

AGENDA
PLANNING ADVISORY COMMITTEE MEETING

Thursday, February 25, 2016
7:00 p.m.

Page & Time

1. CALL TO ORDER
 2. REVIEW OF PROCEDURE FOR PUBLIC TO ADDRESS THE COMMITTEE - CHAIRMAN (below)
 3. APPROVAL OF MINUTES - January 28, 2016 (to be circ)
 4. AGENDA - ANY OTHER BUSINESS TO BE ADDED
 5. BUSINESS ARISING FROM MINUTES:
 - 5.1) **IN CAMERA** - Legal Advice re MOU
 6. PLANNING ADVISORY COMMITTEE MATTERS:
 - 6.1) Development Agreement Application: Riverport & District Plan Area - Lori Fuller,
3017 Highway #332, Bayport 1 - 18
 - 6.2) **For Info** - Amendments to MODL's Policies MDL-01 and MDL-02 19 - 36
 7. HERITAGE ADVISORY COMMITTEE MATTERS:
 - 7.1) Application to Alter a Municipal Heritage Property - 19 Hospital Road, Garden Lots . . 37 - 42
 8. ADDED BUSINESS (if any)
 9. NEXT MEETING DATE - _____
 10. ADJOURNMENT
-

PROCEDURE FOR ADDRESSING THE COMMITTEE

An opportunity will be provided to all citizens to address the Committee on each agenda item shown on this Agenda or added to the Agenda by the Committee. Individuals who wish to address the Committee are asked to note the following:

- ▶ *On each matter on the Committee's Agenda, the Chair will seek public comment upon the completion of staff's presentation.*
- ▶ *Each person shall state their name.*
- ▶ *All statements and questions shall be directed to the Chairperson.*
- ▶ *Presentations shall be limited to 10 minutes. Persons wishing to address the Committee for a second time will be given an opportunity to do so once all others in attendance have had the opportunity to address the Committee. Persons addressing the Committee for a second time shall limit their presentations to 5 minutes.*

Anyone wishing to address the Committee on a matter not included on this Agenda can have the matter added to the next meeting's Agenda by contacting Jeff Merrill, Director of Planning, at 541-1340 or by e-mail at planning@modl.ca



MUNICIPALITY OF THE DISTRICT OF LUNENBURG

REPORT TO: Planning Advisory Committee.
SUBMITTED BY: Douglas Reid.
DATE: February 19th 2016.
RE: Development Agreement Application: Lori Fuller (*Purple Leprechaun*)

RECOMMENDATION.

[The Planning Advisory Committee respectfully recommends that:]

Council enter into a Development Agreement with Lori Fuller, to allow for the proposed development of a licensed Lounge on the property identified as PID #60195708, located at 3017 Highway 332 in Bayport.

ATTACHMENTS.

Appendix A Location Map, related information materials
Appendix B Development Agreement - DRAFT dated February 19

ORIGIN.

On November 25th, 2015, the Municipality received a Development Agreement application from Lori Fuller pertaining to a proposed additional use, to be co-located with an existing restaurant (*The Purple Leprechaun*), located at 3017 Highway 332, in Bayport. (PID #60195708) On December 8th, Council referred the application to the Riverport & District Area Advisory Committee.

On January 14th, an initial Public Information Meeting was held at the Leprechaun, as a means to inform the general public and surrounding community that this particular application was under consideration. On **February 17th**, staff presented a Report on the proposed Agreement to the Riverport & District Area Advisory Committee. The Area Advisory Committee passed a motion **recommending** that Council consider entering into a Development Agreement, following a discussion on proposed identified conditions.

At this time: Ms. Fuller's stated intent is to pursue a Lounge license with the Province (*via Alcohol, Gaming, Fuel & Tobacco*). Presently, the Leprechaun operates as a licensed eating establishment, which, under s.59 of the Province's *Liquor Licensing Regulations*, allows for the sale of liquor only if/when the customer is also served food. A Lounge license allows the Leprechaun to serve liquor without a food order to customers within a defined portion of the premises, and/or throughout the entire premises, after an identified hour (9.00PM), per s.71 of the regulations.

Ms. Fuller's application noted there would be no expansion to the existing structure, nor were there plans for any other proposed changes to be made to the property, in reference to incorporating the Lounge use. Any interior modifications to the existing restaurant would be cosmetic (*i.e. placement of tables in the space*) and would comply with potential direction from licensing agents re: designated areas for the Lounge and eating establishment.

Attached as **Appendix A** is a Location Map, and related materials, highlighting the identified property's location within the surrounding geography.

BACKGROUND.

Authority

The NS Municipal Government Act allows municipalities to consider certain types of developments by way of a Development Agreement, on those matters that are identified in the local planning strategy [s.225]. The MGA allows municipalities to determine specified terms of any such agreement [s.227]. The Act also sets out procedural requirements for municipalities that seek to enter into a development agreement.[s.228 & s.230], which includes the holding of a Public Hearing by Council on the matter.

The proposed development is located in the Rural Three (RU-3) Zone of the Riverport & District Land Use By-law. Under By-law **section 5.2.3(c)iii**: the development of a Lounge in the Rural Three Zone is considered to be a Restricted Development, permitted only by Development Agreement. A review of relevant policy, found in the Riverport & District Secondary Planning Strategy, and a decision by Council, is therefore required.

Pertinent Property Details.

The Purple Leprechaun has been in existence as a restaurant since the summer of 2014. The days and hours of its operations have varied in the time since opening - however, it is noted that under the current eating establishment license, permitted hours for the serving of liquor to patrons is from 10.00AM to 2.00AM, seven days per week.

The structure that houses the restaurant was extensively renovated in 2005. Re-modeling/alterations/expansion of the pre-existing residence on the property resulted in approximately 1,470 square feet of new commercial space, specifically designed to accommodate an eating establishment use on the first floor (*includes kitchen, washroom & serving area*), and approximately 890 square feet of residential space, located on the second floor. A separate stairway entrance to the single-unit second-floor residential use is located at the rear of the structure. A previous operator began operations in 2006 as “The Kilted Frenchman” before closing their business. In May 2014, Ms. Fuller acquired the property, and shortly thereafter opened the Leprechaun as a licensed establishment.

Also attached to the building is a deck, also built in 2005, that runs along a portion of both the southern and western - facing portions of the structure. This deck provides another approximately 650 square feet of space to the restaurant. To the north of the building, is an existing gravelled driveway and parking lot area, with two entrance points that access onto an extended (paved) portion of Highway 332. This “portion” of the NS Transportation -owned highway parcel is, per a 2005 survey, actually the location of an “old” Feltzen South Road, before that particular roadway was built in its present location. The asphalted entry point onto the main part of Highway 332 is approximately 50 m wide. The parking area for patrons and staff on the Leprechaun property is approximately 25m x 20m.

The remainder of the 1.1 acre property is currently wooded. There are no areas of steep slope found on the property, nor are there any provincially-identified wetlands, per the local By-law’s Development Constraints Map. At one time, a watercourse was identified as running to the north of the identified parcel, on immediately adjacent properties. This watercourse no longer appears on updated provincial watercourse mapping data sources.

There are two immediately adjacent properties. To the east and south: there is an undeveloped 5.5 acre property, also owned by Ms. Fuller, (PID #60632890), which runs to the shoreline with Lower South Cove. To the north: there is an undeveloped (wooded) 6 acre property. Several other properties in the vicinity can also be pointed out.

PID / Civic Address	Current Use	Notes
2984 Highway 332	Residence	next development to the north along the #332.
3024 Highway 332	Farm/Residence	large farm property located across the #332.
PID #60194016	undeveloped / cleared	separated lot, associated with Farm use identified above.
5 Feltzen South	Residence	closest development, located to the south, at intersection.
PID #60693454	undeveloped/wooded	large undeveloped property adjacent to northwest lot line.

DISCUSSION.

Intent of Local Policy.

The intent of the Secondary Planning Strategy, in regard to this type of development, is stated in Policy 4.1.5. Lounges are one of the 25 specified types of land use in the Riverport By-law where Council wishes to have *flexibility* in controlling how they are developed, due to the *potential* of the use negatively impacting on the community at-large.

SPS Policy 4.1.5

“...in recognition of the need to provide flexibility and more specific control of certain land-uses, it shall be the policy of Council that specific uses that are considered to be hazardous or that have the potential for creating unacceptable land-use conflicts or nuisances are permitted in the Rural Three (RU-3) Zone only by Development Agreement, regardless of size or scale of the operation.”

Note the intent is not to prohibit such a use from developing in the local community. Further, as the entire Riverport & District Plan Area is zoned RU-3 under the By-law (*excepting provincial wetlands*), there are no specific areas in the community identified as being “more” suitable locations for this type of restricted commercial development. All properties in the Plan Area can be considered, through the Development Agreement application process.

Beyond a review of relevant statements under Policy 7.1.4 and Policy 7.1.5 of the Planning Strategy, staff would also offer input to the Advisory Committee and Council, as to where the specificity of this particular application would be consistent (*or inconsistent*) with the general intent of Policy, and concerns re: *potential* negative impacts.

