

To: **Baddeck Area Advisory Committee
Victoria County Council**

From: **Planning Staff (EDPC)**

Date: **November 28, 2011**

Reference: **Proposed Amendment to the Baddeck Municipal Planning Strategy and Land Use By-law by Mr. Elliot Fraser to Re-designate and Rezone a Portion of a Property on Shore Road to Permit a Single Residential Dwelling**

Recommendation:

That Council **approve** amendments to the Municipal Planning Strategy and Land Use By-law to:

- Amend Chapter 2, Section B.4 to add a policy permitting parcels within the Commercial designation to be re-zoned from Tourist Commercial (C-3) to Residential Urban (R-1), only when the parcel to be re-zoned is immediately adjacent to a parcel already zoned Residential Urban (R-1), and subject to the criteria for amending the Land Use By-law found in Chapter 4, Section C.2 of the Municipal Planning Strategy; and,
- Change the zoning of the subject parcel as shown in Schedule “A”, Zoning Map, Detail “A”, in the Land Use By-law from C-3 Tourist Commercial to R-1 Residential Urban.

Summary of Proposal:

Designation: General Commercial

Zoning: Tourist Commercial (C-3)

Area: 5.3 ha; 13.0acres (Property)

Site Visit: October 24, 2011

Identification: Shore Road, PID# 85018364

Information:

The applicant, Mr. Elliot Fraser, has applied to rezone a portion of a property on Shore Road (PID# 85018364) from commercial to residential in order to permit the use of a cabin as a single-detached dwelling. The applicant’s client is looking to sever a cabin that was a



Figure A: View of Area of Site to be Re-Zoned; from Ross Street

part of the Inverary Resort for sale a single-detached dwelling. The property is subject to the *Baddeck Municipal Planning Strategy and Land Use By-law*, and is designated General Commercial and zoned Tourist Commercial (C-3). The entire resort property is approximately 5.3 hectares (13.0 acres) in area, although the area subject to the zone change is 592.5 square metres (0.15 acres) in size.

Analysis:

Policy Review

The *Baddeck Municipal Planning Strategy and Land Use By-law* identifies the subject site as being designated for commercial purposes. A Municipal Plan Amendment is required in order to change this designation so that the parcel can be rezoned residential. The Land Use By-law must also be amended to change the zoning applicable to the subject site from commercial to residential.

Discussion

The applicant is requesting to rezone the property in order permit a cabin to be severed and sold for use as a single-detached dwelling. While the main property fronts Shore Road, the area under consideration for re-zoning fronts Ross Street. The area surrounding the subject property is designated Commercial General on the Future Land Use Map in the Municipal Planning Strategy. This designation permits a variety of commercial uses outside of the central business district.

The subject parcel is zoned Tourist Commercial (C-3) in the Land Use By-law. Policy 2.20 of the Municipal Planning Strategy outlines the following uses being permitted in the Tourist Commercial zone:

“Policy 2.20

It shall be the policy of Council to establish in the Land Use By-law a “Tourist Commercial” (C-3) zone which permits the following and similar types of uses: hotels, motels and tourist resorts; tourist cabins; tourist inns; restaurants; dining rooms; coffee shops; gift shops; spas and fitness facilities; laundry facilities; and residential uses accessory to the Tourist Commercial uses.”

Three properties immediately adjacent to the subject property (fronting Shore Road) are zoned Residential Urban (R-1), which is the zone that the applicant is seeking for the area of the subject property to be re-zoned. Properties across Ross Street from the subject property are zoned General Commercial (C-2), while a parcel at the end of Ross Street is zoned Waterfront Commercial (C-4).

While tourism-related uses along Shore Road were re-zoned Tourist Commercial (C-3) when the Land Use By-law came into effect, Policy 2.21 in the Municipal Planning Strategy outlines that *“land holdings fronting on Old Shore Road adjacent to the Tourist uses will be zoned (R-1) in keeping with its present use”*. This explains why parcels adjacent to the subject site are zoned residential while designated commercial. Unfortunately, the area of the subject parcel that is under consideration for re-zoning does not front onto Shore Road; if it did, staff would look to this policy for direction to support a recommendation to permit the requested re-zoning from C-3 to R-1.

The proposal to rezone a portion of the subject property to permit a single-detached dwelling use will require an amendment to the Municipal Planning Strategy, as staff cannot support a re-zoning that would contradict the Strategy. Amending the Strategy can be handled in one of two ways.

