DECISION **2025 NSRAB 68**
M12094

NOVA SCOTIA REGULATORY AND APPEALS BOARD

IN THE MATTER OF THE MUNICIPAL GOVERNMENT ACT

- and -

IN THE MATTER OF AN APPEAL by **TYRA INNIS-HARVIE and CHRISTOPHER HARVIE** from a decision of the Municipality of the County of Kings Council to approve an application for a Land Use By-Law Map Amendment by Nick Bentley to allow rezoning from residential one and two unit (R2) zone to residential multi-unit (R4) zone to permit multi-unit dwellings on properties located on Brooklyn Street, North Kentville, Nova Scotia (PIDs 55047856, 55472955 and 55473987)

BEFORE:	M. Kathleen McManus, K.C., Ph.D., Panel Chair Julia E. Clark, LL.B., Vice Chair Richard J. Melanson, LL.B., Member
APPELLANT:	**TYRA INNIS-HARVIE** **CHRISTOPHER HARVIE**
APPLICANT:	**NICK BENTLEY** Dylan A.F. MacDonald, Counsel
RESPONDENT:	**MUNICIPALITY OF THE COUNTY OF KINGS** Raylene Langor, Counsel
HEARING DATE:	May 12, 2025
FINAL SUBMISSIONS:	June 24, 2025
DECISION DATE:	**August 15, 2025**
DECISION:	**The appeal is dismissed.**

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1.0 INTRODUCTION

[1] Tyra Innis-Harvie and Christopher Harvie (Appellants) appealed to the Board from the decision of Council to approve the rezoning application of Nick Bentley, on behalf of 3264285 NS Limited (Applicant). Mr. Bentley's application proposed an amendment to the Land Use By-law Map for three properties located at Brooklyn Street (civic address Keddy Road) (PIDs 55047856, 55472955 and 55473987), North Kentville, Municipality of the County of Kings (Properties or Subject Properties) from Residential One and Two Unit (R2) Zone to Residential Multi-Unit (R4) Zone. The rezoning to R4 Zone will allow, in part, for the construction of multi-unit dwellings as-of-right.

[2] The Properties are located on the periphery of the North Kentville Growth Centre, adjacent to the Town of Kentville in an area known locally as "Meadowview" or "Yoho". On the Future Land Use Designations Map, the Properties are zoned R – Residential Designation. The Properties are currently vacant with some shrubbery and trees and are zoned Residential One and Two Unit (R2), which does not permit multi-unit dwellings as-of-right, but does permit as-of-right grouped dwellings. They are adjacent to primarily single unit residences on two sides (west and north), abut an Institutional (I1) Zone to the east that includes the Valley Regional Hospital, and the south side slopes steeply down towards Brooklyn Street. The portion of the Properties that slopes towards Brooklyn Street is subject to an Environmentally Sensitive Area (ESA) Overlay. Brooklyn Street runs roughly parallel to the Cornwallis River from Sanford Road leading east to the of the Town of Kentville. The Town of Kentville also lies across Brooklyn Street and the river, to the south of the Properties.

[3] The Applicant did not file a site plan for the prospective development, as it was not required for the rezoning application. The Applicant did file, however, a sketch which indicated, with no specified dimensions, a plan to consolidate the three properties, the rough placement of two 30-unit dwellings totalling 60 units, parking areas and the proposed driveway on the Properties. The Applicant could, as-of-right, under the current R2 zoning, build up to 68 residential units through grouped dwellings. Further, the current R2 Zone permits a maximum height of 35 feet, and the proposed R4 Zone permits a maximum height of 45 feet. Finally, the setbacks for R4 are larger than those required for all residential uses in the R2 Zone.

[4] After communications among the Municipality's planning staff and other relevant municipal officials and provincial officials, and attendance at public meetings, a Staff Report was presented by planner Alice Jacob to Municipal Council with a recommendation to approve the application. At its meeting on February 4, 2025, after the public hearing, Council approved the application without providing reasons. The Appellants appealed Council's decision to the Board under s. 247(1)(a) of the *Municipal Government Act*, S.N.S. 1998, c. 18 (*MGA*), on the grounds that Council's decision does not reasonably carry out the intent of the Municipal Planning Strategy (MPS).

[5] The MPS sets out the rules, general guidelines and policies for Council to follow when considering a rezoning application. As noted by this Board in *Dumke, (Re)*, 2024 NSUARB 164, at para. 9, in the context of the review and approval of a development agreement, the process "is not a simple exercise of working through a checklist against the wording of each policy". This observation is also applicable when considering an application for rezoning. Rezoning and development agreement appeals are authorized

by the same section of the *MGA*, and both require the Board to review whether the decision of Council "carries out the intent of the Municipal Planning Strategy." (see, *Lavers, (Re)*, 2025 NSUARB 2).

[6] The Courts have held that, as the primary planning authority, Council has discretion about how to apply or balance competing MPS policies and objectives. Council may give more, or less, weight to different factors and policies to advance certain objectives, provided its ultimate decision reasonably carries out the intent of the MPS. In reviewing the grounds of appeal, the Board must review the applicable policies to understand the intent of the MPS. The standard for evaluating an application for rezoning against the MPS is not perfection. However, the approval must align with an interpretation of the relevant policies that their language can reasonably bear.

[7] The Board finds that Council's decision to approve an amendment to the Land Use By-law (LUB) to allow the rezoning of the Properties from R2 Zone to R4 Zone reasonably carries out the intent of the MPS in this case. The appeal is dismissed.

2.0 BACKGROUND

[8] The Appellants appealed Council's decision under s. 247(1)(a) of the *Municipal Government Act* (*MGA*) within the required period to the Nova Scotia Utility and Review Board. On April 1, 2025, on proclamation of the *Energy and Regulatory Boards Act*, S.N.S. 2024, c. 2, Sch. A (*Energy and Regulatory Boards Act*), the Nova Scotia Utility and Review Board was succeeded by the Nova Scotia Regulatory and Appeals Board for all applications under the *MGA*.

