


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| Document #         | 21 040  |
| Approved           |  |
| Date               | April 6, 2021   |
| <b>COPIES TO:</b>  |   |
| Council            | X   |
| Senior Mgmt        |   |
| Discussion Session |   |
| Agenda             | April 12, 2021  |
| Committee          |   |
| Other              |   |

## REQUEST FOR DECISION

**SUBMITTED BY:** Mackenzie Childs, Planner  
**DATE:** April 12, 2021  
**SUBJECT:** Municipal Planning Strategy (MPS) amendments to enable concurrent Land Use By-law (LUB) amendments and Development Agreement - 25 Queen Street

### ORIGIN

This report originates from an application by BlackBay Real Estate received on September 8, 2020, to initiate an amendment to the Municipal Planning Strategy.

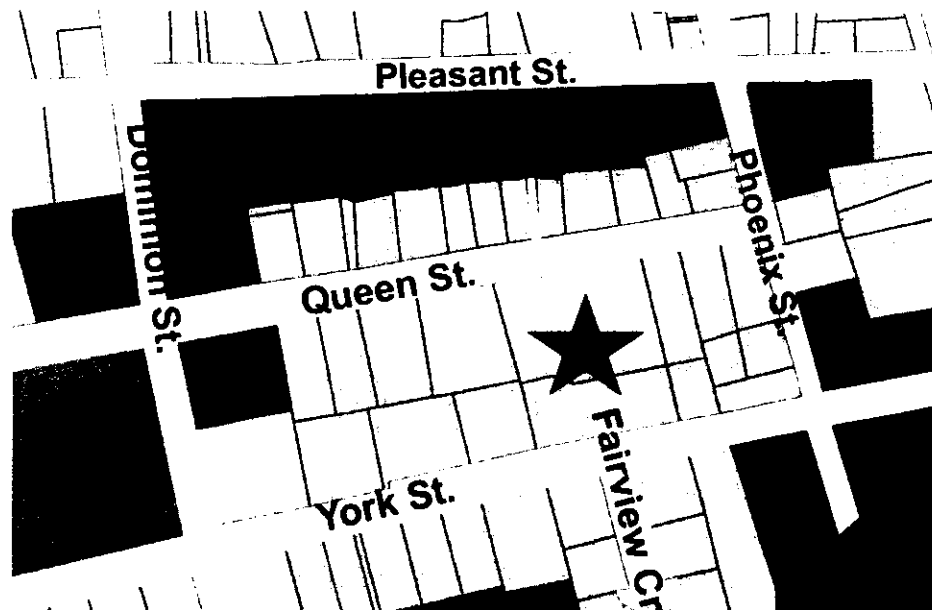
### RECOMMENDATION

It is recommended that Town Council for the Town of Bridgewater refuse the requested amendment to the Municipal Planning Strategy to redesignate the property at 25 Queen Street at this time, and maintain the existing Medium Density designation.

### BACKGROUND

An application was received on September 8, 2020 by BlackBay Real Estate ("the applicant") for a change to the Municipal Planning Strategy for a concurrent redesignation (policy change) and rezoning (map amendment) to enable and development agreement to develop a 30-unit residential building on the property located at 25 Queen Street, PID# 60030608 ("the subject property").

The subject property is owned by 3062815 Nova Scotia Limited and is currently a vacant lot. It is shown in the context map and photo below. It is the site of the old Fairview Inn, which burned down in 2011.





Photo

The subject property is located in the Downtown Residential (R4) Zone, which permits single- and two-unit dwellings as-of-right, as well as multiple uses by development agreement including multi-unit residential up to 15 units per acre. It is designated as Medium Density Residential on the FLUM of the MPS.

The applicant is requesting a rezoning from Downtown Residential (R4) to High Density Residential (R6), which would the permit the applicant to construct a 30-unit building on this property by development agreement. The High Density Residential (R6) Zone permits residential development up to a maximum of 10 units per acre as-of-right as well as multiple uses by development agreement including multi-unit residential containing between 21 and 30 units per acre.

To enable this rezoning, a policy amendment to the Municipal Planning Strategy (MPS) would be required. The applicant is also requesting this policy change: a redesignation from Medium Density Residential to High Density Residential on the Future Land Use Map (FLUM) of the MPS.

## **DISCUSSION**

The application is to

- a) redesignate the property from Medium Density Residential to High Density Residential,
- b) rezone from the Downtown Residential (R4) Zone to the High Density Residential (R6) Zone, and
- c) enter into a development agreement to permit 30 units, conditional on the amendments of the LUB and MPS.

