



## STAFF REPORT

### Planning and Development

**Subject:** *Application by Vernon D'Eon for a Land Use By-law Amendment to amend zoning boundaries to properly align with an associated lot consolidation.*

**To:** Municipality of Argyle CAO and Planning Advisory Committee for September 14, 2021

**Date Prepared:** September 10, 2021

**Related Motions:** None

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**Reviewed by:** Jared Dalziel, LPP, MCIP, Senior Planner, WSP Canada Inc.

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### Summary

The Municipality has received an application from Vernon D'Eon to amend the Land Use By-law to adjust the zoning boundaries of the Light Industrial (LI) zone and Mixed Use zone (MU) to match new lot lines of a related lot consolidation for three existing properties. The affected properties are located along the south side of Chemin du Rocher (PID 90076613, PID 9076605 and PID 90076621).

The subject site involves three separate parcels which are zoned as Mixed Use (PID 9076605 and PID 90076621) and Light Industrial (PID 90076613). A separate subdivision application proposes to consolidate the three existing lots into two future lots, with one lot containing the lobster wire trap operation, while the other would contain an existing dwelling and accessory building. This application proposes to zone the entire future lot (V-2) containing the wire trap operation as Light Industrial, and the entire future lot containing the residential use as Mixed Use (V-1). The Light Industrial zone permits a lobster wire trap operation as an as-of-right use, while the Mixed-Use zone permits a residence and accessory building.

### Financial Impact Statement

There is no immediate financial impact aside from the typical public engagement process and staffing requirements resulting from the application.

### Recommendation

That the Planning Advisory Committee recommend to Council to give first reading to the Land Use By-law Amendment Application for the subject site to allow for a zoning change to adjust the LI and MU zones to align with future lot boundaries.

### Recommended Motion

Municipality of Argyle Public Works Department / Community Development recommends that the Planning Advisory Committee recommend that Council:

- give first reading to consider approval of a land use by-law amendment to amend 23,25 and 27 Chemin du Rocher (PID 90076613, PID 9076605 and PID 90076621) to rezone the portions of land as proposed lot V-2 to Light Industrial (LI) zone, and rezone the portions of land as proposed lot V-1 to Mixed Use zone (MU) as indicated in the planner's report.
- proceed to a public hearing without a second meeting of Planning Advisory Committee unless substantial comments are received from the public; and
- authorize Staff to schedule a public hearing for the application.

## Background

Mike Doucette on behalf of the property owner, Vernon D'Eon has applied for a Land Use By-law Amendment application to correct zoning boundaries that would better align with a lot consolidation that is also being proposed, involving PID 90076613, PID 9076605 and PID 90076621. The three properties are zoned as Mixed Use (PID 9076605 and PID 90076621) and Light Industrial (PID 90076613).

Adjacent properties are primarily zoned Mixed Use (MU), with pockets of Light Industrial and Heavy Industrial. Figure 1 shows the context of zoning currently in the area, with the three properties outlined in green.