[9] The Appellants stated in their Notice of Appeal that Council's decision does not reasonably carry out the intent of the MPS on several grounds, including that the

public engagement was not adequate and the rezoning was premature or inappropriate because: the land use is not compatible with the surrounding land; the potential for creating flooding or serious drainage problems within the area of development or nearby; excessive traffic hazards; and environmental concerns.

[10] In their Notice of Appeal, the Appellants advised that they were commencing this appeal on behalf of themselves and “community”. In the grounds of the Notice of Appeal, several references were made about the neighbouring “First Nations peoples community” and the failure to adequately consult with them and consider their rights. At the preliminary hearing to set filing deadlines and a hearing date, the Board asked the Appellants to explain if they were bringing their appeal as members of the First Nations or if they were asserting to represent the First Nations. The Appellants explained that they were representing themselves and the interests of friends and neighbours in this appeal. After considering the Appellants’ responses to the Board’s questions and submissions by the Municipality and the Applicant, the Board found that the Appellants were aggrieved parties, but that they did not represent the First Nation rights holders and were not asserting Aboriginal or Treaty Rights to consultation, or otherwise. Accordingly, the Board made no modifications to its usual processes to engage additional consultations. During the conduct of this appeal, the Appellants made references to the constitutional rights of First Nations in evidence and written submissions. Ms. Innis-Harvie provided oral evidence about the cultural and historical impact of First Nations in Yoho, which assisted the Board’s understanding. However, this decision does not make any findings on issues related to the aboriginal or treaty rights of First Nations.

2.1 The Board's Jurisdiction and Scope of Review

[11] The burden of proof is on the Appellants to show, on the balance of probabilities, that Council's decision to approve the application for the rezoning from Residential One and Two Unit (R2) to Residential Multiple Unit (R4) was not consistent with the intent of the MPS.

[12] Under s. 247(1)(a) of the *MGA*:

> **Appeals to the Board**
> **247 (1)** The approval or refusal by a council to amend a land-use bylaw may be appealed to the Board by
>
> (a) an aggrieved person;

[13] The powers of the Board are limited on such an appeal:

> **Restrictions on appeals**
> **250 (1)** An aggrieved person or an applicant may only appeal
>
> (a) an amendment or refusal to amend a land-use by-law, on the grounds that the decision of the council does not reasonably carry out the intent of the municipal planning strategy;

[14] As outlined in the previous section, Ms. Innis-Harvie and Mr. Harvie are adjacent neighbours to the Properties, and no objection was raised to their status as aggrieved persons.

[15] In municipal planning appeals, the Board follows 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, in *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. …
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> [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.
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> (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.

[16] While *Barrett* and *Archibald* involved development agreements, the same general principles apply to rezoning appeals (see *Brison (Re)*, 2024 NSUARB 81, para. 34). Clearly, the Board is not permitted to substitute its own decision for that of 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 which 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*, R.S.N.S. 1989, c. 235.

2.2 Council's Reasons in the Context of an Approval

[17] In this case, Council approved the rezoning application. The Municipality provided the Appeal Record including the information before Council and Municipal

Planning Staff's recommendation to approve the application. Following the direction of the Court of Appeal and the Board's usual practice, the Board accepted additional evidence from the parties. Unlike when there is a refusal, the *MGA* does not require written reasons when a rezoning application is approved, and Council did not provide reasons in this case. There must merely be a public notice of the approval, which also indicates the right to appeal. *Archibald* involved the denial of an application, which required written reasons. The Nova Scotia Court of Appeal indicated that focussing, at least in the first instance, on these written reasons, provides a framework designed to ensure the Board respects its appellate role.

[18] In cases like this one, where there is an approval and no written reasons, the framework for the Board's review is less apparent. In this context, the Board has often said that Council speaks with one voice. Even where there are written reasons, the highlighting of councillors' comments, while sometimes providing context, is usually not helpful in deciding the issue before the Board. Councillors can have many varied reasons for voting in a particular manner. Ultimately, Council's collective decision to approve or deny an application must be considered in the context of the MPS as a whole (see, *Boates, (Re)*, 2023 NSUARB 124).

[19] Council received a Staff Report with a recommendation for approval. This is ultimately what Council approved. That said, this Staff Report was not generated in the abstract, but with significant input from various sources. As discussed in *Heritage Trust of Nova Scotia* v. *AMK Barrett Investments Inc.*, 2021 NSCA 42, the Board's assessment of whether Council's decision reasonably carries out the intent of the MPS is not confined

to what happens before Council when its decision is made. The materials before Council, and planning staff's recommendation, can provide an initial framework.

[20] In the end, the Board's task where there are no written reasons is succinctly summarized in *AMK Barrett*, at para. 29:

> [29] The Board's job is to hear evidence, find the facts and determine whether the outcome – *i.e*. the Council's approval of the development agreement – was reasonably consistent with the municipal planning strategy as a whole. It is not to micro-manage a *de novo* planning assessment.

[21] Where there are no written reasons, the Board must ultimately address the outcome. The analysis is based on the Appeal Record and the additional evidence and materials put before the Board.

2.3 Proposed Rezoning and Municipality Process

[22] Though the Board's role is not to analyze Council's review process, it is informative to establish the background and timelines relevant to this appeal. On June 20, 2024, Mr. Bentley applied for the rezoning of vacant lots located on Brooklyn Road (civic address Keddy Road). Attached to the application was a sketch of a proposed plan to consolidate the three properties and construct two 30-unit dwellings for a total of 60 units, with a proposed driveway to Brooklyn Street. The existing R2 zoning does not permit multi-unit dwellings as-of-right but does permit grouped dwellings, which would allow up 68 units based on the size of the Properties. The proposed development could proceed as-of-right if the Properties were rezoned to Multi-Unit (R4) which would permit up to a maximum of 75 units, subject to compliance with the additional requirements of the LUB for that zone.

[23] The Properties are located in the Growth Centre of North Kentville and have a combined area of 3.14 acres. Current access to the Properties is via Keddy Road, but

the Applicant obtained an access permit from the Department of Public Works approving a new access from Brooklyn Street based on a prior proposed development of townhouses. The southern portion of the largest property features a steep slope descending towards Brooklyn Street and is subject to the ESA overlay. The portion on the slope bordering Brooklyn Street will require stabilization before vegetation is removed.