### **Property Information**

The property is adjacent to properties in the Downtown Residential (R4) Zone, and near properties in the Restricted Commercial (C6), Institutional (I), High Density Residential (R6), and Historic Downtown Commercial (C1) Zones.

The lot is 34,444 square feet (approximately 0.79 acres) with a frontage of 218 feet. The property has sufficient area and frontage to be subdivided into three lots. The number of permitted units could change depending on whether the lot is subdivided, and if the proposal for redesignation, rezoning and

development agreement were to occur. These number of units permitted in each situation are shown in the chart below.

**Permitted Number of Units**

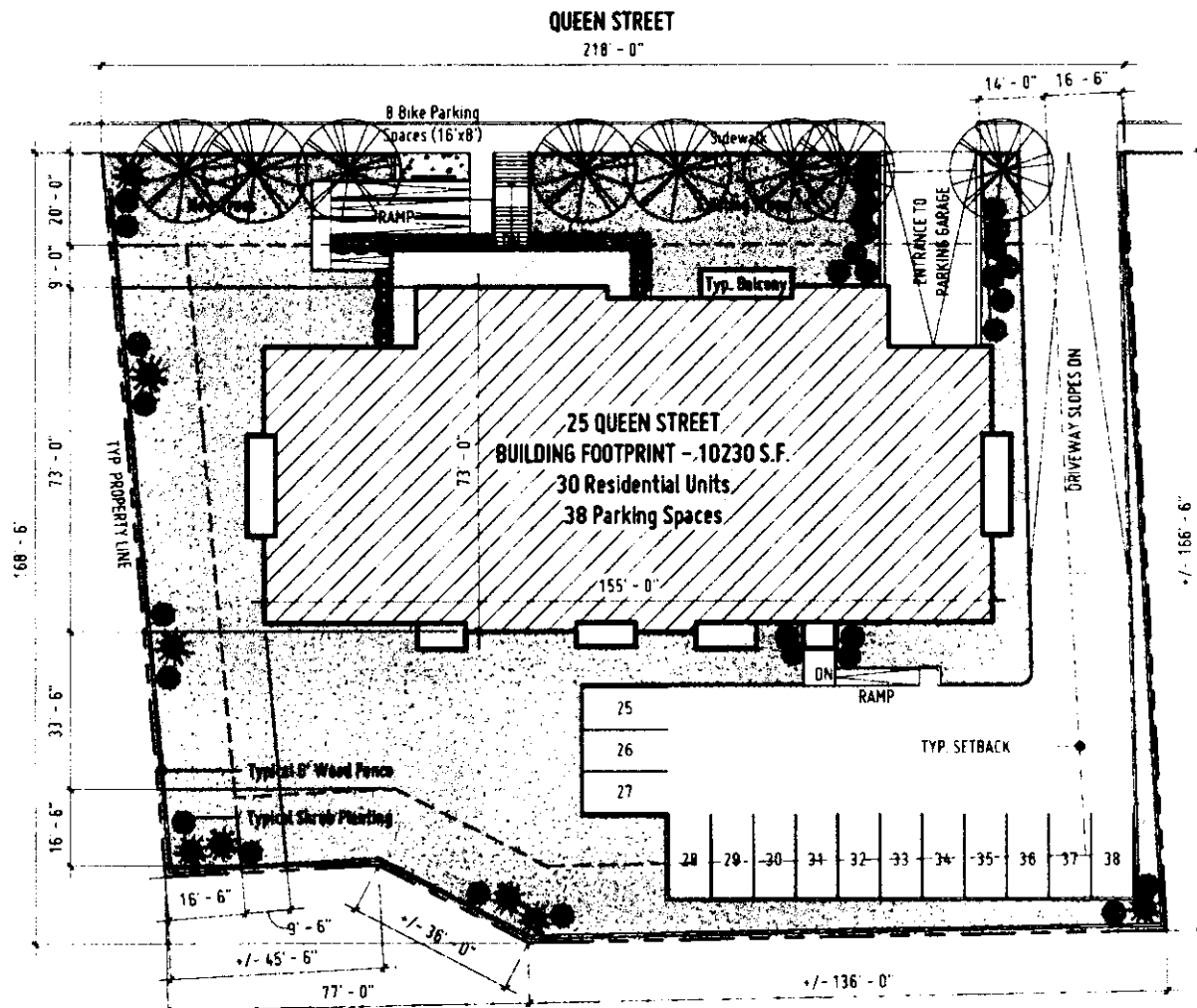
|                                      | Existing lot (no redesignation required) | Subdivided into three lots (no redesignation required) | Proposed application (redesignation required) |
|--------------------------------------|--|--|---|
| <b>As of-right</b>                   | 2 units                                  | 6 units  | 7 units                                       |
| <b>Development Agreement</b>         | 11 units                                 | 9 units  | 24 units                                      |
| <b>With Affordable Housing Bonus</b> | 14 units                                 | 12 units   | 30 units                                      |

