

Report to Council
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Subdivision By-law Review

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Sent: October 30, 2017 2:11 PM
To: MODL Planning <planning@modl.ca>
Subject: Private Road Workshop

Hello

I would like to suggest that as part of the review of the Subdivision Bylaw, consideration be given to providing greater flexibility in permitting subdivision of properties that have previously been part of a subdivision process. Our property on Hebb Point Road was consolidated with a portion of an abutting property shortly before we bought it three years ago. We were then told that further subdivision was not permitted, even though the property is approximately 4 acres.. This seems like an unreasonable restriction.

Thank you for your consideration.

Sent: Wednesday, November 1, 2017 11:26 AM
To: Norma Schiefer
Subject: Subdivision By-Law Review Comments

Hi Norma,

The only comment that I would like to make about the review is regarding access to lots which do not front on a public highway, or have minimal frontage and would require multiple flag lots to enable the creation of lots.

I recommend that a 66' wide road right-of-way to be surveyed to provide access to each individual lot. Identical to how Queens county requires a private right of way to be established. This is a model that is already in place and easy to replicate and it is simple. I believe that this model will provide more land owners with the possibility of subdividing their land and developing.

Thank you

Sent: Tuesday, November 7, 2017 3:09 PM

To: MODL Planning <planning@modl.ca>

Subject: Re: Subdivision Bylaw review

First of all I would like to thank you for the invitation to attend the workshop. I am glad that things are moving forward in many respects with regard to the Subdivision Bylaws, especially with regard to private roads. At the end of your workshop I spent time speaking with your staff I was told that the intent of the workshop would not address the issues specific to this subdivision. I would like to offer one other suggestion for consideration that may possibly prove to be useful.

The current policy mandates that a developer, as a single individual or company oversee the development and maintenance of the subdivision for the first three years. Unfortunately there is no guarantee that that is done (step one, that needs a system of oversight). In the ideal world the residents establish an association and take responsibility for they roads within that three year period. If that does not happen in the three years period the developer, as dictated in a court of law, no longer has any legal responsibility for the road upkeep even though they own it. So now the only issue is that if 66% of the lot owners cannot be assembled to form the association the road remains in limbo.

I would suggest another that there are other parties with a vested interest in the road that have legal association status that may be willing to manage the road in the interim. The first that comes to mind is the local fire department. I would suggest a clause that, where legal association cannot be established and a developer has not established the proper mechanisms to maintain the road, that a resident can ask that the the local volunteer fire department board act, if they are willing, as the managing association to ensure that, as a minimum, the road sufficient maintenance to ensure emergency access. Who better than the Fire Department, who has the largest response vehicles, to determine whether or not the road needs attention. Once an association can be established, all collected funds and records with then be transferred to the Owners Association.

I know that I could ask my fire department board to oversee this subdivision, and they would be willing to assist because as it stands, if there was an emergency during certain times of the year, the fire trucks could not provide response as they could not make it down the road.

I do not want it to get to the point where we start fighting over liability over significant loss of property, or even loss of life, because no one cared whether of not emergency services could be provided because of a lack of road maintenance. So as you move forward with your review, I would ask that you not restrict yourself to limited solutions based on an old paradigm when there are others that can be considered that would solve the most basic of issues.

I am willing to continue working with you on the resolution to this problem as access to emergency services is as essential as it gets as a minimum standard.

Sincerely
Dave Sutherland
Camperdown

November 14, 2017

Douglas Reid, planner – Municipality of the District of Lunenburg

RE: Subdivision By-Law Review, Comments to Private Roads.

Collectively, we the undersigned, recommend the following changes to the Municipality of the District of Lunenburg Subdivision By-Law.

NAME TELEPHONE # OCCUPATION

Turner Investments Ltd Pa cussen Turner

Land Developer

Lester Berrigan ^{CONSULTANT}
(RETIRED NSLS)

CONSULTANT

* See attached
signature at end

LARRY BELYEA

DEVELOPER

SYBREN VANDER ZWAAG

H. Developer.

[Handwritten initials]

BOTANY WOODS DEVELOPMENTS INC.

RIVER MALL DEVELOPMENTS INC

[Handwritten signature] NSLS, P.Eng

NATHAN HUGHES NSLS

Brandin J. Crouse N.S.L.S.

[Handwritten signature]

Access Exemption Lots:

As with all adjacent municipal units, allow 1 access exemption lot out of a piece of land that existed on December 31, 1994.

Reasoning: Access exemption lots have been used as "interim steps" in the past to subdivide land, and thereafter add parcels, and also used to generate a sale within a reasonable 8 to 10 week period, rather than the 18 month to 24 month period to obtain conceptual approval and approval of a designed private right of way road.

These lots are always accompanied by a grant of right of way and easement.

Road Standards for New Designed Private Right of Way Roads

1. Roads must be constructed within the designed right of way.
2. Road surface must be a minimum of 14' in width with a minimum of 4" of Class B gravel and 2" of Class A Gravel.
3. No roads to have constructed grades of more than 10%.
4. Sufficient draining, i.e. culverts or bridges are to be placed to prevent flooding of the constructed road.
5. Road standards are to be inspected by private Consulting Engineer and confirmed in written approval prior to granting final subdivision approval.
6. Road construction standards are to apply to all new designed private right of way roads serving 5 or more lots, including the remaining lot.

Reasoning: There have been complaints in the past from residents of these private roads, that the roads were not built to a certain standard and maintenance was not carried out on the roads. The above road standards will place drainage and sufficient gravel on the constructed road prior to final approval. Maintenance will still be required by the lot owners or lot owner associations.

The "5" lot rule is the same as adjacent municipal units.

Road Standards for Existing Private Roads

In the past, existing private roads were established (prior to subdivision regulation) by usage, grant of enabling document or Court Order. These roads can range from pedestrian only to a defined width and defined usage.

Road standards should not be applied to these roads.

Reasoning: These roads can be of any width, from Court Ordered 8' roads to roads that can be used for hauling of wood and sea manure only.

In the past, reconstruction of these roads has led to potential claims from adjacent lot owners and pending litigation. This is not a place for any municipal unit to be involved.

Flag Lots

Flag lots shall be allowed on any subdivision of land provided that:

1. They meet a designed private right of way road, a provincial public highway, a municipal public highway or a Schedule "B" road.
2. They pass a stopping sight distance check.
3. Flag lots are a minimum of 20' in width.

Reasoning: Flag lots allow a lot owner to generate a sale without going through the 2 year procedure to obtain conceptual approval and designed private right of way approval.

Generally speaking, the lot owner can construct the driveway over the flag or be granted a right of way or easement over an adjacent access road.

Proposed Schedule "C" Roads

Many subdivisions have roads already constructed, but have not proceeded to final subdivision approval due to the burden of taxation on approved lots that have not sold.

These roads are part of existing private designed right of way roads or are adjacent to existing private designed right of way roads.

These roads should be identified as Schedule "C" Roads and listed under the new proposed subdivision bylaw as roads allowing future subdivisions. Some of these roads are locally known as: Baobab Lane, River Mill Terrace, Lazy River Road

Reasoning: These roads are already constructed to a standard above the proposed new private road standards

<clip>

In reply to your e-mail, the Riverport fire commission has a lot of issues in regards to the lack of guidelines re private roads. Most of the private roads in our area are inadequate ,both as to safety standards and access for fire protection/ response. In Kingsburg alone, I draw your attention to the following private roads:

- 1) Netyard lane-road is too narrow, steep and dangerous hills
- 2) Beach hill road very narrow, few turning points
- 3) Hell point too narrow, few turning points
- 4) Rose Head- Middle Road too narrow
- 5) -Red Ground road – too narrow
- 6) -Old cart road -too narrow few turning points
- 7) Mackay Hill too narrow

These roads have very poor winter maintenance and are basically unserviceable should the need arise with snow/ ice conditions, They also have very steep hills and poor 'look ahead' vision that add to the danger of fire vehicles responding. Currently, our largest vehicle is 33 feet long and 10 feet wide.

As an aside, the lack of Highway maintenance by the Province also adds safety concerns to this department service area. We damage our trucks (mirrors etc) each time we respond on the Kingsburg road, the newly paved Hirtles beach road has overhanging limbs etc and the Upper Kingsburg road is dangerous to drive on because of potholes,road subsidence and collapsed cross culverts.

The municipal bylaws need to be amended so that any new private roads need to be built to highway standards, and that new construction on existing Private roads need to include the requirement that the road be upgraded to standards.

Riverport District Fire protection Commission

<clip>

Like many dept iam sure , accessibility is the biggest concern ,these one access road subdivisions must be wide enough for emergency vehicles to work and still have a open lane for the event of an evacuation or EHS to get though the scene .The biggest truck we have is 8.5 ft wide and 35 ft long .

Thanks ,
Hebbville Fire Dept

<clip>

We as of yet not had a issues accessing a private road that not saying there are some out there that might cause us a problem. The largest truck we have is the spartan tanker 36' but saying that Bridgewaters ladder is the largest we might call for. I do not know the exact dim for that truck.

Northfield

<clip>

On the subject of private roads:

1. Has your department had any issues accessing private roads?

We have had some issues in the past mostly with width and signage.

2. If so, what improvements are necessary to private roads to let you properly deliver fire services?

We have several private roads in our area served by our dept. These are mostly lake roads and cottage owners. The access to these roads could be improved, the width of the roads should be taken into consideration when building so emergency vehicles can meet and pass. Standardize signage with road name should be taken into consideration as well. Areas with "X" number of property owners should need to look at access to emergency water supply (ponds).

3. What is the biggest truck/equipt you currently use or expect to use in the future (pls include dimensions)?

Largest truck we will have that would need access would be 8X32'.

Thanks

Tri-District (TDFR)

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We have issues with the Smith Road in Nineveh and all the roads in the Hemford Forest Association. Some areas of the of the Zinck Rd, Murrary Veinot Rd and Ohio Rd, these are non paved roads and in the spring are not passable due to mud and washed out conditions.

(Hemfordl)

<clip>

...how in depth are you looking for your answers because we have huge issues along the river and islands, but in short...

1) We have multiple roads and driveways that we cannot access with emergency vehicles without sustaining damage.

2) A minimum requirement for height and width clearance would be appreciated on both private roads and driveways, as well as safe distances of hazards (ex- last time I was there, there was a house in West LaHave with a 180 degree turn in an uphill driveway with a tree and a residential propane tank in the middle of the turn) When approached, about access, most home owners response is to shrug and reply that the construction vehicles or oil trucks can get in, so we should be able to.

3) The biggest truck we would need access for would be Hebbville's pumper (guessing you know those specs)

LaHave

<clip>

HI... YES SOME OF OUR PRIVATE DRIVEWAYS IS A PROBLEM BECAUSE THEY ARE TO SMALL/ OVERGROWN WITH TREES /AND SOME DRIVE WAYS WILL NOT STAND ALL THE WEIGHT FROM THE TRUCKS IN AND OUT OF THEM....OK... AND WHAT DO WE DO WITH OUR ROADS IN THE WINTER TIME BECAUSE WHEN THE PAY LOADER IS DOWN HERE PLOWING AND HIS BOSS CALLS HIM AND GETS HIM TO STOP AND GO SOMEWHERE AND OUR OFF ROADS DO NOT GET PLOWED FOR 12-48 HRS LATER AND WHAT DO WE DO FOR THE PROTECTION OF OUR PEOPLE THAT NEED MEDICAL OR FIRE HELP THEN WHAT DO WE DO
Martins River

<clip>

No issues with MODL roads other than disgraceful lack of snow removal efforts in the Winter by NSDOT which MODL I don't believe has any control over.

Our biggest issue in Midville is low hanging branches over private driveways. Our pumper is 9.5 ft high. 7'8" wide and 28ft long. This is likely largest truck we will ever have.
Midville and District Fire

<clip>

(1)To date we haven't had issues with the private roads or very long driveway (1000 feet) mostly summer residents mainly because we haven't had any calls to these properties but there is potential for an issue if we were to respond to these properties. Narrow roadways with overhanging branches and no place to turn in some cases and some of our secondary and diversion roads have overhanging branches that could cause issues with our larger trucks plus our mutual aid trucks such as Hebbville and United Communities tankers.

(2)A lot of issues can only be corrected by the property owner with proper planning and maintenance so these private roads or driveways can be accessed with the best equipment we have. One possibility is notify all tax payer with an information bulletin accompanying your Tax Notice so everyone is advised of the issues affecting your insurance

(3)Our Largest vehicle at this time is our No.1 Pumper/Tanker Length 36 feet Breadth 10 feet and height 11 feet.

The Dobson Road (private) has 5 cottages which we can not access with our largest truck because of overhead growth and narrow width of roadway with high centers. Blueberry Hill (private) in Green Bay with 9 cottages we can not access with our largest Truck because of sharp turns on a narrow road with high centers. Green Bay road past civic ___ there are two structures and 1 permanent home that is not accessible with our largest truck because of high centers and sharp corner and narrow roadway. Civic number ___ Green Point area which is 2.7 kilometers down a private road from highway 331 with two steel locked gate not accessible with our largest truck with high centers limiting a long wheel base. The road is still under construction and a soft muddy surface over a lot of the length of the road. Turning is minimal at best until you get down near the end. Civic number __ Ramey Road has a very narrow private drive going down a steep grade with sharp turns and needs to have overhead and road side branches cut back. We can not access this property with our largest Truck and would be a challenge in the winter with our smallest truck. These the roadways that will be a problem with our largest truck.

Petite Riviere Fire department



Subdivision Bylaw Review Consultation Report

Municipality of the District of Lunenburg

November 16, 2017

1.1 PROJECT OVERVIEW

The Municipality is conducting a review of its Subdivision By-law and Infrastructure Design Standards. The intent of this review is to update regulations that impact the design, maintenance and cost of publicly and privately owned infrastructure, and to create a user-friendly by-law that responds to current needs and future opportunities.

A number of factors have prompted this review:

- Since its last Subdivision By-law Review 18 years ago, the Municipality of the District of Lunenburg has undergone many changes.
- Considerable growth has occurred at the edges of the three towns the District surrounds.
- Climate change impacts the viability of public infrastructure.
- There is a growing recognition that the way we design our communities has a direct impact on the health of its residents.
- Private road residents are frustrated with the challenges of maintaining their private road.
- The review of the Subdivision By-law and Infrastructure Design Standards is an opportunity to address current shortcomings and ready the Municipality for the future.
- The Municipality wants to make the Subdivision By-law more user-friendly.

1.2 ENGAGEMENT STRATEGY

The engagement strategy sought to involve stakeholders in the development industry, residents on private roads, as well as the general public. Focus groups were held with stakeholders and residents by invitation, and two open houses enabled the public to learn about the process and provide input. The open houses was promoted with advertisements in the newspaper. As an option for people who prefer to provide input privately, an online and print survey was also available to the public and stakeholders. It was promoted through the Municipality's facebook page.

Key questions the consultation sought to explore included:

- Are there concerns about the way we design and build infrastructure for new developments?
- Should the Municipality consider new infrastructure standards for roads, curb & gutter, storm water drains, street lights, bike lanes, trees and landscaping?
- How should new developments adjacent to Towns look?
- Should the Municipality extend infrastructure from adjacent Towns?
- Should the Municipality identify infrastructure service areas and make it easier to develop in these areas?
- What concerns exist around private roads and how should they be addressed?
- How could the Municipality better inform residents about private road regulations?

1.3 DEVELOPMENT
STAKEHOLDER
FOCUS GROUP

A focus group meeting with development stakeholders was held at 9:00 am on November 1st at the Municipal Building. There were 14 individuals in attendance, including people with backgrounds in surveying, architecture, investment and construction, and engineering. The objective of the meeting was to understand both general and specific issues being experienced by stakeholders in the development community. The format was an open discussion with each person providing their point of view among the group.

Types of Development

- Acquired land outside of Bridgewater. “Retirement project” turned into a full-time effort.
- Vision: Keep natural landscape as much as possible, use of covenants to build to specific market size
- Initially lakefront developments - specific market segment of limited market size in Lunenburg Co.
- Each individual parcel is not created in advance - parcels created to meet a demand (cannot afford costs associated)
- Vision: Clustered residences being tied to agricultural use a development that cultivates property, not consumes the property.
- Steep terrain of the area / property affects the type of existing lots
- Recognized narrow (traditional) private road provided for access and historic use of right-of-ways in community.
- Three subdivisions, some included the use of private roads. Built houses in 1970s/1980, also built to suit a specific market size (1200 square feet)
- Experience with subdivision of lots on public roads - much higher costs associated.
- Development activity in Lunenburg Co is slow - pace possibly as low as 1 lot / year on average, for many local developments. Attributed back to lack of any local employment growth.
- Market reality: “We don’t survey 10 lots & approve 10 lots & develop the same 10 lots all in one year.”

Taxation Issues

- Taxes are significant issue in impacting how land is subdivided. In particular, the immediate taxation / assessment of lots created at subdivision.
- Tax burden immediately put on a developer when a parcel is created. If the lot is not being sold, the tax burden is too onerous on developer, cannot hold on to a number of lots that are not in the process of development.

- Not being able to develop land because of rules regarding available access.
- Costs to a developer becoming more prohibitive over time - agrees tax bill on approved undeveloped lots can be too much of a hit. Associated costs upfront, with slow return.
- Opposed to 2% recreation surtax (open space) imposed at subdivision. Discourages development, payment goes to general recreation, not attributed back to new subdivision.

Road Standards

- Demand is not here for fronting the costs of building to municipal road standard.
- In some cases (lakefront developments) - roads are '000s feet to access marketable lots. Costs for access can scale to a \$1M, without any lots being sold, if required to be built to a municipal standard.
- There is some association with the time of road creation (late 70s/early 80s) where design standards were different / intent of developments were different (cottage lots). There is an increasing ratio of fulltime residents with transition of cottage lots to allow full-time use. Road standard and maintenance expectations change for some.
- The point of access into the provincial road does require proper access, but that inside a subdivision itself, it doesn't need oversight. Allow road design to follow where it needs to go.
- An engineer designed standard for identified (existing) roads where it would be impossible to do upgrades.

Other Issue or Ideas

- Delays in approval process, months to obtain a response on design aspect.
- The creation of flag lots for access purposes (requiring 20 feet of frontage). Flag lots are difficult to deal with in the design of the subdivision.
- Subdivision rules should not be too inflexible - alternative design aspects must be considered - in particular, where subdivision rules might restrict enabling compact, traditional settlement patterns.

1.4 PRIVATE ROAD FOCUS GROUP

A focus group meeting with private road residents was held at 11:00 am on November 1st at the Municipal Building. There were 30 individuals in attendance, including people with backgrounds in surveying, architecture, investment and construction, and engineering. The objective of the meeting was to understand both general and specific issues being experienced by stakeholders in the development community. The format was an open discussion with each person providing their point of view among the group.

Private Road Construction Standards

- Problem with many older subdivision roads, where they were never constructed to any standard, and current residents are left with the issue of maintenance and possible upgrading costs.
- Existing roads that are only 25ft wide: the road width was never constructed wide enough - the costs would be too much to present day property owners to re-develop / re-construct the road right-of-way.
- Considers that standards need to be implemented at the time of construction, not try to re-develop roads afterward. - "What happens to all of us currently living on private roads?"
- Municipal financial assistance would be required if there is any requirement to upgrade existing private roads to the identified public road standards.
- Considers that the Municipality is not interpreting / carrying out the By-law's intent - should be requiring that all roads be constructed to a standard, when they are first developed.
- Sarah Drive is presently being built to the municipal road standard by the developer. The developer owns the parcel until it is completed to the identified requirements, and then it will be deeded over to the Municipality. Sarah Drive is a (rare) example of a road being constructed to the municipal road standard at its initial point of development. The developer's intent was never to build a "private road."
- Build the road to a standard, regardless if it is being passed to Municipality. The standard does not need to be to the standard set for a municipal (public) road.
- Happy living on a private road - identified reasons as expressed by others. Happy to live on a road that isn't built to the standard of a public highway - but built to an identified standard.
- All private road right-of-ways should be 66 feet. Developers need to provide that 66 feet - that width standard should be implemented when the road is built.
- Considers all roads should be built to an emergency services access standard, whether public or private.
- Developers should be held to a legal responsibility, to maintain the road, beyond the initial "3 year" period.

- The regulations need to be tighter - make developers comply. Do not make them in any way weaker.
- Roads should be built to a certain standard. They do not have to all become municipal (public) roads. But there are reasons for standards - safety for emergency / fire. It can't be "buyer beware"
- Concerned with the idea that all roads should be built to an identified width. Prefers a narrow width than what is identified with public highways. Consider it is possible that there can be different categories of road standards, based on road traffic, its length, use - possibly similar requirements for ditching, subsurface.

Road Maintenance or Upgrades

- Lives on a private road with an established association - 55 residents - 30 seasonal and 25 full time. Road is still owned by original developer. Nothing is provided for maintenance - expectations are on the property owners. "feels like we are being used" Original road base was built with what was at hand (logs, rocks) - costs would be prohibitive to upgrade. Considered a divisive issue for the community, with full-time residents paying, and seasonal residents not on the same financial hook.
- Upgrading road would be beyond the ability to pay.
- 6.5km road built 35+ years ago. 62 properties, mix of seasonal and fulltime residents. Number of fulltime residents increasing over time. Developed private association several years ago, made maintenance issues much easier once association was incorporated - subcommittee now identified specific to road issues. Collection less of an issue by having the Municipality undertake collection via tax billing. No interest in seeing the road become a municipal road - wish to remain private. As others stated: road was not built to a recognized standard at the time of construction - any issues with road base needing correction is being identified via maintenance budget.
- Issue with how private road associations can be formed: currently, as the only fulltime resident in a subdivision of 20 lots, cannot contact other (non-resident) landowners to get an association incorporated, so that the road can be properly maintained
- Wants the Municipality to identify where there are challenges with (some) private roads, which have seen increased traffic over time, and where initial construction has caused present-day maintenance issues.
- Expressed concern that current private roads are "in limbo."

Taxation and Fee Issues

- Properties located on private roads pay taxes, but receives no services / less municipal services. There should be recognition of that lack of services.
- As part of this Review: Municipality should re-consider its current process of charging developers a fee for open space / green space. Resident supports the open space fee concept, but it should be permitted that the Municipality be able to acquire property instead of, or in concert with, the fee.
- No snow plowing, no garbage collection, green bins are taken out to the end of the private road: paying the same tax rates as other residents, but receiving no services. Also paying for own road maintenance.
- Taxed the same as other property owners, but receiving no services. Consideration of whether there can be a tax break for property owners located on private roads who pay for their own road maintenance, or a tax credit for services that a resident does not get (garbage pickup, snow clearing).

Other Comments and Issues

- Resident does not believe any municipal open space should be located on a private road. Any access to public land should be over a public road. Any existing public open space parcels that are found on private roads, as a result of past subdivisions, should be sold by Municipality.
- There is a boat launch in the subdivision, with signage for public use - questions how a public site be accessed by a private road / open to the public.
- The Municipality should also require setbacks from waterways and buffer zones along watercourses. Points to example on other side of Sherbrooke Lake not having residences in as close proximity to water.

1.5 PUBLIC OPEN HOUSES

The public open houses were held on November 1, at 3:00 and 6:00 pm. A total of 19 people attended. A series of display panels presented information and questions, and input was collected on post-it notes.

General Comments

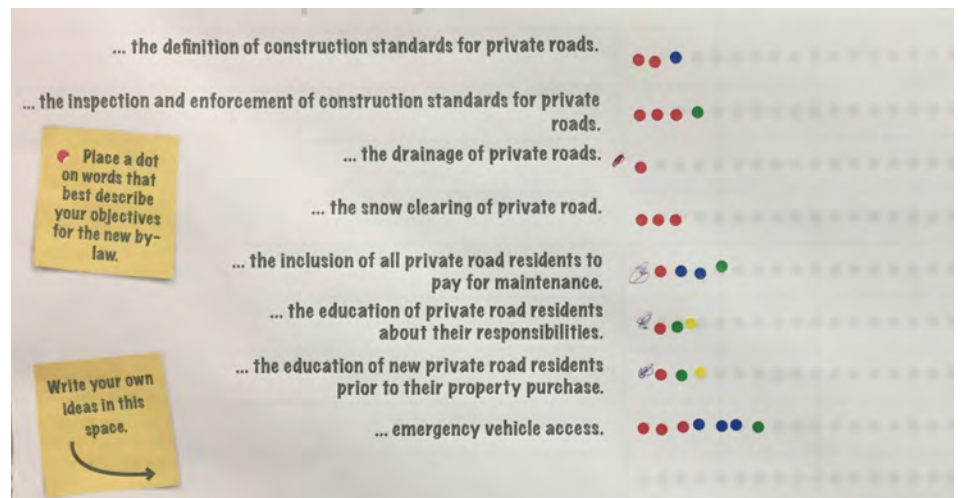
Stipulations regarding private roads are included in covenants. The maintenance and care. If the road is constructed in a manner whereby municipal plowing can take place, then it should.

Flag lots used as private roads is way out of date.

Address issues where by-laws fail due to non-resident not participating in process. i.e. make it mandatory or give alternative.

We pay high tax rate and we have to also pay high cost of road maintenance.

The municipality should consider improvements to...



1.6 SURVEY

The survey is currently open for responses. A summary of results will follow.

UPLAND

Rec. Nov. 23/17

NOV 22, 2017

MODL

Attn Mr Jeff Merrill

Re Sub Division By Law Review

Sorry for the timing of this submission , but I have been out of the area recently [REDACTED]

We moved to a Pine Grove subdivision (Billy Lane) in Sept/2014 ; it is probably the fastest growing one in MODL. Seven new houses have been built since our arrival, with more to come. There are a lot of young families and children here ; just what we need in Nova Scotia.

Of course there were no paved roads, lighting, or even stop signs at our intersections which made it very unsafe. Thankfully, through the efforts of our councillor , deputy mayor Claudette Garland ,stop signs were installed in 2016 and a street light installed in October/2017 at the entrance to Billie Lane from Pine Grove Road.

My main concern in the present by law is the Cost Sharing rule that imposes 60% plus a 10% admin. fee upon subdivision residents for improvements. This has to be eliminated.

Initially all roads have to be built to Government standards and paid for by the developer until such time as they are transferred

and taken over by MODL.

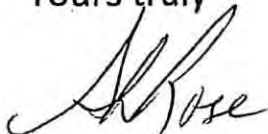
Subdivisions are a heavy concentration of people (tax payers). Lots have approximately 200 feet (66 metres) of road frontage , and are located on BOTH sides of the roads.

We have, at present 26 homes on less than 2 km of roads ; these carry assessment values totalling about 5 MILLION dollars which translates into a lot of tax dollars for MODL.

Summer dust conditions on our stretch of road are unbearable ; windows cannot be opened and washed clothes cannot be hung outside to dry. Dust suppressant , road grading, and adding new gravel are only an expensive temporary fix. This is done twice a year at an approximate cost of over \$15,000. Multiply this by all similar work done in other gravel roaded subdivisions and you have a staggering amount. Paved roads fast , and are LOW maintenance.

Our property assessments are no lower than the properties on paved roads. We deserve better , and I am sure that with planning and progressive stages of paving in MODL subdivisions ,that this could be accomplished.

Yours truly



Stan Rose

 Pine Grove

To: Jeff Merrill
Cc: Mayor Carolyn Bolivar-Getzen
Councillor Lee Nauss
Chris Kennedy

November 24, 2017
Municipality of Lunenburg

From: Eugene Herman Lapland & District Fire Dept.
Subject: Subdivision By-Law and Infrastructure Design Standards

NOV 28 2017

RECEIVED

I was asked at our November 7th monthly meeting to draft a letter to you addressing our concern about the private road by-laws in MODL. After seeing the article on page 6 of this weeks South Shore Breaker I hope our input isn't too late.

We understand that the Municipality is currently in the process of reviewing the by-laws with respect to subdivision development and private roads. As a fire department we have a vested interest in this process. When roads are developed without regards to emergency access it puts people and property at undue risk.

We have experienced this issue specifically within the boundaries of our fire district. Kitpu Lane has been constructed in such a fashion that access to some properties in that subdivision would not be possible with our main pumper-tanker in anything other than ideal conditions. This was proven when we tried to access the area during a fire practice. Luckily it was just a practice.

As you are considering updating your subdivision bylaws, we highly recommend that a minimum standard that ensures emergency access be considered and instituted. To do otherwise may place an unnecessary burden and liability for a failure to provide adequate response on the department and the municipality in the event of an emergency.

Thank you for addressing this topic of concern. I have to wonder how the home insurance companies would view their coverage in some of these situations if fire & emergency vehicles didn't have year round access? I hope this is the kind of input you were looking for.

Thank You;


Lapland & District Fire Dept.

Sent: November-29-17 5:08 PM
Subject: RE: MODL Planning Review

The below letter is being sent on behalf of Brian MacKay-Lyons. We were hoping you could forward it on to the appropriate person or people within the Municipality in order to best address the issue at hand. Please let myself and Brian know if there are any questions or issues about the letter, and if there are any updates after it is sent. Thank you very much for any help you can provide.

Dear Planning Team and Municipal Councilors,

This letter is intended to express my views/concerns regarding the current review of various development regulations for the Municipality of the District of Lunenburg. My family have been residents of Upper Kingsburg since 1983, and have lived on the South Shore of Nova Scotia for thousands of years. I am a practicing architect and professor, as well as a developer of real estate projects in Kingsburg, Lunenburg and Halifax.

We own several properties in Upper Kingsburg that are located on private, lot owner's roads, like many residents of the municipality. It is my understanding that properties on private roads, which are often expensive, waterfront properties, contribute significantly to the tax base of the municipality.

Our properties include our homes, our architecture offices, a small resort (shobac), a working farm, as well as several undeveloped lots. Architectural designs built on these properties have garnered numerous awards and publications internationally. The development/cultivation of these properties over the last thirty five years has consumed most of our blood, sweat and tears. This property represents most of our financial net worth as a family.

Presently, these are access exemption lots, which pre existed the current plan for our area, that can be subdivided or reconfigured as long as they meet septic standards. Loss of this ability would greatly diminish our property values, and the municipality's future tax base.

Our private access roads include narrow rights-of-way over the properties of our neighbours. They therefore cannot be widened to meet public road standards. They are situated on steep drumlin topography, so cannot meet public road grading standards.

These roads have serviced a busy farming and fishing community on these lands for more than 250 years. We together with our neighbours take reasonable precautions to ensure road safety, through the use of warning signs, speed bumps and mirrors. Any new requirement to upgrade these private access roads to public road standards would not be possible, and therefore eliminate the development potential of our properties.

We hope that this planning review process will not reduce the development rights and value of our properties.

Sincerely,
Brian and Marilyn MacKay-Lyons

Sent: December 4, 2017 1:06 PM

To: Jeff Merrill

Subject: MODL Sub-Division by-law review

Dear Mr. Merrill, Mr. Knickle,

I understand that there has been a questionnaire recently distributed to collect public input on MODL's subdivision By-Law. We, the Rum Point Association (Homeowners Association for the Rum Point Sub-Division), did not provide you with our views through the questionnaire, however we do have some opinions based on actually living within one of MODL's developments/subdivisions and I hope that our practical experience will be of value to your revision of the existing by-law. I am writing on behalf of the Rum Point Association (RPA) which is a Homeowners group, incorporated under Nova Scotia's laws, which governs many aspects of our community and also represents Rum Point's interests as a whole to levels of government such as MODL. I serve on the Board as the Secretary of RPA.

From a quick review of the current by-law, it seems that much of that relates to the mechanics of designing, engineering and approving a sub-division, however in my opinion there is little there that helps to define the community that is created. By "community" I mean the relationships and common interests that arise from creating a group of families living in a new location.


I'd like to make the following observations:

1. In general, the layout of lots and roads, accesses and easements, which I assume is all in accordance with your current sub-division by-law is quite adequate.
2. Within Rum Point, the developer included two parcels of land, to be held by the RPA for the benefit of all residents. These are a Tennis Court and a right-of-way for those residents who do not have access to Back Harbour. Both of these things go a distance to defining our community and I think in many cases these helped residents in their decision to purchase lots in Rum Point. If MODL were to incorporate some requirement such as communal areas in the by-law, it would seem to be useful in ensuring that sub-divisions are attractive to Lunenburg's new residents. Perhaps the 2% fee charged to developers in the current by-law could be waived if communal recreational or "lifestyle" land of equal value was developed for the community.
3. Through previous consultation I understand there are regulations around paving the roads in a sub-division such as Rum Point. I did not see those rules in the current by-law but I understand that something like 2/3 of the lots have to have had building permits issued before the notion of paving the road will be considered. While I am not criticizing the current road maintenance (dust suppression, grading, snow clearing etc.) I do believe that some alternative, sensible, option may exist outside of the "standard". The RPA would be keen to discuss with MODL alternatives to the current gravel roads and, if the reluctance to pave now is a result of the financial impact then, through conversation between RPA and MODL, it may be possible for the residents to help with that. Certainly we would only know what was possible if MODL and RPA have a discussion. Given that, and the drawbacks of a gravel road, it would seem reasonable that the by-law allow for a reasonable arrangement for either the developer or the residents to see if we could address things like paving more quickly in the life of a development.

4. I understand that MODL will, in the case of some private roads and homeowners associations, collect road maintenance fees on their behalf. In the case of RPA I understand you cannot under existing rules collect fees for us as our fees relate to landscaping, insurance for common land and maintenance of our facilities. Again I did not see the restriction on fee collection in your by-law, however I do think that MODL would be well served to adopt a stance of partnering with or working with homeowners associations and that you could contemplate using your Tax Collection infrastructure to assist us in the collection of our modest fees.
5. I would suggest that while you have no responsibility towards any protective covenants that exist in sub-divisions (I assume) that it would be helpful for MODL to collect copies of such documents and store those with the sub-division plans. There would be value in this I think even if it were only for informational purposes for those viewing the public plans. It might also be useful for MODL to keep copies of documents such as the Articles of Incorporation for Homeowners Associations on file as well and the by-law could require these things.
6. I wonder if encouragement could be given in some way, for developers to run the telecommunications and electrical wiring underground – this was not the case in Rum Point and it is often pointed out that the esthetics of the development are slightly diminished by the traditional poles – even though most of the homeowners have chosen to run their accesses underground.

Thank you for your consideration of these points and I hope they help. If you feel that there is any value in meeting with RPA to discuss our ideas around how we might collaborate on paving Ocean Stone Drive and Driftwood Court , we would be delighted. If you wish to contact RPA to discuss anything, I can schedule such a meeting.

Thank you.


Secretary Rum Point Association

MODL Subdivision By-law Review: It's time for us to be bold and take chances

BOB RICHARDS IN MY VIEW

Published December 4, 2017 - 8:55am

Last Updated December 6, 2017 - 8:01pm

The Municipality of the District of Lunenburg's long overdue Subdivision By-law Review process is now taking place. MODL is holding several meetings explaining the exiting bylaws and seeking citizens input. I, like many others, have not yet been able to attend any of these meetings. I have been a developer for many years and have some experience with subdivisions and offer my view. I suggest three bold ideas that would not only save taxpayers 10s of thousands of dollars but help protect the environment and save a lot of headache for future property owners as well as MODL council members.

My first suggestion is, to limit the number of lots that can be subdivided using a private road system to a maximum of two. This will cut down on the number of calls to MODL councillors complaining about the conditions of their road.

Second, require that all roads need to be paved before MODL will take them over. It's a well know fact, that maintaining a paved road is a lot less costly than maintaining a dirt road. This cuts down on complaints about dust and washboard surfaces. Sure, this will increase the cost to purchase a lot. But, it will increase the lots value and the paving costs will not be born by existing property taxpayers.

Third, and what will prove to be the most controversial, is to stop the progress of what is know as 'ribbon development,' where a developer can put in miles of road and turn the road over to MODL with only one or two subdivided lots. Leaving a long stretch of road being maintained by MODL with very few taxpayers on it — the actual cost of maintenance being born by existing taxpayers. Encourage development on existing roads, costing MODL nothing extra, while bringing in increased new tax revenue, not costing existing taxpayers anything. Maybe a moratorium on new subdivisions for the next five years would cause existing lots to be built on first.

These ideas are bold, but don't worry, they won't be implemented by MODL, at least not yet.

You have my view. Do you have one?

Bob Richards is a semi-retired South Shore business man. I'd be interested in your view. Contact me at thewayiseeit2017@hotmail.com.

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Municipality of the District of Lunenburg

REQUEST FOR DECISION

REPORT TO: Planning Advisory Committee

SUBMITTED BY: Jeff A. Merrill, MCIP, LPP, Director of Planning & Development Services

DATE: January 11, 2018

RE: Draft Municipal Planning Strategy and Draft Subdivision By-law

ORIGIN: Council

RECOMMENDATION

If the Planning Advisory Committee makes a recommendation to Council in favor of adopting the Draft Municipal Planning Strategy and Draft Subdivision By-law the following motion is in order.

That the Planning Advisory Committee recommends that Municipal Council give notice of their intention to adopt:

- **Draft 2 of the Municipal Planning Strategy, dated January 5, 2018, and**
- **Draft 3 of the Subdivision By-law, dated January 5, 2018, and**
- **that Council hold a Public Hearing regarding the proposed planning documents.**

Further, that Council direct staff to hold a public information meeting prior to the date of the Public Hearing.

DISCUSSION

The Municipality has been conducting a review of its Subdivision By-law and Infrastructure Design Standards. The intent of this review is to update regulations that impact the design, maintenance and cost of publicly and privately-owned infrastructure,

and to create a user-friendly by-law that responds to current needs and future opportunities.

Many factors have prompted this review:

- Since the last Subdivision By-law review 18 years ago, the Municipality of the District of Lunenburg has undergone many changes;
- Considerable growth has occurred at the edges of the towns the District surrounds;
- Climate change impacts the viability of public infrastructure;
- There is a growing recognition that the way we design our communities has a direct impact on the health of its residents;
- Private road residents are frustrated with the challenges of maintaining their private road;
- The review of the Subdivision By-law and Infrastructure Design Standards is an opportunity to address current shortcomings and ready the Municipality for the future;
- The Municipality wants to make the Subdivision By-law more user-friendly.

