Residential Urban D (RUD) Zone for PID 15462393 replacing it with the Downtown Central Business District (CBD) Zone.
- THAT:** Council amends the CBRM's Land Use Bylaw map by deleting the Residential Urban D (RUD) Zone for PID 15059744 and replacing it with the Downtown Central Business District (CBD) Zone.
- THAT:** Council amends the CBRM's Land Use Bylaw map by deleting the Residential Urban C (RUC) Zone for PIDs 15031339 and 15577638 and replacing it with the Northside Business Park (NBP) Zone.

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

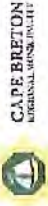
MAYOR

CLERK

THIS IS TO CERTIFY that the attached is a true and correct copy of the Land Use Bylaw amendment 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 Ryan, CLERK

Schedule A-1



CAPE BRETON
REGIONAL MUNICIPALITY



Map illustrating the effect of the decision of CBRM Council, deleting the Residential Urban C Zone, as highlighted above, and replacing it with Downtown Central Business District Zone.

Schedule A-2



Map illustrating the effect of the decision of CBRM Council, deleting the Louisbourg Mini Home and Residential Urban D Zones, as highlighted above, and replacing it with Downtown Central Business District Zone.

Schedule A-3



Map illustrating the effect of the decision of CBRM Council, deleting the Residential Urban D Zone, as highlighted above, and replacing it with Downtown Central Business District Zone.

Schedule A-4



Map illustrating the effect of the decision of CBRM Council, deleting the Residential Urban C Zone, as highlighted above, and replacing it with the Northside Business Park Zone.



By-law
of the Cape Breton Regional Municipality
amending the

North End Sydney Secondary Planning Strategy

Pursuant to Section 210 of the Municipal Government Act of Nova Scotia, the Council of the Cape Breton Regional Municipality hereby amends the text of the North End Sydney Secondary Planning Strategy in the following manner:

THAT: Council amends the text of the Secondary Planning Strategy by adding the following new subsection to Section 4, "North End Downtown Fringe":

Since the adoption of this Planning Strategy in 2006, the CBRM and other agencies have undertaken a variety of activities to restore vitality to CBRM's various downtown cores, including strategic infrastructure investments, façade improvement programs, and various promotional efforts. However, CBRM's high commercial tax rates continue to be a problem, discouraging the private sector from investing not only in our downtown areas but also in our three business parks. In 2016, the Province of Nova Scotia amended the Municipal Government Act to provide municipalities with a new tool to support commercial development in areas where investment was lagging: phased in tax incentives.

Council has agreed to put in place a bylaw to support phased in tax incentives for a period of five years. The bylaw will be in effect in all of CBRM's historic downtowns (Sydney, Glace Bay, North Sydney, Sydney Mines, New Waterford, Dominion, Whitney Pier and Louisbourg) as well as the three business parks (Sydport, Northside and a portion of Harbourside). In the case of Harbourside, only those areas north of the Ferry Street corridor were included, as it was felt that Ferry Street is likely to attract retail/service development that would be more appropriately located in the nearby downtown core rather than the manufacturing or warehousing activities that the business parks were primarily intended to attract.

The bylaw will specify that commercial tax increases resulting from new development will be phased in for up to ten years where the increase in assessment meets or exceeds \$100,000, and over five years where the increase is less than \$100,000.

Policy 13.1

It is Council's intention to adopt a bylaw allowing for the phasing in of commercial tax increases, as outlined above, in all eight historic downtown cores (Sydney, Glace Bay, North Sydney, Sydney Mines, New Waterford, Dominion, Whitney Pier and Louisbourg) as well as the three business parks (Sydport, Northside and a portion of Harbourside) as shown on the attached maps.

AND THAT: Council amends the CBRM's Municipal Planning Strategy by adding to the Strategy a map of Downtown Sydney (attached) depicting the areas to be affected by the new commercial development district bylaw.

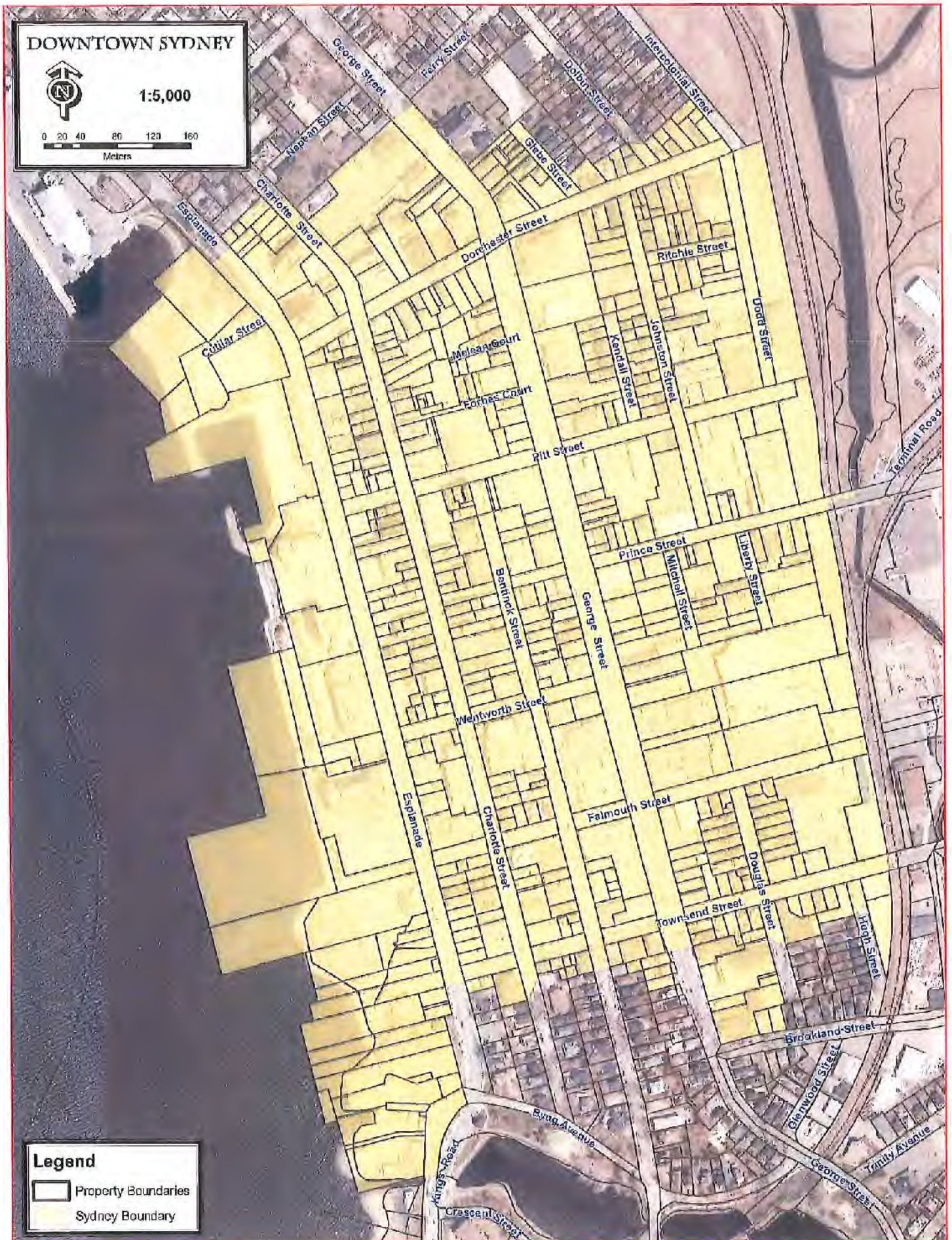
PASSED AND ADOPTED: by a majority of the whole Council at a duly called meeting of the Cape Breton Regional Municipal Council held on _____.

MAYOR

CLERK

THIS IS TO CERTIFY that the attached is a true and correct copy of the Secondary Planning Strategy Amendment amending By-law of the Cape Breton Regional Municipality adopted by Regional Council during a meeting held on _____ to amend the North End Sydney Secondary Planning Strategy.

Deborah Campbell Ryan, CLERK



By-law
of the Cape Breton Regional Municipality

amending the

**Cape Breton Regional Municipality's
North End Sydney Secondary
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 Cape Breton Regional Municipality's North End Sydney Secondary Land Use By-law in the following manner:

THAT: Council amends the CBRM's North End Sydney Secondary Land Use Bylaw map by deleting the North End Residential (NER) Zone for PID 15706534, PID 15058704, PID 15565989, PID 15058613, PID 15058589, PID 15058605, PID 15609068, PID 15609076, PID 15058597, PID 15058621, and PID 15702988 and replacing it with the North End Downtown Fringe (NEDF) Zone.

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 Land Use Bylaw amendment 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 North End Sydney Secondary Land Use By-law.

Deborah Campbell Ryan, CLERK

Schedule A-5



Map illustrating the effect of the decision of CBRM Council, deleting the North End Residential Zone, as highlighted above, and replacing it with the North End Downtown Fringe Zone.





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: 902-539-9419

email: rgmccready@region.cape-breton.ns.ca

September 10, 2018

ISSUE PAPER

TO: Council

FROM: Rick McCready, MCIP, Senior Planner

RE: Request by New Dawn Enterprises Ltd. to amend the North End Sydney Secondary Planning Strategy and Land Use Bylaw to allow the conversion of St. George's Church Hall, 52 Nepean Street, Sydney into a "microbrewery cidery" and cidery tasting room. (see attached letter and preliminary site plan dated August 29, 2018)

The Request

A request has been received from New Dawn Enterprises to amend the North End Sydney Secondary Planning Strategy and Land Use Bylaw to permit a "microbrewery cidery" and cidery tasting room in St. George's Church Hall at 52 Nepean Street. The plan is for New Dawn to purchase the hall from the owners of St. George's Church, and then lease the property to the operator of the cidery.