**Application Proposal**

The proposal is to construct a 3 story, 30-unit residential development, including three affordable units. The three affordable units are necessary to develop 30 units, as per the affordable housing policy. There would be a mix of one- and two-bedroom units and units are proposed to range from 600 to 1300 square feet. The proposed residential floor area is 32,160 square feet. The applicant has proposed underground parking with 24 parking spaces as well as 14 surface parking spaces at the rear of the building, for a total of 38 parking spaces.



*Proposed Front Elevation*



*Proposed Site Plan*

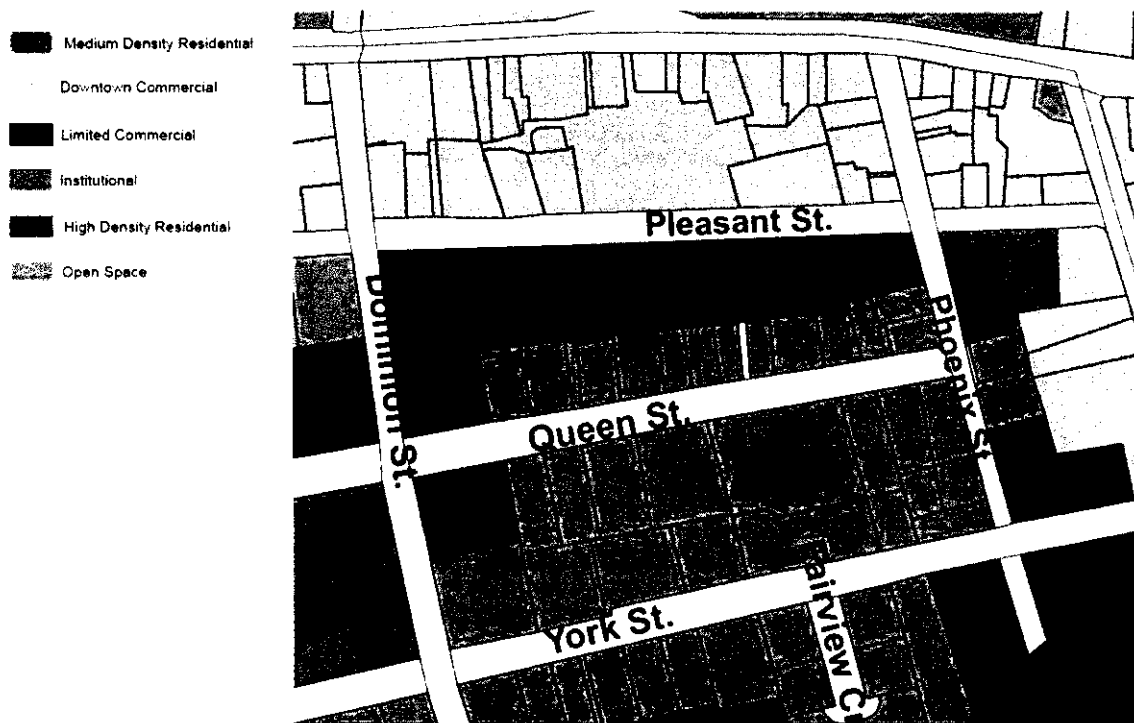
The applicant is proposing two driveways: one to the underground parking and one to the rear surface parking. They are proposing a ramp as well as stairs to access the front of the building. They would intend to keep the large trees lining the sidewalk and plant shrubs to add a buffer between neighbouring properties.

#### **Plan Amendments and Development Agreement**

The applicant is proposing a 30-unit dwelling. This proposal is not permitted on the property within the current land use regulations. In order to consider the 30-unit building at this location, the property requires a redesignation of the Future Land Use Map (FLUM) to enable consideration of a rezoning to a higher density zone, and then consideration of a development agreement to permit the maximum number of units in the new zone via a density bonus.

#### **Redesignation**

A redesignation from Medium Density Residential to High Density Residential would be required for this property. This is a change to the policy contained within the Future Land Use Map of the MPS. The designation of the property and the surrounding properties is shown below.