Project Team

The Municipality awarded the contract for the Subdivision By-law Review to UPLAND Planning + Design and ABLE Engineering in October 2017. The consultants worked closely with MODL planning and engineering staff in conducting the review.

Public Engagement (see attached report, dated November 23, 2017)

The engagement strategy sought to involve stakeholders in the development industry, residents on private roads, as well as the general public. Focus groups were held with stakeholders and residents by invitation, and two open houses enabled the public to learn about the process and provide input. The open houses were promoted with advertisements in the newspaper and on the municipal Facebook page. As an option for

people who prefer to provide input privately, an online and print survey was also available to the public and stakeholders.

Public comments collected from these forums can be found in the Upland Consultation Report, dated November 16, 2017. This Report was presented at the Planning Advisory Committee meeting on November 23rd.

Development Stakeholder Focus Group

A focus group meeting with development stakeholders was held at 9:00 am on November 1st at the Municipal Office. There were 14 individuals in attendance, including people with backgrounds in surveying, architecture, investment and construction, and engineering. The objective of the meeting was to understand both general and specific issues being experienced by stakeholders in the development community. The format was an open discussion with each person providing their point of view among the group.

Private Road Focus Group

A focus group meeting with private road residents was held at 11:00 am on November 1st at the Municipal Office. There were 30 individuals in attendance. The objective of the meeting was to understand both general and specific issues being experienced by private road residents. The format was an open discussion with each person providing their point of view among the group.

Two Open Houses

Two open houses were held in the afternoon and evening of November 1st and were attended by 19 individuals.

Online and Paper Survey (see attached Survey report)

Following the November 1 meetings, a Public Survey was launched, which allowed for members of the public to answer a series of set questions, and provide additional comments. The survey could be completed via electronic means, or in paper format. (The clear majority were done via the internet) 57 surveys were received (38 complete, 19 partial). Upland then verbally presented on a second Survey Report document at the

November 23rd PAC meeting specific to the survey's results, which included public comment received through that format.

Written Submissions (attached)

Several written submissions were forwarded to the project team. Following the stakeholder meetings, a number of individuals involved in development, including local land surveyors, put together a document (dated November 14) to highlight their comments in writing to the Municipality, specific to identified issues. While it was incorporated in the consultant report findings above, this Written Recommendations (Development Stakeholders) can be recognized as a stand-alone document.

Fire Services (attached)

Fire Service providers were asked to provide input and identify issues with providing service on roads in MODL. The response was coordinated through the Municipality's Fire Service Coordinator. Responses were received from 10 departments.

Council/PAC Workshop

On December 5, 2017 Council and members of the Planning Advisory Committee attended a workshop with Staff and Upland. At the workshop Staff and Upland reviewed what was heard during the public consultation, provided background on various provisions of the Subdivision By-law, and reviewed the issues identified and possible alternatives.

STRATEGIC PLAN

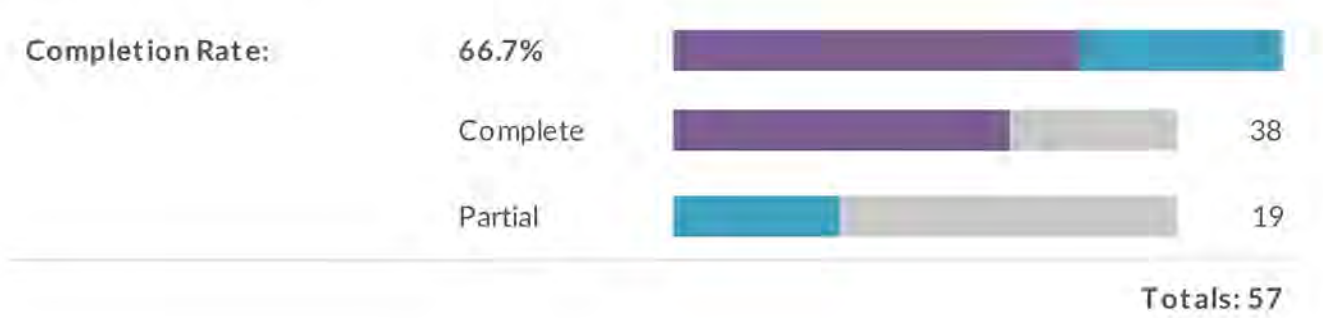
The review of the Subdivision By-law is a strategic priority of Council

CONCLUSION

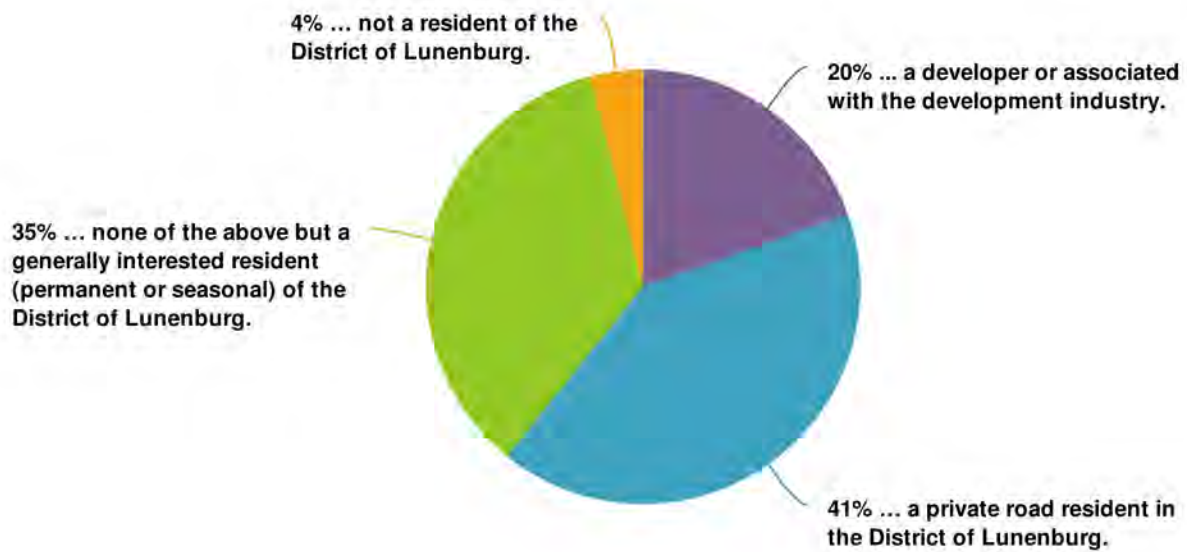
Upland has prepared a draft Subdivision By-law and draft Municipal Planning Strategy for Council's consideration.

Report for MODL Subdivision By-Law Review

Response Counts



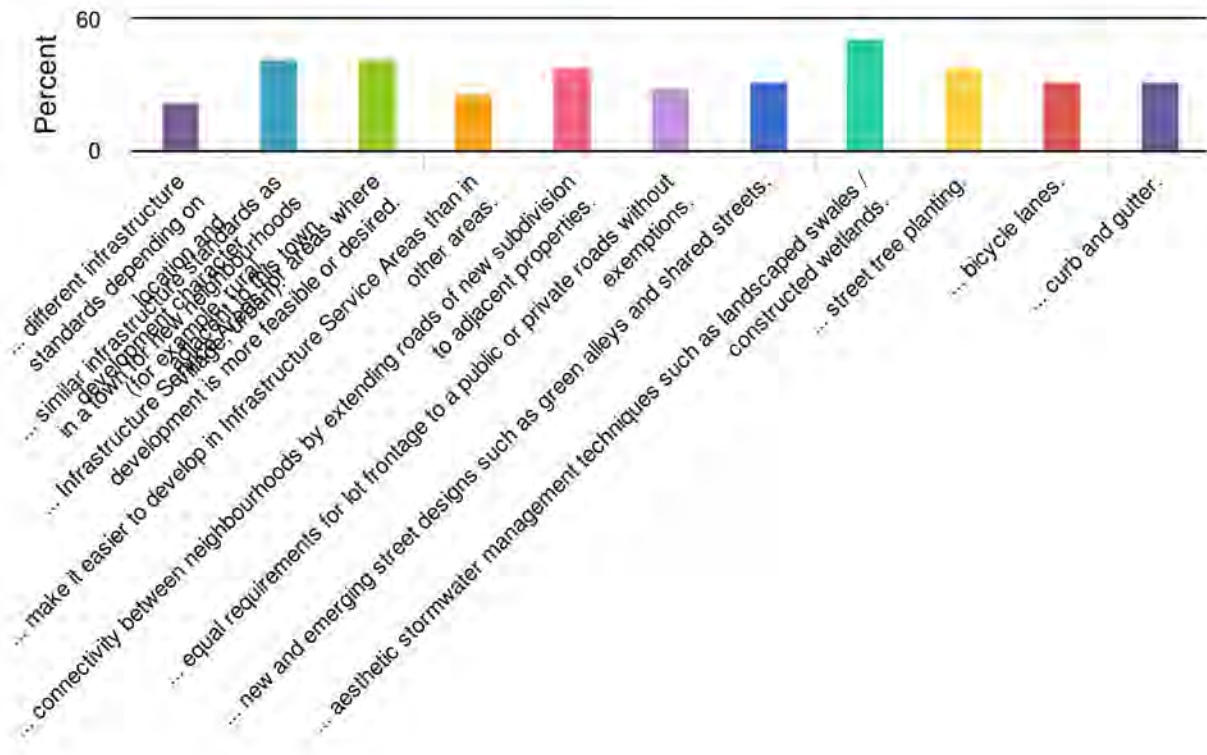
1. I am...







Value	Percent	Responses
... a developer or associated with the development industry.	19.6%	10
... a private road resident in the District of Lunenburg.	41.2%	21
... none of the above but a generally interested resident (permanent or seasonal) of the District of Lunenburg.	35.3%	18
... not a resident of the District of Lunenburg.	3.9%	2

Totals: 51

2. In your opinion, the new Subdivision By-law should, where suitable, enable... (check all that apply).



Value		Percent	Responses
... different infrastructure standards depending on location and development character (for example, rural, village, urban).		22.6%	7
... similar infrastructure standards as in a town for new neighbourhoods adjacent to this town.		41.9%	13
... Infrastructure Service Areas for areas where development is more feasible or desired.		41.9%	13
... make it easier to develop in Infrastructure Service Areas than in other areas.		25.8%	8
... connectivity between neighbourhoods by extending roads of new subdivision to adjacent properties.		38.7%	12
... equal requirements for lot frontage to a public or private roads without exemptions.		29.0%	9
... new and emerging street designs such as green alleys and shared streets.		32.3%	10
... aesthetic stormwater management techniques such as landscaped swales / constructed wetlands.		51.6%	16
... street tree planting.		38.7%	12
... bicycle lanes.		32.3%	10
... curb and gutter.		32.3%	10

3. Do you have any general comments about the current Subdivision By-law?
Please feel free to share them here:

Count Response

Count Response

1 1) current bylaws lack road construction standards 2) current bylaws have no force in law for developer after 3 years 3) current bylaws fail to address situation where association formation is not possible by current standards 4) current bylaws do not facilitate information sharing for the establishment of associations. Developers not required to share owner information of non resident owners 5) current bylaws do not have a caveat to ensure emergency services access is maintained

1 All new Subdivisions must be designed to include section 271 of the Municipal Government Act, setback from ALL watercourse, and strict drainage systems to insure clean water and public access of our waters. Residents in private Subdivisions all were aware they lived on a private road as the sign at the entrance stated "PRIVATE ROAD". They MUST be responsible for ALL road maintenance unless these roads are built to MODL standards by subdivision land owners and then become public roads and public have equal rights to waterways.

1 Allowing more than 1 Access Exemption Lot where existing roadways exist. If we are looking to promote development to increase our tax base this seems like a minimal change from allowing just 1 access exempt lot creation.

1 Bylaw must be enforced, must be proper size, proper material used, proper drainage/ slopes etc Roads are for the long term, therefore must be built properly - for the long term. I bet most property owners on private roads are not permanent residents, yet they pay high tax + road maintenance cost. (taxation and no representation its time you gave them a vote).

1 Bylaws do not follow current codes, rules, etc. The municipality can at their discretion vary from said codes rules, etc. (it almost seems if it is safe or considered safe it is ok. No one should be allowed to use a prefab utility shed placed on patio stones with no air circulation etc. as a permanent dwelling.

1 Concerned about the cost of maintaining gravel road, if paving is a one time option , in subdivisions, like Rum Point. In subdivision approval there needs to be verification of adequate domestic water supply, by the MODL. Before subdivision approval is given.

1 Forbid development in or near existing wetlands. Sidewalks in all new neighbourhoods with sidewalks extending from subdivision for several hundred feet onto public road entering subdivision

1 Hate that we pay for our own streetlights in my subdivision and cannot get our road fixed. School bus will no longer come down our road.

1 I would like to see the MODL give a tax break to association members to the amount we spend on the maintenance of our private road (yearly).

Count Response

1 In lakefront areas, it is difficult to subdivide larger parcels of land with current regulations due to the necessity to have engineered municipal roads for all but the first subdivision. This may have been many years ago and new owners may like to further divide properties in recreational areas. I would like to see current regulation to change to allow easier subdivisions on lakefront properties

1 My biggest concern about subdivision bylaws is density, noise regarding development (there needs to be bylaws regarding acceptable working hours, ie running heavy equipment, chainsaws etc.) Do these exist in the county? What is the cap on lot size vrs. number of dwellings? I am very disappointed having recently moved here, for peace, quiet and country living, only to have a developer purchase land next to mine and apparently put 20 lots on it, where there were none.

1 Private road owners with no services deserve a tax break.

1 Require ALL new subdivision roads to be paved by the developer before MODL takes over. This will eliminate the high cost of MODL maintaining a dirt road and eliminate new home owners asking MODL to pave. The paving costs would be built into the lot prices like the rest of the road.

1 Section 271 (3) (h) of the MGA is not included in the present By-Law. That has negatively impacted rural communities with loss of public access to our lakes being the result. It has placed residents against residents in many cases and made it difficult to grow community goodwill & community unity. One of the responsibilities of government is to unite communities, not tear them apart.

1 The current by-law hinders development where road frontage is lacking, and requires an engineered road to be designed to provide access. I believe this could be relaxed to enable the creation of private roads that do not have to be engineered. SAME as queens county!

1 The current subdivision bylaw is clearly written, but the road developers do not follow through with adhering to its construction standards and there seems to be no one holding the developers accountable. The road maintenance is passed onto the homeowners who then pay out higher road maintenance fees, because of substandard road construction.

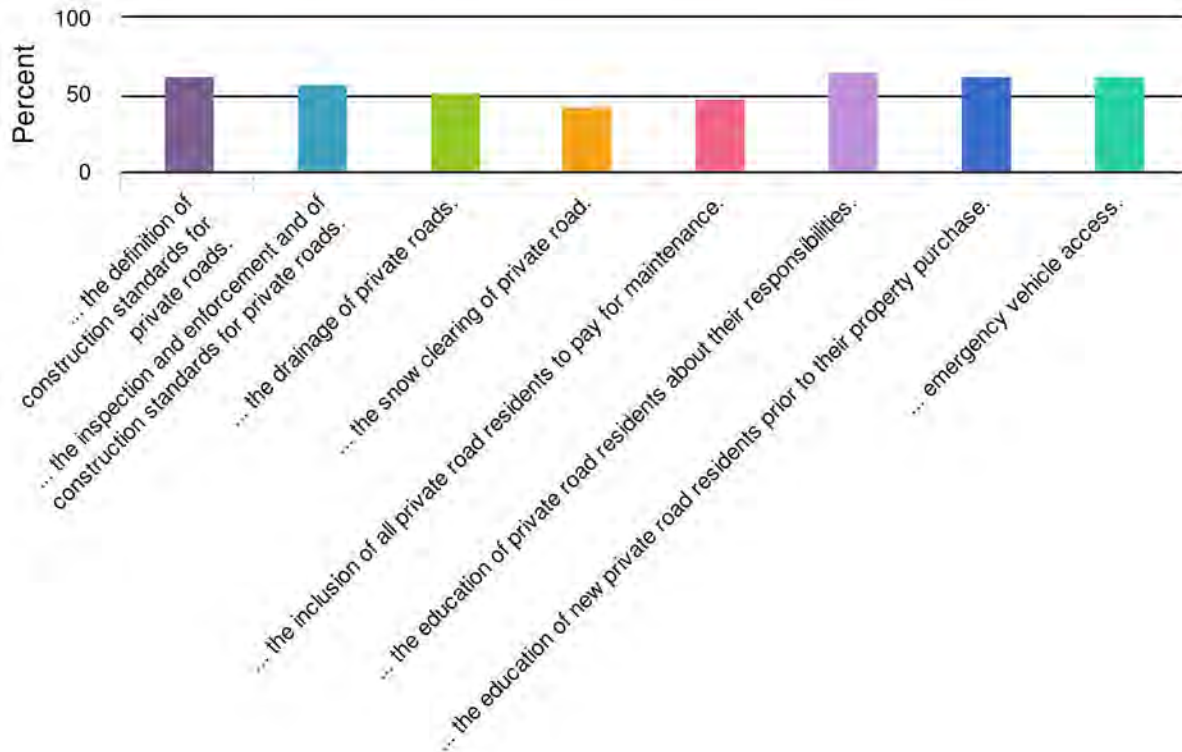
1 The following should be added as a shall Section 271 (3) (h) of the MGA be included in the new by-law







1 The municipality should provide the same services for private roads as they do for municipal roads or drastically reduce the taxes

Count Response

- 1 Tough to read and understand by the public.
- 1 Yes, the current by-law is complex but it is also comprehensive. Any attempt to clarify or streamline the by-law must not impact the level of detail.
- 1 flag lot issue with site lines private road standards should have roads designed
- 1 gkasgdag;ijg;ijgi asgsaigj;aijgoiwjg aga;weijg;wieg
- 1 we are a private road from just 1 km, with actually just 3 houses which are only occupied during mai till september, so i would say, the few owners who have a house there, take care, we don't need special infrastructure

4. In your opinion, the Municipality should consider...



Value		Percent	Responses
... the definition of construction standards for private roads.		62.9%	22
... the inspection and enforcement and of construction standards for private roads.		57.1%	20
... the drainage of private roads.		51.4%	18
... the snow clearing of private road.		42.9%	15
... the inclusion of all private road residents to pay for maintenance.		48.6%	17
... the education of private road residents about their responsibilities.		65.7%	23
... the education of new private road residents prior to their property purchase.		62.9%	22
... emergency vehicle access.		62.9%	22

5. Do you have any other input or ideas about private streets? Please feel free to share them here:

Count	Response
1	1) Ensure that all residents can have access to services to maintain road even where there are not enough residents to establish associations! 2) Permanent NS residents living in the area should not be held hostage by foreign, non-resident owners who refuse to participate.
1	1) Lot owners with no dwelling should be included with residents. 2) Require developers to set up incorporated Associations for their developments.

Count Response

1 Being an emergency service provider, we seem to continuous struggle with access to homes with narrow roads, poorly constructed and unsafe bridges. Standards should be considered to account for larger (both weight and size) emergency vehicles to allow providers quick , easy and safe access to residents. Also struggle in winter months with plowed widths of private roads and getting emergency vehicles to the site.

1 Consideration of private road development must include impact of adjacent properties, and run off.

1 Construction standards as they are now should not be pertinent to the current roads (private) unless the municipality will take this on to make the roads to meet the standards. If the municipality cannot do this then the tax rate should be reduced by not only the road maintenance, but also by the lack of services provided to the other properties with municipal road standards.

1 Education of responsibilities. We are continuously picking up after other peoples garbage, seeming to insist that the garbage go to the curb the night before... and then the animals tear it apart. As far as maintenance, there seems to always be someone who will not pay their share. Not interested in the municipality overseeing the private roads, as our road is in good condition, & it took years for work on the government road that feed several cottage roads to be repaired. It's better now.... but not as good as our private road. & snowplowing, quite often our private road is plowed out before DOT has the main road plowed. So no... not interested in government overseeing the maintenance of our road. However, help in the education of responsibilities is terrific, mind you, some people need a continuous reminder and some only need to be told once.

1 For municipality to credit residents on tax bills on services being changed and we (residents) do not benefit from. Consideration into this issue

1 From my discussions with residents now living both full & part time on private roads, most want to retain the privacy (especially gates) but they want all property tax payers in the municipality to share in the maintenance costs. If we all help pay the maintenance costs, those residents must be agreeable to the roads being open to the public. Any other arrangement would not aid in building communities. Section 271 (3) (h) of the MGA should be included in the new By-Law for any new sub-divisions or new phases to existing sub-divisions.

1 I don't like that I pay a high amount of taxes even though I'm on a private road. I do not reap the benefit of having the municipality maintain it, so I do not understand why my taxes are so high. Also, the MODL charges a fee to collect road fees for our HOA. That should also be waived.

Count Response

1 I have found that more people on private roads means better maintenance since more people can pay for this.

1 MODL must not be responsible to educate residents that they live on a private road. They should be able to read the sign at the entrance and realize the private road gods do not provide the road maintenance.

1 New Private roads should have a maximum number of lots that can be on one. Like Ten max. The standard of construction and maintenance need to be part of the subdivision requirements. The subdivision requirement should require inclusion of the property owners responsibility to pay for maintenance for their use and emergency vehicles. This should be written into their deeds as a deed restriction.

1 Private Roads: Be no less than 12 feet in width with 6 inch base and 2 to 4 inch of class A gravel. Many of the private roads I am familiar with exceed the conditions of Public Roadways.

1 Private roads are great Be nice to have a database for these roads - contact persons - so we can learn from each other. The art of looking after private roads is a learning experience. There is a role MODL eng. can provide Ex. provide training/ information to help educate. It is quite a challenge to maintain private roads considering cost/ what kind of material to use/ dealing with contractors that may not have your best interests in mind ++

1 The expense of living on Private Roads and paying an additional amount to maintain the roads via the Municipality on behalf of a Lot Owners Association and the cost of Property Taxes by which the only thing we get is garbage pickup needs to be taken into consideration. After all is said and done people living on Private Roads pay more than those of the Town of Bridgewater and we do not get a 1/3 benefit in return. This needs to be addressed and reviewed

1 The question 4 considerations are intended for new roads, not for existing roads. 1) reduce tax rates or tax credits for property owners on private roads (to offset costs of maintaining road) 2) donate the "green spaces" owned by the county to the private road associations so the associations can sell them (or use them) and use the funds for road maintenance 3) the county can not allow public access on private roads so why do they have "green spaces"

1 WHEN DOES A PRIVATE ROAD QUALIFY AS PUBLIC ROAD WITH MUNICIPAL UPKEEP..... IS IT BASED ON NUMBER OF HOMES, LENGTH OF THE ROAD, USE OF THE ROAD (SEASONAL ONLY?) ARE THERE SET STANDARDS NOW?

Count Response

1 We live in a subdivision with a j class roads. I have tried unsuccessfully to get the department of transportation to upgrade the road. We need resurfacing as the road is down to the roack bed, the ditches now meet the road and in some places no longer exist. Cutting of bushes would also be helpful. Guard rails have been in disrepair or just disappeared. We have lived here 30 years and NOTHING has been done to our roads. We live in Riversdale Subdivision in Pinehurst (Villa Oaks Road, Joudrey Ave and Ross Street) It seems that some roads in the municipality have privileges over others.

1 When we were looking for a home here, we considered a property on a private road. We asked lots of questions about the road. To me, it is common sense to understand as much as you can about your potential new home. I also, however, met homeowners during the municipal election last year whose dreams had been shattered by developers over issues of private roads. They were moving out of their "dream home" the next day. Additionally, I met people in communities that had been divided over the need to pave and maintain private roads. I sympathize with them all but I think that the key word here is private. It should not be the business of the municipality to step in and fix shoddy planning or work by the developer after the fact. It is the business of the municipality to enforce or ensure provincial construction standards are met through approvals and inspections during development. Any failures in this area bring the possibility of litigation against the municipality. If ther

1 if private road stipulations are included with restrictive covenants at time of purchase, fully understood an attached to the deed. Less confusion is caused. If the private road is suitable for municipal snow clearing this also could be done.

1 no i don't have other ideas about private roads, thanks, have a good day

Jeff Merrill

From: Martin Bell
Sent: January 15, 2018 7:41 PM
To: Carolyn Bolivar-Getson
Cc: Jeff Merrill
Subject: FW: Private vs. Public Roads - Re River Mill Subdivision

Importance: High

Mayor Bolivar-Getson;

Attached is a letter I received this evening from Mr. Jack Cardiff.

Regards,

Martin

From: JackCardiff [mailto:████████████████████]
Sent: Monday, January 15, 2018 6:59 PM
To: ████████████████████ Martin Bell <Martin.Bell@modl.ca>
Subject: Private vs. Public Roads - Re River Mill Subdivision
Importance: High

Martin.

Again, thank you for taking the time to speak with both my wife and I this afternoon and, as per your request, I would like to outline, as best I can, our concern relative to the matter now before Council, re subject matter.

As mentioned during our conversation, we were recently advised by Mr. S. Vanderzwaag, Developer, Botany Woods & River Mill, that Council now has before it a proposal to convert private roads within the Municipality of the District of Lunenburg, to public roads, a process that would require private roads to be widened to approximately sixty six (66) feet. Or, something to that effect. Regardless, the concern expressed to us by Mr. Vanderzwaag was that further development within the River Mill subdivision may require him to convert a number of existing roads, a conversion that would include Lazy River Road, which is what we currently use to get from our property to Conquerall Mills Road. While we did not get into specific details, the impression left with both my wife and I was that if, as the developer, he had to make said conversions, it would certainly impact a lot of the work he has done to date on various lots within the subdivision. In fact, I would even go so far as to suggest that widening Lazy River Road would discourage future interest in a number of lots along the roadway. Consequently, it begs the question, why should he do any further development? I mean if you or I or anyone works to prepare lots for sale, wouldn't the objective be to sell them and hopefully make a profit. Other wise, why put the effort into it? And, that is where my wife and I have a serious concern.

Currently, we share the cost of road maintenance for Lazy River Road with the developer, Mr. Vanderzwagg. For the three (3) years we have been living here, this arrangement has worked well. However, if the proposal now before Council goes through and assuming it requires Mr. Vanderzwagg to adopt the same, re further development of River Mill, what do we do if he decides not to do any further development including road maintenance. Unless I missed something, the burden would then fall upon my wife and I to contract with someone to look after the road between the end of our driveway and Conquerall Mills Road, an expense we do not need as retirees and one that would far exceed the current arrangement we have with the developer. Furthermore, it begs the question, why should we incur this cost knowing that anyone who wishes to use the road can do so, but at no cost to themselves? It simply doesn't make sense and, more importantly, it simply isn't fair to my wife and I.

In closing, and as suggested earlier, perhaps consideration should be given to allowing existing developers to continue with existing practices with the option to phase in the new guidelines over a given period of time, while new developers must immediately adopt

the new guidelines. I think this would not only be fair to both sides, re current and future developers, but would avoid existing developers from having to incur additional costs/expenses. Food for thought.

Yours truly,

Jack Cardiff

Jeff Merrill

From: Ed Jack [REDACTED]
Sent: January 24, 2018 2:22 PM
To: Jeff Merrill
Cc: Norma Schiefer; 'Berrigan Surveys'
Subject: Private roads

Follow Up Flag: Follow up
Flag Status: Flagged

Norma, Jeff,

Re: Sub-Division Bylaw amendments.

Thank you for the reply to my request for more information regarding the proposed amendments to the sub-division bylaws.

I am uncertain if the new bylaw will affect my road because I only have CONCEPT approval for my sub-division. I left a message for Norma to call me. Any help or advice you can provide would be greatly appreciated.

The following are my opinions and concerns, if you would like to take them to your next committee meeting...

After consulting with my surveyor, Peter Berrigan, he is of the opinion that amendment 6.2 could have a disastrous effect on my ability to sell seven lake lots on Wallace Lake, Conquerral Mills. It could mean that I would need to upgrade the entire length of the Wallace Lake Acres road, at an estimated cost of \$544,000.00. This would preclude me from development and sale of any lake lots. I currently have Concept approval pending the first sale of lots.

I can understand the desire for Lunenburg County to have certain minimum standards for private roads, but this proposed bylaw change seems very extreme and should never retroactively affect existing roads. I also understand that the county gets numerous requests to maintain private roads, but shifting the upgrade of private roads to individual land owners does not seem fair; particularly where roads have already been constructed and are in use.

I, with the help of Berrigan Surveyors, have tried to follow all existing municipal rules in development of my road and lots and feel it is unfair to impose this kind of burden on existing land owners. The existing Wallace Lake Acres road is used year round and is superior to many public roads in the area, such as the Fitch road.

I am unaware of any other counties that have implemented this type of bylaw.

I believe the proposed change will have the following negative effects for Lunenburg County.

1. It will discourage lot development and sales.
2. It will discourage many aspects of the building trades including surveying, landscaping, construction, plumbing, electrical and building supply.

3. Because of the decrease in construction fewer people will be locating to Lunenburg County thus having a negative effect on the growth of the local economy.
4. It will retard the normal growth of the county tax base.
5. It will put Lunenburg County in an unfavorable competitive position with other Nova Scotia counties when it comes to attracting developers.
6. It puts the county in a position where existing land owners may have a legitimate legal recourse to recover their investment into existing roads.

I have already spent close to \$100,000 putting in a road extension to Wallace Lake and having power poles run down this extension. This proposed amendment would make my investment almost worthless. In addition the lost sales potential will be in the area of \$500,000.00. This means my total investment loss is over \$600,000.00.

I may not be able to make it to the public meetings and would ask you to forward this to the committee and staff for review and consideration.

Thank you for you kind consideration...

COPY OF TEXT FROM: Jeff A. Merrill, Director Planning & Development Services, Municipality of the District of Lunenburg

Under the proposed draft, lots can continue to be created along Existing Private Designed Roads.

The extension of an existing private designed road is proposed to be limited to two lots until the entire road is upgraded to the new private designed road standard.

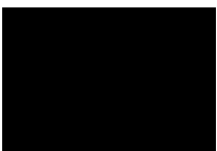
6.2 EXTENSION ON EXISTING PRIVATE DESIGNED ROAD

Notwithstanding Subclause 4.1(n)(ii), a proposed Private Designed Road may extend to an Existing Private Designed Road and lots may be approved on the proposed Private Designed Road provided:

- (a) the Existing Private Deisgned Road(s) extends to a Public Road;
- (b) no other such extension has been made to the Existing Private Designed Road;
- (c) the proposed Private Designed Road provides frontage for no more than two lots; and
- (d) all other requirements of this By-law are met.

For greater clarity, where a proposed Private Designed Road extending to an Existing Private Designed Road is proposed to provide frontage for more than two lots, the entire length of the Existing Private Designed Road(s) extending to the Public Road shall be upgraded to meet the definition of a Private Designed Road in this By-law.

Ed Jack



902-471-0257

From: Jeff Merrill [mailto:Jeff.Merrill@modl.ca]
Sent: Wednesday, January 24, 2018 12:21 PM
To: [REDACTED]
Cc: Norma Schiefer <Norma.Schiefer@modl.ca>
Subject: RE: Private roads

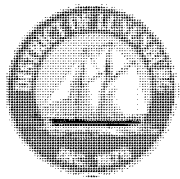
Mr. Jack,

Our Development Officer Norma Schiefer can have a look at your plan and provide comment. Ms. Schiefer is cc'd to this e-mail and her phone number is 902-541-1334.

Regards,

Jeff

Jeff A. Merrill, MCIP, LPP
Director
Planning & Development Services
Municipality of the District of Lunenburg
210 Aberdeen Road | Bridgewater NS | B4V 4G8
Office: (902) 541-1340 | Cell: (902) 521-0925



Clean Energy
Financing

From: Ed Jack [REDACTED]
Sent: January 23, 2018 2:36 PM
To: Jeff Merrill <Jeff.Merrill@modl.ca>
Subject: RE: Private roads

Hello,

Thank you for the information...

Is there someone I can call or email that can advise me if my existing private road and Conceptual sub-division approval will fall under section 6.2?

The private road is Wallace Lake Acres road in Conquerral Mills.
A road extension into my seven lake lots on Wallace Lake was done over 5 years ago.
Final sub-division approval has not been requested yet.

Under the proposed changes... Would I need to upgrade the entire length of the Wallace Lake Acres road?

Thanks

Ed Jack

From: Jeff Merrill [mailto:Jeff.Merrill@modl.ca]
Sent: Tuesday, January 23, 2018 9:27 AM
To: [REDACTED]
Subject: RE: Private roads

Mr. Jack,

The Draft Subdivision By-law is on the Planning Advisory Committee agenda at this location:
<http://www.modl.ca/document-library/meeting-minutes-agendas-and-recordings/planning-advisory-committee/2018-minutes-agendas-recordings/pac-2018-01-25/4823-pac-agenda-2018-01-25/file>

Please review the document at the link above. I have pointed out some of the proposed access provisions in the proposed subdivision by-law below that may be of interest to you. **Please note that the document is still only in a draft form and may change as it goes through the review process.**

If you have any questions after reviewing the draft document please feel free to contact me.

~~~

Under the proposed draft, lots can continue to be created along Existing Private Designed Roads.

The extension of an existing private designed road is proposed to be limited to two lots until the entire road is upgraded to the new private designed road standard.

## **6.2 EXTENSION ON EXISTING PRIVATE DESIGNED ROAD**

Notwithstanding Subclause 4.1(n)(ii), a proposed Private Designed Road may extend to an Existing Private Designed Road and lots may be approved on the proposed Private Designed Road provided:

- (a) the Existing Private Designed Road(s) extends to a Public Road;
- (b) no other such extension has been made to the Existing Private Designed Road;
- (c) the proposed Private Designed Road provides frontage for no more than two lots; and
- (d) all other requirements of this By-law are met.

For greater clarity, where a proposed Private Designed Road extending to an Existing Private Designed Road is proposed to provide frontage for more than two lots, the entire length of the Existing Private Designed Road(s) extending to the Public Road shall be upgraded to meet the definition of a Private Designed Road in this By-law.

There are two levels of private designed road being proposed.

Schedule H Section 3.2

“...A Private Designed Road may be classed as Rural Laneways provided no more than 12 lots access or front on the Private Designed Road. All other Private Designed Roads shall be classed as Low Volume Rural Roads.”

A table showing the difference between the two private design standards is in Schedule H section 4.1, note both private designed road options are proposed to be permitted to be designed to a 40km/h speed.

|                         | RLW     | LVR     |
|-------------------------|---------|---------|
| Posted Speed Limit      | 30 km/h | 30 km/h |
| Design Speed Range      | 40 km/h | 40 km/h |
| Max Gradient            | 12 %    | 12 %    |
| Lane width              | 3.3 m   | 2.7m    |
| Shoulder Width          | 0 m     | 1.2 m   |
| Finished Top Width      | 6.6 m   | 7.8 m   |
| Side Slopes             | 2:1     | 2.5:1   |
| Back Slopes             | 2:1     | 2:1     |
| Min ROW Width*          | 20 m    | 20 m    |
| Horizontal Curve radius | 40 m    | 60 m    |
| Stopping Sight Distance | 45 m    | 45 m    |
| Vertical Sag Curve, k   | 7 m     | 7 m     |
| Vertical Crest curve, k | 4 m     | 4 m     |
| Passing Sight           | 290 m   | 290 m   |

Two flag lots are proposed to be permitted.

**5.9.4 Flag lots shall not be permitted except where the following provisions are met:**

- (a) The 'flag' portion of the lot shall contain the required minimum lot area specified in this By-law or, where a Land Use By-law is in effect, the applicable minimum lot area for the zone the lot is located in,
- (b) The width of the 'pole' shall be at least 6 m (19.7 feet) along its entire length, and
- (c) No more than two flag lots shall be created from an area of land as it existed on January 1, 2017.

And up to two lots are proposed to be permitted without regards for access.

## 5.8 ACCESS EXEMPTION

### Lots with frontage

5.8.1 Where an area of land, as it existed on December 30, 1994, has more than 6 metres of frontage on an existing Public Road or existing Private Designed Road, one lot may be created that does not meet the requirements of section 5.1, or the frontage requirements of clause 5.3(a), provided:

- (a) no such lot has already been subdivided within the area of land; and
- (b) all other requirements of this By-law are met.

### Lots without frontage

5.8.2 Where an area of land, as it existed on December 30, 1994, has less than 6 metres of frontage, or does not abut an existing Public Road or Existing Private Designed Road, two lots may be created, including the remainder lot, that does not meet the requirements of section 5.1, or the frontage requirements of clause 5.3(a), provided:

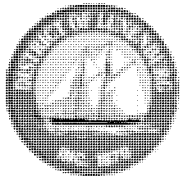
- (a) no such lot has already been subdivided within the area of land; and
- (b) all other requirements of this By-law are met.

~~~

Regards,

Jeff

Jeff A. Merrill, MCIP, LPP
Director
Planning & Development Services
Municipality of the District of Lunenburg
210 Aberdeen Road | Bridgewater NS | B4V 4G8
Office: (902) 541-1340 | Cell: (902) 521-0925



Clean Energy
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From: Ed Jack [REDACTED]
Sent: January 23, 2018 8:37 AM
To: Jeff Merrill <Jeff.Merrill@modl.ca>
Subject: Private roads

Hello,

I am a land owner in Lunenburg County.

I understand that Lunenburg county is proposing changes to the private road requirements as it relates to more than 2 lots being sold on a private road.

Who can I contact to obtain what is proposed?

