



WEST HANTS
NOVA SCOTIA

**MUNICIPALITY OF THE DISTRICT OF WEST HANTS
Planning/Heritage Advisory Committee Agenda
November 21, 2019, 6:00 p.m.
Sanford Council Chambers**

- 1) Call to order
- 2) Approval of Agenda & Additions
- 3) Approval of Planning/Heritage Advisory Committee Meeting Minutes of October 17, 2019
- 4) Business Arising from the Minutes
 - a. Dresser Minerals Land Use By-law Amendment (Saira Shah)
 - b. Pioneer Drive Land Use By-law Amendment (Saira Shah)
 - c. Cannabis in West Hants (Saira Shah)
 - d. Fees for Non-profit organizations and municipally registered heritage properties (Madelyn LeMay)
 - e. Rural Churches (Sara Poirier)
- 5) Hantsport Area Advisory Committee Update from Chair
- 6) Building and Development Activity Reports
 - a. Monthly Report – October 2019
- 7) New Business
 - a. Municipal Planning Strategy Amendments for Brooklyn Servicing (Sara Poirier)
 - b. Municipal Planning Strategy Criteria (Sara Poirier and Saira Shah)
- 8) Notices from adjacent municipal units
- 9) Miscellaneous
- 10) Questions and comments from public



**MUNICIPALITY OF THE DISTRICT OF WEST HANTS
RECOMMENDATION REPORT**

To: Members of West Hants Planning Advisory Committee
Submitted by: Sara Poirier, Planner
Date: November 21, 2019
Subject: Plan Review Amendment: Place of Religious Congregation

1.0 BACKGROUND

Following a presentation to the West Hants Planning Advisory Committee (WHPAC) on April 18, 2019 entitled *Rural Churches in West Hants* by Dalhousie University Master of Planning candidates, the WHPAC made the motion to direct staff to explore the repurposing of church structures. Staff presented an information report to the WHPAC on October 17, 2019 where the WHPAC agreed to change the term church to place of religious congregation to be more inclusive of all religious denominations.

Background information can be found in the following reports:

- October 17, 2019 Rural Churches Investigation
- April 9, 2019 Reuse of Rural Churches in West Hants

and minutes of the following Committees:

- October 17, 2019 West Hants Planning Advisory Committee (WHPAC)
- April 18, 2019 West Hants Planning Advisory Committee (WHPAC)

2.0 LEGISLATIVE AUTHORITY

Municipal Government Act Part 8 and the West Hants Municipal Planning Strategy.

3.0 RECOMMENDATION

Should the West Hants Planning Advisory Committee (WHPAC) wish to forward a positive recommendation, the following motion would be in order:

...that PAC recommends that Council consider amending the text of the West Hants and Hantsport Municipal Planning Strategy's and Land Use By-law's during the Plan Review to:

- (a) remove the term church from the definitions;
- (b) add the term place of religious congregation to the definitions as described as *"Place of Religious Congregation means a building dedicated to any religious congregation and/or worship and includes a church, synagogue, temple or assembly hall and may include such accessory uses as an auditorium, a nursery school, a school of religious education, convent, monastery, parish hall or residence operated by the place of religious congregation on the same lot or an abutting lot."*
- (c) replace the use of term church with "place of religious congregation" in all documents

as attached as Appendix A of report to the Planning Advisory Committee dated November 21, 2019.

4.0 DISCUSSION and DOCUMENT REVIEW

A church is a term to describe a place of worship mainly associated with Christian religions. The current definition of church in the West Hants Land Use By-law (WHLUB) states *"Church means a building dedicated to any religious worship and includes an associated hall, auditorium, Sunday School, day nursery or residence operated by the church on the same lot or an adjacent lot"*.

The current definition of church in the Hantsport Land Use By-law (HLUB) is *"Church means an institutional building dedicated to religious worship, and includes a church hall, church auditorium, Sunday School, or Parish Hall."*

To be more inclusive of other religions staff suggest changing the term from "church" to "place of religious congregation" in both the WHLUB and HLUB. The new definition for place of religious congregation should be *"Place of Religious Congregation means a building dedicated to any religious congregation and/or worship and includes a church, synagogue, temple or assembly hall and may include such accessory uses as an auditorium, a nursery school, a school of religious education, convent, monastery, parish hall or residence operated by the place of religious congregation on the same lot or an abutting lot."*

Place of religious congregation would replace the use of the term church in all sections of both West Hants and Hantsport planning documents.

4.1 Municipal Planning Strategy Amendment

Text Amendment

Policy 16.1.1 of the West Hants Municipal Planning Strategy (WHMPS) states that "it shall be the policy of Council to review and make amendments to this Strategy: (c) when Council deems it necessary because of a change in policy intentions or the development environment."

Policy IM-1 of the Hantsport Municipal Planning Strategy (HMPS) states that “it shall be the policy of Council to review the Municipal Planning Strategy and Land Use By-law as deemed necessary by Council due to changing conditions but not later than every seven years”.

Map Amendment

An amendment to the Generalized Future Land Use Map of the WHMPS or HMPS is not required.

4.2 Land Use By-law Amendment

Text Amendment

Policy 16.3.1 of the WHMPS states the criteria Council must consider when amending the WHLUB.

Policy IM-3 of the HMPS states the criteria that Council must consider when amending the HLUB.

The criteria do not apply to this amendment as the amendment is not site specific and is only a definition change in the documents.

Map Amendment

An amendment to the Zoning map of the WHLUB or HLUB is not required.

5.0 MUNICIPAL CLIMATE CHANGE ACTION PLAN

This amendment has not been examined in relation to the Municipal Climate Change Action Plan (MCCAP), since it is an amendment to the text of the WHMPS, HMPS, WHLUB and HLUB and not related to a specific site.

6.0 CONCLUSION

As noted above, the proposed WHMPS, HMPS, WHLUB and HLUB text amendments have been considered within the context of the general policies of the WHMPS and HMPS. The proposed text amendments have also been evaluated against the general criteria for amendments to the WHLUB and HLUB. There are no proposed map amendments. As a result, it is reasonable to amend the text of the WHMPS, HMPS, WHLUB and HLUB during the plan review to remove and replace the use of the term church with place of religious congregation in all documents.

7.0 APPENDICES

APPENDIX A	Draft West Hants and Hantsport Land Use By-Law Amendments
APPENDIX B	General Criteria for West Hants Land Use By-law Amendments
APPENDIX C	General Criteria for Hantsport Land Use By-law Amendments

APPENDIX A
Draft West Hants and Hantsport Land Use By-Law Amendments

[Purple text = amendments to the WHLUB and HLUB]

WEST HANTS LAND USE BY-LAW

35.0 DEFINITIONS

~~Church~~ means a building dedicated to any religious worship and includes an associated hall, auditorium, Sunday School, day nursery or residence operated by the church on the same lot or an adjacent lot;

Place of Religious Congregation means a building dedicated to any religious congregation and/or worship and includes a church, synagogue, temple or assembly hall and may include such accessory uses as an auditorium, a nursery school, a school of religious education, convent, monastery, parish hall or residence operated by the place of religious congregation on the same lot or an abutting lot;

HANTSPORT LAND USE BY-LAW

Part 2 Definitions

~~CHURCH~~ means an institutional building dedicated to religious worship, and includes a church hall, church auditorium, Sunday School, or Parish Hall.

Place of Religious Congregation means a building dedicated to any religious congregation and/or worship and includes a church, synagogue, temple or assembly hall and may include such accessory uses as an auditorium, a nursery school, a school of religious education, convent, monastery, parish hall or residence operated by the place of religious congregation on the same lot or an abutting lot;

The term *Place of Religious Congregation* will replace the term *Church* in the West Hants Municipal Planning Strategy, Hantsport Municipal Planning Strategy, West Hants Land Use By-law and Hantsport Land Use By-law.

APPENDIX B

General Criteria for West Hants Land Use By-law Amendments

Policy 16.3.1 In considering development agreements and amendments to the West Hants Land Use By-law, in addition to the criteria set out in various policies of this Strategy, Council shall consider:

CRITERIA	COMMENT
(a) whether the proposal is considered premature or inappropriate in terms of:	
(i) the adequacy of sewer and water services;	Not applicable.
(ii) the adequacy of school facilities;	Not applicable.
(iii) the adequacy of fire protection and other emergency services;	Not applicable.
(iv) the adequacy of road networks adjacent to, or leading to the development; and	Not applicable.
(v) the financial capacity of the Municipality to absorb any costs relating to the development.	No costs to the Municipality are anticipated in relation to this amendment.
(b) whether the development is serviced, or capable of being serviced, by a potable water supply and either central sewer or an approved on-site sewage disposal system;	Not applicable.
(c) the suitability with any aspect relative to the movement of auto, rail and pedestrian traffic;	Not applicable.
(d) the adequacy of the dimensions and shape of the lot for the intended use;	Not applicable.
(e) the pattern of development which the proposal might create;	Not applicable.
(f) the suitability of the area in terms of steepness of grade, soil and geological conditions, location of water courses or wetlands, and susceptibility of flooding;	Not applicable.
(g) whether the proposal meets the requirements of the appropriate provincial or federal agencies as well as whether it conforms to all	Not applicable.

<i>other relevant municipal by laws and regulations; and</i>	
<i>(h) any other matter required by relevant policies of this Strategy.</i>	There are no other relevant policies.

APPENDIX C

General Criteria for Hantsport Land Use By-law Amendments

Policy IM-3 In considering amendments to the Town of Hantsport Land Use By-law, in addition to the criteria set out in various policies of this Strategy, Council shall consider:

CRITERIA	COMMENT
(a) whether the proposal is considered premature or inappropriate in terms of:	
(i) the adequacy of sewer and water services;	Not applicable.
(ii) the adequacy of school facilities;	Not applicable.
(iii) the adequacy of fire protection;	Not applicable.
(iv) the impact on adjacent uses;	Not applicable.
(v) the adequacy of road networks adjacent to, or leading to the development; and	Not applicable.
(vi) the financial capacity of the Town to absorb any costs relating to the development.	No costs to the Municipality are anticipated in relation to this amendment.
(b) the suitability with any aspect relative to the movement of auto, rail and pedestrian traffic;	Not applicable.
(c) the adequacy of the dimensions and shape of the lot for the intended use;	Not applicable.
(d) the pattern of development which the proposal might create;	Not applicable.
(e) the suitability of the area in terms of steepness of grade, soil and geological conditions, location of water courses, marshes or bogs and susceptibility of flooding;	Not applicable.
(f) whether the proposal meets the requirements of the appropriate provincial or federal agencies as well as whether it conforms to all other relevant municipal by-laws and regulations;	Not applicable.
(g) the impact of not only the use being proposed but all uses permitted in the zone;	Not applicable.
(h) the site meets all of the zone requirements for the zone sought; and	Not applicable.
(i) any other matter required by relevant policies of this Strategy.	There are no other relevant policies.