*Excerpt from Future Land Use Map showing designations*

The Medium Density Residential designation identifies all lands that support residential development of medium densities. Most of these lands are found adjacent to the historic downtown, including portions of Pleasant Street, Queen Street, and York Street. The intent of the Medium Density Residential designation is to accommodate compact and more affordable housing options to meet the diverse housing needs of citizens. This designation allows a maximum of four units as-of-right, which provides housing choices that are unavailable as-of-right throughout the Low Density Residential Designation. The designation also allows Council to consider higher density residential development by development agreement where the design and performance of larger projects can be controlled to ensure negative land use impacts on surrounding areas are minimized.

There are policies in the MPS that promote residential densification in strategic areas of town, but there are others that outline the importance of keeping planning in line with infrastructure. Policy R-1 states "It shall be a policy of Council to identify areas where residential development will be encouraged and accommodated, in accordance with the Zoning Map of the Land Use By-law, to ensure that Bridgewater's growth occurs in a well-planned manner and is supported by the town's service infrastructure." Policy R-10 states "It shall be a policy of Council to encourage context sensitive residential infill development, which is compatible with surrounding land uses, maximizes existing municipal infrastructure and helps enhance the appearance of the public streetscape." So while this proposal meets some of the intention of our residential policies (strategic density, infill), the hurdle it faces is the infrastructure to support this level of density at the subject property.

A redesignation to the High Density Residential designation would permit different uses as-of-right, by site plan and by development agreement as shown in the chart below. The Medium Density Residential Designation includes two zones (Downtown Residential (R4) and Medium Density Residential (R5)) and the High Density Residential designation includes one zone (High Density Residential (R6)) so each of those are shown.

## Permitted Uses

| Designation                        | Medium Density Residential Designation (current)         |                                      | High Density Residential Designation (proposed)         |
|------------------------------------|--|--------------------------------------|---|
| Zone                               | Downtown Residential (R4) Zone                           | Medium Density Residential (R5) Zone | High Density Residential (R6) Zone                      |
| Permitted As-Of-Right              | Single unit dwelling                                     |                                      | Residential development up to 10 units/acre             |
|                                    | Two-unit dwelling  |                                      | Residential conversions up to 5 units                   |
|                                    | Residential conversions up to 4 units                    | Multi-unit dwellings up to 4 units   |   |
|                                    | Home based businesses                                    |                                      |   |
| Permitted by Site Plan             |  |                                      | Multi unit residential between 11 and 20 units/acre     |
| Permitted by Development Agreement | Multi-unit residential up to 15 units/acre               |                                      | Multi unit residential between 21 and 30 units/acre     |
|                                    | Collective residential up to 15 units/acre               |                                      | Collective residential between 11 and 30 units per acre |
|                                    | Institutional uses                                       |                                      |   |
|                                    | Inns   |                                      |   |
|                                    | Offices  |                                      |   |
|                                    | Neighbourhood grocery and convenience                    |                                      |   |
|                                    | Restaurants within neighbourhood grocery and convenience |                                      |   |

## Rezoning

Since this property is designated as Medium Density Residential, a redesignation is required in order for Council to consider the request to rezone to High Density Residential (R6). If Council decides not to proceed with the policy amendment to redesignate the property, it will remain designated as Medium Density Residential and would retain the current Downtown Residential (R4) Zoning. A rezoning to Medium Density Residential (R5) could be applied for if the property is not redesignated. However, as shown in the chart above, the permitted uses for the two zones enabled by the Medium Density Designation are similar.

## Compliance with Policy

The purpose of the Municipal Planning Strategy (MPS), as set out by the Municipal Government Act (MGA) is to provide statement of policy to guide the development of the municipality. The MGA Sec 219, further states that a municipality shall not act in a manner that is inconsistent with a MPS and that the land use by-law (LUB) shall enable the policies of the MPS.

Policy IM-6 of the MPS states when considering any proposed development agreement or amendments to the LUB, it shall be a policy of Council to have regard for matters on compatibility of the development, servicing, transportation, and environment. However, before doing a complete analysis of a detailed application for a development agreement or LUB amendments, Council needs to determine if it would like to pursue a change in policy.

A full review of IM-6 has not yet been completed, as that would be completed for the Planning Analysis Report, but the sections related to infrastructure have been reviewed. It was determined that existing

infrastructure is likely insufficient for the proposed development. Staff only reviewed the concept; a detailed engineering review was not completed as the developer did not submit a wastewater study at this stage. Such a study would be required should the application be initiated. See the discussion in the following section.