Staff would point to where the proposed incorporation of a Lounge use with an existing restaurant establishment may be identified as having some evident implications, but where the amount of identifiable change may be considered to be less than if Council were considering the permitting of an entirely new development on an undeveloped parcel. The following chart highlights where there may be some consistency, in terms of related characteristics, between what is in place *now* with the existing use on the property, and with the proposed incorporation of a *new* lounge use.

	as a Restaurant (only) summer 2014 - present day	potential Restaurant & Lounge
Size of establishment.	~1400 (internal) square feet.	Same size. (<i>no new plans</i>)
Hours of operation.	10AM - 2AM (<i>permitted re: eating establishment license</i>)	Same <i>potential</i> hours associated with a Lounge use (10AM-2AM, six days/week and noon-2AM on Sunday).
Traffic / Parking.	No restrictions, save for occupancy under Fire Code / Liq. Licensing (<i>Occupancy allows for 50</i>)	Any <i>potential</i> increase in patrons must fit within same occupancy constraints.
Entertainment activities.	No constraints currently imposed.	DRAFT Agreement does not identify any new imposition affecting entertainment.
Signage / Site maintenance	Current permit identifies 2 signs.	*necessity of any proposed conditions discussed at local Advisory Committee*.

Should Ms. Fuller not be able to proceed with obtaining a Lounge license with the Province, the chart documents where she would be quite clear in operating the Purple Leprechaun (as a licensed restaurant) without a constraint placed on hours, or type of entertainment, etc. The Municipality may therefore wish to consider what conditions are necessary within an Agreement, which takes into consideration the *potential* conflicts that *specifically* arise with the sale of liquor to patrons without any accompanying food orders. Staff considers that the slight but *potentially* not inconsequential results of the Leprechaun being able to serve patrons liquor might result in two *possible* outcomes:

- An increase or decrease in the number of patrons.
- A change in patron behaviour patterns, regardless of their future numbers, in that there is a *potential* for a more discernible “noise” impact in late evening hours.

Land use regulations are not evidently involved with determination of the first bullet.

In terms of potential conditions in an Agreement that staff would associate with impacts re: second bullet, it is noted that, in a previous proposal that involved a licensed establishment, the recommendation from the Riverport & District AAC as forwarded to PAC, recommended there be no amplified sound or speakers on the deck of that establishment. In that case (*Heron Pub - 2013*): the expressed concern was with the ease of sound travelling across water, given the building’s location being immediately adjacent to Ritcey Cove. In this case - and after notably extensive Committee discussion - the recommendation as forwarded to PAC/Council from the local AAC is that there be no condition in regard to the use of amplified sound, or a limitation re: hours, or a specificity in the Lounge use being restricted to the indoor portions of the establishment.

In short: the Area Advisory Committee considered whether any proposed Development Agreement with the Municipality required a possible condition associated with the *potential* impacts of noise, and considered that this particular change, in allowing for a Lounge use at the Leprechaun, would not vary from what was in existence with the restaurant establishment found on the property at present.

Conformance with Plan Policy.

All Development Agreement applications require a review of relevant policy identified in the local Planning Strategy. A criteria chart referencing the specific Policies considered for this application, with staff comments as to the relevance and/or applicability, is found in table format on the following pages.

There are no Policy matters considered outstanding. In terms of assisting Council in their ability to proceed with making their decision to accept or reject Ms. Fuller’s application, staff has prepared a Draft Development Agreement, dated February 19. (See **Appendix B**) The conditions found in this Draft Agreement may be considered in relation to: the policy statements identified in the Criteria Chart; public input received to-date; and the recommendation and input provided by the Riverport & District Area Advisory Committee.

In particular, staff would note where, based on the input provided by the Area Advisory Committee to omit such matters, there are no conditions associated with limiting the potential impacts of noise, nor are there conditions associated with ongoing site maintenance. Staff would also note where it is expressly worded that Signage is not considered part of an Agreement, but would still be regulated under the Land Use By-law.

Staff has identified a condition re: the retention of an existing vegetated buffer along the northwest lot line, as a screening measure. (7.1.5d) This proposed condition was not included as one of the matters to omit in the RDAAC’s recommendation.

It is noted that any Changes in Use, or changes / alterations in the size of the use or any related structures involved with the commercial use of the property, are considered as substantive changes, and would require the property owner to undertake an amendment process with the Municipality.

4.1.5 Development Agreement is required.	In recognition of the need to provide flexibility and more specific control of certain land-uses, specific uses considered to be hazardous, or have the potential for creating unacceptable land-use conflicts or nuisances are permitted in the Rural Three (RU-3) Zone only by Development Agreement, regardless of size or scale of the operation.	Applicant proposes to operate a Lounge within a portion of an existing licensed restaurant establishment, located at #3017 Highway 332, Bayport (PID #60195708) A Lounge is listed as a Restricted Development in section 5.2.3(c) of the Land Use By-law.
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Policy	Requirement	Staff Commentary
4.3.1 Satisfied. (n/a)	Where Council determines on the advice of a qualified person that there is a significant risk of environmental damage from any industrial development which may be permitted by development agreement, an environmental impact assessment shall be undertaken by the developer for the purpose of determining the nature & extent of any impact. No development agreement shall be approved until Council is satisfied that the proposed development will not cause or result in environmental damage.	No comments identified from NSE.
4.3.2 Satisfied. (n/a)	Development near a significant watercourse, as shown on Schedule "B", Development Constraints Map of the Land Use By-law, shall be setback from the ordinary high water mark in order to minimize the impact of development on fish, wildlife, aquatic ecosystems, and the natural aesthetic characteristics of waterbodies and the immediate shoreline.	No significant watercourse identified on property.
4.3.3 Satisfied. (n/a)	To reduce soil erosion & minimize sedimentation of watercourses, the removal of natural vegetation, infilling & excavation in areas in close proximity of the ordinary high water mark of a significant watercourse, as shown on Schedule "B" of the By-law, shall be subject to erosion control standards as specified in the By-law....	No significant watercourse identified on property.

7.1.7 *Various conditions identified.	A Development Agreement, approved by Council pursuant to this Planning Strategy, may contain terms with respect to any or all matter specified in the Municipal Government Act for the matters that may be addressed by Development Agreement.	<u>proposed Agreement Conditions:</u> -Size and type of commercial use -Maintenance of treed buffer on NW lot line.
7.1.8 (Concerns Process)	A Public Participation Program (MDL-66) shall be held prior to any proposed amendment.... Council shall meet with the Area Advisory Committee when Council is considering a proposal for a rezoning or Development Agreement, or an amendment to the Planning Strategy or the Land-Use By-law.	Letters to surrounding landowners - Dec 29. Public Information meeting - Jan 14. AAC meeting - Feb 17. PAC meeting - Feb 25 Council First Reading TBD
7.1.9 (Concerns Process)	A public hearing shall be held by Council, pursuant to the Municipal Government Act (MGA), prior to entering into any Development Agreement & no Development Permit shall be granted until the appeal period and any appeals pursuant to the MGA have been completed.	-relevant after decision of Council at First Reading-

7.1.4	In considering Development Agreements in addition to all other criteria as set out in the various policies of this Secondary Planning Strategy, Council shall be satisfied that: <i>[for conditions listed under clause (b), read: that the development is not premature or inappropriate due to...]</i>
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Policy	Requirement	Staff Commentary
(a)	the proposal conforms to the intent of the Municipal Planning Strategy and of the Secondary Planning Strategy	See Report section entitled “ <i>Intent of Local Policy</i> ” re: incorporation of Lounge use within an existing licensed restaurant establishment.
(b) i n/a.	financial ability of the Municipality to absorb costs related to the development;	Proposal does not impact municipal financial capacity.
(b) ii Satisfied.	adequacy of Municipal services;	No municipal water/wastewater services provided. Property is provided solid waste management services (as it also has an on-site residence).
(b) iii Satisfied	adequacy of physical site conditions for on-site services;	No comments identified from NSE - Property received occupancy permit for current use in 2005. (OP05333)
(b) iv Satisfied.	creation or worsening of a pollution problem including soil erosion & siltation;	No new construction proposed. Use of existing structure
(b) v Satisfied.	adequacy of storm drainage and effects of alteration to drainage pattern including potential for creation of a flooding problem;	No new construction or alteration to cleared portion of the property (parking lot area) is proposed.
(b) vi Satisfied.	adequacy and proximity of school, recreation, emergency services , and other community facilities;	Responses from local Fire Department and from the RCMP cite no issues with proposed development of a Lounge use.
(b) vii Satisfied.	adequacy of street networks and site access regarding congestion, traffic hazards and emergency access;	Response from NS Transportation cited no concern with stopping site distances, and appropriate parking area for proposed use.
(c) Satisfied.	the development site is suitable regarding grades, soils, geological conditions, location of watercourses, flooding, marshes, bogs, swamps, and susceptibility to natural or man-made hazards as determined by a qualified person.	No comments identified from NSE. No environmental constraints identified on By-law Schedule “B”.
(d)	all other matters of planning concern have been addressed.	Provincial licensing process follows <i>after</i> the applicant’s confirmation of compliance with local By-law.

