

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

From: **Planning Staff (EDPC)**

Date: **October 6, 2022**

Reference: **Request to amend the Chéticamp Land Use By-law to allow home occupations to use 100% of their accessory buildings**

Recommendation:

Planning Staff recommend that Municipal Council **approves** an amendment to the Chéticamp Land Use By-law to allow home occupations to use 100% of their accessory buildings with the stipulation that this permission would apply to accessory buildings with a floor area up to 274 meters squared or 900 square feet, where accessory buildings exceeding that floor area would only allow the home occupation to use 50% of the floor area.

Description	
Designation:	Rural Residential
Current Zoning:	Residential Rural (RR-1)
PID of Applicant:	50100031

Background Information:

The Eastern District Planning Commission received a complete application on August 17th, 2022, from Stephanie Newland requesting an amendment to the Chéticamp Land Use By-law to allow home occupations to use 100% of their accessory buildings.

The requested amendment to the Land Use By-law was submitted to allow for the applicant to use the entirety of their accessory building for their home occupation. The applicant does catering and runs a pop up kitchen. The facility they intend to have in their accessory building is only to prepare food in a food safe environment. There will be no sit-down function or restaurant style feature for this facility.

The applicant is looking to amend the Chéticamp Land Use By-law to allow home occupations to use 100% of their accessory buildings. The applicant is seeking the rezoning to allow for future 100% use of an accessory building for their home-based business. Presently, the Chéticamp Land Use By-law does not allow an accessory building to be solely occupied by a home-based business use as per Section 5.10(d):

“d) the home occupation does not use more than twenty-five (25) percent of the total floor area of the residence nor fifty (50) percent of the accessory buildings, but in no case shall each building

be solely occupied by a business use;”

Analysis:

According to the Section titled “Amending the Land Use By-law” of the *Chéticamp Municipal Planning Strategy*:

“The Chéticamp Plan Area Land Use By-law is designed to implement this Municipal Planning Strategy and is expected that it will be amended from time to time, although in conformity with the Strategy. Examples of situations which might create a need to amend the Land Use By-law include:

- *A request by an individual to have the By-law amended (e.g map amendment or text amendment); ... “*

An amendment must be in conformity with the intent of the Chéticamp Municipal Planning Strategy.

The Section titled “Home Occupations” states: *“Policies have been designed to permit these developments within residential neighborhoods, provided the scale remains small, and the home occupation remains unobtrusive...”*

Furthermore, Policy 5-10 asserts:

“It shall be the policy of Council to permit home occupations, neighbourhood convenience stores, barber shops and hairstylists, small sales and professional offices, artisan workshops, backyard mechanics (where minor repairs are undertaken), offices for technicians such as plumbers, electricians, and other construction related trades, and small engine repair (lawnmowers and chainsaws, etc.) in the Rural Residential designation, subject to the Land Use By-law...”

Such policies support the consideration of an amendment to the *Land Use By-law* to allow home occupations to use 100% of their accessory buildings.

Given these policies and the fact that this proposal does not meet the criteria for a Municipal Planning Strategy amendment (Policy A-17, see Appendix A), amendments to the *Chéticamp Municipal Planning Strategy* are not required.

The amendment is consistent with and enabled by the *Municipal Planning Strategy* provided that it does not contradict any other policies within the *Municipal Planning Strategy* or the *Land Use By-law*. There are no known conflicts with other By-laws or policies.

Policy A-3 (b) of the *Chéticamp Municipal Planning Strategy* is not applicable to this proposed text amendment to the *Chéticamp Land Use By-law*. The Subsection asks for comment from other

Departments regarding a site-specific proposal which this is not. This is a proposed general text amendment to the Land Use By-law. Many of the matters cited in Policy A-3 (b) must be assessed on a site-by-site case.

Policy A-3 (C) states Council shall have regard to “the controls in the Land Use By-law reduce conflict with any other adjacent or nearby land use by reason of: i) type of use; ii) emissions including air and water pollutants and noises; iii) height, bulk, and lot coverage of the proposed building; iv) traffic generation, access to and egress from the site and parking; v) open storage; vi) signs; and vii) similar matters of planning concern. Many of the matters listed are addressed by the *Chéticamp Land Use By-law*. Where the *Chéticamp Land Use By-law* does not address these matters, Staff have found other By-laws under Inverness County’s By-laws that address them. A full list of each corresponding section of the *Chéticamp Land Use By-law* and other Inverness County By-laws addressing these matters can be found in Appendix A.

Conclusion:

Analysis of the site completed through a review of the *Chéticamp Municipal Planning Strategy* and *Land Use By-law* show that the proposed Land Use By-law amendment to allow home occupations to use 100% of their accessory buildings is in-line with the policy of both documents. After thorough consideration, Staff are advising that the Municipality approve an amendment to the *Chéticamp Land Use By-law* permitting home occupations to use 100% of their accessory buildings with the stipulation that this permission would apply to accessory buildings with a floor area up to 274 meters squared or 900 square feet, where accessory buildings exceeding that floor area would only allow the home occupation to use 50% of the floor area.

