

NOVA SCOTIA REGULATORY AND APPEALS BOARD

IN THE MATTER OF THE MUNICIPAL GOVERNMENT ACT

- and -

IN THE MATTER OF AN APPEAL by **DAVID BURKE** from a decision of Amherst Town Council to approve a Development Agreement to allow construction of two 16-unit and three 8-unit apartment buildings at 112 West Victoria Street, Amherst (PID#25000605)

BEFORE: Bruce H. Fisher, MPA, CPA, Panel Chair
Jennifer L. Nicholson, CPA, CA, Member
Marc L. Dunning, P.Eng., LL.B., Member

APPELLANT: **DAVID BURKE**

APPLICANT: **SIX POINT STAR HOMES**
Tom Mattinson, President

RESPONDENT: **TOWN OF AMHERST**
Douglas B. Shatford, K.C.

HEARING DATE(S): September 3, 2025

FINAL SUBMISSIONS: September 29, 2025

DECISION DATE: **November 24, 2025**

DECISION: **The appeal is denied.**

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1.0 INTRODUCTION

[1] This matter is about whether a proposed development is appropriate for a neighbourhood, and more specifically, if the driveway for this development is too close to neighbouring properties. Tom Mattinson, President of Six Point Star Homes, applied for a development agreement under the Town's Municipal Planning Strategy (MPS) and Land Use Bylaw (LUB). He applied to build two 16-unit and three 8-unit apartment buildings at 112 West Victoria Street, Amherst. A development agreement sets out terms and conditions about how a development is built. It can be tailored to the neighbourhood where the property is located.

[2] On July 2, 2024, the Planning Advisory Committee (PAC) voted to defer a decision and asked that Mr. Mattinson provide more information and make changes to the proposal, including site specific illustrations, further setbacks to the south, and a 90-degree realignment and reconfiguration of some of the buildings.

[3] Mr. Mattinson submitted an updated site plan that included more parking spaces, significant increases in setbacks, and a 90-degree rotation of the two 16-unit buildings. Staff presented a development agreement (DA) for the property to the PAC on April 7, 2025, with a recommendation for approval. The DA was approved by Amherst Town Council on May 26, 2025.

[4] David Burke appealed Council's decision to enter into the DA. In his Notice of Appeal, he said his major concern with this proposal is the location of the driveway. He said it poses great concern for adjacent property owners as its location is "dangerously close" to one of the houses. He said the proposal shows the driveway 1.48 m from the house at 110 West Victoria and "less than five feet of space between a two-lane driveway and one's house seems unacceptable".

[5] The Amherst MPS supports the development of diverse housing options while trying to minimize the impact of larger developments on existing residential neighbourhoods.

[6] The development includes 91 parking spaces at its center with the five buildings located around the parking area. Vehicle access will be via a two-lane driveway from West Victoria Street. There will be outdoor space for garden beds and a walking path to Colin Court, which borders the property. The existing watercourse on the property will remain.

[7] There can be competing and sometimes conflicting policy directions in an MPS. Value judgments must often be applied when deciding how to implement these policy directions. The *Municipal Government Act (MGA)* gives the elected Town Council primary stewardship over planning matters. The Board cannot substitute its own view for that of the Town Council. Rather, the appellant must show, on a balance of probabilities, that the Town Council's decision does not reasonably carry out the intent of the MPS.

[8] Also, under the MPS, compatibility issues are planning concerns the Town Council must consider. Deciding whether the measures in the proposal were sufficient to mitigate the compatibility issues they were intended to address required an exercise in judgment.

[9] The Board is satisfied that Town Council's decision to enter into the DA reasonably carries out the intent of the MPS. There is support in the MPS for the Town Council's decision to approve this application and enter into the DA. It is appropriate for the Board to defer to the Town Council's judgment in this matter. Accordingly, this appeal is denied.

2.0 ISSUE

[10] In this case, the Board must determine whether the appellant has shown, on a balance of probabilities, that the Town Council's decision to approve the DA does not reasonably carry out the intent of the MPS. For the following reasons, the Board finds the appellant has not satisfied that burden.