7.1.5	Pursuant to Policy 4.1.4, Commercial, Industrial, and Institutional developments may be permitted by Development Agreement provided Council is satisfied that:
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Policy	Requirement	Staff Commentary
(a) Satisfied.	the development shall not create undue traffic hazards, traffic congestion, or pedestrian hazards;	NS Transportation response cites no concerns.
(b) <u>No condition identified</u>	the development shall not generate emissions such as noise, dust, radiation, odours, liquids or light to the air, water, or ground so as to create a nuisance or health hazard or so as to compromise the development potential or value of properties in the vicinity;	Noise > Area Advisory Committee specifically recommended the Agreement not contain conditions (as initially proposed by staff) in regard to limitations on use re: amplified sound / hours (re: noise) as unnecessary.
(c) Satisfied.	subject to the physical characteristics of the site, the development shall achieve optimum separation from adjacent properties which are not in Commercial or Industrial use.	Use of existing structure on property.
(d) <i>*Condition identified.</i>	screening in the form of fences, vegetation, or berms as appropriate shall be constructed or installed wherever possible in order to minimize impact on the abutting uses and ensure public safety;	AAC's recommendation was to <u>not</u> include conditions associated with site maintenance. <u>Removed from Draft.</u> Draft agreement includes condition re: maintenance of a vegetated buffer along northwest property line.
(e) Satisfied.	all structures shall be built, repaired, and maintained with durable, weather-resistant building material, such that the appearance complements the natural surroundings and existing built environment;	Existing structure extensively renovated in 2005.
(f) Satisfied.	signs shall satisfy the requirements of the Land Use By-law;	2 signs included with 2005 permit. Any future signage not considered as part of draft Agreement - identified as still needing to meet LUB requirement in Agreement.
(g) n/a	no development shall increase traffic volume so as to have an undue negative effect on properties that are served by a residential street;	Property adjacent to provincial highway.
(h) Satisfied	the applicant has shown that the development can be serviced as well as the demand on the water source will not have a negative impact on the environment or the quality and quantity of the water resources;	NSE: applicant remains responsible for the continued adequacy of on-site treatment. Conditions associated with water also associated with provincial standards re: Food Safety in eating establishments.
(i) Satisfied.	driveways, parking areas, and any areas used for the open storage of equipment or stock shall be surfaced with stable materials to prevent dust from blowing onto adjacent properties.	Use of existing parking area identified on property.

OUTCOMES FROM PUBLIC INFORMATION MEETING. [January 14]

On January 14th, staff provided a presentation in regard to the applicant's proposal, as well as a brief overview on the process and particulars of Development Agreement applications. The meeting took place at the Purple Leprechaun itself, and provided an opportunity for Ms. Fuller to engage directly with interested citizens. Letters regarding the meeting were sent to all landowners within a 305m radius of the property, with more general communications provided via the Planning Services e-list serve. Approximately 25-30 residents attended the meeting. Items that drew additional discussion from members of the public in attendance included:

Noise: Concerns were expressed as to what additional noise impacts could occur with the allowance of this type of development, and, in particular, the potential for increased amounts of noise that would be generated in the evening hours, and how noise is/could be dealt with by the Municipality, on an ongoing basis.

Hours: Ms. Fuller identified what current hours that her business was free to operate.

Property values: As has been the case in previous meetings, a member of the public asked if there was any consideration of the impact on nearby residential property values. Staff's response was/is that there are a number of factors that affect the value of a property, which can include the uses found on a neighbouring or adjacent property. When staff refers to determination of "impacts" associated with a proposed use, it looks to where such impacts are defined in Council's policy, and, where possible, what mitigative actions can be taken. In the case of the impacts on future property values: as there are an unknown number of buyers, and unknown variables that each potential buyer might seek in a possible future transaction, the impact is considered as a potential unknowable.

Support for local enterprise: While there were identified concerns from residents, it would be remiss for staff to not also note that a number of citizens did speak publicly and positively to Ms. Fuller's development of the existing business, and encouraged the community's ongoing support of business establishing within the community.

OUTCOMES FROM AREA ADVISORY COMMITTEE MEETING. [February 17]

At a meeting on February 17th, following staff's report and presentation to the Riverport & District Area Advisory Committee, a few residents re-iterated to the AAC directly both the concern regarding noise (*in particular the lack of possible restraint in the late evening hours*) while others voiced support in seeing the restaurant be able to add a Lounge use within the existing establishment. In total, 8 members of the public attended.

AAC members also asked staff a number of questions in regard to possible conditions, and the impacts associated with each, which the Municipality could incorporate in a Development Agreement, regarding noise. Ms. Fuller noted to the Committee that she considered that any such potential conditions would be constraints upon the success of her enterprise. She outlined that, in her opinion, what activities would go on at the Leprechaun as a restaurant/lounge would remain consistent with what is in place at present, as a (permitted) licensed restaurant.

In making a recommendation to Council/PAC, the RDAAC therefore noted that they were in support of Council **entering into a Development Agreement** with Ms. Fuller, and that **their recommendation omitted the inclusion** of any proposed condition associated with noise/hours, as well as site maintenance.

CONCLUSION.

Staff's recommendation is that a Draft Development Agreement be reviewed by members of the Planning Advisory Committee, and it be determined by the Committee if such a document can then be recommended to Council.

ALTERNATIVES / OPTIONS.

The Planning Advisory Committee may consider a number of four options in making any recommendation:

[1] They can recommend that the proposed Development Agreement, as drafted and dated November 19th, be approved.

[2] They can recommend that the proposed Development Agreement, be approved, subject to additional conditions. Committee members may identify what particular (*substantive*) changes are to be made to the draft document that would be in addition to what has been presented, and/or where particular changes may alter or delete what has been presented.

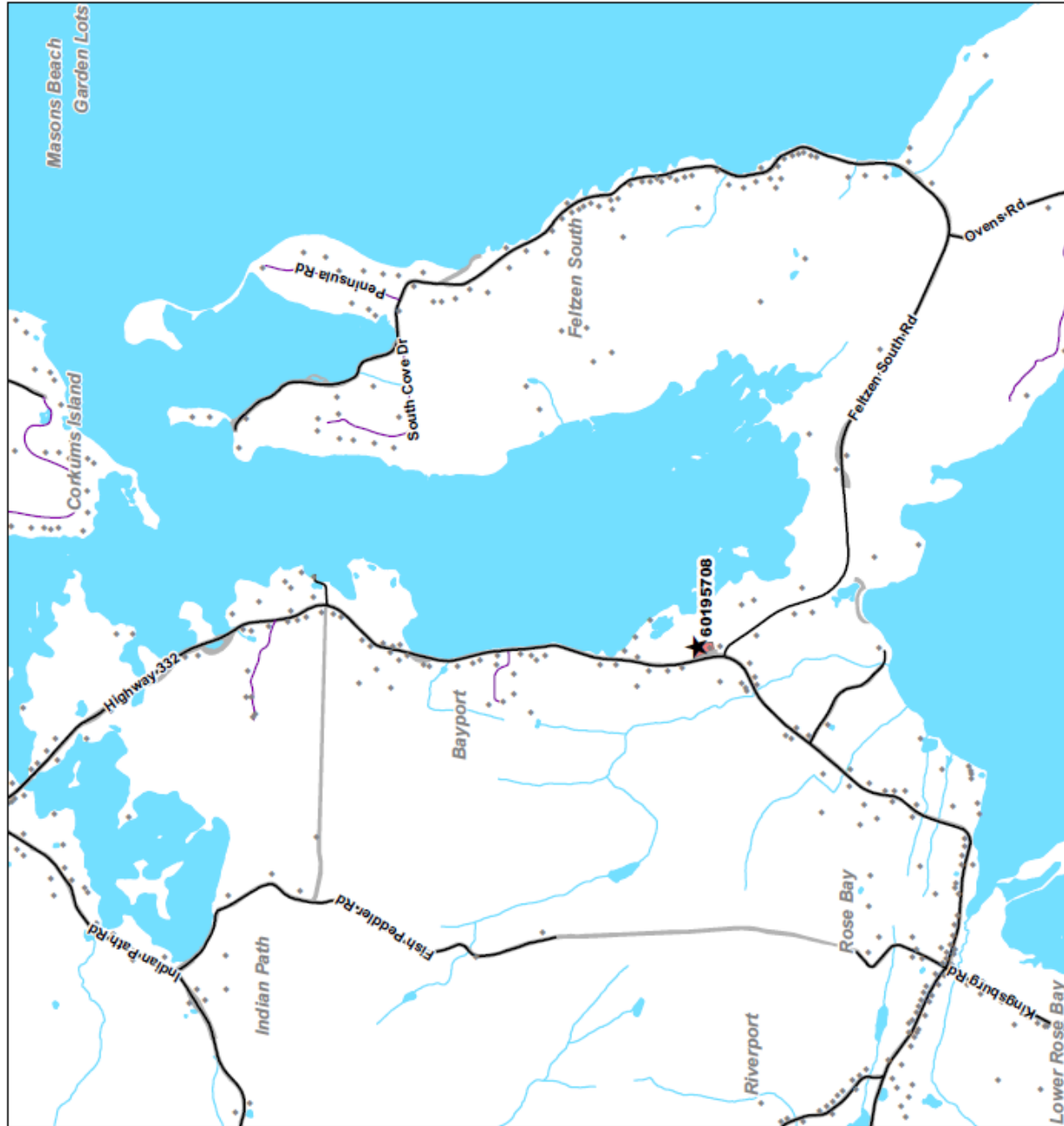
[3] They can recommend that the proposed Development Agreement not be approved, and that it is the Planning Advisory Committee's recommendation that Council not enter into any Development Agreement with Ms. Fuller as it pertains to her application.

[4] They can defer a recommendation or further comment, until such time as the Committee is able to consider information, presented to them by the applicant, or by planning staff, or by identified agencies. Committee members may include in such a motion what specific information is considered necessary that requires a deferral.

Appendix A Location Map, related information materials.



Development Agreement 60195708



0 130 260 520 780 1,040
Meters

Project Description:

MUNICIPALITY OF THE DISTRICT OF LUNENBURG

Source: Digital Base Map Data from the Nova Scotia
Geomatics Centre, Antigonish, NS
Disclaimer: Information compiled from numerous sources
and may not be complete or accurate.
Graphic is for reference only.

Date: December 21, 2015
Prepared By: Planning & Development Services
Municipality of the District of Lunenburg



THIS **DEVELOPMENT AGREEMENT** made this _____ day of _____, A.D., 2016.

BETWEEN

LORI FULLER, of Bayport, in the County of Lunenburg, in the Province of Nova Scotia.