[24] On July 29, 2024, a Public Information Meeting was held. Notification letters of this meeting and the proposed rezoning application were sent to 31 property owners within a 500-feet radius of the Properties. Several public concerns were raised in this meeting, including: potential trespassing on neighbouring properties; flooding on Brooklyn Street which has experienced flooding in previous years; and traffic safety concerns about the positioning of the new access on Brooklyn Street, particularly regarding its position on the curved section of the road. The Appellants said that the Public Information Meeting was volatile. Neighbours were upset about the proposal and other issues like road access.

[25] As part of the Municipality's consideration of the Applicant's application, Alice Jacob, planner with the Municipality, communicated with different municipal and provincial officials about whether the proposed development was premature or not appropriate because of: adequacy of water and sewer service to the Properties; traffic issues, including existing infrastructure, need for a traffic study and concerns for a driveway access to Brooklyn Street; and, hydrological features. The Director of Engineering and Public Works, Town of Kentville, advised that the Town had no concerns and that the proposed development could be serviced from the Town's water and wastewater infrastructure on Keddy Road. The Manager of Engineering Services for the Municipality advised that the proposed development would require sewer services on the

Properties but had no concerns about the sewer system being connected to the Municipality's sewer main. The Area Manager of the Nova Scotia Department of Public Works advised that: 1) the existing road networks were adequate to support the development up to 76 units; 2) no traffic study was required; 3) there was no concern about the proposed driveway accessing Brooklyn Street as the site proposed had passed stop sight distance requirements; and, 4) a drainage plan submission would be required at the permitting stage when there was a finalised site plan.

[26] The Staff Report dated December 10, 2024, to the Municipality's Planning Advisory Committee, summarised the rezoning application and proposed plan, identified the relevant Policies in the MPS for consideration, assessed the compliance of the rezoning application with the MPS and recommended the application to the Planning Advisory Committee. The Staff Report concluded:

> The proposed rezoning is in keeping with the intent of the Municipal Planning Strategy including the general criteria for all Land Use By-law map amendments. The proposal would help create additional housing within the region, direct development away from agricultural and rural areas, and increase the efficiency of the existing infrastructure. As a result, Staff are forwarding a positive recommendation to the Planning Advisory Committee.
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> [Exhibit H-7, Item 4, p. 104]

[27] On December 10, 2024, the Planning Advisory Committee recommended in favour of the rezoning application and that Council give it First Reading and hold a Public Hearing. At its meeting on January 7, 2025, Council gave First Reading to the application and directed that a public hearing be held. The Public Hearing took place on February 4, 2025, and the Appellants made a presentation. Following this Public Hearing, Council unanimously voted to give Second Reading to the application and approved it. Notice of the approval was certified the following day.

3.0 ISSUES

[28] In this case, the ultimate issue is whether the Appellants have shown, on a balance of probabilities, that Council's decision approving the application for rezoning does not reasonably carry out the intent of the MPS. This decision reviews the MPS policies about potential impacts that the proposed rezoning would have on the adjacent residential uses, including issues related to stormwater, the compatibility of the multiple-unit buildings and traffic hazards.

4.0 WITNESSES AND EVIDENCE

[29] It is well established that the Board can consider new evidence introduced by the parties during the appeal that was not presented to Council in its analysis of the matter. The importance of factual context for the Board's review was noted in the decision of the Court of Appeal in *Midtown Tavern & Grill Ltd.* v. *Nova Scotia (Utility and Review Board)*, 2006 NSCA 115, where Chief Justice MacDonald stated:

> [50] …the fundamental question therefore becomes: Can it be said that Council's decision does "not reasonably carry out the intent of the MPS"?
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> [51] To answer this question, the Board must embark upon a thorough fact-finding mission to determine the exact nature of the proposal in the context of the applicable MPS and corresponding by-laws. As in this case, this may include the reception of evidence as to the intent of the MPS.

[30] Under s. 19 of the *Utility and Review Board Act*, S.N.S. 1992, c. 11, the Nova Scotia Utility and Review Board operated under relaxed rules of evidence (and this continues to be true for this Board under s. 27 of the *Energy and Regulatory Boards Act*). All witnesses, to some degree, relied on hearsay and offered opinions beyond their qualifications. There were generally no objections to the admissibility of these statements, and the Board was able to weigh the evidentiary value in the normal course. The Board found the evidence of the witnesses to be helpful and credible, unless stated otherwise.

4.1 Witnesses

[31] Ms. Innis-Harvie testified on behalf of the Appellants.

[32] The Applicant called two witnesses, Chrystal Fuller and Peter Snow, P.Eng. At the hearing, Ms. Fuller, a registered planning professional, was qualified, without objection, as an expert capable of giving opinion evidence about land use planning matters, including the interpretation and application of the MPS and the LUB. Prior to the hearing, Ms. Fuller filed an expert report dated April 24, 2025 (Fuller Report) [Exhibit H-12, Tab 3]. Mr. Snow was qualified, without objection, as an expert capable of giving opinion evidence related to the design, engineering, stormwater management controls and stormwater management planning. Prior to the hearing, Mr. Snow filed an expert report dated April 23, 2025 (Snow Report) [Exhibit H-12, Tab 5].

[33] The Municipality called Laura Mosher, its Manager of Planning and Development Services, as its only witness. Ms. Mosher was qualified, without objection, as an expert capable of giving opinion evidence on planning and development matters, including on the interpretation and application of the MPS, LUBs and subdivision by-laws. Prior to the hearing, Ms. Mosher filed an expert report dated April 24, 2025 (Mosher Report) [Exhibit H-11, Tab 3].

4.2 Evidentiary Issues at Hearing

[34] The Appellants' written evidence included a thesis report by Sarah Story of Acadia University, titled "Status and Stigma: The History of Meadowview" [Exhibit H-9, p. 548-798]. The Applicant and Municipality objected to the report because its author was not present for cross-examination or qualified as an expert to support the findings or opinions in the report. At the hearing, the parties made oral arguments on the issue. Ms.

