



# Plan

Mahone Bay

## Draft Consultation + Policy Direction Report

July 2023



Draft Consultation + Policy Direction Report  
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# 1. Introduction

## 1.1. About the Plan Review

Plan Mahone Bay is a project to review and update the Municipal Planning Strategy (MPS) and Land Use Bylaw (LUB) for the Town of Mahone Bay. The MPS is the primary planning document for the Municipality and establishes a vision, goals, and policies for growth and development. The LUB is a companion document that sets out the various rules and regulations that have to do with development activities. Together, the MPS and LUB shape our communities by determining what types of development can happen where, and at what intensity.

The Town's existing MPS and LUB were adopted in 2008. These policies and regulations have been managing land use and development for more than a decade, and have served the town well. As new issues and trends have emerged, it is now time to review and modernize the documents.

## 1.2. How This Report Will Be Used

This report is a summary of the Draft Plan engagement phase and encompasses "What We Heard" from the public. The activities undertaken in this phase generated a large amount of feedback and data. This report explores that feedback, grouped into themes. The reporting in this document does not utilize direct quotes, rather it represents the efforts of the project team to develop a cohesive narrative from the various engagement activities and the wide range of information received.

Some of this feedback will be used to inform policy decisions in the Plan Review, while some will be passed on to the Town for consideration through other parts of their operations. Certain topics addressed by residents throughout the consultation process related to matters outside of the scope of planning or the Town's jurisdiction but are still included in this report to provide an accurate representation of priorities and issues identified by the public.

## 1.3. Engagement Overview

### *Initial Project Engagement*

Gathering input from citizens is critical in order to determine the key issues and opportunities in a community. Recognizing this, the development of the Draft Plan began with an extensive initial engagement process. This initial phase of engagement sought to gather input from residents and stakeholders to determine their priorities and took place from July to October 2020.

For an in-depth overview of the initial phase of engagement, please visit [www.planmahonebay.ca/documents](http://www.planmahonebay.ca/documents) to read the *What We Heard Report*.

### *Public Draft Plan Engagement*

The second phase of engagement focused on the public drafts of the new MPS and LUB. This phase gave the public another opportunity to enrich the planning process with their input and expertise.

In order to reach a wide audience in the Town, multiple methods of engagement were used, including:

- » Updates and documents posted to the project website
- » A series of Fact Sheets detailing key changes and policy directions
- » 2 public open house meetings with 78 total attendees
- » An online interactive map with over 1,000 page visits, 358 unique users and 88 comments
- » An online feedback form with 24 submissions
- » 23 email submissions from residents
- » An engagement session with the MBTCC

These activities were promoted through:

- » The Town's website and social media
- » The project website ([www.planmody.ca](http://www.planmody.ca))
- » Email updates





## 2. Feedback and Discussion Topics

Several recurring issues emerged throughout the Draft Plan engagement phase. Some of the feedback related to typographical errors in the documents or areas where the language of the documents lack clarity. These comments will simply be addressed by the project team while creating the final documents.

Some feedback also related to topics that are outside the direct scope of land use planning documents or are beyond the powers granted to municipalities through the **Municipal Government Act**. While these items cannot be addressed as part of the current project, the feedback is nonetheless appreciated, and the project team does not want these comments to get lost. These items are captured in Chapter 3 of this report.

The remainder of the feedback related to specific policy directions in the drafts, primarily related to the following topics. These are presented in no particular order.

- » Architectural Control Area
- » Housing
- » Accommodations
- » Environment
- » Open Shoreline Zone
- » Parking
- » Commercial Zoning
- » Indigenous History & Development

This chapter of the report outlines the feedback received on each of those topics, the related policy, potential approaches for modifying the documents to address public feedback, and - where beneficial - additional research or discussion to help inform decision-making on these topics.

## 2.1. Architectural Control Area (ACA)

### Current Draft Approach

Schedule B of the draft Land Use Bylaw identifies an “Architectural Control Area” (erroneously referred to as the “Architectural Guidance Overlay” in the text of the draft Bylaw). This area is expanded compared to the existing Land Use Bylaw. The expansion includes the majority of Maple Street, Pleasant Street, and School Street, and portions of Fairmont and Spruce Streets. There is also a small expansion at the corner of Cherry Lane and Parish Street.

