

To: **Antigonish County Planning Advisory Committee  
Antigonish County Council**

From: **Planning Staff (EDPC)**

Date: **November 7, 2022**

Reference: **Application by AA Harbour Enterprises Limited to amend the Eastern Antigonish County Land Use Bylaw to rezone PIDs 10093540 and 01297654 from RS-1 to R-2.**

**Recommendation:**

That Municipal Council approve a Land Use By-law amendment to rezone PIDs 10093540 and 01297654 on Highway 4, Monastery from the Rural Settlement (RS-1) zone to the Residential Multi-unit (R-2) zone to permit the development of multi-unit residential dwellings on the properties.

**Background Information:**

Mark MacMullin of AA Harbour Enterprises Ltd. has submitted a request to amend the *Eastern Antigonish Land Use By-law* (“Land Use By-law”) to rezone PIDs 10093540 (“Lot 1”) and 01297654 (“Lot 2”) from Rural Settlement (RS-1) to Residential Multi-Unit (R-2). A map of the properties is provided in Appendix A.

	<b>Description</b>
<b>Designation:</b>	Rural Settlement
<b>Zoning:</b>	Rural Settlement (RS-1)
<b>Zoning Request:</b>	Residential Multi-Unit (R-2)
<b>Identification #:</b>	PIDs 10093540 and 01297654
<b>Total Area:</b>	440, 827.2 ft <sup>2</sup> (10.12 acres)
<b>Site Visit:</b>	August 15, 2022

The proposal includes construction of a 12 to 14-unit apartment building on Lot 1. Lot 2 would be developed in a later phase, and may include an additional 12–14-unit apartment, or a complex of single detached dwellings, duplexes, tiny homes, or townhouses. The proposed site plan is provided in Appendix B. An alternative concept plan including six four-unit townhouses on Lot 2 is provided in Appendix C.

The RS-1 zone only allows a maximum of two-unit dwellings. Therefore, the Eastern Antigonish Land Use By-law would need to be amended in order to accommodate the proposal. The R-2 zone would permit both multi-unit apartment buildings and grouped dwellings.

Lot 1 is approximately 2.7 acres and has approximately 75.8m (249 feet) of frontage on Route 4. The lot slopes gently upward from the highway. The property is mostly cleared with a small treed area to the southeast and a wetland along the eastern side. There is a four-unit dwelling currently

## Staff Report

located on the property. The new construction is planned to be located in the front yard of the existing building.



Lot 2 is approximately 7.4 acres with 63.3m (208 feet) of frontage on Route 4. The lot also slopes gently upward from the highway, becoming steeper to the rear of the lot. The lot is mostly cleared with a narrow tree line located along the northwestern property boundary. There is maintained landscaped open area in the front and side yards of the existing building with wild vegetation in the rear. A four-unit dwelling is located on the property. The applicant has obtained a building and development permit to convert the vacant commercial space within the building to self-storage units. The site plan depicts the proposed 12–14-unit apartment located to the rear of the existing building.

### Analysis:

The *Eastern Antigonish County Municipal Planning Strategy* (“Planning Strategy”) states in Policy 6 that, “It is the intention of Council to permit new residential multi-unit buildings in areas designated “Rural”, “Rural Settlement” or “Commercial” as shown on the Generalized Future Land Use Map by a rezoning to the R-2 Zone...” The subject properties are within the Rural Settlement designation.

Further, Policy 6 outlines three criteria which must be met to ensure that these uses are directed to suitable locations. Each criterion is discussed below and summarized in Appendix F.

- (a) the proposed development is compatible with adjacent residential uses with respect to scale, mass and use;*

The proposed uses of 12–14-unit apartment buildings and low-density grouped dwellings are compatible with adjacent residential uses. However, the R-2 Zone permits a range of uses as-of-right (see Appendix E). Should the properties be rezoned, the number of dwelling units would be limited only by a combination of the capacity of on-site services and minimum yards and parking

requirements. This means the full build-out potential could include many more dwelling units than proposed on the site plan.

