

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

From: **Planning Staff (EDPC)**

Date: **January 29, 2018**

References: **1) Text Amendment adding “Warehouse” to the Rural Commercial (RC-1) Zone in the Central Antigonish Land Use Bylaw; and**

2) Text Amendment adding “Existing Light industrial manufacturing and assembly” and “Warehousing or Storage Facilities” to the Local Commercial (C-1) Zone in the Fringe Antigonish Land Use Bylaw.

Background

78 Taylors Road, Pomquet:

In August of 2017 Mr. Lewis MacDonald was considering purchasing a building located at 78 Taylors Road in Pomquet for the purpose of operating a dairy products storage facility and office. As an independent salesperson for a dairy he would purchase product from the dairy for resale and delivery to the public. Mr. MacDonald had required that staff provide a zoning confirmation letter that “warehousing” would be a permitted use in the zone however that was not possible given the use was not specifically mentioned.

Staff completed a site visit to the property August 25 and noted that the building, as it existed then, was a "warehouse" like structure and has been used for warehouse type uses in the past. While warehousing is not permitted in the RC-1 (Rural Commercial) zone it was obvious that the use had been established and as such could be considered to have legal-non conforming uses status. The use has been "grandfathered". Therefore, the proposed use of the property to warehouse dairy products to re-sell was considered to be a permitted continuation of the historical use of the property in that zone. The office portion of the business would be permitted as of right. The applicant was also explained the constraints on a legal non-conforming use in the event that the building was destroyed or the business discontinued.

Given the above assurances the applicant purchased the property, however, has now asked that the zone be amended by adding “warehousing” as a permitted use in the zone in order to remove the legal non-conforming use status of the property and buildings, thus reducing any financial risk associated with the building being destroyed or the business discontinuing and not being able to be reestablished on the site.

39 Church Street Extension, West River:

In March Of 2013 Mr. Jerome MacPherson of Levy's Leathers Limited approached planning staff with expansion plans for their business which was outgrowing their building located in the Antigonish County Light Industrial Business Park in Lower South River. One option being considered for the expansion was to move part of the business to the vacant former grocery store building located at 39 Church Street Extension.

Staff visited the business at 1 Angus MacQuarrie Drive on March 18, 2013 and noted that the majority of the floor area (more than two thirds) of the operation was devoted to warehousing, distribution and office space. The remainder of the building was used for leather goods processing (cutting, pressing and sewing of guitar straps and key fobs). It was also noted that the entire leather raw product arrived in a finished state and there was no persevering, curing, or tanning of leather on site. Based on the operations and the zoning bylaw of the day it was determined that their operation would be considered a permitted use at the Church Street Extension site within the Local Commercial (LC-1) Zone.

Given the above assurances the applicant purchased the property however in the intervening years Council approved a new Municipal Planning Strategy and Land Use Bylaw October 5, 2015. In the new document "warehousing" was no longer listed as a permitted use. The applicant was informed that as the 'Local Commercial' Zone permits a range of small scale commercial uses compatible with residential uses, industrial manufacturing or warehousing did not fit this description and were not specifically mentioned as a permitted use in this zone.

The *Municipal Government Act* states the following: "238 (1) A... nonconforming use in a structure, may continue if it exists and is lawfully permitted at the date of the first publication of the notice of intention to adopt or amend a land-use by-law." In correspondence sent to the present owners of the property March 20, 2013 they were advised that their operation was considered a permitted use at the time within the Local Commercial (LC-1) Zone in the old Municipal Planning Strategy and Land Use Bylaw. Therefore it was lawfully permitted when the new bylaw was adopted by Council October 5th, 2015 and also, importantly, at the time of the first publication advertised the month prior. Staff therefore considered the present use of the property as a "...nonconforming use in a structure, [which] may continue..."

Notwithstanding the above assurances staff are recommending that the zone be amended by adding "Existing light industrial manufacturing and assembly" and "Warehousing or storage facilities" to the Local Commercial (C-1) Zone as permitted uses in the zone in order to remove the legal non-conforming use status of the property and buildings thus reducing any financial risk associated with the building being destroyed or the business discontinuing and not being able to be reestablished on the site.

Analysis

The two cases addressed in this staff report are similar in that they both deal with buildings which have been considered as legal non-conforming uses with respect to the requirements of the respective land use bylaws.