Thanks

Ed Jack





Municipality of the District of Lunenburg

REQUEST FOR DECISION

REPORT TO: Planning Advisory Committee

SUBMITTED BY: Jeff A. Merrill, MCIP, LPP, Director of Planning & Development Services

DATE: January 25, 2018

RE: [Revised] Draft Municipal Planning Strategy and Draft Subdivision By-law

ORIGIN: Council

RECOMMENDATION

If the Planning Advisory Committee makes a recommendation to Council in favor of adopting the Draft Municipal Planning Strategy and Draft Subdivision By-law the following motion is in order.

That the Planning Advisory Committee recommends that Municipal Council give notice of their intention to adopt the:

- **Draft Municipal Planning Strategy, dated January 19, 2018, and**
- **Draft of the Subdivision By-law, dated January 19, 2018, and**
- **that Council hold a Public Hearing regarding the proposed planning documents.**

Further, that Council direct staff to hold a public information meeting prior to the date of the Public Hearing.

DISCUSSION

The Municipality has been conducting a review of its Subdivision By-law and Infrastructure Design Standards. The intent of this review is to update regulations that impact the design, maintenance and cost of publicly and privately-owned infrastructure,

and to create a user-friendly by-law that responds to current needs and future opportunities.

Many factors have prompted this review:

- Since the last Subdivision By-law review 18 years ago, the Municipality of the District of Lunenburg has undergone many changes;
- Considerable growth has occurred at the edges of the towns the District surrounds;
- Climate change impacts the viability of public infrastructure;
- There is a growing recognition that the way we design our communities has a direct impact on the health of its residents;
- Private road residents are frustrated with the challenges of maintaining their private road;
- The review of the Subdivision By-law and Infrastructure Design Standards is an opportunity to address current shortcomings and ready the Municipality for the future;
- The Municipality wants to make the Subdivision By-law more user-friendly.

Project Team

The Municipality awarded the contract for the Subdivision By-law Review to UPLAND Planning + Design and ABLE Engineering in October 2017. The consultants worked closely with MODL planning and engineering staff in conducting the review.

Public Engagement (see attached report, dated November 23, 2017)

The engagement strategy sought to involve stakeholders in the development industry, residents on private roads, as well as the general public. Focus groups were held with stakeholders and residents by invitation, and two open houses enabled the public to learn about the process and provide input. The open houses were promoted with advertisements in the newspaper and on the municipal Facebook page. As an option for

people who prefer to provide input privately, an online and print survey was also available to the public and stakeholders.

Public comments collected from these forums can be found in the Upland Consultation Report, dated November 16, 2017. This Report was presented at the Planning Advisory Committee meeting on November 23rd.

Development Stakeholder Focus Group

A focus group meeting with development stakeholders was held at 9:00 am on November 1st at the Municipal Office. There were 14 individuals in attendance, including people with backgrounds in surveying, architecture, investment and construction, and engineering. The objective of the meeting was to understand both general and specific issues being experienced by stakeholders in the development community. The format was an open discussion with each person providing their point of view among the group.

Private Road Focus Group

A focus group meeting with private road residents was held at 11:00 am on November 1st at the Municipal Office. There were 30 individuals in attendance. The objective of the meeting was to understand both general and specific issues being experienced by private road residents. The format was an open discussion with each person providing their point of view among the group.

Two Open Houses

Two open houses were held in the afternoon and evening of November 1st and were attended by 19 individuals.

Online and Paper Survey (see attached Survey report)

Following the November 1 meetings, a Public Survey was launched, which allowed for members of the public to answer a series of set questions, and provide additional comments. The survey could be completed via electronic means, or in paper format. (The clear majority were done via the internet) 57 surveys were received (38 complete, 19 partial). Upland then verbally presented on a second Survey Report document at the

November 23rd PAC meeting specific to the survey's results, which included public comment received through that format.

Written Submissions (attached)

Several written submissions were forwarded to the project team. Following the stakeholder meetings, a number of individuals involved in development, including local land surveyors, put together a document (dated November 14) to highlight their comments in writing to the Municipality, specific to identified issues. While it was incorporated in the consultant report findings above, this Written Recommendations (Development Stakeholders) can be recognized as a stand-alone document.

Fire Services (attached)

Fire Service providers were asked to provide input and identify issues with providing service on roads in MODL. The response was coordinated through the Municipality's Fire Service Coordinator. Responses were received from 10 departments.

Council/PAC Workshop

On December 5, 2017 Council and members of the Planning Advisory Committee attended a workshop with Staff and Upland. At the workshop Staff and Upland reviewed what was heard during the public consultation, provided background on various provisions of the Subdivision By-law, and reviewed the issues identified and possible alternatives.

PAC Meeting

PAC reviewed a draft Subdivision By-law and Municipal Planning Strategy at their January 11, 2018 meeting. The draft documents have been revised based on the feedback from the Committee.

STRATEGIC PLAN

The review of the Subdivision By-law is a strategic priority of Council

CONCLUSION

Upland has prepared a draft Subdivision By-law and draft Municipal Planning Strategy for Council's consideration.

January 25, 2018

Carolyn Bolivar-Getson
Mayor
Municipality of the District of Lunenburg
210 Aberdeen Rd.,
Bridgewater, NS B4V 4G8

Dear Mayor Bolivar-Getson,

I am writing to you express my concerns regarding the proposed changes to the existing Bylaw. I wish to table this letter at the Planning Advisory Committee Meeting. As you know , it is my belief that the Municipality of the District of Lunenburg has for a number of years been unwittingly approving the subdivision of land abutting on designed roads contrary to their own Subdivision Bylaw. In doing so, they have been, and are now knowingly, committing an offence under Section 505 of the Municipal Government Act of Nova Scotia.

Section 505 of the Municipal Government Act states:

anyone who

a) violates a provision of this Act or of an order, regulation, or bylaw in force in accordance with this Act;

b) fails to do anything required by an order, regulation, or bylaw in force in accordance with this Act;

c) permits anything to be done in violation of this Act or of an order, regulation, or bylaw in force in accordance with this Act; or

d) obstructs or hinders any person in the performance of their duties under this Act,

is guilty of an offence.

The Bylaw respecting the Subdivision of Land in the Municipality of the District of Lunenburg (MODL) was enacted under the authority of Section 271 of the Municipal Government Act. The Subdivision Bylaw is administered by the Municipal Development Officer.

Section 5 of the MODL Subdivision Bylaw states:

All lots shall abut

1. a) a public highway, or
2. b) a designed road, or
3. c) a Schedule "B" Road.

Section 4.1.e. of the MODL subdivision Bylaws states:

Designed road means any street or road which is not public where:

- i) the right-of-way width, alignment and drainage of the road conforms with the requirements contained in Schedule "H" of this By-law, and
- ii) the road extends to, and has access to a Public Highway at an intersection approved by the authority having jurisdiction, and, where not totally located within the area of land proposed to be subdivided, it shall be a right-of-way which is assignable and perpetual and which has been clearly granted to the subdivider by deed, registered in the Registry of Deeds for this Municipality.

Schedule "H" being the MUNICIPAL PUBLIC ROAD DESIGN AND CONSTRUCTION STANDARD [June 1, 2004].

The drainage requirements are set out in Section 7 of Schedule H of the Subdivision Bylaw.

Section 7.2 states:

Design and construction of all storm water drainage systems will be in compliance with the Storm Drainage Works Approval issued by the Nova Scotia Department of the Environment and Labour.

Section 7.5 further states:

All drainage culverts, conduits and other structures will be constructed with headwalls and tail walls of an approved design, and of stable and durable material, including stone, concrete, pressure-treated wood cribbing, and pre-manufactured plastic and metal assemblies. Where appropriate, security screening at culvert openings may be specified at the sole discretion of the Municipal Engineer.

Over the past two years, I have been engaged in numerous discussions with the Director of Planning and Development Services, Chief Administration Officer, the Deputy Mayor, as well as yourself. I have explained in writing that the legal definition of a designed road clearly requires the right-of-way width, alignment and drainage of the road to conform not only with the requirements of the road design standard but also with the road construction standard of Schedule H of the Bylaw. (I have had a retired judge, a Queens Counsel appointed lawyer, and the office of the Ombudsman review the Bylaw and all have confirmed my interpretation of the Bylaw. That is to say, the definition of a designed road has both road design and construction requirements. Simply stated, the road design and construction requirements of a designed road, as it pertains to the right-of-way width, alignment and drainage, are the same as a public road.)

The MODL planning department maintains that there are no construction requirements for a designed road and that an engineered plan drawing is a design of a road and as such meets the requirements of their Bylaw for the purpose of approving lots abutting on a designed road. I have repeatedly explained to the Municipal Development Officer that a design of a road i.e.; an engineered plan drawing does not meet the legal definition of a "designed road". A design of a road is not a "designed road". MODL's current policy of approving lots on a design of a road (plan drawing) is contrary to the requirements of the Bylaw and is in violation of the Municipal Government Act.

These past two and a half years I had hoped to resolve this matter of designed roads informally; however, despite my best efforts this has not been the case. I urged MODL to do an administrative file review, speak with the person who drafted the Bylaw in 1999, or better yet, seek an independent legal opinion. I have repeatedly asked MODL to explain to me their understanding of the definition of a designed road. Each time I was met with blank looks and silence or "a designed road only has to be a design of a road."

The current proposal to remove the construction standards of a designed road is a step backward. Creating rural lane ways demonstrates a lack of strategic planning. It is only through

effective oversight of the subdivision of land and private designed roads that MODL will ensure Developers do responsible planning and development. Proper planning and development encourages people to settle in the District thus increasing the tax base.

The amended Bylaw should protect the environment and enhance public safety by requiring privately designed roads to meet road design and construction standards thus reducing the risk of accidents by ensuring proper stopping distance, speed limits, safe intersections and bridges as well as proper drainage. Private designed roads should be accessible to emergency vehicles and other service vehicles such as garbage collection.

With respect to flag lots, it is misleading to allow the approval of flag lots that abut on a public or private road while the lot cannot be legally accessed via that road. Case in point: I bought a lot that abuts Conquerall Mills Road; however, I cannot access my lot via a vehicle from the Conquerall Mills Road.

To suggest that a Bylaw that requires proper subdivision planning and road construction is going to somehow discourage people from purchasing lots is simply not true. A properly planned subdivision with adequate roads is a much more attractive investment for a home owner. It increases the assessed value of the property which translates to more tax revenue. While a poorly planned subdivision with inadequate roads has the complete opposite effect. It discourages new development, fosters resentment among residents and increases the likelihood of a traffic accident and has the potential to harm the environment through improper drainage.

You have heard from Developers who have stated a private designed road built to the proposed construction standards would involve minimal increased costs; as most developers will tell you, they build roads to these standards anyway. The cost of the lot is only a fraction of the cost of building a home. The consumer would gladly absorb these minimal increased costs knowing they have legal access to their home over a properly constructed road.

By requiring an engineer to certify a private designed road was properly designed and constructed you are protecting the environment and tax payers against unscrupulous developers.

Let's not be naive. There will always be people, who will be motivated by greed, they will cut corners, use substandard materials and will sacrifice the greater good to make a quick profit.

The proposed draft Bylaw number 3 would have held Developers and Engineers accountable to ensure roads were properly designed and constructed to an acceptable standard. An engineered plan drawing of a road which will never be built to those specifications would no longer be a useless paper exercise as is the case now. The proposed amendments in draft 3 would have gradually over time required existing designed roads (which currently do not meet the construction requirements of a designed road) to at least be built to minimal standards of a private designed road should there be further development. This strategy of gradually bringing all private designed roads up to minimal acceptable standards would have mitigated the risks and liabilities to the Municipality.

I strongly support those proposed amendments in draft 3 while I am adamantly opposed to the idea of creating rural lane ways and removing the existing construction standards of a designed road.

Shortly after September 11, 2001, I had the privilege to meet and listen to General Norman Schwarzkopf speak on the topic of leadership. He said leadership is having the courage to do the right thing for the right reasons. He said we all know what's the right thing to do; the hard part is in doing it.

Common sense tells us that the proposed amendments in draft 3 are the right thing to do. I hope there is enough leadership in this room to see it through.

I look forward to hearing from you.

Sincerely,

Allen Nause
President
Botany Woods Landowners Association

January 25th, 2018

To Whom It May Concern,

My name is Matthias Händel and I am the president of M & F Handel Development Limited. My company has been in the land development business since 1994. I mainly develop within Lunenburg County and to date, we have developed over 135 properties.

At the moment, we are in the process of establishing another development in Lunenburg County of 30 plus properties, with over 4,000 feet of roadway. Based on the proposed changes that are being discussed tonight, I will no longer be able to develop my current project, nor any future projects in Lunenburg County. The reason is that the impositions you are placing on road construction will make it financially unfeasible to develop any longer within the county. The costs associated with the proposed changes will destroy all future development in Lunenburg County, for not only myself, but all developers, both big and small.

My current development will cause a financial increase to the local economy in the amount of ***four to five million dollars*** in the next two years. If the proposed changes are implemented into law, that money will be lost to the municipality and its residents since I will no longer be able to develop properties.

There are many contractors and subcontractor throughout Lunenburg County who currently rely on the employment that my company provides. This ranges from the surveyors who initially plan out my subdivisions, all the way down to the lawn maintenance people who take care of the properties once development is fully completed.

The proposed changes are to be applied to all future roadway development for subdivisions. However, this is concerning because I have been advised that one of the main purposes for the proposed changes is to facilitate easier access to residents for emergency services vehicles. However, I must question what will happen to the currently built roads? Will they also be changed to

facilitate easier access? If not, the new rules appear to be quite arbitrary. Furthermore, the emergency service vehicles will not be travelling any new roads, because they will be too expensive for developers to build.

Additionally, I would like to point out that when my current development is complete, the major benefactor will be the Municipality of the District of Lunenburg, who will receive property taxes on an average of \$80,000 to \$100,000 per year. This money will not be available if you proceed with the proposed changes. These property taxes are used to support local infrastructure, and will no longer be available to your organization either.

The proposed changes will not only affect my company, but also other development companies throughout the Municipality. My company is larger than most, and if I am unable to absorb the additional costs that your proposed changes will cause, then I highly doubt other developers will be able to either.

I highly urge you to reconsider your proposed changes which will only harm an already depressed economy.

Sincerely,

Matthias Händel
President – M & F Handel Development Ltd.

Residential Lots Created by

M&F Handel Developments

Lunenburg County

Year	Location	Lake	# of Lots
1994	Newcombsville	Little Wiles Lake	17
1999	Lapland	Patrick Lake	18
2006	Camperdown	Rocky Lake	21
2008	Chelsea	Fisher Lake	22
2011	Hebb's Cross	Minameak Lake	14
2012	Pleasant River	Shingle Lake	14
2015-2018	East Clifford	Seven Mile Lake	29

Total # of Lots: 135

**House construction by M & F Handel Developments in the last 10 years:
45**

Other house construction by other contractors: ?

All lots on private designed right of way roads 0.7 km to 1.70 km in length.

Future pending 30 lot subdivision – now cancelled.

From: [Alex Dumaresq](#)
To: [Jeff Merrill](#)
Subject: FW: Land Ddevelopment draft 2018
Date: January 30, 2018 11:50:42 AM

I think this is for the subdivision bylaw review process

From: Paul Smith [REDACTED]
Sent: January 30, 2018 11:03 AM
To: Kevin Malloy <Kevin.Malloy@modl.ca>; Alex Dumaresq <Alex.Dumaresq@modl.ca>
Cc: Wade Carver <Wade.Carver@modl.ca>; Cathy Moore <Cathy.Moore@modl.ca>
Subject: Land Ddevelopment draft 2018

Good morning folks !. Hope this finds you all well !

Arriving back from Portugal and landing with a nasty cold back in Canada I missed some of the meetings on land development reforms . As a resident I would like the following ideas to be considered in the reform guidelines discussions .

I have other ideas but I am sure other folks will cover them .

My points for the land developers draft :

(1) Any development around lakes ,rivers , and oceans require reasonable public access points .

(2)Any developement near clusters of people or community which is near lakes , rivers , oceans should have a plan by the municipality for public access .

(a prime example was all the developement along Fancy Lake on the Hebbville side , near 6000 people + a 1km away , a beautiful Trails system , a bike route along highway.....BUT no access to the lake, on Hebbville side because of poor land development agreements !!!!) .

(3)Any developement along lakes , rivers , oceans should have proper setbacks . We have the science to justify a reasoble setback requirement . Use the present Forestry requirement .

(4) Involve the province because of MGA section 270/271 .I strongly feel a

poorly constructed development act or guidelines will come back to “haunt “ the municipalities in regards to this section for access to Lakes/Rivers / and Oceans , I think you have plenty examples already .

I believe this municipality has the ability and can connect to the broad ranges of information to correct past errors and move to development agreements that will build our Lunenburg County Socially and Economically ,

Best Regards and Obrigardo (Thanks You)Paul (Smith) [REDACTED]

From: Sybren vander Zwaag
Sent: February 6, 2018 11:59 AM
To: Jeff Merrill <Jeff.Merrill@modl.ca>
Cc: MODL Mayor <mayor@modl.ca>; Lee Nauss <Lee.Nauss@modl.ca>; John Veinot <John.Veinot@modl.ca>; Martin Bell <Martin.Bell@modl.ca>; Berrigan Surveys Limited; Sybren vander Zwaag
Subject: PAC Submission for Consideration re: Flag Lots

Dear Mr. Merrill,

Attached please find a submission for consideration regarding the deliberations on the review of Planning By-laws.

I have copied those on the Committee I know but am not familiar with all. I would ask you to forward this to those others for information and consideration.

I would be pleased to offer any clarification needed via email or phone [REDACTED] I would also be happy to show anyone interested in seeing the of the subdivision development here on site. It is just a matter of finding a suitable time.

Regards,

Sybren Vander Zwaag

To: Jeff Merrill, Director of Planning, MODL
From: Sybren Vander Zwaag, President, Botany Woods Developments and River Mill Developments
Date: 6 February, 2018

Subject: **Subdivision Planning Revisions – Flag Lots**

Attn: Jeff Merrill

Dear Mr. Merrill,

I am writing to you to express my great concern related to the direction being proposed by the MODL PAC for subdivision by-laws, especially the limitation on flag lots. Below is a summary of my perspective, followed by a detailed line of reason.

Summary

The Developer of Botany Woods Subdivision and River Mill Subdivision urges the MODL PAC to remove the proposal to limit flag lots to two and retain a no limit by-law with respect to flag lots. The grounds for this are the following:

1. Flag lots are highly effective in allowing good building lots to be created where these would otherwise have to be abandoned.
2. Flag lots create a property tax base that would otherwise be lost.
3. Flag lots allow retention of areas of natural beauty.
4. Flag lots are not difficult to plan nor impossible to survey.
5. Flag lots on many occasions, use the pole of the flag as the road path for access.
6. Flag lots, often driven by difficult terrain, leave that terrain untouched and a natural benefit to the community.
7. The loss of flag lots add very significant cost to the Developer and eliminates the potential for full and efficient use of its land for development.
8. The flag lot by-law proposal is highly prejudicial against this Developer. As far as can be determined, it is the major user of this concept.
9. No harm has been shown by the use of flag lots from the perspective of this Developer.
10. A Cost/Benefit study should be engaged before making decisions on this proposal.
11. Advancing with this proposal would cause irreparable harm to this Developer, which even though it has followed, abided by and exceeded the requirements of the by-laws in place. It causes:
 - a. The loss of a building lot.

- b. It forces the resurvey of 16 lots already surveyed.
- c. It forces the creation of a designed road where an acceptable road already exists.
- d. This proposal, at the end of the day, results in no substantial positive changes to the subdivisions, yet incurs a cost in the range of \$70,000. This is arbitrary, counterproductive and unfair.

Detailed Framework

Our subdivisions' construction is essentially complete at this point in time, with all roads constructed, all lots surveyed and assessed for septic approval and all power lines installed. A total of 51 lots have been created, of which 35 have been formalized through to Planning approval. The others, while all surveyed and soil assessed for septic, have not been. You are aware of the property tax impediments for Developers and, for economic survival reasons, they do not move forward with formal planning approval. As well, also a burden, is the 2% Recreation Tax assessed on each lot that is approved and must be paid upfront.

This twenty-seven-year development process has resulted in the creation of two premium subdivisions, where all of the work done was in compliance with the planning by-laws. In the case of roads, we greatly exceeded the requirements.

I assure you, this is a very substantial expenditure and significant risks in a house and property market such as the MODL. Nevertheless, it was made in confidence and trust that the rules in place were reliable and enduring.

Of the 51 lots created, 27 were created as flag lots.

There were a number of factors driving the flag lot strategy. The main one is topography (See sketch N. 1).

The topography factor is both an impediment and a valued asset. We first began to use the flag lot concept because we were unable to abut a planned designed road to the existing one due to topography. I am speaking about Forestridge Drive. By the flag lot mechanism, we were able to develop a further 14 lots. We currently have homes on some of these lots and an estimated tax base of about \$3.2 million, generating about \$27,000 per year in tax revenue for the MODL. Clearly, the residents have shown great confidence and approval in this development. I will restate what I have said before, that the developments of Botany Woods and River Mill are currently contributing \$110,000 in property tax revenue annually.

The attached sketch shows the topography of Botany Woods and River Mill. The original development occurred around the designed roads of Botany Lane, Deer Run and a portion of Lazy River Road (in orange colour). The topography for that part of development was essentially on level terrain and very simple to plan. The sketch shows the significant elevations encountered in the remaining portion of the undeveloped part of the subdivision. Through the use of flag lots, we were able to develop all the remaining land. Without flag lots, this would have remained forest land.

The flag lots were serviced by private roads having the same construction levels as the designed right of way roads. For the most part, the pole of the flag was located on unusable land (due to steep slope) or formed the land base on which the private roads were built. These roads are coloured in green. The “pole land” essentially becomes “road property” or green space, a benefit to the community.

Regarding River Mill subdivision, some of that topographic challenge (steep slopes) existed there as well and the use of flag lots was the solution. The rest of the terrain was relatively level but we wanted to retain a beautiful, natural area of mature hardwoods. A designed road would have necessitated their removal. Therefore, flag lots were chosen as the mechanism by which to accomplish this goal.

River Mill subdivision has 13 lots, all flag lots. A one-hundred-foot-wide nature corridor has been created for the present and future residents. This natural feature has drawn residents and also many local residents, as walkers, who greatly enjoy the nature walk and peaceful tranquility we have created. I constantly receive compliments from walkers who use it. To put in a designed private road would have necessitated the destruction of this feature and our community would be the poorer.

I have tried, with some difficulty, to understand the motivation for the limitation of two flag lots proposed by the PAC.

I have reviewed the comments provided by UPLAND in its report. I was only able to find three references to flag lots:

- “the creation of flag lots for access purposes (requiring 20 feet of frontage). Flag lots are difficult to deal with in the design of the subdivision”. Page 5

I do not know what this writer is criticizing. We designed all 27 lots without difficulty. One only has to choose the path for the pole of the flag lot. It is somewhat more complex to survey, but not impossible. The surveyors build that into their cost so everyone is treated fairly.

- “Flag lots used as private roads is way out of date” – Page 9.

This is a strange comment. Does it mean that those who use this mechanism are out of touch and from an earlier out-dated time that is no longer valid? Why not? It does not appear the writer is well informed.

- “Flag lot issue with site lines private road standards should have roads designed” - page 148.

This comment doesn’t make any sense to me and I am unable to comment on this.

These comments do not appear to form the basis of the by-law proposal for putting in place a limit of two (2) flag lots per development.

In view of the proposals and in an effort to minimize the losses, the Developer did a review and revision was done to minimize the impact on our two subdivisions. We will be able to complete the Botany Woods subdivision but will have to re-survey up to three lots with associated costs of \$3-5k.

Regarding River Mill, all of the lots will require re-surveying. As well, a 600-foot road will have to be designed and constructed with a cul-de-sac. Also, as a consequence, we will lose the ability to sell one lot. In total, road engineering and construction, re-surveying and loss of sales, will generate a cost in the \$70,000 range, plus or minus. It is shocking that three words, “two flag lots” could cost this much. This is unacceptable, unfair, unjust and counterproductive.

As was mentioned previously, during the 27 years of development, the MODL by-laws and requirements were fully satisfied and largely exceeded. How can this PAC initiative even be contemplated with flag lots being such a core, positive, contributing factor for the MODL? As has been mentioned before, private subdivisions are a significant contributor to the property tax base. How can these questionable proposals be put forward with such negative consequences against those who have spent decades investing, working hard, taking risks and then be asked to accept this without a whimper?

In the case of flag lots, I wish to put forward another troubling factor. Some research was carried out with the three main surveying companies in MODL. None of them remember any or significant use of flag lots for any of their clients except for Botany Woods and River Mill. This means that this proposal is directed almost exclusively against this Developer. When one considers the arbitrariness of the limit proposed and the lack of logical support for the action,

one begins to wonder about the objectivity and legitimacy of the proposed change in flag lots. Why two? Why not four or none? Why not leave it alone altogether? It appears to be entirely arbitrary.

This flag lot proposal makes even less sense when one frames this in the context of the great benefit a development such as Botany Woods/River Mill is to the MODL and the County as a whole. These proposed regulations strangle this development. Instead, this type of development should be encouraged and facilitated.

The imposition of limitations on flag lots is highly unjustified and injurious to River Mill subdivision. I hereby request this proposal be rescinded and removed.

I take this opportunity to make some further suggestions:

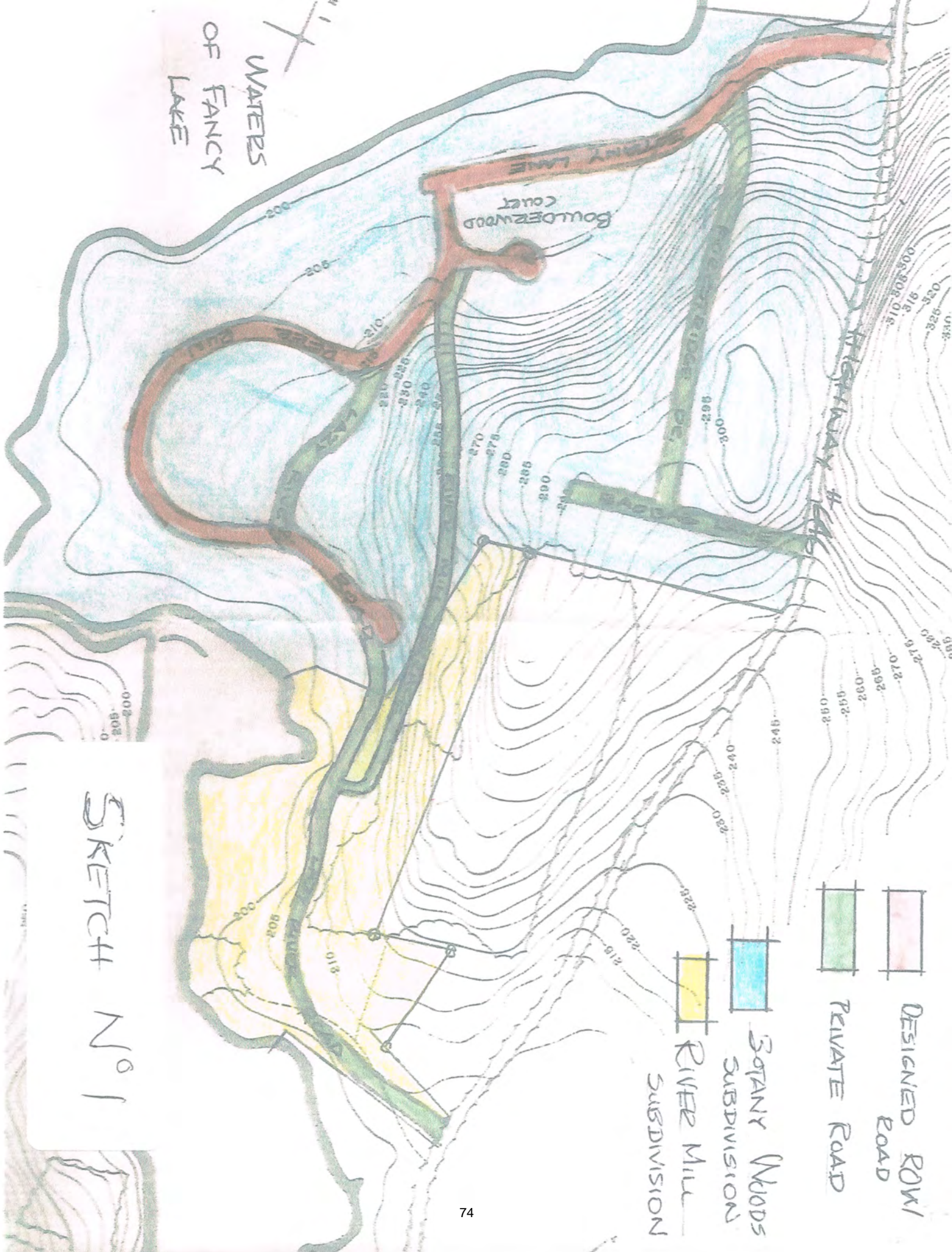
- Develop a strategy that allows Developers to complete the full planning approval on their lots without having the property tax burden imposed. Other jurisdictions have found ways to do this.
- The population of MODL is declining. This is a huge problem for us all. Everything we can do to encourage a betterment of our environment we should do. Good home sites are an important part of that. Choice is important. I know MODL need the money but please consider eliminating the 2% recreation tax imposed on Developers. At a minimum it should follow the suggestion above regarding delay of imposition till the property is sold. Also, this tax, if retained should go to the private subdivision's land owner's association.

Thank you for the opportunity to provide this input.

Sybren Vander Zwaag, Botany Woods Devts and River Mill Devts.



WATERS
OF FANCY
LAKE



SKETCH No 1

- DESIGNED ROW/ROAD
- PRIVATE ROAD
- BOTANY Woods SUBDIVISION
- RIVER MILL SUBDIVISION



Municipality of the District of Lunenburg

REQUEST FOR DECISION

REPORT TO: Planning Advisory Committee

SUBMITTED BY: Jeff A. Merrill, MCIP, LPP, Director of Planning & Development Services

DATE: February 15, 2018

RE: Draft Municipal Planning Strategy and Draft Subdivision By-law

ORIGIN: Council

RECOMMENDATION

If the Planning Advisory Committee makes a recommendation to Council in favor of adopting the Draft Municipal Planning Strategy and Draft Subdivision By-law the following motion is in order.

Motion

That the Planning Advisory Committee recommends that Municipal Council give notice of their intention to:

- **repeal the Municipal Planning Strategy, approved by Council effective on May 4, 1999, and amendments thereto;**
- **adopt the draft Municipal Planning Strategy, dated February 15, 2018,**
- **repeal the Subdivision By-law approved by Council on May 4, 1999 and amendments thereto;**
- **adopt the draft Subdivision By-law, dated February 15, 2018;**

Further, that Council hold a Public Hearing regarding the proposed planning documents; and,

that Council direct staff to hold a public information meeting prior to the date of the Public Hearing.

Once the proposed Subdivision By-law has become effective two policies of Council will become obsolete:

- MDL-25 being Subdivision By-law amendments, approved by policy on November 12, 2003; and,
- MDL-25 being a policy to amend the engineering specifications for public highways, effective June 1, 2004.

Staff will bring forward a recommendation to repeal both MDL-24 and MDL-25 once the proposed Subdivision By-law has become effective.

From: [Allen Nause](#)
To: [Jeff Merrill](#); [Carolyn Bolivar-Getson](#); [Martin Bell](#)
Subject: Re: PAC meeting
Date: February 15, 2018 11:23:35 AM

Thank you Jeff.

I have had a chance to review the 1993 Bylaw and subsequent amendment. I have a better appreciation of the confusion surrounding the construction requirements of a designed road.

It is obvious to me what happened; when Council approved the amendments in 1997 to remove construction requirements of a designed road in Section 6 they omitted to amend the definition of a designed road in Section 4. The Definition of a designed road remained the same and required the right of way width, alignment and drainage to conform with requirements of Schedule **I**.

The definition of a designed road should have been amended at that time to read ...the right of way width, alignment and drainage conform with the **road design** requirements of Schedule I. This wording would have limited the requirements of a designed road to design only. An engineered plan drawing would have met the definition of a designed road. But the definition was not amended, hence an engineered plan drawing does not nor did it ever meet the definition of a designed road.

When the current Bylaw was passed in 1999 the wording of the definition of a designed road remained the same with the exception that the right of way width, alignment and drainage of a designed road conform with the **requirements** of Schedule **H**.

It was a glaring omission not to amend the definition of a designed road if it was the intent to remove the construction requirements. This is very sloppy legal work and inexcusable. I don't blame you or the planning staff. Whoever drafted the legislation should have picked up on this immediately. There is an old saying when it comes to drafting legislation; the devil is in the details.

So in fact the constructions requirements of a designed road were never actually removed. They have and still do exist in the current definition of a designed road. You have quite a dilemma.

Allen

On Feb 14, 2018, at 16:19, Jeff Merrill <Jeff.Merrill@modl.ca> wrote:

Mr. Nause,

As requested, please find attached a consolidated copy of the 1997 Subdivision By-law and a copy of the amendments (Approved Nov. 25, 1997) to the Subdivision By-law removing the design standards.

Regards,

Jeff A. Merrill, MCIP, LPP
Director
Planning & Development Services
Municipality of the District of Lunenburg
210 Aberdeen Road |Bridgewater NS | B4V 4G8
Office: (902) 541-1340 |Cell: (902) 521-0925

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

From: Allen Nause [<mailto:nauseallen@gmail.com>]
Sent: February 14, 2018 12:29 PM
To: Jeff Merrill <Jeff.Merrill@modl.ca>
Subject: PAC meeting

Hello Jeff,

Thanks for informing me of the meeting. In preparation I reread the Municipal Planning Strategy.

I note that in the History section it refers to the Municipal Council amending the subdivision By-law in 1997 to remove the construction standards for private "designed" roads.

Would you please forward to me a copy of the bylaw before it was amended as well as the amendment that removed the construction requirements of a "designed road".

Thank you Allen
Sent from my iPad

<1993 Subdivision Bylaw ADMENDED February 13 1997.pdf>

<Designed road amendments approved by Council 1997-11-25.pdf>

From: [Allen Nause](#)
To: [Carolyn Bolivar-Getson](#); [Martin Bell](#)
Cc: [Jeff Merrill](#)
Subject: Subdivision Bylaw
Date: February 15, 2018 6:14:51 PM

Dear Mayor Bolivar Getson

My name is Allen Nause . I am the president of the Botany Woods Landowners Association. I am also a retired Deputy Commissioner of the Royal Canadian Mounted Police. I have had a hand in drafting numerous pieces of federal legislation so I know how tedious it can be.

Having said that, I would like to commend you and the Deputy Mayor for hiring consultants to update the existing Bylaw. It is money well spent. The proposed amendments are in my opinion sound recommendations, they first and foremost take into consideration public safety and promote responsible planning and economic development. From a legal point of view the proposed Bylaw is very well written. It will bring clarity to the subdivision Bylaw.

The proposed amendments will limit the use of multiple flag lots and close a loop hole in the current Bylaw that allows a developer to avoid the need to construct a proper road that meets the safety standards of Schedule H. Many of the flag lots in our Subdivision cannot be accessed by the pole including my own lot. Instead we share a common private driveway exempt from construction standards and in some cases without a guaranteed right of way. Our shared driveway , however is named Forestridge Dr. which is somewhat misleading. We would prefer to see a proper rural lane way built to minimal standards as opposed to multiple flag lots that may be serviced by a substandard common driveway.

In 1997 Council approved amendments to the Bylaw and deleted parts of Section 6 which made reference to the need to construct a road to minimal standards. It was replaced with "In order to facilitate the construction of a Public Highway at any future time Council will require the subdivider to design the private road with a right of way width, alignment and drainage that satisfies the Municipal Public Highway Standards of the Subdivision Bylaw." Which is fine .Part 6 required the road to be designed. However Council omitted to amend the definition of a designed road in Section 4. The Definition of a designed road remained the same and still required the right of way width, alignment and drainage to conform with both the road design and construction requirements of Schedule **I**.

The definition of a designed road should have been amended at that time to specify the designed road only had to meet the road design standard. But the definition was not amended, hence an engineered plan drawing does not nor did it ever meet the definition of a designed road. An engineered plan drawing met the road design requirements of Section 6 but not road design and construction standard of Section 4 of the Bylaw.

When the current Bylaw was passed in 1999 the wording of the definition of a designed road remained the same with the exception that the right of way width, alignment and drainage of a designed road conform with the **requirements** of Schedule **H**. The reference to road design in Section 6 was deleted as the requirements in the definition of a designed road in Section 4 had both a road design and construction standard.

It was a glaring omission not to amend the definition of a designed road if it was the intent of Council to remove the construction requirements. Whoever drafted the legislation should

have picked up on this immediately. There is an old saying when it comes to drafting legislation; the devil is in the details.

So in fact the constructions requirements of a designed road were never actually removed. They have and still do exist in the current definition of a designed road.

To require a road to be designed by an engineer to meet certain standards but not constructed to those standards makes no sense at all. It would be a useless paper exercise. A make work project for engineers.

My question to Council is : if Council cannot reach a consensus to pass the proposed amendments will MODL require the right of way width, alignment and drainage of a designed road to conform with the requirements of Schedule H. Schedule H being the public road design and construction standard. If not, why not ,as the Municipal Government Act and Bylaw as is currently written, requires it to do so.

Allen Nause

Sent from my iPad

To: Jeff Merrill, Director of Planning, MODL

Cc: Carolyn Bolivar Getson, Mayor, MODL.

Date: 20 February, 2018

From: Sybren Vander Zwaag, Botany Woods and River Mill Developments.

Subject: PAC Meeting 15 February, 2018

Some Decision Input

A lot of input was received during the last PAC meeting. It seemed clear the development community has great anxiety over the proposals being put forth. This letter is intended to offer a perspective on what may be driving that.

The last revisions to the Planning By-laws occurred 19 years ago. During that time a significant number of developers have initiated private subdivision plans. They were able, under those subdivision by-laws, to make success of those initiatives. Many private subdivisions were created and continue to be. A level of comfort and confidence has been built up during that time and the developers have found out what works and what doesn't.