In terms of adjacent residential development, there are three structures which must be considered. There are two single-story single detached dwellings; one to the southeast of the site and another directly across Highway 4. To the east is a two-story building containing three dwelling units. While the policy criteria are limited to consideration of adjacent residential uses, in the wider area there are several single story low-density residential uses and a mobile home park. Non-residential uses include several large buildings such as the East Antigonish Education Centre, Monastery Volunteer Fire Hall, a towing company, and a gas station and restaurant.

The building bulk, height, and scale is compatible with adjacent residential uses. The proposed buildings are two three-story 12–14-unit apartment buildings. Each building footprint is approximately 370 m<sup>2</sup> (4000 ft<sup>2</sup>). Sample elevation drawings are provided in Appendix D. On Lot 1, the building is proposed to be oriented with the narrower side of the building facing the highway, and must be setback a minimum of 9.1m (30 feet) from the front property line. On Lot 2, the building is setback significantly from adjacent residential development, located behind the existing 4-unit dwelling on the property. The combination of the location, orientation, and minimum yards help mitigate the visual impact of the larger bulk, scale, and height of the structures.

*(b) the location of the proposed development does not create any major traffic problems;*

The properties front onto Highway 4, which is owned and maintained by the province. The Nova Scotia Department of Public Works (NSPW) was asked to comment on the traffic issues related to the development. NSPW staff expressed no concerns regarding the surrounding road network nor public street access based on the proposed development. The applicant will require a Work Within the Highway Right of Way permit for final access approval.

*(c) the lot on which the proposed development is sited is adequately served by a centralized sewer system and/or central water system or if on-site services are to be used, these services are adequate for R-2 Zone uses.*

The properties do not lie within a serviced area within the County, and therefore on-site services will be needed to support the development. On-site services are regulated by the Nova Scotia Department of Environment and Climate Change (NSECC). This application was referred to the NSECC for comment. The comments provided state that on-site systems must be designed and installed by qualified professionals who are responsible for compliance with related rules, regulations, and standards. No additional concerns were raised.

In addition, Council must have regard for six criteria outlined in Policy 39 of the Municipal Planning Strategy when considering an amendment to the Land Use Bylaw (Appendix F).

## **Staff Report**

The intent of the Planning Strategy is expressed in the preamble to Policy 6, which allows new multi-unit buildings by rezoning. The purpose of the rezoning application is to ensure that these developments are directed to suitable locations and where there is a reduced possibility of pollution from on-site sewage disposal systems. In addition, the site plan submitted complies with applicable provisions of the Land Use By-law. The provisions would be enforced as part of any permitting process.

The proposal was referred to various municipal and provincial departments for comment on the remaining criteria of Policy 39.

Municipal staff indicated that the proposal is not premature or inappropriate by reasons of the financial capacity of the municipality to absorb any cost relating to the development. The property owner is responsible for any and all associated costs. Additionally, the proximity of school, recreation, and other community facilities are adequate. A letter was also sent to the Strait Regional Center for Education but no response was received. Staff carried out an evaluation of the census data for Antigonish County. Over the last two decades, the number of school-aged children in the County has steadily declined. Municipal water and sanitary sewer services are not available for the proposed development.