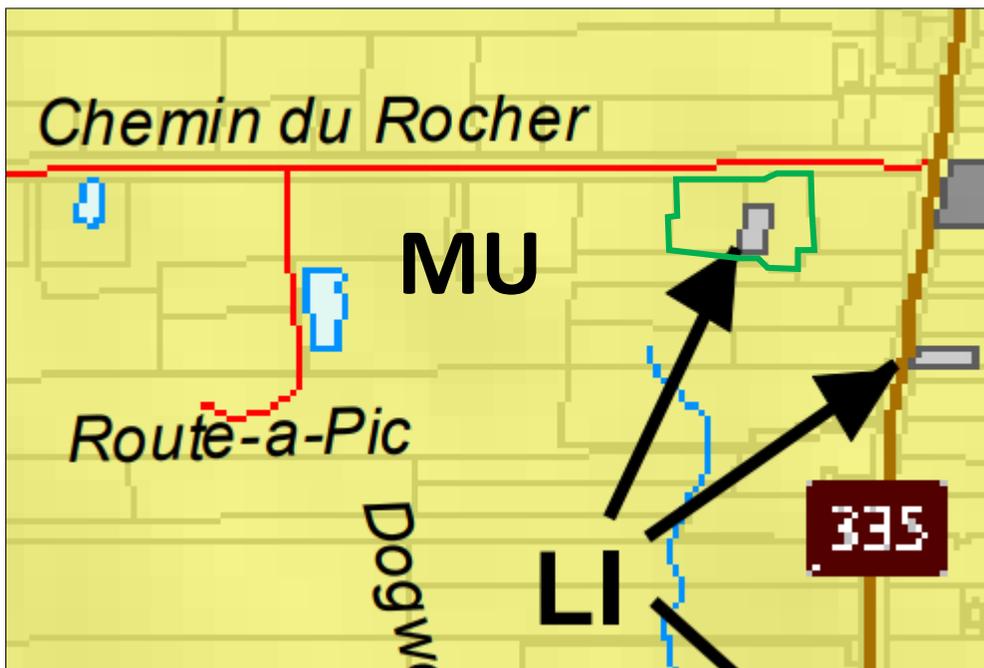


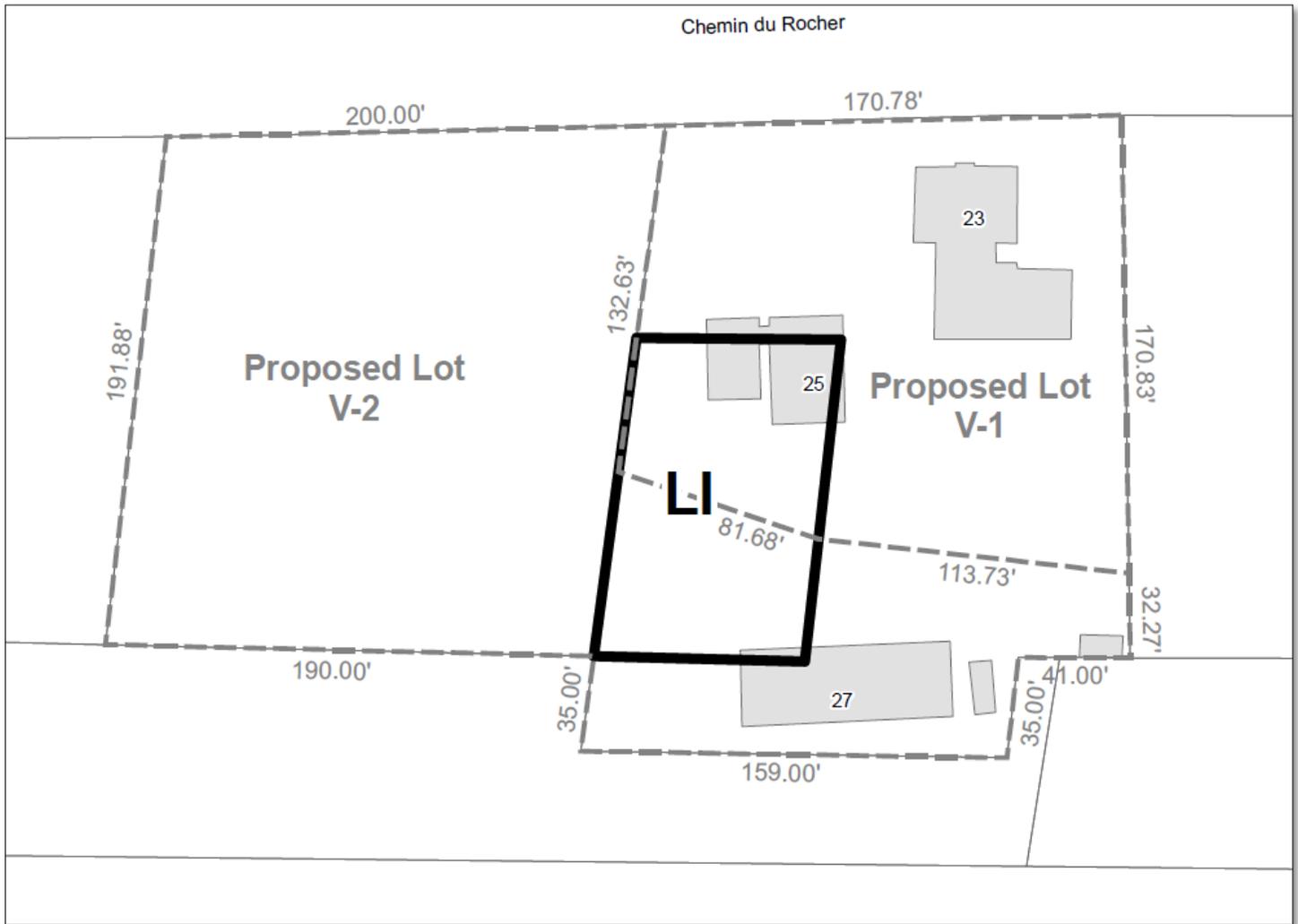
Figure 1: Zoning Map Excerpt of the Subject Properties (outlined in green)