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ACTIVITY REPORT

For Month of October 10/31/19

Type	<i>Oct 2018</i>			<i>Oct 2019</i>		
	Permits	Units	Value of Construction	Permits	Units	Value of Construction
*Single Family	9	0	61,960	16	5	1,137,967
Duplex/Semi	1	2	400,000	0	0	0
Apartments	0	0	0	0	0	0
**Other Residential	12	0	136,000	12	1	621,500
Commercial	7	1	73,000	4	0	1,260,000
Industrial	3	0	72,000	0	0	0
Inst & Gov	0	0	0	1	0	11,000
Agriculture	2	0	401,000	2	0	10,000
Park/Recreational	0	0	0	0	0	0
Total	34	3	1,143,960	35	6	3,040,467
Year To Date	363	88	18,931,890	371	87	30,239,089
Demolition	3	1		6	2	
Sign Permits	0			2		
Sub Applications	3	4 (Lots Requested)		2	2 (Lots Requested)	

*includes new construction, additions, renovations, repairs, and development permits.

**includes garages/sheds/carports, decks, and swimming pools.



MUNICIPALITY OF THE DISTRICT OF WEST HANTS
Information Report to Planning Advisory Committee

To: Members of West Hants Planning Advisory Committee

Submitted by: Sara Poirier, Planner

Date: November 21, 2019

Subject: Municipal Planning Strategy Amendments for Brooklyn Servicing

1.0 BACKGROUND

On January 17, 2019 the West Hants Planning Advisory Committee (WHPAC) requested that staff review the policies of the West Hants Municipal Planning Strategy (WHMPS) to determine what changes are necessary to the WHMPS to allow water service in the community of Brooklyn.

2.0 LEGISLATIVE AUTHORITY

Nova Scotia Municipal Government Act, Section 65 authorizes Council to expend funds for municipal purposes; Section 217 (1) states *"A municipality shall not act in a manner that is inconsistent with a municipal planning strategy"*.

3.0 DISCUSSION and DOCUMENT REVIEW

3.1 History

West Hants Council have been contemplating the provision of water and sewer service in the community of Brooklyn for at least three decades.

In November 2004, the West Hants Environment Committee held a public meeting with residents of Brooklyn to summarize the studies to date and consider how to move forward. The first study produced on this topic was in 1986 where the costs associated with providing services to Brooklyn were determined to be too high to proceed. In 1995 a second study updated the costs from the previous study and residents requested that Council add water/sewer services for Brooklyn to the Municipalities list of capital projects. In 2003, Council received a petition from residents of Brooklyn requesting another study to determine any new technologies that may reduce costs. In 2004, the Environment Committee noted that they had attempted to locate a potable water source in Brooklyn however had been unsuccessful, and that the 2004 study should focus solely on providing sewer services.

Council did not provide water or sewer service to the community of Brooklyn following any of the above noted studies.

In 2017, the topic of Brooklyn servicing arose at a Committee of the Whole meeting. The Director of Public Works conducted a preliminary review of the previous studies and determined that the first step to consider the provision of water services in Brooklyn would be to amend the policies of the West Hants Municipal Planning Strategy (WHMPS). Further information regarding considerations for providing water services to Brooklyn and amendments to the planning documents are in the Committee of the Whole information report of September 27, 2017 attached in Appendix C and the Planning Advisory Committee staff report of February 20, 2003 in Appendix D.

3.2 Municipal Planning Strategy

The WHMPS provides the framework to guide growth and development in the Municipality. The Strategy sets out Council's intentions for future development and provides criteria for Council and planning staff to consider in evaluating development proposals. Together with the West Hants Land Use By-law and the Subdivision By-law, the WHMPS controls future land use and development in West Hants. The WHMPS may require amendments to accommodate changing conditions and a review may be necessary from time to time to ensure that the policies meet the changing needs of the Municipality.

3.2.1 Brooklyn and Servicing Specific Policies

The community of Brooklyn is a service centre for the surrounding countryside and is currently the only community designated as a Village in the WHMPS. A map of the Village designation is in Appendix A. The current WHMPS states that *"the Village designation recognizes development centres where growth at a rate comparable to Growth Centres is not desired and municipal sewer and water services will not be provided."* The background information continues to state that although there have been numerous requests from residents in the past for the Municipality to service Brooklyn with water and sewer, the cost of providing these services was determined to be too high and Council did not provide them.

Planning staff examined the policies of the WHMPS and the sections which reference the provision of water and sewer in the community of Brooklyn and the greater Municipality of West Hants are in Appendix B. In summary:

- Policies state that Council will not provide water and sewer service to the Village designation.
- The Growth Centre boundaries define servicing boundaries.
- Policies identify water supply issues.
- Policies state that Council shall provide water and sewer at the same time.

The intent of Brooklyn will need to be determined in order to revise policies that differentiate the Village designation from the Growth Centre designation. The Committee will need to determine if it would consider Brooklyn a Growth Centre with the addition of services and discuss the associated implications that may have on

future development in the community of Brooklyn (i.e. reduced lot sizes, potentially higher residential density, eligibility for commercial development district, considerations for mobile home parks, etc.).

3.3 Correspondence

Planning staff contacted the Director of Public Works and Municipal Engineer to gain a better understanding of how the Municipality currently provides water and sewer services to the communities of Falmouth, Three Mile Plains and Hantsport, if the water supplies are at capacity, and if it is necessary to provide water and sewer at the same time. An outline of their responses is below.

3.3.1 Water Supply

When asked if the current water systems would have the capacity to accommodate water service to Brooklyn, the Director of Public Works and Municipal Engineer commented that *"Falmouth, Three Mile Plains and Hantsport do not have the capacity to accommodate this increased loading. They are already at, or near full capacity with existing future development plans."*

Any provision of water service to Brooklyn would need to be from a new water supply. The revision of WHMPS policies pertaining to a water supply area cannot be complete until Council identifies a suitable supply of water. This will require a feasibility study.

3.3.2 Providing Water Without Sewer

Policy 15.1.3 states that *"It shall be the policy of Council not to allow the further extension of municipal water lines except where municipal central sewer exists or will be installed in conjunction with the water lines. Individual lots with frontage on existing public streets served only by municipal water shall be permitted to connect to the municipal water system."*

When asked about Policy 15.1.3 the Director of Public Works and Municipal Engineer commented that *"To my understanding the policy would be in place so that residential septic systems are not strained by any increased water usage that may be available with central water services. I also understand that many residences are not connected with both services, and other Municipalities do not require central sewer be mandatory with an extension of water services."*

When asked what the Municipality does with existing buildings in areas that have water service but no sewer connection the Director of Public Works and Municipal Engineer commented that *"There are some buildings in Falmouth, Three Mile Plains and Hantsport that have central water service, however, do not have sewer service. They are not currently forced to connect to existing sewer service. In many cases the central water is available, however there is no sewer main fronting these properties. With the new sewer by-law, it is at the discretion of the Engineer/Director to require a property to connect to sewer if the property is within 100' of an existing main. I would not expect that a sewer system be required for Brooklyn, unless approved by PAC and Council."*

I would add that in years past, prior to full potable water treatment, it was necessary to have much higher chlorine dosing to obtain adequate disinfection of the potable

water. This high chlorine dosing also killed active bacteria in on-site disposal systems rendering them less effective. This is still the case but to a lesser degree as we carry lower chlorine residuals with full treatment of potable water.

In previous discussions on servicing for Brooklyn it was determined that many of the lots were small with struggling on-site disposal systems therefore central sewer should be considered if potable water was being considered."

The WHPAC would need to determine if it would be recommending to Council the provision of water and sewer, or only water service. If Council provides water service alone potential issues could arise with residential septic systems.

3.3.3 Additional Comments

When asked if the Director of Public Works and Municipal Engineer had any additional comments or concerns for the WHPAC to consider if the policies were revised in the WHMPS to allow Brooklyn to be serviced by water, the Director of Public Works and Municipal Engineer stated the following *"All costs associated with planning, design, construction and operation would need to be borne by the residents/users/customers of the system. It may be extremely unaffordable for the approximate 200-300 customers that would be available to cover the costs to establish and maintain a central water service. In addition, previous studies have been performed to try and establish a suitable source of supply for the Brooklyn community, and have been determined to lack the feasibility to pursue. At this time, I do not believe that a feasible source of supply has been established for this service."*

The feasibility study to determine a suitable water supply should also determine the potential costs to the Municipality and residents with the provision of this service.

3.4 Discussion

In order to accommodate the request from the WHPAC, staff will require clear direction from the WHPAC on the following:

- (a) What is the future intention for Brooklyn in West Hants?
- (b) Would the Committee be considering both water and sewer for Brooklyn?
- (c) Is the Committee willing to recommend expending resources to hire consultants to determine a suitable water supply and the cost of servicing for residents?

4.0 MUNICIPAL CLIMATE CHANGE ACTION PLAN

Staff did not review the Municipal Climate Change Action Plan in association with this request. If the Committee moves forward with a feasibility study for a water supply and potential servicing costs, the hired consultants will need to consider the MCCAP and other future climate change impacts.

5.0 FINANCIAL IMPLICATIONS

The amendments to the text and policies of the WHMPS to consider water service in Brooklyn will require significant staff time. Staff estimate that seven (7) sections of the

WHMPS would require amendments to accommodate this request. Revision of at least two (2) of those sections cannot be complete until Council identifies a suitable water supply. This project will also require discussion at a minimum of three (3) WHPAC meetings to ensure the policy revisions align with the intent of the Committee and to ensure the opportunity for public input.

During the policy revision process, it will be imperative that staff review the Growth Centre designation policies to ensure the co-relation between zones and designations. This will require additional staff time.

Revising the WHMPS policies will not guarantee that it will be physically and financially feasible to provide servicing to the community of Brooklyn however it would ensure Council is not acting in a manner that is inconsistent with their Municipal Planning Strategy.

Windsor – West Hants Consolidation

Conducting a feasibility study to determine the water supply for Brooklyn and the cost of providing this service to residents would require the Municipality to hire consultants. Staff estimate that such a study would likely be in the vicinity of \$50,000 to \$100,000. This feasibility study has not been budgeted for. Due to consolidation and the new Windsor-West Hants regional government beginning on April 1, 2020 it would not be in the current West Hants Councils purview to make the decision to fund this project. The long-term decisions regarding water service to residents of Brooklyn should be discussed by the new regional government.

6.0 CONCLUSION

As noted above there are several items the WHPAC needs to review, discuss and provide direction on before staff can move forward with the process of revising the policies of the WHMPS to allow Brooklyn to be serviced with water.