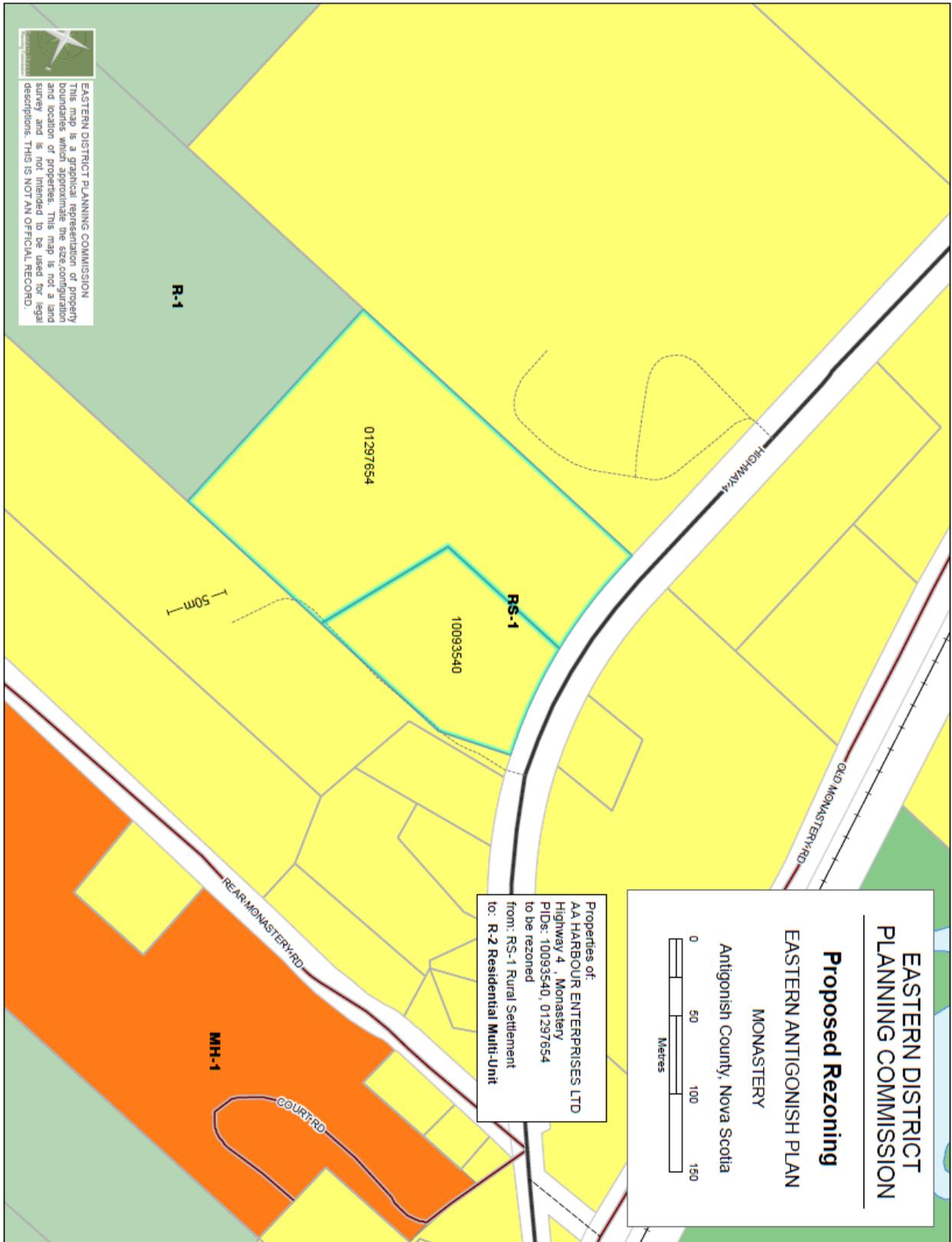
No concerns were raised by NSPW regarding the existing surrounding road networks nor public street access based on the proposed development. The site plan demonstrates that the parking requirement of one space per dwelling unit can be met on each lot. Driveways and parking area must be designed and constructed in compliance with the applicable provisions of the Land Use By-law.

NSECC advised that any activity must meet the applicable regulations pursuant to the *Environment Act*. The property owner, in consultation with their certified professionals, is responsible for ensuring adequate planning, design, construction, and implementation to ensure that contamination does not occur. No additional concerns were raised.