Within the Architectural Control Area development-including additions and alterations to existing buildings-must meet a prescriptive set of rules for matters such as cladding, roof pitch, minimum building height, and windows (see s5.5 of the draft Bylaw). Solar collectors are prohibited on public facing facades and roofs. Mobile homes and mini homes are prohibited within this area. Small accessory buildings and proposals to restore a documented pre-1919 building appearance are exempt.

The draft Municipal Planning Strategy also includes policy that enables Council to consider, by development agreement, Indigenous proposals and proposals that do not comply with the prescriptive rules of the Architectural Control Area:

**Policy 4-78:** *Council shall consider, by development agreement, a proposed development within the Architectural Guidance Overlay that does not conform to the architectural design regulations of the Overlay.*

*The proposed development shall:*

*(a) be compatible with, subordinate to and distinguishable from the heritage built form and architecture surrounding the proposed development;*

*(b) conform to the building height restrictions of the zone in which the structure is located;*  
*(c) not include a mobile home or mini home;*  
*and*  
*(d) meet all other provisions of Section 6.6.*

**Policy 4-79:** *Council shall consider, by development agreement, a proposed development within the Architectural Guidance Overlay that does not conform to the architectural design regulations of the Overlay if the proposal is for an Indigenous development and meets all other provisions of Section 6.6.*

### Feedback

Overall, there is a widespread recognition that the architecture of Mahone Bay is a large contributor to the tourist experience and a defining feature of the community’s character. There is strong support for the expansion of the Architectural Control Area (ACA), especially from heritage groups; however, this support is not unanimous. Some residents feel that the ACA expansion is arbitrary and wish to see a more robust study undertaken to create a sound rationale for which properties are included, as opposed to a blanket overlay within given boundaries. Some residents who live in modern homes included in the ACA were concerned that they will be forced to meet architectural criteria that are not consistent with the existing architecture of their dwelling and could impede future plans for renovations and/or additions. Some residents also felt inclusion of some commercial and industrial buildings along Main and Edgewater that clearly do not conform to the architectural character of the community was confusing.

We heard some confusion around the “pre-1919 appearance” and some suggested that this be changed to something less prescriptive. The language used in the Town of Lunenburg’s Comprehensive Community Plan, which speaks to a “new vernacular” and “managing change” by “ensuring that the heritage fabric

is protected, and new construction enhances the historic place by being a sympathetic addition appropriate in scale, form, massing and setbacks”, was identified as a possible inspiration for a different approach.

We also heard that the exclusion of mini and mobile homes from the ACA feels discriminatory and does not feel like an inclusive approach to housing in the community.

We also heard concern that Council can override the ACA, as some feel this could lead to arbitrary decision making and feelings of unfairness in the community.

Finally, we heard a desire to permit solar collectors as an accessory use in the ACA, even if they are visible from the street.

### **Potential Policy Direction**

There are multiple facets to the discussion of the Architectural Control Area so we have separated them for the purposes of discussion.

#### **Design Provisions and the Year 1919**

The existing Land Use Bylaw requires development in the ACA to be “similar to pre-1919 structures within Mahone Bay” on matters such as building height and massing, window placement, roof shape, and more. This has proven difficult for applicants to interpret, and for the Development Officer to enforce. The draft Bylaw moves in a direction that is more explicit and precise by establishing specific requirements for a few key elements of building design, such as cladding materials and window proportions.

However, the draft continues to contain language that allows someone who is restoring a pre-1919 building to utilize historic evidence to guide their building design, rather than meeting the prescriptive requirements of the Bylaw - the idea being that the Bylaw should not override attempts to implement authentic building details.