(Hereinafter called the "DEVELOPER")

OF THE FIRST PART

and

MUNICIPALITY OF THE DISTRICT OF LUNENBURG, a municipal body corporate, with offices in the Town of Bridgewater, in the County of Lunenburg and the Province of Nova Scotia.

(Hereinafter called the "MUNICIPALITY")

OF THE SECOND PART

and

[Name of Lender cited in Final Agreement]

(Hereinafter called the "MORTGAGEE")

WHEREAS the Developer has good title to the property identified as PID #60195708, which is also more commonly known as civic address 3017 Highway #332, in the community of Bayport, Lunenburg County, Nova Scotia, and which is more fully bounded and described in "Schedule A" attached hereto;

AND WHEREAS the Developer indicated to the Municipality their intention to develop an identified portion of the property located at 3017 Highway #332 specifically as a Lounge, within an existing restaurant establishment, subject to the liquor licensing regulations of the Province of Nova Scotia;

AND WHEREAS the property described in "Schedule A" is subject to the Riverport & District Secondary Planning Strategy and Riverport & District Land Use By-law for the Municipality, and is located in the Rural Three Zone;

AND WHEREAS Policy 4.1.5 of the Riverport & District Secondary Planning Strategy and Subsection 5.2.3(c) of the Riverport & District Land Use By-law, provide that specific uses that are considered to be hazardous, or that have the potential for creating unacceptable land use conflicts, shall be permitted in the Rural Three Zone only by Development Agreement, regardless of size or scale of the operation;

AND WHEREAS the Developer's proposed commercial use of the property as a Lounge is considered by the Municipality as a restricted development, identified under Subsection 5.2.3(c)iii of the Riverport & District Land Use By-law;

AND WHEREAS the Municipality, by Resolution of Council, passed at its meeting held on the XXXXX day of XXXXXX, 2016, approved the proposed development subject to the execution of this Development Agreement by the parties hereto; and

NOW THIS AGREEMENT WITNESSETH that in consideration of \$1, now paid, by the Developer to the Municipality and the foregoing recitals, the agreements contained herein, and for other good and valuable consideration the receipt and sufficiency of which is hereby confirmed, the parties hereto agree as follows:

1. DEFINITIONS

- a. **Property** unless where otherwise described, means the identified PID #60195708, located at civic address 3017 Highway 332, as described in Schedule "A" and identified on Site Plans included in Schedule "B"
- b. **Lounge** means a licensed establishment operating according to established provincial regulations concerned with the serving of alcohol to the general public.
- c. **Restaurant** means a commercial establishment where food and beverages are prepared, served and consumed by the public, and which may be licensed to serve liquor, as according to provincial regulations.

2. CHANGES AND ALTERATIONS

- a. That all matters in this Agreement which are not specified in clause 2 (b) below, are considered non-substantive matters, and may be changed or altered by amendment to this Agreement in accordance with clause 230(7) of the Municipal Government Act, provided that the Municipality determines that the changes do not significantly alter the intended effects of this Agreement.
- b. That the matters identified below are substantive matters, and can only be altered by amendment to this Agreement:
 - i. the identified Commercial Uses of the property, identified in **section 3** of this Agreement;
 - ii. any changes or alteration to the Site Plans, identified in **section 4** of this Agreement, and included as "Schedule B" of this Agreement, where it would result in changes, alterations or expansions to buildings or structures associated with the identified Commercial Use of the property, or the identified vegetated buffer along the northwest lot line.

3. USE

- a. That the development and use of the property shall be for a provincially licensed lounge and a provincially licensed restaurant, in accordance with the **Definitions** identified in this Agreement, and consistent with the Developer's application received November 25, 2015, any related addendums submitted by the Developer with their application, and with Site Plans identified in "Schedule B" of this Agreement.
- b. That the existing single-unit residential use of the property, located on the second floor of the structure, and any identified accessory uses pertinent to the residential use of the property, is not considered part of this Agreement.

4. SCHEDULE B - SITE PLAN DETAILS

- a. That the Site Plans, identified in Schedule "B" of this Agreement, show the location of all existing buildings, structures (to include any decks, wharves, etc), identified parking areas, and any associated outdoor storage spaces, in relation to the identified commercial use, defined in **section 3** of this Agreement.
- b. That the Developer will inform the Municipality of any proposed changes or alteration to the Site Plans, identified in Schedule "B," and that any changes, alterations, or expansions to existing buildings, structures, or to the identified vegetated buffer located along the northwest lot line, are considered substantive matters under **Section 2** of this Agreement.

5. SCREENING FROM ADJACENT PROPERTY

- a. That the Developer will maintain an existing vegetated buffer (forested land) of no less than 10 metres from the lot line, to serve as screening, extending from the side lot line shared with the adjacent property located to the northwest, identified as PID #60693454, as and where described on the Site Plans identified in Schedule "B".

6. SIGNAGE NOT APPLICABLE

- a. That any existing or proposed signage, in relation to the identified use, must satisfy requirements of the Riverport & District Land Use By-law, and any other regulations as may be applicable, but for clarity purposes, it is identified that signage is not considered to be part of this Agreement.

7. SITE VISIT AND INSPECTIONS

- a. That the Developer agrees to the Municipality performing an evaluation of conditions identified in this Agreement by undertaking site inspections of the property as and when necessary, and by reviewing any related written materials with the Developer.

8. REGISTRATION, EFFECT OF CONVEYANCES AND DISCHARGE

- a) That the Municipality shall cause this Agreement to be registered, at the expense of the Municipality, in the Office of Registrar of Deeds in Bridgewater, Lunenburg County;
- b) That pursuant to the Municipal Government Act, where the lands described in Schedule "A" or any part thereof which are subject to this Agreement is conveyed to a person not a party to this Development Agreement, this Agreement shall continue to apply to the lands described in Schedule "A" until discharged by the Municipality;
- c) That this agreement shall be in effect until discharged by resolution of Council of the Municipality pursuant to the Municipal Government Act, whereupon the Land Use By-law shall apply to the Property;
- d) That the Municipality may discharge this Development Agreement if the use described herein has not yet commenced within twelve (12) months of the date of this Agreement;
- e) That the Municipality retains the option of discharging this Development Agreement should any fact provided by the Developer to the Municipality constitute a material misrepresentation of the facts;
- f) That the provisions of this Agreement are severable from one another and the invalidity or unenforceability of one provision shall not affect the validity or enforceability of any other provision; and
- g) That this Agreement shall ensure to the benefit of, and be binding upon the Municipality and the Developer, and their successors and assigns.

9. COMPLIANCE WITH OTHER BY-LAWS AND REGULATIONS

- a) That nothing in this Agreement shall exempt the Developer from complying with other By-laws or Regulations in force within the Municipality, or any provincial or federal statutes and regulations, and the Developer agrees to observe and comply with all such existing laws and future by-laws, statutes and regulations, in connection with the development and use of the Property; and
- b) That where the provisions of this Agreement conflict with those of any by-law of the Municipality or any provincial or federal statute or regulation, the higher or more stringent requirements shall prevail.

10. OWNERSHIP AND INTERESTS

- a. The Developer hereby certifies that Lori Fuller is the sole owner of the property described in attached Schedule "A" and that a Statement of Registered and Recorded Interests (SRRI) has been provided to the Municipality to evidence same.
- b. The Developer also certifies that Lori Fuller has not disposed of any interests in the property and there are no judgements, mortgages, or other liens or encumbrances, unless noted herein this Agreement, affecting the property.
- c. Whereas, the Mortgagee, pursuant to a mortgage dated May 9th, 2014, and registered as Document #105035159 in the Bridgewater Registry of Deeds, has consented to the Agreement and to give effect thereto by their signature, provided nonetheless the Mortgagee shall not, by reason only of its execution of this Agreement, be obligated to fulfil the obligations of the Developer herein.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed by affixing their seals and corporate seals on the day and year first above written.

.....signatures/seals/witnesses, etc.....

Schedule "A"

PARCEL DESCRIPTION:

PID 60195708

Municipal Unit: District of Lunenburg, Lunenburg County

Civic Number: Lot 05-1A, Bayport

Lot Designation on Plan: Lot 05-1A (area 1.14 acres more or less) on a Plan by Bruce Hyson, N.S.L.S., dated 22 April, 2005 (his #05-026)

Plan Recording Number: 82200693

Plan Recording Date: 2005-06-15

Registration District: Lunenburg County

The parcel originates with an approved Plan of subdivision that been filed under the Registry Act or registered under the Land Registration Act at the Land Registration Office for the registration district of Lunenburg County as plan or document number 82200693.