### **Conclusion:**

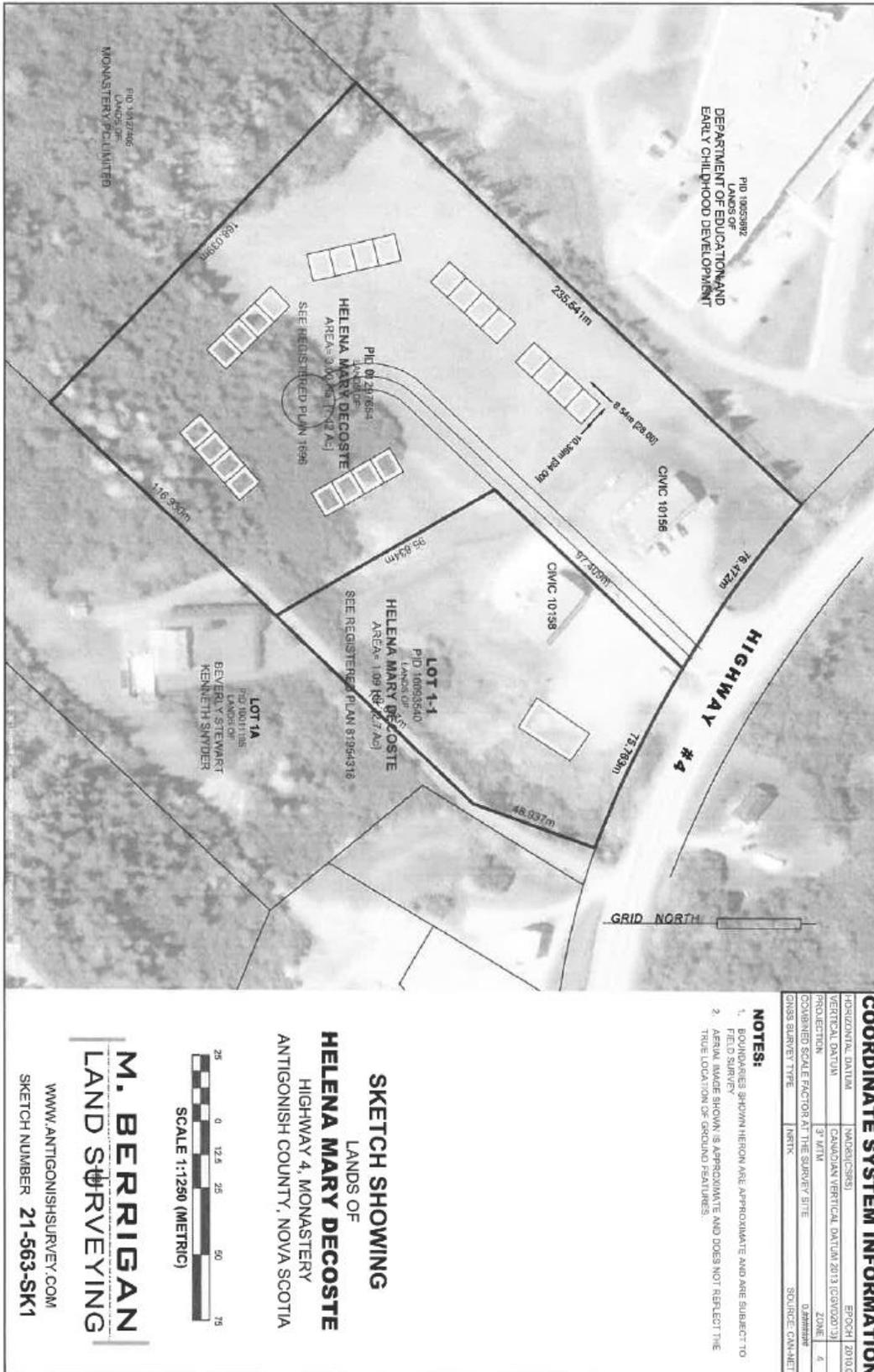
Eastern District Planning Commission staff are of the opinion that the proposed rezoning of PIDs 10093540 and 01297654 is in keeping with Policies 6 and 39, and the general intent of the Eastern Antigonish Land Use By-law. Therefore, staff recommend approving the application to rezone PIDs 10093540 and 01297654 from the Rural Settlement (RS-1) zone to the Residential Multi-unit (R-2) zone.