The choice of 1919 as a key date is a continuation of the existing Land Use Bylaw placing significance in the date of incorporation for the Town of Mahone Bay. Ultimately, the public feedback is correct that the approach to heritage architecture in Canada has generally evolved from memorializing specific dates, and has moved towards taking a holistic view of heritage and architecture as reflecting the “living” and evolving nature of our communities. However, it is our belief that a wholesale revamping of the Town’s approach to architectural regulation is a significant project in its own right, and would require a more thorough understanding of the spectrum of architecture within the town, as well as a public process to explore the cultures, histories, and stories that the Town chooses to reflect in its architectural regulation.

In the meantime, Policy 4-78 allows Council to consider unique proposals that do not comply with the ACA requirements, yet remain “compatible with, subordinate to, and distinguishable from” surrounding architecture.

One option, and perhaps an approach that would lessen the concerns about the expansion of the ACA, would be to remove the “pre-1919” language enabling exemption from the ACA requirements. Instead, this provision could speak to “alterations or expansions that are authentically reflective of the architectural style and period in which the building was constructed”.

The Steering Committee could:

- 1. Direct UPLAND to maintain the design provisions and pre-1919 exemption in the ACA.**
- 2. Direct UPLAND to adjust design provisions in the ACA.**
- 3. Direct UPLAND to broaden the exemption from the ACA to include alterations and additions that are period-appropriate.**



## ACA Extent

The draft Bylaw expands the ACA, which has raised concerns among some property owners about the potential for their properties to be impacted, particularly if their existing buildings are more modern in nature and “heritage”-type architectural requirements are incongruous with the existing styling of their buildings.

In addressing this concern, the Steering Committee could:

1. **Direct UPLAND to maintain the ACA extent and standards as drafted.**
2. **Direct UPLAND to reduce the proposed extent of the ACA**
  - a. **To revert it back to the extent within the existing Bylaw, or**
  - b. **To remove specific properties where the ACA is not seen as an appropriate tool.**
3. **Remove the ACA entirely.**
4. **If option 3 from the Design Provisions and Year 1919 discussion is advanced, rely on this approach to address resident concerns.**

## Mini Homes and Mobile Homes

Mini homes and mobile homes are excluded from the ACA because their architectural styling is typically fundamentally incompatible with the architectural principles promoted by the ACA. However, there is an argument to be made that mini homes and mobile homes could be designed to meet the architectural principles of the ACA, at which point their exclusion from the area would be contrary to the goals of the ACA. Therefore, we would recommend removing the specific prohibition on mini and mobile homes in the ACA, and instead rely on the specifics of the architectural requirements of the ACA to achieve the desired development form. If this approach is taken we would recommend adding a provision requiring placement on a permanent

foundation.

The Steering Committee could:

1. **Direct UPLAND to maintain the current prohibition on mini homes and mobile homes in the ACA.**
2. **Direct UPLAND to remove the prohibition on mini homes and mobile homes in the ACA.**

## Solar Collectors

The Steering Committee could:

1. **Direct UPLAND to continue prohibiting accessory solar collectors on public-facing facades and roofs in the ACA.**
2. **Direct UPLAND to permit accessory solar collectors on public-facing facades and roofs in the ACA.**



## 2.2 Housing

### Current Draft Approach

The current draft planning documents take a number of steps to ease housing development in Mahone Bay. This includes:

- permitting accessory dwellings in all residential zones, limited to one per lot and a maximum size of 70 square metres (753 square feet);
- treating supportive housing the same as dwellings of a similar scale;
- enabling the conversion of existing dwellings to multiple units, subject to minimum unit sizes and limits on expansion of the existing building (s5.17 of draft Bylaw);
- permitting four units per lot, as-of-right, in the Residential Core Zone;
- permitting eight units per lot, as-of-right, in the Residential General Zone;
- establishing a Residential Multi-unit Zone to permit multi-unit dwellings as-of-right;
- enabling “grouped dwellings” (multiple dwellings on one lot); and
- providing policy support for a future “inclusionary zoning” program in the Town, pending a detailed study to determine how such a program would function (Policy 4-49 of the draft Plan).