SITE PLANS SCHEDULE "B"

- PROPERTY DETAILS -
- PID # 60195708 -
3017 HIGHWAY 332

ADJACENT PID

60693454

EXISTING FORESTED
LANDS - VEGETATION
TO BE MAINTAINED
BY DEVELOPER

no less than
10
metres
10m

EDGE OF TRANSPORTATION R.O.W

HIGHWAY #332

25 m x 20 m
COMMERCIAL
PARKING AREA

GRAVELLED DRIVEWAY
ENTRANCE TO
#3017 HWY #332

RESIDENTIAL
PARKING
AREA

EXISTING
STRUCTURE

RESIDENTIAL
DECK [2ND LEVEL
ABOVE KITCHEN]

COMMERCIAL
DECK

ACCESSIBILITY
RAMP

EDGE OF TRANSPORTATION R.O.W

'OLD' FELTENSOUTH RD (UNMAINTAINED)

IDENTIFIED
FOOTPRINT OF
EXISTING STRUCTURE
FOUND IN BUILDING DRAWINGS
RETAINED WITH
BUILDING PERMIT # 050333

Municipality of the District of Lunenburg

POLICY

Title: Proceedings of the Council	
Policy No. MDL-01	
Effective Date: November 9, 2010, February 10, 2016	Amended Date: Jan. 26, 2016

1 Definitions

In this policy all words shall have their meanings as described in Standard English dictionaries except for the following:

- 1.1 "Ballot" means:
A written vote that assures the secrecy of an individual's election decision.
- 1.2 "Chair" means:
 - (a) the Mayor; or
 - (b) in the absence of the Mayor, the Deputy Mayor; or
 - (c) in the absence of the Mayor and the Deputy Mayor, the Member appointed by Council to preside; or
 - (d) until a Mayor has been elected, the Clerk.
- 1.3 "Meeting" means a regular or special meeting of Council and covers the period of time in which Members are actually sitting, from the official opening of a meeting until the final adjournment thereof, regardless of the number or length of sessions which may be held and then terminated by temporary recesses or adjournments.
- 1.4 "Point of Order" means:
 - (a) any breach of the rules of order of Council; or
 - (b) any defect in the constitution of any meetings of the Council; or
 - (c) the use of improper, offensive or abusive language; or
 - (d) any other informality or irregularity in the proceedings of Council.
- 1.5 "Procedural Motion" means any motion dealing strictly with procedure and, without limiting the generality of the foregoing, includes the following: motions to adopt an agenda, motions to approve minutes, motions to extend the time of a meeting, motions to refer, motions to amend, motions to table, motions to postpone for a period of time or indefinitely, motions for points of order, motions to defer, motions to adjourn. (amended Jan. 26/16)

- 1.6 "Rescind a Motion" is a motion to nullify a vote taken at a previous meeting. It may be made by any Council member, but only if no action has been taken on the motion.
- 1.7 "Rules of Order" means the parliamentary rules followed by Council when conducting meetings of business, which are the practices under *Robert's Rules of Order*.
- 1.8 "Session" means the proceedings of Council held on any one day
- 1.9 "Substantive Motion" means any motion other than a procedural motion, a question of privilege or a point of order.

2 Elections

- 2.1 The Council shall elect a Deputy Mayor in accordance with municipal policy MDL-11.
- 2.2 The nomination of Deputy Mayor shall be by ballot.
- 2.3 Upon nomination, if a Council member does not wish to accept the nomination, he or she should decline at once, by stating "I respectfully decline the nomination".
- 2.4 Where only one person is nominated for an office and nominations have been closed by resolution, the chair shall declare that person elected to the office in question, by acclamation.
- 2.5 Where more than two persons are nominated for election of Deputy Mayor and no nominee receives, on the first vote or ballot, a majority of the votes of the Members present, the name of the nominee who receives the least number of votes shall be dropped from the vote or ballot and the Council vote again.

The Council shall vote up to three times after the number of candidates still on the ballot has been reduced to two or until one of the nominees has a majority of the votes of the Members present.

In the event of a tie vote for two or more candidates for the office being voted upon and the addition of one vote would entitle one or more of the candidates to be declared elected and where Council has voted up to three times to break the tie vote, the Clerk shall determine the candidate to be declared elected by Lot.

“Lot” means the method of determining the successful candidate by placing the names of the candidates on equal size pieces of paper and placed in a box and one name being drawn by a person chosen by the Clerk.

3 Meetings

- 3.1 Until otherwise decided by Council, Council shall meet at the Council Chamber located at 210 Aberdeen Road.
- 3.2 Regular monthly meetings of the Council shall be held on the second and fourth Tuesdays of each month, unless Council decides otherwise and provides reasonable public notice of such change pursuant to the *MGA*.
(amended Jan. 26/16)
- 3.3 When a Council meeting falls upon a holiday, or upon a day deemed to be inappropriate, Council shall set a new date by resolution.
- 3.4 The Mayor shall preside at all meetings of the Council or, in his absence by the Deputy Mayor. (See *Section 15, MGA*)
- 3.5 If both the Mayor and the Deputy Mayor are absent, the Council may appoint a chair from the Members present. (See *Section 15, MGA*)
- 3.6 Except as otherwise provided in *Subsection 22(2) of the MGA*, Council meetings and meetings of committees appointed by Council are open to the public.
- 3.7 Meetings shall convene at a time established by a resolution of Council.

4 Quorum of Council

- 4.1 A majority of the members of Council (Mayor or Chair is considered a member of Council) shall constitute a quorum for the transaction of business in accordance with *Section 20(1) of the MGA*.
- 4.2 At any meeting of the Council, if ten minutes elapse without a quorum being present, the Members present shall meet, and
 - (a) Adjourn the meeting; or
 - (b) Recess; or
 - (c) Extend the time for the meeting of the Council for one half hour from the hour fixed for such meetings, if a quorum is still not present, the meeting shall stand adjourned.

- 4.3 A Mayor or Member who, without leave of Council, is absent from three consecutive regular meetings of Council, shall there by vacate their office, and the office shall be declared vacant by the Council in accordance with *Section 17(4) of the MGA and Section 18(6) of the Municipal Elections Act*.
- 4.4 Council may excuse, by resolution, the absence of a Member if there is just cause.

5 Voting

- 5.1 No motion shall be voted upon unless seconded and any un-seconded motion shall not be made again during the session.
- 5.2 A motion may be withdrawn by the mover with the consent of the seconder at any time before the Council has voted on it.
- 5.3 When a division on any question is demanded, the chair shall call for the yeas and nays and the chair shall then declare the result.
- 5.4 All votes other than votes on procedural motions shall be recorded.
 - 5.4.1 Unanimous votes shall be recorded as Carried unanimously.
 - 5.4.2 Where vote results are not unanimous, only the names of the Councilors voting against the motion will be recorded.
(amended Jan. 26/16)
- 5.5 Subject to the *Municipal Conflict of Interest Act* and *Sections 205(7) and 230(3) of the MGA*, all Members present including the person presiding, shall vote on a question.
- 5.6 Any Member who fails or refuses to vote and who is required to vote except in accordance with subsection 5.5, shall be deemed to have voted in the negative.
- 5.7 As to the proceedings of Council, unless otherwise prescribed by statute, all questions arising in the Council shall be decided by a majority of votes. In the event of a tie, the question voted on shall be deemed to be determined in the negative.

6 Minutes

- 6.1 Upon the opening of each meeting of the Council, regular or special, the minutes of the last preceding meeting shall be considered and after all necessary corrections and amendments have been made, and the

minutes approved, a copy of the same shall be entered in the Minute Book and shall be deemed to be the original minutes of the Council.

6.2 The minutes shall:

- (a) record the date, time and place of the meeting, and the kind of meeting;
- (b) record the time when any Council member joins or leaves a meeting which is in progress;
- (c) contain all resolutions, and motions, with the name of the mover and seconders; and record outcome of the vote;
- (d) all elections and results;
- (e) mention reports, petitions and other papers submitted to the Council only by their respective titles, or a brief description of their purport, except verbal reports which shall be entered at length; and
- (f) time of adjournment.

7 Agenda

7.1 The order of business shall be at the discretion of the Chairperson, unless majority of Members consent to a different order of business. Otherwise, at each regular meeting of Council, Council shall conduct its business in the following order:

- (a) Call to order and opening;
- (b) Announcements, Acknowledgements, Recognition;
- (c) Public Input;
- (d) Approval of agenda, including additions thereto or deletions there from;
- (e) Approval of minutes;
- (f) Business arising from the minutes;
- (g) Awarding of tenders;
- (h) Presentations;

- (i) Consideration of correspondence;
- (j) Recommendations/referrals from committees and boards;
- (k) Staff reports;
- (l) Mayor's/Deputy Mayor's/Councillors' Matters;
- (m) In camera;
- (n) Adjournment.

(amended Jan. 26/16)

7.2 Notwithstanding (7.1), the first meeting after an election the order shall be;

- (a) Call to order by the Clerk;
- (b) Declaration of results of election;
- (c) Administration of the Oaths of Office for Mayor and Members elect and/or acclaimed candidates;
- (d) Nomination and election by ballot for the Deputy Mayor.

7.3 Deadline for agenda items and accepting material for same is seven (7) days in advance of the meeting date. (amended Jan. 26/16)

7.4 Agendas shall be circulated four (4) days in advance of scheduled meeting dates. (amended Jan. 26/16)

7.5 In the case of urgent and/or pressing necessity, items may be added to a meeting agenda on the day of the meeting, without previous debate or notice being given, with a 2/3 majority vote of Council to add the item to the agenda. It must be demonstrated that the item is of an urgent nature (i.e. time sensitive). (amended Jan. 26/16)

7.6 Added items to an in-camera agenda shall be identified by the type of matter to be discussed, with additional information, where possible, to further identify the item but not as to disclose the confidential information and the reference under the MGA shall be stated. (amended Jan. 26/16)

- 7.7 No new items are permitted to be added or discussed at an in-camera meeting unless the matter has been previously added and approved as an addition prior to moving in-camera. (amended Jan. 26/16)