As the hall is currently located on the same lot as the Church, a subdivision will be necessary to create a separate lot for the hall which will be conveyed to New Dawn. The church and cemetery, which are registered municipal and provincial heritage properties, will be unaffected by the subdivision. The owners of the Church (the Wardens of the Parish of the Resurrection) have indicated that they are aware that New Dawn has applied for the amendments described above. (copy attached)

A description of the proposed operation is included in the attached letter from New Dawn. The letter also explains the efforts that have been made to find a suitable location for the cidery in the downtown core, which unfortunately have proven to be fruitless.

The North End Sydney Secondary Planning Strategy

The site is currently located in the North End Residential (NER) Zone. This zone does not allow for the proposed use. The site is immediately adjacent to the North End Downtown Fringe (NEDF) Zone which does allow a variety of commercial development but excludes certain types of businesses that are primarily involved with the serving of alcohol. The rationale for the exclusion of these uses is found in wording of Policy 10 in the Planning Strategy:

Policy 10

It shall be the policy of Council to designate the area between the CBD and the North End residential areas as shown on the Future Land Use Map as the "North End Downtown Fringe". This area shall be zoned "North End Downtown Fringe" (NEDF) and in the NEDF Zone the Land Use Bylaw shall permit office uses and a variety of commercial uses but shall exclude a number of commercial uses which may have inappropriate visual impacts on nearby residential or heritage areas (such as automotive repair outlets and automobile sales establishments) or which are likely to generate traffic and noise at nighttime (such as cabarets or lounges). All new commercial buildings shall be subject to site plan approval so as to ensure that landscaping and parking issues are adequately addressed, unless a development agreement is required pursuant to Policy 12.

At the time the Strategy was written, residents were very concerned about businesses such as cabarets and lounges being established in the "fringe area" between the downtown core and the North End residential area, so "alcohol beverage service establishments" are not permitted in the NEDF Zone. As a result, simply rezoning the property at 52 Nepean Street from NER to NEDF will not allow the proposed cidery to proceed. A Planning Strategy amendment is required, and as a result a public participation program will have to be conducted.

Recommendation

Staff are of the opinion that the current policy is still valid, but it is important to note that the proposed cidery will not have a cabaret or lounge license and will instead be a production facility and "tasting room". An argument can be made that the negative impacts that might be associated with other facilities serving alcohol will be very minimal with this operation. For this reason, staff feel that it may be possible to make some carefully worded adjustments to the Planning Strategy and Land Use Bylaw to allow the proposed cidery to proceed on this site while leaving the restrictions on "alcohol beverage service establishments" in place.

As a result, staff recommends that:

Council approve the attached resolution to carry out a public participation program to gather public input into the possibility of amending the North End Sydney Secondary Planning Strategy and Land Use Bylaw to allow for the development of a “microbrewery cidery” and “cidery tasting room” at 52 Nepean Street in Sydney. Approving this resolution does not mean Council is committing to approving the development, it simply means that Council will provide an opportunity for the public to debate the proposed policy changes before Council formally considers them.

Following the public participation program, staff will report back to Council on the results of the program and will make a specific recommendation with respect to the possible amendments.

Yours very truly,

Rick McCready, MCIP
Senior Planner

**Resolution of the
Cape Breton Regional Municipality**

Pursuant to Section 204 of the Municipal Government Act of Nova Scotia, the Council of the Cape Breton Regional Municipality hereby adopts the following Public Participation Program to gather public input into the possibility of amending the North End Sydney Secondary Planning Strategy and Land Use Bylaw by so as to permit the development of a “microbrewery cidery” and “cidery tasting room” at 52 Nepean Street in Sydney.

THAT: A minimum of one public meeting will be held in the autumn of 2018 in the North End of Sydney under the auspices of the General Committee to gather public input regarding the proposed changes as outlined above. The proponent for the cidery will be required to make a detailed presentation on the project at the meeting. Additional meetings and other methods of consultation may be undertaken at the discretion of the General Committee.

PASSED AS A RESOLUTION 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 a Resolution of the Cape Breton Regional Municipality, pursuant to Section 204 of the Municipal Government Act.

Deborah Campbell Ryan, Clerk



New Dawn Enterprises Ltd

P.O. Box 1055, 106 Townsend St, Sydney, Nova Scotia B1P 5E1

Phone: 539-9560 Fax: 539-7210

Website: www.newdawn.ca

August 29, 2018

Attention: Rick McCready
Senior Planner/Heritage Office
Cape Breton Regional Municipality
320 Esplanade, Sydney NS

I am writing today with respect to St. George's Hall, 52 Nepean Street, in Sydney.

We are interested in the possible purchase of this property for the operation of a microbrewery cidery (less than 150,000 L per annum) and cidery tasting room.

Operating a cidery microbrewery requires an NSLC hospitality license – very different from a beverage room license (i.e. Breton Brewing) or cabaret license (i.e. Capri Club). A tasting room license mandates that the space must be family-friendly (all ages welcome), its hours cannot exceed those of the NSLC, and only product brewed on site can be served.

We understand that to use the building for these purposes, planning strategy amendments are required. We have spoken with the current owners and have included with this application, a letter outlining their awareness of our intention to seek zoning alterations.

As we have shared in the recent past, the cidery owners have investigated a number of possible locations over the last eighteen months, primarily in the downtown, but also in light industrial areas in the CBRM. While the Bargain Shop on Charlotte Street has been identified as a possible location, this site requires at minimum \$300,000-\$400,000 in renovations and comes with premium downtown rental rates. For a new business, neither the proposed capital or operating costs are ideal.

The cidery – which has specific building requirements: slab floor, no basement, minimum 12 foot ceilings – has worked with a local real estate agent to identify other possible downtown locations and has found the following:

- Old Fisheries Building (near cruise terminal): ceiling height too low
- Brick Building near Prince and George: contamination beneath building and risk of VOC vapours as confirmed by engineering firm; requests for environmental assessment for building have gone unanswered
- Smooth Hermans: vacant first floor now rented to Cape Breton Farmer's Market; no longer enough room for cidery

- Oakhall (rear): insufficient ceiling height
- Former Nesbit Burns Building (Dorchester and Charlotte): timber main floor with basement (significant structural work would be required)
- 54 Prince Street: no vacancy
- 106 Townsend Street: timber main floor with basement (significant structural work would be required)
- Former ACAP Building (George and Townsend): no shipping/receiving or parking areas

St. George's Hall meets all production requirements: 16-foot ceilings, slab floor, three-phase power, parking, ventilation, 1.5-1.75-inch domestic water line with possibility of expansion, good drainage. In surveying the site with a mechanical and structural engineer, they believe this location is best suited to the cidery's production needs and that renovations would be more modest and less expensive.

While not directly in the downtown, the facility is near the significant cruise ship traffic in the summer and fall months – offering visitors a new experience within walking distance.

We strongly believe that this business will operate responsibly at the identified location, will operate in a manner consistent with the values and aspirations of Northend residents, and will be a much-needed boost to the production, hospitality, and export industries at a time when everyone in the CBRM is working hard to encourage and support the development of new businesses. This is a business that will grow over time and support and advance the vision for Sydney's downtown.

Given the above, we formally request the initiation of a zoning amendment process/processes to determine whether the operation of a cidery and tasting room can be permitted at this location.

Sincerely,

ORIGINAL SIGNED BY

Erika Shea
Vice President, Development
New Dawn Enterprises

August 22, 2018

Cape Breton Regional Municipality

To Whom It May Concern,

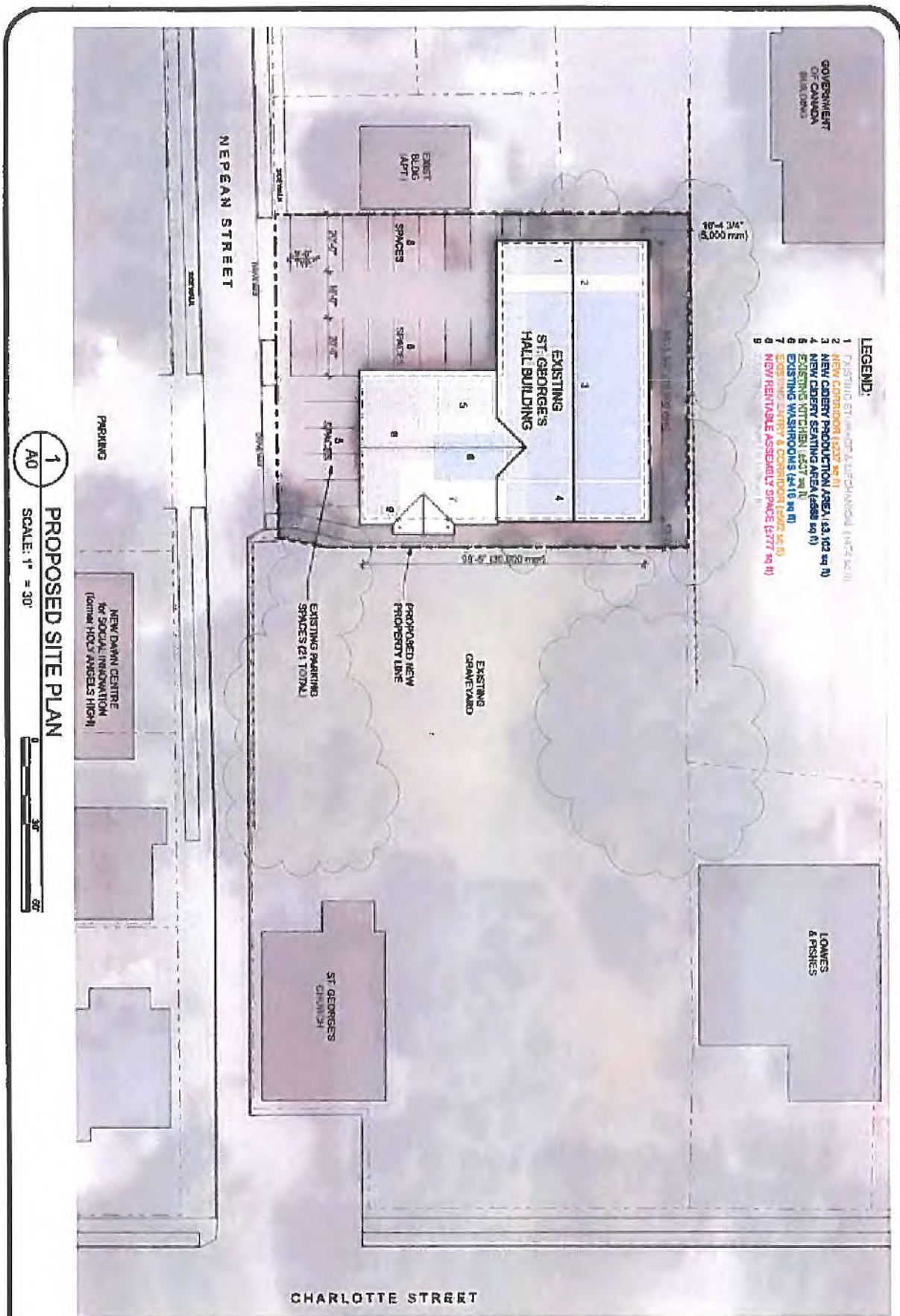
The wardens of Parish of The Resurrection (owners of St. George's Hall) are aware of New Dawn Enterprises' intentions to begin a zoning amendment process with the CBRM for the purpose of determining whether a cidery and tasting room are permitted to operate from the Hall in the future.