## Subject Property

The subject properties are located at 23, 25 and 27 Chemin Du Rocher, in Middle West Pubnico, Nova Scotia. The civic numbers assigned to the properties pertain to the existing dwelling, accessory building and lobster wire trap operation. The vacant lot furthest to the west does not currently have a civic number assigned. The current approximate lot sizes are as follows:

1. Mixed Use Lot (contains dwelling and lobster wire trap operation): Approx. 32,395 sq ft
2. Light Industrial Lot (contains existing accessory building): Approx. 10,000 sq ft
3. Vacant Lot: Approx. 38,000 sq ft

There are currently three (3) separate structures on the subject properties, with the mixed-use lot containing an existing dwelling towards the front of the lot, while the existing lobster wire trap operation occupies a space at the rear of the property. In addition, another building is located primarily on the light-industrial lot (the building crosses over the lot line). This building would become an accessory structure on the lot (V-1) with the dwelling once the lot (V-2) consolidation process is completed.



**Figure 2: Existing Zoning and Parcel Fabric of the Subject Properties**

### Policy Analysis

WSP and Staff are currently reviewing the application based on the applicable policies contained in the Municipal Planning Strategy (MPS).

Existing policies in the MPS allow Council to consider a rezoning in this case, without requiring amendments to the *Municipal Planning Strategy*. Attachment A contains a preliminary table of the evaluative criteria from the enabling policies within the MPS which relate to this proposal.

### Discussion

The majority of nearby properties along Chemin du Rocher are currently zoned Mixed Use (MU), with predominantly residential uses along the road and what appear to be home-based or accessory uses. Nearby, a few specific lots along Road 335 are zoned as Light Industrial (LI) or Heavy Industrial (HI), reflecting the higher concentration of industrial-commercial uses along that road.

One of the most important considerations when reviewing the appropriateness of Land Use By-law Amendments involving industrial and residential uses is the potential impact that the industrial use could have on the adjacent



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residential use. Certain types of industrial uses, as a result of their operations, can cause odours, noises, traffic and other negative effects on nearby residential uses, making them incompatible for certain sites. The Land Use By-law includes two types of industrial uses- light and heavy- which generally includes uses that are less impactful within the light category and those which are more impactful in the heavy category. In this case, the proposed zone changes relate to an existing Light Industrial zone that is adjacent to a Mixed Use zone. In addition, the uses (residential dwelling, accessory structure and lobster wire trap operation) are all existing and no immediate changes or new uses are being proposed. The proposed rezoning would not directly cause any incompatibilities between uses as a result.