7.0 APPENDICES

Appendix A Generalized Future Land Use Map 1-C Brooklyn

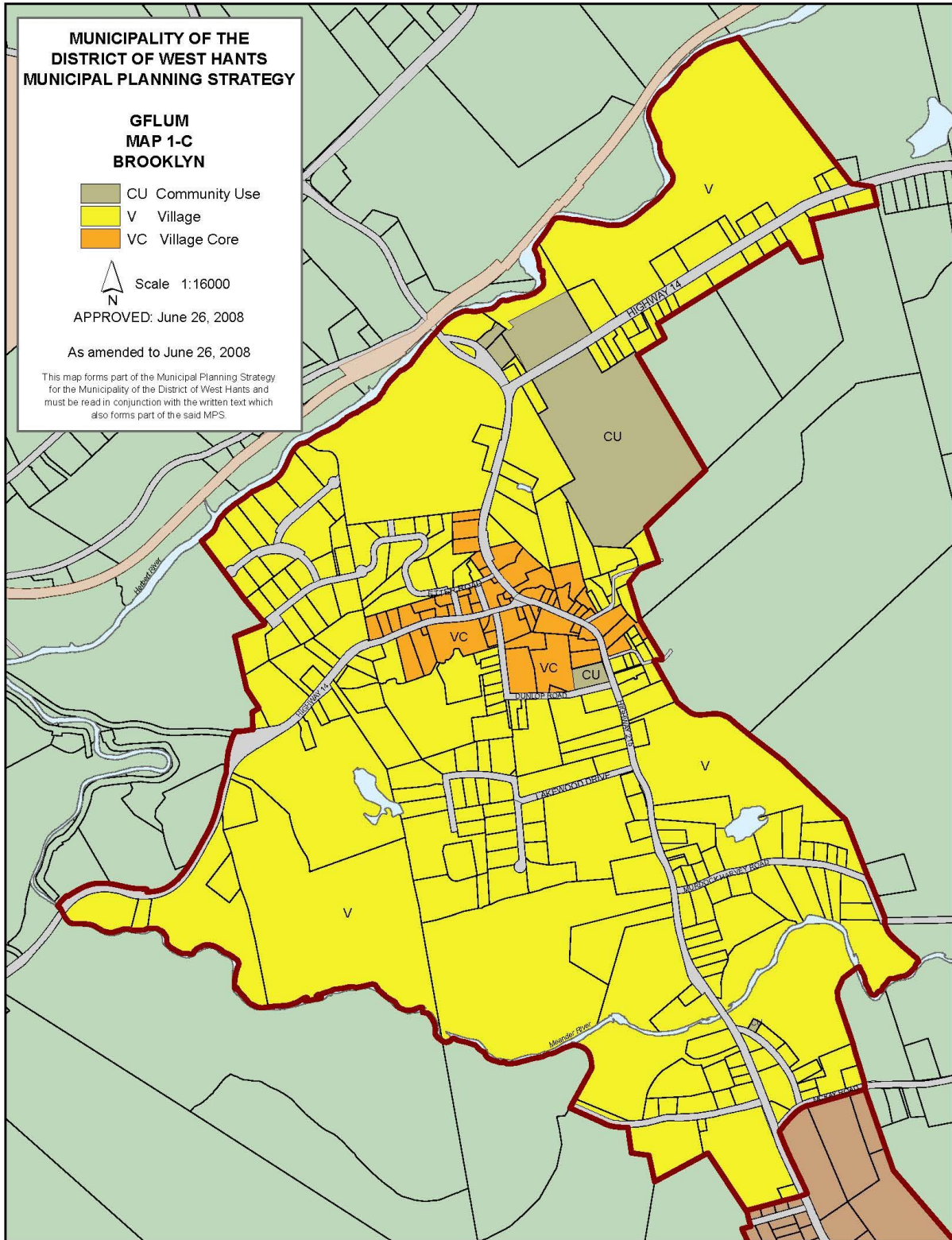
Appendix B West Hants Municipal Planning Strategy (WHMPS) Policies with Comments

Appendix C COTW Brooklyn Water Services Information Report – September 27, 2017

Appendix D PAC Brooklyn Village MPS/LUB Amendments re Water and Sewer Staff Report – February 20, 2003

Appendix A

Generalized Future Land Use Map 1-C Brooklyn



Appendix B

West Hants Municipal Planning Strategy (WHMPS) Policies with Comments

IMPORTANT POLICY		
Policy or Section Number	Text	Comments
2.0 BACKGROUND 2.3 General Issues and Challenges	<ul style="list-style-type: none"> Encouraging development in the areas that are already serviced by municipal water and sewer Dealing with potential servicing in the Village of Brooklyn 	<p>Add to bullet #1 <i>“or have the potential to be serviced by municipal water and sewer”</i></p> <p><i>“Potential servicing” to “servicing”</i></p>
3.0 DEVELOPMENT VISION AND GOALS 3.1 Vision	<p>While the new development accompanying this population growth is welcome, it may also bring increased demand for expensive water and sewer services, pressure on valuable resource lands, conflicting urban and rural values, and land uses.</p> <p>The urban component consists of Growth Centres, which will be serviced with municipal water and sewer, and the rural one of Villages, Hamlets and resource areas. Such concentrated development also allows for more efficient and cost-effective provision of municipal services and infrastructure such as streets and water and sewer services.</p>	<p>Would Brooklyn (Village) then be considered urban if there is servicing? Would need to change the name from Village and possibly consider it a Growth Centre (smaller lot sizes and servicing).</p>
3.2 General Goals	<ul style="list-style-type: none"> Maintain a "quiet, rural atmosphere" as desired by respondents to the 2002 Plan Review Survey. Encourage more dense development in the Growth Centre designation within servicing boundaries. Recognize the poor supply of potable water in West Hants and identify potential sources of water. 	<p>Will adding more areas with the potential of being serviced go against Council’s policy in bullet #1?</p> <p>Servicing boundaries are defined by the Growth Centre boundaries.</p> <p>Water supply issues are identified.</p>
3.3 Growth Centres	<p>Growth Centres are intended to accommodate most of the future non-rural development which will occur in West Hants, thereby relieving development pressure from non-renewable resource lands. It is expected that a full range of municipal services, including water and sewer, recreation facilities, street lights and sidewalks, will eventually be provided in these communities as they become necessary.</p>	<p>Would need to add Brooklyn to the list if servicing is provided.</p> <p>Will Brooklyn be considered a Growth Centre if servicing is provided?</p>

	<p>Concentrated development makes the provision of such services more economical. Because of the expense involved in constructing, extending and maintaining municipal water and sewer infrastructure, these services will be provided only in the two existing Growth Centres of Three Mile Plains and Falmouth, as well as the Windsor-West Hants Joint Industrial Park.</p>	<p>Later in the WHMPS it also states the Hamlet of Wentworth Creek also has water (no sewer).</p>
3.4 Village	<p>The Village designation recognizes development centres where growth at a rate comparable to Growth Centres is not desired and municipal sewer and water services will not be provided.</p>	<p>Will need to ask WHPAC if its intent is to revise this. This would be a change in the basic position of Brooklyn in West Hants.</p>
3.6 Resource Designations 3.6.2 Resource	<p><i>Water Supply</i></p> <p>The municipal water supply areas for Falmouth, Windsor and Hantsport are all located within the West Hants municipal boundaries. These areas will be protected through a special water supply zone which will strictly regulate development to reduce the potential for contamination of the water supply.</p>	<p>May need to add something here if a new water supply area is determined for Brooklyn, or if Brooklyn is tied into an existing water supply.</p>
5.0 GROWTH CENTRE 5.1 General Policies	<p>This Strategy encourages most of the future non-rural growth in West Hants to occur in designated Growth Centres where municipal services, particularly water and sewer, can be provided more efficiently and economically. The Growth Centres offer commercial, industrial and institutional services to the surrounding area and have a higher concentration of population. Three Mile Plains and Falmouth have been designated as Growth Centres under this Strategy.</p>	<p>Growth Centre boundaries represent servicing limits.</p>

	<p>The boundaries of both Growth Centres represent defined servicing limits, based on the Municipality's ability to provide water and sewer services and the desire to encourage a concentrated development pattern that makes efficient use of these services. Councils intent is that over time, most land within the boundaries will be fully serviced. Policies of this Strategy will help to achieve that aim by ensuring that land is not consumed by unserviced development requiring large lots and extensive road frontage. This type of development makes it difficult to achieve the densities necessary to make servicing feasible and can block the orderly provision of services. The Growth Centre boundaries will not be expanded until most of the existing serviceable land has been developed, or where it can be demonstrated that there is no available land within the boundaries that is suitable to accommodate proposed serviced development. Municipal water and sewer services will not be provided outside the Falmouth and Three Mile Plains Growth Centres, and the Windsor-West Hants Joint Industrial Park.</p> <p>Policy 5.1.2 <i>It shall be the intention of Council that the majority of new development in the Growth Centres will be serviced with both municipal water and sewer services.</i></p> <p>Policy 5.1.3 <i>It shall be the policy of Council that within the Growth Centres, future residential development on new public streets shall be serviced with both municipal water and sewer. New residential development using on-site sewage disposal systems shall be permitted only on existing public streets in areas which are not serviced with municipal sewer services.</i></p> <p>Policy 5.1.4 <i>It shall be the policy of Council that municipal sewer and water services will not be extended beyond the boundaries of the Falmouth and Three Mile Plains Growth Centres and the Windsor-West Hants Joint Industrial Park.</i></p>	<p>WH would not be encouraging "concentrated development" if Council starts allowing water and sewer services in more places in the municipality.</p>
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	<p>Policy 5.1.6 <i>It shall be the policy of Council to consider expanding the boundaries of the Growth Centres subject to the following criteria:</i></p> <ul style="list-style-type: none"> (a) the expansion is necessary to accommodate proposed serviced development; (b) <i>it is clearly demonstrated that existing serviceable land within the Growth Centre is unsuitable or unavailable for the development;</i> (c) the expanded area is capable of being serviced by both municipal water and sewer services; and (d) the Municipality is financially capable of providing the necessary services. <p>Policy 5.1.7 <i>It shall be the policy of Council not to consider expanding the boundaries of the Growth Centres where the proposed development is unserviced or serviced only with water.</i></p> <p>Infill development which uses existing water, sewer and streets in both Falmouth and Three Mile Plains will be encouraged.</p>	<p>(d) What would the additional cost to the Municipality be?</p>
<p>5.4 Falmouth Growth Centre-Residential Policies</p>	<p><i>Multiple Unit Residential</i></p> <p>...Council acknowledges this concern, but also recognizes that Falmouth is one of only two serviced areas in West Hants, the cost of providing and maintaining water, sewer, streets and other services is high, and a certain density of development is necessary to help make these costs feasible.</p>	<p>Brooklyn would need to be added and existing information corrected.</p>
<p>5.7 Industrial Development Resource Industrial</p>	<p>Resource-related industries usually locate where the product is being produced, whether the product is apples, gypsum or wood products. Because many resource-based industries require large amounts of water, locating in a Growth Centre where there is a municipal water supply may also be attractive.</p>	<p>Could be changed to <i>“locating in a Growth Centre or Brooklyn where there is a municipal water supply may also be attractive.”</i></p>

		The water source would have to be capable of accommodating a large draw on water for commercial or industrial operations.
6.0 VILLAGE	<p>The Village designation recognizes existing development areas which serve as focal points for the surrounding countryside, but which are not expected to grow at the rate of a Growth Centre. Municipal sewer and water services will not be provided in the Village designation. Under this Strategy, only Brooklyn has been designated as a Village.</p> <p>...</p> <p>The core area of Brooklyn, with its densely developed small lots, has experienced pollution and odour from malfunctioning on-site sewage disposal systems. In addition, as is the case in many areas of West Hants, some residents experience inadequate water quality and supply. Over the years, at residents' request, the Municipality has undertaken several feasibility studies into the provision of municipal sewer and water services in Brooklyn. In all cases, the cost was so high that it was unacceptable to the residents. Council will not entertain future requests for provision of municipal sewer and water services in the Village designation.</p> <p style="text-align: center;"><i>Policy 6.1.3 It shall be the policy of Council that municipal sewer and water services will not be provided in the Village designation.</i></p>	<p>WHPAC will need to consider whether its intent is to revise this.</p> <p>If the Brooklyn designation were to be changed to Growth Centre this would no longer apply.</p>
9.3 Water Supply	<p>Within West Hants, there are three municipal water supply areas: French Mill Brook which supplies the serviced area of Falmouth; Mill Lakes which supplies the Town of Windsor and the serviced area of Three Mile Plains; and Davidson Lake which serves the Town of Hantsport.</p> <p>A Water Supply (W) zone will be established to encompass the three water supply areas. To protect water quality, this zone will limit the types of development allowed.</p>	Brad Carrigan, Director of Public Works, noted that Falmouth, Three Mile Plains and Hantsport water supply areas do not have the capacity to accommodate the increased loading of servicing Brooklyn. Another water supply zone would need to be identified to service Brooklyn with water.

