

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

From: **Planning Staff (EDPC)**

Date: **February 16, 2023**

Reference: **Amendments to the Inverness *Secondary Land Use By-law* apply the existing undersized lot provisions to lots which do not meet both the minimum lot area and frontage and to allow the construction of accessory structures on existing undersized lots.**

Recommendation:

That Inverness County Council **approve** the proposed amendments to the Inverness *Land Use By-law* to apply the existing undersized lot provisions to lots which do not meet both the minimum lot area and frontage and to allow the construction of accessory structures on existing undersized lots (Appendix A).

Background:

At the November 10, 2022 meeting of the Planning Advisory Committee, staff presented a report on detached accessory dwelling units, which raised issues related to the existing undersized lots provisions of the Inverness *Secondary Land Use By-law*. The Planning Advisory Committee requested a staff report focused only on the existing undersized lots provision.

Analysis:

The *Secondary Land Use By-law* contains minimum lot area and frontage provisions for a given lot, which vary depending on the applicable zone. There are some lots which do not meet these minimum requirements due to the fact that they were created prior to the adoption of the By-law. These lots are termed “existing undersized lots.” The *Secondary Land Use By-law* contains provisions which acknowledge these types of lots to ensure they are not rendered undevelopable; without the existing undersized lots provisions, the Development Officer would be unable to issue a development permit.

The current wording of the provision in question states that it applies to lots “...*having less than the minimum frontage or area required by this By-law...*” District Planning has received a legal opinion that a similarly worded provision cannot apply to a lot which does not meet both the minimum frontage and area requirements.

In addition, the provisions state that they apply to vacant lots. Once a lot has a main building constructed, it is no longer vacant. For that reason, the *Secondary Land Use By-law* can be interpreted to prohibit accessory structures from being built on existing undersized lots.

In order to obtain a development permit, proposals on existing undersized lots must meet all other applicable rules of the *Secondary Land Use By-law*, including but not limited to minimum yards and driveway and parking area standards.

Conclusion

Staff is of the opinion that the amendments proposed in Appendix A would improve the clarity of the existing undersized lot provisions. Further, the amendments are in keeping with the intent of the *Secondary Planning Strategy*.

For those reasons, Staff recommend amending the Inverness *Secondary Land Use By-law* to apply the existing undersized lot provisions to lots which do not meet both the minimum lot area and frontage and to allow the construction of accessory structures on existing undersized lots (as provided in Appendix A).

Appendix A: Amending Pages

A BYLAW TO AMEND THE LAND USE BY-LAW FOR THE INVERNESS PLAN AREA

Part 6: Existing Undersized Lots of the *Land Use By-law* for the Plan Area of Inverness is hereby amended by:

- Adding immediately the following text in bold and removing the following text with strikethrough:**
9. Notwithstanding anything else in this By-law, a ~~vacant~~ lot held in separate ownership from the adjoining parcels on the effective date of this By-law having less than the minimum frontage or area **or both** required by this By-law may be used of a purpose permitted in the zone in which the lot is located, and a building may be erected on the lot, provided that all other applicable provisions in this By-law are met.

This is to certify that the resolution of which this is a true copy, was passed at a duly called meeting of the Municipal Council of the Municipality of the County of Inverness held on the _____ day of _____ 2023.

Given under the hand of the Municipal Clerk and under the corporate seal of the Municipality this _____ day of _____ 2023.

Mr. Keith MacDonald, CAO