Staff understands that the overall intent of the application is to correct lines and boundaries that are not consistent with today's standards. The result of the changes, if approved, would bring the properties into better consistency with the LUB by providing larger lots that are serviced appropriately and which have adequate frontages. It would also ensure that an existing light industrial use is properly zoned within an entire property, rather than the current boundaries where buildings are partially within separate lots with separate zoning.

**Based on the above information, Staff feels the proposal is sufficiently consistent with the intent of the Municipal Planning Strategy (MPS) to proceed to a public hearing. A review of policies contained in the MPS, is indicated in more detail in Appendix A, and may be subject to modification prior to the final staff report.**



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### Public Participation

Staff will comply with Public Participation Policies of the Municipal Planning Strategy when processing this application. As per Section 206 of the *Municipal Government Act*, a public hearing is required when a Land Use By-law Amendment is applied for to hear input from the community.

Figure 2 illustrates the general process followed by the Municipality for a Land Use By-law Amendment application. A newspaper advertisement will be placed in the local newspaper, *VanGuard*, notifying the public of the application as well as for the public hearing two weeks in advance of the public hearing. A sign will also be placed on the subject property notifying residents that an application has been received by the Municipality. A notice of the application will also be placed on the municipal website.

Staff will mailout a notice of application to all property owners within 152 meters of the subject property and a public hearing will be held prior to the decision of Council.

The public is encouraged to request additional information and clarification from Staff leading up to the public hearing if they have any questions.

Note that there is a right of appeal option for approval or refusal by Council for the adoption of a Land Use By-Law Amendment.

### Conclusion

Staff will continue to review the application by Vernon D'Eon to apply for a Land Use By-law Amendment application to allow changes to the boundaries of the LI and MU zones to align with a separate subdivision of land. The applicant's proposal will be evaluated using all applicable policies in the Municipal Planning Strategy. Staff will make a recommendation to Council in its final staff report.

### Recommendation

That the Planning Advisory Committee recommend to Council to give initial consideration to the Land Use By-law Amendment Application for the subject site to allow for a zoning change to adjust the LI and MU zones to align with proposed future lot boundaries.