### Sanitary and Stormwater

The Town is facing wastewater infrastructure capacity deficiencies, which is an important consideration when weighing a change to current policy through redesignation, especially when the redesignation would permit an increase in residential dwelling units.

Currently, the maximum number of units permitted on the property is 6 units as-of-right or 14 units through a development agreement (if the affordable housing density bonus is used). If the requested amendments were made, the maximum number of units would be 7 units as-of-right or 30 units through a development agreement (if the affordable housing density bonus is used). At that time, a wastewater offsetting study would be required as part of the development agreement application to determine how to offset the impact of the increase in wastewater generation.

In lieu of the full wastewater offsetting study, the applicant provided site service plans for the proposal. These plans were provided to staff to show the estimated work that would be required to achieve offsetting.

Preliminary review of the proposed site servicing plans indicates the following:

There is a 150 mm diameter sewer main on Queen Street which does not meet the current standard. To accommodate development, improvements to the wastewater collection system would be necessary to offset the increased flows from any new development or redevelopment at a recommended ratio of 2:1 (remove 2 parts stormwater to allow 1 part of new sanitary sewer). There is no available dedicated storm sewer on Queen Street in this area as the area has a combined sanitary/stormwater system. Stormwater would need to be managed on site.

A preliminary analysis of flows has indicated there may not be sufficient capacity within the sewershed to accommodate the proposed 30-unit building. A theoretical analysis of the contributing sewershed would be needed to confirm the scope of the issues with downstream capacity of the existing combined sewer. If the sewer capacity is not sufficient, or is marginal, then flow monitoring would be required to determine if there is any capacity or mitigation measures. There are no plans within the current 10-year capital budget for infrastructure upgrades for Queen Street in the area of the proposed development.

### Water

There is a 150 mm diameter watermain which does not meet current standards. Based on the hydrant flow data on record there is insufficient fire protection available for the proposed 30-unit development on Queen Street between Phoenix Street and Dominion Street. The developer would be responsible for the analysis for fire flow requirements comparing to the available fire protection to determine what improvements the developer would need to complete.

### Financial

If wastewater offsetting measures were approved, the developer could upgrade the infrastructure at their cost. The applicant however is seeking a cost sharing agreement with Council in order to complete the infrastructure upgrades required for the development. The proposal from the developer is outlined below.

In summary, there are deficiencies for stormwater, water and sanitary for this proposed 30-unit development on this property. Infrastructure upgrades would be required in order to accommodate the proposal. There are no plans within the current capital budget for infrastructure upgrades for Queen Street in the area of the proposed development. It is an option for developers to upgrade Town infrastructure to support their development, at the full cost of the developer. Any cost sharing arrangements must be approved by Council.

Based on the work completed by an engineering firm and preliminary staff analysis, the applicant received approximate costs for upgrades that may need to occur. The quote provided estimated \$900,000 to undertake upgrades, as per the preliminary understanding of the existing infrastructure deficiencies and needs to accommodate the proposal. The quote was based on plans and specifications provided at the time of tender, and some exclusions were noted in the budget quotation provided based on potential unforeseen costs such as handling unsuitable soil or rock excavation. The developer is requesting a cost-sharing agreement noted in the Financial/Budget Section of the report.

### **Additional Considerations**

Current direction from Council is to align planning policies with wastewater infrastructure capacities. The existing wastewater infrastructure in this area for the proposed development is insufficient. Upgrades to the infrastructure could be completed by the developer. However, if the policy were changed and the infrastructure was not upgraded because the proposed development did not proceed, a higher density would still be permitted on the property by development agreement. Since a development agreement would still be required, offsetting measures would be necessary, however, there are current discussions regarding implementation of Wastewater Betterment Charges that could impact this. If the charges are implemented, future residential development would be subject to the charges rather than a wastewater study. Based on the potential upgrades required for the proposed development, the true cost of the upgrades may not be captured with the proposed betterment charges.

In addition to wastewater, it is important to consider other aspects of the proposed policy change. Properties with the High Density Residential (R6) zoning are located around town; these properties were determined during the planning document review in 2014. Since 2014, the only redesignations to properties in town involved the Institutional Zone. There was a redesignation at 144 Victoria Road from Institutional (I1) to Comprehensive Residential (R3) in 2018 and a redesignation at 307, 317, 2231 and 325 King Street in 2016 from Institutional (I1) to High Density Residential (R6). In these cases, it was to redesignate away from Institutional, which “downzoned” properties, meaning there was a reduction in potential density as a result of the rezoning. There was also a redesignation from Neighbourhood Commercial (C7) to Institutional (I1) at 200 Exhibition Drive in 2015, however this was prior to staff and Council’s understanding of the current wastewater capacity issues. The location of R6 properties around town needs to be assessed and it is recommended this be completed during the upcoming planning documents review.

