

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

From: **Planning Staff (EDPC)**

Date: **October 24, 2011**

Reference: **Proposed Amendment to the Baddeck Municipal Planning Strategy and Land Use By-law by Ms. Valarie Sampson to Permit Professional Offices in the Residential Urban (R-1) Zone**

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**Recommendation:**

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

- Permit professional offices in the area designated Residential and in the Residential Urban (R-1) zone, provided that the office is 232 square metres (2,500 square feet) of floor area or less;
- Require that professional offices that occupy a floor area greater than 232 square metres (2,500 square feet) but less than 465 square metres (5,000 square feet) be considered by way of a Development Agreement; and,
- Amend Policy 2.31 to permit professional offices with a gross floor area of less than 465 square metres (5,000 square feet) to locate in the Residential designation.



**Figure A: View of Subject Site from Big Baddeck Road - September 15, 2011**

**Summary of Proposal:**

Designation: Residential  
 Zoning: Residential Urban (R-1)  
 Affected Area: 2.02 ha; 5 acres (Total property is 3.6 ha; 8.9 acres)  
 Site Visit: September 15, 2011  
 Identification: Big Baddeck Road, PID# 85067536

**Information:**

The applicant, Ms. Valarie Sampson, has applied to rezone a portion of the above referenced property to commercial in order to permit a professional office. The front portion of the property lies within the Baddeck Plan Area, while the rear portion of the subject parcel lies within the un-zoned area. The portion of the property subject to the *Baddeck Municipal Planning Strategy and Land Use By-law* is designated Residential and zoned Residential Urban (R-1). The total property is approximately 3.6 hectares (8.9 acres) in area. The intention of the applicant is construct a building that will be occupied by a real estate business, with future development plans to include rental housing geared to seniors.

**Analysis:**Policy Review

The *Baddeck Municipal Planning Strategy and Land Use By-law* was recently updated, with a second reading in October 2009. The Municipal Planning Strategy permits professional offices in the C-1 (Commercial Business District) and C-2 (Commercial General) zones. The Municipal Planning Strategy does acknowledge non-residential uses that were established before the strategy was adopted. These uses include several adjacent to the subject property along Big Baddeck Road, including the Ambulance Base, the veterinary clinic, an auto body shop and the local RCMP detachment.

While there appears to be an established cluster of service-based uses in the immediate area of the subject property, staff notes that Policy 2.31 of the Municipal Planning Strategy notes the following with respect to new professional offices:

*Policy 2.31 It shall be the policy of Council to only allow (i.e. permitted uses in the (C-1) and (C-2) zone) new professional offices to locate in the Central Business designation or in an area available for General Commercial uses or, depending on the size, could also be considered as "a home occupation". If the use is considered a home occupation then the proposed use must comply with the appropriate criteria for a home occupation.*

As the Residential Urban (R-1) Zone does not permit professional offices, the application will require an amendment to the Municipal Planning Strategy and Land Use By-law.

Options to Consider*Option A – Refusal of Request*

Policy 2.31 restricts new professional offices to locate in the Central Business Designation, in an area available for General Commercial uses, or to operate as a home occupation. Based on this

policy, staff could recommend refusal of the application citing that the zone change request does not comply with the Municipal Planning Strategy.

*Option B – Change the Residential Urban (R-1) Uses and Requirements*

This option would involve adding the professional office use “as of right” to the Residential Urban (R-1) Zone. This would allow professional offices on any property zoned Residential Urban (R-1), provided the property satisfied the regulations applicable to that use. Restrictions could be placed on the size of professional office permitted as-of-right, and the requirement for a Development Agreement for all professional offices, or those exceeding a certain size, could be imposed. Policy 2.31 in the Municipal Planning Strategy would need to be revised in order to permit this change to the Land Use By-law.

*Option C – Re-designate and Re-zone the Subject Property*

This option would involve an amendment to the Municipal Planning Strategy to change the land use designation from Residential to Commercial General. The zoning on the site would be amended from Residential Urban (R-1) to General Commercial (C-2). This change in designation and zoning would allow any of the uses permitted in the General Commercial (C-2) zone to establish on this site, subject to meeting the regulations applicable to that use.

Discussion

Policy 1.3 of the Municipal Planning Strategy outlines that, within the Residential Urban (R-1) zone, the following or similar types of uses are permitted: single-detached dwellings; duplex and semi-detached dwellings; converted dwellings up to, and including, three dwelling units; mobile homes; boarding homes; day nurseries; new dwellings up to, and including, three dwelling units; nursing homes providing special care; senior citizen homes; public recreational facilities including tot lots, parks and playgrounds; and institutional uses such as churches, museums, cemeteries, schools, hospitals and senior citizens’ clubs. Staff feel that a professional office, defined as *a building or structure where business may be transacted, a service performed or consultation given but shall not include the manufacturing of any product or the retailing or selling of goods*, would not have any more adverse impact on a residential neighbourhood as a school, church or seniors’ home; particularly with respect to traffic, noise and waste. Further, allowing professional offices to locate in the R-1 may result in low-density mixed-use developments, where an office may locate on the ground floor of a building with residential units above, that wouldn’t otherwise fit the definition of a home occupation.