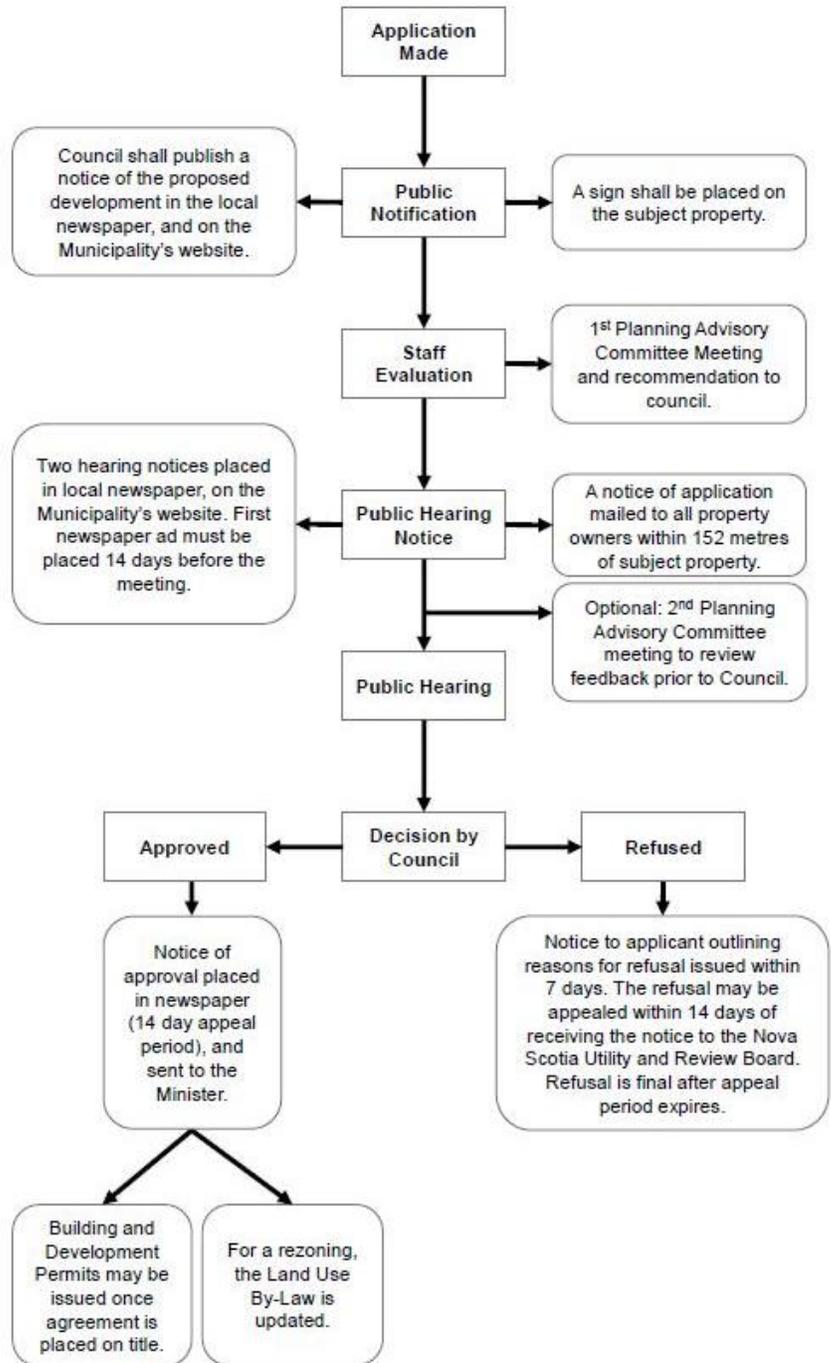


Figure 2: Process Diagram for a Rezoning or Development Agreement Application



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#### Alternatives

1. The Planning Advisory Committee may recommend that Council refuse the proposed Land Use By-law Amendment, and **in doing so, must provide reasons why the proposed development does not reasonably carry out the intent of the MPS.** A decision of Council to refuse the proposed Land Use By-law Amendment is appealable to the N.S. Utility & Review Board.



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#### Appendix A: Policy Evaluation

The proposal may be considered by Council through the following applicable policies of the Municipal Planning Strategy for Argyle (MPS):