8 Rules of Debate

- 8.1 The rules and regulations contained in this policy shall be observed in all proceedings of Council and any of its committees; and in any case for which provision is not made herein the procedure to be followed shall be as set out in "*Robert's Rules of Order*" as revised from time to time.
- 8.2 The Council or a committee, by unanimous vote, may suspend any rule of order provided for in this policy and such suspension shall apply to all sessions of that particular meeting.
- 8.3 It shall be the duty of the chair to:
- (a) open the meeting of Council by taking the chair and calling the members to order;
 - (b) announce the business before the Council in the order in which it is to be acted upon;
 - (c) receive and submit, in the proper manner, motions presented by a member of Council;
 - (d) put to vote a question which is regularly moved and seconded or necessarily arises in the course of the proceedings and to announce the result of the vote;
 - (e) restrain the members, when engaged in debate, within the rules of order;
 - (f) enforce on all occasions, the observance of order and decorum;
 - (g) call by name any member persisting in a breach of the rules of order of the Council thereby ordering them to vacate the Council Chamber;
 - (h) inform the Council when necessary, or when referred to, on a point of order;
 - (i) permit questions to be asked through the chair of any official of the Municipality to provide information to assist any debate when s/he deems it proper;

- (j) provide information to members on any matter touching on the business of the Municipality; and
 - (k) adjourn the meeting when the business is concluded;
- 8.4 Every member, prior to speaking to any question or motion, shall raise their hand and wait to be recognized by the chair. When two or more Members have so indicated their desire to speak, the chair shall designate the Member who has the floor.
- 8.5 No Member shall speak more than twice on any motion, except in explanation of their remarks; however, the mover of a substantive motion shall have the right to speak a third time, if necessary, to reply and sum up in closing the debate.
- 8.6 No Member shall speak more than fifteen minutes upon any matter at any one time, without the leave of Chair.
- 8.7 No Member shall move about the chambers unnecessarily, nor speak or whisper so as to interrupt any member or delegate who has the floor.
- 8.8 If a Member wishes to explain a misunderstanding of a point they have made, they shall ask leave of the chair; if permitted, they shall explain only the misunderstanding of their words, without any further comment.
- 8.9 When a Member speaks they shall address their remarks to the chair, confine themselves to the matter in question, avoid mentioning personalities and avoid unbecoming language.
- 8.10 The chair may censure any Member who:
 - (a) while speaking, questions the motives of another Member;
 - (b) while speaking, treats another Member with personal disrespect;
 - (c) passes between the chair and a Member who is speaking;
 - (d) uses unbecoming language;
 - (e) talks or acts so as to distract a Member who is speaking;
 - (f) willfully violates any rule of order.
- 8.11 If a Member feels they have been personally aggrieved by a censure of the chair, they may appeal from such censure to the Council.

- 8.12 Any such Member may speak on their own behalf in relation to any such censure being appealed to Council, but shall withdraw from the Council Chambers before the Council proceeds to consider and vote on the matter.

9 Points of Order

- 9.1 The chair shall, and any Member may, call to order any Member who violates any rule of order. A Member raising a point of order shall verbally state "Point of Order".
- 9.2 When a Member speaks to a point of order, the question of order shall be decided before the matter under discussion is proceeded with, and when any Member is called to order the Member shall refrain from speaking until the point of order is determined.
- 9.3 The chair shall decide on points of order and the chair may make a decision immediately or may permit debate on the point of order before making a decision.
- 9.4 The decision of the chair may be challenged by a motion from the floor, which must be duly seconded, to dissent from the ruling of the chair. Such a motion is not debatable and the chair shall forthwith put the question in this manner "Shall the decision of the chair be upheld?"
- 9.5 If the question does not receive majority support, the ruling of the chair on the point is not sustained and is overturned.

10 Motions

- 10.1 When a motion is before the Council and under debate no other motion shall be entertained until the motion under debate is decided, except for the following:
- (a) a motion to amendment;
 - (b) a motion to refer;
 - (c) a motion to close debate at a specified time;
 - (d) a motion to call for the question;
 - (e) a motion to table;
 - (f) a motion to postpone;

- (g) a point of order;
 - (h) a point of privilege;
 - (f) a motion to adjourn.
- 10.2 A motion to refer a matter for further information shall state to whom the matter is referred, what information is desired.
- 10.3 Motions used to suppress debate such as, referring, postponing to a certain time, or tabling motions shall be ruled out of order.
- 10.4 A motion to adjourn shall always be in order, except in the following cases:
 - (a) When a Council member is in possession of the floor;
 - (b) While the Council members are voting;
- 10.5 No debate shall be allowed on the following motions:
 - (a) a motion that the debate be closed at a specified time;
 - (b) a motion to adjourn;
 - (c) a motion to reconsider an earlier decision of Council; except as allowed in Section 13
 - (d) a motion for leave for any person, not a Member, to address the Council;
 - (e) a motion to change or suspend the order of business;
 - (i) a motion to allow a Member to speak more than the prescribed number of times; and
 - (g) a motion to dissent from the ruling of the chair on a point of order.
- 10.6 Limited Debate shall be allowed on the following motions:
 - (a) A motion to refer a matter to a committee, staff or Council members may be debated only as to whom the matter is to be referred, what specific information is desired, or when the matter shall be brought back to the floor of Council;

- (b) A motion calling for the question shall not be voted on until after every Member who has not spoken on the motion already, and who wishes to speak, has been heard.

10.7 Motions to approve recommendations coming forward to Council from the Audit and Finance Committee shall be debated and voted on as a block.

- (a) The motion will be to accept the recommendations of the Audit and Finance Committee as a whole.
- (b) No recommendation may be debated individually unless a motion is made and passed by a majority of the vote of Council that the particular recommendation be debated on its own merits separate from the recommendations of the Audit and Finance Committee.

(amended Jan. 26/16)

11 Amendments

- 11.1 An amendment shall be relevant to the subject matter of the motion under debate and no amendment shall be allowed which, in the opinion of the chair, has the effect of nullifying the motion under debate.
- 11.2 No more than one amendment and a sub-amendment shall be received by the chair or considered by Council at any one time;
- 11.3 The chair shall make all efforts to clarify the wording being voted on when Council is ready to vote on a sub-amendment, an amendment and then the main motion.

12 Resume Consideration

- 12.1 A motion to resume consideration shall be in order when a matter comes up on the agenda as a result of being earlier referred from the floor of Council to be studied by a board or committee or staff member or Councils.

13 Motion to Reconsider

- 13.1 After a question has been decided, either in the affirmative or negative, and after the decision has been announced from the chair, any member who voted with the majority may at that meeting or the next regular scheduled meeting give notice of intention to move a reconsideration.
- 13.2 Unless reconsideration is moved at the meeting or the next regular meeting the right of reconsideration shall be lost.

- 13.3 The main or substantive motion to be reconsidered does not come back on the floor of Council for debate until the motion to reconsider has been moved, seconded and has received the majority vote of Council.
- 13.4 A motion to reconsider shall not be debatable except where the question to be reconsidered was debatable and that the Member who gave the notice of motion to reconsider has the privilege of stating new information on the motion.
- 13.5 No question shall be reconsidered more than once nor shall a vote to reconsider be reconsidered.
- 13.6 No motion to reconsider shall be allowed in regard to a motion approving all or part of the annual budget.

14 Motion to Rescind or Repeal

- 14.1 Any Council member may make a motion to rescind a main motion, and voting requirements for rescinding or repealing are as follows:
 - (a) if notice given a majority vote is required;
 - (b) if notice not given a 2/3 vote is required.
- 14.2 Any action may be rescinded or repealed except where action has been taken that cannot be undone.
- 14.3 A motion to rescind may be used if the opportunity for reconsideration has lapsed. (See section 13.2)

15 Motion to Renew

- 15.1 After a motion has been rejected, the maker of the motion may renew his or her motion at a future meeting, only if the option for reconsideration has expired.
- 15.2 A motion to be renewed may not be made until a clear 6 month period has passed.

16 Petitions

- 16.1 Every ratepayer or resident of the Municipality, and every corporation doing business therein, shall have the right to be heard before Council by petition and every petitioner shall be entitled to be heard at the time of presentation of the petition.

- 16.2 Persons accompanying the petitioner may be heard, in support of such petition, if they have obtained consent by a majority vote of the Council. A total of 15 minutes shall be allotted to the petitioner and accompanying persons to speak to the petition at the Council meeting. (amended Jan. 26/16)
- 16.3 The petition must be addressed to the Council of the Municipality of the District of Lunenburg and request a particular action within the authority of Council. (amended Jan. 26/16)
- 16.4 Every communication, including a petition designed to be presented to the Council, shall be legibly written or printed and shall not contain any obscene or improper matter or language and shall be signed by at least one person and filed with the Clerk. (amended Jan. 26/16)
- 16.5 The filing of a petition with the Clerk shall be done at least one week before the first day of the meeting of Council at which it is to be considered. (amended Jan. 26/16)

17 Verbal Presentations

- 17.1 Any persons who are not Members or officers of the Municipality shall observe silence and order in the Council Chambers, unless given permission to speak on behalf of a petition or otherwise allowed in this policy. Any such persons disturbing the proceedings of Council shall be called to order by the chair and, if they fail to comply, shall be ordered, by the chair to leave the Council Chambers.
- 17.2 At the beginning of council meetings, fifteen (15) minutes for non scheduled public input shall be available.
- 17.3 For scheduled presentations any delegation, wishing to address Council shall:
 - (a) give notice of such request to the Clerk at least one week prior to the scheduled meeting at which such delegation is to appear;
 - (b) be provided fifteen (15) minutes to appear.
- 17.4 No motions shall be brought to the floor, until; such time as the delegation has ended and the matter has been placed on an agenda thus providing for the opportunity to debate and/or discuss the matter in question.

18 Repeal

18.1 Previous policy MDL-01 is hereby repealed and replaced with new policy MDL-01.
(amended Jan. 26/16)

Clerk's Annotation for Official Policy Book

Date of Adoption November 9, 2010

Date of Notice to Council Members
of Intent to Consider (7 days minimum) October 21, 2010

Date of Passage November 9, 2010

Date of Notice to Council Members
of Intent to Consider Amendments: January 19, 2016

Date of Passage of Amendments: January 26, 2016

I certify that this MDL-01 "***Proceedings of Council***" was adopted by Council as indicated above.