3.0 BACKGROUND

3.1 Witnesses and Evidence

[11] The appellant, Mr. Burke, represented himself in this matter and did not call any other witnesses. He said he was appealing the proposal on behalf of himself and his neighbours; however, the Notice of Appeal lists only Mr. Burke as the appellant and the Board finds that this appeal is an appeal by Mr. Burke alone. Mr. Burke lives two properties away from the proposed development. Although his Notice of Appeal states the location of the driveway as the reason for the appeal, in his direct evidence he said that he disapproved of the entire project. Mr. Burke said that hundreds of people signed petitions objecting to the development. These petitions were included in the Appeal Record in Exhibit B-3.

[12] Mr. Burke said there are too many buildings on a small lot, and the development is being "jammed" between single family homes and commercial buildings. He cited the increased traffic that the development will bring to an already busy street. He also commented that this development is unnecessary as there is a noticeable decrease in the number of people looking for housing in the area.

[13] The Town called Andrew Fisher. He is the Town's Director of Planning and Economic Development. Mr. Fisher was the lead planner in processing the appellant's application. He recommended that the application be approved. In his oral evidence, he went through various parts of the Appeal Record, including a walk-through of staff reports and recommendations.

[14] Mr. Fisher was asked about the size and location of the proposed driveway. He said that this property qualifies as a "flag lot" as defined in the LUB. This is a lot that has its main body separated from the access point by another lot. The subject lot has a narrow access point to the street which is the "pole of the flag". The setback requirements don't apply to the narrow "pole" access point, just to the main body of the lot. The "pole" portion of the lot is required to be at least six metres wide at its narrowest point. At its narrowest point the subject property is 9.6 metres wide.

[15] Mr. Fisher said that the MPS requires the impact on neighbouring properties to be mitigated by vegetation and fencing. He said that the DA requires a six-foot high opaque fence on both sides of the driveway into the subject property.

[16] When asked about the increase in traffic related to the development, Mr. Fisher said that once construction is completed, he thought the additional traffic would be "negligible". The Amherst police reviewed the proposal and did not have concerns about the additional traffic that will be created. The police recommended a sidewalk be included to provide pedestrian access to West Victoria Street. This has been included in the DA.

[17] Mr. Fisher said no sections of the MPS are violated by this DA and referred to his April 2025 memo to the PAC when asked what sections were relevant.

3.2 Board Jurisdiction

[18] MPS Policy RP-9 states that all residential developments greater than four dwelling units per property require a development agreement. The Town Council approved a proposed development agreement for the property. The approval of a development agreement by a council can be appealed to the Board (s. 247(2)(b) of the *MGA*).

[19] The grounds for an appeal of a council's decision to approve a development agreement are set out in s. 250(1)(b) of the *MGA*:

Restrictions on appeals

250 (1) An aggrieved person or an applicant may only appeal

...

(b) the approval or refusal of a development agreement or the approval of an amendment to a development agreement, on the grounds that the decision of the council does not reasonably carry out the intent of the municipal planning strategy;

[20] In appeals under the *MGA*, the burden of proof is on the appellant. To be successful, the appellant must establish, on the balance of probabilities, that the Town Council's decision does not reasonably carry out the intent of the MPS.

[21] In municipal planning appeals, the Board follows the statutory requirements and guiding principles identified in various Nova Scotia Court of Appeal decisions. The Court summarized the principles in *Archibald v Nova Scotia (Utility and Review Board)*, 2010 NSCA 27, and more recently, *Heritage Trust of Nova Scotia v AMK Barrett Investments Inc.*, 2021 NSCA 42:

[23] I will start by summarizing the roles of Council, in assessing a prospective development agreement, and the Board on a planning appeal.