The Municipal Planning Strategy provides clear direction, through Policy 2.31, that all new professional offices are to locate in commercial areas unless they satisfy the regulations applicable to a home occupation. Home occupation regulations found in the Land Use By-law (Part 2, Clause 26) require that the primary use and appearance of the dwelling remains residential and the dwelling be occupied as a residence by the user.

Staff are proposing to amend policy 2.31 to permit professional offices in the Residential Urban designation, as well as within the commercial areas already noted in the policy. Further, the R-1 zone would be amended in the Land Use By-law to permit professional offices with a gross floor area of 232 square metres (2,500 square feet) or less to locate as-of-right in such zones.

This size is in keeping with an average residential home, and one could assume that an office this size would have little impact on adjacent dwellings. Professional offices between 232 square metres and 465 square metres (5,000 square feet) gross floor area would be permitted in the R-1 zone subject to obtaining a Development Agreement, and would be required to satisfy the special regulations noted in Part 7, Section 3 of the Land Use By-law. These regulations are the same as those applicable to churches, schools, hospitals and senior citizen homes. Professional offices larger than 465 square metres gross floor area would not be permitted on parcel zoned R-1.

**Conclusions:**

The opinion of Planning Staff is that the proposed amendments are compatible with the general intent of the *Baddeck Municipal Planning Strategy and Land Use By-law* and with the requirements of all other Municipal By-laws and regulations. Staff therefore recommends that Council **approve** amendments to the Municipal Planning Strategy and Land Use By-law to:

- Permit professional offices in the area designated Residential and in the Residential Urban (R-1) zone, provided that the office is 232 square metres (2,500 square feet) of floor area or less;
- Require that professional offices that occupy a floor area greater than 232 square metres (2,500 square feet) but less than 465 square metres (5,000 square feet) be considered by way of a Development Agreement; and,
- Amend Policy 2.31 to permit professional offices with a gross floor area of less than 465 square metres (5,000 square feet) to locate in the Residential designation.

## A By-law to Amend the Baddeck Municipal Planning Strategy

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

### Policy 1.3

It shall be the policy of Council to permit within the Residential Urban (R-1) zone, the following or similar types of uses: single detached dwellings; duplex and semi-detached dwellings; converted dwelling up to and including three dwellings units; mobile homes, boarding homes; day nurseries; new dwellings up to and including three dwellings units; nursing homes providing special care; senior citizen homes; public recreational facilities including ~~tot lots,~~ parks and playgrounds; **and** institutional uses such as churches, museums, cemeteries, schools, hospitals, senior citizen clubs; **and professional offices with a gross floor area no greater than 232 square metres (2,500 square feet).**

### Policy 1.3A

**It shall be the policy of Council to consider professional offices that are greater than 232 square metres (2,500 square feet) but less than 465 square metres (5,000 square feet) of gross floor area within the Urban Residential designation by development agreement as provided for by the appropriate sections of the Municipal Government Act.**

### Policy 1.3B

**In considering a proposal for a development agreement as stated in Policy 1.3A, it shall be a policy of Council to have regard for the following:**

- **The potential to adversely affect adjacent residential uses;**
- **The architectural design, including the scale of any building and its exterior finish, to ensure compatibility with adjacent development;**
- **The impact of the proposed expanded use on traffic volumes and the local road network, as well as traffic circulation, siting distances and entrance and exit to and from the site;**
- **The adequacy of buffering and setback distances from adjacent residential uses, using visual barriers including landscaping to reduce visual impact;**
- **The hours of operation; and,**
- **All pertinent policies of the Strategy, including Policies 6.10 and 6.11 as provided for in Chapter 4 of this Strategy.**

Policy 2.31

It shall be the policy of Council to only allow ~~(i.e. permitted uses in the (C-1) and (C-2) zones)~~ new professional offices to locate in the Central Business District designation or in an area available for General Commercial uses or, depending on the size, could **also be permitted in the Urban Residential District designation** or considered as “a home occupation”. If the use is considered a home occupation then the proposed use must comply with the appropriate criteria for a home occupation.