Thank you,

Barb Miller

John Bond

Margaret Fraser



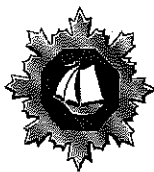
Session to Discuss Potential Scenarios of Fall 2018 and Council Preparation for Outcomes

Motion:

Moved by Councillor McDougall , seconded by Mayor Clarke, that:

1. An issue paper be presented to Council identifying measures to be taken according to the MGA for each potential scenario as outlined;
2. A third party led planning session be held in late September where CBRM Council and Administration collectively discuss and produce plans for the said potential scenarios.
3. A review of our own policies, MGA standards and discussion around what CBRM Council would like to have in terms of rules of CBRM Council members running for other positions of elected office.

Motion Carried.



CBRM

A Community of Communities

Demetri Kachafanas
Regional Solicitor
563-5047

ISSUE PAPER

TO: Mayor and Council

FROM: Demetri Kachafanas
Regional Solicitor

SUBJECT: Scenarios Regarding Resignation of Mayor

DATE: September 11, 2018

Introduction

At the General Committee of Council on September 4, 2018, council requested an Issue Paper addressing concerns as outlined in the Council Agenda Request Form submitted by Councillor Amanda McDougall dated August 28, 2018.

These included the following:

1. Identifying measures to be taken according to MGA for each potential scenario;
2. A review of council policies and MGA standards regarding rules of CBRM council members running for other positions of elected office; and
3. The role of the deputy mayor and the implications of the deputy mayor election.

Mayor Scenarios:

1. Mayor Clarke is unsuccessful in his bid for the leadership of the Progressive Conservative Party- There would be no issue for staff or council. The Mayor

remains as mayor until the next municipal election or until such time he decides to resign.

2. Mayor Clarke is successful in his bid for the leadership of the Progressive Conservative Party and remains on as Mayor. – Nothing in the MGA or the *Municipal Elections Act* prevents this. Section 18(1)(b) of the *Municipal Elections Act* provides that a member of the Legislative Assembly is disqualified for serving as a councillor. So until such time as Mayor Clarke is elected to the Legislative Assembly he can remain as mayor.
3. Mayor Clarke is successful in his bid for the leadership of the Progressive Conservative party and resigns as mayor. Section 13(1) of the *Municipal Elections Act* deals with a vacancy on council, including the mayor. It provides that if the mayor resigns, council must meet within four weeks to set a day for a special election. If no regular meeting is scheduled within that timeframe, the clerk shall call a special meeting for that purpose. The special election day must be a Saturday and must be within 11 weeks after the meeting of council at which the election day was named. Section 17(1) of the MGA provides that the resignation of the mayor is effective on delivery by the clerk to the next meeting of council.

Council Policies re: councillors running for other positions of elected office

The rules surrounding the ability of municipal councillors running for other positions of elected office are not CBRM rules. They are governed by the *Municipal Elections Act*.

Section 18 of the Act deals with disqualification for serving as councillor. The pertinent subsections of Section 18(1) state:

18 (1) No person is qualified to be nominated or to serve as councillor who:

- (a) is a member of the House of Commons or Senate of Canada;
- (b) is a member of the Legislative Assembly;
- (ba) is a village commissioner
- (c) is a member of the council of another municipality;

Section 18(4) provides as follows:

18 (4) Notwithstanding subsection (1), a councillor who is elected to the Legislative Assembly or the House of Commons or who is appointed to the Senate of Canada or as a judge of the Supreme Court or a judge of the Provincial Court shall resign his office as councillor within thirty days of such election or appointment.

Finally, Subsection 18(7) provides that a councillor who is nominated to fill a vacancy in the office of mayor where a special election is required shall thereby vacate his office as councillor.

In summary, the Act allows a councillor to run for a seat in the Legislative Assembly or the House of Commons without vacating his or her office as councillor. However, if elected he or she must resign within thirty (30) days of such election. If a councillor wishes to run for mayor in a special election, then that councillor must vacate his or her office as councillor to run.

These rules are rules of the Province under legislation and not rules of the Municipality. The only way they can be changed is by way of the Provincial Government amending the *Municipal Elections Act*.

Deputy Mayor

The pertinent sections of the MGA are Section 15 and Section 16.

Section 15(2) of the *Municipal Government Act* (MGA) provides as follows:

15 (2) During the temporary absence of the mayor or warden, the deputy mayor or deputy warden shall preside and, if neither is present, the council may appoint a person from among the council members present.

Section 16(3) of the MGA states:

16 (3) The deputy mayor or deputy warden shall act in the absence or inability of the mayor or warden or in the event of the office of the mayor or warden being vacant.

Section 16(5) of the MGA states:

16 (5) the deputy mayor or deputy warden has all the power and authority and shall perform the duties of the mayor or warden when the deputy mayor or warden is notified that

(b) the office of the mayor or warden is vacant.

The election of deputy mayor occurs at the October council meeting. Assuming Mayor Clarke is successful in his leadership bid and immediately resigns his office as mayor, pursuant to Section 17 of the Act, the resignation would become effective at the November council meeting and at that time the deputy mayor would assume the duties of the mayor.

Conflict of Interest

The fact that the mayor, or any councillor for that matter, is a leader of a Provincial Party while serving as mayor is not a conflict of interest. In fact, as stated earlier, neither the MGA nor the *Municipal Elections Act* prohibits it. Many councillors are affiliated with political parties and some have run for political parties while holding office as councillor. It is not unusual for councillors to criticize the Provincial or Federal Governments or political parties with respect to stands they take on issues that affect municipalities. This does not put the councillor in conflict.

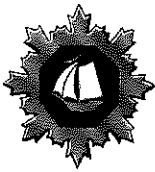
Furthermore, the *Municipal Conflict of Interest Act* deals with conflicts that arise of direct or indirect pecuniary interests that a councillor may have.

In essence, the fact that the mayor is a leader of a political party and may criticize the government or other political parties does not result in that person being in a conflict of interest. The mayor is one vote of council and his particular views are not the views of the entire council unless adopted by council by way of resolution.

If an issue arises where a pecuniary conflict of interest occurs as a result of the Mayor's position as leader of a political party, then it would be incumbent on the mayor to declare the conflict, withdraw from the debate on the issue and leave the room.

Sincerely,

Demetri Kachafanas
Regional Solicitor



CBRM

A Community of Communities

ISSUE PAPER

TO: Clerk's Office

FROM: John Phalen
Manager, Economic Development and Major Projects

SUBJECT: Northside Business Park – Property Management Policy

DATE: Sept. 11, 2018

Background

Recently CBRM Council voted to change the pricing strategy to be able to market the Northside Business Park by selling land at market value as per the Municipal Government Act. The previous price was \$20,000 / acre.

Since then there have been two property sales and expanding interest in another number of lots.

The Property Management Policy currently has a number of other restrictive covenants that don't reflect current requirements in our Municipal Planning Strategy and Land Use Bylaw that would apply to other CBRM properties.

It is our intent to remove these restrictions that have long been in place and mostly not enforced in recent years. We would want to keep the restriction that development has one year to occur or lands revert back to the CBRM. This would further enhance our ability to market the lands for economic development.

Recommendation and Recommended Motion

It is the recommendation of staff to have Council pass a motion directing the Legal Department staff to prepare an issue paper for council to consider amendments to the Property Management Policy (PMP) and as a result of the proposed changes to the PMP, I recommend that council pass a motion directing Planning and Development Department staff to prepare the necessary amendments to the Municipal Planning Strategy and Land Use By-law applicable to the Northside Business Park.

Sincerely,

John Phalen
Manager, Economic Development and Major Projects.