[24] In *Heritage Trust of Nova Scotia v. Nova Scotia (Utility and Review Board)*, [1994] N.S.J. No. 50, 1994 NSCA 11 [*"Heritage Trust, 1994"*], Justice Hallett set out the governing principles:

[99] ... A plan is the framework within which municipal councils make decisions. The Board is reviewing a particular decision; it does not interpret the relevant policies or by-laws in a vacuum. In my opinion the proper approach of the Board to the interpretation of planning policies is to ascertain if the municipal council interpreted and applied the policies in a manner that the language of the policies can reasonably bear. ...There may be more than one meaning that a policy is reasonably capable of bearing. This is such a case. In my opinion the *Planning Act* dictates that a pragmatic approach, rather than a strict literal approach to interpretation, is the correct approach. The Board should not be confined to looking at the words of the Policy in isolation but should consider the scheme of the relevant legislation and policies that impact on the decision. ...This approach to interpretation is consistent with the intent of the *Planning Act* to make municipalities primarily responsible for planning; that purpose could be frustrated if the municipalities are not accorded the necessary latitude in planning decisions.

[100] ... Ascertaining the intent of a municipal planning strategy is inherently a very difficult task. Presumably that is why the Legislature limited the scope of the Board's review.... The various policies set out in the Plan must be interpreted as part of the whole Plan. The Board, in its interpretation of various policies, must be guided, of course, by the words used in the policies. The words ought to be given a liberal and purposive interpretation rather than a restrictive literal interpretation because the policies are intended to provide a framework in which development decisions are made. ...

...

[163] ... Planning decisions often involve compromises and choices between competing policies. Such decisions are best left to elected representatives who have the responsibility to weigh the competing interests and factors that impact on such decisions. ... Neither the Board nor this Court should embark on their review duties in a narrow legalistic manner as that would be contrary to the intent of the planning legislation. Policies are to be interpreted reasonably so as to give effect to their intent; there is not necessarily one correct interpretation. This is implicit in the scheme of the *Planning Act* and in particular in the limitation on the Board's power to interfere with a decision of a municipal council to enter into development agreements.

[25] These principles, enunciated under the former *Planning Act*, continue with the planning scheme under the *HRM Charter*. *Archibald v. Nova Scotia (Utility and Review Board)*, 2010 NSCA 27, para. 24, summarized a series of planning rulings by this Court since *Heritage Trust*, 1994:

[24] ... I will summarize my view of the applicable principles:

- (1) The Board should undertake a thorough factual analysis to determine the nature of the proposal in the context of the MPS and any applicable land use by-law.
- (2) The appellant to the Board bears the onus to prove facts that establish, on a balance of probabilities, that the Council's decision does not reasonably carry out the intent of the MPS.

(3) The premise, stated in s. 190(b) of the *MGA*, [*Municipal Government Act*] for the formulation and application of planning policies is that the municipality be the primary steward of planning, through municipal planning strategies and land use by-laws.

(4) The Board's role is to decide an appeal from the Council's decision. So the Board should not just launch its own detached planning analysis that disregards the Council's view. Rather, the Board should address the Council's conclusion and reasons and ask whether the Council's decision does or does not reasonably carry out the intent of the MPS.

(5) There may be more than one conclusion that reasonably carries out the intent of the MPS. If so, the consistency of the proposed development with the MPS does not automatically establish the converse proposition, that the Council's refusal is inconsistent with the MPS.

(6) The Board should not interpret the MPS formalistically, but pragmatically and purposively, to make the MPS work as a whole. From this vantage, the Board should gather the MPS' intent on the relevant issue, then determine whether the Council's decision reasonably carries out that intent.

(7) When planning perspectives in the MPS intersect, the elected and democratically accountable Council may be expected to make a value judgment. Accordingly, barring an error of fact or principle, the Board should defer to the Council's compromises of conflicting intentions in the MPS and to the Council's choices on question begging terms such as "appropriate" development or "undue" impact. ...

(8) The intent of the MPS is ascertained primarily from the wording of the written strategy.