	<p>Policy 9.3.1 <i>It shall be the policy of Council to establish a Water Supply (W) zone which applies to the Protected Water Areas of French Mill Brook and Mill Lakes and the established boundaries of the Davidson Lake watershed.</i></p> <p>Policy 9.3.4 <i>It shall be the intention of Council to review and revise this Strategy and accompanying By-law to reflect changes made to any Protected Water Area under the Environment Act.</i></p>	
<p>15.0 MUNICIPAL SERVICES 15.1 Water and Sewer</p>	<p>The majority of West Hants relies on private wells and on-site sewage disposal systems; however, central sewer and/or water services are provided in the two Growth Centres, Three Mile Plains and Falmouth. One Hamlet, Wentworth Creek, which abuts the Town of Windsor boundary, has water services.</p> <p><i>Water</i></p> <p>Three Mile Plains and Wentworth Road, between the Windsor town boundary and the Fundy Gypsum plant at Wentworth Creek, receive chlorinated water from the Town of Windsor's Mill Lakes water supply.</p> <p>Residents of Falmouth get fully treated water from the French Mill Brook reservoir.</p> <p><i>Sewer</i></p> <p>Like the water system, only two areas have municipal sanitary sewer. There is no storm sewer system, so all storm run-off is controlled through ditches.</p> <p><i>Servicing Policies</i></p> <p>Municipal sewer and water infrastructure is costly to install and maintain. Council wishes to ensure that this infrastructure is provided in the most efficient and cost-effective manner possible. Therefore, Council will establish service area boundaries beyond which sewer and water lines will not be extended. As in earlier planning strategies, the boundaries of the Three Mile Plains and Falmouth Growth Centres and the Windsor-West Hants Joint Industrial Park will be treated as the service area boundaries.</p>	<p>And the Joint Industrial Park? Is it in Wentworth Creek?</p>

Policy 15.1.1 *It shall be the policy of Council that municipal water and sewer services will not be extended beyond the boundaries of the Falmouth and Three Mile Plains Growth Centres and the Windsor-West Hants Joint Industrial Park.*

There are a few areas of West Hants where municipal water services exist, but not sewer. Providing municipal water without central sewer often results in demands for sewer service at a later date. Installing the two systems separately is far more costly than installing both services together. Furthermore, with a virtually unlimited supply of water from a municipal water system, homeowners frequently overload their on-site sewage disposal systems, resulting in malfunctions and, sometimes, pollution. To avoid these problems in the future, the Municipality will not allow the further extension of municipal water without sewer.

Policy 15.1.3 *It shall be the policy of Council not to allow the further extension of municipal water lines except where municipal central sewer exists or will be installed in conjunction with the water lines. Individual lots with frontage on existing public streets served only by municipal water shall be permitted to connect to the municipal water system.*

Council wishes to encourage development that makes maximum use of the existing infrastructure within the service area boundaries (Growth Centres).

According to Policy 15.1.3, if Brooklyn gets water it has to get sewer at the same time.

16.5 Infrastructure Charges	<p>As development continues in the Falmouth and Three Mile Plains Growth Centres, there will be a need to ensure that the infrastructure required for water, sewage treatment, stormwater systems and streets are sufficient to service the new growth. This will involve either the expansion of existing systems or the construction of new systems. The <i>Municipal Government Act</i> allows municipalities to implement infrastructure improvement charges through the Subdivision By-law provided this is enabled in the Municipal Planning Strategy. These funds can be used to recover the capital costs of infrastructure but may not be used for ongoing maintenance costs.</p> <p>Council intends to collect infrastructure charges for newly created lots in the Growth Centres, as well as any other area where municipal water and/or sewer services are provided, as a way to defray the cost of new or upgraded water and sewage treatment plants, stormwater systems, streets and traffic signals. Areas where infrastructure charges are implemented are known as charge areas. The infrastructure charges will be based on the projected number of new lots in the charge area considering zoning, available vacant land and the projected cost of the upgrades. The infrastructure charges will be the same for every newly created lot within the charge area regardless of lot size. Infrastructure charges will not apply to the consolidation of lots.</p> <p>As with parkland dedication fees, it is the intention that no lot will receive subdivision approval without first paying the infrastructure charge; however, in cases of larger subdivisions, the Municipality may enter into an Infrastructure Charges Agreement with the developer which sets out a payment plan. Since the infrastructure charges are intended to be used for upgrades to the water and sewage treatment systems, stormwater systems, streets and traffic signals, the Municipality will not accept services in lieu of payment of the charges.</p>	Brooklyn would need to be added as a service charge area.
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	<p>Policy 16.5.1 It shall be the policy of Council to establish provisions for the collection of infrastructure charges in the Subdivision By-law. These infrastructure charges shall serve to help the Municipality to provide adequate municipal water, sewer and stormwater systems, streets, and traffic signs and signals within the serviced areas.</p> <p>Policy 16.5.2 It shall be the policy of Council to establish "charge areas" where infrastructure charges shall apply which encompass the areas within the servicing boundaries of the Growth Centres and any other serviced area in West Hants.</p>	
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POLICY TO CONSIDER		
Policy or Section Number	Text	Comments
3.3.2 Falmouth	<p>Council also recognizes the limitations on the water resources and sewage treatment system in Falmouth and will monitor their capacity as new development occurs.</p> <p><i>Falmouth Development Objectives</i></p> <ul style="list-style-type: none"> • Monitor the extension of services and, when necessary, limit service extension to ensure the capacity of the municipal sewer and water systems is not exceeded. 	Important to note if Council want to use Falmouth water supply / sewer system to accommodate Brooklyn servicing.
3.5 Hamlets	<p>Municipal water and sewer services, which are more characteristic of urban areas, will not be provided in Hamlets.</p> <p>Three Hamlets, Newport Station, Mount Denson and Wentworth Creek, either abut or are within proximity to the existing serviced areas. Over time, as the Growth Centres infill, additional land may be required for serviced development and consideration may be given to extending the Growth Centre boundaries into former Hamlets. At</p>	<p>Consideration - If Brooklyn gets servicing would it be an option to extend services to the adjacent Hamlets?</p> <p>It would go against the development objective of "providing limited services"</p>

	<p>that time, municipal water and sewer services may be extended to these areas if the costs are feasible.</p> <p><i>Hamlet Development Objectives</i></p> <ul style="list-style-type: none"> • Provide only a limited number of municipal services. 	
<p>4.0 GENERAL LAND USE POLICIES</p> <p>4.4 Commercial Development District</p>	<p>Policy 4.4.2 <i>It shall be the policy of Council to consider the expansion of the Commercial Development District areas by amendment to this Strategy and the Land Use By-law subject to the following:</i></p> <p>(a) the area is serviced with municipal water and sewer;</p> <p>(b) <i>the area is zoned commercial or industrial, or has been identified on the Generalized Future Land Use Map as an area within which to concentrate commercial or industrial businesses;</i></p> <p>...</p>	<p>If Brooklyn is given services, the community could then be eligible to be considered in the Commercial Development District.</p>
<p>4.15 Manufactured Home Parks</p>	<p>The establishment of new manufactured home parks can be controversial. Generally, the individual pad sites are small, resulting in higher density development that is more characteristic of an urban environment than a rural one. Council feels this type of development is most appropriate in Growth Centres where municipal services are available. To allow Council strict control over the development of new manufactured home parks, they will be considered only by development agreement</p> <p>Policy 4.15.2 <i>It shall be the policy of Council that new manufactured home parks will be considered by development agreement only in the Growth Centres subject to Policy 5.3.9.</i></p>	<p>Council may be opening Brooklyn up for consideration for Manufactured Home Parks if services are provided. This was not discussed in Brooklyn during the last Plan Review.</p>

<p>4.16 Municipal/Town Boundary</p>	<p>It is the intention of Council to co-operate with the Town of Windsor in providing for development adjacent to the municipal boundary. Several residential areas in Windsor are located next to the boundary. These areas include Sunnyhill Drive - Campbell Avenue and Underwood Drive. Development in West Hants would be most easily accomplished by the extension of Town streets and services in these areas. Both Windsor and West Hants wish to encourage development in the serviced areas within and adjacent to the municipal boundaries. There are, however, two important considerations for both municipal units before permitting this to occur. First, it will be important to ensure that the existing road networks are capable of accommodating any increased traffic. Second, there must be agreement between the two units on responsibility for delivery and costs of municipal services to the new development.</p> <p style="text-align: center;">Policy 4.16.1 <i>It shall be the policy of Council to work with the Town of Windsor to provide a seamless delivery of services over municipal boundaries.</i></p>	<p>If water supply crosses the Town boundaries the seamless delivery of services will have to be maintained.</p>
<p>6.2 Residential Development</p>	<p>Policy 6.2.4 It shall be the policy of Council to consider proposals for stand-alone multiple unit and grouped single, two and multiple unit dwellings consisting of three or more units in the Village designation by development agreement subject to the following: (Amendment WHMPS 16-01 Effective September 26, 2016)</p> <p>(g) the lot is capable of supporting private central or on-site sewage disposal systems, and an adequate potable water supply is available;</p>	<p>Note: Would Council consider changing this to read "proposals for stand-alone multiple unit and grouped single, two and multiple unit dwellings if the lot is capable of being connected to municipal services"?</p>
<p>7.0 HAMLET</p>	<p><i>Wentworth Creek</i></p> <p>Wentworth Creek extends along Wentworth Road from the Windsor town boundary to the Fundy Gypsum Wentworth Creek mine site. Because of the proximity to Windsor, homes in Wentworth Creek are connected to municipal water services. At this time, development in Wentworth Creek is either residential or agricultural.</p>	<p>If Brooklyn is given servicing would Hamlets nearby have the possibility of servicing? (i.e. Newport Corner)</p>