Appendix A: Properties Subject to Rezoning Request



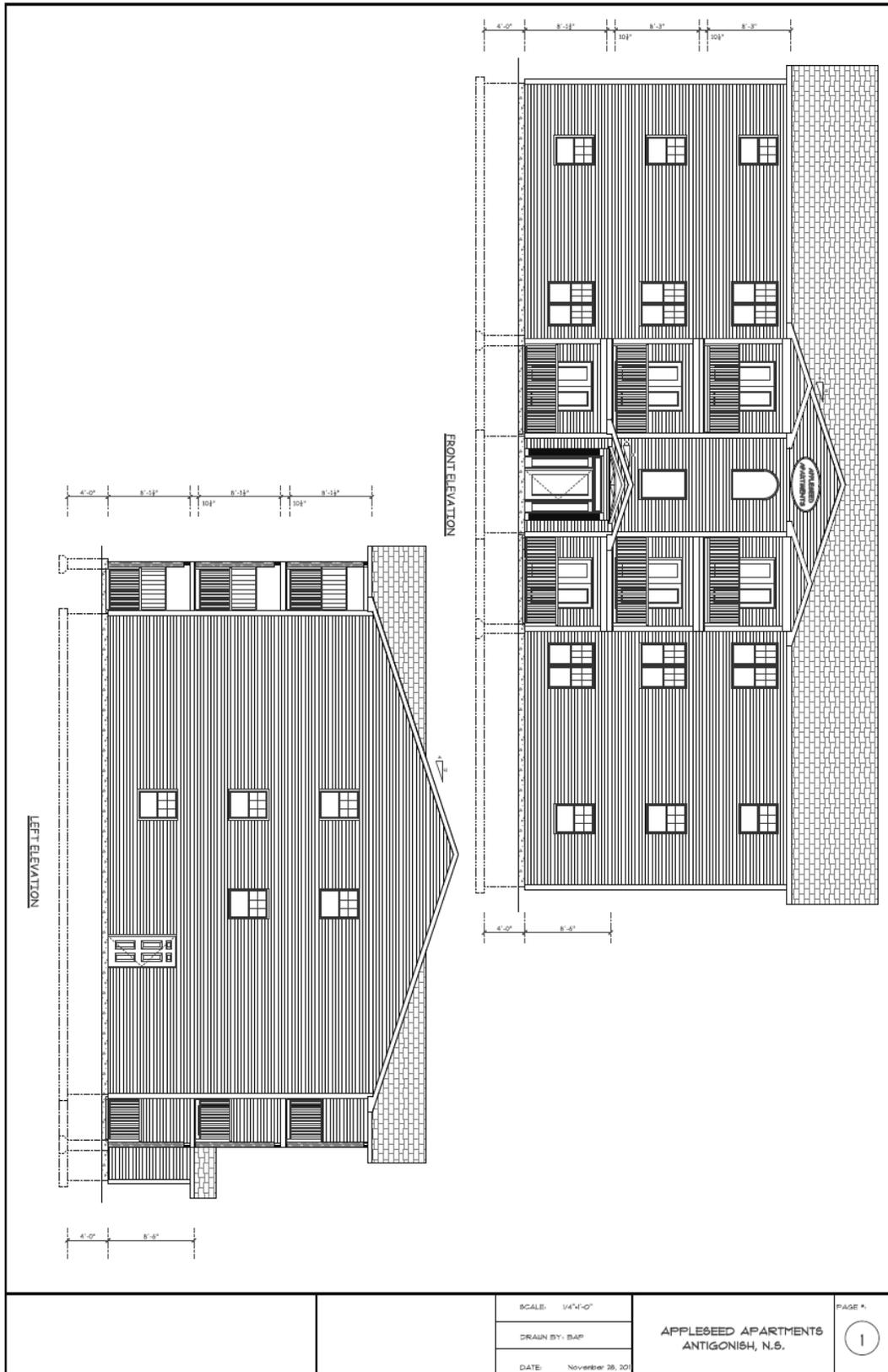


Appendix C: Alternative Concept for Townhouse Development on Lot 2



Staff Report

Appendix D: Sample Building Elevation Drawing



**Appendix E: Eastern Antigonish Land Use By-law Excerpt of the R-2 Zone**

**PART 10 RESIDENTIAL MULTI-UNIT (R-2) ZONE**

R-2 USES PERMITTED

- No development permit shall be issued for a Residential Multi-Unit (R-2) Zone except for the following:

**Residential use:**

- Multi-Unit Buildings
- Grouped Dwellings
- Converted Dwellings to a maximum of two (2) units

All non-agricultural, non-forestry and non-fishery uses permitted in the Rural Settlement (RS-1) Zone subject to the requirements of the RS-1 Zone

R-2 ZONE LOT REQUIREMENTS

- No development permit shall be issued for a Residential Multi-Unit (R-2) Zone except in accordance with the following requirements:

	<u>On-Site Sewage Disposal System</u>	<u>Central Sanitary Sewer System</u>
Minimum Lot Frontage	100 ft. [30.5 m]	100 ft. [30.5 m]
Minimum Lot Area	20,000 sq. ft. [1858 m <sup>2</sup> ]	10,000 sq. ft. [929 m <sup>2</sup> ] for first three units and 1,000 sq. ft. [92.9m <sup>2</sup> ] per additional unit.
Minimum Front Yard	30 ft. [9.1 m]	30 ft. [9.1 m]
Minimum Rear Yard	30 ft. [9.1 m]	30 ft. [9.1 m]
Minimum Side Yard	10 ft. [3.0 m]	10 ft. [3.0 m]
Maximum Height	35 ft. [10.7 m]	35 ft. [10.7 m]

**Staff Report**

**Appendix F: Summary of Applicable Policies**

<p><b>Policy 6</b> It is the intention of Council to permit new residential multiunit buildings in areas designated "Rural", "Rural Settlement" or "Commercial" as shown on the Generalized Future Land Use Map by a rezoning to the R-2 Zone subject to the following criteria to direct these uses to suitable locations and those criteria listed in Policy 39:</p>	
(a) the proposed development is compatible with adjacent residential uses with respect to scale, mass and use;	Complies