Policy 6.9

The following uses shall only be considered subject only to the entering into of a Development Agreement:

- a) Tourist and Guest Homes (Bed and Breakfast) uses ~~which that~~ exceed a total maximum square footage and/or a maximum lot coverage and ~~which that~~ exceed \$20,000 in construction value will be considered by Development Agreement as provided for in Policy 1.19 and 1.21;
- b) Tourist and Guest Homes (Bed and Breakfast) uses ~~which that~~ exceed six (6) sleeping rooms for overnight accommodation will be considered by Development Agreement as provided for in Policies 1.20 and 1.21;
- c) Tourist Commercial uses ~~which that~~ exceed a total maximum square footage and/or a maximum lot coverage and ~~which that~~ exceed \$20,000 in construction value will be considered by Development Agreement as provided for in Policies 2.22 and 2.23;
- d) Tourist and Guest homes (Bed and Breakfasts) of **six (6)** or more sleeping rooms in areas zoned Commercial Tourist (C-3) as provided for in Policy 2.27 of this Strategy;
- e) In the event that buildings or facilities used by public or private utilities are disposed of, the reuse of these properties for a new commercial use by Development Agreement provided for in Policy 5.11; **and,**
- f) **Professional offices that are more than 232 square metres (2,500 square feet) but less than 465 square metres (5,000 square feet) of gross floor area in the Residential General (R-1) zone as provided for in Policies 1.3A and 1.3B of this Strategy.**

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

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

\_\_\_\_\_  
Chief Administrative Officer

## A By-law to Amend the Baddeck Land Use By-law

The Baddeck Land Use By-law is hereby amended as identified in bolded text below:

### Part 7 – Section 1

1. No Development Permit shall be issued in a Residential Urban (R-1) Zone except for one or more of the following uses:

- Residential Dwellings:
  - Single Detached Dwellings
  - Duplex and Semi-detached Dwellings
  - Triplexes (new or converted)
  - Mobile Homes
- Boarding Houses
- Cemeteries
- Churches
- Day Nurseries
- Emergency Measures Facilities in accordance with Special Provisions
- Institutional uses including Schools, Hospitals and Museums
- Nursing Homes providing special care
- Public recreational facilities including tot lots, parks and playgrounds
- **Professional Offices not exceeding 465 square metres (5,000 square feet) Commercial Floor Area (subject to Part 15)**
- Senior Citizen Clubs
- Senior Citizen Homes
- Tourist and Guest Homes (Bed and Breakfasts)
- Existing commercial uses as listed in Appendix “B” of this By-law

### Part 7 – Section 3

3. Where churches, hospitals, **professional offices between 232 square metres (2,500 square feet) and 465 square metres (5,000 square feet)**, and senior citizen homes are located in a Residential Urban (R-1) zone, the following special provisions apply:

Minimum Lot Area	<b>1 858 sq. m. (20,000 sq. ft.)</b>
Minimum Lot Frontage	<b>30.5 metres (100 feet)</b>
Minimum Front Yard	<b>6.1 metres (20 feet)</b>
Minimum Rear Yard	<b>6.1 metres (20 feet)</b>
Minimum Side Yard (Both Sides)	<b>3 metres (10 feet)</b>

Part 15

Pursuant to the Municipal Government Act, the following developments shall be subject to a Development Agreement:

- a) Tourist and Guest Homes (Bed and Breakfast) uses **which that** exceed a total maximum square footage and/or a maximum lot coverage and **which that** exceed \$20,000 in construction value will be considered by Development Agreement as provided for in Policy 1.19 and 1.21;
- b) Tourist and Guest Homes (Bed and Breakfast) uses **which that** exceed six (6) sleeping rooms for overnight accommodation will be considered by Development Agreement as provided for in Policies 1.20 and 1.21;
- c) Tourist Commercial uses **which that** exceed a total maximum square footage and/or a maximum lot coverage and **which that** exceed \$20,000 in construction value will be considered by Development Agreement as provided for in Policies 2.22 and 2.23;
- d) Tourist and Guest homes (Bed and Breakfasts) of **six (6)** or more sleeping rooms in areas zoned Commercial Tourist (C-3) as provided for in Policy 2.27 of this Strategy;
- e) In the event that buildings or facilities used by public or private utilities are disposed of, the reuse of these properties for a new commercial use by Development Agreement provided for in Policy 5.11; **and,**
- f) **Professional offices that are more than 232 square metres (2,500 square feet) but less than 465 square metres (5,000 square feet) of gross floor area in the Residential General (R-1) zone as provided for in Policies 1.3A and 1.3B of this Strategy.**

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

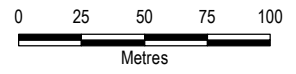
Given under the hand of the Chief Administrative Officer and under the corporate seal of the said Municipality this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Chief Administrative Officer

**EASTERN DISTRICT  
PLANNING COMMISSION**



**Location Map**  
**Baddeck Plan Area**  
SOUTH SIDE BADDECK RIVER  
Victoria County, Nova Scotia



Property of  
**BRIAN & JUDITH ANNE MORRISON**  
Hillcrest Dr., S. Side Baddeck River  
PID# 85067536

HILCREST DR

HIGHWAY 105

BIG BADDECK RD  
HIGHWAY 105 WB EXIT 9 OFF RAMP

TWINING ST

QUEEN ST



**EASTERN DISTRICT PLANNING COMMISSION**  
This map is a graphical representation of property boundaries which approximate the size, configuration and location of properties. This map is not a land survey and is not intended to be used for legal descriptions. THIS IS NOT AN OFFICIAL RECORD.