Applicable Policies	Staff Comments
<b>Policy 4.5.1:</b> It shall be the policy of Council to designate the communities of West Pubnico, Wedgeport and Tusket as Rural Centres (RC) designation on the Generalized Future Land Use Maps to accommodate a wide range of uses in a manner which is flexible and sensitive to the needs of the residents. The existing wind farm Pubnico Point will be excluded from this designation.	The subject sites are within this designation.
<b>Policy 4.5.2:</b> It shall be the policy of Council that the intent of the Rural Centres (RC) designation is to accommodate a wide range of residential, institutional, commercial, agricultural, recreational, wind energy, and utility uses.	The subject sites are within this designation, and the proposed use of the site is both industrial and residential.
<b>Policy 4.5.3:</b> It shall be the policy of Council to establish in the Rural Centres (RC) designation the following zones: <b>a)</b> Mixed Use (MU) Zone; <b>b)</b> A Light Industrial (LI) zone and a Heavy Industrial (HI) Zone. Existing industrial uses will be zoned according to their operations, either as Light Industrial (LI) zone or Heavy Industrial (HI) zone. <b>c)</b> A Pubnico Point Wind Farm (WF) Zone in the Land Use By-law at the Pubnico Point Wind Farm site. <b>d)</b> A Residential Park (RP) Zone for the western portion of the current and former Municipal lands in Tusket. <b>e)</b> A Marine Industrial (MI) Zone as per the policies of Section 8.9.	The subject sites are within the Light Industrial (LI) Zone and Mixed Use Zone (MU).
<b>Policy 4.5.4</b> It shall be the policy of Council that the intent of the Light Industrial (LI) zone and a Heavy Industrial (HI) zone will be to provide land for existing industrial development in the rural centres.	The lobster wire trap operation is an existing operation.
<b>Policy 4.5.5</b> It shall be the policy of Council that single detached dwellings will be permitted as a main or accessory use in the LI and HI zones or a single dwelling unit within any main or accessory building in the LI and HI zones, if a minimum two (2) acre minimum lot area is met.	The future lot proposed to be zoned as LI could accommodate a potential single dwelling unit as an accessory use to the wire trap operation, as there is enough area and no other accessory uses on the lot.
<b>Policy 4.5.7:</b> It shall be the policy of Council to exclude from the Rural Centre designation certain agricultural uses, commercial uses, industrial uses and recreational uses deemed not compatible with the fabric of the Rural Centre communities.	The lobster wire trap operation is existing and would be permitted as-of-right under the LI zone.
<b>Policy 4.5.10:</b> It shall be the policy of Council that Council shall consider the following uses by site plan approval in the Light Industrial (LI) Zone: <b>a)</b> Small Scale Wind Turbine Generator	N/A
<b>Policy 4.5.11:</b> It shall be the policy of Council that Council may consider the following uses by development	A lobster wire trap operation would not require a DA.



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<p>agreement, pursuant to the requirements of Policy 13.14 and Section 4.5, in the Light Industrial (LI) Zone:</p> <ul style="list-style-type: none"> <li>a) Aquaculture (Indoor and Outdoor)</li> <li>b) Drive-throughs</li> <li>c) Restaurant, Evening Patio Use</li> </ul>	
<p><b>Policy 8.6.1:</b> It shall be the policy of Council to establish a Heavy Industrial (HI) Zone and a Light Industrial (LI) Zone in the Rural Centre designation (refer to the Rural Centre designation policies).</p>	<p>The subject property is within the Rural Centre designation.</p>
<p><b>Policy 8.6.3</b> It shall be the policy of Council to require outdoor Heavy Industrial uses in the Rural Development (RD) Zone to meet special screening requirements.</p>	<p>The lobster wire trap operation is not considered a heavy industrial use.</p>
<p><b>Policy 8.6.4:</b> It shall be the policy of Council to permit compatible Light Industrial uses in the Coastal Communities (CC) Zone, the Light Industrial (LI) Zone, the Business Park (BP) Zone, and the Rural Development (RD) Zone.</p>	<p>The Light Industrial (LI) Zone is currently applied to a portion of the subject properties. The lobster wire operation is a compatible Light Industrial use, and is already existing.</p>
<p><b>Policy 13.11.1</b> It shall be the policy of Council to amend the Land Use By-law provided the amendment reflects the intent of the Municipal Planning Strategy.</p>	<p>Staff believe the amendment does reflect the intent of the MPS.</p>
<p><b>Policy 13.11.2</b> It shall be the policy of Council to consider an application for amendment to the Land Use By-law only if the application has identified a proposed use for the property. Council shall give consideration to both the proposed use and to the impact of other uses permitted in the requested zone.</p>	<p>Proposed uses for both future lots have been established and are already existing. The proposed MU zone for the residential use lot and the LI zone for the lobster wire trap lot are in keeping with the intended approach behind the zones and with the surrounding community.</p>
<p><b>Policy 13.11.3</b> It shall be the policy of Council to consider an application for amendment to the Land Use By-law only if the site meets all of the lot size and zone standards for the zone sought, with the following exceptions:</p> <ul style="list-style-type: none"> <li>13.11.4 A rezoning may be granted for a lot or lots which meet all zone standards but has less than the required frontage or area specified for the zone sought; or</li> <li>13.11.5 A rezoning may be granted for a lot or lots with a building or buildings on it, which meets all other zone requirements except minimum lot area, frontage, setback or yard standards specified for the zone sought. Any proposed addition to such a building or replacement of such a building shall not further reduce the setback or yard standard.</li> </ul>	<p>The proposed lot sizes and frontages being considered under the subdivision application will meet the requirements of the respective zones (IL and MU). These are an improvement over the existing situation where one lot has no frontage, and a building crosses a lot line on another. The existing wire trap operation building appears that it will meet all yard setbacks under the proposed scenario, except for the rear yard setback, which is an existing situation and would not change under the proposal. Other yard setbacks for this structure will be improved under the proposal.</p>
<p><b>Policy 13.11.6</b> It shall be the policy of Council to notify by direct mail, land owners located within 500 feet (152 metres) of a property requesting rezoning. The costs associated with this notification shall be the responsibility of the applicant.</p>	<p>Following the 1<sup>st</sup> reading, mailouts will be sent out by staff to nearby land owners in keeping with this policy.</p>
<p><b>Policy 13.14.4:</b> (Criteria for Land Use By-law Amendments): That the proposal is not in conflict with Municipal or Provincial programs in effect in the Municipality; and that the proposal is not premature or inappropriate by reason of the:</p> <ul style="list-style-type: none"> <li>a) Financial ability of the Municipality to absorb costs related to the development; or</li> </ul>	<ul style="list-style-type: none"> <li>a) No financial impacts are expected to the Municipality from the proposed development.</li> <li>b) Servicing to the site is adequate and sites are already developed.</li> <li>c) No concerns are expected from the proposed development.</li> </ul>