Innis-Harvie explained that many of the people interviewed for the report are not available to testify, and the report represents their stories and history. The Board decided, relying on the relaxed rules of evidence permitted under the *Energy and Regulatory Boards Act,* to admit this document for the purpose of factual background*,* subject to an analysis of weight. However, the Board does not accept and gives no weight to the report for the purpose of opinion evidence.

[35] The Board disallowed certain questions by the Municipality, during the hearing, of the Applicant's experts. Counsel for the Municipality raised the issue of these rulings on "sweetheart cross-examination" in closing submissions. This relates to cross-examination by a non-adverse party to, effectively, extract and augment opinions from that expert witness' evidence that are favourable to the non-adverse party (as well as to the original party sponsoring the expert's evidence). While recognizing the inherent dangers of sweetheart cross-examinations, counsel for the Municipality essentially argued this was not what she engaged in. She submitted:

> 98. Normally it is <u>not</u> prohibited to ask direct examination type of questions of a non-adverse witness. Indeed, we have been unable to find general authority in Anglo-Canadian evidence texts extending the "sweetheart cross-examination" principle to prohibit nonleading questions of non-adverse witnesses, whether experts or otherwise. [Emphasis in original]
>
> [Respondents Post Hearing Brief, p.26]

[36] While the use of the term "sweetheart cross-examination" may not strictly apply to non-leading type questions, it must be kept in mind that the Board practice relating to expert evidence testimony is that the report must stand as is (subject to the correction of errors or, potentially, the clarification of specific points) as the direct evidence of the expert. Only cross-examination is allowed on the expert's report. Open-ended non-leading questions are not cross-examination at all. It would defeat the purpose of restricting direct examination of an expert, which is to ensure the opposing party is fully

apprised of the opinion evidence before the hearing, if such questioning is allowed to a non-adverse party.

4.3 Supplementary Information

4.3.1 Letter of Comment

[37] The Board received one letter of comment which opposed the proposed development and expressed concerns about its negative impact on the residents in the Meadowview community. It also said that the proposed driveway is on a street with high speed and high traffic and would meet Brooklyn Street on a blind corner in a flood zone.

4.3.2 Public Speakers

[38] One speaker, Christopher Cann, registered to speak at the public session. Mr. Cann spoke of his solidarity with the families of YoHo, also known as Pine Woods or Meadowview, and expressed his opposition to the rezoning of the Properties. He raised his general concerns with the Muncipality’s consultation practices.

4.3.3 Site Visit

[39] The Board conducted a site visit immediately after the conclusion of the hearing on May 14, 2025. Representatives from all parties participated in the site visit along with the members of the panel. The panel members drove to the site from the hearing venue, travelling east on Brooklyn Street, turning onto Sanford Road to Keddy Road. Panel members were able to observe the neighbouring homes and layout of these streets, as described in the oral testimony and depicted in the documents. The participants walked the perimeter of the Properties, to the extent possible, and observed its boundaries and sightlines. On leaving the Properties, the panel continued east on

Brooklyn Street in front of the Properties to the intersection of Route 341, turning right and crossing the bridge into the Town of Kentville.

5.0 SUBMISSIONS

[40] The Appellants say that Council's decision does not reasonably carry out the intent of the MPS for several principal reasons. The Appellants say that there was inadequate public engagement during the process of considering the rezoning application. The Appellants also state that several aspects of the proposed development are premature or inappropriate, including land use compatibility, stormwater management concerns, existing flooding problems on Brooklyn Street and environmental concerns. The Appellants submit that their appeal should be allowed.

[41] The Applicant says that Council's decision to rezone the Property from R2 to R4 reasonably carries out the intent of the MPS. Further, the Applicant states that while all relevant policies within the MPS have been satisfied by the application, a decision by Council does not need to satisfy every provision of the MPS to reasonably carry out the intent of the MPS. The Applicant submits that the appeal should be dismissed.

[42] The Municipality says Council's decision to approve the Applicant's rezoning application is reasonably consistent with the MPS. The Municipality further says that the Appellants have not met their burden of proof in their appeal as they did not provide any substantive evidence that Council's decision does not reasonably carry out the intent of the MPS. The Municipality says that the Board should not allow the appeal.

[43] The Board's findings of fact are incorporated into each section of this decision's Analysis and Findings. The documentary evidence filed before the hearing is clear from the record. We found the evidence of the witnesses to be helpful and credible.

6.0 ANALYSIS AND FINDINGS

6.1 Relevant MPS Policies and LUB Sections

The MPS

[44] The Municipality's MPS and LUB guide development in the Municipality. The MPS is the principal policy document for guiding Council's decision-making in planning decisions. The LUB assists in the implementation of the MPS.

[45] As discussed in the background, the Properties are zoned R-2 under the LUB and are located in the North Kentville Growth Centre. In the beginning sections of the MPS, there are Vision Statements including one on "Settlement" which discusses the role of Growth Centres in the context of settlement priorities as:

> - Concentrate new commercial and residential development, including mixed uses, in the Growth Centres with clearly defined boundaries;
> - Encourage efficient service and infrastructure delivery; and
> - Enable and encourage a diversity of housing throughout the region.
>
> [Exhibit H-8, Section 1, p. 1.1-8]

[46] Section 2.1 Growth Centres of the MPS explains the context of Growth Centres and notes, in part, that these centres are where the "majority of Municipality residents live" and that "the continued development of Growth Centre's maximizes existing infrastructure investment without imposing on rural areas." (MPS, p. 2.1-1).

[47] The North Kentville Growth Centre is described on p.2.1-5 of the MPS as follows:

> North Kentville is the area located north of the Cornwallis River, abutting Kentville. The Aldershot military base remains a significant feature of the community, though its military role today is reduced. Valley Regional Hospital, the Kingstec campus of the Nova Scotia Community College and an elementary school, as well as several churches and a small commercial sector, are the notable non-residential entities in the community. The closure of the municipal landfill site and the construction of the New Minas Connector Road in the 1980s contributed to North Kentville's appeal, and residential growth has been substantial in the years since. [Emphasis added]

[48] There are several MPS Policies relevant to this appeal, where the parties focused their evidence and arguments. Policy 2.3.2 states that Council shall "encourage the development of high-density communities in Growth Centres that permit various housing types to increase the efficiency and cost-effectiveness of municipal sanitary sewer and water servicing".