That framework gave them necessary flexibility and was cost effective.

Suddenly, out of nowhere, notice is given of very significant changes being put in place that puts all at risk because of the high demands and significant restrictions compared to what they had in the past.

The developers are being asked to go from a "no vehicle" to a Cadillac overnight without the ability to pay for the Cadillac. The market cannot support it. The market is limited and it is under threat because population is shrinking.

The by-laws regarding Private Subdivision roads are going from "no standards" to "very defined and high standards".

It is fair to say, the standards in place have worked very well for development in MODL during the last 19 years. This is reality.

It is also fair to say that the need for roads to accommodate security and safety vehicles is totally necessary. Where necessary it must be addressed and supported by the development community. I believe it will be.

Regarding emergency vehicles, the critical thing to be addressed is:

“CAN THE VEHICLE GET TO THE EMERGENCY SITE SAFELY AND EFFICIENTLY?”.

Regarding the actual road construction, as was mentioned in the public input at the meeting, developers, as part of their process, must construct these roads to provide access to heavy traffic, concrete trucks, gravel trucks, heavy equipment, building supplies, etc. The roads have been constructed to support this load and it is reasonable to conclude that emergency vehicles can therefor safely use them as well.

Apart from developers naturally constructing the roads to be able to carry construction type traffic, they are also very mindful of customer demands. If the subdivision does not have good roads the customers will not buy. The safety and security access is very important for them as well.

Berrigan Surveys carried out an audit of 7 subdivision roads for width in MODL. Below are the results:

<u>Road Name</u>	<u>Location</u>	<u>Road Width</u>	<u>Gravel Surface</u>
Eco Lane	Hebb's Cross	17'	14'
Hummingbird Lane	Lapland	19'	14'
Kipto Lane	Camperdown	16'	12'
Huber Drive	Middlewood	22'	18'
Wallace Lake Dr.	Italy Cross	21'	18'
Rachel Lane	Conquerall Mills	26'	20'
Botany Lane	Conquerall Mills	23'	20'

These numbers speak for themselves. They are a natural consequence of development and customer needs.

The need to be addressed at this time is a minimum width and road construction that will accommodate safety and emergency vehicles. The width of these vehicles is typically 8'.

Attached is a sketch that shows a proposed minimum road width of 14' with 3' shoulders. The road width by itself gives a total 6' buffer and with shoulders it is more than double the width of the vehicle.

The road survey shows that the current subdivision roads can comfortably accommodate emergency vehicles.

We know the argument has been made that more space is needed to access gear and equipment in case of a fire. That is true, but only true where the fire is. It is not reasonable to construct miles of road that would give the space comfort factor desired by the fire departments along the whole road. What is important is that the access road is capable of taking the load and width of the firetruck.

Regarding construction standards, these do not need to be imposed. As detailed above, these will result naturally from construction needs and market demands.

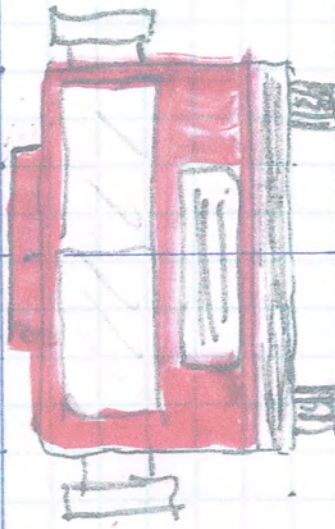
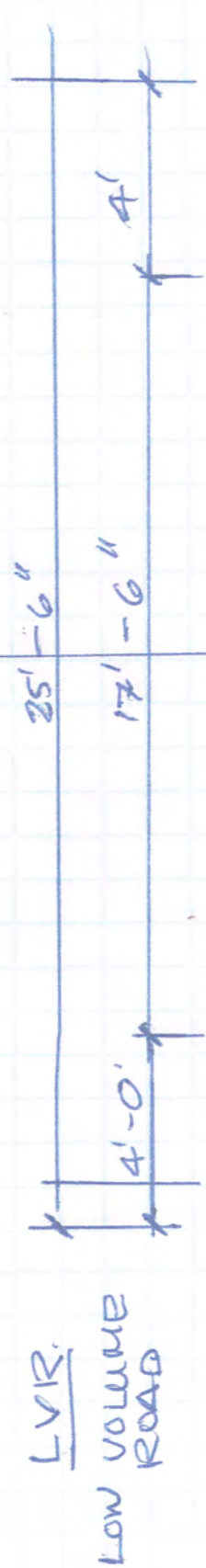
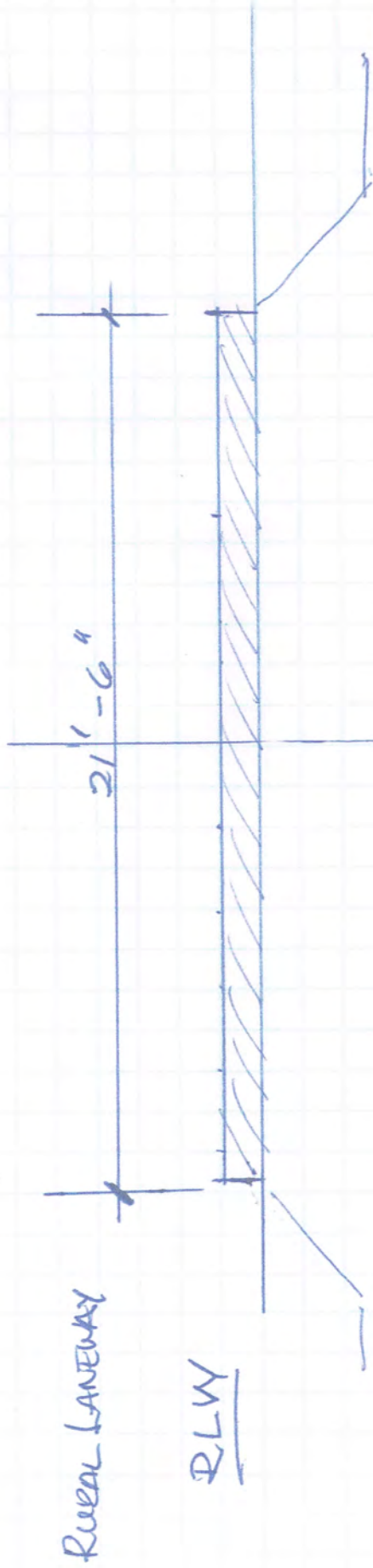
Please accept this input into your decision making.

Sybren Vander Zwaag.

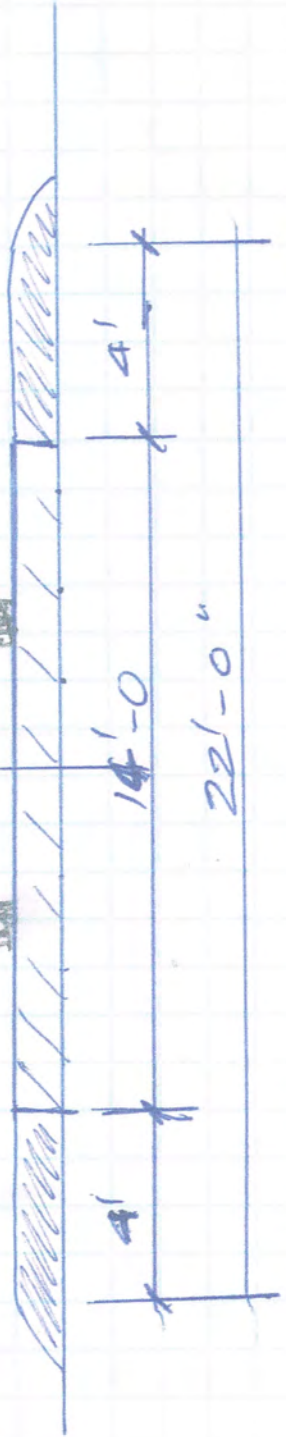
Key Meeting Principles from Developers

- a) Private subdivisions are private.
- b) Revisions to by-laws should be based on defining roads that will acceptably allow safety and emergency vehicles to pass.
- c) Recognizes that current by-laws have worked well for development.
- d) Recognizes construction needs and market demand drive road construction.
- e) Defined required standards should be **minimum** and only where needed.
- f) Recognizes character of MODL market and topography.

- g) Recognizes that residents of private subdivisions have to be empowered through landowner's associations to assure decent and good functioning.



RECOMMENDED



February 21, 2018.

Proposed Construction Standards for **Private Roads**

- Road to be constructed within the Designed Right of Way (does not have to be in exact centre)
- Road travelled surface = 15 feet wide (4.6m)
- Shoulder width = 1.5 feet wide (0.45m) Total top surface would be 18 feet (5.5m)
- Maximum Grade 12%
- "K" Factor (Vertical Alignment) to pass at 40 kph
- Horizontal Alignment to be at least designed and constructed for 40 kph
- Ditching to be determined by the Consulting Engineer and Developer.
- Gravel base material for road construction to be determined by the Consulting Engineer & Developer (No Minimum Standards).
- Gravel top surface material for road construction to be determined by the Consulting Engineer & Developer (No Minimum Standards).

Note: There is no issue with safety in this case. Road and Shoulder will allow for an 18 feet wide surface which will be constructed to both vertical and horizontal alignment for speeds of 40 kph.

From: [Norma Schiefer](#)
To: [Jeff Merrill](#); [Douglas Reid](#)
Subject: FW: Subdivision By Laws (Proposed)
Date: February 23, 2018 9:09:55 AM
Attachments: [Hindon_04d3b2d6-2d4a-434c-94ab-57280492b2be.png](#)

From: Stephen O'Leary [REDACTED]
Sent: February 23, 2018 9:00 AM
To: Norma Schiefer <Norma.Schiefer@modl.ca>
Subject: Subdivision By Laws (Proposed)

Hi Norma,

Thank you and the others in the planning office for taking the time to hear me last Thursday regarding the road construction issues.

We are preparing more of a position paper for your consideration which will follow.

I wanted to get back to you now with the specific information requested regarding our road construction costs vs proposed standard.

I have reviewed the actual costs incurred for the Sherbrooke Lake development. Our budget for road construction is typically \$30/foot. We strive of course to achieve lower cost if possible and target \$25/foot. At Sherbrooke our cost were in line with this in that our road construction costs were \$23.74/foot. We have however planned for some additional topping as needed following first winter and construction of cottages this winter. We expect we will finish up at \$25-26/sq. foot. We have also reviewed with our road construction contractors the proposed standards. While conditions on site vary from site to site the consensus is that this proposed road standard would be in the \$100/foot range. Three to four times our normal cost.

Thank you

Stephen O'Leary
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Owner



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BUILDING INSPECTION

FEB 28 2018

RECEIVED

28 February, 2018

Dear Jeff,

We have been made aware that a full Council session has been convened related to the proposed municipal by-law changes at various stages during the last number of months.

A document was put together on behalf of the development community and interested parties which was intended to be submitted with signatures of those parties, to convey the thoughts of that group. A number of signatures have been provided but more were expected. It is our desire to have the decision makers be aware of that input, so we submit that to you and request it be conveyed to them as part of the deliberation process. We will follow up with further support signatures later.

We apologize for this sudden submission but were unaware of the events going on.

Thank you.

To: Mr. Jeff Merrill, Director of Planning, MODL

Cc: Ms. Carolyn Bolivar Getson Mayor, MODL

From: Development Group MODL as per undersigned below

Date: 22 February, 2018

Subject: Comments Regarding Proposed Municipal By-Law Revisions

Dear Mr. Merrill,

We, the undersigned, submit this document to the PAC for consideration:

	Developer Name	Developer Representative	Date
1.	<u>Matthias Handel</u>	<u>M+F Handel Devel Ltd</u>	<u>Feb. 23/18</u>
2.	_____	_____	_____
3.	_____	_____	_____
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Introduction

It was clear through presentations to the PAC meeting on 15 February, 2018, there was much dissatisfaction regarding the proposed changes to the MODL Subdivision By-Laws.

We recognize there are many stake holders and the PAC, and ultimately Council strive to take all of them into account.

We, the undersigned, represent a significant portion of the Development community and would argue this community is the one that contributes significantly to the advancement of our communities and progress on many fronts. The benefits to the community are well understood in the short term in goods and services, and in the long term in new communities and their ongoing tax base and its benefits.

We wish to affirm, the subdivision by-law structure we have been working under, has largely been a success and a boon to the MODL. Many Developers have invested in and taken on the risk of development based on many positive factors and also taking into account the nature of a particular market and natural, challenging topography. Our goal has been to find ways to utilize the natural beauty of the MODL and overcome, in a positive way, the challenges that were before us.

We have committed much in these efforts and they were based on knowing a stable and enduring development environment existed. The direction proposed by the PAC has seriously challenged and disrupted our confidence in this matter.

During the 15 February, 2018 meeting, many concerns were brought forward and public participation has provided explanations of those concerns for the PAC and Councillors to consider.

We would like the PAC/Council to understand that the current subdivision by-laws have been supportive of development. In particular, they offer flexibility in approaches to development. This is very important for the development community. The more rigid the development framework we have to work in, the fewer options exist, resulting in extra burdens in work, materials and time and eventually greater cost.

Secondly, we most strongly affirm, the market greatly dictates what is needed in development. If we do not provide good roads, customers will not come. If we do not build ditches and culverts where needed, roads wash out and they have to be rebuilt.

For the Developer, if roads are not adequately built, in width and roadbed, building suppliers and contractors cannot deliver goods or provide services. If roads are not wide enough, good winter maintenance cannot occur. The snow has to be put somewhere.

If security and safety agencies cannot provide their services, our customers will not purchase our products. It was mentioned in the meeting that if a concrete truck or a truss truck can

provide their goods to our sites, a firetruck can access the development, and other services as well.

In summary, the existing development by-law structure, while not perfect, has done a very good job of creating the development environment we have. We should be very careful in changing it and changes that are necessary, must be assured to be effective and be assured the proposed solutions actually will continue to provide the positive results wanted.

We would like to put forward a framework that we find acceptable, that takes into account maximizing development flexibility, recognizing market forces for their impact and adopting a structure of **minimum requirements**.

We strongly encourage the PAC and Council to recognize that Private Subdivision development has been a great benefit to MODL and its communities. This "private" factor should lead MODL to **minimize its involvement** and recognize the private factor and enable those organizations to look after their own affairs. With that, MODL can provide means and avenues that empower members of those private entities to assure their good and decent functioning. An example would be to recommend all private subdivisions have legally constituted landowner's associations, empowered to collect dues for maintenance and assurance of adequate roads. It is our understanding many new private subdivisions have this set-up currently and provide good functioning and maintenance.

As was suggested in the meeting, the drawing and subdivision approval documents should clearly identify their property is in a private subdivision. This would be good.

To encourage this structure, we also recommend the MODL drop the 5% charge on collecting dues via the property tax system.

Recommendations

We wish to put forward some recommendations. We ask the PAC to reconsider its approach. To consider solving problems via looking for ways to empower the development community and private subdivision communities themselves to take on their responsibilities rather than imposing tough new standards.

Instead of imposing tough road requirements, which may only produce the illusion of wonderful new roads, but in the end will only essentially stifle or eliminate new development, recognize that much good has already come from the structure of the last 19 years. As was pointed out in the meeting, creating high standards will not assure good maintenance. What happens to those roads after five years with minimal maintenance? The key is to empower the residents to maintain their roads.

We ask that you consider different ways to deal with shortcomings that have been identified, other than imposition of high standards or eliminating useful options, as in the case of flag lots.

This approach will minimize the disruption effect on the current state of the development community. We understand this empowerment approach may be highly uncomfortable for planners and others. However, we feel it is the right approach for our community.

If necessary, consider a trial period of 3 years after the proposals have been implemented and a team be constituted to monitor and evaluate the performance of development over that period and provide a report and recommendations to the PAC and Council after that. At a minimum, a member of Planning, of Development, of Council and Survey communities should participate.

Roads.

Recognizing the nature of the MODL market and its unique topography, we ask to retain the current road requirements except for putting in place the following:

The imposition of a **minimum road surface width requirement** of 15' width and shoulders of 1.5'. Ditching as determined by developer. No road construction standards. Designed ROW of 66' and its own lot.

Flag Lots

We ask that you consider flag lots to be a positive tool for development. We understand the issue of concern for them is the road access for these lots. We recommend retaining the current by-law situation rather than imposing a limit on the number and quashing their use.

We recommend the putting in place a requirement to provide for the allowance of an RLW, a rural lane with a minimum road surface requirement as per above. We request the allowance of a minimum requirement of a ROW of 40'. We would find it acceptable that an authority with the fire department inspect the road to assure its width provides adequate access for fire trucks.

Ditching as determined by the developer and no road construction standards to apply. If the roads are inadequate, the lots will not sell.

The RLW limits the number of lots to 12.

It needs to be recognized these RLW roads will always remain private and will not have their own lot for the road. They essentially cross multiple flag poles belonging to various owners.

We encourage an open mind to these proposals. We believe they will work well for all stakeholders.

Executive Summary

Relative to strong Development community feedback at the 15 February, 2018 meeting of the PAC, this development community urges the committee and Council to adopt the following approach:

In recognition that the current development by-laws in MODL, in force since 1999, have been a boon and stable force allowing the development of Private Subdivisions.

That since the adoption of those standards, Developers have voluntarily put in place roads of adequate width and construction to provide that access to safety and emergency vehicles. A survey of private subdivision roads in MODL by Berrigan Surveys shows the following:

<u>Road Name</u>	<u>Location</u>	<u>Road Width</u>	<u>Gravel Surface</u>
Eco Lane	Hebb's Cross	17'	14'
Hummingbird Lane	Lapland	19'	14'
Klpto Lane	Camperdown	16'	12'
Huber Drive	Middlewood	22'	18'
Wallace Lake Dr.	Italy Cross	21'	18'
Rachel Lane	Conquerall Mills	26'	20'
Botany Lane	Conquerall Mills	23'	20'
Lawral Lane	Middle New Cornwall	22'	18'
Kirk Lane	Newburne	18'	15'
Burnside Dr.	Newburne	19'	17'
Indian Oaks Rd.	Newburne	19'	17'
Gilbert Lane	Maplewood	18'	18'
Lakeview Drive	Lake William	23'	19'
Natural Forest Lake Rd.	Union Square	16'	12'

We recommend:

1. That Council recognize, "private means private", and that those subdivisions must take responsibility for their own affairs.
2. That the residents of these subdivisions be given the means to carry out their responsibilities and therefore Council should recommend each private subdivision to establish a legally formed Landowner's Association with the power to collect dues and carry out road maintenance.
3. That there is a need to establish a **minimum road width and vertical and horizontal alignment requirement** for these subdivisions to assure access to residents for safety and security vehicles.
4. That an approach of **forced maximum requirements** be abandoned.
5. That Council consider a three-year trial period with an oversight/reporting committee be adopted.
6. That the following road criteria be adopted:

For new private subdivision roads:

- A minimum width road surface requirement of 15' and 1.5' shoulders be implemented.
- A requirement of designed 66' ROW.
- Slope and curve requirements as per RLW and LVR as appropriate.
- The designed ROW will have its own lot.
- The road must be constructed within the ROW boundaries.

For all existing roads in private subdivisions:

- A minimum road surface width requirement be established of 14' and 1.5' shoulders.
- No ditching requirement.
- A recommendation for each private subdivision to set up a landowner's association, having the power to collect dues to assure minimum road width and road quality to provide access to all residents for safety and security vehicles.

Regarding Flag lots:

- Establish a requirement to provide a road surface of 14' with 1.5' shoulders to all flag lots.
- Establish a minimum road requirements ROW of 40'.
- The road must be in the established 40' ROW.
- The curve and slope requirements of RLW to apply.
- No requirement of this road requiring it own lot.
- As an RLW it is limited to 12 lots.

To: Mr. Jeff Merrill, Director of Planning, MODL

Cc: Ms. Carolyn Bolivar Getson Mayor, MODL

From: Development Group MODL as per undersigned below

Date: 22 February, 2018

Subject: Comments Regarding Proposed Municipal By-Law Revisions

Dear Mr. Merrill,

We, the undersigned, submit this document to the PAC for consideration:

Developer Name	Developer Representative	Date
1. _____	_____	_____
2. _____	_____	_____
3. <u>BOTANY WOODS DEVS.</u>	<u>SYBREN VANDER ZWAAG</u>	<u>26/2/18</u>
4. <u>L. W. BERRIGAN</u>	<u>RETIRED N.S.L.S</u>	<u>28/02/18</u>
5. <u>RIVER MILL DEVS</u>	<u>SYBREN VANDER ZWAAG</u>	<u>26/2/18</u>
6. <u>ELMER LOHNS LUMB LTD</u>	<u>E. Lohms</u>	<u>27/2/18</u>
7. _____	_____	_____
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To: Mr. Jeff Merrill, Director of Planning, MODL

Cc: Ms. Carolyn Bulivar Getson Mayor, MODL

From: Development Group MODL, as per undersigned below

Date: 22 February, 2018

Subject: Comments Regarding Proposed Municipal By-Law Revisions

Dear Mr. Merrill,

We, the undersigned, submit this document to the PAC for consideration:

	Developer Name	Developer Representative	Date
1.	<i>Gilbert Falkenberg</i>	[REDACTED]	<i>Feb 26/2018</i>
2.	_____	_____	_____
3.	_____	_____	_____
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To: Mr. Jeff Merrill, Director of Planning, MODL

Cc: Ms. Carolyn Bolivar Getson Mayor, MODL

From: Development Group MODL as per undersigned below

Date: 22 February, 2018

Subject: Comments Regarding Proposed Municipal By-Law Revisions

Dear Mr. Merrill,

We, the undersigned, submit this document to the PAC for consideration:

<u>Developer Name</u>	<u>Developer Representative</u>	<u>Date</u>
1. H &F Handel Devts	Matthias Handel	25 Feb 2018
2. Gilbert Falkenham & Sons	Gilbert Falkenham	26 Feb 2018
3. Botany Woods Devts	Sybren Vander Zwaag	26 Feb 2018
4. River Mill Devts	Sybren Vander Zwaag	26 Feb 2018
5. Berrigan Surveys	Lester Berrigan	28 Feb 2018
6. Elmer Lohnes Lumber Ltd	Elmer Lohnes	27 Feb 2018
7. Edward Jack	Edward Jack	1 March 2018
8. J & J Forestry	Travis Parsons	1 March 2018
9. Parsons ICF	Ryan McAllen	26 Feb 2018
	Scott Kitts	27 Feb 2018
	Frank Parsons	2 March 2018
	Paul Wile	2 March 2018
	Matthew Smicer	2 March 2018
	Shawn Langille	2 March 2018
10. Oickle Electrical	Matt Oickle	2 March 2018
11. South Shore HVAC	SSHVAC	2 March 2018
12. JBM P&H	JBM	27 Feb 2018
13. _____	_____	_____
14. _____	_____	_____

Position Paper

To: Mr. Jeff Merrill, Director of Planning, MODL

From: Waters Edge Leisure Living Ltd

March 1, 2018

Re: Proposed Sub-division by Law

Position Paper

Overview

We believe that the proposed subdivision by law will stifle development in the MODL. Further, the proposed by laws fail to address the stated objective of EHS accessibility and do not reflect the market demands within Lunenburg County.

In short we believe that:

- **Road Width** The proposed road widths are cost prohibitive and are not desired by the public. The proposed width exceeds what is necessary for EHS.
- **Construction Materials** Proposed materials for road construction are cost prohibitive and unnecessary requiring materials available from a single supplier which results in development being at the mercy of a virtual monopoly.
- **Minimum Ditching** Proposed minimum ditching is excessive resulting in unnecessary additional cost and the construction of roads inconsistent with the demands of the market.
- **Upgrade Existing Roads** Provisions regarding the requirement to upgrade existing private roads in order to further develop land abutting these roads is so cost prohibitive that the result will be no further development period.
- **EHS Accessibility** The stated objective of achieving accessibility for EHS on all roads is not achieved by the current proposed by law. Road construction for development necessitates roads sufficient for dump trucks, concrete trucks, pumper trucks, truss delivery trucks etc. If these vehicles can get there so can EHS. If EHS is unable to reach any structure it is almost always related to road and ROW maintenance not original construction. Proposed by laws do not address maintenance of existing roads nor roads to be built under the new by laws.
- **Nature of Dirt Roads** The stated objective fails to consider the very nature of dirt roads. It is simply a fact that dirt roads whether Municipal standards or private roads are subject to spring softening and the related adverse effects. The proposed standard will not change this; frost and typical spring conditions will still make the roads soft, muddy and less passable than other times of the year. Many of the

complaints and concerns forming the stated objectives of the by law review arise in the spring. This cannot be helped with the proposed standard or any other.

- **Construction Cost and Development** Cost to developers associated with the proposed standards if adopted will result in a reduction of development (outside of major towns) by 90%. This will significantly adversely affect tax revenue growth and adversely affect many industries and businesses in MODL dependant on the Real Estate Development Industry.
- **Consistency between Municipalities** The stated objective of providing consistency between municipalities is not beneficial to MODL. MODL currently enjoys a competitive advantage over many municipalities because it offers a good deal of flexibility in terms of development including allowing developers to determine and build the type of roads best suited to their customers. Leveling the playing field does not benefit the Municipality with the competitive advantage. It is equivalent to sitting a player out when the other team has a penalty. MODL should strive to maintain its completeive advantage not voluntarily relinquish it.

Rationale

Developers share grave concerns regarding the proposed changes to the subdivision by laws for MODL. We strongly believe the proposed by law changes will devastate development in the Municipality especially in the rural areas. Our concerns primarily apply to provisions regarding road construction. We believe that the cost to build roads to the standard proposed will be financially unviable and will not achieve the desired results.

- 1) **Road Construction Width** The current proposed road width of 7.8 meters is significantly larger than most private roads constructed in existing quality subdivisions in rural MODL. We understand that the proposed width is largely driven by a concern that EHS can pass 2 fire trucks safely at 40 km's per hour. This is an excessive width that is not desired by the public. As expressed by the public during the consultation phase many view the winding country laneways as desirable features of

Lunenburg County. From my own experiences as a developer this is echoed by our clientele. Cottage or cottage lifestyle living will not be enhanced by 40 km/hr traffic on dirt roads. The dust created for one is both unpleasant and unsafe. While wider roads maybe ideal for EHS it is not ideal for either developers or residents. While everyone would agree that accessibility for EHS is important. Perfect access is not necessary and in this case will come at a cost so excessive that development will halt.

We strongly believe that the market can determine the degree of accessibility that is required. For example in Lunenburg County Island development is possible. Build your cottage or home on an island. While it is readily apparent that in this situation it is neither practical nor possible to provide 2 way traffic at 40 km/hr for EHS. Those that choose to build on an island must understand that barging materials will increase their cost of construction, reliance on a boat or water taxi will add cost and reduce convenience and someday they may simply not get there due to weather. Similarly if they need a ride to the hospital they must understand and accept that EHS maybe a little longer. The point is that the client can choose and take responsibility for their choice. So too they choose when selecting a home/cottage on a rural laneway.

Allowing the client to choose whether they build on an island, a paved road across the street from the fire department or at the end of a private laneway should be just that, their choice.

We support provisions that require subdivisions plans to bear a stamp indicating the road is private and not maintained by the municipality. Each purchaser will have no opportunity to reasonably claim "they didn't know it was a private road." In our developments this is included in both the Agreement of Purchase and sale as well as the covenants for the development. This is true for most developers.

For those whose circumstances change; they retire to their cottage and now would appreciate increased accessibility or year road accessibility; the existing bylaws provide for this without change. The ROW is 66', municipal standard roads have been engineered if not constructed. If enough people on any given road wish to upgrade the road it is possible. It should not fall on the developer to build in anticipation of people changing their mind. Nor should all residents have to endure or pay for a standard that they do not want in order to accommodate a neighbor who may change their mind in future.

Provision allowing the developer to determine and construct roadways suited to the end user allowing the market to dictate is preferred. This takes into consideration that a road sufficient for the construction of structures similarly supports EHS access.

2) **Road Construction Materials** Reliance on gravels as per the proposed standard is a major concern. Firstly gravels are very expensive compared with shale or in some cases gravelly site materials. Current prices for gravel is \$300/load, current price of shale \$165/load. Secondly gravels are very dusty and on country laneways shale is often preferred as it is not dusty. Thirdly gravel is difficult to come by. With the recent sale of Mailman's Resources to Dexter's the availability of gravel in MODL is nearing a monopoly situation which may result in sky rocketing and uncontrollable cost for developers.

The specified depth of gravel are similarly problematic. The depth of gravel necessary for any roadway can vary depending on site conditions.

Provision allowing the developer to select the road construction materials, the quantities and how applied is desirable.

3) **Ditching** requirements stated as minimum depth are not necessary or practical. Creating roads with 1.0 meter ditches creates a road that is not consistent with the country laneway. Ditching needs to remain "as needed". Some areas require no ditch at all, while others require varying degrees of ditching. It is unnecessarily regimented to require ditching of any specific depth.

If appropriate ditching is not provided, this becomes readily apparent almost immediately. It is not to any developers advantage to face (and have to repair) washouts. If not well constructed initially developers will at first instance correct inadequate ditching long before turn over to road association.

Provision permitting the developer and road builder to determine appropriate ditching on site is desirable.

4) **Existing Road Upgrades** Upgrading of existing road provisions are completely untenable. The by law may just as well state that no further development is permitted on existing private roads. As written once a proposal of 3 lots is considered the existing private road in its entirety must be upgraded to the new standard. Many

private roads in Lunenburg County are kilometers long to access desirable lake fronts and remote areas. The cost of upgrading these roads would be prohibitive.

Further the existing residents of these roads would enjoy all of the benefits of the upgraded road but contribute nothing to the upgrade.

Any additional development short of adding hundreds of lots would not be financially viable.

Abandoning this provision is desirable.

5) **EHS Accessibility** EHS accessibility is no different than accessibility of modern construction vehicles. If the structure is there so have been the construction vehicles. This means that the roads were constructed to accommodate EHS. Accessibility is more commonly hindered by roads that have not been maintained. The 103 highway if unmaintained will in time become impassable to EHS. So too on MODL private roads failure to fill holes, regrade, repair washouts, address damages, clear over growth, coupled with normal spring softening and associated muddy conditions or winter ice without proper snow clearing or sanding result in EHS inaccessibility.

The proposed by law in no way addresses road maintenance. Most private roads have official or ad hoc road maintenance associations or residents associations. Our developments all require as part of the covenants that all land owners be members of the association. They are entrusted with road maintenance following the developer's departure.

I have attended Road Association meetings. In many cases (\$200/year typical in MODL) is by many cottage/home owners an amount only begrudgingly parted with and often complained about. As a result Road Associations are loathe to increase budgets and often do minimal road maintenance. As a result conditions worsen. This condition will hasten should road size be increased. More road, more maintenance, more money. If they didn't like \$200 they won't like \$400 and if the road association has to maintain twice as much road with the same \$200 conditions will deteriorate even quicker.

The current proposed by law does not deal with road maintenance at all. Not for existing private roads nor for new private roads. As maintenance is the single

biggest factor affecting EHS access the by law fails to achieve any meaningful improvement on this issue.

An approach that leaves private road construction with the developer and focuses instead on the maintenance of the roads is desirable.

6) **Nature of Dirt Roads** There is little additional to say about the nature of dirt roads. The same everywhere, regardless of the construction standard. Muddy and soft in the spring. Most complaints arise from these conditions which simply cannot be helped and are not even a maintenance issue. It should be noted that even paved roads in MODL are subject to mandated road closures each spring as a result of these conditions. Regardless of the road construction N.S experiences unstable road conditions each spring. The other source of complaint is icy roads but this is not a construction standard either, but another maintenance issue.

7) **Cost to Develop** We have reviewed the standard and estimated the cost changes. We determined that the proposed standard compared to our budgeted and actual costs of construction are 4 times greater. This does not include additional costs associated with proposed requirements to upgrade existing roads. This is cost prohibitive! In our case it would have resulted in 90% of our projects not being financially viable. In terms of increased tax base (land only) this represents \$3.1 million from our development only. Assuming relatively low average building in each lot of \$300k (our actual average is nearly \$500k) the increased tax base would drop from \$30 million to \$3 million. Not to mention this construction cost gets spent over and over in MODL as we pay builders, suppliers, labourers, realtors etc. who in turn re-spends the money in MODL.

Conclusion

MODL is proposing to change their entire subdivision bylaw which by most accounts is functioning well with MODL enjoying strong development growth. The rationale for doing so appears to be:

- A) To enhance EHS accessibility
- B) To standardize practices relative to other municipalities.

In so doing the costs of development will increase within MODL to a point where development will not be financially viable.

The proposed construction standard contemplated is also not what the market demands.

Absolutely no progress will be made toward correcting existing private roads with accessibility issues. There is no provision to prevent existing private roads (without accessibility issues currently) from deteriorating due to lack of maintenance to a point where accessibility issues arise. There is no provision proposed that will prevent brand new roads built to the new standard from deteriorating to a point of inaccessibility due to lack of maintenance.

Developers will leave. Tax revenue will stagnate, the money will be spent elsewhere. EHS will continue to have the same inaccessibility issues they currently experience.

In this set of circumstances there is tremendous risk to MODL with virtually no progress toward achieving the stated objective.

Levelling the playing field between municipalities is a forfeiture by Lunenburg County of their competitive advantage.

We strongly advocate for a different approach as follows:

- ❖ **Maintain MODL's current competitive advantages by permitting continued market driven development with limited restrictions including:**
 - **Continued provision of 66' ROW**
 - **Continued engineering of private roads**
 - **Continued developer driven site specific road standards**
 - **No restriction on continued development of existing private roads so long as they have 66' ROW and engineered design.**
- ❖ **Address EHS accessibility by focussing on the biggest problem – Maintenance**

- **Require all private roads (existing and new) to constitute road associations made up of abutters**
- **Road association's minimum requirement should be to maintain roads sufficient for reasonable EHS access to the last residence on the road.**
- **Failure to maintain roads can be reported by residents, EHS or municipal staff.**
- **The Municipal Engineer is to make final determination regarding whether a road is accessible or not.**
- **If not the Road Association is to be given notice to correct within a specified period (based on time of year and amount of work to be done).**
- **Failure to complete by the association means the Municipality has the authority to complete the required work and bill the costs and administration to abutters as a betterment charge.**

We encourage the PAC, to keep what is working and concentrate on meaningful legislation that address' the real problem of road maintenance.

Thank you for your consideration.

Stephen O'Leary

Waters Edge Leisure Living Ltd.

Supplementary comments regarding proposed Sub Division By Law revisions

The following are a few suggestions for consideration:

1. Clause 6.1 Separate parcel for road ROW. Generally we agree with this approach. The clause should provide an option at the Development officers discretion to permit ROW without separate parcel on parcels being traversed but not subdivided. Consider a situation where the land to be developed must be accessed over someone else's land. While it may be semantics I believe a neighbor may be prepared to grant a 66' ROW across his or her land but may not be prepared to subdivide and deed a swath of land through the centre of his or her own. I suspect this provision would be rarely needed but in some circumstances may facilitate a project that would otherwise fail.
2. Clause 9.1 Public Open Space. 2% cash in lieu of open space is a reasonable provision providing cash for Municipal parks and playgrounds. In most cases it is perhaps the best result. Previously developers reserved their worst unuseable swampland as the reserve prior to the cash in lieu provision. Public concern raised as part of the current planning process indicates that waterfront development particularly is resulting in restriction of public access to our lakes and waterways. I believe that to offer an option (perhaps at the discretion of the dev officer or council;) whereby a developer could propose to provide land in lieu of cash in special circumstances may be beneficial. The developer would have to make the case for why the proposed land to be reserved would be of public benefit. If tied to the 2% of value (rather than 2% of area) the developers could be incentivised to provide quality land. This might include boat launches, beach access, parks, trails, playgrounds, community gardens etc. Being subject to discretion of the Dev officer or council there should be no unuseable swamp land, as the answer could be "no thank you the cash will be fine"
3. Clauses 13, 14, 15 . Sub division plan approval process. The current process is time consuming and fraught with repetition. The submission of Concept Plan, Tentative plan and final plan takes a long time. Approval at each stage requires submission and review from not only Planning and development but also DOE, TIR, Telecom. Even if the plan does not change it still faces resubmission and review each time. The process would be streamlined if it were not necessary for Dev to re submit for review by TIR, DOE, Telecom a plan which has not changed. Once

approved the approval could carryover unless the plan changed in which case resubmission to the appropriate department would be required.

From: Dave Sutherland
Sent: Friday, March 16, 2018 3:34 PM
To: Jeff Merrill
Subject: Re: Subdivision By-law Review: PAC Meeting

Jeff,

Unfortunately I am working and cannot make the meeting. I would like to say that I like what I saw re maintenance of roads. You know my situation and I fully support that initiative.

The second point is that, as a person who lives on Kitpu Lane, I can attest that the supposed fact in the letters detailing road construction surveys are not correct. Kitpu was and is surfaced with a dirt and rock mixture not gravel. The developer (M&F Handel) put on more dirt rock mix with no topping last fall. The only class c gravel on that road in the last six years is what I have personally put on. So I question the validity of those facts. But please don't take my word for it. I suggest coming out and seeing for yourself. They say a picture speaks a thousand words. It may, in this case, save some words when people question the need for standards.

I have attached my own pictures for you as well. This is not to say that everyone operates this way. Quite the opposite, I have seen many great private roads. But standards are needed for equality.



These two show no ditch and water drains across the road



The next two show the difference in surface. Grave put on transition by highway construction then dirt, next shows quality of soft dirt.





This last one doesn't do justice to the issue. You can see the huge rock the road was built over. The road is worn down, the dirt get soft and this is the spot that the fire truck cannot crest as it bottoms out.