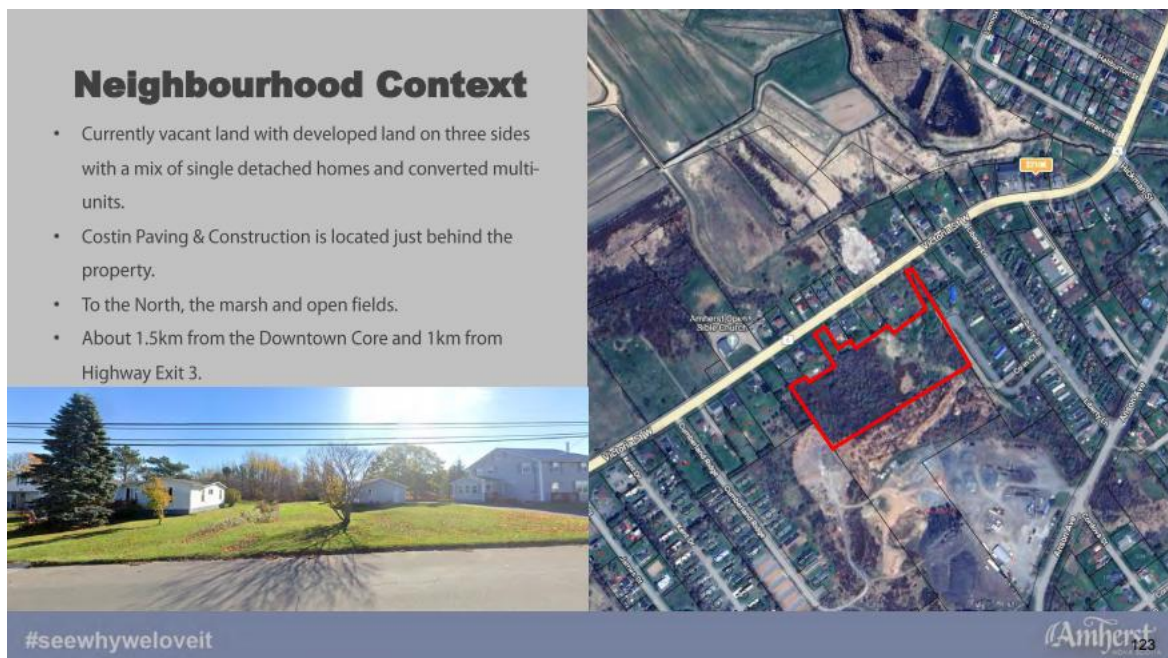
[22] The Board is not permitted to substitute its own decision for that of the Town Council but must review the decision to determine if it reasonably carries out the intent of the MPS. In determining the intent of the MPS, the Board applies the principles of statutory interpretation that have been adopted by the Court of Appeal, as well as the provisions of s. 9(1) and s. 9(5) of the *Interpretation Act*, RSNS 1989, c 235.

3.3 The Proposal

[23] In June 2024, Mr. Mattinson of Six Point Star Homes applied for a DA to build two 16-unit buildings and three eight-unit buildings on property it owns at 112