EXISTING RESTRICTIVE COVENANTS FOR NORTHSIDE BUSINESS PARK

SCHEDULE "B"

With the intention that the burden of these covenants shall run with the land, the Grantor and Grantee do hereby covenant and agree with each other and as to the Grantee with the owner or owners from time to time of the other lands in this industrial park to which the benefit and burden of the following stipulations, regulations and provisions are attached and their his/her or its respective representatives, successors and assigns to observe, confirm and comply with the following restrictions, namely:

1. The Grantee covenants and agrees to start erection of an industrial building on the said lands within one year of the date of closing and to complete such building within one year of the start of construction unless previous authorization is received from the Grantor. If the building is not started and completed within these periods, the Grantor will have the option to repurchase the said lands at the original selling price without interest.
2. No building, structure or addition shall be erected on said lands unless written approval of the plans and specifications has been received from the Grantor. It is the responsibility of the Grantee to obtain all necessary municipal, provincial and federal government permits, and to comply with all laws governing purchase, ownership and use of the property.
3. All buildings and structures erected on the lands and all undeveloped portions of the site shall be maintained in good order and repair at all times.
4. No driveway, parking or loading area shall be maintained on the lands unless such driveway, parking and loading area is in a proper state of repair at all times and no driveway, parking or loading area shall be constructed or maintained on the land unless it has as a minimum of bituminous topping surface placed by the Grantee within one (1) year of the substantial completion of construction of any building or structures on the land. Any deviation from the above requires approval of the Grantor in writing.
5. No truck receiving or shipping door shall face the street on the front of the building. Truck receiving and shipping facilities will be placed to the rear of the front half of the depth of the building, except where in the opinion of the Grantor, the contours of the land dictate otherwise. When loading is carried out wholly within the building itself, these restrictions will not apply.
6. Those portions of the site between buildings and the front and side lot lines which are not covered by structures, parking areas, loading areas, or driveways will be landscaped. All landscaping shall be commenced as soon as construction is complete and weather permits, but in no event beyond one (1) year from substantial completion of the building or structures. Sodded areas, trees, shrubbery and gardens shall be kept neat and orderly in appearance at all times and shall be maintained in a healthy condition.
7. Fences shall not be erected by the Grantee without the written approval of the Grantor of the location, design and material. Fences shall not be permitted between the buildings and front lot lines. Hedges will be permitted if approved as part of the landscaping plan. Fences shall at all times be kept in a proper state of repair.
8. The Grantee shall provide and maintain a central refuse storage collection area which shall be at the same level as adjacent parking areas and driveways and shall be suitably screened with growing trees, hedges, fences, walls or a combination thereof. The location, size and screening of the refuse storage area shall be approved in writing by the Grantor. The criteria of approval is that the designated area shall not be visually objectionable when viewed from public thoroughfares. In any case, the location of the refuse storage area must be on the site to the rear of the building.
9. No power or telephone lines shall be constructed or maintained on the surface of the lands but may only be constructed as underground facilities unless, before the construction of such power or telephone lines, written permission from the Grantor to maintain them on the surface of the lands is first obtained.
10. All buffer zones (where applicable) shall conform to land use by-laws in force and said zone shall be subject to landscaping requirements as per item #7.
11. All excess excavated nonorganic fill shall be stock piled within the confines of the Industrial site designated by the Grantor.

EXISTING COVENANTS TO BE REPLACE WITH THE FOLLOWING:

PROPOSED AMENDMENTS TO RESTRICTIVE COVENANTS

With the intention that the burden of these covenants shall run with the land, the Grantor and Grantee do hereby covenant and agree with each other and as to the Grantee with the owner or owners from time to time of the other lands in this business park to which the benefit and burden of the following stipulations, regulations and provisions are attached and their/his/her or its respective representatives, successors and assigns to observe, confirm and comply with the following restrictions, namely:

1. The Grantee (for self, heirs, administrators, executors, and assigns) covenants and agrees to submit a completed application for a Building and/or Development Permit to develop the said lands within one year (365 days) of the date of closing and to complete all aspects of development subject to this application prior to the expiration of the Permit, unless previous written authorization to delay is received from the Chief Administration Officer, or her designate. If the application is not submitted and/or the development is not completed within these periods, the Grantor will have the option to repurchase the said lands at the original selling price without interest.

This restriction shall not apply where the said lands are to be consolidated with an existing, developed lot, provided that previous written authorization to this effect is received from the Chief Administration Officer or her designate.

2. All development of the said lands shall be in compliance with relevant municipal bylaws, including but not limited to the Land Use Bylaw, and all required permits shall be issued prior to development taking place.



Cape Breton Regional Municipality

ISSUE PAPER

September 18th, 2018

To: Mayor and Council

Re: Battery Point Anaerobic Digester Cost Share Amendment

Background:

CBRM is proposing to build a small anaerobic digester to process sludge from the Battery Point Wastewater Treatment Plant and the Dominion Wastewater Treatment Plant in a way such that biogas is captured and used as a heat and energy source for the Battery Point facility, as well as reduce Green House Gas emissions by an estimated 2,564 tonnes per year.

This project was part of the 2018-19 capital budget deliberations which resulted in the approval of CBRMs cost share of \$179,020.

CBRM submitted a funding application to the FCM Climate Change Innovation Program for \$912,800. The limits of this program are 80% of the project cost up to a maximum of \$1M.

In response to CBRMs funding application, FCM approved a grant in the amount of \$750,000 to help fund the project.

To proceed with the project, CBRM will need to contribute additional funds to reach the total project estimated cost of \$1,156,000

Summary and Recommendation:

The original project funding breakdown and the proposed funding breakdown are summarized below:

Original Funding Breakdown – 0.8 year return period:

FCM:	\$912,800
CBRM:	\$179,020
<u>Efficiency NS:</u>	<u>\$64,180</u>
Total:	\$1,156,000

Proposed Funding Breakdown – 1.6 year return period:

FCM:	\$750,000 (approved)
CBRM:	\$341,820
<u>Efficiency NS:</u>	<u>\$64,180</u>
Total:	\$1,156,000

Factoring HST and the HST rebate into the equation CBRM must contribute an additional **\$212,346** to reach the project total of \$1,205,546 (taxes included). The estimated completion date of the project is March 31, 2020, thus the anticipated cash flow for the project is as follows:

Year 1 (Fiscal 2018-19) \$75,000
Year 2 (Fiscal 2019-20) \$1,130,546

The estimated return period of the *proposed* funding breakdown is less than two years; therefore, staff recommends that Council approve the additional expenditure in-order to complete the project which will reduce long term operating costs.

If approved, the next step for CBRM is to formally accept the FCM funding.

Wayne MacDonald, P.Eng
Director, Engineering & Public Works



Cape Breton Regional Municipality

ISSUE PAPER

September 18th, 2018

To: Mayor and Council

Re: Possible Funding to Construct an Anaerobic Digester to Replace Compost Operations

Background:

As presented during council budget sessions for fiscal 2018-19, CBRM through Efficiency NS submitted applications to several federal funding programs. We have been informed that our application-(Expression of Interest (EOI)) under the Low Carbon Economy Challenge (LCEC) has been reviewed and it has been selected for the next stage of the Champions Stream.

The LCEC champions stream offers funding of 40% of capital costs up to \$10 million.

The objective of this initiative is to advance the stated goal of reducing the energy costs across the organization by 15% over a five-year period. As well this project has the potential to address odor issues present on the SPAR road site.

Summary:

The EOI presented a plan to construct an Anaerobic Digester with Combined Heat & Power to process organic waste now being processed through the compost facility.

As previously stated we are now asked to take the next step of following up with a formal proposal to the challenge fund.

To do this requires the development of preliminary, yet reliable and high-quality design for the proposed facility, including its expected capital cost and its expected greenhouse- gas reduction impacts. This work is currently underway in partnership with efficiency NS and a consultant experienced in this field.

An important part of the application would be an endorsement from council stating the intention of pursuing this project.

If CBRM were to be successful in obtaining funding for this project staff would present to council as a project in the capital budget with final approval being a decision of council.

Recommendation:

CBRM council endorse the concept of the construction of an anaerobic digester to process organic materials now being processed through the existing composting facility.

If funding is approved through the Low Carbon Economy Challenge (LCEC) final approval to proceed with the project will be determined by council at that time.

Francis Campbell
Manager of Solid Waste

Tax Incentives to Promote Downtown Revitalization and Economic Development

Motion:

Moved by Councillor Bruckschwaiger, seconded by Councillor Coombes, to approve;

- First reading to the proposed Commercial District Improvement Bylaw, and set the date for a public hearing regarding this new bylaw;
- Amendments to the CBRM Municipal Planning Strategy to implement the bylaw in the eleven areas identified (the eight historic downtowns and the three business parks) and set the date for a public hearing on these amendments;
- Amendments to the North End Sydney Secondary Planning Strategy to implement the bylaw in the eleven areas identified (the eight historic downtowns and the three business parks) and set the date for a public hearing on these amendments.

Discussion:

During discussion, some of the issues raised included:

- Include information on CBRM website (i.e. videos/screen shots)
- Possible lost tax revenue
- Catalyst for economic development
- Northside Industrial Park – sale price for lots & restrictive covenants
- Tax incentive would be retroactive to January 1, 2018 if the By-law is approved in 2018
- Areas covered under the proposed bylaw (i.e. historic downtowns and 3 business parks)
- Areas excluded from proposed By-law

Mr. McCreedy encouraged all members of Council to take a close look at the maps and contact him before the public hearing regarding any minor boundary changes that may need to be tweaked.

Motion Carried.

CAPE BRETON REGIONAL MUNICIPALITY

CBRM
Badge

NOTICE

By-Law for Second (Final) Reading by Council

TAKE NOTICE that the following By-Law will be brought to Council for second (final) reading on **Tuesday, September 18, 2018** at 6:00 p.m., Council Chambers, 2nd Floor, City Hall, 320 Esplanade, Sydney, NS:

By-Law	Intent
Commercial District Improvement By-law	• To promote downtown revitalization and economic development in the Cape Breton Regional Municipality by providing for the phasing-in of property tax increases for new development in downtown cores and business parks throughout the region.

The above By-law amendments may be inspected at the Clerk's Office, 4th Floor, Room 405, City Hall, 320 Esplanade, Sydney, N.S.

Signed: **Deborah Campbell Ryan**
 Municipal Clerk
 September 1, 2018

Cape Breton Post – Sydney Page
Size B3 or C3 – to accommodate text
Saturday, September 1, 2018

Cape Breton Regional Municipality**By-law _____****Commercial Development District Improvement By-law**

Pursuant to Section 71C and Section 71D of Municipal Government Act, 1998, c. 18, s. 1.

WHEREAS Section 71C and 71D of *Municipal Government Act* enables the Cape Breton Regional Municipality, with the approval of the Minister of Municipal Affairs, to adopt this by-law;

WHEREAS it is desirable to permit the phasing-in, over a period of up to 10 years, of an increase to the taxable assessed value of certain commercial properties located in the Cape Breton Regional Municipality (CBRM) Commercial Development Districts and further to provide for the a partial rebate of taxes paid by the Owner during the phasing in period;

The Council of the Cape Breton Regional Municipality, under the authority of the *Municipal Government Act*, pursuant to Section 71C and subject to approval of the Minister in Section 71D, enacts the following By-law:

SHORT TITLE

- 1 This By-law shall be known as By-law No. ____ and may be cited as the "Commercial Development District Improvement By-law" (also known as the 'CDD By-Law').