This is why we need standards and maintenance. It's one thing to put a road in on paper, it's another to have it constructed and maintained properly.

Thanks,
Dave Sutherland

From: [Bob Richards](#)
To: [MODL Planning](#); [Bob Richards](#); [MODL Mayor](#)
Subject: Subdivision By-law changes
Date: March 19, 2018 2:04:34 PM

Att: Mayor Bolivar/Getson & Jeff Merrill Director of Planning MODL

I wish to express my support for all the recommended changes proposed.
This will save taxpayers future expenses on new subdivision.
It will also provide for better roads for future home owners.
There are plenty of already approved sites available under the existing rules,
providing options for future home to be built upon for several years to come.


Other Municipalities have made the changes and development continues there.
I hope MODL Council has the courage to pass these changes.

Thank you for your time.
Yours truly,

R.J. (Bob) Richards
Jaylynn Ent. Ltd.
Westside Estates

--

Regards,
Bob Richards
President
The Home Centre



From: [Ed Jack](#)
To: [Jeff Merrill](#)
Cc: "[Berrigan Surveys](#)"; [REDACTED]
Subject: PAC Meeting-Mar 22/18
Date: March 21, 2018 2:00:40 PM

Hello,

Re: Sub-Division Bylaw amendments (PAC Meeting March 22,2018).

I understand there will be another PAC meeting to discuss the Subdivision By-Law Draft... And in particular section 6.2...

The following are my opinions and concerns, if you would like to bring them to the meeting on March 22, 2018...

The amendment 6.2 could have a disastrous effect on my ability to sell seven lake lots on Wallace Lake, Conquerral Mills. It could mean that I would need to upgrade the entire length of the Wallace Lake Acres road, at an estimated cost of \$544,000.00. This would preclude me from development and sale of any lake lots. I currently have sub-division Concept approval and am waiting for tentative approval.

I can understand the desire for Lunenburg County to have certain minimum standards for private roads, but this proposed bylaw change seems very extreme and should never retroactively affect existing roads. I also understand that the county gets numerous requests to maintain private roads, but shifting the upgrade of private roads to individual land owners does not seem fair; particularly where roads have already been constructed and are in use.

I, with the help of Berrigan Surveyors, have tried to follow all existing municipal rules in development of my road and lots and feel it is unfair to impose this kind or burden on existing land owners. The existing Wallace Lake Acres road is used year round and is superior to many public roads in the area, such as the Fitch road.

I believe the proposed change will have the following negative effects for Lunenburg County.

1. It will discourage lot development and sales.
2. It will discourage many aspects of the building trades including surveying, landscaping, construction, plumbing, electrical and building supply.
3. Because of the decrease in construction fewer people will be locating to Lunenburg County thus having a negative effect on the growth of the local economy.
4. It will retard the normal growth of the county tax base.
5. It will put Lunenburg County in an unfavorable competitive position with other Nova Scotia counties when it comes to attracting developers.

I have already spent close to \$100,000 putting in a road extension to Wallace Lake and having power poles run down this extension. This proposed amendment would make my investment almost worthless. In addition the lost sales potential will be in the area of \$500,000.00. This means my total investment loss is over \$600,000.00.

I will not be able to get to the meeting on March 22, 2018 and would ask you to forward/print this for the committee and staff for review and take under consideration.

Thank you for your kind attention to this...

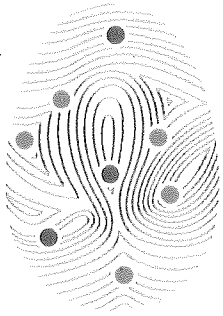
I am only one small land owner... But this means a great deal to me...

Thank you...

Ed Jack

[REDACTED]
Dartmouth, NS

[REDACTED]



SMARTER STREETS

FOR A BETTER URBAN FINGERPRINT

SMARTERSTREETS.NET | 6167 DUNCAN ST. HALIFAX NS, B3L 1K1 | 902.580.8966
Municipality of Lunenburg

Jeff A. Merrill, MCIP, LPP
Director, Planning & Development Services
Municipality of the District of Lunenburg
210 Aberdeen Road | Bridgewater NS | B4V 4G8

MAR 28 2018

RECEIVED

March 23, 2018

Re: Application for amendment of draft subdivision by-law

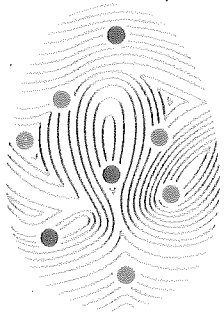
Dear Mr. Merrill,

On behalf of Olde Town Hills, Ltd — developer for the Olde Town Hills project — we write to request an amendment to the draft subdivision by-law to allow smaller rights-of-way than the proposed minimum of 20 meters. A central goal of Olde Town Hills is to create safe, convivial streets that support social interaction and ensure people of all ages and abilities feel comfortable walking and biking. Our research suggests street widths and the distance between homes are critical factors for deciding the average speed of drivers and the sense of comfort and safety felt by vulnerable road users. We recently presented these principles to the Municipality of the District of Lunenburg Council on November 28, 2017, and the public January 23, 2018.

Narrow, compact streets are an integral element of this pedestrian-first philosophy, and we are excited that the provision for Urban Local Undivided (ULU) roads in the subdivision by-law draft has opened the opportunity to narrow the paved surface of streets to a width that mirrors our neighbourhood vision. In order to fully implement the site design presented to the public and Council, we would like to further apply for an adjustment of the minimum right-of-way requirement.

In accordance with current version of the by-law draft, all public roads would need to satisfy a minimum right-of-way width of 20m. This requirement means that urban lanes of 4.8m — which are allowed under the ULU road category of the current draft document — would need to be situated on a right-of-way that is more than four times wider than the road surface. We feel many of the goals of our development proposal would not be possible under these constraints. Consequently, we apply to alter the current draft of "Schedule H" of the Subdivision By-law as follows:

- a) By removing in section 4.1 of the subdivision by-law draft the following words in strikethrough:
ROW may be less ~~for Private Designed Roads~~ under exceptional circumstances, subject to discretion of the Municipal Engineer and in accordance with accepted engineering practice and subject to the future ability to manage stormwater without full width ditches. ~~Under no circumstances shall the ROW width be less than 15.2 m.~~



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b) By adding in section 5.1 the following paragraph:

If the nature of the proposed development is to create a dense cluster of urban, centrally serviced buildings and streets, then those Public Roads classified as Urban Local Undivided (ULU) may be placed on narrower right-of-way subject to discretion of the Municipal Engineer and in accordance with accepted engineering practice and subject to the future ability to manage stormwater without full width ditches.

We appreciate your time and consideration.

Kind regards,


Tristan Cleveland

From: [Carolyn Bolivar-Getson](#)
To: [Jeff Merrill](#)
Subject: FW: Proposed Planning Bylaw Change
Date: March 26, 2018 12:07:01 PM

From: Gary Mailman [REDACTED]
Sent: March 22, 2018 10:38 AM
To: MODL Mayor <mayor@modl.ca>
Cc: John Veinot <John.Veinot@modl.ca>; Cathy Moore <Cathy.Moore@modl.ca>; Claudette Garland <Claudette.Garland@modl.ca>; Reid Whynot <Reid.Whynot@modl.ca>
Subject: Proposed Planning Bylaw Change

Good Day Carolyn and Councillors,

I am away on vacation at the moment, but am greatly disturbed about a bylaw planning session that is scheduled for tonight that I will not be able to attend.

Not just because I am dependant on real estate development to make my living, but the current proposed sub division by law revisions will be devastating to the area which will also definitely have a negative impact on the future economy of the area.

This proposed legislation needs to be defeated for the best interest of Lunenburg County and if it comes down to a vote at the Council table as a member of the public I would request that the vote be recorded so the public can be aware of how each individual council member voted.

I urge each of you as leaders and council members I have seen in the past to use common sense in your decisions and be leaders to help to keep these devastating changes to our area coming into place.

Best regards,

Gary Mailman

Exit Realty Interlake
[REDACTED]

From: [Carolyn Bolivar-Getson](#)
To: [Jeff Merrill](#)
Subject: FW: proposed changes
Date: March 26, 2018 12:06:59 PM
Attachments: [Position Paper ss.pdf](#)

From: Monica Sontrop [REDACTED]
Sent: March 22, 2018 10:54 AM
To: MODL Mayor <mayor@modl.ca>; eric.hustvedt@modl.ca; martin.bell@modl.ca; lee.nauss@modl.ca; john.veinot@modl.ca; cathy.moore@modl.ca; claudette.garland@modl.ca; wade.carver@modl.ca; michael.ernst@modl.ca; reid.whynot@modl.ca; Errol Knickle <Errol.Knickle@modl.ca>
Cc: Donna Malone [REDACTED]; Karsa Melnic [REDACTED]
Subject: proposed changes

Dear Councillers,

I agree with Mr. O'leary's points he has made in the attached statements about grave misgivings if council approves these proposed changes. I have been selling real estate in Lunenburg County for over 25 years. Instead of putting roadblocks in the way of development and entrepreneurs, you need to be using common sense and safety when making decisions and removing roadblocks and unnecessary red tape where possible instead of adding them.

Regarding subdivision approvals which is not in this proposal but has recently come to my attention as a hugely cumbersome process compared to 25 years ago. I have been involved in 3 subdivision approvals on behalf of clients over the last 6 months and it is totally unacceptable that this process can take 8 weeks or more. 25 years ago it took two weeks. I am currently waiting for an approval on a consolidation. This change is making an existing property with a driveway on a private road *larger*. It has been 6 weeks since the application was submitted. This is so straight forward that it should be able to be reviewed by the Chester Planning Department and approved. The lot was being made larger, not smaller so DOE was not relevant and it is located on a private road (not under DOT jurisdiction) and the driveway was already in place. It should take several days not 8 weeks and the application should not need to be sent to DOT,DOE and should only go once to the Registry of Deeds for mapping once approved. The current subdivision process where a property is being subdivided into smaller parts currently has an application that is submitted to the Planning Department who looks at it, sends it to DOE, DOT and Registry of Deeds, waits for everyone to review it and send it back to Planning and if approved by all parties, it then has to go back to the Registry of Deeds to be mapped. Why does this have to go to the Registry twice and why is there no particular person or department at DOT responsible for reviewing these files? This has to be able to be streamlined or prioritized somehow because 8 weeks in the real world is much too

slow.

As a side note, as soon as I saw the name Dexter construction as the only supplier of gravel in Mr. O'Leary's notes, I wondered who started this proposed change, under the auspices of making it safer for EHS to access properties. Dexter is already the main company benefitting from paving our roads in the province and now they own the main gravel source in the County of Lunenburg? Very suspicious in my opinion. Dexter also wanted to put the waste recycling on their land that they had purchased at the Blockhouse exit a few years ago which I am so glad did not happen. A wonderful visual for people to see and smell while driving along the 103 or having a meal or gassing up at the Irving station on the corner, or the residents nearby, real estate values being driven down.

Respectfully Yours,
Monica Sontrop

Monica Sontrop
Associate Broker
Tradewinds Realty Inc
www.tradewindsrealty.com



From: [Dave Sutherland](#)
To: [Jeff Merrill](#)
Cc: [Lee Nauss](#); [Carolyn Bolivar-Getson](#)
Subject: Additional Observations
Date: March 28, 2018 2:59:48 PM
Attachments: [Legal Schedules.pdf](#)

Jeff,

After submitting my last letter to you I had a developer (not the one who put in the subdivision) come and inspect the road because he wanted to ascertain the substance of my concerns about this particular road as it relates to our Standards issue.

In addition to observing and acknowledging the poor condition of the road he did point out one potential legal issue which I present to you for your consideration. In the development of the road, in addition to the standard road with which was surveyed, there is sup[posed to be a right of way located on the south side of the road to facilitate the installation of the power poles. You mentioned that the committee had visited and taken video of this road, so you might have noticed that the power poles were not installed in accordance with the provisions of schedule "A" (attached). In fact they have been placed by majority on the north side, vice the south side and not in a right of way off the road, but directly in the surveyed road path, some right in the middle of it.

This in and of itself shows three failures:

1. the failure of the developer to have originally cleared the appropriate right of way for the proper placement of the poles and to direct the proper installation;
2. the failure of the Nova Scotia power to properly place the poles as per the right of way in Schedule "A" in their installation process; and
3. the failure of proper oversight by the municipality to ensure that the legal provisions that were authorized on approval of the subdivision were in fact followed.

The road at present is a small single lane road. In allowing the above to take place it will likely make it difficult to properly further develop/expand the road without encroaching on the surveyed properties while altering the path to avoid the current placement of the poles, again, some of which are right in the middle of the right of way for the road.

This goes far beyond mere standards, because there were standards (legal schedules) in place at the time of the development, however no such controls existed to ensure that these were in fact observed. Normal practice dictates that homes must be inspect and approved before occupancy. There should be something in place to ensure that whatever standards come to play are in fact observed.

Again, I acknowledge that the majority of developers are very professional and already

develop good subdivisions, but as a resident there must be something in place to ensure to correct types of failures, not only in standards but in enforcement and corrective action.

Sincerely,

Dave Sutherland

SCHEDULE 'A'

PID NUMBER 60647807

Place Name: CAMPERDOWN ROAD CAMPERDOWN

Municipality/County: MUNICIPALITY OF DISTRICT OF
LUNENBURG/LUNENBURG COUNTY

Designation of Parcel on Plan: LOT 8

Title of Plan: S/D SHOWING LOTS 1-20 & 1000 PROPERTY OF 3019258 NOVA
SCOTIA LTD AT CAMPERDOWN ROAD CAMPERDOWN

Registration County: LUNENBURG COUNTY

Registration Number of Plan: 86833572

Registration Date of Plan: 2006-12-12 13:42:31

BENEFIT:

TOGETHER WITH a free and unobstructed right of way at all times and for all purposes including the right to place, maintain, and repair electrical poles, related overhead electrical wires, telecommunication wires, anchors and guys, to be used in common with 3019258 Nova Scotia Limited and other persons entitled to use said right of way over Lot 1000 (PID 60295516) which said lot 1000 includes Kitpu Lane, Pulowech Road and 66 foot wide access to Rocky Lake, as by reference to plan of subdivision herein before named will more fully appear.

BURDEN:

SUBJECT TO a reservation therefrom nevertheless to the Grantor, 3019258 Nova Scotia Limited, its successors and assigns, for a 20 foot wide easement along the Southern sideline of Kitpu Lane for the transmission of electrical power and electronic telecommunications and including all necessary poles, guys, wires and associated equipment, as by reference to the Plan of Subdivision hereinbefore named will more fully appear.

BURDEN:

SUBJECT TO an Easement in favour of Aliant Telecom Inc., dated August 28, 2007 and recorded at the Lunenburg County Registry of Deeds on October 2, 2007 as Document Number 88950283.

BURDEN:

SUBJECT TO an Easement in favour of Nova Scotia Power Inc., dated August 28, 2007 and recorded at the Lunenburg County Registry of Deeds on October 2, 2007 as Document Number 88950333.

BURDEN:

SUBJECT TO Restrictive Covenants attached hereto as Schedule "B".

The parcel originates with an approved plan of subdivision that has 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 86833572.

SCHEDULE "B"

RESTRICTIVE COVENANTS

The Purchaser covenants and agrees with 3019258 NOVA SCOTIA LIMITED to observe and comply with the following restrictions made pursuant to a building scheme established by 3019258 NOVA SCOTIA LIMITED with respect to the lands owned by 3019258 NOVA SCOTIA LIMITED at Rocky Lake, Camperdown, Lunenburg County, Nova Scotia, being the subdivision.

The lands to which these restrictive covenants shall apply (hereinafter called the "lands") include the lot(s) conveyed in the within instrument. 3019258 NOVA SCOTIA LIMITED and the Purchaser do hereby covenant and agree with each other that it is the intention that the burden of these covenants shall run with the land forever and shall run with each of the lots and the other lands in this subdivision to which these restrictions are attached, and that the land conveyed in the within instrument, or any part thereof, shall not be used without observing the following conditions and covenants:

1. The Purchaser covenants and agrees with 3019258 NOVA SCOTIA LIMITED that the Purchaser shall not sell, convey, assign or otherwise dispose of the lot(s) conveyed in the within instrument without requiring the purchaser or recipient to execute covenants and restrictions, provisos and agreements identical to those contained herein. Notwithstanding any failure of the Purchaser to do so, the covenants and agreements, provisos and restrictions shall be deemed to be binding on the purchaser or recipient.
2. 3019258 NOVA SCOTIA LIMITED and the Purchaser do hereby covenant and agree with each other and any owner of the lands or part of the lands to which the burden and benefit of the following stipulations, regulations, restrictions and provisos are attached that no part of the lands shall be used unless the use complies with the within restrictions which, in conjunction with any Municipal by-law, regulation or law, shall form the regulatory basis for construction in the subdivision.
3. No part of the lands herein conveyed shall be used to construct buildings for use other than residential or for recreational purposes in connection with residential use.
4. No part of the lands herein conveyed shall be used for commercial/industrial purposes such as the establishment of any factory, production plant or industrial enterprise or commercial outlet.

RESTRICTIVE COVENANTS CONTINUED
PAGE 2

- 5. No part of the lands herein conveyed shall be used for the erection or placement of any trailer or mobile home.
- 6. No part of the lands herein conveyed shall be used by anyone unless that person becomes a member of the Lot Owners' Association when it is formed. The owner(s) of the land(s) of each lot(s) conveyed herein shall pay an annual fee to the Lot Owners' Association for the maintenance and upkeep of the road in the subdivision, Rocky Lake so called, in an amount to be determined year to year by a majority vote of the Lot Owners' Association. The fee is to be paid once a year by December 31st and shall be transferred into a bank account which shall be established by the Lot Owners' Association. The Lot Owners' Association shall be formed and constituted in such a way that the owner(s) of each subdivided and approved lot are entitled to one vote for each lot(s) owned; PROVIDED HOWEVER that the fee shall be payable to the Vendor to a bank account designated by the Vendor until the Lot Owners' Association shall be formed and that the fees shall not exceed \$200.00 per lot per year for three years following the conveyance of the lands herein conveyed.
- 7. To the intent that the burden of these restrictions shall run with the land forever, the Purchaser, or if more than one Purchaser, the Purchasers, for himself or themselves and his or her representatives and assigns, covenant and agree with the Vendor that their successors in title from time to time of all or any part of the land(s) will observe and comply with the stipulations, restrictions and provisions set forth in this Schedule. Notwithstanding anything contained herein, the Vendor, its successors and assigns, shall have the power by instrument or instruments in writing from time to time to waive, alter

or modify the above covenants and restrictions and their application to any lot(s) or parcel(s) of land within the subdivision. The Vendor shall likewise have the power by instrument in writing from time to time to assign all or any part of its rights.

IN WITNESS WHEREOF the parties have signed on this 27th day of May, 2008.

)
)
)
)
)



From: [Dave Sutherland](#)
To: [Jeff Merrill](#)
Subject: Re: Additional Observations
Date: March 29, 2018 10:21:02 AM

Yes, I cc'd some council members already. Again, these are designed to help with full understanding the current issues. I hear both sides of the issue. From a resident point of view I am interested in ensuring good and fair standards for construction and maintenance. This last email illustrates that standards alone are not a solution.

I also hear the developer's saying that too strict of a high standard will effectively make the road cost too high to make developing feasible.

The solution as I see it involves detailing what is important in road construction, ensuring that development actually complies with it and finally, ensuring that, as long as roads remain private, there **MUST** be an association formed to manage its maintenance. This last one cannot be an option. We need to either find a better way to make it happen or provide an effective management alternative for those where the system currently makes the establishment of road management possible.

I do not envy the work of the committee on this issue, but I have faith that we are on the right path towards a workable solution.

Dave

On Mar 29, 2018, at 9:35 AM, Jeff Merrill wrote:

Hi Dave,

Thank you for the additional comments. With your permission I'd like to share your e-mail with the PAC members and Council.

Regards,

Jeff

[Jeff A. Merrill, MCIP, LPP](#)
Director
Planning & Development Services
[Municipality of the District of Lunenburg](#)
210 Aberdeen Road | Bridgewater NS | B4V 4G8
Office: (902) 541-1340 | Cell: (902) 521-0925

Memorandum

To: Peter Simpson, PAC Chair and Members of the Planning Advisory Committee

CC: Kevin Malloy, C.A.O.

From: Jeff Merrill, MCIP, LPP, Director of Planning & Development Services

Date: April 3, 2018

Re: Planning Advisory Committee April 12, 2018 Agenda

During the last three Planning Advisory Committee (PAC) meetings PAC has been trying to reach common ground on balancing the matters in and issues with the draft Subdivision By-law. At the last meeting PAC heard concerns from the public on several issues, however, no direction was given to the Consultants on revisions to the draft Subdivision By-law. Therefore, a revised draft is not included in the April 12th PAC agenda. For a copy of the draft Subdivision By-law please refer to the February 15, 2018 PAC agenda.

To help in the PAC discussion “Issue Papers” have been prepared for each of the identified subdivision by-law issues. The issue papers are based on the February 15, 2018 draft Subdivision By-law. The issue papers layout the issue, its relevance, the current policy, the Consultant’s recommendation, and alternatives.

Staff are recommending that PAC review and discuss each issue paper, consider the public feedback heard to date and provide the Consultants with direction on each issue. The Consultants can then revise the draft Subdivision By-law based on the PAC direction and present the revised draft at a future PAC meeting for the Committee’s consideration.

ISSUE: DITCHING

in CONSTRUCTION STANDARDS

What is it?

Requiring a private road to be designed and built to have ditching to adequately convey storm water.

What purpose do they serve?

Ditches are important for the following reasons:

- They collect and remove storm water from the road system
- They eliminate property damage due to flooding
- They allow water in the road structure to drain out.
- They control the water table height

What happens when you have insufficient ditching?

If water can't leave the road structure, problems will always persist in that section such as reoccurring potholes and rutting.

Ineffective ditching that can't remove the water from the road system will result in sitting water, essentially turning the ditches into wetlands. This could also result in flooding of the road or adjacent properties, could raise the water table keeping the road structure wet or not allow the road structure to drain. From the road surface to the frost line, if water is retained in this area, problems will persist during the freeze-thaw times of the year, thus making drainage essential.

To shallow of ditches, even if you can move the storm water effectively, will not solve the issue of a high water table or wet subgrade. If you have a high water table, the bottoms of the ditches ensure the water table won't rise into the road structure and cause problems to the road.

Ditches are important to have, however are not required everywhere. As long as we can ensure that the road structure can drain and all storm water can be adequately controlled and removed, then that is all we are looking for.

What is the current policy?

In the current Subdivision By-Law, MODL requires that the proposed road be serviced by a drainage system consisting of such open ditches and closed conduits as required to collect and remove storm water from the road system. Depending on the road class, the designer

needs to use local Environment Canada rainfall intensity data to ensure that the storm water can be successfully removed.

The Municipal Engineer reviews the designers proposed drainage plan for the road, looking at the proposed open ditches and culverts. If they feel the minimum standard mentioned in the By-Law will be insufficient to remove storm water, they can increase the design criteria. The Municipal Engineer looks at the likelihood of problems and the damage that could result and modifies the design criteria accordingly.

Storm utility easements a minimum of 9.144 meters wide can be used to send water from the road right-of-way to a desired discharge point. For public roads, inspections are completed to ensure that the ditching has been completed as designed before ownership is turned over to the municipality. For a private road, there is no inspection process.

What is our recommendation?

Our recommendation is to keep the general information the same. MODL's hired consultant has made some adjustments to the minimum size requirements for the open ditches and closed conduits for all of the road classes. They have also included typical road drawings for each class of road.

Private roads should follow Schedule J and should effectively collect and remove storm water from the road system.

Benefit/rationale for recommendation?

For the structural integrity of the road and for adjacent properties, the drier the better. If a drainage design adequately removes storm water, then it is a good design. The typical sections provided in Schedule J were provided to ensure that this will work effectively.

What is the risk of not pursuing the recommendation?

The risk of having insufficient ditches is that sections of the road will constantly require upgrades, that will have reoccurring potholes and ruts and may not support the required traffic or emergency vehicles. There is also the risk of flooding if designed incorrectly.

Alternative

Require that the design of the open ditches for private designed roads be done by the developers' hired Professional Engineer whom is licenced to practise in the Province of Nova Scotia.

Pros	Cons
Developers' hired engineer can reduce the size of ditching to suit site conditions. This eliminates over-sized ditches, reducing costs to the developer.	MODL will have no control over the size of ditching the developer is using.
Developers can still build private roads with the aesthetics that they have stated purchasers like, therefore allowing them to maintain sales.	
Developers' hired engineer will take responsibility for the performance of the ditching and its ability to successfully convey storm water, reducing MODL's risk of damages related to storm water.	

ISSUE: AGGREGATE

in CONSTRUCTION STANDARDS

What is it?

Requiring a private road to be designed and built to have enough aggregate thickness to not only last a long time but to adequately support the function of the road including day to day traffic, snow plows and emergency responders.

What purpose do they serve?

Properly constructed private roads with sufficient aggregate thickness, type, compactive efforts and construction methods will ensure the following:

- Surface water can successfully leave the road structure
- Solid road structure that will last a long time
- Limited maintenance for the life of the road

What issue does this cause?

Because there is no current requirement for developers to build the road as per the design, private roads currently can be built insufficiently and will result in constant issues.

The following is a list of insufficient materials that commonly will end up in a road structure that cause issues:

- o Fine, silty material; will hold onto water and won't allow the structure to drain.
- o Softer clays; can't bare weight without proper compactive effort and construction methods.
- o Poor graded gravel; aggregate all the same size can't compact.
- o Weak aggregate; break down over time from weight and freeze thaw turning to powder.
- o Leaving organics under or within a road structure; these include topsoil, stumps, logs, bogs, swamps, peat etc. These slowly break down, retain water, will forever act as a sponge, and materials will sink into them for the entire life of the road.

In addition, without proper preparation of the subgrade (ground below the road) ie. organics stripping, shaping and compaction, the road structure will sink until it can stabilize under the required weight (if it can). This will hinder road drainage, reduce the effective aggregate thickness and will constantly cause issues. For example, if a road is constructed with 12 inches of gravel, but 6 inches sinks into the ground from day to day vehicular traffic, the road may lack the structural integrity for heavier vehicles such as fire trucks.

What is the current policy?

Currently it is not mandatory for developers to follow the approved design for a private road, to follow any construction specifications or to build these roads under the direction of an engineer.

There are design standards for LVR and RLU roads which require 200 mm (8 inch) base gravel coarse consisting of Class “E” material and 100 mm (4 inch) surface gravel coarse consisting of Class “A” material. For RCU roads, the aggregate thickness is at the sole discretion of the Municipal Engineer, however, must be greater than or equal to that specified for LVR and RLU road classes.

What is our recommendation?

The recommendation for private road aggregate thickness (minimum) is as follows:

Road Class	Lift Type and Thickness	
	Base	Surface
Rural Laneway, RLW	200 mm Type 2	100 mm Type 1
Low Volume Rural Road, LVR	200 mm Type 2	100 mm Type 1
	200 mm Type 2	75 mm Asph Mix Type B-HF

The developer also has the option of obtaining an engineer to perform a site-specific road structure design. The developer would submit the engineered design to the Municipal Engineer and if it is deemed acceptable by the Municipal Engineer, the developer may construct the road with aggregate lift thicknesses specified in the approved design.

Methods of construction for Public Roads will be applied to the construction of Private Roads but will be verified by a private engineer. The private engineer along with their subcontracted geotechnical and materials engineering consultants will provide a certification at the end of road construction stating that the road was constructed as per the Subdivision By-Law. This being acceptable by the Municipal Engineer, approval will be given, and lots fronting the road can be created and developed.

Benefit/rationale for recommendation?

The aggregate type and minimum thickness will allow for adequate structure drainage and structural support for all vehicles that should need to use the road.

By having the developer hire a private engineer, who prepares the design for approval, and ensures the construction occurs as designed, MODL is provided evidence that the private road was constructed to meet the engineering requirements set out in the approved design.

What is the risk of not pursuing the recommendation?

If the new bylaw does not maintain a minimum aggregate type and lift thickness, there is the potential risk that the private road may have inadequate support for the vehicles that are travelling them and will constantly need maintenance throughout the life of the road.

Alternative

Require that the road structure design for prepared subgrade thickness, base and surface aggregate thickness for private designed roads be solely up to the developers hired Professional Engineer whom is licenced to practise in the Province of Nova Scotia.

Pros	Cons
Developers' hired engineer can design the road based on the native site conditions likely reducing costs for the developer and aggregate thickness.	MODL will have no control over what thickness of aggregate the developer is using.
With road construction costs reduced, private subdivision developers will continue to develop in our Municipality. It may not be economically feasible otherwise.	
Developers' hired engineer will take responsibility for the performance and safety of the road, reducing MODL's risk.	

ISSUE: Private Road Width

3.1 What is it?

Requiring a Private Designed Road to be designed and built to have enough width to have an emergency vehicle safely respond to an emergency on the Private Designed Road.

3.2 What purpose do they serve?

Properly constructed access with enough width is critical to get emergency services vehicles such as ambulances and fire trucks to properties located on Private Design Roads, and for those first responders to operate once they reach a property.

3.3 What issue does this cause?

Because there is currently no requirement to actually construct the designed road, residents on some Private Designed Roads cannot get emergency vehicles to respond to their homes or get basic municipal services like garbage collection.

3.4 What is the current policy?

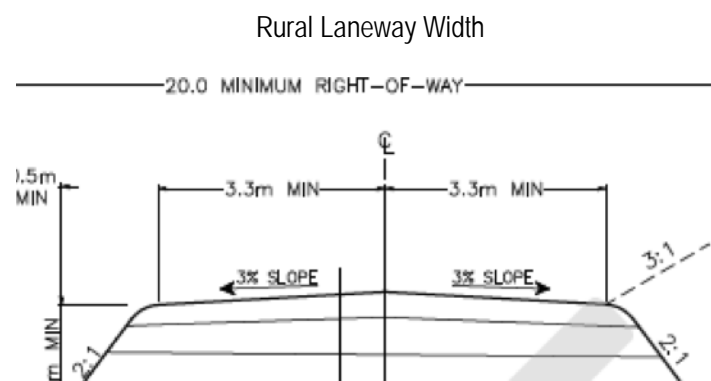
Currently there is no construction standard for the width of a road. There is a design standard, which requires a finished top width of at least 28.2 ft. (8.6 m).

Finished top width means the width of the flat area on a road that is usable for a vehicle to pass, and includes both lane widths and shoulder widths.

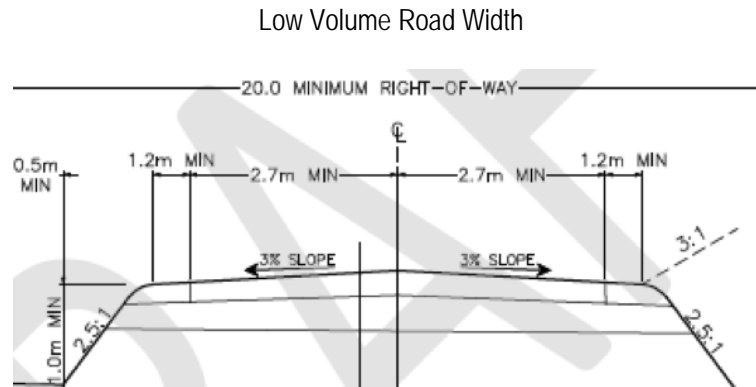
3.5 What is our recommendation?

The recommendation is to create a Schedule J which will:

- Continue to allow up to 4 lots to be accessed via a private driveway (i.e. without designing and constructing a road) Such an outcome can be accomplished via the "Access Exemption" clause and use of 2 Flag Lots.
- Require a finished top width of 21.6 ft. (6.6 m) for Private Designed Roads serving up to 12 lots



- Require a finished top width of 25.5 ft. (7.8 m) for Private Designed Roads serving MORE THAN 12 lots



3.6 Benefit/rationale for recommendation?

A standard fire truck should not exceed 10 ft in width. By setting the width of a lane at 10.8 ft. and not requiring usable shoulder width, the rural laneway design is allowing the narrowest possible road where a fire truck could still pass another vehicle. Any width smaller than this, and we would not be able to confidently say that an emergency vehicle could access the properties on the private road.

3.7 What is the risk of not pursuing the recommendation?

Reducing finished top width can increase the risk that emergency vehicles cannot get down a private road; which is a primary objective of the bylaw review. A finished top width of 21.6 feet still falls within TAC guidelines, which reduces the risk of municipal liability.

3.8 What are the alternatives to proceeding with the identified recommendation?

Over the course of the By-law Review, where much of the discussion has focused on private road design standards, the Municipality has been presented with possible alternatives to the proposed width requirement. It is also noted where the proposed width requirements has been reduced from the First Draft, presented to PAC on January 11th, to the requirements found in the current Draft.

- One alternative is identified with the perspectives of the development community. As stated verbally directly to PAC at past meetings, and included in a (collective) written submission from developers, it is proposed that a minimum road width requirement be identified at 18 feet, (5.5 m) to include 1.5 foot shoulders.
- A second alternative has been identified by the consulting engineer. That being: a potential design allowance of an "access laneway" which could be narrower along portions of a proposed private road, which would still require widened places ("pull-offs") at set distances, that would afford safe access for passing vehicles. This type of design would be to purposefully move traffic from one end to the other of the "access laneway." It would not allow for driveways (i.e. access to adjacent lots) entering in this identified space, or space for parking along the road. Any lots "fronting" along these narrower portions of an "access laneway" would potentially be rendered undevelopable, unless that section of the "access laneway" was first widened, on either side of the driveway.
- Other municipalities in Nova Scotia have identified a range of width requirements for a private road (at point of construction):

Width Requirements identified for a Private Designed Road at point of construction*

Municipality	Section References	Width
Chester	By-law s.31 Manual - Cross-section 2	8.4 m (27.5 feet) = Total width *Exemptions apply under 6 lots.
Queens	By-law s.5.5	No construction standard identified.
Annapolis	By-law s.65.1c Manual - see Figure 1	7 m (23 feet) = Total width.
Kings	By-law s.4.4b -I	5 m (16.4 feet) = Total width
West Hants	By-law s.33a-iii (3)	7.3 m (24 feet) = Total width.
East Hants	By-law s.10.3b Manual - 4	6.7 m (22 feet) = Total width. *Not permitted in Growth Management Areas, with some exceptions.
Colchester	By-law s.24-28 (By-law) Manual - 9.2 & Appendix D	6 m (19.7 feet) = Travel surface width. *Exemptions apply under 8 lots. *Private Roads only permitted outside of identified area.
Cumberland	By-law s.5.1c Manual - 7.2b	6 m (19.6 feet) = Travel surface width.

- Another alternative that PAC may wish to consider is varying the number of lots allowed on the smaller (i.e. Rural Laneway). In the current draft of the bylaw, a wider top width is required for roads serving 13 or more lots.
 - The maximum number of lots accessed from a rural laneway could be increased to 18, to address cost concerns raised by the development community; However, PAC must consider that the increase of traffic on these narrower roads increases the risk of delaying emergency vehicle access.

4 ISSUE: Evolution of Private Designed Road Standards

4.1 Summary

Bolded items are changes from the previous draft.

	Current By-law	First Draft	Second Draft		Third Draft	
On Own Lot?	Optional	Required	Required	Required	Required	Required
Road Class	-	LVR	RLW	LVR	RLW	LVR
Design Speed	50 km/h	40 km/h	40 km/h	40 km/h	40 km/h	40 km/h
Min. ROW	20 m	20 m	20 m	20 m	20 m	20 m
Total Usable Width	-	9.0 m	6.6 m	7.8 m	6.6 m	7.8 m
Min. Base Course (Type 2 Gravel)	-	200 mm	200 mm	200 mm	Can be reduced by geotechnical engineer	
					200 mm	200 mm
Min. Surface Course (Type 1 Gravel)	-	150 mm	100 mm	100 mm	100 mm	100 mm
					Can be reduced by geotechnical engineer	

4.2 Current Standards

The existing Subdivision By-law calls private roads that meet the by-law requirements, "Designed Roads".

A Designed Road may be on its own lot but is not required to be on its own lot. The right-of-way for a Designed Road must be a minimum of 20 metres. Designed Roads must also have a vertical and horizontal alignment (how "tight" the curves are) for travel speeds of 50 km/h. There are currently no requirements for the actual road of Designed Roads; i.e. no requirements on road width or the construction of the road bed and surface.

4.3 Proposal at First PAC Meeting

The first draft of the proposed Subdivision By-law went to PAC on January 11th, 2018. This draft renamed "Designed Roads" as "Private Designed Roads" to help bring clarity to the terminology.

In this draft, a Private Designed Road was required to be on its own lot. Private Designed Roads were also required to be designed, constructed, and inspected to the standards of the Subdivision By-law.

Private Designed Roads were classed as "Low Volume Rural (LVR) Roads" and permitted to have a design speed of 40 km/h. This allows for vertical and horizontal alignments that are "tighter" than Public Roads and allows Private Designed Roads to better follow the landscape (lower cost because less cut and fill is required). For example, horizontal curves need to have a minimum radius of 90 metres at 50 km/h, but only 60 metres at 60 km/h. The right-of-way was still generally required to be 20 metres.

In this draft, the road was required to have a bed of 200 mm (8in) of Type 2 gravel and a surface course of 150 mm (6in) of Type 1 gravel.

The road cross-section required minimum travel lanes of 3.0 metres and 1.5 metre shoulders, for a total road surface of 9.0 metres.

PAC had concerns about the cost to construct the proposed standard for Private Designed Roads and instructed Staff to explore whether the standard could be reduced and still provide a durable road and allow for safe emergency vehicle access.

4.4 Proposal at Second PAC Meeting

Staff revisited Transportation Association of Canada (TAC) standards and reviewed private road standards in other municipalities and returned with a second draft for Private Designed Roads on January 25, 2018.