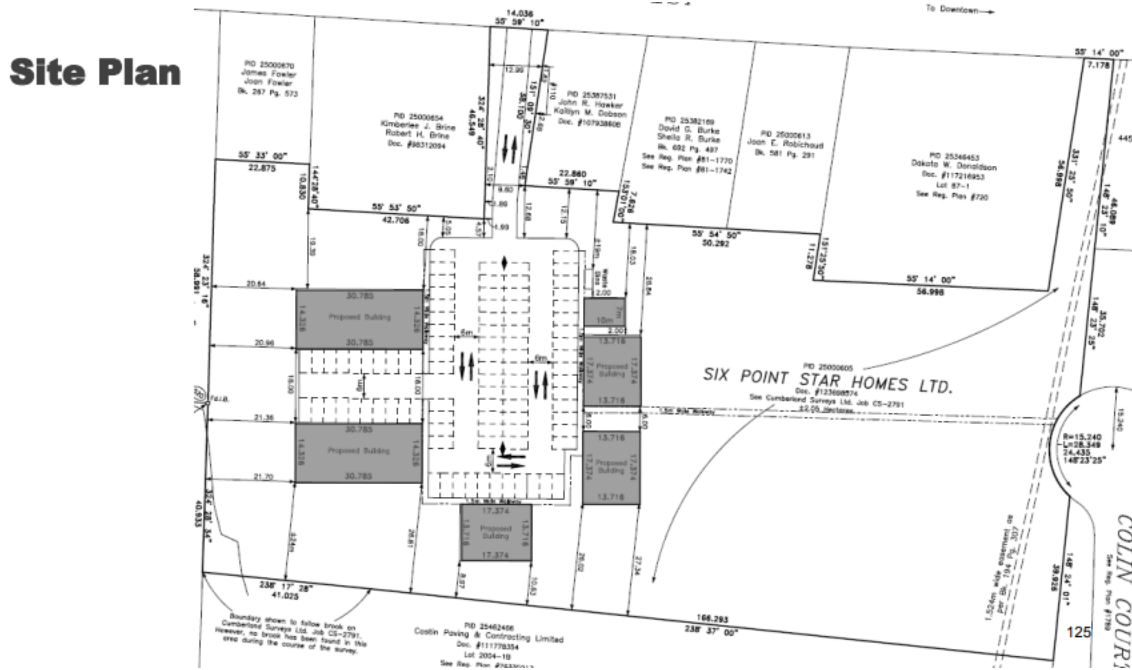
Victoria Street West. In July, planning staff deferred approval of the proposal based on required changes. In April 2025, Mr. Mattinson submitted a revised proposal to the PAC. The number of buildings and units remained the same, but the setbacks on the property increased significantly: 18 more parking spaces were added; the two 16-unit buildings were rotated 90 degrees; and one of the 8-unit buildings was relocated.

[24] The neighbourhood surrounding the property is shown in satellite imagery attached with a presentation to Council prepared by Town planning staff:



[Exhibit B-3, p. 123]

[25] An updated site plan and site plan description were also provided to Town Council:



[Exhibit B-3, p. 125]

3.4 Amherst Planning Staff's Opinion and Recommendation

[26] Town planning staff reviewed the applicable MPS policies in detail. Although Town planning staff recommended that the original proposal be approved, the PAC deferred its decision and recommended the applicant provide additional information and make changes to the proposal. Mr. Mattinson's revised development agreement was presented to the PAC in April 2025 and approved by Town Council in May 2025. Planning staff recommended approval of the revised proposal and entering into the DA. Mr. Burke appealed that decision to the Board.

3.5 Letters of Comment

[27] The Board received several letters of comment opposing the proposed development. These letters expressed the concerns summarized below:

- Loss of natural habitat for wildlife;
- Loss of green space, privacy and viewscales;
- Flooding and stormwater runoff;
- Buildings and development are too large for the neighbourhood;
- Insufficient school capacity;
- Inadequate access and increased traffic;
- Influx of low-income people will increase crime and negative social problems; and
- Negative impact on property values.

3.6 Public Speakers

[28] Two speakers were registered to speak at the evening session. Lesli Millar chose to submit her comments in writing. John Hawker spoke at the evening session. He lives next to the subject property at 110 West Victoria Street. He said that the development is too big and has too much bulk for the area. He is concerned about a loss of privacy, nuisance and potential school capacity issues. He said that value judgments must be made and that the Town should do what is best for the neighbourhood.

3.7 Site Visit

[29] The Board conducted a site visit of the property after the oral hearing on September 3, 2025. The Board was accompanied by counsel and representatives of the parties. The Board drove west from the Amherst Town Council Chambers on Victoria Street East and parked across the street from the subject property.

[30] The Board members observed the entrance to the property between 110 and 114 Victoria Street West, described as the “pole” of the flag lot. The dense woods at the end of the entrance area where the main lot begins prevented us from walking further.

The Board and party representatives drove around the corner to Colin Court which borders the subject property. We were able to walk through woods and tall grass to view the partially wooded main lot.