(b) the location of the proposed development does not create any major traffic problems;	Complies
(c) the lot on which the proposed development is sited is adequately served by a centralized sewer system and/or central water system or if on-site services are to be used, these services are adequate for R-2 Zone uses.	Complies

<p><b>Policy 38</b> The Council, in considering an amendment to the Land Use By-law, shall comply with all requirements as provided for in the Planning Act and this Strategy.</p>	Complies
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<p><b>Policy 39</b> In considering amendments to the Land Use By-law, in addition to all other criteria as set out in various policies of this Strategy, Council shall have regard for the following matters:</p>	
(a) That the proposal is in conformance with the intents of this Strategy and with the requirements of all other Municipal By-laws and regulations;	Complies
(b) That the proposal is not premature or inappropriate by reason of the following:	
(i) the financial capability of the Municipality to absorb any costs relating to the proposal;	Complies
(ii) the adequacy of sewer and/or water services to support the proposal;	Not applicable
(iii) the adequacy and proximity of school, recreation and other community facilities;	Complies
(iv) the adequacy of road networks, in, adjacent to, or leading to the development and the adequacy of proposed accesses and parking facilities;	Complies
(v) the potential for the contamination of abutting watercourses or the creation of erosion or sedimentation as a result of the development as determined by a	Complies

<p>qualified person from the appropriate government department;</p>	
<p>(vi) suitability of the proposed site in terms of steepness of grades, soil and geological conditions, marshes, swamps, or bogs as determined by a qualified person from the appropriate government department and proximity' of highway ramps and railway rights-of-way.</p>	<p>Complies</p>