There are residential buildings with similar unit counts being permitted in town, however, the main difference is that these buildings are already permitted in the current zone or designation. Redesignations have not been required for these developments. For this proposal, the redesignation is required to enable a permission that does not currently exist. In the immediate vicinity of the subject property, there are other apartment buildings with High Density Residential (R6) zoning. However, they are 2-storey buildings and located on corner lots at the intersection with collector and local streets. The proposed development is mid-block on a local street and is proposed to be 3 full storeys in height.

Since a redesignation is a policy amendment, and therefore a policy decision of Council, there is no opportunity for the appeal of such a decision (positive or negative) by the developer or the public (MGA, Clause 248(d)). If Council chooses to go through the process to consider the requested redesignation



and rezoning, there are opportunities for public input during the public participation meeting and public hearing, but still no ability for an appeal of the decision by either the developer or the public. If the redesignation and rezoning is completed and the subsequent development agreement to permit the proposed 30-unit building is then permitted by policy, the decisions regarding the development agreement would be appealable to the Utility and Review Board. Such an appeal would be based on if and how Council followed their policies within the Municipal Planning Strategy.

Staff are recommending that Council refuse to initiate the application for a policy change based on the following:

- The policy change to redesignate the property is not supported in current policy.
- Council directed staff to review planning and infrastructure needs together and the current wastewater infrastructure does not support the proposed development.
- Staff will soon begin a review of the planning documents. Any requests for increased density (upzoning) should not be done in isolation prior to the review.
- Considerable wastewater upgrades would be required to enable the proposed development.
- The wastewater upgrades are not included within the 10-year capital budget.
- The estimated cost of the upgrades is a high-level estimate that excludes a number of unknown and potential additional costs. A more detailed wastewater offsetting study is required to understand the full extent of the wastewater upgrades required to enable the proposed density at the subject property.

If Council chooses to initiate this application, it does not mean that Council is approving the requested policy change. A full review and analysis of the proposal would be carried out, in addition to public consultation. Staff would then bring forward a Planning Analysis report with a recommendation for Council's consideration.

## **IMPLICATIONS**

### **Financial/Budget**

Upgrades to the sanitary, water and stormwater are not in the current 10-year capital budget. Any upgrades would be additional. The preliminary cost estimate of the upgrades required is \$900,000. The developer has proposed a cost sharing agreement.

Option A: 80/20: The applicant contributes 20% of the cost (\$180,000) and the town contributes 80% of the cost (\$720,000).

Option B: 50/50: The applicant contributes 50% of the cost and the town contributes 50% of the cost, and additionally the property owner would not have to pay property taxes for 10 years.

### **Legal**

A signed development agreement is a legal contract binding the property owner and the Town. Any proposed development agreement will be reviewed and approved by the Town Solicitor before its presentation to Council.

The developer has proposed two options for a cost-sharing agreement. Option B includes the waiving of taxes for up to 10 years. There is no legal mechanism by which Town Council could enter into such an agreement, unless the developer is a non-profit organization providing a service to the community, or in accordance with a Commercial Phase in Tax By-law, which the Town does not have.

### **Strategic Priorities / Work Program**

Land use and development control is one of the core responsibilities of the Community Development Department.

Land Use By-law

Municipal Planning Strategy

### **OPTIONS**

Staff have identified the following options for Town Council to consider:

- a. Refuse the requested policy change (redesignation) and maintain the existing policy in place on the subject property. ***Recommended***
- b. Initiate the application for concurrent Redesignation, Rezoning and Development Agreement for the proposed 30-unit residential building on the subject property. This will send the application into the Step 1 of the application process "Staff Review" and Step 2 "Public Engagement/ Recommendation to Council".
- c. Defer a decision on the policy change and refer it back to staff for more information.

As this is a policy decision of Council, the decision is not appealable to the Utility and Review Board. Should council choose to initiate the policy change request, there would be a public participation meeting and a public hearing prior to any decisions on the matter.

### **COMMUNICATONS**

Communication requirements as per the Municipal Government Act would be followed if the application process continued.