Motion for PAC

Based upon the staff recommendation, the proposed motion for PAC is as followed:

That the Planning Advisory Committee recommends to Municipal Council to approve the proposed Land Use By-law amendment attached in Appendix B, and;

That Municipal Council give First Reading and set a Public Hearing date.

Motion for Council

Based on a positive recommendation from the PAC, the proposed motion for Council is as followed:

That Municipal Council give First Reading and set a Public Hearing date to approve the proposed Land Use By-law amendment attached in Appendix B.

Appendices

Appendix A: Evaluation Criteria and Policy

Appendix B: Proposed Land Use By-Law Amendment

Appendix A: Evaluation Criteria and Policy

Policy A-17	
... An amendment to this strategy shall be required:	
(a) where any policy intent is to be changed;	Proposal conforms with Strategy intent
(b) where a desired zoning map amendment does not conform to the Generalized Future Land Use Map; and can be shown through studies to be desirable;	No zoning map amendment
(c) where detailed area or functional strategies are desired to be incorporated into this strategy.	No strategy being incorporated

Policy A-3	
In considering amendments to the Land Use By-law, in addition to all other criteria as set out in various policies of this Strategy, Council shall have regard to the following matters:	
(a) That the proposal is in conformity with the intent of this Strategy and with the requirements of all other municipal By-laws and regulations;	Complies No known conflicts with other By-laws or policies
(b) That the proposal is not premature or inappropriate by reason of:	Oriented to Site-Specific proposals
i) the financial capability of the municipality to absorb any costs relating to the development;	N/A
ii) the adequacy of sewer services and utilities or if services are not provided, the adequacy of physical site conditions for private on-site sewer and water systems;	N/A
iii) the adequacy and proximity of school, recreation, and any other community facilities;	N/A
iv) the adequacy of road networks in, adjacent to, or leading to the development; and	N/A
v) the potential for the contamination of watercourses or	N/A

the creation of erosion or sedimentations;	
(c) The controls in the Land Use By-law reduce conflict with any other adjacent or nearby land use by reason of:	
i) type of use;	Part 5.10 of LUB
ii) emissions including air and water pollutants and noises;	No LUB controls By-Law 41 – Noise Control By-Law 8 – Mischiefs & Nuisances
iii) height, bulk, and lot coverage of the proposed building	Part 15.2 No LUB for bulk or lot coverage
iv) traffic generation, access to and egress from the site and parking;	Part 5.10 (c) & (e) of LUB
v) open storage;	Part 5.10 (h) of LUB
vi) signs; and	Part 5.10 (f) & Part 6 of LUB
vii) similar matters of planning concern.	Complies
(d) Suitability of the proposed site in terms of steepness of grades, and/or location of water courses	No LUB related to grade steepness Part 15 (3), (4) & (5) of LUB

*LUB = Chéticamp Land Use By-Law

Appendix B: Proposed Land Use By-Law Amendment

A BY-LAW TO AMEND THE LAND USE BY-LAW

FOR THE MUNICIPALITY OF THE COUNTY OF INVERNESS

The *Chéticamp Land Use By-law* for the Municipality of the County of Inverness is hereby amended as follows:

1) In Part 5 adding the following text in bold:

Home Occupations

5.10 Nothing in this By-law shall prevent the use of a dwelling or accessory building in residential zone, except in the R-3 and MHP zones, for a home occupation including small sales or professional offices, hairstylists, barber shops, artisan workshops, and backyard mechanics in any dwelling or accessory building, provided that:

- a. the dwelling is occupied as a residence by the operator of the home occupation;
- b. the external appearance of the residence and/or accessory building is not changed by the business use;
- c. adequate parking is provided;
- d. **the home occupation does not use more than twenty-five (25) percent of the total floor area of the residence but can use one hundred (100) percent of an accessory building up to 900 ft², where accessory buildings exceed 900 ft², the home occupation does not use more than (50) percent of the accessory building;**
- e. one off-street parking space, other than that required for the dwelling is provided for every (200 ft²) of floor space occupied by the business or professional use;
- f. there shall be no advertising other than a business identification plate or sign which has a maximum sign area of 5 ft² and which is attached to the main, or accessory building (but not both buildings) and provided also that the provisions of Part 6 of this By-law are satisfied;
- g. no mechanical equipment is used externally except that reasonably consistent with the use of a dwelling or accessory building and;
- h. no open storage or outdoor display shall be permitted.
- i. except in the RR-1 Zone there are no more than two employees or assistants in addition to the operator of the business use.

This is to certify that the resolution of which this is a true copy, was duly passed at a duly called meeting of the Municipal Council of the Municipality of the County of Inverness held on the _____ day of _____ 2022

Given under the hand of the Municipal Clerk and under the corporate seal of the said Municipality this ___ day of _____ 2022

Keith MacDonald, CAO