Through this review, Staff was able to reduce the proposed LVR Private Designed Road down to a lane width of 2.7 metres and a shoulder of 1.2 metres, for a total road surface of 7.8 metres. Staff also reduced the proposed surface course from 150 mm of Type 1 gravel to 100 mm of Type 1.

This draft also included a new option for Private Designed Roads, the "Rural Laneway (RLW)". This standard included a 40 km/h design speed, and was permitted for low-traffic situations (up to 12 lots). This standard pushed the road surface down to 3.3 metre lanes with no shoulder, for a total road surface of 6.6 metres.

PAC's concerns about the second draft standard mostly related to the cost of proposed gravel thickness, and whether such a thickness was really required in all areas of the municipality.

4.5 Proposal at Third PAC Meeting

Staff presented the third draft of the Subdivision By-law to PAC on February 15, 2018. In relation to Private Designed Roads, this draft added a provision that allows developers to reduce the amount of gravel used if they hire a geotechnical engineer to show that the site-specific conditions mean less gravel is needed.

4.6 Discussion

Following the public consultation, Staff has proposed a series of Private Designed Road standards that are intended to provide safe emergency access and set up property owners with quality roads that are easier to maintain, while balancing impacts on cost. Over the course of three drafts, Staff has proposed a new "Rural Laneway" standard and refined standards to best balance all three of these goals. In particular:

4.6.1 Alignment

The proposed design speed of 40 km/h allows for road alignments that better fit the various landscapes of MODL, reducing costs for cut and fill, while still providing adequate turning radii for emergency vehicles and other large trucks (building supply trucks, etc.).

4.6.2 Usable Road Width

Between the first and second draft, Staff introduced the narrow "Rural Laneway Standard" and reduced the width of the "Low Volume Rural Road" standard. These standards provide for safe two-way traffic for their given traffic volume. The two-way traffic is important for emergency services. A cement mixer or other large truck may have the luxury of negotiating with other drivers for who has right-of-way on narrower, one-way-traffic roads, but a fire truck cannot afford the time impacts that could happen if they were to face oncoming traffic or parked vehicles on a road that only permits one-way traffic at a time.

Staff also feels it is also important, for liability reasons, to align road standards with established standards, such as TAC guidelines. The road widths currently proposed take the TAC guidelines to their absolute minimum. Staff is not comfortable having a standard with widths narrower than proposed.

4.6.3 Road Construction

A sufficient thickness of gravel is needed to provide a road that is durable and easy to maintain. The actual thickness of needed gravel depends on the site-specific conditions and the season in which the road is built. Through the evolution of the drafts, Staff has proposed a standard that allows developers to choose between simplicity and flexibility. The standard of 200 mm base course and 100 mm surface course is one that Staff feels is appropriate for all conditions and seasons in MODL. A developer who wants simplicity can choose this "one-size-fits-all" standard.

On the other hand, a developer who believes they can save money based on their site conditions can choose the flexibility of hiring a geotechnical engineer to design a road bed and surface course that takes advantage of these local conditions. The geotechnical report and design would go to the Municipal Engineer for review and approval. Once this reduced thickness was approved by the Municipal Engineer, this would be the standard to which the developer would need to build.

ISSUE: EXTENSION ON EXISTING PRIVATE DESIGNED ROAD

What is it?

Provides the opportunity for **new** private designed roads to obtain access from an **existing** private designed road for new lot creation.

What purpose do they serve?

Allow the expansion of multi-lot development from within an existing development. It could provide the opportunity for internal lot creation or for connectivity to adjacent properties.

What issue does this cause?

By creating extensions of private designed roads, it increases the traffic on roads that have not met a construction standard.

What is the current policy?

Private designed roads including extensions are permitted in the current Subdivision By-law provided they meet the design requirements of Schedule H. (Section 4.1 (e) definition designed road).

A designed road requires the entrance to the Public Highway be approved. Also, where the proposed private designed road is not located entirely within the land being divided, a deeded right of way for access that is assignable and perpetual registered at the Land Registry, is required.

Extension of private designed roads are acceptable provided the subdivider has the legal right to use it.



What is our recommendation

The recommendation is to allow for the extensions on existing private designed roads with limitations: (See Section 6.2.1)

- (a) the Existing Private Designed Road(s) extends to a Public Road;
- (b) a right-of-way easement is provided for access over the Existing Private Designed Road to the Public Road and that right-of-way easement is assignable and perpetual and has been clearly granted to the Subdivider by deed and registered at the Land Registry;
- (c) **no other such extension has been made** to the Existing Private Designed Road;
- (d) the proposed Private Designed Road provides frontage for **no more than two lots**; and
- (e) all other requirements of this By-law are met.

If the extension to the existing Private Designed Road is to service more than 2 lots, the entire length of the new and existing private road is to be upgraded to meet the proposed requirements in the draft By-law for private designed roads.

Benefit/rationale for recommendation?

The Municipality is discussing private road construction standards for all new private designed roads.

Ensuring new private roads are constructed to provide adequate access for residents and emergency services is important. In expanding the private road, requiring the existing road to be upgraded gives the confirmation, at the time of the extension, that access for the proposed future lots meets the proposed requirements.

Allowing the extension for the creation of 2 lots gives the landowners an option without the requirement of undertaking a full upgrade to an existing private road that may not have been built to a standard.

What is the risk of not pursuing the recommendation?

New private designed roads will be required to be built to a standard, if the Municipality introduces construction standards for Private Designed Roads. Allowing the extension of an existing private road for the creation of two more lots would potentially provide access over a road built with 'no standard.'

Once more than two new lots are proposed, any part of the private designed road - **whether new or existing** - would need to be built to the proposed standard. If there was no variance in the draft By-law for the two lots, then an existing private road would have to be built entirely to the proposed standard.

Traffic would be increased over the first portion of the 'road' which could be built a lower standard.

Alternatives

- Permit extensions on an existing private designed road with no limitation and no requirement to upgrade existing private designed road;
- Permit a proposed Private Designed Road that provides frontage for **no more than 12 lots**, with no requirement to upgrade the existing private road (12 lots being the same number of lots permitted on a Rural Laneway.)

ISSUE: FLAG LOTS

What is it?

A flag lot is a lot created which looks like a flag atop a pole. The base of the pole is typically used to obtain road frontage, which is a requirement of the Subdivision By-law.



What purpose do they serve?

In the creation of new lots, the Subdivision By-law has a requirement that all lots shall abut a public or private road. Road frontage is **a necessary component of lot design**.

Flag lots are used to meet the road frontage requirement. Often the access is not through the pole, but via a right-of-way elsewhere, either on the property or across adjacent properties. A flag lot may be beneficial in certain circumstances to create a single lot, where the terrain would limit development.

What issue does this cause?

Flag lots are used in subdivision design to satisfy the road frontage requirement. In most situations, the pole portion of the lot serves no other purpose.

Multi-lot subdivision design using flag lots can cause issues with the physical access to the lots. As access is typically provided by a right-of-way, there is no identified 'road' within its own boundaries. Use of right-of-ways for access can generate long term concerns:

- Right-of-ways which cross an adjacent property or multiple lots may not be built to an adequate standard to accommodate emergency services.
- The Municipality has no authority over private rights-of-way including construction standards.
- The standard of the access may not be adequate and without ownership in a road parcel, it is often an issue of who is responsible to ensure the access is useable.
- A right-of-way crossing multiple properties cannot be deeded to a Private Road Association for future ownership.

What is the current policy?

A flag lot is not referenced as such in the Subdivision By-law. Section 5.10.3 states that lots shall not be subdivided to create a width or depth of less than 6 meters (19.7 feet).

Therefore, **the minimum road frontage is 6 meters**. This allows the design of lots to be in various shapes, one being a flag lot.

What is the recommendation (new section reference)

The recommendation is to limit the number of flag lots (Section 5.9):

- The flag portion is to contain the minimum lot area as specified in the Subdivision By-law or applicable Land Use By-law.
- The width of the pole shall be at least 6 metres along the entire length.
- No more than **two flag lots** shall be created from an area of land as it existed on *January 1, 2017*

Benefit/rationale for recommendation?

By introducing a limit on flag lot creation, it will ensure that multi-lot developments are designed with adequate road access to ensure emergency services can be provided. Multi-lot developments will either be on a public or private road.

Flag lots will be limited to two, which will allow for those instances where landowners are wanting only 1 or 2 lots and the feasibility of a road is excessive or the access exemption provision has already been used.

What is the risk of not pursuing the recommendation?

By not pursuing a limitation on flag lots, lot development would continue as it is now. Flag lots will continue to be used for various purposes.

There may be a continuation of multi-lot development using flag lots to meet the road frontage requirement. Access would then be provided by way of right-of-ways crossing either adjacent property or over multiple properties. Individual lot owners would be granted the right to use the access, with no ownership.

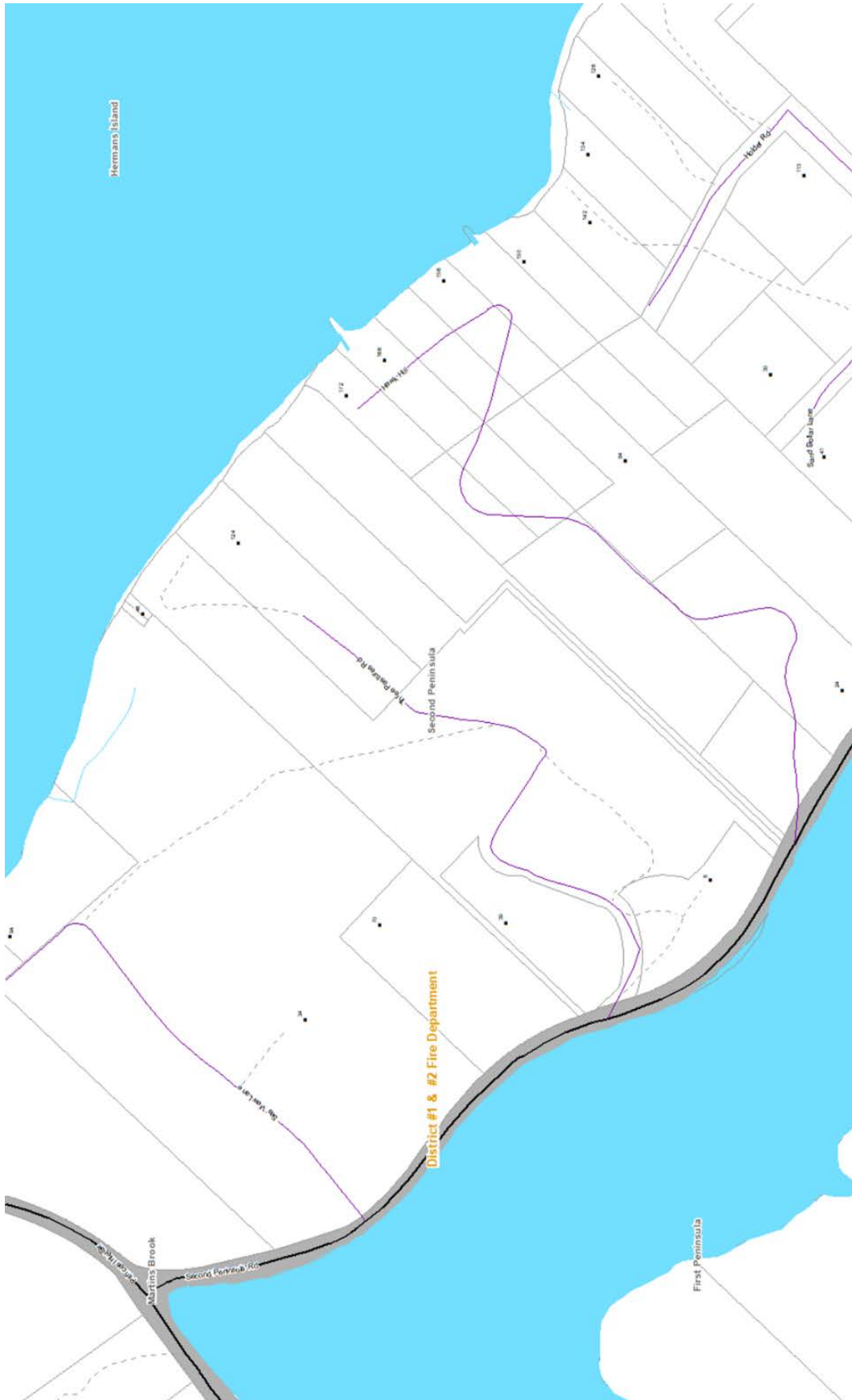
The 'road' would not be a private road as defined in the Subdivision By-law. There would be no requirement for potential construction. The right-of-way is, in essence, a driveway.

Alternatives

1. Change the minimum width to be greater than 6m.
2. Provide no limit on flag lot creation.
3. Limit flag lot creation to any number greater than 2.
4. Allow for access exempt lots (specified number – 2 or a number agreed on), which serve the same purpose as a flag lot, it just removes the requirement for road frontage.
5. Leave the limitation for flag lots at 2.



3 PASTURES PLAN



ISSUE: Maintenance of Private Roads

What is it?

Private road maintenance is the responsibility of the property owners accessing their property via the private road.

What purpose does it serve?

Maintaining adequate access to your property ensures that services can be provided to your property. Services can range from waste collection trucks, delivery vehicles, to emergency response vehicles (such as ambulances and fire trucks)

What issue does this cause?

Private roads that are not properly maintained deteriorate over time which may impact the ability to provide emergency services to the property. Costly major road repairs can be prevented by regular maintenance. e.g. exposed base materials, pot holes, ruts, vegetation growth, bridges, culverts, and ditches.

What is the current policy?

The Subdivision By-law **does not** and **can not** address ongoing road maintenance.

However, the Municipal Government Act enables a municipality to make a by-law [MGA s. 47, 48, 49, 65, and 81] which may look to regulate the maintenance of private roads. If adequate maintenance is not conducted, the municipality can cause the work to be done, with the cost of the work being put back to the private road properties.

MGA s. 48(3) states *"...the council may adopt policies on any matter that the council considers conducive to the effective management of the municipality."*

MGA s.47(5) states *"The council may...do any thing or provide a service for which the municipality or the council is authorized by an Act of Legislature to spend or borrow money."*

MGA s.65(aaa) states *"The council may expend money required by the municipality for...private roads, culverts, retaining walls, sidewalks, curbs and gutters that are associated with private roads and are identified and approved for expenditure by the council."*

MGA s. 81(1)(da) states *“The council may make by-laws imposing, fixing and providing methods of enforcing payment of charges for*

(da) laying out, opening, constructing, repairing, improving and maintaining private roads, curbs, sidewalks, gutters, bridges, culverts and retaining walls that are associated with private roads, where the cost is incurred

(i) By the municipality, or

(ii) Under an agreement between the municipality and a person;”

What is our recommendation?

There are no sections in the existing or proposed Subdivision By-law that addresses future road maintenance.

Staff recommends that Council direct staff to draft proposed amendments to the Private Road Maintenance and Improvement By-law. The intent of the amendments would require private road property owners to maintain their private road to an adequate service level.

Benefit/rationale for recommendation?

Amendments / additions to the Private Road Maintenance and Improvement By-law could potentially address some private roads that our Fire Service providers have said they are not able to provide service to, because of road maintenance issues.

This is also a potential avenue for Council to address the unfair maintenance burden that some of our private road property owners experience. It would ensure that the costs to maintain a private road is fairly distributed among the private road property owners.

What is the risk of not pursuing the recommendation?

Lower standard of living for residents living on private roads.

Continued complaints from property owners on private roads that they pay the same taxes as residents on public roads but don't get or can't get the same services.

Frustrated residents who contribute to the maintenance but are subsidizing those residents who don't pay their fair share.

Continued existence of private roads that, due to maintenance issues, are difficult to access for emergency services.

ISSUE: PAVING: For New Municipal Roads

What is it?

Introducing a requirement for proposed Public Roads to be paved by the developer prior to take over by the Municipality.

What purpose do they serve?

For multi-lot subdivision development, access roads are typically required. Developers have the option to create private designed roads or new Municipal Public Roads to service new lots.

What issue does this cause?

New roads potentially would remain in private ownership due to the cost of paving. This would be a clear differentiation between private and public.

What is the current policy?

New municipal Public Roads are constructed to the requirements outlined in Schedule H, Municipal Road Design and Construction Standard.

Both the LVR and RLU design class roads are required to be gravel. The RCU (collector road) is required to have 100 mm (4") of asphalt.

All existing municipal Roads are LVR classification, except for the first part of Billie Lane, which has recently been upgraded to RLU.

What is the recommendation? (See new section reference)

The recommendation is to require paving for proposed municipal Public Roads (Schedule J):

- ULU – Urban Laneway - 75 mm asphalt
- ULU – Urban Local Road - 100 mm asphalt
- RLU – Rural Local Undivided – 75 mm asphalt
- RCU – Rural Collector Undivided – 100 mm asphalt

Benefit/rationale for recommendation?

The Municipality has been considering the option of paving all existing Municipal Roads. Requiring new Municipal Public Roads to be paved at point of development would be the next step in the progression. If the Municipality is undertaking the paving of existing Municipal Road, then it seems counterproductive to take ownership of gravel roads in the future.

There would be a clear distinction between a public road and a private road if municipal Public Roads were paved.

We are providing the developer with an option for a lower standard (Private Designed Road) if they are not wanting to turn the road over to the Municipality.

What is the risk of not pursuing the recommendation?

If new municipal Public Roads are not paved prior to takeover by the Municipality, there could be a cost to taxpayers in the future when the roads need upgraded and paved.

Municipal Roads may not be created due to the cost to the developers.

Alternatives

- Keep requirement of gravel, as per current By-law (status quo)
- Limit new municipal Public Roads to growth areas (ie, within a certain kilometre radius of a serviced centre; or identified areas, Osprey Village)
- Do not permit any new Municipal Public Roads where Council deems it premature.

ISSUE: Extensions (of Public Roads) From Adjacent Municipalities

9.1 What is it?

When new lots are proposed on a subdivision plan, the Municipality permits a developer to design and build a Public Road to access these new lots. A Public Road is taken over by the Municipality after its construction, provided the road is built to a standard identified in the By-law.

An identified standard for Public Roads has been part of the Municipality's Subdivision By-law since the Province determined in the late 1990s that it would no longer take over ownership of new roads.

9.2 What purpose does the regulation serve?

The Municipality does not want to own a road that has not been built to an acceptable standard.

9.3 What issue does this cause?

9.3.4 Specified concern:

In a limited number of cases, a proposed road built to access new lots is an extension of a road that started in another municipal unit. In some cases, because MODL standards for a Public Road are currently based on a rural development scenario, the difference in standards between the two municipalities usually means the road is required to be built differently on the two sides of the municipal boundary.

For example, Meldrum Avenue:



(At the municipal line: asphalt & curb turns to gravel & ditching)

9.3.5 Broader concern:

Once the road is transferred, it is the Municipality's asset. It is the Municipality's to maintain. Forever.

There are financial implications in allowing for any new municipal Public Roads to be created, wherever the roads may be. Citizens who travel on Public Roads generally have higher expectations regarding design and conditions.

9.4 What is the current policy?

The current By-law requires that a proposed Public Road be built to one of three standards. These standards can all be identified as rural. See current By-law Part 8A, and Schedule H Part 3.

9.5 What is the recommendation?

A new statement is found in Schedule H section 1.1 stating:

Where a proposed Public Road extends from a neighbouring municipality, the Public Road may, at the discretion of the Municipal Engineer, and in accordance with accepted engineering practice, be designed and built as a continuation of the same road standard used on the portion of the Public Road within the neighbouring municipality.

9.6 Benefit/rationale for recommendation?

A proposed Public Road would no longer have to be built to two different standards. When the road crosses into the Municipality, the extension of that Public Road can continue to be built to the standard that is / was used in the neighbouring municipality, at the discretion of this Municipality's Engineer.

Governments are occasionally criticized for having generated layers of "red tape" when it comes to the imposition of requirements on citizens. In this case: there is a divergence in road design standards, as found in regulations, when it comes to what is considered an acceptable Public Road to a municipality. From the citizen's perspective, the question is: if it is still the same road, why is there such a divergence?

9.7 What are the risks/implications of not pursuing the recommendation?

Developers would be compelled to build a "rural" Public Road when an existing road crosses into the Municipality. That would mean building a road of a certain width, surfacing, and ditching conditions that may be different to the standards that were imposed on the same developer in the adjacent municipality.

Council may consider that jurisdictional lines are in place for a reason. Council may prefer that all Public Roads be designed and built to a "rural" standard, irrespective of the particular facts of geography.

9.8 What are the alternatives to proceeding with the identified recommendation?

Council may not want to allow for an “extension” allowance, in terms of allowing for a proposed Public Road to be built to the adjacent municipality’s standard, when it crosses over into the Municipality.

Instead, in those instances where there is a proposed extension of a road found in an adjacent jurisdiction entering into this Municipality on a plan of subdivision, Council may want to:

1. Enforce **existing** Public Road standards, as identified in the current By-law. The current standards are not necessarily consistent with standards used in an adjacent jurisdiction. When a road is extended out from __X__, the proposed road would have to change in its design, width, travel surface, ditching, etc.
2. Adopt **different** Public Road standards than what is proposed, which, again, may not be consistent with the standards used in an adjacent jurisdiction. When a road is extended out from __X__, the proposed road would have to change in its design, width, travel surface, ditching, etc.
3. **Not allow for the development of a new Public Road.** Council would adopt no Public Road standards, and would outline the reasons for doing so, in the Municipal Planning Strategy. When a road is extended out from __X__, the road would become a private road at the municipality’s jurisdictional line. The road would be constructed to meet, at minimum, one of the Municipality’s (*proposed*) private road design classes.
4. Permit for the extension of the road, subject to a proposed **shared taxation agreement for capital & maintenance** involving the adjacent municipality, to cover future road -related costs. When a road is extended out from __X__, the road remains a Public Road in the Municipality, but is tied to a specified financial requirement with __X__.
5. Allow for an **annexation** of affected properties to be accessed by the proposed extension, with the plan of subdivision to be reviewed by the adjacent municipality. When a road is extended out from __X__, the proposed road, and related adjacent properties, would ultimately become part of __X__.

In pursuing the last two options, Council would first need to **enter into discussions with the adjacent Municipality**, where their input and partnership on a particular subdivision is a required element for actualization.

ISSUE: Urban Public Road Standards

10.1 What is it?

When new lots are proposed on a subdivision plan, the Municipality permits a developer to design and build a Public Road to access these new lots. A Public Road is taken over by the Municipality following its construction, provided the road is built to a standard identified in the By-law.

An identified standard for Public Roads has been part of the Municipality's Subdivision By-law since the Province determined in the late 1990s that it would no longer take over ownership of new roads. The existing standards are based on a "rural" context (e.g. ditches, no curbs and gutters, etc.).

10.2 What purpose does the regulation serve?

The Municipality does not want to own a road that has not been built to an acceptable standard.

10.3 What issue does this cause?

Input provided by one developer during this review (and as presented directly to Council) identified situations where having a diverse set of Public Road standards would be in keeping with "smart growth" principles. The developer proposed that an allowance for alternative design (i.e. narrower urban lanes) would permit for more marketable developments in areas of the Municipality where lots can also be centrally serviced.

Note: This issue is seen as being beyond an allowance for the extension of an existing Public Road from an adjacent municipal unit. It is whether the current Subdivision By-law's road standards need revised, or added to, so that "urban" forms of development can proceed, following subdivision. The "issue" being: the limited array of Public Road standards impacts on the type of development that can take place in MODL.

Note (2): During Council's workshop in December, one item brought forward for discussion was whether the Municipality wanted to identify a geographic limitation on where new public infrastructure (to include Public Roads) could be built, within which the Municipality would be willing to take over the asset.

There was no conclusion taken from that discussion, to limit specifically where serviced developments could occur. (i.e. an identified "infrastructure service area"). There was expressed concern that the Municipality should look to determine how much it would cost the Municipality, before determining if a specific proposal proceeded.

10.4 What is the current policy?

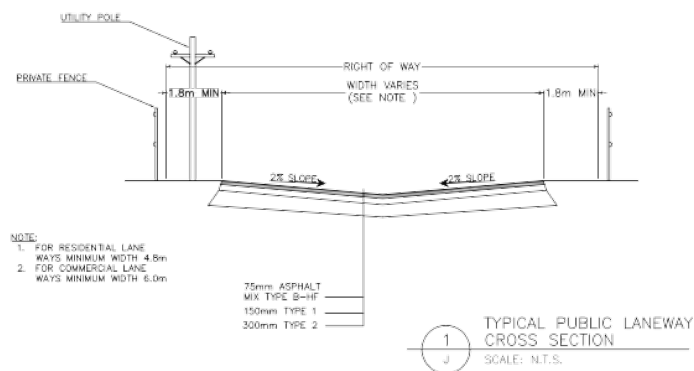
The current By-law requires that a proposed Public Road be built to one of three standards. These standards are all identified as rural. See current By-law Part 8A, and Schedule H Part 3.

10.5 What is the recommendation?

Proposed changes in Schedule H Part 3 identifies three road design classes for a Public Road. "Urban Streets - Laneways, Urban Local Undivided (ULU)" is one the three classes described. Additional text on the "Urban Streets" design class is then found under proposed section 3.1:

"A developer may desire to build roads or streets that are more urban in nature. If the nature of the proposed development is to create a dense cluster of urban, centrally serviced buildings and streets, then those Public Roads will be classified as Urban Local Undivided (ULU) and be expected to conform to Urban category standards issued by the Transportation Association of Canada (TAC)." (Feb 15 Draft)

In Part 5 & Part 6 of Schedule H, new text identifies where all Public Roads shall meet the specifications outlined in Schedule J cross-sections. These cross-sections found in Schedule J are considered reference materials which refer back to the TAC "urban category" standards. There are noted variances in right-of-way width, travel surface width, and asphalt surfacing for the Urban Streets road design class, when compared to the two "rural" Public Road design classifications. The "laneway" design being notably distinct:



It is noted that in the general preamble of Schedule H that the following statement is also made:

"Requirements in excess of the minimum standards may be necessary for certain roadways, subject to the Municipal Engineer's discretion."

10.6 Benefit/rationale for recommendation?

Allows for a Public Road design class that meets TAC standards that are more "urban" in nature.

10.7 What are the risks/implications of not pursuing the recommendation?

Property that may otherwise be conducive for more concentrated forms of development will be compelled to build a "rural" Public Road because subdivision regulations do not allow for alternative road designs.

Council may consider placing that type of a limitation on development to be consistent with the values and expectations of a rural municipality

10.8 What are the alternatives to proceeding with the identified recommendation?

Council may not want to allow for any “urban” Public Road design class.

Instead, in those instances where there is a proposed plan of subdivision that would identify a new Public Road, Council may want to:

1. Enforce **existing** Public Road standards, as identified in the current By-law. When a new Public Road is proposed, it would be consistent with municipal roads as designed and constructed since 1999.
2. Adopt new Public Road standards which are only **rural** in nature. The current draft By-law identifies such road classes.
3. Identify an allowance for an “urban” Public Road design class - **but** - permit the development of such road types in identified **“serviced areas”** of the Municipality. This geographic constraint would limit the location of any new “urban” Public Road and would need to reflect a higher density development pattern.
4. **Not allow for the development of any new type of Public Road.** Council would adopt no Public Road standards, and would outline the reasons for doing so, in the Municipal Planning Strategy. When a proposed road is identified on a plan of subdivision, it would need to comply with the proposed private design road classes. Any new roads in the Municipality would be private roads.
5. Permit for use of an urban Public Road class to be developed on a plan of subdivision, subject to a proposed **capital & maintenance agreement** with the developer (“Area Rate”), to cover future road -related costs. Any proposed Public Road in the Municipality is then tied to a specified financial requirement from onset.
6. Allow for an **annexation** of all affected properties proposed to be accessed by an “urban” Public Road, where the properties are also to be serviced by an adjacent municipality. Any proposed plan of subdivision which involves such a servicing component would require review by the adjacent municipality.

In pursuing the last option, Council would first need to **enter into discussions with the adjacent municipalities**, where their input and partnership on a particular subdivision is a required element for actualization.

ISSUE: Public Open Space

What is it?

The Municipal Government Act enables Council to require, within the Subdivision By-law, that a Subdivider convey land, equivalent value to land, or a combination of both for public open space purposes.

What purpose does it serve?

The 2% cash only Public Open Space contribution enables Council to strategically acquire and develop recreational lands in a location and of a quality and quantity that will benefit the entire municipality.

The Municipal Government Act restricts the use the public open space contribution funds for the acquisition of, and capital improvements to, parks, playgrounds and similar public purposes.

What issue does this cause?

Some Developers see the open space contribution as a burden as its paid upfront and feel that the 2% should stay in the Subdivision.

From 1975 to 2001, Council required that the developer convey useable land or cash-in-lieu of land. A Public Open Space Study, completed in March 2000, concluded that the recreational needs of the Municipality were not being satisfied by acquiring land via the Subdivision By-law. POS was being acquired where subdivision activities were occurring, but the sites were not being utilised. Numerous public open space properties were acquired on private roads which has limited the development of those properties.

The Public Open Space Study recommended that Council adopt a municipal wide approach to public open space, being that Public Open Space should benefit all the municipality's residents, not just those in a local subdivision.

In September 2001, Council removed the former public open space requirements of the Subdivision By-law and amended the Subdivision By-law to require that a Subdivider contribute two percent (2%) of the market value of all new lots created.

Council has developed an Open Space Strategic Plan for the acquisition of future land to ensure that land is strategically acquired for the benefit of MODL residents. Council needs to continuously monitor population and development trends and update the Open Space Strategic Plan as necessary to meet the changing needs.

What is the current policy?

The current Subdivision By-law requires that a Subdivider contribute two percent (2%) of the market value of all new lots created. [Part 9 & Section 15.8]

Exceptions:

1. any division in which the lot(s) created contains an existing main building, is a remainder lot,
2. is a consolidation of two or more lots,
3. is a private designed road approved as a separate lot,
4. is an alteration of lot boundaries in which no new additional lots are created, or
5. is on land owned by the Municipality.

The Open Space Strategic Plan was first approved by Council January 13, 2004 and was last amended in 2010. The 2010 Open Space Strategic Plan identifies 21 site priorities.

What is our recommendation?

It's recommended that Council continue to require a 2% cash contribution at time of Subdivision. No changes are being proposed other than a housekeeping item that should have been removed in 2001 that required the proposed location of public open spaces be shown on the plan.

Benefit/rationale for recommendation?

Council's current policy with respects to the acquisition of public open space benefits residents of the Municipality as opposed to residents in a subdivision.

The public open space funds help the municipality acquire properties in strategic locations.

Demand for real estate is no longer based on the local community but on a global community. Our lakeshores, coastal lands, and wilderness properties are experiencing rapid privatization. The rising value of these limited resources highlights the urgency for action in securing public open space assets.

Globalization changes community composition and values. In increasing numbers members of our communities are not familiar with the community's traditional recreational resources. Nor do they have a long-standing vested interest in the community that would urge them to protect these resources for community use. Open space is an

invaluable asset to the people of the Municipality. It is being lost at an alarming rate and negatively affects quality of life in the municipality.

The Municipality has been making progress in protecting our natural assets. In the recent years the municipality has either acquired or upgraded the infrastructure at the following locations using funds contributed at the time of Subdivision:

- Wiles Lake access approximately 6 acres
- River Ridge Commons approximately 115 acres
- Sherbrooke Lake Access approximately 30 acres
- Fire Brook Falls park
- Indian Falls
- Molega Lake
- LaHave river Access -LaHave Sunset Park
- Saw Pit Wharf park
- Church Lake access and parking

What is the risk of not pursuing the recommendation?

Subdivision activity doesn't always occur near the natural assets the community values most.

Land acquired where subdivision activity occurs may not meet the recreational requirements of the population.

Less funds available to acquire Public Open Space in strategic locations.

Alternatives

1. Keep with the current 2% Cash only contribution and update the Public Open Space Strategic Plan;
2. Require the transfer of land, cash or combination of both. If the Subdivision has water access require the Public Open Space land to have water frontage;
3. Increase the contribution amount (MGA permits up to 10% with reasons outlined in Municipal Planning Strategy); or
4. Eliminate the Public Open Space Contribution.

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

From: Peggy Handel

Sent: April 10, 2018 9:29 AM

To: MODL Mayor <mayor@modl.ca>; Eric Hustvedt <Eric.Hustvedt@modl.ca>; Martin Bell <Martin.Bell@modl.ca>; Lee Nauss <Lee.Nauss@modl.ca>; John Veinot <John.Veinot@modl.ca>; Cathy Moore <Cathy.Moore@modl.ca>; Claudette Garland <Claudette.Garland@modl.ca>; Wade Carver <Wade.Carver@modl.ca>; Michael Ernst <Michael.Ernst@modl.ca>; Reid Whynot <Reid.Whynot@modl.ca>; Errol Knickle <Errol.Knickle@modl.ca>; Jeff Merrill <Jeff.Merrill@modl.ca>

Subject: Letter to Mayor & Council regarding Subdivision By-Law Amendments

Good Morning,

My name is Peggy Händel and I spoke at the last PAC meeting on February 12th, 2018 regarding the proposed changes to the Subdivision By-Laws. I am including a letter with this email stating my opinion on these proposed changes since the last meeting.

I think it is very important for the mayor, all municipal councillors, and the PAC to read this letter carefully before making any formal decisions regarding the proposed changes to the Subdivision By-Law.

Please accept this letter as my opposition to the proposed amendments. The development community, as a whole, opposes the majority of these amendments. The reasons why these particular amendments should not be passed is outlined within this letter.

I hope you all take the time to read this letter and make the appropriate decision after hearing further evidence at the upcoming meeting as to why these changes are detrimental to Lunenburg County.

Sincerely,

Peggy Händel

To: Mayor Bolivar-Getson; Councilors of the Municipality of the District of Lunenburg

RE: Proposed Subdivision By-Law Amendments as presented by the PAC

(Please consider my arguments in anticipation of the next PAC Meeting, scheduled for April 12th, 2018)

My name is Peggy Händel and I am speaking on behalf of M & F Handel Development Ltd, a local developer in Lunenburg County. We have been a strong opponent to the proposed changes set forth by the PAC regarding the Subdivision By-Law. Although many changes are being suggested, we are specifically arguing against the proposed minimum road construction standards that are part of the proposed amendments, as well as the new suggestion to have the roads certified by a geotechnical engineer.

I would have given my formal arguments at the previous meeting, but due to the rescheduling, I have a conflict with my current schedule for the upcoming meeting this week and cannot attend. Therefore, please allow this letter to serve as a formal disapproval of the proposed amendments and my reasons therefore:

The Municipality has a *broad authority* of power under section 271 of the Municipal Government Act (MGA) to pass amendments such as those proposed by the Planning Department and the PAC, to the Subdivision By-Law. However, the purposes of the act must be strictly adhered to when making any amendments to municipal legislation. If the amendment is not in accordance with the purpose of the act, it is an act of bad faith by the municipal government.

The purpose of the Municipal Government Act (MGA) is stated in section 2 and will be argued more specifically below:

- s.2(a) states that the MGA gives BROAD AUTHORITY to councils, including the authority to pass by-laws, and [...] to govern municipalities in whatever ways the councils consider appropriate within the jurisdiction given to them.
 - ❖ Under this section, I suggest these amendments are not appropriate for the Municipality of the District of Lunenburg. Furthermore, I suggest the council to sincerely consider whether or not these amendments are in the best interests of the Municipality of the District of Lunenburg.

- s.2(b) states that the purpose of the MGA is to respond to present and future issues in the municipality.
 - ❖ The PAC argues that our private roads are not safe. I would suggest, based on the evidence provided by numerous interested parties indicating the adequacy of the surveyed roads within the municipality, that **the majority of the roads are sufficient to support emergency vehicles and are therefore safe,** despite the PAC's views to the contrary. **These facts cannot be disputed without empirical evidence, which has not been provided by the PAC.** However, if these roads are not adequate, these amendments will not change the construction of existing roads within the Municipality.
 - ❖ These amendments would not change future roads either, for the mere fact that developers will not be able to sustain the additional costs of these roads and therefore no further private or rural laneway roads will actually be built. The price per linear foot will increase from approximately \$32/linear foot to \$100/linear foot. This is not feasible for developers. Time and time again, we have stated that these amendments will not work for us, the development community. However, the PAC still seems determined to add these standard road constructions to the proposed amendments.
 - ❖ I suggest that **IF** the roads are, in fact inadequate, please provide statistics and impartial reports supporting the PAC's contrary opinion as to the quality of these existing roads. **Mere statement of opinions are not adequate reasons for making such arbitrary changes that will decimate a significant portion of the local economy.**
- s.2(c)(i) states that the purpose of the MGA is to provide good government.
 - ❖ Decimating the development industry within the municipality for questionable reasons without sufficient empirical facts to support such decisions is **NOT GOOD GOVERNMENT.**
 - ❖ People will lose their jobs if these amendments are passed. I suggest to you that any decision which would so **adversely affect a community,** particularly when such a large portion of the community are opposed to such decisions, is not good government.
- S.2(c)(ii) states that the purpose of the MGA is to provide services, facilities and other things that, in the opinion of the council, are necessary or desirable for all or part of the municipality.
 - ❖ Based on the fact that the majority of the private roads are sufficient, it cannot reasonably be said that these changes are necessary or desirable. It is **NOT** logical in any sense to reasonably believe that any changes that will so severely and adversely affect the public would be considered desirable.