	<p>Policy 7.0.3 <i>It shall be the policy of Council that municipal services in Hamlets shall include only those provided throughout the entire Municipality such as garbage collection and protective services. Municipal water and sewer services will not be provided (refer to Policy 5.1.6).</i></p> <p>Three Hamlets: Newport Station, Mount Denson and Wentworth Creek, either abut or are within proximity to the existing serviced areas. Over time, as the Growth Centres infill, additional land may be required for serviced development and consideration may be given to extending the Growth Centre boundaries into former Hamlets. At that time, municipal water and sewer services may be extended to these areas if the costs are feasible.</p>	<p>The last sentence does not correspond with the statements in Policy 7.0.3; which policy should be amended?</p>
<p>12.0 ENVIRONMENTAL CONSTRAINTS 12.1 Dykeland Areas</p>	<p>Within the area designated Dykeland, no new buildings will be permitted, except for pump houses or other structures which may be required for water distribution or irrigation.</p> <p>Policy 12.1.4 <i>It shall be the policy of Council that within the area designated Dykeland, no new buildings shall be permitted, except for pump houses or other structures required for water distribution or irrigation, and small-scale accessory buildings on existing lots of five (5) acres or less in size</i></p>	<p>Will have to keep the dykeland in mind when considering any new infrastructure for the water supply.</p>

LAND USE BY-LAW

Policy or Section Number	Text	Comments			
<p>8.0 SINGLE UNIT RESIDENTIAL (R-1) R-1 Zone General Requirements</p>	<p>8.2 In the R-1 zone, no development permit shall be issued except in conformity with the following:</p> <table border="1" style="margin-left: 40px;"> <tr> <td data-bbox="543 1325 821 1450"></td> <td data-bbox="821 1325 1152 1450" style="text-align: center;">with municipal services</td> <td data-bbox="1152 1325 1434 1450" style="text-align: center;">with on-site services</td> </tr> </table>		with municipal services	with on-site services	<p>Requirements for lots could be substantially smaller in Brooklyn if Municipal services are provided</p>
	with municipal services	with on-site services			

		Minimum lot area	6,000 ft² (557.40 m²) 7,000 ft² (650.30 m²) for corner lots	29,000 ft ² (2,694.10 m ²)	
9.0 TWO UNIT RESIDENTIAL (R-2)	9.2	In the R-2 zone, no development permit shall be issued except in conformity with the following:			
			Mini homes	Two-unit dwellings	
			with municipal services	with on-site services	with municipal services
			with on-site services		with on-site services
		Minimum lot area	6,000 ft² (557.40 m²); 7,000 ft² (650.30 m²) for corner lots	29,000 ft ² (2,694.10 m ²)	3,500 ft² (325.15 m²)/unit
		Minimum lot frontage	50 ft (15.24 m)	100 ft (30.48 m)	100 ft (30.48 m)/unit
10.0 MULTIPLE RESIDENTIAL (R-3)	10.3	A development permit shall not be issued for a new R-3 where the proposed development is not serviced with municipal water and sewer services.			Could be opening Brooklyn up to higher residential density.
13.0 GENERAL COMMERCIAL (GC) GC Zone General Requirements	13.2	In the GC zone, no development permit shall be issued except in conformity with the following:			Requirements for lots could be substantially smaller in Brooklyn if Municipal services are provided. Would WHPAC/Council consider
			with municipal services	with on-site services	

	<table border="1"> <tr> <td>Minimum lot area</td> <td>10,000 ft² (929.00 m²)</td> <td>29,000 ft² (2,694.10 m²)</td> </tr> <tr> <td>Minimum lot</td> <td>100 ft (30.48 m)</td> <td>100 ft (30.48 m)</td> </tr> </table>	Minimum lot area	10,000 ft² (929.00 m²)	29,000 ft ² (2,694.10 m ²)	Minimum lot	100 ft (30.48 m)	100 ft (30.48 m)	larger commercial floor areas if municipal servicing is provided?			
Minimum lot area	10,000 ft² (929.00 m²)	29,000 ft ² (2,694.10 m ²)									
Minimum lot	100 ft (30.48 m)	100 ft (30.48 m)									
14.0 HIGHWAY COMMERCIAL (HC) HC Zone General Requirements	14.2 In the HC zone, no development permit shall be issued except in conformity with the following: <table border="1"> <tr> <td></td> <td>with municipal services</td> <td>with on-site services</td> </tr> <tr> <td>Minimum lot area</td> <td>20,000 ft² (1858.00 m²)</td> <td>29,000 ft² (2,694.10 m²)</td> </tr> </table> <p><i>Maximum Commercial Floor Area in Village Designation</i></p> 14.6 The maximum commercial floor area of HC uses in the Village designation shall not exceed 5,000 ft ² (464.50 m ²). This restriction shall not apply to existing uses zoned Highway Commercial. New HC uses with a commercial floor area greater than 5,000 ft ² (464.50 m ²) may be considered by development agreement pursuant to Policies 6.3.4 and 6.4.3 of the Municipal Planning Strategy.		with municipal services	with on-site services	Minimum lot area	20,000 ft² (1858.00 m²)	29,000 ft ² (2,694.10 m ²)				
	with municipal services	with on-site services									
Minimum lot area	20,000 ft² (1858.00 m²)	29,000 ft ² (2,694.10 m ²)									
15.0 LOCAL COMMERCIAL (LC) LC Zone General Requirements	15.2 In the LC zone, no development permit shall be issued except in conformity with the following: <table border="1"> <tr> <td></td> <td>with municipal services</td> <td>with on-site services</td> </tr> <tr> <td>Minimum lot area</td> <td>7,000 ft² (650.30 m²)</td> <td>29,000 ft² (2,694.10 m²)</td> </tr> <tr> <td>Minimum lot frontage</td> <td>70 ft (21.34 m)</td> <td>100 ft (30.48 m)</td> </tr> </table>		with municipal services	with on-site services	Minimum lot area	7,000 ft² (650.30 m²)	29,000 ft ² (2,694.10 m ²)	Minimum lot frontage	70 ft (21.34 m)	100 ft (30.48 m)	
	with municipal services	with on-site services									
Minimum lot area	7,000 ft² (650.30 m²)	29,000 ft ² (2,694.10 m ²)									
Minimum lot frontage	70 ft (21.34 m)	100 ft (30.48 m)									
24.0 WATER SUPPLY (W)	Permitted Uses 24.1 The following uses shall be permitted in the Water Supply (W) zone:	May need a map amendment to zone a new water supply area once one is determined.									

- Agricultural uses excluding dwellings, the keeping of livestock, Licensed Micro-Cultivation of cannabis and greenhouse operations (**Amendment 18-07 Effective December 5, 2018**)
- Forestry uses excluding processing structures
- Historic buildings and sites
- Municipal water treatment and distribution uses
- Outdoor recreation uses provided no permanent structures are erected
- Uses, buildings and structures necessary for the prevention of floods, soil erosion and other similar natural occurrences
- Woods camps

W Zone General Requirements

24.2 In the W zone, no development permit, with the exception of municipal water treatment and distribution uses, shall be issued except in conformity with the following:

Minimum lot area	10 acres (4.05 ha)
Minimum lot frontage	200 ft (60.96 m)
Minimum water frontage*	300 ft (91.44 m)
Minimum front yard	50 ft (15.24 m)
Minimum rear yard	50 ft (15.24 m)
Minimum side yard	50 ft (15.24 m)
Maximum height of main	35 ft (10.67 m)

*Water frontage requirement applies to lots with frontage on Mill Lake and Davidson Lake.

	<p>24.3 No development permit shall be issued for any proposed development within 213.25 ft (65 m) of any watercourse or water body in the W zone until an environmental study, as described in Policy 9.3.8 of the Municipal Planning Strategy, has been completed and submitted to the Development Officer.</p> <p><i>Slope</i></p> <p>24.4 No structure may be erected or land levels altered on any portion of a lot in the W zone where the slope is greater than 15 percent with the exception of buildings or structures related to:</p> <ul style="list-style-type: none"> (a) the prevention of floods, or erosion, or which serve to facilitate drainage; and (b) municipal water treatment and distribution uses. <p><i>Protected Water Areas</i></p> <p>24.5 In addition to all requirements of this By-law, additional regulations may apply to areas designated as Protected Water Areas under the Nova Scotia <i>Environment Act</i>, including the French Mill Brook and Mill Lakes water supply watersheds.</p> <p><i>Woods camps</i></p> <p>24.6 The total floor area of a woods camp in the W zone shall not exceed 600 ft² (55.74 m²), excluding any decks, balconies, exterior staircases and similar features.</p>	
<p>26.0 RESOURCE INDUSTRIAL (M-1)</p> <p>29.0 LIGHT INDUSTRIAL (LI-1)</p> <p>30.0 JOINT INDUSTRIAL TYPE TWO (LI-2)</p>	<p>Permitted Uses</p> <ul style="list-style-type: none"> • Utility facilities 	<p>These zones allow utility facilities – need to consider when planning the water supply and sewer disposal and the associated buildings.</p> <p>Utility means a water works or water supply system, sewage works, electrical power or energy generating, transmission or distribution system, street lighting system, natural or artificial gas works or supply system, a transportation system or a telecommunications</p>

		system, and includes any lands, buildings or equipment required for the administration or operation of any such system;
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Appendix C

COTW Brooklyn Water Services Information Report - September 27, 2017



MUNICIPALITY OF THE DISTRICT OF WEST HANTS

INFORMATION REPORT

To: Members of West Hants Council

Submitted by: _____
Cathie Osborne, Chief Administrative Officer

Date: September 27, 2017

Subject: Proposed Brooklyn Water Service

Origin:

This item originated following a request from Council for staff to evaluate and report on the feasibility for provision of municipal water services within the village of Brooklyn.

Legislative Authority:

Municipal Government Act, Section 65 (a) "water systems"; authorizes Council to expend funds for municipal purposes.

Background:

On May 23, 2017, Councilor Keith indicated the topic of water in Brooklyn has been on the agenda for years. The most recent study occurred in 1995 when consultants provided updated costing analysis, to an earlier 1989 study. Councilor Keith suggested an option for water in Brooklyn is to look at extending it from Wentworth Road. The Councilor pointed out that there are days that residents do not have enough water or it is not potable, and suggested this is a growing area and water utilities would have a significant positive impact on the area. It was recommended to Council to request a preliminary staff report on the

merits of extending the water line from the Wentworth Road Fundy Gypsum Company lights to the Brooklyn area or the most feasible and shortest way possible.

CAO Osborne cautioned there was no funding set aside for doing a feasibility study and suggested that staff could review the prior reports and complete some internal analysis. It was agreed staff would provide an internal report before spending any funds on external resources.

Discussion:

There are three hurdles which must be overcome in moving forward the provision of water services to the Brooklyn area.

1. Does Municipal Policy support the provision of water services to the Brooklyn area in its current context?

The Municipality of the District of West Hants Council's current Municipal Planning Strategy (MPS) does not allow the extension of municipal water and/or sewer services to the village of Brooklyn, as explicitly stated in MPS Policies 5.1.4 and 6.1.3.

Policy 5.1.4 It shall be the policy of Council that municipal sewer and water services will not be extended beyond the boundaries of the Falmouth and Three Mile Plains Growth Centres and the Windsor-West Hants Joint Industrial Park.

Policy 6.1.3 It shall be the policy of Council that municipal sewer and water services will not be provided in the Village designation.

Part 3.4 of the MPS notes: *The Village designation recognizes development centres where growth at a rate comparable to Growth Centres is not desired and municipal sewer and water services will not be provided.*

This policy position is restated, again, in Policy 15.1.1 and 15.1.3.