They are also both similar in that both Land Use Bylaws allow “Warehousing and storage facilities, including recycling depots” in other zones. For example, in the Central plan both the Hamlet Industrial Zone and the Rural Industrial Zone permit this use. In the Fringe plan “Warehousing and storage facilities, including recovery depots” are permitted in the Light Industrial Zone and the General Industrial Zone. However while a “recovery depot” is permitted in the Local Commercial (C-1) Zone and “recycling depots” are permitted uses in the Rural Commercial (RC-1) zone the less intensive “warehousing and storage facilities” is not permitted. Staff therefore suggest that warehousing would be an addition in keeping with the uses already permitted in the two zones.

The area in which the two applications differ is the “light industrial manufacturing and assembly” component of the Levy Leathers business. Originally this was considered as accessory to the main use of the building based on the floor area being devoted to storage, distribution and office space. Staff are now however recommending that the existing assembly of leather products be specifically mentioned in the zone. At the same time staff are not convinced that light industrial manufacturing and assembly should be considered as a normal component of a local commercial zone. Adding “existing” light industrial manufacturing and assembly as a permitted use also means the Church Street property would be in conformance with the zone and not have the same legal non-conforming use restrictions were the building to be destroyed or the business to cease operations.

Proposals for Action:

- Amend Part 10 Rural Commercial (RC-1) Zone of the Central Antigonish Planning Area Land Use Bylaw to add a clause “**o. warehousing**” to the list of permitted uses within the zone.
- Amend Part 15 Local Commercial (C-1) Zone of the Antigonish Fringe Planning Area Land Use Bylaw to add clause “**ga. existing light industrial manufacturing and assembly**” and clause “**y. warehousing or storage facilities**” to the list of permitted uses within the zone.

Appendix

Amending Pages

A BYLAW TO AMEND THE LAND USE BYLAW
FOR THE MUNICIPALITY OF THE COUNTY OF ANTIGONISH
CENTRAL ANTIGONISH PLANNING AREA

The Land Use Bylaw for the Municipality of the County of Antigonish, **Central Antigonish Planning Area** is hereby amended as follows:

- 1) *By the addition in Part 10 Rural Commercial (RC-1) Zone in section 10.1 RC-1 Uses Permitted adding the following text in bold:*

10.1 No development permit shall be issued in a Rural Commercial (RC) zone except for one or more of the following uses:

- a. Automobile service centres*
- b. Automobile sales*
- c. Banks and other financial institutions*
- d. Business and professional offices*
- e. Country market*
- f. Convenience stores*
- g. Day care centres*
- h. Leasing or rental of commercial equipment*
- i. Automobile fuel stations*
- j. Retail stores*
- k. Recycling depots*
- l. Restaurants and licensed establishments*
- m. Residential units within a commercial building*
- n. Veterinary clinics*
- o. Warehousing***

This is to certify that the resolution of which this is a true copy, was passed at a duly called meeting of the Municipal Council of the Municipality of the County of Antigonish held on the:

_____ day of _____ 2018.

Given under the hand of the Municipal Clerk and under the corporate seal of the Municipality this:

_____ day of _____ 2018.

Mr. Glenn Horne, Municipal Clerk

Amending Pages

A BYLAW TO AMEND THE LAND USE BYLAW
FOR THE MUNICIPALITY OF THE COUNTY OF ANTIGONISH
ANTIGONISH FRINGE PLANNING AREA

The Land Use Bylaw for the Municipality of the County of Antigonish, **Antigonish Fringe Planning Area** is hereby amended as follows:

- 1) By the addition in “Part 15 Local Commercial (C-1) Zone” in section “15.1 C-1 Uses Permitted” adding the following text immediately following “g. Duplexes”:

ga. existing light industrial manufacturing and assembly

- 2) By the addition in “Part 15 Local Commercial (C-1) Zone” in section “15.1 C-1 Uses Permitted” adding the following text immediately following “x. Veterinary services”:

y. warehousing or storage facilities

This is to certify that the resolution of which this is a true copy, was passed at a duly called meeting of the Municipal Council of the Municipality of the County of Antigonish held on the:

_____ day of _____ 2018.

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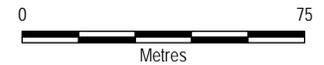
EASTERN DISTRICT
PLANNING COMMISSION

Zoning Confirmation Map

Central Antigonish Plan

TAYLORS ROAD

Antigonish County, Nova Scotia



HMHP-1

RD-1

RC-1

TAYLORS RD

Property of:
MACDONALD LEWIS HECTOR
Taylors Rd, Taylors Road
PID: 01297647
Zoning: RC-1 Rural Commercial



EASTERN DISTRICT PLANNING COMMISSION
This map is a graphical representation of property boundaries which approximate in size, configuration and location of properties. This map is not a land survey and is not intended to be used for legal descriptions. THIS IS NOT AN OFFICIAL RECORD.