Municipal Clerk

Date

Municipality of the District of Lunenburg POLICY

Title: Committees	
Policy No. MDL-02	
Effective Date: March 27, 2012, February 10, 2016	Amended Date: Jan. 22, 2013, Sept. 23, 2014, Jan. 26, 2016

1. Committees of Council

- 1.1 Council may, under Section 24 of the *Municipal Government Act*, establish standing, special and advisory committees. Each committee shall perform the duties conferred on it by the Act, any other Act of the Legislature, the by-laws or policies of the Municipality, or their Terms of Reference approved by Council.

(amended Jan. 26/16)

2. Nominating Committee

- 2.1 The first Committee to be appointed shall be the Nominating Committee, which shall consist of the Mayor and three members of Council appointed by the Mayor.
- 2.2 Committee members shall serve for a one-year term, such that all twelve members of Council serve on the Nominating Committee once during their term of office.
- 2.3 The Nominating Committee shall make all Council appointments to MODL Committees and Standing Committees.
- 2.4 The Nominating Committee shall also recommend appointments to all other Committees, Commissions and Boards to which the Council may appoint members, except the public members-at-large of the Fire Service Committee for which this Committee shall recommend appointments directly to Council. (amended Sept. 23, 2014)
- 2.5 The Nominating Committee shall receive letters of nomination for awards of Acts of Bravery and Substantial Achievement and shall recommend those deemed worthy of the award to Council as outlined in Policy MDL-42 "Acts of Bravery and Substantial Achievement Awards. (amended Jan. 26/16)
- 2.6 The Nominating Committee shall review nominations and make recommendations to Council for all Community Achievement Awards. (amended Jan. 26/16)

3 Council and Staff Working Session

- 3.1 Council will meet once a month for a Council and Staffing Working Session.
- 3.2 The purpose of these sessions is to provide an informal discussion session where staff and Council can review, research and discuss municipal projects and policies in preparation for debate at a formal Council meeting.
- 3.3 All Council members shall attend the Council and Staff Working Session. Relevant staff with expertise on the items to be discussed will be in attendance.
- 3.4 The Chief Administrative Officer, in consultation with the Mayor, will establish discussion topics for the Council and Staff Working Session.
- 3.5 Council and Staff Working Sessions are open to the public.
- 3.6 As these sessions are for discussion and input at the development or exploratory stage of an item/matter only, there will be no decision making authority at this level or preparation of a formal agenda or minutes.

(amended Jan. 26/16)

4. Planning Advisory Committee

- 4.1 The Planning Advisory Committee shall be appointed as a Standing Committee of Council. (amended Jan. 26/16)
- 4.2 Membership of the Planning Advisory Committee shall consist of 6 Councillors and 4 members-at-large from the public. (amended Jan 22, 2013)
- 4.3 Public member terms shall be non-coincidental two-year terms such that no more than two positions expire in the same year. Public members shall be sought by a publically advertised Expression of Interest and recommended to Council for appointment by the Nominating Committee. Public members may re-offer for the Committee when their term expires. (amended Jan 22, 2013, Sept. 23, 2014)
- 4.4 Public members have full membership in the Committee and as such are afforded the same rights as any member of Council on the Committee.
- 4.5 The Planning Advisory Committee may create an ad-hoc subcommittee to deal with an issue which the membership feels would be better served by a smaller number of people.
 - 4.5.1 A subcommittee may only be created following a seconded motion passed by a majority vote of the Committee Membership.
 - 4.5.2 Any subcommittee that is created must have a declared start date, end date and required decision upon its creation.

- 4.5.3 Any decision brought back to the Planning Advisory Committee by a subcommittee must be passed by a majority vote of the Planning Advisory Committee before being referred to Council.

(amended Jan. 26/16)

- 4.6 On each matter on the Planning Advisory Committee's Agenda, the Chair will seek public comment upon the completion of staff's presentation. (amended Jan. 26/16)

- 4.7 All meetings should be conducted in accordance with Policy MDL-01 unless otherwise stated in this section. (amended Jan. 26/16)

5. Ex Officio

Except where the Mayor is specifically appointed to a Committee, the Mayor shall be a member "ex officio" of all committees, but as an "ex officio" member, the Mayor shall not vote, except in the absence of one or more members of the Committee.

6. Conflict of Interest

Where personal or professional involvement or association could result in an actual or perceived conflict of interest for a member of a Committee, the member shall declare the conflict and abstain from debate on the related topic, or where appropriate, remove themselves from a meeting and shall not vote on any motion applying to the declared conflict.

7. Terms of Reference

- 7.1 The Municipal Clerk will maintain the Terms of Reference for all MODL committees.

- 7.2 Members of a committee may propose amendments to their Terms of Reference by majority vote. Council shall consider proposed amendments but retains final authority to amend or retain the existing Terms of Reference. (amended Jan. 26/16)

8. Repeal

Any previous version of policy MDL-02 is hereby repealed and replaced with new policy MDL-02.

Annotation for Official Policy Book	
Date of Adoption:	<u>March 27, 2012</u>
Date of Notice to Council Members of Intent to Amend (7 days minimum)	<u>September 9, 2014</u>
Date of Passage of Amendments:	<u>September 23, 2014</u>
Date of Notice to Council Members of Intent to Amend (7 days minimum)	<u>January 19, 2016</u>
Date of Passage of Amendments	<u>January 26, 2016</u>
I certify that policy MDL-02 “<i>Committees</i>” was adopted by Council as indicated above. Municipal Clerk Date	



MUNICIPALITY OF THE DISTRICT OF LUNENBURG

Memorandum

TO: Heritage Advisory Committee.
 SUBMITTED BY: Douglas Reid.
 DATE: February 17th 2016.
 RE: Proposed Alteration to Registered Municipal Heritage Property
 19 Hospital Road, Garden Lots

STAFF RECOMMENDATION.

[The Heritage Advisory Committee respectfully recommends to Council that:]

Council approve the proposed substantial alteration to the Registered Municipal Heritage Property located at 19 Hospital Road, Garden Lots, the alteration being the addition of a vent pipe, approximately 5 metres in length, to be located on/at the northeast corner of the building façade.

ATTACHMENTS.

Appendix A Location Map & related Photographs
Appendix B Applicant Sketch of proposed Alteration

ORIGIN.

On February 1st, 2016, planning staff received correspondence from the current property owner (*Nancy Selig*) of a Registered Municipal Heritage Property, located in Garden Lots. The property owner's request was associated with the proposed installation of a new secondary heating system. The heating system - a pellet stove - requires venting to the exterior, and involves changes being made to the existing façade, more specifically: impacting the structure by creating a new opening on the wall located at the northeast corner. A vent pipe, approximately 5 metres in height, would then run vertically alongside the edge of the building.

Such an **alteration / addition** can be identified as a substantial alteration per section 4.1 of the Municipality's Policy [MDL-27] respecting the review of Alterations to Municipal Heritage Properties. Ms. Selig's request therefore comes forward to the Heritage Advisory Committee, for their review and recommendation to Council.

DISCUSSION.

Property and associated Heritage-associated Details

19 Hospital Road, Garden Lots was first registered as a Municipal Heritage Property in December 1999. The reasons provided for designation at that time were associated with the age of the structure (*erected in 1899*); the external architecture of the structure being reminiscent of the "Four Square" style of the Victorian Era; and the local historical significance of the home, being associated with the MacIsaac family. (long referred to as "MacIsaac House")

The Municipality refers to *Standards and Guidelines for the Conservation of Historical Places in Canada* (Parks Canada, Second Edition, 2010, accessible at: <http://www.historicplaces.ca/en/pages/standards-normes.aspx>) as the relevant authoritative source, in consideration of any requests involved with the alteration of municipal heritage properties. In this particular case: the proposed alteration can affect the (identified) heritage aspect of the building's exterior architecture, by adding a new vent pipe to the existing structure's north facing façade.

Standards and Guidelines

The assessment of any proposed alteration can be first identified with a review of acknowledged **Standards** associated with any *Preservation* and/or *Rehabilitation* project affecting the conservation of a Heritage Property. There are (9) Standards identified with Preservation (*which apply in any project type*), and there are (3) Standards identified specifically with Rehabilitation. In the table below, staff has pointed to where certain Statements may be noted, in review / recommendation of this particular proposed alteration.

Standard (Statement)	Staff Comment
S 1. Conserve the heritage value of an historic place. Do not remove, replace or substantially alter its intact or repairable <i>character-defining</i> elements. Do not move a part of an historic place if its current location is a character-defining element.	The <i>character defining</i> element of the “Four Square” styled architecture is not compromised by the addition of a vent pipe opening. The housing style is commonly associated with a square-box shape, a hipped roof, and a wide front porch (<i>in this case, the porch is already closed in</i>). None of these elements would be affected by this alteration.
S 3. Conserve heritage value by adopting an approach calling for <i>minimal intervention</i> .	The vent pipe would require a new opening along one of the facades - in this case, the owner’s chosen location will not alter the front façade, but would affect the façade visible when travelling towards the building, along a well-travelled street, before the Hospital Rd intersection.
S 11. Conserve the heritage value and character-defining elements when creating any new additions to an historic place or any related new construction. Make new work <i>physically and visually compatible with, subordinate to and distinguishable from</i> the historic place.	The location of the wall opening is identified as the NE corner of the building, in proximity to where other additions were made to the building, in previous eras. (Note: back porch) The vertical nature of a vent pipe would look to run parallel with existing features that are already in place on the façade. (Note: gutter, blue trimmed cornerboards). The addition’s aspect in design may be considered as subordinate - <u>and distinguishable from</u> - the “square -styled” aspect of the building’s architecture.
S 12. Create any new additions or related new construction so that the essential form and integrity of an historic place will not be impaired if the new work is removed in the future.	Potential future removal of any vent pipe & opening would not interfere with the integrity of the architectural aspects that are recognized as being of heritage value.