3.8 ANALYSIS AND FINDINGS

3.8.1 Policy Framework for Proposed Development Agreement

[31] MPS Policy RP-9 is central to this appeal. It provides the primary policy guidance about medium and high-density development in residential zones. It states:

RP-9 Within the Residential Designation, it shall be the intention of Council to ensure medium and high-density residential development occur in a manner compatible with a low density residential neighbourhood. Specifically, Council shall require that all residential developments greater than 4 dwelling units per property, be subject to a Development Agreement. In negotiating such an agreement Council shall:

- (a) ensure that the structure is located on the lot in such a manner as to limit potential impacts on surrounding low density residential developments;
- (b) ensure that the development provides sufficient on-site parking, and appropriate access to, and egress from the street;
- (c) ensure that the location of parking facilities does not dominate the surrounding area, including the utilization of vegetation and fences to mitigate the aesthetic impacts of parking lots;
- (d) ensure that any on site outdoor lighting does not negatively impact the surrounding properties;
- (e) ensure that any signage on the property is sympathetic to the surrounding residential properties;
- (f) require the use of vegetation to improve the aesthetic quality of the development;
- (g) ensure that the architecture of the building is sympathetic to any existing development in the surrounding area.

[Exhibit B-3, pg. 92]

[32] MPS Policy A-5 is also important. The factors in this policy must be considered when the Town Council is deciding whether to enter into a development agreement:

A-5 It shall be the intention of Council, when considering an amendment to this or any other planning document, including the entering into or amendment of a development agreement, to consider the following matters, in addition to all other criteria set out in the various policies of this planning strategy:

- (a) That the proposal conforms to the general intent of this plan and all other municipal bylaws and regulations.
- (b) That the proposal is not premature or inappropriate by reason of:
 - (i) the financial capability of the Town to absorb any costs relating to the development;
 - (ii) the adequacy of municipal water, sanitary sewer and storm sewer services;
 - (iii) the adequacy of road networks, in, adjacent to, or leading to the development;
- (c) That consideration is given to the extent to which the proposed type of development might conflict with any adjacent or nearby land uses by reason of:
 - (i) type of use;
 - (ii) height, bulk and lot coverage of any proposed building;
 - (iii) parking, traffic generation, access to and egress from the site;
 - (iv) any other matter of planning concern outlined in this strategy.

[Exhibit C-4, p. 40]

[33] While these two key policies must be considered, there are other MPS policies that provide context for their meaning and application. There are several policies that encourage a variety of housing types, for various income levels, in residential designations. These include general objectives in the MPS found in ss. 2.2(a), (f) and (g), s. 2.2.13, s. 2.3.2, and the specific direction in Policy RP-8 to "...encourage a mix of housing densities in all residential areas of town to encourage a mix of housing types and income groups in all residential areas." There are also MPS policies, such as MS-11 and RP-12, that encourage efficient development, including infill development. On the other hand, there are other MPS policies that focus on "appropriate" density for the "character of the town" (GP-8) and minimizing compatibility issues (GP-7).

[34] With the foregoing context in mind, the Board finds that the MPS encourages medium and high-density residential development in residential areas if compatibility and conflict issues can be minimized to an acceptable level. The extent to which the proposed development achieves this objective is the main issue before the Board.

3.8.2 MPS Policies RP-9 and A-5 – Compatibility and Conflict Considerations

[35] This matter is about whether the proposed development, with its access point, setbacks, building placement and buffering as incorporated in the DA, is compatible with the existing low-density residential neighbourhood surrounding the property. This includes considerations about potential conflicts with nearby or adjacent land uses. In this sense, Policies RP-9 and A-5 are complimentary.

[36] The appellant states in his Notice of Appeal and testimony that the driveway for the development is less than five feet from the neighbouring property and that it is not enough distance. His Notice of Appeal and evidence refers to s 5.5 d) of the LUB that states the “location of driveways shall be at least 3 m from the side or rear lot line, except where adjacent properties share a common driveway.”