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| <p><b>b)</b> Adequacy of sewer and water services, including fire flows and water pressure or the adequacy of the site for on-site services; or</p> <p><b>c)</b> Creation or worsening of a pollution problem in the area such as but not limited to soil erosion and siltation of watercourses; or</p> <p><b>d)</b> Adequacy of storm drainage and effects of alteration to drainage patterns, including the potential for creation of a flooding problem; or</p> <p><b>e)</b> Suitability of the site regarding grades, soils and geological conditions, location of watercourses, marshes, bogs and swamps, and proximity to utility rights-of-way; or</p> <p><b>f)</b> Adequacy and proximity of school, recreation and other community facilities; or</p> <p><b>g)</b> Adequacy of road networks in, nearby, and leading to the development, regarding congestion and traffic hazards; and</p> <p><b>h)</b> That the proposal provides adequate off-street parking to prevent congestion, nuisance and inconvenience in the area; and</p> <p><b>i)</b> The hours of operation are appropriate for the neighbourhood; and</p> <p><b>j)</b> That the primary architectural features of the proposal, including but not limited to bulk, scale, roof shape, building materials, exterior cladding and shape, and size and relationship of doors and windows, shall be visually compatible with nearby buildings in the case of a new building, or with the original building in the case of an addition; and</p> <p><b>k)</b> That the proposal will not significantly alter the character or stability of the surrounding neighbourhood.</p> | <p><b>d)</b> No drainage concerns are expected from the proposed development.</p> <p><b>e)</b> Much of the area has already been developed, though portions of the proposed LI lot appear to be suitable for future development closer to the road.</p> <p><b>f)</b> Subject site is in proximity to other community facilities, but not in immediate vicinity.</p> <p><b>g)</b> No significant impacts are expected to the transportation network from the proposed development. NSTAT may provide further detail on if this expectation is accurate.</p> <p><b>h)</b> No parking concerns are anticipated, as the lots have been developed with suitable parking already.</p> <p><b>i)</b> The hours of operation for the wire trap operation are not known or expected to change as a result of the application.</p> <p><b>j)</b> No further development is proposed on the properties at this time.</p> <p><b>k)</b> No further development is proposed on the properties at this time, though the wire trap operation is set back and well screen from the road.</p> |
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