Policy 15.1.1 It shall be the policy of Council that municipal water and sewer services will not be extended beyond the boundaries of the Falmouth and Three Mile Plains Growth Centres and the Windsor-West Hants Joint Industrial Park. There are a few areas of West Hants where municipal water services exist, but not sewer. Providing municipal water without central sewer often results in demands for sewer service at a later date. Installing the two systems separately is far more costly than installing both services together. Furthermore, with a virtually unlimited supply of water from a municipal water system, homeowners frequently overload their on-site sewage disposal systems, resulting in malfunctions and, sometimes, pollution. To avoid these problems in the future, the Municipality will not allow the further extension of municipal water without sewer.

Policy 15.1.3 It shall be the policy of Council not to allow the further extension of municipal water lines except where municipal central sewer exists or will be installed in conjunction with the water lines. Individual lots with frontage on existing public streets served only by municipal water shall be permitted to connect to the municipal water system."

In summary, a review of Council's existing policies shows clear intention to:

- limit the provision of services to Growth Centres;
- not provide services in Brooklyn specifically;
- not provide water services where municipal sewer service is not available.

Should Council desire to provide water to the Brooklyn area, significant changes to the MPS must first occur.

2. What could the system look like?

Prior Studies:

On April 8, 1986, Porter Dillon was first contracted to perform a feasibility and pre-design study for the addition of municipal sewer and water services for the Village of Brooklyn. In summary of the 1986 report, many estimates were made regarding the anticipated future population, number of service connections, commercial connections and school connections for the community for 2006 (20 years later). As a comparison, staff has included estimated population, number of students and number of service connections to these lists, based on current information available.

- 1986 Population 420 persons (est.) 125 service connections, 1400 students
- 2006 Population 800 persons (est.) 270 service connections, 1700 students
- **2017 Population 615 persons (est.) 246 service connections, 825 students**

There were 4 different water source options identified and evaluated, including:

- Screened Wells at D. Church Property
- Induced Infiltration at Herbert River Flood Plain
- Induced Infiltration at Meander River Flood Plain
- Sinkhole at Lakewood Subdivision

An estimated potable water supply demand (not including fire flow demands) was evaluated to be 250,000 L/day. This equated to the following demand requirements based on the projected growth and development within the Village of Brooklyn:

- 1986 (actual) 1.9 L/s, with a peak demand 10.0 L/s
- 2006 (est.) 2.9 L/s, with a peak demand 15.0 L/s

The four water source options were evaluated for projected capital cost for testing and development. Note that in 1986 there was no cost allowance for water treatment, other than simple chlorination (costs to construct and operate a water treatment plant were not included in these estimates). Legislation has changed significantly, so that under the current water quality regulations, a water treatment plant and reservoir system, along with post-storage chlorination would all be required for potable water distribution to the community.

Source of Supply (costs at 1986 Dollars, chlorination only)	Source of Supply Cost Estimate	Distribution Cost Estimate (incl. Fire Flows)	Distribution Cost Estimate (no Fire Flow Protection)
D. Church Property	\$210,000	\$3,434,700	\$1,807,200
Meander River Floodplain	\$263,800	\$3,488,500	\$1,861,000
Herbert River Floodplain	\$275,000	\$3,499,700	\$1,872,200
Lakewood Subdivision	\$144,000	\$3,368,700	\$1,741,200

The Village of Brooklyn was further divided into 4 areas for suitable phased implementation and distribution to potential service customers. Estimated costs for water main installation only (not including installation of laterals or source of supply capital development costs) of these water services is summarized below. Phase areas are shown in the attached updated Village map. Due to buildout within the village of Brooklyn since the 1995 study, staff has included additional nearby residences for consideration as a potential Phase V on the updated map.

Phase Area	Est. # Laterals	Municipal Cost Estimate (incl. Fire Flows)	Municipal Cost Estimate (no Fire Flow Protection)
Phase I	84	\$2,419,600	\$1,000,125
Phase II	10	\$314,000	\$195,400
Phase III	23	\$359,800	\$277,300
Phase IV	8	\$131,300	\$111,900

In addition to these capital costs, there were water distribution operating costs estimated to be \$11,500 per year (for fire flow protection) and \$13,500 (for water supply only). Combining residential units with commercial units and school population units, resulted in 240 equivalent units for 1986, increasing to a potential 364 equivalent units in 2006. Based on current 2017 population distribution in Brooklyn, would equal approximately 300 equivalent units.

In March 1989, Porter Dillon was contracted to perform a drilling analysis of the source water properties as identified in the 1986 report. It was concluded that due to the existing pasture at the D. Church property was not justified due to potential groundwater contamination. Secondly it was concluded that the other three sites (Herbert River, Meander River and Lakewood Subdivision sites) all yielded poor results for adequate water supply.

In March 1995, Gerry Isenor of Porter Dillon was also contracted to provide updated water distribution cost estimates for each of the phased areas. Summary of these distribution costs are listed below.

Phase Area	1995 Municipal Cost Estimate (incl. Fire)
Phase I	\$1,709,688
Phase II	\$300,625
Phase III	\$386,813
Phase IV	\$141,563
Water Distribution Phases I, II, III & IV:	\$2,538,689
Water Treatment Plant Cost:	\$1,200,000
Total Estimated Cost:	\$3,738,689

It should be noted that a water system is not required to provide fire protection if the community does not want the added expense. Based on a new system currently being installed near Pugwash, Cumberland County; their system has been designed to provide only potable water. Their Municipality did an analysis of the cost of providing fire protection, with an added capital cost at almost \$2,000,000. Their Municipality's fire services director studied the performance of the local fire service and its records of fires over recent years, and it was decided a water utility based fire protection system provided little additional benefit to the Pugwash area.

Similarly, there is no known environmental requirement to link municipal sewer with supplied water systems. Council may wish to consider the feasibility of installing both municipal sewer and water systems if a future feasibility study was decided based on the understanding that over all build costs would be less.

For comparison, approximate cost for construction of the Hantsport Water Treatment Plant (plant infrastructure only), built in 2004 was \$2,552,374. Total capital cost for the current Pugwash potable water system is \$14.9M and does not include fire protection services. The Pugwash system includes a 20-km transmission pipeline, wellfield infrastructure, water treatment plant, storage reservoir, and water meters at every service.

Other water sources:

It is understood that other potential sources of water supply have been identified for testing and development near the Wentworth Creek or the Miller Creek areas. One suggestion has been to simply hook up to the Wentworth line which obtains its potable water from the Town of Windsor Water Utility. If the Town were interested, a feasibility study would have to be conducted to determine whether the Windsor system could supply sufficient potable water on a permanent basis or recommend alternate options to sustain the supply. For consideration of other new sources of untreated water, staff believe that capital cost and operating allowances would be required for the addition of pumping stations, transmission

main, water treatment facility, potable water storage reservoir and land acquisition similar to the water treatment plant infrastructure and water transmission line in Hantsport for the Hantsport Water Utility. A feasibility study would need to be completed.

3. How could the project be financed? Who would pay?

Water Utilities operated by the Municipality of West Hants are user based. That is, users of the services pay the entire cost of the services they receive. Utilities are regulated by the Utility and Review Board which is the governing body. They have authority to approve a new utility, modify or extend its service area or decommission it. The UARB sets the rates and operating regulations put forward by Council.

In 1985, there was an estimated 125 potential users of the water system who would have been 100% responsible for the cost of creating and operating the system. Using the 1995 cost estimates of \$3,738,689 and assuming an additional 175 new users of the system for a total of 300 users, each user would have been responsible for capital costs of construction of \$13,000 (1995 dollars) plus the cost of installing their own lateral line from the main water line. The costs for installation would vary depending on the location of the nearest structure to the lateral connection. Based on a 3/4" polyethylene line with a 100-foot water service for a residential installation; would have an estimated installation cost of \$2000. On-going operating and future capital replacement costs would then be collected through a base rate (for meter size) and water consumption.

The Municipality, on behalf of the Utility, would fund the construction and development costs likely through gas tax and borrowing, with the intent of recouping the upfront costs, over time from the water service users. This might suggest Council adopt a mandatory "tie in" provision to the service to ensure all capital construction costs are reimbursed by the users or potential users, rather than burdening West Hants residents who would not receive the benefit of the service. However, Council can choose to offset costs from the other funds and/or the general rate, rather than limit it to the end user. This approach would also require a policy change.

Summary:

Council can, by changing the MPS, consider providing for water services to the Brooklyn area. This significant piece of work could be done as an in-house amendment or Council could defer the discussion as part of the MPS review which is currently in its planning stage.

Following changes to the MPS, Council could then move forward, address other necessary amendments to policy and instruct staff to undertake the necessary studies to quantify the feasibility of a newly identified source of water and associated costs to construct and create a new water utility for the Brooklyn area.

Council may first wish to determine the interest of the residents located in the Brooklyn area based on the information currently available. As well, other residents in West Hants may wish to provide input to the funding opportunities envisioned by Council.

Financial Implications:

There are no financial implications associated with the filing of this report.

Attachments:

Brooklyn Water Service Map (updated Phased Project Plan)

Report Prepared by: _____
Brad Carrigan, P.Eng., Director of Public Works

Report Reviewed by: _____
(Martin Laycock, Director of Finance)

Appendix D

PAC Brooklyn Village MPS/LUB Amendments re Water and Sewer Staff Report - February 20, 2003

STAFF REPORT

TO: WEST HANTS PLANNING ADVISORY COMMITTEE
FROM: PLANNING DEPARTMENT
DATE: FEBRUARY 20, 2003
SUBJECT: BROOKLYN VILLAGE - MPS/LUB AMENDMENTS RE WATER AND SEWER

For a number of years, residents of Brooklyn—particularly those in the village core area—have experienced problems with pollution from malfunctioning on-site sewage systems. Many are unable to install new systems to correct the problems because of small lot sizes, proximity to water courses, or prohibitive costs. In addition, water quality and supply are problems for some people. Recently, a number of residents formed the Brooklyn Sewer & Water Action Committee to request that the Municipality provide municipal sewer, and possibly water, services to the village. West Hants Environment Committee has asked the Planning Advisory Committee to study possible amendments to the *Area One Municipal Planning Strategy (MPS)* that would allow for the installation of services in Brooklyn.

Brooklyn is designated a Village under the MPS. Policy 9.4.4 states: *It shall be the policy of Council that municipal water and sewer services will not be considered in a Village designation.* Policy 9.4.5 provides, however: *Notwithstanding Policy 9.4.4, a Village designation may be considered for a Growth Centre designation subject to policy 7.5.3. Municipal water and sewer services are to be permitted in Growth Centres.*

The Growth Centre designation, which applies only to the Three Mile Plains-Hillcrest Drive area, is intended to accommodate most of the future urban development in the Municipality. Zones in the Growth Centre allow for a much denser form of development than is customary in rural, unserviced areas which depend on individual on-site sewage disposal systems and wells. For example, the minimum lot size for a serviced single family residential lot in the Growth Centre is 7,000 sf, with road frontage of 70 ft. A lot in Brooklyn's Village Residential zone, however, requires double that amount of frontage. Lot area is dependent on NS Dept. of Environment's requirements for on-site sewage systems, but even the best site conditions require a lot size of more than 29,000 sf (0.66 acres).