### Feedback

There was strong support for the “gentle density” approach taken in the draft documents. We heard from many residents about the need to improve affordability in the Town and to take creative approaches to ensure there is housing available for lower income families and individuals. The addition of accessory dwelling units was seen as a good option for achieving this goal, while also providing additional income streams for residents.

The Multi-unit Residential Zone was also seen as an opportunity to improve housing affordability and availability within the Town. Most of the feedback we received from residents regarding the Multi-unit Residential Zone involved suggestions to expand it to accommodate areas where growth could be centered in the future. In the current draft approach to zoning only the existing multi-units and a small number of vacant properties are placed in this zone. This was seen as not being proactive and causing potential barriers to multi-unit developments in the Town and impeding access to affordable options. Conversely, we heard some concern from neighbours of properties proposed for the Multi-unit Residential Zone that such zoning would enable intensification of these properties (e.g. current townhouse-style developments being redeveloped at four storeys in



height).

At the final Open House meeting on June 26th we heard from some residents who wish to see inclusionary zoning adopted in Mahone Bay to ensure affordability in future multi-unit developments. The prospect of adopting inclusionary zoning was also identified by the South Shore Housing Action Coalition (SSHAC), as well as Nova Scotia Public Health (NSPH), as an opportunity to improve housing affordability. These organizations also identified options like bonus density incentives for developers and partnerships between the Town and non-profit housing providers, such as tax breaks or land donations for affordable housing developments. We also heard from one resident who would like to see more policy support for the provision of non-market housing in Mahone Bay to ensure the availability of deeply affordable housing within the community.

Also relating to multi-unit dwellings, we heard from some residents that the conversion of larger homes into multi-units should be encouraged, or at the very least a clear path for owners to adapt their properties for this purpose.

Regarding grouped dwellings, we heard from one resident that they would like to see the term “cluster development” used instead. The Municipality of the District of Lunenburg uses “cluster development” and there is some desire to see continuity of terms to limit confusion. There was also a desire to see more clarity around where these developments would be permitted and what standards exist in terms of lot size, number of units permitted, etc.

### **Potential Policy Direction**

There are multiple facets to the discussion of housing so we have separated them for the purposes of discussion.

### **Non-market Housing and Inclusionary Zoning**

Historically, municipal planning in Nova Scotia has had little direct ability to affect the affordability of housing beyond controlling the supply of residentially-zoned land and the density

of development permitted on that land. While Municipal Planning Strategies can speak to non-market housing, there have been no tools available under the Municipal Government Act to act on this topic.

However, recent amendments to the Act that enable “inclusionary zoning” do provide such a tool. Inclusionary zoning, as implemented in 220(5)(ja) of the Act, enables a Land Use Bylaw to:

*“require and regulate the provision of affordable housing within developments, including requiring that a specified percentage of affordable housing units be provided within a development;”*

At this point in time, we are not aware of any municipalities in Nova Scotia who have established a successful framework for inclusionary zoning. The most advanced approach we are aware of is Halifax Regional Municipality, which requires developments of a certain size to contribute cash to a housing fund, which the Municipality then contributes to support non-profit housing developments in the municipality. Previous attempts by Halifax Regional Municipality to specifically require the provision of affordable housing units within the development ultimately failed due to a lack of framework for defining affordability and for monitoring to ensure units remained affordable over the long term.

In order to establish an effective inclusionary zoning program in Mahone Bay, the Town should, at a minimum:

- Work with the community and non-profit housing providers to establish a definition of “affordable”;
- Develop a policy or bylaw for ongoing monitoring, or develop a partnership with an organization who would be responsible for monitoring affordability; and
- Study the economics of housing development in Mahone Bay to determine how much affordable housing can be required of developers before it becomes

uneconomical to develop at all, i.e. before inclusionary zoning has an unintended consequence of making housing development in the town prohibitive.

The Steering Committee could:

- 1. Direct UPLAND to maintain the current draft policy that would enable Council to implement inclusionary zoning following appropriate study**
- 2. Direct UPLAND to require a specified percentage of affordable housing units within developments**

We strongly recommend against option 2 at this time. Without appropriate study, there is a strong risk that inclusionary zoning could either be ineffective or, conversely, too heavy-handed. Rather, once the Plan Mahone Bay project is complete we encourage the Town to undertake a separate project specifically focused on this topic in order to give it a thorough and meaningful examination.