Option A – Amend the Future Land Use Map

This option would involve changing the designation of the area of the subject property subject to this application from commercial to residential. Once the designation is “Residential” in the Future Land Use Map, a request to change the zoning to residential could be supported, as the zoning would be consistent with the policy direction outlined in the Strategy.

This option would, however, create an isolated area designated for residential purposes within a broader area designated for commercial purposes. Typically, isolated parcels within a particular designation is an arrangement that staff try to avoid, as they may cause complications with redevelopment of an area further down the road.

Option B – Amend Municipal Planning Strategy Text

Instead of changing the designation of the subject property in the Future Land Use Map, the text of the Strategy could be amended to permit parcels in the Commercial Designation to be re-zoned from Tourist Commercial (C-3) to Residential (R-1) in certain circumstances, such as when the site subject to the re-zoning lies directly adjacent to a property (or properties) already zoned Residential.

This option maintains the policy framework permitting the long-term conversion of the area to commercial-oriented uses, while recognizing that tourist-commercial uses may involve the conversion of residential structures that could return to a residential use if the tourist commercial operation were to cease. Only permitting such re-zonings to be considered when the subject site is adjacent to existing residential zone recognizes the existing residential uses in that area, and avoids creating isolated parcels with different zoning from adjacent land uses. Staff are of the opinion that Option B, amending the text of the Planning Strategy, is the best option for this particular application. Amending only the text would permit the subject parcel to be re-zoned to a zone that is compatible with immediately adjacent zoning. However, this solution would preserve the commercial land use designation, consistent with the long-term policy vision for this part of the Plan Area.

Staff circulated the Village of Baddeck Public Works division and the Ministry of Transportation and Infrastructure Renewal for comments on the proposed rezoning. The response from the Village Public Works division noted that “in severing the property in question from MacAulay Resorts Ltd., it would be necessary for the Village of Baddeck to install new separate water and sewer services to the single-detached dwelling”. This servicing issue will be reviewed and resolved as part of the subdivision process required to sever the lot from the larger holding. Comments from the Ministry of Transportation and Infrastructure Renewal did not note any concerns with the proposal.

Conclusions:

Overall, staff feels that the use of existing cabin on the subject site as a single-detached dwelling can be considered an appropriate land use, as the parcel is immediately adjacent to other similar uses. The cabin is adjacent to the maintenance building for the tourist commercial operation from which it is being severed from, and across the street from a restaurant, but staff would expect that these are existing circumstances that any future tenant or owner of the cabin would be able to observe. Further, the cabin has been used in a manner very similar to a single-detached dwelling (as overnight sleeping accommodations) prior to this application.

In accordance with Section 205 of the *Municipal Government Act*, adoption of the amendments to the Municipal Planning Strategy and Land Use By-law will be subject to review by the Provincial Director of Planning. As such, the procedure for an amendment to a Land Use By-law as outlined in Section 210 of the *Municipal Government Act* will not apply to this application.

Staff recommend that Council **approve** amendments to the Municipal Planning Strategy and Land Use By-law to:

- Amend Chapter 2, Section B.4 to add a policy permitting parcels within the Commercial designation to be re-zoned from Tourist Commercial (C-3) to Residential Urban (R-1), only when the parcel to be re-zoned is immediately adjacent to a parcel already zoned Residential Urban (R-1), and subject to the criteria for amending the Land Use By-law found in Chapter 4, Section C.2 of the Municipal Planning Strategy; and,
- Change the zoning of select properties as shown in Schedule “A”, Zoning Map, Detail “A”, in the Land Use By-law from Tourist Commercial (C-3) to Residential Urban (R-1).

A By-law to Amend the Baddeck Municipal Planning Strategy

The Baddeck Municipal Planning Strategy is hereby amended as identified in bolded text below:

Policy 2.21A

It shall be the policy of Council to consider rezoning by amendment to the Land Use By-law in order to permit residential uses within the Commercial Designation. In evaluating such proposals, Council shall have regard to Policy 6.8 and the following:

- a) The lot to be used for the proposed development shall be zoned Tourist Commercial (C-3); and,**
- b) The lot to be used for the proposed development shall be immediately adjacent to another lot already zoned Residential Urban (R-1).**

This is to certify that the By-law, of which this is a true copy, was duly passed at a duly called meeting of the Council of the Town of Baddeck held on _____, 2011.