[49] Policy 2.4.6 states that Council shall, within the ESA overlay:

> (a) require new structures to incorporate flood resistant building techniques;
> (b) require engineered design, to the satisfaction of the Municipal Engineer, for development that requires land level alteration; and
> (c) require uses permitted in the underlaying zone to meet the Environmentally Sensitive Area Overlay in the Land Use By-law;

[50] Policy 3.1.1 states that Council shall "designate as Residential, areas located within Growth Centres" and Policy 3.1.2 states that Council shall designate Residential Zones in the LUB including R4 which is described as:

> […]
>
> (c) Residential Multi-Unit (R4): lands located in this zone are intended for the development of housing in higher density building types in strategic locations such as near main transportation corridors, and near employment and commercial areas. This zone is intended to include residential units at higher density in a variety of building types.

[51] When considering a rezoning application, Policy 5.3.2 requires that Council shall "amend the text of the Land Use By-law provided the proposal meets the general criteria for amending the Land Use By-law as set out in section 5.3…".

[52] Policy 5.3.3 allows for the rezoning from R-2 to R4 "provided the application is for a specific development" and the rezoning of the land to another zone is "within the same designation".

[53] Policy 5.3.5 requires Council "to consider, in relation to all applications to rezone land":

(a) the applicable zone placement policies, including any specific policy criteria for applying the proposed zone set out within [the MPS];
(b) the impact of both the specific development proposal and of other possible uses permitted in the proposed zone; and
(c) the general criteria for amending the Land Use By-law set out in section 5.3 Development Agreements and Amending the Land Use By-law.

[54] Finally, Policy 5.3.7 states the criteria which Council must be satisfied is met by a proposal to amend the LUB:

(a) is consistent with the intent of this Municipal Planning Strategy, including the Vision Statements, relevant goals, objectives and policies, and any applicable goals, objectives and policies contained within a Secondary Plan;

(b) is not in conflict with any Municipal or Provincial programs, By-laws, or regulations in effect in the Municipality;

(d) is not premature or inappropriate due to:

(i) the Municipal or village costs related to the proposal;

(ii) land use compatibility with surrounding land uses;

(iii) the adequacy and proximity of school, recreation and other community facilities;

(iv) the creation of any excessive traffic hazards or congestion due to road or pedestrian network adequacy within, adjacent to, and leading to the proposal;
(v) the adequacy of fire protection services and equipment;

(vi) the adequacy of sewer and water services;

(vii) the potential for creating flooding or serious drainage problems either within the area of development or nearby areas;

(viii) negative impacts on identified wellfields or other groundwater supplies for the area;

(ix) pollution, in the area, including but not limited to, soil erosion and siltation of watercourses; or

(x) negative impacts on lake water quality or nearby wetlands;

(xi) negative impacts on neighbouring farm operations;

(xii) the suitability of the site regarding grades, soils and geological conditions, location of watercourses, marshes, bogs and swamps, and proximity to utility rights-of-way.

The LUB

[55] Section 4.4.1 of the LUB sets out the purpose of R2 Zone:

> The purpose of the Residential One and Two Unit (R2) Zone is to maintain sewer serviced low density neighbourhoods, consisting primarily of one or two unit dwellings, while encouraging the efficient use of land and public infrastructure within Growth Centres, as per policy 3.1.2 (a) of the Municipal Planning Strategy.
>
> [Exhibit H-8, p. 758]

[56] Examples of permitted land uses in the R2 Zone include grouped dwellings, community facilities, places of worship, and indoor recreation uses, up to a height of 35 feet.

[57] Section 4.6 of the LUB sets out the purpose of the Residential Multi-unit R-4 Zone:

> The purpose of the Residential Multi-unit (R4) Zone is to encourage compact neighbourhood development in strategic locations such as along or near main transportation corridors and near employment and shopping destinations by accommodating a variety of medium density housing forms, such as multi-unit dwellings within Growth Centres, as per policy 3.1.2 (c) of the Municipal Planning Strategy.
>
> [Exhibit H-8, p. 766]

[58] Examples of permitted land uses in the R4 Zone include grouped dwellings, multi-unit dwellings, townhouses, business offices, community facilities, medical and dental clinics, and retail stores. Multi-unit dwellings have a permitted height of 45 feet.

[59] There are three additional sections of the LUB relevant to this appeal as they address building requirements for buildings within an ESA overlay (section 12.5.3), watercourse protection requirements (section 14.1), and requirements for setbacks from slopes (section 14.2.9).

[60] The Board will now consider the Appellants' grounds of appeal alleging that Council's decision to approve the rezoning application does not reasonably carry out the intent of the MPS.

6.2 Compatibility with Surrounding Land Uses

[61] The Appellants argue that the proposed R4 zoning is incompatible with the surrounding low-density residential uses. The Appellants describe the land uses surrounding the Properties as “rural” and this is incompatible with the high-density buildings permitted in the R4 Zone.

[62] Under Policy 5.3.7(c)(ii) of the MPS, Council must be satisfied that a proposal to amend the LUB is not premature or inappropriate due to the land use compatibility with the surrounding land use.

[63] The Staff Report found that the development proposal “will be compatible with the surrounding land uses.” [Exhibit H-7, p. 109]. The Mosher Report notes that under its current R2 zoning, a total of 68 units in the form of one or two unit dwellings with a height of 35 feet could be built as-of-right on the Properties. The Mosher Report further notes the R4 zoning would permit up to 76 units on the Properties with a height of 45 feet as-of-right, but with more constraints such as further setbacks from lot lines than would apply to R2. The Mosher Report concludes that the development proposal is compatible with the surrounding land uses because all are residential.