APPLICATION

- 2 This By-law shall apply to a property which meets the definition of an eligible property as defined in subsection 71C(1) of the *Municipal Government Act*, if that property is located within a Commercial Development District (CDD) as defined in the Cape Breton Regional Municipality's Municipal Planning Strategy and as depicted in the attached Appendix "A".

INTRODUCTION

- 3 The Development Support Program is established to provide assistance to owners of eligible property by providing the possibility of an annual partial rebate on taxes levied by the owner if the owner has undertaken development of their eligible property within a Commercial Development District. The rebates are designed to stimulate building construction and the expansion of the economy of the CBRM. Rebates will be processed by December 31st of the calendar year.
- 4 The Development Support Program may provide a participating owner with a partial rebate on taxes levied on an eligible property in the CDD by utilizing all or a portion of the "Rebate Eligible Assessment".
- 5 Prior to receiving the Development Support, an owner of an eligible property must enter into Phased-In Assessment Agreement with the CBRM.

DEVELOPMENT

- 6 An eligible property in the CDD must undergo development before the owner of the property can participate in the Development Support Program.

DEFINITIONS

- 7 **Development** means investment that, in the opinion of the CBRM, results in an increase in the productive use of an Eligible Property or a building on an Eligible Property, and includes, but is not limited to, construction of a new building, remediation of the property or the expansion or renovation of an existing building to realize more effective use of the Eligible Property's potential.
- 8 **Owner** means the person named on the assessment roll as responsible for the taxes for the eligible property in the CDD.
- 9 **Development Support Program** is a program designed to stimulate building construction and the expansion of the economy of the CBRM.
- 10 **Base Year Taxable Assessed Value** means the Taxable Assessed Value applicable for the taxation year in which a Phased-In Assessment Agreement is signed for the eligible property upon which development is to be constructed or completed.
- 11 **Actual Taxable Assessed Value** means the Taxable Assessed Value pursuant to the published assessment roll applicable for the taxation year in which the Rebate Eligible Assessment is to be determined, subject to any adjustments to taxes arising from assessment appeals or changes to the Taxable Assessed Value made by PVSC through requests for reconsideration.
- 12 **Rebate Eligible Assessment** means the amount calculated using the following formula
- Rebate Eligible Assessment = Actual Taxable Assessed Value - Base Year Taxable Assessed Value.
- 13 **Phased In Assessment Agreement** is an agreement signed by the parties, which provides specifics of the eligible property in the CDD and is written in substantially the same form as the Agreement set out in Appendix "B" of this By-law.

PHASED-IN ASSESSMENT AGREEMENT

- 14(1) As a condition of the Development Support Program, an owner of an eligible property must enter into an agreement with the CBRM (hereinafter referred to as the "Phased-In Assessment Agreement"). The Phased-In Assessment Agreement signed by the parties will be substantially the same as the form agreement attached as Appendix "B" to this By-Law and forming part of the By-Law.

- 14(2) A Phase-In Assessment Agreement is intended to compliment and provide specifics for the subject property. The eligibility criteria for the Development Support Program and the limits on the program are as established in this By-Law. In the event of a conflict between a Phased-In Assessment Agreement and the By-Law, the provisions of this By-Law shall prevail.

REBATE CALCULATION

- 15 For eligible properties where the increase in assessment is \$100,000 or greater, the development rebate shall extend over a ten year period (refer to Table One, below). For eligible properties where the increase is less than \$100,000 the development rebate shall extend over a period of five years (refer to Table Two, below). An annual development rebate amount shall be calculated each year as the following percentage of the equivalent of the Rebate Eligible Assessment:

Table One	
Year	Grant (as % of tax increment)
1	90
2	80
3	70
4	60
5	50
6	50
7	40
8	30
9	20
10	10
Table Two	
Year	Grant (as % of tax increment)
1	90
2	70
3	50
4	20
5	10

REBATE LIMITS

- 16 The total of development rebates provided to an owner over the term of participation in the program must not result in the calculation of the total increase in taxes payable during the phase-in period being less than fifty per cent of the total increase in taxes that would be payable during the same period in the absence of the application of the program formula.

ADJUSTMENTS

- 17 In the event there are any subsequent changes in the total taxes payable in any year due to reductions resulting from assessment appeals, and where such tax changes occur after rebate amounts have been paid, future year rebate entitlements may be reduced

accordingly. Any overpayment of rebate amounts arising from subsequent assessment or tax reductions will be deemed to be a debt owing to the CBRM.

DURATION

- 18 Development rebates will only become payable to the owner after the eligible property is first reassessed by the PVSC to fully reflect the development that the owner is receiving the rebate for.
- 19 All rebates will cease if during the program term the building is demolished except to expand an eligible use. Rebate amounts that would have been payable in the year in which the demolition occurs will be adjusted on a pro-rated basis to reflect the date of the demolition and will cease thereafter

STAGED DEVELOPMENT

- 20 In the case of a staged development, where one portion of a property is developed in advance of others, each portion of the property will be treated as a separate eligible property. The first rebate payment of the component of the Development Support Program will be based on the Rebate Eligible Assessment arising from the increased assessment on the first portion of the development. As other portions of the eligible property are developed, and which result in further assessment increases, the property owner may apply to further participate in the Development Support Program based on the additional Rebate Eligible Assessment, subject to the continued availability of the Development Support Program and the owner's ability to meet the eligibility requirements and rebate entitlements in place at that time.

CONDOMINIUMS

- 21 If a development of an eligible property is condominiumized, each commercially assessed condominium unit will be treated as a stand-alone eligible development and must be able to meet all eligibility requirements of the Development Support Program, independent of other condominium units.

REPEAL

- 22(1) In the event that this By-Law, or any portion thereof, is repealed, any owner who has been accepted to participate in the Development Support Program prior to the date of repeal, will benefit from the Development Support Program, as applicable, in accordance with this By-Law, despite its whole or partial repeal.
- 22(2) In the event of a repeal in (1). for the owners who are accepted into the program as of the date of the repeal, this By-law will continue to be considered to be in force and effect only for the limited purpose of providing for the continuation of the Development Support Program for those owners until the ten year or five year maximum term is completed or the owners participation in the Development Support Program is discontinued.

OTHER CONDITIONS

- 23 An owner's application to the Development Support Program must be made subsequent to the issuance of the first building permit for the development on the eligible property.
- 24 All proposed development must conform to all Provincial laws, CBRM by-laws, policies, and processes and all improvements must be made pursuant to an approved Building Development Permit and applicable zoning requirements and development approvals.
- 25 The applicant must be the owner of the eligible property or have the owner's written authorization to apply for the Development Support Program.
- 26 The owner of an eligible property must not be in arrears of property taxes or other fees and charges on any property in CBRM legally registered in the name of the applicant on the date that the Phased-In Assessment Agreement is signed.

PAYMENT

- 27 Rebates may be provided once annually, in the last quarter of the year, provided that:
 - A. there are no outstanding taxes, water rates, or other sums owed to the CBRM with respect to any property within the CBRM that is legally registered in the name of the applicant;
 - B. there are no outstanding work orders and/or orders or requests to comply from any municipal or provincial entity; and
 - C. all other eligibility criteria and conditions are met.
- 28 Development rebates will not be applied as tax credits against property tax accounts.
- 29 In case of an assessment appeal, the CBRM reserves the right to withhold any forthcoming Development Rebates pending final disposition of the appeal.
- 30 For applicants on preauthorized payment arrangements, once a rebate has been processed, the total taxes levied, net of the rebate for the taxation year must be paid no later than March 31. Failing this condition, the rebate shall be reversed and interest will be assessed on the balance owing.

REVIEW

- 31 In accordance with Section 71E of the Municipal Government Act, this By-law shall be reviewed by the CBRM within four years of its coming into force and every four years thereafter.

THIS IS TO CERTIFY THAT this By-law was passed by the Council of the Cape Breton Regional Municipality at a duly constituted meeting of said Council held the _____.

Signed by the Mayor and Municipal Clerk on this _____ day of _____, _____

MAYOR

CLERK

APPENDIX "B"
Cape Breton Regional Municipality Phased In Assessment Agreement

THIS AGREEMENT made as of the day of _____, 20____

BETWEEN:
(the "Applicant")

– and –

CAPE BRETON REGIONAL MUNICIPALITY
(the "CBRM")

WHEREAS the CBRM adopted By-Law _____, cited as the "Commercial Development District Improvement By-law" (also known as the 'CDD By-law'), a partial rebate program consisting of annual rebates to participating owners who undertake development on eligible property in a Commercial Development District as defined by the Municipal Planning Strategy.

AND WHEREAS the Applicant is the registered owner or the person having the owner's authorization, of an eligible property which is located within a Commercial Development District and has applied to the CBRM for participation in the Development Support Program for the Property described below in Section 1 of this Agreement; (the "Property");

AND WHEREAS the CBRM requires that a Phased-In Assessment Agreement be entered into between the Applicant and the CBRM;

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the premises, covenants and agreements hereinafter contained on the part of the Applicant to be observed, fulfilled and performed as hereinafter required and the approval of the Applicant's application for participation in the Development Support Program by the CBRM, subject to and in accordance with, the terms and conditions of this Agreement, the parties covenant and agree as follows:

1 PROPERTY INFORMATION:

Applicant:

Name of registered Property Owner:

Address of Property:

Property Identification Number(s):

Mailing Address of Owner:

Name of Agreement Recipient:

Mailing Address of Recipient:

2 DEFINITIONS

Save and except as may be otherwise defined in this Agreement, the definitions of terms used in this Agreement shall be the same as the definitions for those terms as set out in the CDD By-law (By-law No. _____), and Section 71C of the *Municipal Government Act*, C18 of the Acts of 1998.