Given under the hand of the Chief Administrative Officer and under the corporate seal of the said Municipality this _____ day of _____, 2011.

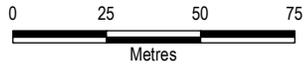
Chief Administrative Officer

**EASTERN DISTRICT
PLANNING COMMISSION**

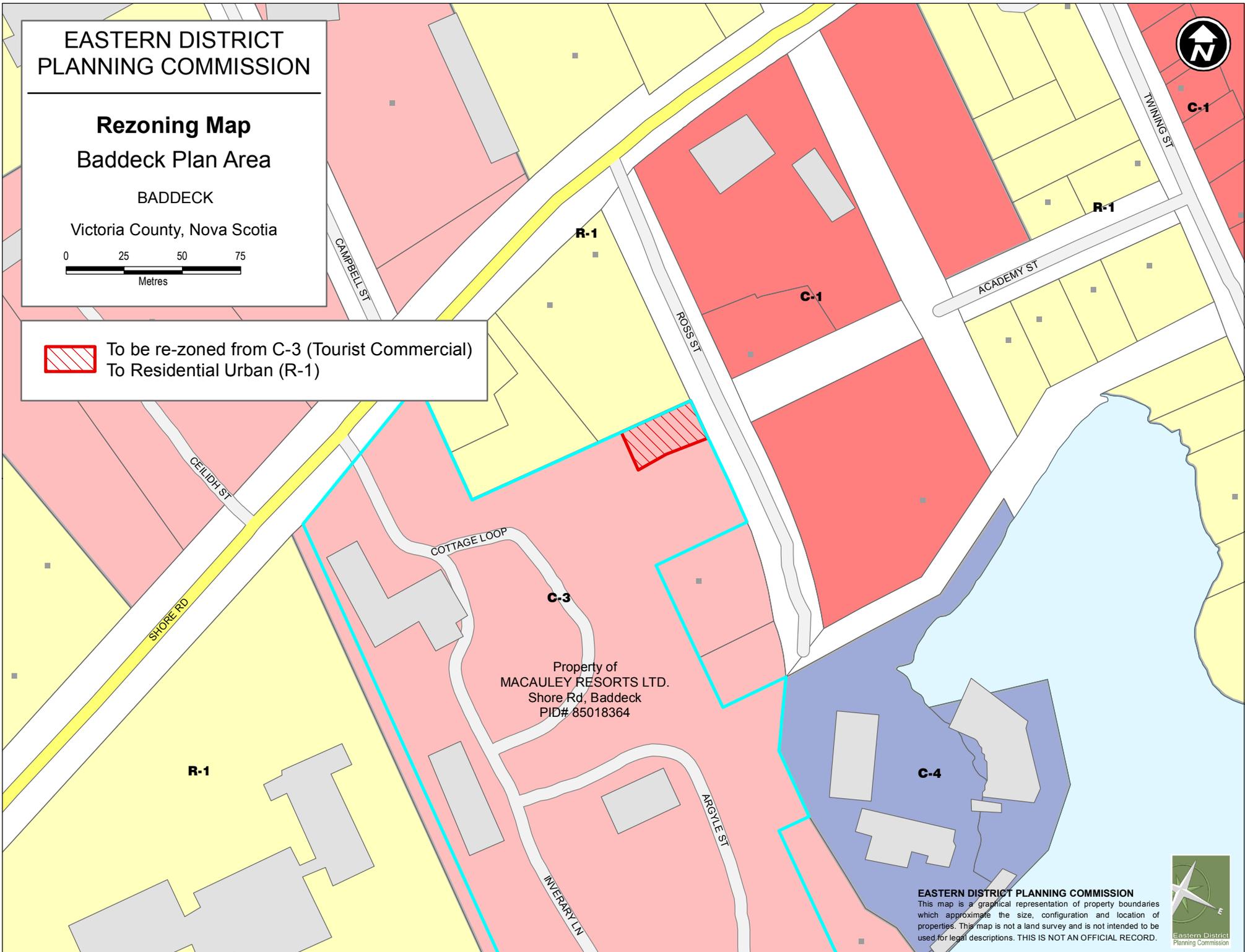
**Rezoning Map
Baddeck Plan Area**

BADDECK

Victoria County, Nova Scotia



To be re-zoned from C-3 (Tourist Commercial)
To Residential Urban (R-1)



EASTERN DISTRICT PLANNING COMMISSION
This map is a graphical representation of property boundaries which approximate the 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.