[64] In her report, Ms. Fuller refutes the Appellants’ assertion that the land uses surrounding the Properties are rural. Ms. Fuller notes that the surrounding land uses and the Properties are all located in the North Kentville Growth Centre. In her report, Ms. Fuller concludes, after reviewing the MPS Policies on Growth Centres, that the “Municipality uses a growth centre approach to conserve agricultural, rural and natural areas”. She notes that while the surrounding land-uses are low-density residential, they are compatible with the R4 zoning. Ms. Fuller says that the MPS encourages rezoning sought

by the application. The Growth Centre designation, the Properties' location on Brooklyn Street, a collector-type road, and its proximity to a community centre, a hospital and regional transportation networks, have the characteristics which the MPS encourages for growth with "diverse housing types and higher-density forms in strategic locations" [Exhibit H-12, Tab 4, paras 6.1 and 6.2].

[65] The Appellants argue that Yoho-Meadowview is a separate environment and different community from North Kentville and does not share the character of that part of the Growth Centre. Ms. Innis-Harvie provided a presentation of photographs and narrative evidence, including in Sarah Story's Report, which she says shows the long history of First Nations' use of the area. She testified about the historical and cultural significance of the area to herself and community members.

[66] Ms. Mosher and Ms. Fuller agreed that the MPS does not afford any particular historical or cultural significance to the subject area that must be considered by Council. Ms. Mosher explained that communities may be designated as a "heritage conservation district," such as Grand Pre, or individual properties can be designated. These designations follow a separate process outside the MPS and LUB and do not apply to the community presently. Ms. Fuller recognized that the road patterns and "feel" in Meadowview were different from other areas in North Kentville. However, in her view, all communities in the municipality are unique. The Board finds that while the area has its own history and cultural significance for its residents, these aspects are relevant for the review of policies related to compatibility, but the MPS does not provide it with special protection.

[67] The Board is sympathetic with the Appellants' sense that the surrounding land uses "feel" more rural because of the low-density residential homes. Though the area has been designated for growth, there has been limited development of different housing types. The Properties and the surrounding properties, including the Appellants' properties, however, are all designated Residential and are in the North Kentville Growth Centre.

[68] The Board finds that the Municipality has identified the North Kentville Growth Centre as an area for non-rural growth. The Board further finds that the MPS intends to allow a diversity of housing types, as reflected in the various Residential Zone Designations, including R4 which includes a higher density with multi-unit buildings. The Board finds that rezoning of the Properties from R2 to R4 and the proposed development in this location would be compatible with the surrounding land uses. The Properties and the surrounding uses are all residential. The proposed plan for 60 units is less than the 68 units of one and two units that the Applicant could build as-of-right on the Properties under R2 zoning. Further, the R4 zoning requirements have greater setbacks than the R2 zoning. Finally, compatibility does not mean a new development must be the same as the existing built form. Whether a development is compatible with the surrounding land uses is not a rigidly defined concept. It requires a good measure of judgment and the balancing of competing interests expressed in the MPS. *Archibald* directs the Board to afford some deference to elected officials with this type of decision. For all of these reasons, the Board finds that Council's decision reasonably carries out the intent of the MPS on the basis that the rezoning was not premature because of land use compatibility with surrounding land uses.

6.3 Traffic, and Road or Pedestrian Network

[69] Throughout the appeal process, the Appellants expressed a concern about an increase in traffic based on the proposal and risk of traffic hazards from the proposed driveway access to Brooklyn Street. The Appellants say that the proposed driveway will access Brooklyn Street on a curved section which raises issues about sight and safety such as insufficient turning sight distance. The Appellants note that this section of Brooklyn Street has existing issues of common disregard for speed limits.

[70] Policy 5.3.7(c)(iv) states that in approving a rezoning application, Council shall “be satisfied” that the proposal is not premature of inappropriate due to “the creation of any excessive traffic hazards or congestion due to road or pedestrian network adequacy, within, adjacent to, and leading to the proposal."

[71] Brooklyn Street is a provincial road under the control of the Nova Scotia Department of Public Works. The Staff Report advised Council that the Department of Public Works “confirmed the adequacy of road networks and did not indicate any concerns with the proposal.” [Exhibit H-7, Tab 4, p. 109]. In emails dated August 6, 2024, and August 8, 2024, the Municipality’s Planning and Development Services asked the Department if it had any concerns about the proposed development and advised the Department that concerns were raised by the public about the access on Brooklyn Street, “specifically regarding sight and safety issues due to its position on a curved section of the road.” [Exhibit H-7, Tab 3, pages 51-52]. In an email dated August 20, 2024, the Department of Public Works advised that: 1) the road networks were adequate to support the proposed development; 2) no traffic study was required; 3) no issues related to access and egress and/or internal traffic circulation were anticipated; and 4) the original site of

the initial proposal for townhouse units passed stop sight distance requirements. In a subsequent email exchange with the Municipality in September 2024, the Department confirmed that the previous approval of access of the Properties onto Brooklyn Street for townhouses carried forward as access approval for the new proposed development of two 30-unit buildings, subject only to its approval of the drainage plan [Exhibit H-7, Tab 3, pp.48; 54-55].

[72] The Appellants did not prepare a traffic report or call an expert to contradict the determination of the Department of Public Works. The Board finds that the Department determined there were no traffic hazards from the proposed development of the Properties in accessing Brooklyn Street and that there was no need for a traffic study. Accordingly, the Board finds no basis to determine that Council's decision about traffic hazards due to road networks did not reasonably carry out the intent of the MPS.

6.4 Potential Flooding, Drainage Problems and Stormwater Management

[73] The Appellants raised concerns about existing issues of flooding on Brooklyn Street from the Cornwallis River and the impact of water runoff from new impermeable surfaces onto adjacent areas once the Properties are developed. They are concerned that approval of a stormwater management plan occurs only at the permitting stage, after approval of the plan.

[74] The MPS requires that, in approving a rezoning application, Council be satisfied that the proposal is not premature or inappropriate due to "potential for creating flooding or serious drainage problems" (Policy 5.3.7(c)(vii)).