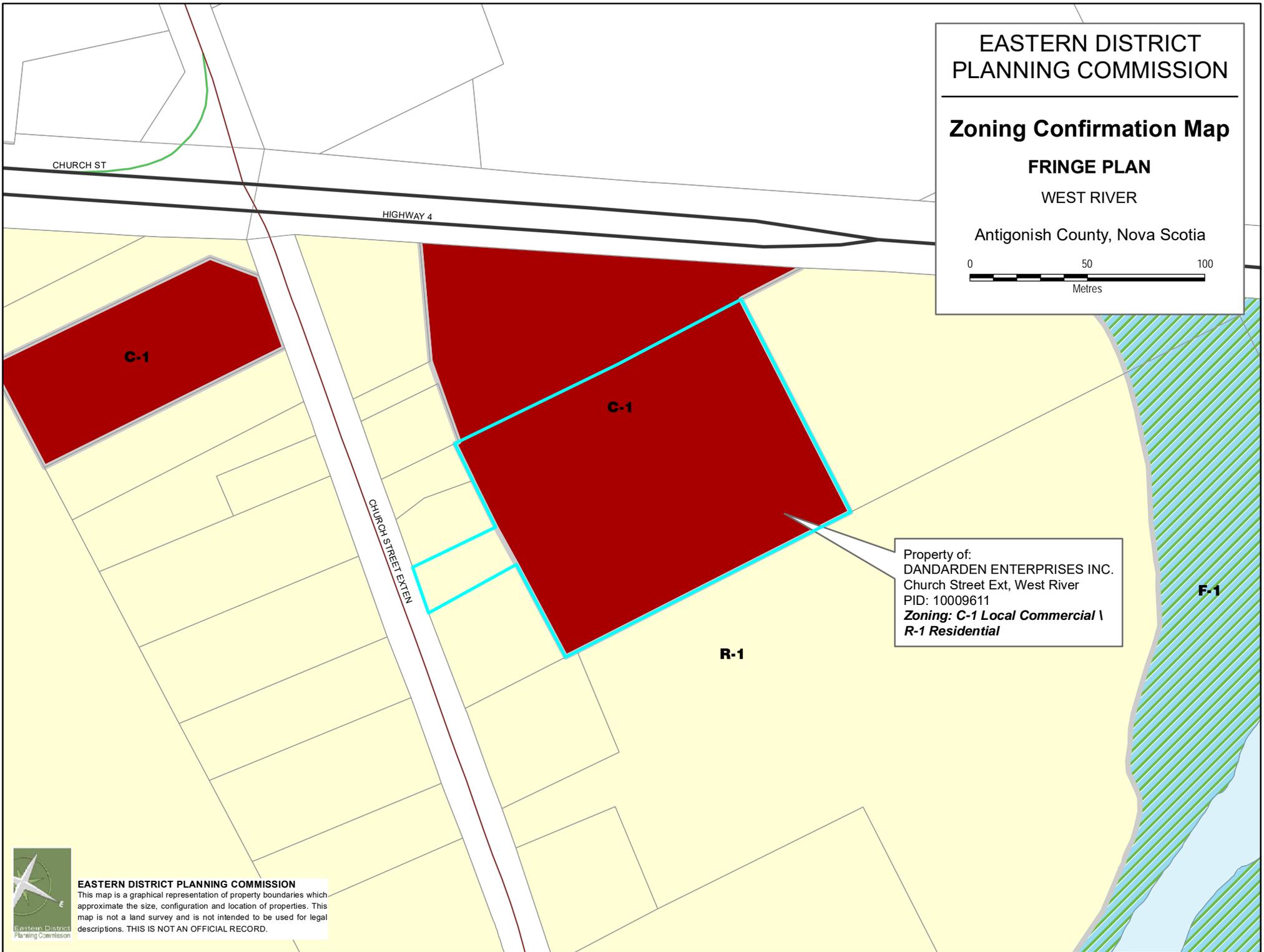
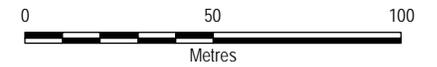
EASTERN DISTRICT
PLANNING COMMISSION

Zoning Confirmation Map

FRINGE PLAN

WEST RIVER

Antigonish County, Nova Scotia



EASTERN DISTRICT PLANNING COMMISSION

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