- ❖ The opinion of the council is specifically reference in this portion of the Act. ***I argue that the decision rests with you, the councilors.*** Before a decision is made regarding these proposed amendments, please **SERIOUSLY CONSIDER THE EVIDENCE** presented by numerous interested parties surrounding the negative effect these changes will have on the land development industry; the evidence presented regarding the adequacy of the roads by numerous interested parties; and the future interests of the economic stability of Lunenburg County. Once all of this information is viewed *objectively*, there is **no reasonable basis** to conclude these standard construction requirements of 300mm total of aggregate, or the requirement of geotechnical engineers are necessary.
- ❖ The development community have maintained that the same objectives of "safe roads" could be achieved with a more reasonable option for all parties; namely the requirement of engineered roads to whatever standards the engineer deems necessary, based on local conditions within the subdivision. The specific requirement for a geotechnical engineer is not necessary since roads have been built by other engineers for decades without trouble and they are perfectly safe roads as well.
- ❖ **There has to be a middle ground that satisfies all parties** since the imposition of a minimum standard for aggregate is always first and foremost in the PAC's suggestions. This requirement of a minimum amount of aggregate is highly suspect since the development community has said it is clearly not necessary.
- s.2(c)(iii) states that the purpose of the MGA is to develop and maintain *safe and viable communities*.
 - ❖ **The current roads ARE SAFE.** The PAC has provided no concrete evidence stating otherwise. How many deaths have occurred due to these supposed substandard roads? I am not aware of any. Please request that the PAC **provide empirical or statistical evidence so as to provide a solid basis supporting the proposed amendments.** We are currently on the third draft of these amendments. Although the PAC certainly has the ability to provide solid evidence supporting their claims of unsafe roads, they have not provided any information to support their claims. I would suggest that the reason is because there is no such evidence available, except through the *subjective opinions of some concerned parties*. **Subjective evidence is not empirical or concrete evidence and should not be used as proof to support arbitrary laws.**
 - ❖ When an amendment will so severely affect the economy of an area, those involved should proceed with **the best scientific evidence available or else they are acting outside the authority of the Act and outside the accordance of good government.**

- ❖ How can anyone *reasonably* state that decimating an entire economic industry is promoting viability? That is **HIGHLY ILLOGICAL!!!** The acceptance of these amendments is **not consistent with the development or maintenance of a viable community.**

Additionally, I suggest that the new amendments are grossly disproportionate to the overall objective of the amendments.

- ❖ Grossly disproportionate is a principle of fundamental justice that governs all of Canadian society and has been recognized by the Supreme Court of Canada. ***Gross disproportionality occurs when state actions or legislative responses to a problem are so extreme as to be disproportionate to any legitimate government interest.***
- ❖ I argue that the response to “public road safety” by the implementation of such harsh requirements on the development community is grossly disproportionate to the overall objective. The legislative response to the problem of “unsafe roads” is to impose requirements on road construction that would **destroy an entire industry, as similarly occurred in our neighbouring community of Chester.**
- ❖ Since these proposed amendments affect such a large portion of the community, **any legitimate government interest that is trying to be achieved is irrelevant when considering the adverse effect on the majority of the public.** Such decisions should only be justified when there is empirical evidence to prove that such extreme measures are necessary. **No such concrete or statistical evidence has been provided.**

Turning to another issue that is of great concern is the fact that the PAC has stated that the last time they amended the Subdivision By-law was 18 years ago. This is not true. The last time the Subdivision By-law was amended was on August 23rd, 2016. I suspiciously ask one simple question ... **IF** the roads are currently as terrible as they are proposed to be, why wasn't this issue addressed in August 2016, during the last amendments to the by-law? Logically, these roads wouldn't have magically become disastrous overnight! **IF** they are currently not able to hold the weight of emergency vehicles, it is highly logical that they would not have been able to sustain the weight of those same vehicles in August of 2016 either. We have argued at the last meeting that these private roads adequately support the variety of construction vehicles needed at a construction site and would therefore support emergency vehicles as well.

Based on the PAC's decision to implement requirements of 200mm of Type 2 aggregate and 100mm of Type 1 aggregate, regardless of the development community's numerous

attempts to have this provision struck from the new amendments, one has to question the motives behind such insistency on an arbitrary provision. Whenever laws are analyzed, there is a context that must be reviewed as well. That means one looks at what is going on in society that may be facilitating or putting pressure on such changes. Many laws proposed by governmental bodies have been struck down due to the context in which the laws were created.

In fact, in *Roncarelli v. Duplessis*, [1959] SRC 1, the ulterior motives of a politician upon exercising his statutory authority were brought to light. The Supreme Court of Canada famously held that **any broadly worded statutory authority can ONLY be used within the purpose of the Act.** I have previously outlined the purposes of the Act and therefore have provided the basis as to why these proposed amendments, particularly the minimum road standards and the geotechnical engineer requirement, are not within the authority of the MGA (and therefore the Subdivision By-Law).

There is an **extreme suspicion** by the public at large, that these amendments are not being proposed for the best interests of society in general.

- **The sole aggregate supplier in the province will benefit from these amendments, not the public or the development community.** Going back to the last amendments in 2016, when many of the gravel pits and aggregate suppliers were independently owned, such a change would have benefited multiple businesses, and not one single monopoly. I believe at that time, although there would still have been a resistance by interested parties, like ourselves, there would have been less cause for suspicion as there is now. Once again, to state that these amendments are facilitated by the *sudden conditions* of the private roads is **NOT REASONABLE** and highly suspect. Therefore, the objective of these amendments must be cautiously and critically analyzed.
- Once these amendments are passed, there will be little competition in the land development and subdivision industry.
 - Only the largest of developers with the most elite clientele will survive. This will open up the industry to larger corporations to create further monopolies in this industry as well. Monopolization is bad for economies, regardless of the type of business in question.

Mere ***public suspicion*** should be enough for the council to strike down this particular amendment and insist on deference to the development industry's proposals which would still assure safe, private roadways.

Additionally, there are various policy reasons to deny passing these amendments:

1. **There is too much uncertainty surrounding these amendments to provide any guarantee to developers to continue to pursue business in Lunenburg County.**

- There is **NO GUARANTEE** that if the proposed road is certified by a geotechnical engineer, that the Municipal engineer will not arbitrarily deny the request and therefore demand the subdivision developer to resort to the “one size fits all” model imposed by the minimum standards. Additionally, the necessity to include a geotechnical engineer is absolutely unnecessary since non-geotechnical engineers have been assisting in the construction of roads that are in most cases still adequate today, despite being constructed decades ago.
- ❖ MGA s.40 covers the approval or the permission by the engineer. There is a provision for appeal within the MGA when the engineer refuses approval of a submitted plan/road design. **HOWEVER**...if the committee designated by the council agrees with the municipal engineer, then there is no further option for appeal by the developer. Based on public suspicion surrounding these amendments, **there is not enough guarantee for developers to continue to develop within Lunenburg County if these amendments are passed into the Subdivision By-Law.**
- ❖ The development community is requesting some concessions in these amendments **in favour of the developers** who support the local economy in the area. These concessions would remove the uncertainty of these types of arbitrary decisions.
- ❖ The requested concession would be to **leave the construction of private roads in the hands of the developers and privately contracted engineers**, as they have been for decades. Private means private! The mere requirement to have these roads constructed by engineers (*not strictly geotechnical engineers*) would achieve the stated objective of providing “safer private roads” for the community.

2. **MGA s.186 says that the Minister does not need to approve by-laws made by council.**

- There is little protection for business owners since their only protection is through contract law and the common law. However, that is the reason that the development community has been presenting arguments to the PAC since this process started. We want to protect ourselves, our employees, our livelihood, and the future economic stability of Lunenburg County.
- However, what about the rights of all of the employees that will lose their jobs and their ability to provide for their families if these amendments are passed without further consideration of the proposals submitted by the development community to the PAC time and time again? The last line of defense, so to speak, is the **publicly elected council** which has the final say on these amendments.

1. I believe that **we have consistently laid out logical, reasonable objections to these amendments and have also proposed alternatives that could achieve similar goals.** Please ***do not take these alternative suggestions lightly.*** *With all due respect,* the development community is more aware as to what needs to be implemented to accomplish the goal of “safer roads,” if that is the overarching objective. ***We know what the market will sustain; we understand what the clientele expect and demand; and we also understand the necessity of keeping all involved safe when traversing our private roadways.***

2. ***Voters will lose their jobs due to an arbitrary decision by the PAC to include such harsh restrictions on developers.***

Voters are the portion of society that have given you, the mayor and municipal councilors, the authority to act on their behalf. If the voters are so directly opposed to losing a substantial part of the economy through these proposed amendments, then as elected officials, consideration must be given to the wishes of the voters. The development community, as voters, are not being unreasonable in their request for concessions. ***Remember that we have proposed SEVERAL ALTERNATIVES that have been negated by the PAC time and time again. Please consider why this is occurring. Please ... help us protect our industry and the livelihoods of all our employees.***

3. Public suspicion surrounding the timing of these amendments is reason enough to not pass these proposed amendments into law.

- **Public perception** is that these amendments are *not for the betterment of society as a whole, or for public safety, and area therefore outside the purpose of the Act.*
- It must be remembered that any actions taken to amend a piece of legislation must be **pursued within the stated purpose of the legislation.** The stated purpose is not supported by evidence in this case, and therefore their argument of “safer roads” is weak at best. Furthermore, the proposed solutions to a questionable problem are too harsh in that it will severely and adversely affect a significant portion of the public. The public does **NOT TRUST** the situation surrounding these amendments.

In closing, I ask all councilors and the mayor to deny these previously proposed amendments, namely minimum road construction standards and the imposition of a “geotechnical engineer.” ***Please defer to the development community and seriously consider the submitted alternatives which will save the development industry in Lunenburg County.*** The PAC has had meetings with many local developers and other interested parties, during which they have “assured us” that “our concerns are being heard,” and that our alternative proposals will be taken into consideration. However, based on the recent draft submitted by Jeff Merrill, Director of Planning and Development Services, our concerns and alternative proposals have not seriously been considered.

If these particular amendments are passed into the Subdivision By-Law, rest assured that ***the majority of development in Lunenburg County will cease, as occurred in Chester.*** This will be a hard financial hit to your constituents and the community as a whole. The ripple effect will be felt throughout the municipality, both through political confidence, and throughout the economy. We are asking you to protect the voters and the development community from such harsh consequences of an amendment that cannot reasonably benefit the local public.

Sincerely,

A large black rectangular redaction box covers the signature area. Above the box, there are faint blue ink scribbles that appear to be the initials of the signatory.

Peggy Händel

Submitted on behalf of M & F Handel Development Ltd.

Meeting Summary

Planning Advisory Committee
Municipality of the District of Lunenburg
Subdivision By-law Review
2018.04.12 for 2018.04.26

The Municipality of the District of Lunenburg Planning Advisory Committee (PAC) discussed the matter of the Municipality's Subdivision By-law Review at its April 12, 2018 meeting. This session consisted of:

- a presentation by the consultant (Upland) tasked with writing the draft By-law,
- a discussion around the PAC table on the various aspects of the draft By-law, and
- a public feedback period.

The consultant presented a summary of 11 key issues included in the draft Subdivision By-law. These key issues were:

- Ditching
- Roadbed thickness and material type
- The width of private designed roads
- The evolution of proposed standards for private designed roads
- Extending existing private designed roads
- Flag lots
- Maintenance of private roads
- Paving for public roads
- Extension of public roads from adjacent municipalities
- Urban public road standards
- Public open space dedication

The draft By-law had not changed since the February 15, 2018 PAC meeting because staff has not received formal direction from PAC to make any changes. Upland's recommendations on each key issue can be found in the April 12, 2018 PAC agenda package.

Following Upland's presentation, PAC discussed ten of these key issues in turn (*"the evolution of proposed standards"* was an information item). The PAC discussion on each item did hone in on a proposed direction for recommending changes to the draft By-law.

It is noted where the current endpoint of PAC’s discussion would result in a number of substantive changes being made to what is currently found in the February draft By-law.

However, PAC decided to hold off on making any motions on any of the items until the public had their chance to speak. PAC’s comments below do not represent formal direction, but rather a set of proposed revisions for further discussion at the April 26th meeting.

The following tables summarize the results of the April 12th meeting and provides additional information on some of the points of discussion.

Ditching	
Endpoint of PAC Discussion	The developer’s engineer is already required to do a drainage plan, so all ditching should be designed by the developer’s professional engineer.
Public Comments	<ul style="list-style-type: none"> • The concept of ditching needs to be widened to “drainage”; it is not just about the ditches • Need to tell engineers what design standard they are designing for (storm return periods)
Additional Information	<ul style="list-style-type: none"> • Schedule H, Section 7 of the draft Subdivision By-law outlines the storm return periods. The text will be updated to include the rural laneway. • Section 7 of Schedule H also outlines other storm water drainage design and construction details including the acceptable drainage structure and structural design.

Roadbed Thickness and Material Type	
Endpoint of PAC Discussion	The thickness and type of materials to be used on the road base and surface course should be designed by the developer’s professional engineer. This would allow designs to be tailored to site-specific conditions.
Public Comments	<ul style="list-style-type: none"> • Need to tell engineers what design standard they are designing for (what load is expected) • “Turn arounds” should be required every 260 m • There should be no construction standards for private designed roads

	<ul style="list-style-type: none"> • Concerns about the cost of building roads and their impacts on lot prices if the standards as proposed are implemented; contrary to Municipality’s economic development efforts • Need to have design and construction standards to protect the public • People will not mind paying more for a lot if they know their road will be good • Will the standards also address bridges and culverts? • Developers already build good private roads; many public roads are in worse shape • Concerns about the need to have a private engineer, due to costs and time
<p>Additional Information</p>	<p>Schedule H, Section 7 of the draft Subdivision By-law outlines the storm return periods. The text will be updated to include the rural laneway.</p> <p>Section 7 of Schedule H also outlines other storm water drainage design and construction details including the acceptable drainage structure and structural design.</p> <p>Bridges are to be designed to “Canadian Highway Bridge Design Code.”</p> <p>To help inform discussion around the roadbed topic, ABLE Engineering has provided the following estimates. It must be noted that these are based on a series of assumptions, and that costs can vary with site-specific conditions.</p> <p>For example: Proposal allows on site materials provide it’s approved by thee private engineer. This can reduce aggregate costs from approximately \$27/ton to \$4/ton.</p> <p>Engineering costs are typically quoted as a percentage of construction costs. As a starting point for discussion, the cost of design, supervision, and inspection should be assumed to be approximately 10% of construction costs. It is important to note that developers are already required to do the design stage, so already pay a portion of these costs.</p> <p>Estimated construction costs per 100m of road are outlined in the table below. These are based on the assumption of flat ground (no rock removal) and a distance of 50 km from the aggregate supply. Note the cost for the 5.5m road is 54% less expensive than the 6.6m road.</p>

			5.5 m wide road, 0.15 m thick gravel		6.6 m wide road, 0.45 m gravels	
	Unit	Unit Price				
			Quantity	Cost	Quantity	Cost
Clearing	Hectare	\$10,000	0.15	\$1,500	0.2	\$2,000
Grubbing	Hectare	\$7,000	0.1	\$700	0.12	\$840
Subgrade shaping and compaction	Sq.m. (assumes 1 m excavation)	\$25	600	\$15,000	1100	\$27,500
Base Gravel	tonne	\$30	0	\$0	415.8	\$12,474
Surface Gravel	tonne	\$30	182.7	\$5,481	220.5	\$6,615
				\$22,681		\$49,429
Cost per km				\$226,810		\$494,290
Cost per foot				\$69		\$151
				54%	Less Expensive	
This is for a flat piece of land, no rock excavation				Which would be up to 70% savings, with paving, about 60% without	If there is rock the cost would be much more.	
Note: Costing based on NSTIR ranges for small road projects 1km or less.						

Private Designed Road Width	
Endpoint of PAC Discussion	<p>Rural laneway (RLW) as an option to serve up to 18 lots; total travel surface of at least 5.5 m (18ft.). This would allow a fire truck and oncoming vehicle to pass each other at low speed.</p> <p>Low Volume Rural Road (LVR) for serving more than 18 lots; total travel surface of at least 6.6 m (21.65ft.). This width accounts for higher traffic volumes and the possibility of parked cars.</p>

Public Comments	<ul style="list-style-type: none"> • The concept of ditching needs to be widened to “drainage”; it is not just about the ditches • Need to tell engineers what design standard they are designing for (storm return periods)
Additional Information	<ul style="list-style-type: none"> • Schedule H, Section 7 of the draft Subdivision By-law outlines the storm return periods. The text will be updated to include the rural laneway. • Section 7 of Schedule H also outlines other storm water drainage design and construction details including the acceptable drainage structure and structural design. <p>The table below summarizes other municipalities’ width standards for private roads.</p>

Municipality	By-law Section Reference	Width
Chester	By-law s.31 Manual: Cross-section 2	8.4m (27.5 feet) Total width *Exemptions apply under 6 lots.
Queens	By-law s.5.5	No construction standard identified
Annapolis	By-law s.65.1c	7m (23 feet) Total width
Kings	By-law s.4.4b-i	5m (16.4 feet) Travel surface
West Hants	By-law s.33a-iii (3)	7.3m (24 feet) Total width
East Hants	By-law s.10.3b Manual: 4	6.7m (22 feet) Total width *Not permitted in Growth Management Areas, w/ some exceptions
Colchester	By-law s.24-28 Manual: 9.2 & Appendix D	6m (19.7 feet) Travel surface width *Exemptions apply under 8 lots *Private Roads only permitted outside of an identified area.
Cumberland	By-law s.5.1c Manual: 7.2b	6m (19.6 feet) Travel surface width

Extending Existing Private Designed Roads

Endpoint of PAC Discussion	<p>Allow the extension of existing private designed roads without requiring an upgrade to the proposed private designed road standards until the extension serves more than 18 lots.</p> <p>This is the same number of lots proposed to be served by the Rural Laneway (RLW) standard.</p>
Public Comments	<ul style="list-style-type: none"> • None

Flag Lots

Endpoint of PAC Discussion	<p>Allow three flag lots to be created from an area of land as it existed on January 1, 2017. This would be a total minimum frontage of 18 m (59 ft).</p> <p>Beyond this, there is enough frontage to provide a right-of-way for a Private Designed Road (20 m / 66ft). Additionally, DTIR requires a commercial access permit for a driveway serving more than three lots or units.</p>
Public Comments	<ul style="list-style-type: none"> • Concern that limiting flag lots to three could prevent subdivisions that are currently planned and depend on more than three flag lots to achieve the desired number of lots • Required stopping sight distances are more stringent for commercial, so it is not always possible to convert an existing access to commercial access

Maintenance of Private Roads

Endpoint of PAC Discussion	<p>Maintenance cannot be controlled through the Subdivision By-law because it only applies at the time of subdivision. However, the Municipality will look into options for other by-law amendments and education programs once the Subdivision By-law review is complete.</p>
Public Comments	<ul style="list-style-type: none"> • Requiring maintenance is more important than construction standards; a good road will become a bad road if not maintained

Public Roads	
Endpoint of PAC Discussion	Do not permit new public roads where Council deems them premature.
Public Comments	<ul style="list-style-type: none"> • When will existing public roads be paved? • Need to define what is meant by “premature”. What are the criteria for allowing a new public road?
Additional Information	Please see the attached information sheet for a discussion of “premature”.

Public Open Space Dedication	
Endpoint of PAC Discussion	Continue to require 2% public open space cash dedication and acquire specific properties in line with the Open Space Strategic Plan.
Public Comments	<ul style="list-style-type: none"> • The current 2% cash dedication is working • The current 2% cash dedication is not working; buying quality public open space (particularly waterfront) is expensive and likely more than the 2% is bringing in
Additional Information	<p>Council has developed an Open Space Strategic Plan for the acquisition of future land to ensure that land is strategically acquired for the benefit of MODL residents.</p> <p>The past method of acquiring land at the time of Subdivision was not meeting the needs of residents nor was it adequately protecting natural assets from development.</p> <p>Council needs to continuously monitor population and development trends and update Open Space Strategic Plan as necessary to meet the changing needs.</p> <p>The Municipality has been making progress in protecting its natural assets. In the recent years the municipality has either acquired or upgraded the infrastructure at the following locations using funds contributed at the time of Subdivision:</p> <ul style="list-style-type: none"> • Wiles Lake access approximately 6 acres • River Ridge Commons approximately 115 acres • Sherbrooke Lake Access approximately 30 acres • Fire Brook Falls park • Indian Falls • Molega Lake

	<ul style="list-style-type: none"> • LaHave river Access -LaHave Sunset Park • Saw Pit Wharf park • Church Lake access and parking
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Other	
Endpoint of PAC Discussion	N/A
Public Comments	<ul style="list-style-type: none"> • Buyers on private roads should be notified of their road status with a stamp on the plan of subdivision • The stages of the subdivision process should be reorganized to be more understandable to the general public (“proposed / design / survey”)

Position Paper II

To: Jeff Merrill, Director of Planning, MODL

From: Waters Edge Leisure Living Ltd

April 17, 2018

Re: Proposed Sub-division by Law



PAC has recognized the importance of balancing the needs of Emergency services, the development community, and the residents of Lunenburg Co. The goal remains to seek a final solution that works for all stake holders.

We recognize that progress has been made, and comment as follows:

- **Road Maintenance** It was agreed by all that road maintenance is a key component to ensuring long term road viability. The proposed approach to address this is appropriate.
- **Road Construction** Discussion at the PAC meeting Thurs April 12, 2018 resulted in consideration of the following approach to road construction standards.
 - **Definitions** Rural laneway was proposed to include up to 18 lots. Low volume roads would include private roads serving greater than 18 lots.
 - **Minimum Road Widths** were considered to be 15' for rural laneways and 18' for low volume roads.
 - **Drainage plans** were considered as an important component of road construction to ensure longevity of roads constructed.
 - **Materials** recognition of alternate materials and quantities was acknowledge.

We believe that the reduced road widths discussed in combination with the revised definitions of RLW and LVR's is a viable solution provided that the materials, toppings and thickness of toppings remains within the developers discretion in consultation with their road builder.

We believe that by setting minimum road widths and addressing the maintenance piece all access issues will be resolved.

We do not believe that involvement of engineers at all stages of road construction is necessary. Reliance on Lunenburg County road builders who "know their stuff and are familiar with local onsite material" will produce suitable roadways. Addition of engineers will add unnecessary costs, of course engineers remain a valuable resource to solve site specific problems when required.

We encourage an approach whereby the engineered design is required at the onset to demonstrate that if required the Municipal standard roadway could be constructed in the 66' ROW. We acknowledge the minimum widths as discussed be established and that a drainage plan be established for all roadways. We would

suggest that the road construction be left to the developer and the road builder to develop site specific roadways, appropriate to the terrain, market and site conditions. Engineer's involvement with construction would be at the developers discretion based on need specific site conditions.

- **Upgrade of existing roads** This remains a difficult problem to solve, as development takes place on existing roads traffic load increases with resultant problems depending on the original design, construction and maintenance of that road. In Lunenburg County there is an extensive network of these small private roads. Some are quite long. It is neither fair nor desirable to prevent or render financially impossible the development of lands adjoining existing private roads. Increasing the traffic volume on existing private roads through the development of additional lots, not anticipated in the initial road design or construction must also be recognized.

While the addition of a small number of lots is unlikely to adversely affect the viability of existing roads, large numbers may. Discussion at the April 12 PAC was that development of 18 lots or less would not require existing road upgrades.

Our suggestion is in that circumstances where existing roads require upgrading (more than 18 lots being developed) to accommodate increased volume that the cost of this upgrade of the existing road be borne by the Municipality and charged back as a betterment charge to all tax payers with land abutting the roads or served by the roads including the new lots being developed. This effectively spreads the cost evenly among all those benefitting with a substantial portion borne by the developer of the new lots.

- **Flag lots** Considerable discussion concerning flag lots has resulted in consideration of picking an arbitrary number to be permitted and arguing over what the arbitrary number should be. We believe that the ability to develop land in Lunenburg County should not be unnecessarily restricted. I would suggest that flag lots offer a viable means of developing property which may not be otherwise developable. This is a benefit. I believe that the objection to flag lots is as follows:

- Looks bad on a plan
- Misused to circumvent road construction which may adversely affect access by Emergency Services.

The reason for the pole on a flag lot is to provide direct driveway access to the public road if needed or desired by the lot owner. Success of a development with flag lots reflects the acceptance by the lot owners of the lot access circumstances. While it may not be for everyone I see no advantage to the Municipality in interfering with this style of development. Certainly the TIR approval of the driveway entry is important but beyond that I believe interfering with the purchasing public's ability to decide what is right for them is not the place for the Municipality.

- **Separate parcel for road ROW** (clause 6.1) Generally we agree with this approach. The clause should provide an option at the Development officer's discretion to permit ROW without separate parcel on parcels being traversed but not subdivided. Consider a situation where the land to be developed must be accessed over someone else's land. While it may be semantics I believe a neighbor may be prepared to grant a 66' ROW across his or her land but may not be prepared to subdivide and deed a swath of land through the centre of his or her own. I suspect this provision would be rarely needed but in some circumstances may facilitate a project that would otherwise fail.
- **Public Open Space** (clause 9.1) 2% cash in lieu of open space is a reasonable provision providing cash for Municipal parks and playgrounds and in most cases it is perhaps the best result. Previously developers reserved their least desirable parcel as the reserve prior to the cash in lieu provision. Public concern raised as part of the current planning process indicates that waterfront development particularly is resulting in restriction of public access to our lakes and waterways. I believe that to offer an option (perhaps at the discretion of the dev officer or council); whereby a developer could propose to provide land in lieu of cash in special circumstances may be beneficial. The developer would have to make the case for why the proposed land to be reserved would be of public benefit. If tied to the 2% of value (rather than 2% of area) the developers could be incentivised to provide quality land. This might include boat launches, beach access, parks, trails, playgrounds, community gardens etc. Being subject to discretion of the Dev officer or council there should be no unusable swamp land, as the answer could be "no thank you the cash will be fine"
- **Sub division plan approval process** (clauses 13, 14, 15) The current process is time consuming and fraught with repetition. The submission of Concept Plan, Tentative plan and final plan takes a long time. Approval at each stage requires submission and review from not only Planning and development but also DOE, TIR, Telecom. Even if the plan does not change it still faces resubmission and review each time. The process would be streamlined if it were not necessary for Dev to re-submit for review by TIR, DOE, Telecom a plan which has not changed. Once approved the approval could carryover unless the plan changed in which case resubmission to the appropriate department would be required.

Conclusion:

We strongly advocate for an approach as follows:

- ❖ Maintain MODL's current competitive advantages by permitting continued market driven development with limited restrictions including:
 - Continued provision of 66' ROW
 - Reasonable minimum road width standards
 - Continued engineering design of private roads
 - Continued developer driven site specific road construction
 - No restriction on continued development of existing private roads so long as they have 66' ROW and engineered design. Municipal involvement in upgrading of roads requiring upgrade recouped as betterment charges.

- ❖ Address Emergency Services accessibility by focussing on the biggest problem – Maintenance
 - Require all private roads (existing and new) to constitute road associations made up of abutters
 - Road association's minimum requirement should be to maintain roads sufficient for reasonable EHS access to the last residence on the road.
 - Failure to maintain roads can be reported by residents, EHS or municipal staff.

 - If not the Road Association is to be given notice to correct within a specified period (based on time of year and amount of work to be done).
 - Failure to complete by the association means the Municipality has the authority to complete the required work and bill the costs and administration to abutters as a betterment charge.

We encourage the PAC, to keep what is working and concentrate on meaningful legislation that address problems and further work with all stake holders for standards that make sense to MODL as a community.

We are not ready for change in the wrong direction let's make time and get it right.

Thank you for your consideration.

Stephen O'Leary
Waters Edge Leisure Living

From: [MODL Mayor](#)
To: [Jeff Merrill](#)
Subject: FW: Subdivision Bylaw Terminology
Date: April 18, 2018 3:38:22 PM
Attachments: [SUBDIVISION TERMINOLOGY.pdf](#)

FYI

From: BARRY ZWICKER
Sent: April 15, 2018 10:37 AM
To: MODL Mayor <mayor@modl.ca>; Martin Bell <Martin.Bell@modl.ca>; Lee Nauss <Lee.Nauss@modl.ca>; John Veinot <John.Veinot@modl.ca>; Michael Ernst <Michael.Ernst@modl.ca>; Reid Whynot <Reid.Whynot@modl.ca>; Claudette Garland <Claudette.Garland@modl.ca>; Errol Knickle <Errol.Knickle@modl.ca>; Eric Hustvedt <Eric.Hustvedt@modl.ca>; Cathy Moore <Cathy.Moore@modl.ca>
Subject: Subdivision Bylaw Terminology

To the MODL Council

During the design of 26 subdivisions in the Halifax area, considerable time was spent explaining the stages of the subdivision process. "Preliminary", "Concept" "Tentative" and "Final" are terms that mean different things to different people.

MODL's review of it's bylaw provides an opportunity to change to a more meaningful terminology.

The attached is a suggestion.

Thanks
Barry Zwicker, P.Eng.

SUBJECT: SUBDIVISION BYLAW TERMINOLOGY PROPOSAL

THREE NEW STAGES (All Mandatory)

- A: PROPOSAL to replace “Preliminary”
- B: DESIGN to replace “Concept”, “Tentative”, and “Engineering”
- C: SURVEY to replace “Final”

A: PROPOSAL (Introduction to the project, to determine stop site distance, zoning issues, etc.)

A:1: Not to scale, simple, hand drawn plan showing:

- A:1:a:1: References: north, PID's, owners, landmarks, water courses, existing roads, etc.
- A:1:a:2: Lot and road layout

B: DESIGN

B:1: Scaled plan showing:

- B:1:a: Contours
- B:1:b: Roads and road reserves (if required)
- B:1:c: Lots with dimensions
- B:1:d: Test pit locations
- B:1:e: Lot facilities (house well, and septic locations and septic type)
- B:1:f: Horizontal road detail- meterage, curve radii, BC's EC's, etc
- B:1:g: Parkland (if required)

B:2: Scaled plans showing:

- B:2:a: Vertical road detail: Profile-sag and crest factors, BVC's and LVC's, slopes etc.

B:3: Scaled plans showing:

- B:3:a: Road cross sections

B:4: Scaled plans showing:

- B:4:a: Drainage schematic, flows, culvert locations, and sizes, etc.

B:5: Scaled plans showing:

- B:5:a: Future development
 - B:5:a:1: Roads, road reserves,
 - B:5:a:2: Lots
 - B:5:a:3: Parkland (if required)

B:6: Analyses spread sheets showing:

- B:6:a: Soils analyses
- B:6:b: Drainage analyses

C: SURVEY

- C:1: Cut, blaze and pin new boundaries
- C:2: Draft survey plan
- C:3: Register new parcels.

From: [Sybren vander Zwaag](#)
To: [MODL Mayor](#)
Cc: [Jeff Merrill](#); [Kevin Malloy](#); [Sybren vander Zwaag](#)
Subject: PAC Subdivision by-law review
Date: April 20, 2018 10:00:14 AM

Dear MODL Parties,

After six months and three PAC meetings related to revision proposals to the subdivision by-laws of MODL, it is clear the development community is disappointed, angry and anxious about the proposals. Planning in MODL has lost the confidence of the development community and a significant amount of ill-will has been generated. Major issues, from the perspective of the development community continue to exist and from the development community's perspective it is hard to imagine PAC will deal with them satisfactorily. Moving forward under the current situation will create a long lasting, negative atmosphere. More importantly, grave alarms and warnings have been given related to serious loss of private subdivision development and its effect on the community as a whole.

The development community carried out its development in good faith. Planning, investment and work has been done, looking in confidence to the existence of a stable development environment. Many breadwinners are affected by decisions that will change that. I urge you to carefully consider the consequences of your decisions on the community.

I urge the PAC and Council to terminate this current review process, put everything in abeyance for a minimum of six months (preferably a year) and pick the review process up again under a process that gives the development community the voice it deserves, both in the

solutions. This, done rightly, will result in a better product that will focus on how to deal with issues of the past and plan for needs of the future.

We do not need a consultant in this process in MODL. We don't need engineers to tell us how to build private roads. We are quite capable.

I urge you to terminate this project/process, move forward with a fresh start and rebuild confidence and good will. Save and help make private subdivision development flourish in MODL.

Sincerely,

Sybren Vander Zwaag,

Botany Woods Developments, River Mill Developments

Jeff: I would appreciate you sending this to PAC members and Councillors. Thanks.



Municipality of the District of Lunenburg

REQUEST FOR DECISION

REPORT TO: Planning Advisory Committee

SUBMITTED BY: Jeff A. Merrill, MCIP, LPP, Director of Planning & Development Services

DATE: April 26, 2018

RE: Municipal Public Road Maintenance Costs

BACKGROUND

At the April 12, 2018 Planning Advisory Committee, the question was asked whether the Municipality can no longer accept municipal public roads.

DISCUSSION

Municipal Government Act (MGA) Section 271(4) states "Where a municipal planning strategy so provides, a subdivision by-law may"

(a) regulate or prohibit new municipal streets in all, or part, of the municipality where, in the opinion of the council, the streets would be premature; [Emphasis Added]

(b) regulate or prohibit subdivisions on private roads in all, or part, of the municipality;

Under MGA s. 271(4)(b) it is clear that Council can prohibit private roads in all or part of the municipality. Other municipalities do prohibit private roads in all areas such as Halifax and others only permit private roads outside of an identified service area, as done in Antigonish County, Cape Breton Regional Municipality, Colchester County, East Hants, and Pictou County.

The prohibition of public roads in the MGA [s.271(4)(a)] has the added words "*where, in the opinion of the council, the streets would be premature.*"

To be able to prohibit public roads in all or part of the municipality Council needs to determine when it would be “premature” to accept new municipal public roads. What Council defines as “premature” is up to the opinion of council. Council’s rationale for the prohibition of new municipal public roads in all or part of the municipality needs to be included in the Municipal Planning Strategy to enable the prohibition in the Subdivision By-law.

To help Council arrive at an opinion on whether accepting new municipal public roads is premature, Staff investigated the maintenance costs of municipal public roads and calculated the tax revenue generated from properties fronting on a municipal public road.

There are 10.37km of municipal public roads. For the analysis in this report any new municipal public road was removed from the calculation as there are no reliable costs for new sections of road. Also, excluded from the cost analysis are the municipal public roadways in Osprey Village as these roads are not residential in nature. The cost analysis is based on 8.33km of municipal public roadway developed through the Subdivision By-law.

Based on the roads used in the analysis there are 235 properties fronting on the municipal public roads which generates \$402,962.88 in tax revenue for the municipality. As Council is aware the municipality does not have control over all tax revenue collected. For every dollar collected the Province takes \$0.3273 to pay for education, corrections, assessment, public housing, and libraries. In addition, another \$0.2802 of every dollar goes towards other mandatory expenses such as policing, debt repayment, garbage collection, and waste site costs. The municipality is left with \$0.39 for every dollar collected. That \$0.39 pays for everything else the municipality does.

Of the \$402,962.88 in tax revenue collected from the properties on municipal public roads, after the mandatory expenses are paid, the municipality is left with \$158,162.93 of net revenue.

As the maintenance costs can fluctuate depending on the weather the analysis used a 4-year average maintenance costs. The annual average maintenance costs were \$164,223.26.

Annual net tax revenue \$158,162.93 – Average annual maintenance costs
\$164,223.26 = (\$6,060.33)

Currently properties fronting on municipal public roads generate less than the municipal public road maintenance costs.

Table 1

Annual Maintenance Cost (Average 4-Year)	\$ 164,223.26
Number of Properties fronting on Municipal Roads	235
Tax Revenue from Properties fronting on Municipal Roads	\$ 402,962.88
Annual Net Tax Revenue from Properties fronting on Municipal Roads	\$ 158,162.93
Average cost per property	\$ 698.82
Average net revenue per property	\$ 673.03

As a result, properties on municipal public roads currently do not contribute tax revenue for core municipal services such as recreation, building inspection, planning, etc.

These figures demonstrate that the current regulations for accepting new municipal public roads have not been beneficial financially. Consideration should be given to the market, location and density required to justify the development of new municipal public roads. Other municipalities have restricted municipal public roads, so they're only developed in identified service areas.

CONCLUSION

Based on the analysis of the maintenance costs of municipal public roads Council can say that the accepting new municipal public roads for residential development is “premature”. A policy statement would need to be included in the Municipal Planning Strategy.

Prior to Council deciding to prohibit new municipal roads in all or part of the municipality Council should consider any existing agreements with Developers were municipal public roads may be proposed.

From: [Stephen O'Leary](#)
Subject: Private Road Construction
Date: May 14, 2018 9:40:21 AM

Dear Mayor, Council and Members of PAC

During the April 26 PAC meeting it was offered/suggested that a site visit to our current ongoing development of Camperdown Meadows (Nathan Croft Road) may provide some valuable insight into road consideration.

I would like to extend this invitation formally. Ideally we would establish a day prior to the next meeting. I would be available to show you around and will make it a priority for whatever day is most convenient for all.

While I would make myself available any day that suits I suggest Tuesday May 22 at noon.

Please advise if this is of value.

Stephen

From: Stephen O'Leary <stephen@watersedgell.ca>
Sent: May 16, 2018 10:31 AM
Subject: Position Paper III

Good Morning,

Please find attached our position paper regarding the current proposed sub division by law revision. We and most other developers active in MODL as well as the many companies and employees dependant on the real estate development industry share these concerns. We very strongly encourage you to consider carefully the impact of these proposed changes.

We are totally invested in this process and wish to work with the Municipality to achieve a successful and sustainable plan for development within the MODL.

Should you have any questions or require further clarification of any of the content in the attached paper do not hesitate to contact me at your convenience.

Please be advised that the next Planning Advisory Committee (PAC) meeting, to discuss the Subdivision By-law Review, is scheduled for Tuesday, May 22, 2018 at 7pm in the Council Chambers (210 Aberdeen Road, Bridgewater)

Position Paper III

To: Jeff Merrill, Director of Planning, MODL

From: Waters Edge Leisure Living Ltd

May 14, 2018

Re: Proposed Sub-division by Law

Introduction

In light of information provided by consultants at the last PAC meeting in terms of the estimated road costs for the proposed road changes we believe it is absolutely critical to examine thoroughly the devastating impact the proposed legislation still threatens MODL. Some headway has been made in terms of recognizing that development in MODL will be adversely affected by proposed legislation.