Please note: the terms Actual Taxable Assessed Value, Base Year Taxable Assessed Value, Development, Rebate Eligible Assessment are defined in the CDD By-law.

The following terms shall have the meanings set out below:

- 2.1 **Agreement** means this Phased-In Assessment Agreement which is entered into between the parties pursuant to sections 71C and 71D of the *Municipal Government Act*, and the CDD By-law enacted by the Council of the CBRM and as amended from time to time.
- 2.2 **Applicant** means the owner, of the property, or a person having the owner's authorization to apply for the Development Support Program.
- 2.3 **CAO** means the Chief Administrative Officer of the CBRM. The CAO is the approving authority for purposes of this Agreement where authority is not required to come from Council.
- 2.4 **CFO** means Chief Financial Officer of the CBRM.
- 2.5 **Development Support Program** means program established by the CDD By-law for a maximum period of 10 years.
- 2.6 **Development Rebate** means annual rebate amount calculated each year as set out in section 15 of the CDD By-law.
- 2.7 **Eligible Use** means uses permitted as set out in the CBRM Municipal Planning Strategy and Land Use By-Law on a commercial assessed property located within the Commercial Development District.
- 2.8 **Owner** means the registered owner(s) of the Property at the date this Agreement is signed.
- 2.9 **Property** means the Property described in Section 1 and Schedule "A" of this Agreement.
- 2.10 **Recipient** means the Applicant, authorized to receive a development rebate.
- 2.11 **CBRM Solicitor** means the lawyer appointed by the CBRM for the purpose of registering this Agreement in the Registry of Deeds or under the Land Registration System, whichever is applicable.

3 PARTICIPATION IN DEVELOPMENT REBATES PROGRAM

3.1 The Applicant's participation in the Development Support Program is conditional on the Applicant ensuring that at all times the following conditions are met:

- (a) the objectives and participation requirements of this Agreement and the CDD By-law, attached as Schedule "B" to this Agreement, are met from year to year;
- (b) all applicable Provincial and CBRM requirements, policies and procedures are met;
- (c) the Applicant is in compliance with all of the terms and conditions of this Agreement and is in conformance with all Building Development Permits and other regulatory approvals pertaining to the Property; and
- (d) the property has undergone development.

4 DEVELOPMENT REBATE FUNDING CALCULATION

4.1 A development rebate is calculated by the CFO as a percentage of the Rebate Eligible Assessment as shown in Schedule "E" to this Agreement.

4.2 Prior to the commencement of the Development Support Program, the CFO shall determine the Base Year Taxable Assessed Value used to calculate the Annual Rebate Eligible Tax Assessment and the corresponding annual development rebate payable for development. Following this determination, Schedule "E" will be amended annually to show the Actual Taxable Assessed Value, the Rebate Eligible Taxes, and the annual development rebate amount payable as determined by the CFO.

4.3 The Applicant shall have an opportunity to review the CFO's calculation of the Base Year Taxable Assessed Value prior to the finalization of Schedule "E", however, the CFO's determination as to the calculation of the Base Year Taxable Assessed Value, and the amount of the development rebate, shall be final.

4.4 In calculating the annual Development Rebate payable for the development, the Rebate Eligible Assessment shall be calculated annually from the first year that the subject Development Rebate is payable, or the first year that the Owner elects to make the Annual Taxable Assessed Value election in accordance with this Agreement CDD By-law.

4.5 The Development rebate will be reduced by the CFO for the year in which a development rebate is paid, to reflect the amount of any rebate(s) of municipal taxes paid to the Owner, including but not limited to rebates to reflect charitable status tax rebates related to the development. Any such reductions shall be in an amount reflecting the product of the municipal portion of taxes rebated and the development rebate percentage level applicable to that year.

4.6 The total of development rebates paid over a ten year or five year maximum term of the program must not result in the calculation of the total increase in taxes payable during the phase-in period being less than fifty (50%) percent of the total increase in taxes that would be payable during the same period in the absence of the application of the formula.

Rebate Eligible Assessment

- 4.7 Subject to sections 4.9 and 4.10 of this Agreement, the Base Year Taxable Assessed Value shall remain fixed for the duration of the Development Support Program.
- 4.8 The Rebate Eligible Assessment will be amended by the CFO, as necessary, to reflect changes to the total Municipal Property Taxes payable in any year, as a result of successful assessment appeals, requests for reconsideration by PVSC, equity changes, gross errors or other changes to Actual Taxable Assessed Value that have the effect of changing the amount used to calculate the Actual Taxable Assessed Value.
- 4.9 Where the Rebate Eligible Assessment is amended in accordance with section 4.8, future development rebates shall be adjusted accordingly for the duration of the Development Support Program period. Such adjustments may reflect any overpayment of development rebate arising from successful assessment appeals that occur subsequent to the commencement of payment of development rebates.
- 4.10 If at any time the Owner appeals any assessment relating to the development that, in the opinion of the CAO, may impact the calculation of the Rebate Eligible Assessment, the CBRM shall withhold any or all of the development Rebate that would otherwise be paid for the development, based on a reasonable estimate of the reduction in assessment being sought, pending final disposition of the appeal. If as a result of the decision of the appeal body, the Actual Taxable Assessed Value is reduced below the amount determined in calculating the Rebate Eligible Assessment, then the reduced Rebate Eligible Assessment shall be the basis for determining the development rebate payable under this Agreement.
- 4.11 Where sections 4.9 and 4.10 apply, any overpayment of a development rebate arising from subsequent assessment or tax reductions will be deemed to be a debt owing to the CBRM which the Owner shall pay forthwith together with the same interest charged for overdue accounts by the CBRM.
- 4.12 If at any point after the development is complete, additional work is proposed on the Property that is not part of the original Program application, but may serve to further increase the current year tax assessed value, such additional work shall not be included in the calculation of the development rebate in this Agreement, but may be the subject of a further Development Support Program application, subject to the continued availability of the Development Support Program and the eligibility requirements and rebate entitlements in effect at that time.

5 FUNDING PAYMENT

- 5.1 Subject to Section 6 of this Agreement, development rebate payments to a maximum of ten (10) annual payments will commence being paid the first taxation year in which the Rebate Eligible Assessment is capable of being determined.

S.2 Development rebates cannot be applied as tax credits against the Property tax account.

6 CONDITIONS OF PAYMENT

6.1 The CAO shall determine whether the Applicant has satisfied the participation requirements of this Agreement and the Schedules attached hereto.

6.2 A development rebate will only become payable after the property is first reassessed by the PVSC to fully reflect the development for which the Applicant might receive a rebate.

6.3 A rebate can only be paid once annually, in the last quarter of the year, provided that:

- (a) there are no outstanding taxes, water rates, or other sums owed to the CBRM with respect to the property and other properties in the CBRM legally registered in the name of the applicant;
- (b) there are no outstanding work orders and/or orders or requests to comply from any municipal or provincial entity; and
- (c) all other required criteria and conditions are met.

7 OWNERS OBLIGATIONS

Compliance with Rebate Application

7.1 The Applicant shall undertake the development in accordance with the Development Support Program.

Compliance with CBRM Directives

7.2 The Applicant shall strictly comply with and observe all material requirements, stipulations, guidelines and directives related to the Development Support Program as required by the CBRM, and shall undertake all necessary courses of action to ensure compliance.

Compliance with Legislation

7.3 The Applicant agrees that the development shall be completed in compliance with all required Building Development Permits, and constructed in accordance with the Nova Scotia Building Code Act and all applicable Land-Use By-law requirements, Municipal requirements and other approvals required at law.

Demolition/Conversion

7.4 The Applicant covenants to the CBRM that the development will not be demolished, in whole or in part or converted to an ineligible use, in whole or in part, prior to the advance of all of the payments over the term of this Agreement unless such demolition is required to enable Property enhancement approved by the CBRM under the terms of this Agreement.

- 7.5 The Applicant shall ensure that the Property is maintained in its redeveloped condition in accordance with this Agreement and is in compliance with all applicable Municipal policies and By-laws.
- 7.6 The Applicant further covenants that if at any time during the Development Support Program the building which underwent development is demolished, in whole or in part, or converted to an ineligible use, in whole in part, the CAO, in his or her sole discretion will cease to advance future development rebates or reduce the amount of future development rebates on a pro-rated basis to reflect the date of the demolition or conversion.

Payment of Costs

- 7.7 The Applicant acknowledges that without limiting the generality of the other provisions of this Agreement:
- (a) the onus and responsibility is upon the Applicant at all times to assume all costs of development and to apply for and obtain, at the Applicant's expense, all approvals and permits required from the CBRM and all other agencies including but not limited to all Municipal Planning Strategy Amendments, Land Use By-law amendments, minor variances, site plan approval and building development permits in accordance with all applicable legislation; and
 - (b) the Owner remains responsible at all times for the payment in full of all amounts in respect of property taxes, water and any other charges that may be levied by the CBRM relating to the Property as and when they fall due.

Building Development Permits

- 7.8 Applications for Development Support Program must be made after the issuance of the first Building Development Permit for the development.

8 ASSIGNMENT

- 8.1 The Applicant covenants to the CBRM that if the Owner intends to sell, transfer or assign the Property or if for any reason the Property ceases to be registered in the Owner's name prior to the advance of all of the development rebate payments, the Applicant will immediately notify the CAO in writing of such change or proposed change of ownership.
- 8.2 The payment of development rebates shall cease upon the sale, transfer or assignment of the Property, unless, prior to the completion of such sale, transfer or assignment, the Owner and the new owner enter into an agreement with the CBRM, in a form and content satisfactory to the CAO and the CBRM Solicitor, in which it is agreed that the new owner shall have the right to participate in the Development Support Program.
- 8.3 Where the Applicant wishes to assign the right to receive the development rebates to a recipient, who is not a new owner, the CAO, in the CAO's sole discretion, may agree to the assignment provided that the Recipient with the written consent of the owner enter into

an agreement with the CBRM, in a form and content satisfactory to the CAO and the CBRM Solicitor, acting reasonably, in which it is agreed, that such assignment shall not relieve the Applicant of any of the Applicant's obligations and responsibilities under this Agreement, nor shall it affect in any way the CBRM's rights under this Agreement.