[37] As discussed above, Mr. Fisher said this property qualifies as a “flag lot” as defined in the LUB.

- 38) **Flag Lot** means a lot characterized by the location of the main body of the lot generally at the rear of another lot, or otherwise separated from the street or roadway which provides access, and by a narrower area extending from the main body of the lot to the said street or roadway. [Emphasis in original]

[Exhibit B-4, pg. 7]

[38] The subject lot has a narrow access point to the street which is the “pole of the flag”. Mr. Fisher said the setback requirements don’t apply to the narrow “pole” access point, just to the main body of the lot. This is outlined in Policy 4.11 of the LUB.

4.11 Flag Lots

- (a) In the case of flag lots, in any zone, the minimum lot frontage requirements indicated in the various sections of this Bylaw shall not apply, provided that the main body of the lot meets the minimum area requirements for the zone, and provided that the width of the prolongation or leg of the flag lot providing access to a street is at least 6 m in width at every point.
- (b) In the case of flag lots, the yard requirements for the zone shall apply to the main body of the lot. The front yard shall be that yard facing the street. [Emphasis in original]

[Exhibit B-4, pg. 20]

[39] LUB Section 5.5 - Performance Standards for Parking Area Driveways and Aisles, provides guidance about the width of the access point on Victoria Street West to the subject property.

- (g) In all zones the width of a driveway leading from a parking or loading area to a public street shall be a minimum of 3 m for one-way traffic, and a minimum of 6 m for two-way traffic. The maximum width of a driveway shall be as follows:
 - (i) in any Residential Zone: one way 5 m ; two way 8 m;
 - (ii) in any zone other than a Residential Zone: one way 5 m ; two way 9 m;
 - (iii) in any zone other than a Residential Zone where a substantial portion of traffic on the lot consists of highway tractors, the maximum width of driveways may be increased to 7 m for one way traffic and 12 m for two way traffic.

[Exhibit B-4, pg. 26]

[40] The “pole” portion of the lot is, therefore, required by the LUB to be “a minimum of 6 m for two-way traffic”. As shown in the site plan reproduced earlier in this decision, at its narrowest point the subject property is 9.6 metres wide.

[41] Although s 5.5 d) says that driveways shall be at least 3 m from the side or rear lot line, except where adjacent properties share a common driveway, s 4.11(b) says

that for flag lots the yard requirements apply to the main body of the lot, and therefore the “pole” portion is exempt from this requirement.

[42] The Board finds that it is likely that the property satisfies both the minimum driveway width and the lot line restrictions required by the LUB. However, the Board also finds that it does not need to make a definitive finding on these issues because this development is proposed to occur through the DA and the purpose of a development agreement is to allow for development that may not comply with the LUB as long as it reasonably carries out the intent of the MPS. Hence the LUB requirements for minimum driveway widths and the location of driveways relative to lot lines do not apply to the DA.

[43] With the built form in the area in mind, the Board now turns to the provisions of the proposed DA that address compatibility and how they relate to Policy RP-9. To address Policy RP-9(a) about the location of the structure to minimize impacts on surrounding low density residential developments, the building setbacks exceed the LUB requirements. Regardless, the PAC required setbacks to be increased before it would consider approval of this development. On the site plan the buildings have been moved further back from the southern property line. The setback has been increased from 6 metres to 26.84 metres from the property line of 108 Victoria Street West. The two 16-unit buildings have been rotated 90 degrees, further increasing the setback at 114 Victoria Street West from 8.84 metres to 18 metres at its closest point.

[44] Policy RP-9(b) deals with parking and states that the development must provide sufficient on-site parking and appropriate access to the street. The DA calls for 91 parking spaces for 56 units, which is 1.63 spaces per unit, exceeding the 1.25 spaces per unit required in the LUB.

[45] Policy GP-4 states that development should be efficient and cost effective including limits on developments in un-serviced areas of the Town and encourages infill development within the built-up area of the Town. This proposal meets this policy as it is infill development and does not require an extension of Town infrastructure.