In addition to density, commercial zones in the Growth Centre designation allow for an almost unlimited range of commercial uses, including such things as shopping centres, cinemas, nightclubs, taverns, etc. Although some of these uses are already possible in Brooklyn under the current plan policies (subject to a rezoning process), the lack of sewer and water services, among other things, has meant this type of development has not been feasible in the Village. The availability of services, however, could make Brooklyn much more attractive for more urban style development.

At a community Plan Review meeting in Brooklyn in the fall of 2002, several residents suggested that Brooklyn should not be treated the same as the Three Mile Plains-Hillcrest

Drive Growth Centre. They stressed the importance of protecting the unique village atmosphere.

Planning Staff agree that the current Growth Centre requirements should not be applied to Brooklyn. The village has a character which is quite different from Three Mile Plains or Garland's Crossing, or even Falmouth. In particular, the commercial zones which apply in the Growth Centre may not be suitable for Brooklyn. It will be important to tailor the commercial zoning requirements to ensure that future commercial development is appropriate in size, type and scale for the Village.

It is inevitable, however, that if services become available, the pattern of both residential and commercial development will change in Brooklyn. This will be particularly noticeable with residential development. For example, servicing is prohibitively expensive in areas with large lots and spread-out development where there are fewer users to share the cost. As a result, lot sizes will have to be smaller, allowing for more dense development.

Possible servicing approaches:

1. Provide services only to a relatively small defined area where problems are being experienced; i.e., the general area of the Village Core identified in the current planning documents (see **Map 'A'**); or
2. Provide services to a wider area of Brooklyn; i.e., the general area identified by the Brooklyn Sewer and Water Action Committee (see **Map 'B'**).

POSITIVE AND NEGATIVE ASPECTS OF SERVICING APPROACHES	
APPROACH 1: Restrict Services to Area with Environmental Problems	
Positive	Negative
<ul style="list-style-type: none"> - little change to existing development pattern and village character - pressure to extend services reduced because policy clearly states that services are only to be provided where necessary to correct problems 	<ul style="list-style-type: none"> - limited opportunities for new subdivision and higher density development
APPROACH 2: Provide Services to a Wide Area	
Positive	Negative
<ul style="list-style-type: none"> - village more attractive to new development - expanded service area means more land available for development opportunities 	<ul style="list-style-type: none"> - potential major changes to development pattern and village character - pressure to extend services beyond initial servicing boundary will increase with growing development pressure

The policy and regulations included in the planning documents will depend on the direction chosen by Council and residents of the Village. If the first servicing approach is taken, amendments to the planning documents could be relatively simple, with few changes in the overall direction of the policies for the Village. One policy change would be to state that municipal water and sewer services will be provided only as necessary to correct existing environmental problems. The policy should also clearly state that services will not be extended beyond a servicing boundary that might roughly equate to the existing Village Core area. This limited servicing approach would allow a few opportunities for intensification of development or subdivision of larger properties in the core area, but would not open up a large amount of land for higher density development. The zoning provisions in the land use by-law would be amended to allow for smaller lot sizes where services are available. There should be no need to amend the permitted uses in the commercial zones because the two commercial zones that apply to the Village Core are already relatively limited in the types of uses they permit.

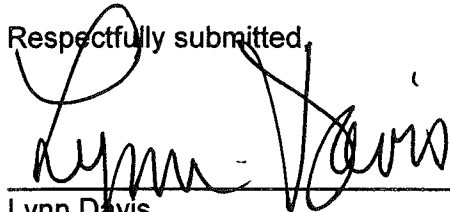
If the second servicing approach is followed, a much larger area would be opened up for potential new development. Changes would be required to the commercial zone requirements to ensure that any new commercial development that occurs is appropriate in type, size and scale for the village. Changes would also be required to the residential zones to allow for smaller lots—probably in the range of 70 ft. frontage and 7,000 sf in area. Currently, multiple residential consisting of more than two units, is not permitted in the Village. If services are available, however, it would make sense to allow for higher density development to make the most efficient use of the infrastructure.

CONCLUSION

This report has outlined some of the key planning implications of two possible servicing approaches for the Village of Brooklyn. As the discussion suggests, the servicing approach chosen, or even whether or not to provide central services, will influence the policy direction taken in the planning documents.

In the end, the servicing decision will likely be made based on an analysis of costs and the willingness of residents of the serviced area to pay those costs. Currently, the West Hants Director of Public Works is preparing terms of reference for a pre-design study that should provide the cost information necessary to make this decision. It may be premature to attempt to develop new planning strategy policy and land use by-law regulations until there is a better indication of which servicing approach, if any, might be chosen. In the meantime, however, Planning Advisory Committee may wish to schedule a special public meeting with Brooklyn residents to discuss the planning implications of each of the servicing approaches and to seek further feedback on the direction that might eventually be taken in the planning documents.

Respectfully submitted,



Lynn Davis
Director of Planning



WEST HANTS
NOVA SCOTIA



WEST HANTS
NOVA SCOTIA

Municipal Planning Strategy Criteria
Presentation to Planning Advisory Committee
November 21, 2019

Planning Documents

Municipal Planning Strategy (MPS)

- ▶ Sets out what Council intends for development

Land Use By-law (LUB)

- ▶ Regulations to achieve the goals of the MPS

Subdivision By-law

- ▶ Regulates the division and addition of land parcels

All planning documents are required in the MGA to be reviewed every eight (8) years

Contents

- Application Examples
- Role of Advisory Committees versus Council
- Public Information Meetings versus Public Hearings
- NSUARB Appeal Examples
- Criteria Examples from Other Municipalities
- Criteria Options Pros and Cons

Application Examples

Application Examples

1. MPS Amendment (Text or Map)
 - What is good planning practice? and What does the community and neighbourhood want to see?
2. LUB Amendment (Text or Map)
 - The **ONLY** measure for considering this application is whether it meets the criteria, the intent and the policy(s) of the MPS
3. Development Agreement
 - If it meets MPS criteria it should be approved
 - There is room for negotiation, but this is limited by the MGA in terms of what can and cannot be regulated
 - Enforced by the Development Officer

1. MPS Amendment

- ▶ Changes to:
 - ▶ the policies of Council
 - ▶ the general intent of development within the Municipality
 - ▶ what Council believes is in the best interest for the Municipality
 - ▶ the Statements of Provincial Interest
- ▶ Includes a text and/or map amendment
- ▶ Can be amended at any time by Council
- ▶ May require a concurrent LUB text amendment
- ▶ No appeal period
- ▶ Requires approval from the Minister

**For MPS
Amendments,
a Planner
considers...**

Diversity /
Inclusion

Sewer / Water
Services

Public Values
and Opinions

Economic
Opportunities

Transportation
Infrastructure

Provincial / Federal
Requirements

Fire and Emergency
Services

Public Interest

Environmental Impacts

Conflicts with
Neighbouring Uses

1. MPS Amendment Cont.

- ▶ Examples of recent MPS Amendments in West Hants:
 - ▶ Cannabis in West Hants
 - ▶ Designating a Commercial Development District (Bill 177)
 - ▶ Allowing indoor storage of RV's accessory to agricultural operations

2. LUB Amendment

- ▶ Can be a text and/or map amendment
 - ▶ Map amendment applications are also known as rezoning applications
- ▶ Applications must meet criteria of the MPS policies
- ▶ Staff and PAC evaluate the application based on the criteria
- ▶ If it meets the criteria it must go to Public Hearing (PH)*
- ▶ If a Public Hearing is not advertised within 120 days of receiving a complete application, it is deemed a refusal by Council (specified in the MGA)
- ▶ If approved by Council, there is a 14-day appeal period to NSUARB

*as advised by municipal solicitor

2. LUB Amendment Cont.

- ▶ Examples of recent LUB Amendments in West Hants:
 - ▶ Pioneer Drive from General Resource to Rural Commercial
 - ▶ 269 Town Road from Institutional to Residential
 - ▶ 12 Bonnie Lane from Rural Residential to Hamlet Industrial
 - ▶ 80 Robert Drive from Rural Residential to Hamlet Industrial

3. Development Agreement

- ▶ Contract between Council and property owner to permit a specific use of land
- ▶ Applications must meet criteria of the MPS policies
- ▶ Staff and PAC evaluate the application based on the criteria
- ▶ If it meets the criteria it must go to Public Hearing (PH)*
- ▶ If approved by Council, there is a 14-day appeal period to NSUARB
- ▶ How it is administered and enforced should be a major consideration when developing restrictions; the Development Officer administers the LUB and Development Agreements

*as advised by municipal solicitor

3. Development Agreement Cont.

- ▶ Examples of recent Development Agreements in West Hants:
 - ▶ 50 Lynch Road to allow a campground
 - ▶ 329 Dyke Road to allow a distillery
 - ▶ 194 Falmouth Dyke Road to allow a chiropractic clinic

Evaluation of an Application

Planners assess applications on:

- ▶ What the applicant applies for
- ▶ If the uses are permitted as-of-right in the current zone
- ▶ If there is a policy in the MPS that allows Council to consider the application to allow the uses by rezoning or development agreement
 - ▶ the LUB **must** list the possible development agreement and refer to the MPS policy
- ▶ If the proposal meets the criteria of the MPS policy
 - ▶ Stakeholder input is requested to help determine this

Not Considered

Planners do not assess applications on items such as:

- ▶ Applicant (individual or corporation, history)
- ▶ Viability of their business plan
- ▶ Property values or potential effects to property values
- ▶ The taxes a property owner pays to the Municipality
- ▶ Ownership of buildings on the property (i.e. condos, rental)
- ▶ Speculation as to the future use of the property(s)

Questions?

Advisory Committees vs. Council

Advisory Committees vs. Council

PAC or HAAC

- ▶ Recommends to Council based on the criteria of the MPS
- ▶ Can recommend that it does not meet the criteria
- ▶ The recommendation goes to Council for consideration
- ▶ In other jurisdictions, PAC may not include all Councillors

Council

- ▶ Makes final decisions
- ▶ Can decide it does not meet the criteria

Public Meetings

Public Participation Program

- ▶ The MGA requires Council to adopt a public participation program
- ▶ The *WH Public Participation Program* specifies that:
 - ▶ *“Council resolves to seek the views of the public and encourage public participation regarding any comprehensive review by developing and implementing a public engagement plan to inform the public and receive comments from the public”*

Public Information Meeting

- ▶ First opportunity for:
 - ▶ the public and the PAC to ask questions of planning staff and the applicant regarding the application
 - ▶ the PAC to review the application and ensure it meets the criteria
- ▶ In West Hants, PAC makes its recommendation following the Public Information Meeting

Public Hearing

- ▶ MGA states Council must hold a Public Hearing before making a planning decisions
- ▶ Second opportunity for the public to ask questions of planning staff and the applicant regarding the application
- ▶ Council reviews the application and the recommendation from the PAC
- ▶ Councillors shall receive no new information regarding a planning matter once a Public Hearing is complete

Advertising of Public Meetings

- ▶ Advertisement of Public Hearing shows Councils **intent to amend** the planning documents, unless Council receives additional information at the Public Hearing
- ▶ Advertising of any public meeting will be in a local paper
- ▶ Property owners within 300' of the subject property will be notified by mail

Questions?