- 8.4 It is the responsibility of the Applicant or Owner to provide in writing to the CAO change in Recipient. It is at the discretion of the CAO to determine if an adjustment to the development rebate identification of a new Recipient by the Applicant.

9 CBRM RIGHTS

No Representation

- 9.1 Nothing in this Agreement shall be construed to be a representation by the CBRM regarding compliance of the Property with any applicable legislation, regulations, policies, standards, permits, approvals or by-laws.

No Claim for Compensation or Reimbursement

- 9.2 In the event that any of the conditions of this Agreement are not fulfilled and a development rebate is not advanced, or required to be repaid, or the development rebate payments cease, or are delayed, the Applicant and Owner agrees that notwithstanding any costs or expenses incurred by the Applicant or Owner, the Applicant or Owner shall not have any claim for compensation or reimbursement of these costs and expenses against the CBRM and that the CBRM is not liable to the Applicant or Owner for losses, damages, interest, or claims which the Applicant or Owner may bear as a result of the lapse of time (if any) where the CBRM is exercising its rights herein to either delay a payment pending the Applicant or Owners' compliance with this Agreement, or to terminate this Agreement.

10 DEFAULT AND REMEDIES

- 10.1 Subject to section 10.3, on the occurrence of a Default under this Agreement, the CBRM shall be entitled to all available remedies to terminate or enforce this Agreement, including, but not limited to:

- (a) immediate termination and cessation or delay of the release of a development rebate otherwise payable to the Applicant; and
- (b) requiring the Applicant or Owner to immediately repay to the CBRM all or a portion of any development rebates paid to the Applicant or Owner together with interest at the established CBRM Rate.

- 10.2 A default under this Agreement ("Default") shall be deemed to occur upon the failure of the Applicant or Owner to perform any of the obligations of the Applicant or Owner contained in this Agreement or to comply with all of the terms and conditions contained in this Agreement, including, but not limited to, the following:

- (a) failure by the Applicant or Owner to satisfy the minimum requirements as set out in this Agreement and the CDD By-law;

- (b) failure by the Applicant or Owner in any material respect, to perform any of the obligations contained in this Agreement;
- (c) failure by the Applicant or Owner to pay and keep in good standing all real property taxes with respect to the Property and all other charges against the Property in favour of the CBRM, including but not limited to development charges, special assessments, local improvement charges, sewer and water and utility rates.
- (d) the making of an assignment by the Applicant or Owner for the benefit of creditors, or if the Applicant or Owner assigns in bankruptcy or takes advantage of any statute for relief in bankruptcy, moratorium, settlement with creditors, or similar relief of bankrupt or insolvent debtors; receipt of a receiving order against the Applicant or Owner, or if the Applicant or Owner is adjudged bankrupt or insolvent, or if a liquidator or receiver is appointed by reason of any actual or alleged insolvency, or any default of the Applicant or Owner under any mortgage or other obligation, or if the Property or the interest of the Applicant or Owner in the Property is taken or sold by any creditors or under any writ of execution or other like process;
- (e) failure by the Applicant or Owner to remain in contact with the CBRM such that the CBRM is unable to contact the Applicant or Owner for a period of time exceeding one (1) year.
- (f) any representation or warranty made by the Applicant or Owner in this Agreement or the Development Support Program is incorrect in any material respect.
- (g) willful defaults by the Applicant or Owner in the payment of moneys to any contractor, supplier or creditor, who has undertaken the works that are the subject of this Agreement,

10.3 If a Default occurs, the CBRM shall give written notice to the Applicant or Owner specifying the nature of the Default. The Applicant or Owner shall then have sixty (60) days, or such additional time as may be agreed to by the CBRM, acting reasonably, from the receipt of such notice of Default to rectify the Default, during which time all Development rebate payments may, in the CAO's sole discretion, be suspended, provided that if the Default is such that it cannot with due diligence be wholly rectified within sixty (60) days, or such additional period of time as may be agreed to by the CAO, and the Applicant or Owner has commenced and continues diligently working to correct the Default, the Applicant or Owner shall not be deemed to be in default of this Agreement so long as it proceeds with due diligence to rectify the Default. If the Applicant or Owner fails to rectify the Default within the sixty (60) day time period or such additional time as may be agreed to by the CAO, and provided that the Applicant or Owner has not commenced and continued diligently working to correct the subject Default, the CAO shall have the option, in the CAO's sole discretion, to exercise the remedies under Subsection 10.1.

10.4 Wherever in this Agreement the CBRM requires repayment of all or part of any Development rebate and the Applicant or Owner fails to repay as required the unpaid amounts shall be deemed to be a debt owing to the CBRM, and may constitute a lien on the property, together with interest at the CBRM rate.

11 INDEMNITY

11.1 The Applicant or Owner shall indemnify, save, defend and keep harmless from time to time and at all times, the CBRM and its elected officials, officers, employees and agents from and against all claims, actions, causes of action, interest, demands, costs, charges, damages, expenses and loss made by any person arising directly or indirectly:

- (a) in respect of any failure by the Applicant or Owner to fulfill its obligations under this Agreement; and
- (b) in respect of any loss, damage or injury (including death resulting from injury) to any person or property, however caused, directly or indirectly, resulting or sustained by reason of any act or omission of the Applicant or Owner or any person for whom the Applicant or Owner is in law responsible in connection with any of the purposes set out in this Agreement or the failure by the Applicant or Owner to fulfill its obligations under this Agreement;

This indemnification shall, in respect of any matter arising prior to the termination of this Agreement, remain in force following termination or expiry of this Agreement.

12 ADDITIONAL PROVISIONS**Term**

12.1 This Agreement shall remain in effect from the date of its execution by the CBRM to the earlier of:

- (a) the Applicant informing the CBRM in writing prior to the first development rebate payment that it has decided not to accept any development rebates;
- (b) subject to the provisions of section 10 of this Agreement, the CBRM informing the Applicant or Owner in writing that due to the nonfulfillment of a required condition or due to Default, this Agreement is at an end;
- (c) the expiry of the Development Support Program period after 10 years; and
- (d) the Applicant informing the CBRM in writing at any point after receiving the first development rebate payment, that it no longer wishes to receive development rebates.

Time of the Essence

12.2 Time shall be of the essence with respect to all covenants, agreements and matters contained in this Agreement.

Extension of Time

12.3 Where a time limit or deadline is provided for under this Agreement, the CAO, acting reasonably, may extend such time limit or deadline without an amendment to this Agreement.

Schedules

12.4 The following Schedules are attached to and form part of this Agreement:

Schedule "A" Example of Development Rebate Calculation

Schedule "B" CDD By-law

Schedule "C" Development Support Program

Schedule "D" List of Development Plans

Schedule "E" Development Rebate Calculation

Survival of Covenants

12.5 Any terms or conditions of this Agreement that require performance by the CBRM or the Applicant or Owner after the expiration or other termination of this Agreement remain enforceable notwithstanding such expiration or other termination of this Agreement for any reason whatsoever.

Notice

12.6 Any notice required to be given by either party to the other shall be given in writing and delivered in person or by facsimile transmission to:

(a) In the case of the CBRM to:
Attn: Marie Walsh, CAO CBRM,
320 Esplanade
Sydney, Nova Scotia
B1P 7B9

(b) In the case of the Applicant to:

(c) In the case of the Owner to:

Notice shall be deemed to have been received on the day of personal delivery or facsimile transmission if such day is a business day and delivery is made prior to 4:00 p.m. and otherwise on the next business day. The parties agree to notify each other immediately, in writing, of any changes of address from those set out above.

Entire Agreement

12.7 This Agreement and the Schedules attached to it constitute the entire Agreement between the parties and there are no agreements collateral to it other than as referred to herein and no representations or warranties, express or implied, written or verbal, statutory or otherwise, other than as expressly set forth or referred to in this Agreement.

Municipal Government Act

12.8 Nothing in this Agreement limits or fetters the CBRM in exercising its statutory jurisdiction under the *Municipal Government Act*, or under any other legislative authority or By-law and in the event that the CBRM decides to grant or deny any request or oppose or appeal

any decision made pursuant to any such legislation, such action by the CBRM is not in any manner affected or limited by reason of the CBRM entering into this Agreement.

Governing Law

12.9 This Agreement will be exclusively governed, construed and enforced in accordance with the laws of the Province of Nova Scotia and the Owner agrees to attorn to the jurisdiction of the Province of Nova Scotia.

Waiver and Consent

12.10 No consent or waiver, express or implied, by either party to or of any breach or Default by either party of any or all of its obligations under this Agreement or any amendment of this Agreement will:

- (a) be valid unless it is in writing and stated to be a consent or waiver pursuant to this Agreement;
- (b) be relied upon as a consent or waiver to or of any other breach or Default of the same or any other obligation;
- (c) constitute a general waiver under this Agreement, or
- (d) eliminate or modify the need for a specific consent or waiver pursuant to this section in any other instance.

Headings

12.11 The division of this Agreement into articles, sections, subsections and schedules and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. The articles, section, subsection and schedule headings in this Agreement are not intended to be full or precise descriptions of the text to which they refer and should not be considered part of this Agreement.

Extended Meanings

12.12 Words expressed in the singular include the plural and vice-versa and words in one gender include all genders.

Severability

12.13 If any provision of this Agreement is invalid, illegal or unenforceable, it shall not affect the validity, legality or enforceability of any other provision of this Agreement.

Further Assurances

12.14 The parties agree that they shall each execute, deliver or cause to be made, done, executed and delivered all such further acts, deeds, assurances and things as may be required or as the other party may reasonably request in order to give full effect to this Agreement.