[46] Policy GP-7 states that it is the intention of Council to allow a mix of compatible land uses. Impacts will be minimized through adequate buffering and setbacks, the use of visual barriers and regulating the location of parking and storage buildings as set out in the DA. The DA includes enhanced setbacks, the use of visual barriers including fencing and vegetation and requirements for parking and accessory buildings. The DA also requires that a detailed landscaping plan addressing these requirements be submitted prior to a development permit being issued.

[47] Policy GP-8 states that it is the intention of Council to allow development at a density appropriate to the overall desired character of the Town. The density of this development is 9.4 units/acre. The Town says that this is on the lower end of medium density and is therefore compatible with the surrounding development.

[48] Policy A-5(c) is an implementation policy applicable to development agreements. Like Policy RP-9, it addresses compatibility issues. It requires the Town Council to consider the extent to which a proposed development might conflict with adjacent or nearby land uses. Some of the relevant factors are height, bulk, lot coverage, parking and traffic concerns. If there are conflicts, Policy RP-9 provides a potential way to address them. The policies are, therefore, complimentary and should not be read in isolation. Therefore, the DA terms previously addressed when discussing Policy RP-9 apply equally to considerations under Policy A-5(c).

[49] The Board will now turn to its substantive analysis of the merits of this appeal. The Notice of Appeal only references the proximity of the proposed driveway of the development to the neighbouring property as the reason for the appeal. When considering Mr. Burke's testimony and the public letters of comment and comments from the evening session speaker, the Board finds that compatibility is the key issue it must assess to determine if the Town Council's decision reasonably carries out the intent of the MPS.

[50] Many of the issues raised by public participants have been addressed in the DA. These include increased setbacks, the addition of a sidewalk and the movement of the garbage containment area. Many of the other issues raised including the location and size of the driveway, scale of the buildings in the development, increased traffic, and location in proximity to Town services, have been analyzed in our review of the MPS policies and are addressed in the DA as well. Mr. Burke did not offer any objective or expert evidence that the DA is not consistent with any of the Town's policies.

[51] There were several other points raised through public comments. There was a comment made by many members of the public that this property could not be developed. Other failed attempts to develop this property were highlighted by Mr. Fisher, who stated that none of the factors that led to the previous proposals not going ahead are relevant to this proposal. Another factor that is not relevant under the MPS is the degree of public support or opposition to a particular project. The MPS does not require public support for a specific proposal to be allowed. Finally, the potential impact of a proposed project on property values is a factor in determining if someone is an aggrieved person with standing before the Board in planning appeals under the *MGA*. However, it is not

one of the considerations set out in the MPS when the Town Council is tasked with deciding whether to approve a development agreement.

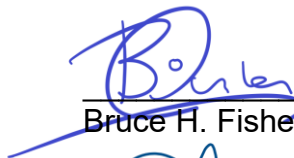
[52] The impact of the proposed development, including a focus on a neighbouring property, must be balanced with the policy directions in the MPS encouraging diverse housing. This involves the very types of compromises and value-laden judgments where the Court of Appeal says deference is owed to elected officials. The Board finds that approving the application to enter into the DA was one of the possible decisions open to the Town Council that reasonably carries out the intent of the MPS.

4.0 CONCLUSION

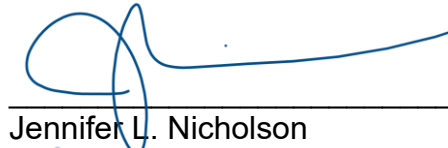
[53] The Board finds the appellant has failed to establish that the Town Council's decision does not reasonably carry out the intent of the MPS. The appeal is denied.

[54] An Order will issue accordingly.

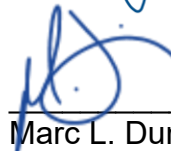
DATED at Halifax, Nova Scotia, this 24th day of November 2025.



Bruce H. Fisher



Jennifer L. Nicholson



Marc L. Dunning