[75] The Staff Report advised that:

> The flooding concerns on Brooklyn Street were shared with the Department of Public Works (DPW) and DPW had indicated that a drainage plan will be required at the stage of permitting. As a final site plan was not required during the rezoning stage it was agreed that it would be appropriate to request the drainage plan once the site plan is finalised at the stage of permitting.
>
> [Exhibit H-7, Item 7, p. 110]

[76] The Mosher Report stated that, in a rezoning application, where the full site plan has not been finalized, "it may be premature to request a storm water management plan" and there is no requirement that a proposed development during a rezoning application becomes what is ultimately built. She stated that the provincial Department of Public Works would have to approve a stormwater management plan to obtain an access permit for the Properties:

> In consultation with the provincial Department of Public Works as part of the application, they indicated that they had concerns regarding drainage and indicated they would be requesting a storm water management plan when they are approached to issue an access permit for the property.
>
> [Exhibit H-11, p. 7]

[77] Ms. Mosher testified that, in her experience, a drainage plan means a stormwater management plan. She also stated since Brooklyn Street is a provincial road, the Nova Scotia Department of Public Works advised in emails that it would have to approve the stormwater management plan at the permitting stage. Ms. Mosher also testified that s. 1.7 of the LUB requires, in part, that all provincial legislation must be complied with before a development permit can be issued by a development officer.

[78] For this proceeding, the Applicant filed an expert report prepared by Peter Snow, P.Eng. on April 23, 2025 (Snow Report) about an expected stormwater management design for the Properties. The Snow Report indicated that its analysis was based on an examination of the Properties, testing of soil samples from the Properties to verify soil characteristics, and the proposed development's two 30-unit residential

buildings, 90 parking spaces, and approximately 6,520 sq. m of hardscape added to the site. Mr. Snow concluded in his report that he could “say with confidence that if installed and maintained appropriately, the proposed engineered underground detention and infiltration system would result in net zero contribution to stormwater outflow from the property.” Mr. Snow testified the design would build in extra capacity beyond the 1 in 100-year worst case flooding scenario and that the proposed stormwater management system would not likely be impacted by flooding from the Cornwallis River.

[79] The Municipality says the Appellants filed no expert report on flooding issues and Ms. Innis-Harvie testified that she was not concerned about flooding issues coming from the Properties, but rather the water going into the ground and contaminants from runoff. She also expressed her concern about the potential impact on new residents from the existing flooding on Brooklyn Street which is caused by rainfall and the Cornwallis River. The Municipality notes that s. 1.7 of the LUB requires compliance with all applicable laws including provincial laws. As the Property is situated on a provincial highway, the province must approve a stormwater management plan before a permit can be issued.

[80] The Applicant states that Mr. Snow’s expert opinion, which was uncontested, confirms that the proposed stormwater management system that has been designed for the Properties would result in net-zero contribution to stormwater outflow from the Properties and that flooding from the Cornwallis River would not affect the system. The Applicant further says that there is ample oversight to ensure the Properties’ stormwater will not impact the surrounding area, including that the permit to build can be withheld if the Nova Scotia Department of Public Works does not approve the stormwater management plan.

[81] As noted in various decisions of the Board and the Courts, Council is entitled to rely on municipal, provincial and federal authorities for compliance with various potential environmental issues, including but not limited to water, wastewater, stormwater, soil erosion, grade, etc., see, for example, *Bennett* v. *Kynock*, (1994) 1994 NSCA 114; *Fryday et al.* v. *Halifax Regional Municipality*, 2007 NSUARB 97; *Cameron (Re)*, 2021 NSUARB 8; *Tawil (Re)*, 2022 NSUARB 95; and *Brison Developments Ltd. (Re)*, 2024 NSUARB 81.

[82] Mandatory controls provided by the various levels of government cannot be ignored (*Armco (Re)*, 2021 NSUARB 147 paras. 71-72). At the permitting stage, the Applicant must prepare and submit a stormwater management plan for approval by the Nova Scotia Department of Public Works. The plan must show that it considered historical flooding patterns and area drainage. Also, under the plan, pre-development and post-development stormwater discharge values must balance. Additionally, the Applicant must follow the applicable environmental legislation.

[83] The Appellants' concern about the impact of storm water management ignores the mandatory controls in the provincial environmental legislation. Nothing in the information provided to the Board in the appeal suggests these requirements are likely to be inadequate. The Applicant will have to satisfy all the requirements before obtaining permits. As such, the Board finds that Council's decision that rezoning was not premature on these issues reasonably carries out the intent of the MPS.

6.5 Environmental Concerns

[84] The Appellants say that there are environmental concerns which the Municipality has not addressed, such as the portion of the Properties having an ESA overlap on the sloped land to the Brooklyn Street and the Properties' proximity to marshlands and wetlands. The Appellants also state that the Municipality failed to assess the impact of the proposed development on a nearby bird sanctuary.

[85] Under Policy 5.3.7(c)(ix) and (x) of the MPS, Council must be satisfied that a proposal is not premature or inappropriate due to negative impacts on watercourses or nearby wetlands. The Staff Report advised Council that no impact on watercourses was expected. The report also advised that staff contacted the Nova Scotia Department of Environment and Climate Change to learn if the Department had any concerns about the proposed development but did not receive an answer. The Staff Report stated that it did not have any concerns about negative impact on watercourses because of the watercourse protection provided in the LUB, which requires a separation distance of 50 feet between any buildings and a watercourse.

[86] As noted above, s. 12.5.3 of the LUB provides building requirements for buildings within an ESA overlay and s.1 provides watercourse protection requirements. However, as stated by the Court of Appeal in *Bennett* v. *Kynock*, 1994 NSCA 114 and decisions of this Board, primary responsibility for the environment rests with the Nova Scotia Department of Environment and Climate Change. In other words, the province is the environmental regulator, not the municipalities, municipal council or this Board. Further, in exercising their planning responsibilities, even when the MPS directs Council to consider environmental matters, Council can assume provincial and federal

environmental regulators will properly determine any environmental issues within their mandates associated with a proposed development [see: *Cameron*, (*Re*) 2021 NSUARB 8, at para. 139].

6.6 Did Public Consultations Meet the MPS Requirements for Community Engagement?

[87] In their Notice of Appeal and their Post-Hearing Submissions, the Appellants argue that Council's decision is not reasonably consistent with the intent of the MPS because Council's process for the consideration of the rezoning application did not comply with the MPS requirements for public engagement. The Appellants note Council's failure to notify affected persons who lived further than 500 feet from the Properties, including nearby Cambridge First Nation. They also objected to the conduct of the Public Information Meeting on July 29, 2024, in part because the entire recording of this meeting should have been aired on media; instead, only staff's presentation was aired.