Nova Scotia Utility and Review Board

Purpose

- ▶ The NSUARB is an independent quasi-judicial body
 - ▶ has the right to hold hearings on, and conduct investigations into planning matters and to make decisions
 - ▶ It exercise powers and functions similar to a court or a judge
- ▶ It reports to the Nova Scotia Legislature through the Department of Finance

Appeals

- ▶ The MGA *“permits appeals to the NSUARB from decisions of municipal councils respecting land-use by-law amendments, rezonings and development agreements and from decisions of development officers refusing to issue development permits or to approve plans of subdivision”*
- ▶ The NSUARB also hears appeals from decisions of heritage officers or municipal councils relating to heritage properties, under the *Heritage Property Act*

Notice of Appeal

- ▶ In order to start an appeal, a notice of appeal must be filed with the NSUARB within 14 days of the notice of approval or written notice of council refusal

Aggrieved Person

- ▶ In addition to the person who filed the initial application, any "*aggrieved person*" may appeal the decision of council or the development officer
- ▶ An "*aggrieved person*" is defined in the MGA but typically involves an individual or group of individuals who believes the decision of the council will adversely affect the value, or reasonable enjoyment, of the person's property or the reasonable enjoyment of property occupied by the person(s)

Appeal Decision

- ▶ The Board cannot allow an appeal unless it determines **that the decision of council does not reasonably carry out the intent of the municipal planning strategy**
- ▶ The Board must confirm council's decision if it is based on a reasonable interpretation of the intent of the municipal planning strategy, even if the appellant can identify a different interpretation which is contrary to council's decision

Appeal Examples

- ▶ Staff negotiate with the applicant based on the criteria regarding a DA or an amendment to determine the best method to meet the criteria
- ▶ Staff usually present applications to the committee that they are recommending in favour of
- ▶ All appeals were granted or dismissed based on whether the decision of council was **consistent with the intent of the Municipal Planning Strategy**
- ▶ Varying degrees of success

CBRM (2003)

- ▶ Rezone from Single Unit Residential to Business Office
 - ▶ planning staff did not recommend approval;
 - ▶ Council refused the application;
 - ▶ appealed by applicant;
 - ▶ appeal was dismissed.
- ▶ The NSUARB *"is persuaded by the evidence of the Planner. ...it was appropriate for Council to consider the potential for undue disturbance that traffic and noise generated from the use might cause, in order to properly assess the possible impact of the zoning change."*

CBRM (2003) Cont.

- ▶ **Policy C-15** *It shall be a policy of Council to allow the establishment of Professional and Business Office uses in a residential or future residential land use designation only by amendment to the Zoning By-law and through the creation of a Professional and Business Office Zone. In considering such amendments, Council shall have regard for the following criteria:*
- ▶ e) *that the traffic and noise generated from the use will not cause **undue disturbance** to surrounding uses;*

East Hants (2003)

- ▶ Rezone from Single Unit to Two Unit Residential
 - ▶ planning staff recommended approval;
 - ▶ Council refused the application;
 - ▶ appealed by applicant;
 - ▶ appeal was granted.
- ▶ The letter of refusal from the Municipality cited:
"concerns about potential impacts on property values; impacts from additional traffic on the road in the subdivision; compatibility of building design with the standards set out in covenants; and the strong opposition from the public."

East Hants (2003) Cont.

“Dealing briefly with the four reasons of Council:

- ▶ *1. The impact of a rezoning application on property values is not a factor addressed in the MPS.*
- ▶ *2. Department of Transportation and Public Works and the Municipality’s transportation engineer did not have concerns about traffic.*
- ▶ *3. Compliance with restrictive covenants does not relate to any policy contained within the MPS and is not a matter within the Board’s jurisdiction.*
- ▶ *4. The public concerns were addressed in the analysis.”*

East Hants (2003) Cont.

“Additionally, the Board finds that on its review of the MPS, the MPS makes it clear that:

- ▶ *1. The Municipality is committed to providing a range of housing options to meet community needs;*
- ▶ *2. The R2 zoning is considered low density residential as is R1, and that these two zones are seen as compatible;”*

West Hants (2004)

- ▶ Development agreement to permit a truck repair shop
 - ▶ planning staff recommended approval;
 - ▶ Council refused the application;
 - ▶ appealed by applicant;
 - ▶ appeal was granted.
- ▶ The NSUARB stated that *"While the Board is sensitive to the concerns of residents it notes that the residents are within an area that the Municipality has defined as a Growth Centre and where commercial growth is to be encouraged"*

West Hants (2004) Cont.

- ▶ *(cont.) "...The residents may consider this to be a fault in the plan, but the Board must interpret the MPS as it exists, not as the residents might wish it to be."*
- ▶ *"A review of the transcripts of the Public Hearing and the minutes of the Council meeting indicates Council appear to reach its decision based on the concerns of residents whose concerns "should be listened to". While public input is essential to the planning process, it must be considered in the context of the policies contained within the MPS."*

West Hants (2004) Cont.

- ▶ *"Council's reasons for the refusal include concerns about noise, diesel fumes, safety issues with trucks backing out onto the highway, and hours of operation."*
 - ▶ Buffering dealt with the noise and fumes arguments
 - ▶ Turning area provided to deal with safety issues
 - ▶ Hours were dealt with in the development agreement

Truro (2011)

- ▶ Development agreement to allow a 3-unit addition to a 3-unit building
 - ▶ the planning staff recommended approval;
 - ▶ Council approved the application;
 - ▶ appealed by neighbours;
 - ▶ appeal was granted.
- ▶ The NSUARB *“finds Council’s decision to approve the Agreement for an addition which maximizes the development of the property does not reasonably carry out the intentions of Truro’s new MPS”*

Truro (2011)

Policy IM-22 *When considering a development agreement application it shall be a policy of Council to have regard for the following matters:*

- ▶ *b) compatibility of the development with adjacent properties in terms of height, scale, lot coverage, density, and bulk;"*
 - ▶ *The lot coverage was beyond the 50% permitted*

Truro (2012)

- ▶ Development agreement to allow a nine-unit apartment
 - ▶ the planning staff recommended approval;
 - ▶ Council refused the application;
 - ▶ appealed by applicant;
 - ▶ appeal was denied.
- ▶ The NSUARB finds that *“with all of the significant issues raised by Council (traffic; neighbourhood integrity; scale, size and density; backyard development and close proximity to neighbours; and contrary to two specific policies), Council, in refusing this Agreement, has reasonably carried out the intent of its MPS as a whole”*

Truro (2012)

- ▶ *“Council decided to refuse the Agreement for the proposal on the property after considering a number of significant issues raised by its staff on the basis that it did not reasonably carry out the intention of its MPS policies and specifically cited the reasons of:*
 - ▶ *traffic;*
 - ▶ *neighbourhood integrity;*
 - ▶ *scale, size and density;*
 - ▶ *a backyard development;*
 - ▶ *its close proximity to neighbours;*
 - ▶ *and contrary to Policies R-37 and IM-22.”*

CBRM (2018)

- ▶ Rezoning to allow a campground
 - ▶ the planning staff recommended approval;
 - ▶ Council approved the application;
 - ▶ appealed by neighbouring property owners;
 - ▶ appeal was granted.
- ▶ The NSUARB found *“Council interpreted a policy in a manner which is not reasonable because it failed to carry out the clear direction set out in the Policy itself”*

CBRM (2018)

“Policy 17.e states that in assessing whether zone provisions provide reasonable protection to a residential development in proximity, the proposal is to be evaluated from the perspective of the following criteria:

- ▶ *visual compatibility; noise emanating from the development.*

“The Board finds that it would provide no protection whatsoever to the properties located below it”

“Policy 17.e states that where the zone provisions do not provide reasonable protection to residential development in proximity, the application shall be denied”

Questions?

Criteria Examples

Criteria Examples from Other Municipalities

- ▶ Reviewed eight (8) Municipal Planning Strategies
- ▶ Categories of policies
 - ▶ *Compare* - not compatible with the neighborhood
 - ▶ *Inform* - require additional studies from the applicant
 - ▶ *Restrict* - specifically prohibit or make it very difficult to approve
 - ▶ *Resolve* - policies that address conflict situations

Compare Example

- ▶ The impact of the proposal on **community character** and **form**
- ▶ No development shall **compromise or overwhelm** the **rural residential development focus** of the zone or **rural character** of the designation
- ▶ The proposal is not premature or inappropriate by reason of **negatively affecting the enjoyment of established residences**
- ▶ The proposal will not **significantly alter the existing character** or **the stability of the surrounding neighbourhood**

1. Compare

Pro	Con
Provides flexibility to address concerns related to compatibility	How is "community character" or "rural character" defined?
Prioritizes existing uses in terms of decisions making	How do you manage conflicting views in terms of what "community character" is?
	How do staff evaluate if the use aligns with the "community character"?
	It could prevent positive change / revitalization
	Restricts uses to those that are similar to what is existing

Inform Example

- ▶ The applicant has **submitted studies** evaluating and identifying **potential hazards** and **sources of nuisance** (e.g. noise, dust, environmental impact)

2. Inform

Pro	Con
More information can help assure residents that are uncertain about proposals	Studies costs money and require experts readily available
If a negative impact is identified, it could be addressed with an amendment	Requiring studies could significantly hinder development
Provides evidence to refuse an application	It could favour the wealthy developers
	How would you determine which situations warrant an additional study?

Restrict Example

- ▶ Mobile homes shall be permitted unless:
 - ▶ **50%** of residential buildings **are single detached dwellings**; and
 - ▶ **Average assessed value** of single detached dwellings in a neighbourhood, or subdivision is **\$100,000 or more**; or
 - ▶ **75%** of the single detached dwellings are **1.5 storeys** or greater, in which case the average assessed value of single detached dwellings is **\$75,000 or greater**

3. Restrict

Pro	Con
Residents know exactly what is and is not permitted in their neighbourhood	Significantly impacts development potential
Could address some of the concerns raised at previous meetings (i.e. impact on property assessment values)	It could favour the wealthy or more established neighbourhoods
	Restricts uses to those that are similar to what already exist
	May not be legal/ hold up in a UARB Hearing
	Exclusion is not based on the Public Interest

Resolve Example

- ▶ A landowner wants to rezone their land to permit a specific proposal that is a **smaller scale** than the **full range of uses** permitted in the new zone
- ▶ The community **may not be concerned** about the specific proposal but is concerned about **all of the other uses** that would be permitted on the site
- ▶ The landowner may **voluntarily** opt to use a **development agreement** to limit development rights for the specific proposal

4. Resolve

Pro	Con
Can address specific concerns raised by the public in the development agreement	The applicant might not voluntarily choose this route
Address concerns related to very open / general zones (i.e. General Resource (GR) zone)	Every change to the proposal would require an amended application
	Development Agreements must be administered by the Development Officer and checked annually
	Each Development Agreements cost the Municipality solicitor fees

Questions?



WEST HANTS
NOVA SCOTIA