Beyond the **Standards**, there is also reference made to **Guidelines** (“recommended / not recommended” actions) associated with various types of additions or alterations that can affect a heritage property. In this particular case: the relevant Guidelines relate to the possible introduction of a new mechanical system (*heating system*) that impacts on an exterior wall considered to be part of the heritage significance of the property. Particular Guidelines that staff would therefore make note of, found in the table below, are identified under **Part 4.3.4** (Walls) and **Part 4.3.9** (Mechanical/Electrical Systems) within the reference document.

Guidelines for Projects (Statement)	Staff Comment
4.3.4 (20) Designing a new addition in a manner that preserves the <i>character-defining</i> exterior walls of the historic building.	The diameter, and location of the opening in the wall for the vent, can sized and positioned to be as unobtrusive as possible.

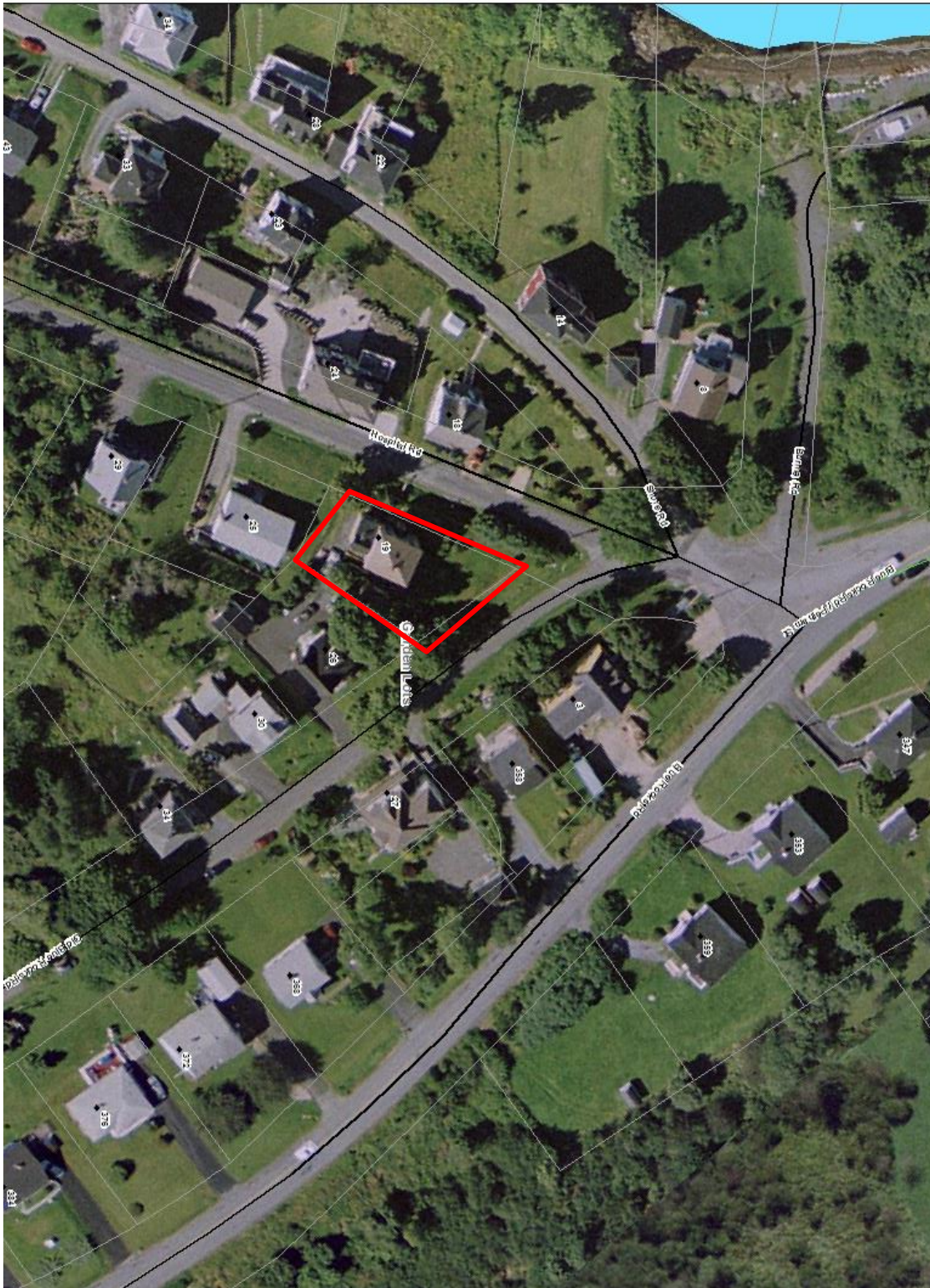
Guidelines for Projects (Statement)	Staff Comment
4.3.9 (4) Assessing the condition of mechanical and electrical systems and their components early in the planning process so that the scope of work is based on current conditions.	In her request, the property owner referenced the need for the house to have a secondary heating system, so as to make it habitable for them. Consideration of other possible additional heating sources were not viable, due to their cost (electric, chimney liner) and/or would result in a more substantial alteration occurring (wood stove requires larger opening).
4.3.9 (24). Installing new heating/air conditioning units in a manner that does not <i>damage</i> or <i>obscure character-defining elements</i> and generate excessive moisture.	Location of opening was based on input of the professional installer. It is noted that the east wall would be considered the most unobtrusive, given related additions (back verandah) added to the house, post initial construction. The west wall is considered the front of the house. Proposed opening and location of pipe to be closest to the NE corner.
4.3.9 (26) - NOT RECOMMENDED - Installing vertical runs of ducts, pipes and cables in places where they will <i>damage, radically alter, or obscure character-defining elements</i> .	Vertical pipe runs parallel to trim and gutter features located on corner of the building.

CONCLUSION.

Staff recommends that the Heritage Advisory Committee consider making a positive recommendation to Municipal Council, permitting the proposed alteration, as described by the applicant.

The addition of a vent pipe, to appear along the northeast cornerboard of the north facing façade of the building, is associated with maintaining a sufficient secondary heating system within the residence. The recognized heritage significance of the property is associated with its squared structure and noted roof design, being elements found in, or reminiscent to, the “Four Square” style of Victorian-era architecture. Installation of a new vent pipe does not diminish the squared design of the building, or the roof line.

The required opening in the wall can be considered as a minor intrusion on the building’s structural integrity, and the impact of a visible vent pipe may be minimized by its location being in proximity to the corner. While the pipe will be recognizably of more modern design to passers-by, it can act in a visually subordinate fashion, where it would look to line up as unobtrusively as possible with the gutter and vertical trim identified on the cornerboard.





19 Hospital Rd, front (west)

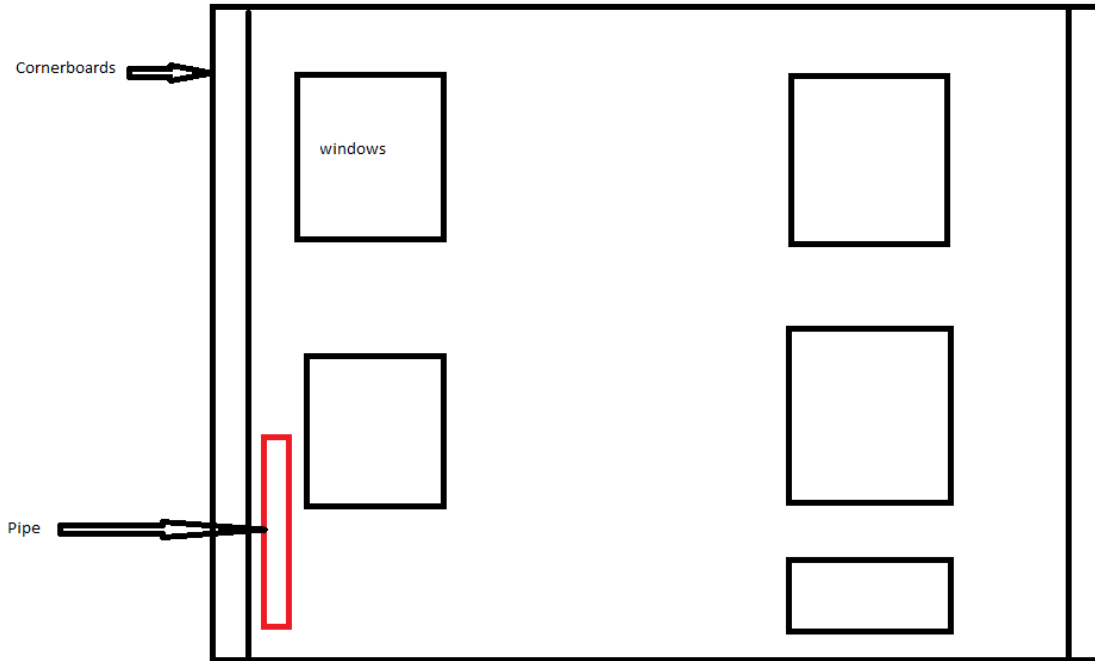


Side re: proposed Alteration (north)



APPENDIX B Sketches (provided by Applicant) identifying location of proposed Alteration.

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