[88] Although the Appellants did not cite specific MPS provisions about public engagement, Policy 5.1.1 of the MPS sets out policy for public engagement. The preamble to the specific policy directions indicates "[c]ouncil will continue to engage with the public by meaningful and transparent methods" when implementing, reviewing, and updating the MPS. The Board notes this matter does not involve reviewing or updating the MPS. The LUB is a primary means of implementing the MPS [see ss. 219(1) and (3) of the *MGA* directing Council to adopt a LUB to carry out the intent of the MPS, as discussed in *Archibald*].

[89] Policy 5.1.1 provides policy direction on what meaningful engagement means. This includes "exceeding the minimum public consultation requirements" in the

MGA [5.1.1(a)], “researching issues and making the information readily accessible to the public” [5.1.1(c)], “developing and implementing engagement strategies that recognize equity, diversity and inclusion” [5.1.1(d)], “seeking ways to collect comments that represent the broader community, including, but not limited to, …First Nations groups” [5.1.1(e)] and “exploring new technologies and methods for increased public engagement” [5.1.1(f)].

[90] The only statutory requirement in the *MGA* relating to public consultation in the approval of a development agreement is that Council hold a public hearing [s. 230(2)].

[91] The Board has consistently held it has no jurisdiction to overturn municipal council decisions based on alleged procedural errors [see: *Municipal Board Halifax (County)* v. *Maskine*, 1992 CanLII 2469 (NSCA); *Community For Responsible Development For District 1*, (*Re*) 2023 NSUARB 37 (*Canning*) and *Tawil*, (*Re*) 2022 NSUARB 95; and, *Cornwallis Farms Limited, (Re)*, 2024 NSUARB 120]. These cases did not address the situation of when there was a process required by the MPS.

[92] In *Peninsula South Community Association* v. *Chebucto Community Council (Halifax Regional Municipality)*, 2002 NSUARB 7, (appeal allowed on other grounds *sub nom, Tsimiklis*, (*Re*) 2003 NSCA 30, at paras. 112-127), the Board determined that where procedural public consultation provisions were embedded in the MPS, the Board could consider whether a council’s failure to adequately address them reasonably carried out the intent of the MPS.

[93] In *Canning and Cornwallis*, the Board specifically considered Policy 5.1.1(a) and (b) in the MPS in the context of the Municipality’s approval of development agreements. As noted by the Board, its jurisdiction to consider procedural issues arising

from the MPS itself has not been the subject of a definitive appellate ruling. The Board found that while Policy 5.1.1 uses the language “Council shall”, it must be read together with s. 1.2 of the MPS, under the heading “interpretation”, at p.1.2-1 which provides that use of that the phrase “Council shall” in the MPS is intended to be “permissive”. The Board determined that the use of the word “shall” in the MPS is intended to be permissive, not mandatory, but Council must consider the policy and whether or not to exercise its discretion about its application.

[94] When the MPS provides discretion to Council, the exercise of that discretion is usually entitled to deference by this Board. That said, Council’s discretion must be exercised in a manner consistent with an interpretation that the MPS language can reasonably bear. When looking at what the MPS contemplated for public consultation, context is important.

[95] The general preamble to Part 5 of the MPS addresses consultation related to the major themes of changes to the MPS and LUB. The preamble to the policies on LUB amendments and development agreements provides a specific public consultation process.

[96] In *Canning* and *Cornwallis*, the Board found that in the context of the development agreement, the public consultation requirement had been satisfied. The public consultation used in *Canning* and *Cornwallis* is almost identical to the consultation used in this matter. The process followed in this matter included:

- Resident notifications of rezoning and Public Information Meeting in accordance with Council’s notification policies on March 14, 2023;
- A public information meeting on July 29, 2024, and a video recording of the Municipality’s presentation at the meeting on the Municipality’s website;

- A Planning Advisory Committee meeting on December 10, 2024; and
- A public hearing on February 4, 2025, immediately preceding the Council meeting where Council unanimously decided to approve the rezoning application.

[97] The Appellants submit that the process used by the Municipality was not adequate, particularly in its failure to notify the neighbouring First Nations of Cambridge by letter and to record and air on social media the entire Public Information Meeting. The Appellants say that the Municipality's presentation was recorded and aired, but this was not the actual meeting. Not all of the discussions were captured. The Board does not agree with this assessment and finds that the consultation process, as a whole, provided reasonable opportunities for the Appellants and other community members to be apprised of the proposed development and put forward their views. The views and positions advanced by those opposed to, or concerned about, the development were considered by the Municipality's planning staff. Council held a full public hearing where residents were again given an opportunity to express their positions. As well, the Board has already indicated that the Appellants are not representing any First Nations.

[98] In the end, after hearing many of the same submissions as the Appellants made before this Board, Council decided to approve the rezoning. This does not mean the residents who opposed the project were not heard. It means Council was not convinced the concerns raised by those opponents of the rezoning outweighed the policy directions in the MPS and the information it had before it in support of the proposal, upon which it placed the most weight. The Board therefore finds there is no basis for overturning Council's decision under Policy 5.1.1. of the MPS based upon the process it followed.

7.0 CONCLUSION

[99] The Board received comprehensive submissions addressing many aspects of the MPS. The Board considered all the submissions and the issues raised. Given the approach the Board has taken in determining this appeal, it has not made a complete catalog or disposed of every point raised by every party, but it addressed what It considered to be the substantive issued raised by the Appellants. To the extent the Board does not explicitly deal with all aspects of an argument, or a point raised by the parties, it can be assumed the Board did not agree, or the point or argument carried insufficient weight to impact this decision.

[100] The Board concludes that the Appellants have not established that Council's decision does not reasonably comply with the intent of the MPS. The appeal is dismissed.

[101] An Order will issue accordingly.

DATED at Halifax, Nova Scotia, this 15th day of August, 2025.

M. Kathleen McManus

Julia E. Clark

Richard J. Melanson