Force Majeure

12.15 If either party is prevented or delayed from performing any of the obligations on its part to be performed hereunder by reason of an Act of God, strike, labour dispute, lockout,

threat of imminent strike, fire, flood, interruption or delay in transportation, war, acts of terrorism, insurrection or mob violence, requirement or regulation of government, or statute, unavoidable casualties, shortage of labour, equipment or material, plant breakdown or failure of operation, equipment or any disabling cause (other than lack of funds), without regard to the foregoing enumeration, beyond the control of the parties which cannot be overcome by the means normally employed in performance, then and in every such event, any such prevention or delay shall not be deemed a breach of this Agreement but performance of any of the said obligations or requirements shall be suspended during such period or disability and the period of all such delays resulting from any such causes shall be excluded in computing the time within which anything required or permitted by either party to be done is to be done hereunder, it being understood and agreed that the time within which anything is done, or made pursuant thereto shall be extended by the total period of all such delays.

Successors and Assigns

12.16 The terms and provisions of this Agreement shall ensure to the benefit of and be binding upon the parties and their respective successors and permitted assigns.

IN WITNESS WHEREOF the parties have executed this Agreement by their duly authorized representatives effective this _____ day of, _____ 20____

CAPE BRETON REGIONAL MUNICIPALITY

Name: Marie Walsh
Title: CAO

Authorized pursuant to Section 71C and Section 71D of <i>Municipal Government Act</i> . 1998, c. 18, s. 1.)

Name:
Title:

I have authority to bind the corporation.

SCHEDULE "A"
EXAMPLE OF DEVELOPMENT REBATE CALCULATION
 (note: this example is for a ten year phase in period)

A. Pre-Development Base Year Taxable Assessed Value:

(1)

Base Year	Base Year Taxable
2007	\$150,000

B. Post-Development Actual Taxable Assessed Value:

(2)

(3)

Year	Rebate Year	Actual Taxable Assessed Value	Current Commercial Municipal Tax
1	2008	\$350,000	3.78
2	2009	\$350,000	3.98
3	2010	\$375,000	4.21
4	2011	\$375,000	4.52
5	2012	\$325,000	4.52
6	2013	\$325,000	4.52
7	2014	\$325,000	4.51
8	2015	\$325,000	4.45
9	2016	\$300,000	4.39
10	2017	\$300,000	4.31

C. Development Rebates:

(4)

(5)=(2-1)

(6)=(5x3)

(7)=(6x4)

(8)

Years	Rebate %	Rebate Eligible Assessment	Rebate Eligible Taxes	Rebate Amount \$	Cumulative % Payable
1	90	\$200,000	\$7,560.00	\$6,804.00	90
2	80	\$200,000	\$7,960.00	\$6,368.00	85
3	70	\$225,000	\$9,472.50	\$6,630.75	80
4	60	\$225,000	\$10,170.00	\$6,102.00	75
5	50	\$175,000	\$7,910.00	\$3,955.00	70*
6	50	\$175,000	\$7,910.00	\$3,955.00	67
7	40	\$175,000	\$7,892.50	\$3,157.00	63
8	30	\$175,000	\$7,787.50	\$2,336.25	59
9	20	\$150,000	\$6,585.00	\$1,317.00	54*
10	10	\$150,000	\$6,465.00	\$ 646.50	50*
Totals (9) & (10):		\$79,712.50	\$41,271.50		
Re-calculate:		50%	\$1,415.25		
Total Allowable Rebate:		\$39,856.20	\$39,856.25		

* Reset calculated in Year Five (5) and Year Nine (9) to identify any over/underpayment of Rebate. Total Allowable Development Rebates over the program period cannot exceed 50%.

SCHEDULE "B"
CDD By-law (By-law No. _____)

SCHEDULE "C"
DEVELOPMENT SUPPORT PROGRAM

**SCHEDULE “D”
LIST OF DEVELOPMENT PLANS & DRAWINGS**

SCHEDULE "E"
DEVELOPMENT REBATE CALCULATION
 (note: this example is for a ten year phase in period)

Address:

Property Identification No.:

A. Pre-Development Base Year Taxable Assessed Value:

(1)

Base Year	Base Year Taxable

B. Post-Development Actual Taxable Assessed Value:

(2)

(3)

Year	Rebate Year	Actual Taxable Assessed Value	Current Commercial Municipal Tax
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			

C. Development Rebates:

(4)

(5)=(2-1)

(6)=(5x3)

(7)=(6x4)

(8)

Years	Rebate %	Rebate Eligible Assessment	Rebate Eligible Taxes	Rebate Amount \$	Cumulative % Payable
1	90				90
2	80				85
3	70				80
4	60				75
5	50				70*
6	50				67
7	40				63
8	30				59
9	20				54*
10	10				50*
Totals (9) & (10):					
Re-calculate:		50%			
Total Allowable Rebate:					

* Reset calculated in Year Five (5) and Year Nine (9) to identify any over/underpayment of Rebate. Total Allowable Development Rebates over the program period cannot exceed 50%.

Revenue	Year To Date Assigned	4 Month Budget	4 Month Budget Variance	Annual Budget	Annual Budget Remaining
Total Taxes	\$ 35,921,164	\$ 35,937,197	\$ (16,033)	\$ 107,811,592	\$ 71,890,428
Total Federal Government	1,033,333	1,033,333	-	3,100,000	2,066,667
Total Federal Government Agencies	251,193	251,193	-	753,578	502,385
Total Provincial Government	692,745	692,745	-	2,078,252	1,385,507
Total Provincial Government Agencies	1,019,094	1,019,094	-	3,057,283	2,038,189
Total Services to Other Local Government	202,940	202,940	-	608,821	405,881
Total Transit	242,856	284,167	(21,311)	792,500	549,644
Total Environmental Development Services	92,200	82,000	10,200	246,000	153,800
Total Licenses & Permits	56,554	50,167	6,388	150,500	93,946
Total Fines & Fees	210,775	190,951	19,825	572,852	362,077
Total Rentals	175,628	187,877	7,752	503,630	328,002
Total Concessions & Franchises	120,220	121,667	(1,446)	365,000	244,780
Total Interest on Taxes	552,534	538,001	14,533	1,614,003	1,061,469
Total Finance Revenue	8,890	10,000	(1,110)	30,000	21,110
Total Solid Waste Revenue	944,765	891,667	53,099	2,300,000	1,355,235
Total Recreation & Cultural Service Programs	231,395	231,758	(363)	2,065,000	1,833,605
Total Water Utility Charges	1,650,503	1,650,503	(0)	4,951,510	3,301,007
Total Unconditional Transfers	5,321,776	5,286,761	35,016	15,860,282	10,538,506
Total Conditional Transfers	-	-	-	-	-
Year To Date Assigned	\$ 48,728,568	\$ 48,622,020	\$ 106,549	\$ 146,860,803	\$ 98,132,235

Departmental

Reviewed

Summary

Statement of Expenditures

July 31, 2018

Expenditures	Year to date Expended	4 Month Budget	4 Month Budget Variance	Annual Budget	Annual Budget Remaining
Legislative	\$ 433,867	\$ 479,694	\$ 45,827	\$ 1,455,969	\$ 1,022,102
Administration	305,333	310,464	5,130	1,083,980	778,647
Finance	803,585	909,983	106,398	2,860,330	2,056,745
Legal	200,910	207,282	6,371	676,601	475,691
Human Resources	354,344	417,659	63,315	1,374,144	1,019,800
Technology & Communications	384,211	395,597	11,386	1,301,881	917,670
Municipal Clerk	123,421	136,462	13,041	536,755	413,334
Fiscal Services	7,600,454	7,567,075	(33,379)	31,894,505	24,294,051
Police Services	8,359,998	8,531,830	171,832	26,994,915	18,634,917
Fire Services (Incl EMO)	5,879,215	6,236,417	357,202	18,201,998	12,322,783
Engineering & Public Works	14,059,852	14,724,841	664,989	45,577,824	31,517,972
Planning	834,955	871,866	36,912	2,656,806	1,821,851
Facilities C200 & Arenas	990,573	1,001,067	10,494	3,398,410	2,407,837
Parks & Grounds	808,128	888,106	79,978	2,832,660	2,024,532
Buildings	1,017,428	1,093,655	76,227	3,374,564	2,357,136
Recreation	1,481,896	1,501,973	20,077	2,639,461	1,157,565
Total expended to date	\$ 43,638,169	\$ 45,273,969	\$ 1,635,800	\$ 146,860,803	\$ 103,222,634

Departmental

Reviewed

Port of Sydney Development Corporation

Income Statement for 4 Month Period Ended July 31, 2018

	YTD Actual	YTD Budget	Variance to Budget
Wharfage & Berthage	158,912	127,509	31,403
Event Revenue	10,957	18,417	(7,459)
Miscellaneous Revenue	21,963	3,500	18,463
Storage & Rental	88,078	96,206	(8,127)
Passenger tax	200,084	209,280	(9,196)
Security/Traffic Control	42,178	45,045	(2,867)
Water Revenue	16,686	19,000	(2,314)
Craft Market Revenue	15,687	19,550	(3,863)
	554,546	538,507	16,039
Wages & Salaries	204,796	272,299	(67,502)
Professional Fees	38,994	25,000	13,994
Advertising & Promotions	9,775	22,970	(13,195)
Cruise activities	36,854	26,760	10,094
Dues & Membership Fees	17,891	14,737	3,154
Event Expense	0	500	(500)
Insurance	18,631	21,311	(2,680)
Interest & Bank Charges	2,053	2,000	53
Office & Admin	2,851	19,854	(17,003)
Miscellaneous	6,633	39,000	(32,367)
Repairs & Maintenance	72,244	105,974	(33,730)
Travel	6,671	18,100	(11,429)
Utilities	45,177	52,514	(7,337)
Business Development - Harbour	798	40,000	(39,203)
Transport Ca	11,313	0	11,313
Capital Repairs	16,776	20,000	(3,224)
Office Rent	7,677	12,000	(4,323)
Fuel for Truck	332	680	(348)
Propane for Forklift	848	0	848
Leasehold Improvements	629	10,000	(9,371)
Security	58,957	70,542	(11,585)
	559,902	774,241	(214,339)
	(5,356)	(235,734)	(198,301)
ACOA Marina Proceeds	113,154	0	113,154
Less Amortization	(110,000)	(110,000)	0
Net Income (Loss)	(2,202)	(345,734)	(85,147)