The extent of the impact can no longer be in question. The builder's math example presented previously was viewed with some skepticism as far as the costs of road construction. The most recent consultant's report has not only confirmed the numbers but in fact has clearly demonstrated that the costs were in fact significantly understated. The results will be even more bleak.

A summary of the builder's math as previously presented along with analysis of the consultant's findings follows.

Based on this we have outlined a proposed approach which we believe achieves the objectives of the bylaw review without delivering the catastrophe that would follow implementation of the current proposed standard.

Developers Math

Based on a typical subdivision requiring an access road equal in length to the developable water frontage. The example does not consider any upgrades to existing roads. All costs are expressed as cost per lot.

<u>Road Construction</u> (400' @ \$100'/ft.)	*1	Cost Per Lot
Based on 200' lots and access road equal to developable footage.		\$40,000.00

<u>Land Cost</u>		\$10,000.00
Based on purchase of a parcel large enough for this to work. With smaller developments this cost would be much higher. Ex. 5 waterfront lots at \$10k each (\$50k) is a very low estimate for property acquisitions.		

<u>Power</u>	(\$33/meter @ 400')	\$ 4,400.00
This cost is considerably higher if the area is served by Bell Aliant poles Instead of Nova Scotia Power.		

Survey, septic design, road engineering based on existing "design only" rules. Proposed legislation would increase this number adding engineering fees for construction, material testing, compaction testing, and additional survey of road location. Numbers are based on actual billing by Able Engineering.

<u>Real Estate Fees</u>	(\$60k lot value at 5%)	\$ 3,000.00
This is based on a \$60k lot sale. If lot prices increased this cost would rise.		

<u>Closing Costs</u>	\$ 2,000.00
Legal costs to purchase master property including deed transfer, holding company, resolutions, legal for subdivision lot descriptions, easements, sales of lots.	
<u>Marketing</u>	\$ 1,000.00
Advertising, signage, brochures, websites, videos, paid ads, portions of marking coordinators wages.	
<u>Interest and Finance</u>	\$10,000.00
(\$100k @ 10% for 1 year) 10% is a lower fee than expected on most projects and 1 year is extremely optimistic. This cost could easily be higher.	
<u>Developers Overhead</u>	\$ 1,000.00
Trucks, phone, fuel, office and secretarial expenses.	
<u>Municipal Green Space Fee</u>	\$ 1,200.00
(\$60k @ 2%) If lot prices rise this number would increase.	
<u>Developers Profit and Risk</u>	<u>\$ 30,000.00</u>
Average lot cost before HST	<u>\$106,000.00</u>
HST (15%)	<u>\$ 15,990.00</u>
Average Lot Cost	\$122,590.00
Adjustment for increased value	<u>\$ 3,220.00</u>
Real estate fees (\$2000)	
Municipal green fees (\$800)	
HST (\$420)	
Adjusted Average Lot Cost	\$125,810.00

***1:** Refer to Able engineering road cost table. Note cost per foot of \$69 and \$151/linear foot. These costs are exclusive of engineering (estimated at 10%) and are explicitly described as not including additional for hills, rock, and swamp. It also does not include culverts. The conclusion should be that all roads will cost substantially more than the stated values of \$69 and \$151 (average \$110/per linear foot). Our builder's math example was based on \$100/per linear foot. In fact that cost will be higher further emphasizing the impossible position that developers will face.

Proposed Approach

Preface

Create legislation that addresses all the problems, not just one, access for emergency services, maintain an economically viable development Environment, safety for the public.

Our Proposal is in short to:

- 1) Address maintenance of all private roads including new and existing providing for a mechanism for MODL to ensure a minimum standard is maintained facilitating public safety and emergency service access.
- 2) Establish minimum width requirements addressing emergency service access
- 3) With the width and maintenance addressed leave road construction of private roads in the hands of the developers and their road builders allowing them to adjust to site conditions and market demand.

The following are detailed recommendations and the rationale for each.

- 1) **Maintenance** major issue affecting emergency service access. Through alternate legislation require:
 - All new and existing private roads to have a road association comprised of all property owners abutting the private road.
 - Minimum maintenance standard established as reasonably passable by emergency services considering time of year.
 - Failure to maintain as raised by resident, emergency services, MODL results in review by arbiter (Municipal Engineer). Engineer to make determination regarding if it is reasonably passable.

- Failure of the Association to rectify within the specified period allows the Municipality to repair and bill the cost plus admin back to the residents abutting the road as a betterment charge.

Rationale

- Keeps the general maintenance of private roads with the residents as it should be.
- In extreme cases that affect emergency services access it provides a mechanism for correction.
- Correction is borne equally by all tax payers benefitting.
- Maintenance of roads applies to all roads equally so no 2 tier standard of these that are required to be maintained and those that are not.

2) Road Width

- Allow for 2 private road width standards based on the number of lots. RLW up to 18 lots, LVR serving more than 18 lots.
- Establish minimum widths for the two road types of 15' RLW, 18' LVR.
- Allow for alternatives in LVR to reduce width to 15' provided pull outs are at intervals of 200 meters to facilitate passing vehicles. All roads to have turning or T's at the end to facilitate turn around.

Rationale

- Provides sufficient width to ensure emergency service access
- Better suited to cottage development where high speed and massive road structure aesthetics are not desirable.

3) Road Construction

- Consisting of 3 components: drainage, materials and engineering

Materials: Developer and road builder to construct roads based on site conditions. Use of materials to be at the discretion of builder and developer.

Engineering: Engineering involvement in the road construction shall be limited to an as needed basis for site specific issues as determined by the road builder and developer.

Rationale: With road widths dictated and ongoing maintenance addressed the issues of accessibility are solved. This also solves any issues of Municipal liability related to access.

- Road construction remains with the developer and road builder allowing cost control as well as development in line with market demand.

Extending Existing Private Design Roads

- No upgrading required to add up to 18 lots to existing private designed roads.
- Addition of greater than 18 lots to existing road may require upgrading as determined by MODL engineer.

- If upgrading is required the cost to be by MODL. Cost increased by MODL recovered to be billed to all abutting land owners along road including the new lots being developed as betterment charges.

Rationale

- Cost of road improvement is spread among all beneficiaries of road improvement
- All properties remain developable
- Municipality does not have to bear the burden of road infrastructure
- Developers are not financially prevented from projects due to inadequacy of existing infrastructure.

Flag Lots

- Allow any number of flag lots as determined by developer and surveyor based on existing site conditions.
- Require that commercial stopping distances be applied to development where a driveway will serve more than 3 flag lots.
- Subdivision plans with flag lots should bear a stamp indicating access to flag lots via a common or shared driveway/roadway is private and not maintained, serviced, inspected, regulated etc. by the municipality. Purchasers unsatisfied with the common access provided have the alternative of constructing their own private driveway over their flag pole the suitability or adequacy of which is entirely the responsibility of the purchaser. MODL makes no representation nor has any responsibility for such.

Rationale

- Ability to develop otherwise undevelopable property is enhanced
- Safety regarding highway access is ensured
- Purchasers are clearly informed of the issue of access for services; and entrusted to make their own determination.

Public Roads – No comment

Public Open Space

- Continue to require 2% public open space cash fee on all developments
- Provide option whereby developer may propose land in lieu of cash. It would be up to the developer to make the case for the property in lieu of cash to be accepted based on community benefit.
- Council or Development officer could be the determiner. If the parcel offered is not desired by MODL the answer would simply be “no, cash is preferred”

Rationale

- Allows for potential for MODL to benefit from desirable community resources being added i.e.: waterfront, parkland, hiking trails, boat launches etc.
- MODL retains control in that they can require cash or accept preferred property in lieu. It remains the choice of MODL.

Notification

- Subdivision plans with private roads should bear a stamp indicating the road is not serviced, maintained, inspected, regulated, and controlled by MODL. Road association made up of property owners abutting the road in common make all decisions regarding the road.
- Private roads should be posted as such with signs near the entry indicating “Private road, not maintained or serviced by MODL” Obligation to maintain sign should be borne by the road association.

Rationale

- All lot owners, purchasers, visitors are informed of road status. No further opportunity for people to claim they were not aware.
- Public’s responsibility for their decision to purchase property served by private roads can be relied on regarding MODL liability.

Administration

- Clarify terminology regarding subdivision approval stages. Proposal, design, survey or final to replace (prelim, concept, tentative and final).
- Streamline so that plans which do not change do not require time consuming feedback from all departments.

Ex) if environment approves at the design stage and the plan moves to final with no changes the DOE approval should carry over. Same for all departments. If the plans change then re submission and comment would be required.

Summary and Conclusion

PAC has recognized the importance of balancing the needs of Emergency services, the development community, and the residents of Lunenburg Co. The goal remains to seek a final solution that works for all stake holders.

We recognize that progress has been made, and comment as follows:

- **Road Maintenance** It was agreed by all that road maintenance is a key component to ensuring long term road viability. The proposed approach to address this is appropriate.
- **Road Construction** Discussion at the PAC meeting Thurs April 12, 2018 resulted in consideration of the following approach to road construction standards.
 - **Definitions** Rural laneway was proposed to include up to 18 lots. Low volume roads would include private roads serving greater than 18 lots.
 - **Minimum Road Widths** were considered to be 15' for rural laneways and 18' for low volume roads.
 - **Drainage plans** were considered as an important component of road construction to ensure longevity of roads constructed.
 - **Materials** recognition of alternate materials and quantities was acknowledge.

We believe that the reduced road widths discussed in combination with the revised definitions of RLW and LVR's is a viable solution provided that the materials, toppings and thickness of toppings remains within the developers discretion in consultation with their road builder.

We believe that by setting minimum road widths and addressing the maintenance piece all access issues will be resolved.

We do not believe that involvement of engineers at all stages of road construction is necessary. Reliance on Lunenburg County road builders who "know their stuff and are familiar with local onsite material" will produce suitable roadways. Addition of engineers will add unnecessary costs, of course engineers remain a valuable resource to solve site specific problems when required.

We encourage an approach whereby the engineered design is required at the onset to demonstrate that if required the Municipal standard roadway could be constructed in the 66' ROW. We acknowledge the minimum widths as discussed be established and that a drainage plan be established for all roadways. We would

suggest that the road construction be left to the developer and the road builder to develop site specific roadways, appropriate to the terrain, market and site conditions. Engineer's involvement with construction would be at the developers discretion based on need specific site conditions.

- **Upgrade of existing roads** This remains a difficult problem to solve, as development takes place on existing roads traffic load increases with resultant problems depending on the original design, construction and maintenance of that road. In Lunenburg County there is an extensive network of these small private roads. Some are quite long. It is neither fair nor desirable to prevent or render financially impossible the development of lands adjoining existing private roads. Increasing the traffic volume on existing private roads through the development of additional lots, not anticipated in the initial road design or construction must also be recognized.

While the addition of a small number of lots is unlikely to adversely affect the viability of existing roads, large numbers may. Discussion at the April 12 PAC was that development of 18 lots or less would not require existing road upgrades.

Our suggestion is in that circumstances where existing roads require upgrading (more than 18 lots being developed) to accommodate increased volume that the cost of this upgrade of the existing road be borne by the Municipality and charged back as a betterment charge to all tax payers with land abutting the roads or served by the roads including the new lots being developed. This effectively spreads the cost evenly among all those benefitting with a substantial portion borne by the developer of the new lots.

- **Flag lots** Considerable discussion concerning flag lots has resulted in consideration of picking an arbitrary number to be permitted and arguing over what the arbitrary number should be. We believe that the ability to develop land in Lunenburg County should not be unnecessarily restricted. I would suggest that flag lots offer a viable means of developing property which may not be otherwise developable. This is a benefit. I believe that the objection to flag lots is as follows:

- Looks bad on a plan
- Misused to circumvent road construction which may adversely affect access by Emergency Services.

The reason for the pole on a flag lot is to provide direct driveway access to the public road if needed or desired by the lot owner. Success of a development with flag lots reflects the acceptance by the lot owners of the lot access circumstances. While it may not be for everyone I see no advantage to the Municipality in interfering with this style of development. Certainly the TIR approval of the driveway entry is important but beyond that I believe interfering with the purchasing public's ability to decide what is right for them is not the place for the Municipality.

- **Separate parcel for road ROW** (clause 6.1) Generally we agree with this approach. The clause should provide an option at the Development officer's discretion to permit ROW without separate parcel on parcels being traversed but not subdivided. Consider a situation where the land to be developed must be accessed over someone else's land. While it may be semantics I believe a neighbor may be prepared to grant a 66' ROW across his or her land but may not be prepared to subdivide and deed a swath of land through the centre of his or her own. I suspect this provision would be rarely needed but in some circumstances may facilitate a project that would otherwise fail.
- **Public Open Space** (clause 9.1) 2% cash in lue of open space is a reasonable provision providing cash for Municipal parks and playgrounds and in most cases it is perhaps the best result. Previously developers reserved their least desirable parcel as the reserve prior to the cash in lue provision. Public concern raised as part of the current planning process indicates that waterfront development particularly is resulting in restriction of public access to our lakes and waterways. I believe that to offer an option (perhaps at the discretion of the dev officer or council; whereby a developer could propose to provide land in lue of cash in special circumstances may be beneficial. The developer would have to make the case for why the proposed land to be reserved would be of public benefit. If tied to the 2% of value (rather than 2% of area) the developers could be incentivised to provide quality land. This might include boat launches, beach access, parks, trails, playgrounds, community gardens etc. Being subject to discretion of the Dev officer or council there should be no unusable swamp land, as the answer could be "no thank you the cash will be fine"
- **Sub division plan approval process** (clauses 13, 14, 15) The current process is time consuming and fraught with repetition. The submission of Concept Plan, Tentative plan and final plan takes a long time. Approval at each stage requires submission and review from not only Planning and development but also DOE, TIR, Telecom. Even if the plan does not change it still faces resubmission and review each time. The process would be streamlined if it were not necessary for Dev to re submit for review by TIR, DOE, Telecom a plan which has not changed. Once approved the approval could carryover unless the plan changed in which case resubmission to the appropriate department would be required.

Conclusion:

We strongly advocate for an approach as follows:

- ❖ Maintain MODL's current competitive advantages by permitting continued market driven development with limited restrictions including:
 - Continued provision of 66' ROW
 - Reasonable minimum road width standards
 - Continued engineering design of private roads
 - Continued developer driven site specific road construction
 - No restriction on continued development of existing private roads so long as they have 66' ROW and engineered design. Municipal involvement in upgrading of roads requiring upgrade recouped as betterment charges.

- ❖ Address Emergency Services accessibility by focussing on the biggest problem – Maintenance
 - Require all private roads (existing and new) to constitute road associations made up of abutters
 - Road association's minimum requirement should be to maintain roads sufficient for reasonable EHS access to the last residence on the road.
 - Failure to maintain roads can be reported by residents, EHS or municipal staff.
 - The Municipal Engineer is to make final determination regarding whether a road is accessible or not.
 - If not the Road Association is to be given notice to correct within a specified period (based on time of year and amount of work to be done).
 - Failure to complete by the association means the Municipality has the authority to complete the required work and bill the costs and administration to abutters as a betterment charge.

We encourage the PAC, to keep what is working and concentrate on meaningful legislation that address problems and further work with all stake holders for standards that make sense to MODL as a community.

We are not ready for change in the wrong direction let's make time and get it right.

Thank you for your consideration.

Stephen O'Leary
Waters Edge Leisure Living

Memorandum

To: Peter Simpson, PAC Chair and Members of the Planning Advisory Committee
From: Ian Watson, Upland Planning + Design Studio
Date: May 24, 2018
Re: Updated drafts of the Municipal Planning Strategy and Subdivision By-law

Introduction

On April 26, PAC gave direction to make edits to the drafts of the Municipal Planning Strategy and Subdivision By-law on a number of topic areas. Through the process of review, also identified were a number of minor edits that were needed (typos, clarity of language). These edited drafts of the Municipal Planning Strategy and Subdivision By-law are attached.

This memo includes the following:

- A summary of substantive edits to the Municipal Planning Strategy and Subdivision By-law; and
- Alternative options for PAC's consideration along with additional information for PAC to consideration. The alternative options are presented in policy/by-law format.

Ditching/Drainage

The previous draft Subdivision By-law required the developer's engineer to design and build a drainage system adequate to collect and remove stormwater from a storm of a specified magnitude (depending on the class of road). This drainage system would include ditches as necessary. There was, however, an accidental omission of Rural Laneways from this section of the By-law. There was also confusion in the development community resulting from the depiction of ditches on the Private Designed Road cross-sections in Schedule 'J'.

The most recent draft of the Subdivision By-law makes it clear that the developer's engineer is the one who designs the stormwater system for Rural Laneways (*i.e.* ditches are only required when the engineer's design calls for them) [Schedule 'H' Section 7.1] and adds a note to the Schedule 'J' cross-sections to add additional clarity. Drainage systems for Private Designed Roads must accommodate a "1 in 10 year" storm event.

Private Designed Road Aggregate

The previous draft of the Subdivision By-law included Private Designed Roads to have a roadbed and surface course of Type II and Type I aggregate. That draft included specific thicknesses of aggregate, with an option for the developer’s engineer to provide different thicknesses based on site-specific conditions.

The most recent draft of the Subdivision By-law **removes the aggregate requirements** (both type and thickness) and leaves it up to the developer’s engineer to determine the material and thickness for the roadbed and surface course [Schedule ‘H’ Sections 6.2 and 6.3]. The road must be able to accommodate a Category 1 motor vehicle (this includes things like moving trucks) with an axel weight limit of 18,000 kg and a spread range of 2.4 m to 3.0 m [Schedule ‘J’].

Additional Information

Other municipalities in Nova Scotia take a variety of approaches to private road materials. Other municipalities were surveyed that information is provided below. Most municipalities that do not require standard materials simply do not have construction standards for private roads.

Municipality	Base / Surface Material
East Hants (proposed)	Type II / Type I aggregate
Kings (does not actually require construction)	Type II / Type I aggregate
Annapolis	Type II / Type I aggregate
Chester (only for more than 6 lots)	
Cumberland	Type II / Type I aggregate Allows the Municipal Engineer to approve variances to aggregate. This is often used to make it easier to upgrade existing private roads.
HRM	Class C gravel
Colchester (only for more than 8 lots)	Class C / Class A gravel
West Hants	“Crushed, screened, or pit run gravel”
Queens	-

Private Designed Road Width

The previous draft of the Subdivision By-law required a total finished surface width of 6.6 m (21.6 ft.) for Rural Laneways serving up to 12 lots, and a total finished surface width of 7.8 m (25.5 ft.) for Low Volume Rural Roads serving more than 12 lots.

The most recent draft reduces the width for **Rural Laneways to 5.5 m (18 ft.)** and **Low Volume Rural Roads to 6.6 m (21.6 ft.)** [Schedule 'J']. The threshold between Rural Laneways and Low Volume Rural Roads has also been increased from 12 lots to **18 lots** [Schedule 'H' Section 3.2].

Extension of Existing Private Roads

The draft Subdivision By-law permits existing private roads to be extended. In the previous draft, any extension serving more than two lots would require the length of the existing private road to be upgraded to the Private Designed Road standard. The newest draft increases the threshold so that **18** lots can be served by the extension before an upgrade is required to the existing private road [Clause 6.3.1(d)].

Flag Lots

The previous draft of the Subdivision By-law allowed two flag lots to be created from an area of land as it existed on January 1, 2017. The most recent draft increases this to **three flag lots** [Subsection 5.9.4].

Alternative

An alternative option is to also change the date for when the area of land is required to be in existence, such as to the date of first reading for the new By-law. Such a change would allow developers who are planning flag lot subdivisions to create more “areas of land” now before the new By-law is adopted, which could then be further divided into three flag lots each in the future. This would have the effect of providing some protection to developers who have already invested in the design of a subdivision; however, it could also create a “gold rush” of subdivision applications where developers rush to create as many “areas of land” as possible before the new By-law is adopted.

If such an approach is taken, the draft should be amended by deleting Subsection 5.9.4 and replacing it with the following:

5.9.4 Flag lots shall not be permitted except where the following provisions are met:

- (a) the 'flag' portion of the lot shall contain the required minimum lot area specified in this By-law or, where a Land Use By-law is in effect, the applicable minimum lot area for the zone in which the lot is located;
- (b) the width of the 'pole' shall be at least 6 metres along its entire length; and
- (c) no more than three flag lots shall be created from an area of land as it existed on [DATE OF FIRST READING].

Private Road Maintenance

One of the comments that came up regularly in past PAC meetings is the need to stamp plans of subdivision to inform residents of Private Designed Roads that they do live on a private road and should not expect certain public services. This notification was already provided in the previous draft Subdivision By-law, and can be seen in Clause 17.4(f).

Public Roads

The previous draft of the Subdivision By-law allowed new Public Roads in any location, and included many standards and regulations related to the development of Public Roads. Due to the high cost of maintaining Public Roads, PAC has suggested that development of any more Public Roads would be premature at this time.

The most recent draft of the Subdivision By-law still includes the standards and regulations related to Public Roads; this is a substantial portion of the By-law and if it were to be deleted now it would be a significant effort to re-adopt this content if, in the future, Council decides a new Public Road should be permitted. Instead, the most recent draft of the Subdivision By-law says [Section 6.2] that new Public Roads will only be considered in areas identified in the new Schedule 'K'. That schedule currently does not identify any areas where they would be permitted (*i.e.* Public Roads are therefore prohibited).

The most recent draft of the Municipal Planning Strategy has language indicating that Council considers new Public Roads to be premature at this time [MPS Section 8.4 and Policy 8.4.7]. This will keep the Subdivision By-law in compliance with the *Municipal Government Act*. If, in the future, Council desires to allow Public Roads in an area this can be accomplished by considering the economic sustainability of those roads and, if found to be sustainable, by adding that area to Schedule 'K' of the Subdivision By-law.

Public Open Space Dedication

The Municipality's existing Subdivision By-law requires a cash dedication of 2% of market value of a subdivision to contribute to the Municipality's open space network. To date, PAC has not directed changes to this requirement; however, there have been comments from the public and around the PAC table regarding this requirement, and whether or not it is the most effective way to provide the residents of the Municipality access to high-quality open spaces.

Alternatives

The *Municipal Government Act* permits Council to require up to 5% of the land area of a subdivision, or cash-in-lieu (by market value), or a combination of both, for public open space purposes. This can be increased to up to 10% if the Municipal Planning Strategy provides justification.

The Subdivision By-law is permitted to define the situations when land would be accepted, cash would be accepted, or a combination of both would be accepted. One option would be to only accept land at the discretion of Council (*e.g.* a developer could propose land, such as a waterfront park, but Council would have the final say).

If taking land, the Subdivision By-law is permitted to include conditions on when land is acceptable and may also include a definition of "usable land" (dimensions, access, type of land, *etc.*).

If pursuing an alternative different from the current 2% cash dedication, it's recommended that the following conditions be included:

- A definition of "usable land"
- If land accessed on a private road is accepted, that the dedication includes a clear easement allowing public access over the private road

The drafts of the Municipal Planning Strategy and Subdivision By-law could be amended with the following text.

Municipal Planning Strategy

Delete the fourth paragraph of Section 11.0 and replace with the following:

As provided for in the *Municipal Government Act* Council will require that a subdivider contribute two percent (2%) of the market value of all new lots created when contributing cash and five percent (5%) of the land when contributing land. Council does not wish to impose this requirement on any division in which the lot(s) created contains an existing main building, is a remainder lot, is a consolidation of two or

more lots, is a private designed road approved as a separate lot, is an alteration of lot boundaries in which no new additional lots are created, or is on land owned by the Municipality.

Council also recognizes that some subdivisions may provide the opportunity to acquire exceptional land that was not necessarily considered and planned for through the Open Space Strategic Plan. Therefore, Council will consider proposals from subdividers for the contribution of lands in lieu of all or part of the cash dedication. In particular, Council will prioritize lands with water access. Where accepted, open space lands must be usable and must include public access, either to a Public Road or with a clear right-of-way across a Private Designed Road.

Delete Policy 11.0.1 and add the following policies:

- 11.0.1 To require subdividers to contribute cash in the amount of two percent of the market value of all new lots created and for which subdivision approval has been requested or is required.
- 11.0.4 To consider proposals for usable land in lieu of some or all of the two percent cash dedication. Such lands shall prioritize public water access and shall include frontage on a Public Road or unrestricted public access across a Private Designed Road to a Public Road. Council may consider proposals where the contribution of land is valued at up to 5% of the market value of all new lots created.

Subdivision By-law

Insert the following definition in Section 4.1:

USABLE LAND means land that:

- (a) has a minimum contiguous area of 1,000 square metres, not including portions of the lands with dimensions less than 6 m in any direction;
- (b) has a maximum slope of five per cent (5%);
- (d) is free from wet or swampy areas, or areas covered by water;
- (e) is not subject to any known environmental contamination;
- (f) is not required as part of a stormwater treatment pond; and
- (g) is not an electrical or gas transmission corridor.

Delete Part 9 and replace with the following:

PART 9 PUBLIC OPEN SPACE

9.1 CASH DEDICATION

Prior to endorsement of approval on the final plan of subdivision, the subdivider shall contribute to the Municipality cash in the amount of two percent (2%) of the market value of all new lots created by the final plan of subdivision, for parks.

9.2 LAND DEDICATION

Notwithstanding Section 9.1, the subdivider may propose the dedication of land in lieu of all or part of the cash dedication. Acceptance of a land dedication shall be at the discretion of Council and, where accepted, the lands shall:

- (a) be usable land;
- (b) have frontage on a Public Road of at least 6 metres or, where such frontage is not provided, shall front on a Private Designed Road and shall include a right-of-way easement for unrestricted public access over the Private Designed Road to a Public Road and that right-of-way easement is assignable and perpetual and has been clearly granted to the Municipality by deed or other instrument of conveyance and registered at the Land Registration Office for the Municipality;
- (c) where the subdivision includes frontage on a lake, river, or ocean, shall include a minimum of 6 metres of water frontage on the lake, river, or ocean; and
- (d) represent up to 5% of the area of new lots being created.

9.3 EXEMPTION

Council hereby exempts the following from the requirements of Section 9.1:

- (a) lots created that contain existing main buildings;
- (c) the consolidation of two or more lots;
- (d) the alteration of lot boundaries in which no additional lots are created;
- (e) a Private Designed Road approved as a separate lot; and
- (f) any land owned by the Municipality.

Delete Section 15.8 and replace with the following:

15.8 PUBLIC OPEN SPACE CONTRIBUTION

Pursuant to Part 9, no approval of a final plan of subdivision may be given unless the subdivider has contributed the public open space dedication to the Municipality.

Comparison of road design parameters between Current and Proposed Subdivision By-law – updated May 24, 2018

	CURRENT By-law			PROPOSED By-law		Identified Municipal Road Standards			
	LVR	RLU	RCU	Private Road RLW (up to 18 lots) Profile 3	Private Road LVR Profile 4	No new Public Roads at this time ULU Profile 1 & 2		Public Road RLU Profile 6	Public Road RCU Profile 7
Posted Speed Limit	-	-	-	30 km/h	30 km/h	** expected to conform to Urban category standards issued by TAC		70-50 km/h	70 km/h
Design Speed Range	50 km/h	70 km/h	70 km/h	40 km/h	40 km/h	Geometric design for Canadian Roads		70-50 km/h	80-70 km/h
Max Gradient	10 %	6 %	6 %	12 %	12 %			10 %	8 %
Lane width	-	-	-					3.05 m (10')	3.5 m (11.5')
Usable Shoulder Width	-	-	-					1.2 m (4')	1.5 m (5')
Finished Top Width	8.6 m (28.2')	9.75m (32')	9.75m (32')	5.5 m (18')	6.6 m (21.6)	Laneway – varies Urban local – min 6m varies (+3.6m)		8.5 m (27.8')	10.0 m (32.8')
Side Slopes	2:1	3:1	3:1	2:1	2.5:1	Curb and gutter		2.5:1	3:1
Back Slopes	1.5:1	2:1	2:1	2:1	2:1	Curb and gutter		2:1	2.5:1
Min ROW Width*	20 m (66')	20 m (66')	20 m (66')	20 m (66')	20 m (66')	Laneway – varies no less than 15.2m (50') Urban local – 20m (66')		20 m (66')	20 m (66')
Horizontal Curve radius	90 m	190 m	190 m	40 m	60 m			190-90 m (with design speed)	250-190 m (with design speed)
Stopping Sight Distance	65 m (213')	110m (360')	110 m	45 m (148')	45 m (148')			110-65 m (with design speed)	140-110 m (with design speed)
Vertical Sag Curve, k	-	-	-	7 m	7 m			25-11 m (with design speed)	30-25 m (with design speed)
Vertical Crest curve, k	-	-	-	4 m	4 m			22-7 m (with design speed)	35-22 m (with design speed)
Passing Sight	-	-	-	290 m	290 m			490-350 m	550-490 m
Base Gravel Course	200 mm (8'')	200 mm (8'')	Discretion at least equal to LVR/RLU	Material and thickness as specified by P.Eng licensed to practice in NS at developers expense	Material and thickness as specified by P.Eng licensed to practice in NS at developers expense	200 mm Type 2 (8'')		200 mm Type 2 (8'')	300 mm Type 2 (12'')
Surface Course	100 mm (4'')	100 mm (4'')	Discretion at least equal to LVR/RLU	Material and thickness as specified by P.Eng licensed to practice in NS at developers expense	Material and thickness as specified by P.Eng licensed to practice in NS at developers expense	100 mm Type 1 (4'')			150mm Type 1 (6'')
Asphalt			63 mm Type B course 37 mm Type C surface			Laneway 75mm Type B	Urban Local 60 mm Type B 40 mm Type C	75 mm Type B (Required)	60 mm Type B 40 mm Type C (Required)

RLW – Rural Laneway LVR – Low Volume Road – less than 300 vehicles/day ULU – Urban RLW₁₁ Rural Local Undivided – less than 600 vehicles/day RCU – Rural Collector Undivided – exceeds 600 vehicles/day

2018 DRAFT	Context	1999 LAW	Comment
Parts 1-3	Authority, Administration, Interpretation	4	Part 3 identifies metric system use only.
Part 4	Definitions	4-6	
4.1 (b)	- Area of Land	NEW	As associated with identified requirements.
4.1 (f)	- Existing Private Designed Road	NEW	Term defining roads that were approved under previous Subdivision By-laws.
4.1 (g)	- Flag Lot	NEW	As associated with Lot Shapes (5.9)
4.1 (k)	- Market Value	NEW	Term defined for purposes of Open Space
4.1 (o)	- Private Designed Road	4.1 (e)	4-5 Revised (<i>Designed Road</i>)
4.1 (r)	- Public Road	4.1 (m)	5 Revised (<i>Public Highway</i>)
Part 5	Lot Size & Access	6-9	
5.1	Road Frontage	5.1	6 Revised All lots shall abut either a Public Road, an Existing Private Designed Road, or a Private Designed Road
5.8 (Change)	Access Exemption	5.8 & 5.17	8, 9 Road Frontage requirements may be waived under identified circumstances.
5.9.4	Lot Shapes - Flag lot limitation	NEW	Identifies in 5.9.4(a) where there can be no more than 3 flag lots created for an area of land.
Part 6	Roads	10	
6.1 (Change)	Separate Lot	6.1	10 A Public Road or Private Designed Road shall be approved as a separate lot. Added Revision: Where an Existing Private Designed Road may be subdivided as a separate lot
(Deletion)	(Regulations regarding roads where not identified on a separate lot.)	6.2 & 6.3	10 Deleted - due to the new use of "shall" in 6.1, rather than previous By-law's use of "may"
6.2	New Public Roads	NEW	Identifies where new public roads are not permitted except where identified in Schedule K.
6.3	Extensions on an Existing Private Designed Road	NEW	Identifies allowances for a Private Designed Road extending off an Existing Private Designed Road, for the provision of frontage of no more than 18 lots.
6.5	Design, Construction & Inspection	NEW	All proposed roads shall be designed & constructed to Schedule "H" requirements. Identifies if it is the Municipal Engineer or a private engineer.
6.6 / 6.7	Future & Existing Road Connections	NEW	Provision of road connections to adjacent lands.
6.8 / 6.9	Active Transportation & Streetscaping	NEW	Provision for the design of walkway / bicycle infrastructure, street trees, lighting, per identified Schedules.
(Deletion)	Municipal Public Highways	Part 8A	10 Deleted.

2018 DRAFT	Context	1999 LAW		Comment
Parts 7-8	Water Supply & Sanitary Sewers		10	
8.1	Sanitary Sewers	8.1	10	Reference to Schedule G, and noted deletion of “where possible” - proposed sewers are to connect with an existing municipal central sewer system.
Part 9	Public Open Space		11	
9.2 (f)	Exemption	NEW		Added “land owned by municipality” to exemptions list.
Part 10	Construction of Services		11-13	
10.3 (d)	Duty of Completion	10.3 (d)	12	Bond to be based on third party costs approved by Municipal Engineer. (Clarification)
Part 11	Preliminary Plans of Subdivision		13-16	Wording aspects & Re-numbering.
Part 12	Concept Plans		16-18	
(Deletion)	Application Details	12.1 (b)ii-D	16	Deleted - Proposed location of public open space.
Parts 13-14	Tentative Plans		18-23	Wording aspects & Re-numbering..
Part 15	Final Plan Procedures		24-26	
15.2	Time Limits	NEW		Identifies the extension allowance by a Development Officer - 2 year time limit for a completed subdivision application.
(Deletion)	Referral	15.4 (a)ii	24	Deleted - removal of NS Environment’s review on Activities Designation Regulations
Parts 16-18	Final Plan Requirements, Filing, Fees		26-33	
17.4	Stamps	NEW		A new stamp identified for the identification of a Private Designed Road.
18.1 (Change)	Fees	18.1 (b)	32	Fee Amount is identified in council’s Fee Policy (MDL-58) and not identified in the By-law.
Parts 19-20	Repeal Procedures		33-34	Wording.
Schedule A-F			35-41	Wording.
Schedule G	Design Requirements - Water & Sewer		42-51	Clarification of requirements and specification in the design of water & sewer systems.
15-16	Watermain Service Extensions	15-18	42-48	Revised & Deletions: Municipality will only consider extensions to existing water transmission mains.

2018 DRAFT	Context	1999 LAW	Comment
Schedule H	Municipal Road Design & Construction Standard		
1	General	1	52
3.0 (Change)	Road Class Designation	3.0	54-55
3.1	Urban Streets	NEW	
3.2, 3.3, 3.4	Road Classifications (Rural)	3.1-3.3	54-55
3.6 (Change)	Roads: Design Speed	3.5	55
4.0	Alignment Controls	4.0	55
4.1	Road Alignment Parameters	NEW	
(Deletions)	Stopping Sight Distance, Vertical Gradient	4.1, 4.2	55-56
5.0-5.1	Cross-section Controls	5.0-5.1	58
5.2 (Change)	Guard Rails	5.3	58-59
6.2-6.3 (Changes)	Roadbed Construction (Base & Surface)	6.2-6.4	60-61
6.5-6.6 (Changes)	Municipal Public Road / Private Designed Road Inspections & Approval of Road Construction	6.5	61-62
7.1 (Change)	Storm Water Drainage - General	7.1	62
7.3 (Change)	Acceptable Drainage Structures	7..3	63
7.5	Hydraulic Design	7.5	64
8.3-8.4	Road Naming	8.3-8.4	66
Schedule I	Stopping Sight Distances Chart		68
Schedule J	Standard Details for Public Roads and Private Designed Roads	NEW	
Schedule K	Areas where Public Roads are permitted	NEW	
NOTE:			
Schedules	A-K		
By Policy		NEW	
			All Schedules will be adopted by Policy by Council.



To: Council

Re: Sub Division by Law Review

Date: May 28, 2018

Dear Mayor and Members of Council

Recently the PAC wisely voted “not” to recommend proposed legislation. “Revised Subdivision bylaws” but instead to request further direction from council.

The proposed legislation is ill advised in several critical respects namely that it restricts development opportunities for no practical reason in relation to for example flag lots. Most importantly the road standard proposed is financially unviable for development in MODL and “will” not “may” completely shut down 90% of development in MODL. You need look no further than Chester Municipality which implemented similar road standards 8 years ago for developments with more than 5 lots. It is important to note that in 8 years not 1 single lot has been developed on a private road development exceeding the 5 lots exempted. This same result awaits Lunenburg except with no 5 lot exemption. The loss of tax revenue from such legislation is staggering. As a responsible council alternate solutions must be sought.

Please review our position paper attached for further detail concerning particular provisions.

PAC has spent a good deal of time working on this without achieving a viable solution. In large measure resulted from an over reliance on Able Engineering as a consulting engineer coupled with a fixed idea that the only solution is to dictate a standard. Viable alternative means of achievement have been offered but have largely been ignored in favor of an engineered solution. While PAC has made progress in some areas there remain only few significant issues with critical flaws.

Our fear is that because this process has gone on for a long time, everyone is frustrated and there are some who just want it over with, and in a rush to finish a drastically flawed, detrimental piece of legislation has been drafted. I also fear that despite the PAC vote to “not recommend” the legislation there appeared to be a hurry to refer this to council for further direction. I believe that some may encourage council to accept it even though not recommended in a venue lacking public input. PAC commented on this in their last meeting advising that there was opportunity for public input at council as well. We called to book a time to provide input immediately following the PAC meeting and have been told no slots are available. We have an opportunity to watch but not speak. This is not public input as promised.



We strongly encourage council to consider the following:

- 1) Quash the draft entirely or at least those provisions relating to private road standards and flag lots retaining the status quo.
- 2) Direct PAC to revisit the draft and encourage a round table workshop with stake holders to find common ground solutions to the problems remaining considering options that may not include engineered solutions.
- 3) Postpone any decision relating to this issue until the public has had a real and full opportunity to advise and inform council.