### **Multi-unit Residential Zone**

The draft Bylaw primarily maintains the Multi-unit Residential Zone on existing multi-unit properties; any additional Multi-unit Residential Zone placement would occur at the request of applicants through the “rezoning” process, which is a public process, includes a Public Hearing, and is appealable to the Utility and Review Board. Expanding the Multi-unit Residential Zone onto additional properties (“pre-zoning”) would identify areas where development of multi-unit dwellings is permitted as-of-right and therefore streamlined and lower risk for developers.

The Steering Committee could:

- 1. Direct UPLAND to maintain the current extent of the Multi-unit Residential Zone**
- 2. Direct UPLAND to apply the Multi-unit Residential Zone to additional properties (ideally with specific direction as to which properties)**

### **3. Direct UPLAND to remove the Multi-unit Residential Zone from certain properties**

#### **Grouped Dwellings**

The locations where grouped dwellings are permitted is determined by zoning. The specifics for the number of permitted units varies by zone, and is communicated in Section 8.2 of the draft Bylaw. Lot standards also vary by zone, and are communicated in Sections 8.3, 8.4, and 8.5 of the draft.

As to the name, it is indeed true that the District of Lunenburg has chosen to use the name “cluster development”. When looking at other nearby municipalities, the Town of Lunenburg and the District of Chester do not differentiate among different types of dwellings, so have no specific term for this style of development in their Bylaws. The Town of Bridgewater calls it “collective residential development”. The Region of Queens and the County of Kings call them “grouped dwellings”. Annapolis County does not yet have comprehensive planning.

The Steering Committee could:

- 1. Direct UPLAND to maintain the term “grouped dwellings”**
- 2. Direct UPLAND to use a different term for grouped dwellings**



## 2.3 Accommodations

### Current Draft Approach

The draft Bylaw includes three different types of accommodations:

1. “Fixed-roof overnight accommodations” (i.e. hotels, motels, inns) are permitted in the Commercial Core and Commercial General Zone as standalone uses
2. Bed and breakfasts (‘B&Bs’) are permitted as a main use with up to 4 sleeping units in all of the residential and commercial zones. Council can consider larger B&Bs by development agreement in the Residential General Zone, Multi-unit Residential Zone, and the commercial zones
3. Short-term rentals (renting out a dwelling for accommodations purposes) are permitted in all zones that permit dwellings, but are only permitted in a primary residence.

### Feedback

Feedback around the proposed regulations for short term rentals (STRs) was mixed. Although many residents and advocacy groups see the validity in regulating STRs in residential zones to preserve long-term housing stock, there was push back from many in the tourism and business community around regulating STRs in commercial zones. Many in the business and tourism sectors pointed to a lack of accommodation options in Mahone Bay and the negative impacts this has on economic development and the perception that business is being lost to surrounding communities due to the lack of tourist accommodations available. Some business owners advocated for looser regulations for STRs in commercial zones as a means of encouraging tourism and promoting entrepreneurship in the Town. We heard from some business owners that the requirement for STRs to be in primary residences should be removed for those in commercial zones.

With regard to B&Bs, we had one request to bring the maximum number of sleeping units up

to 6 (without a development agreement) to align with the rules in the Town of Lunenburg and encourage more accommodations in the Town that do not remove potential long-term housing stock.

### Potential Policy Direction

There is often some confusion around discussions of accommodations and short-term rentals because the term “short-term rental” is often seen as synonymous with “accommodations listed on Airbnb (or similar online platform)”. However, there are many hotels, B&Bs, inns, etc. that advertise on online platforms such as Airbnb. It is, therefore, important to emphasize the definition of short-term rental that is in the draft Bylaw:

*“Short-term Rental means the **use of a dwelling unit** where guest sleeping facilities are contained within one building on a lot, intended to provide accommodation to the traveling public, [...]”*  
*[emphasis added]*

We would, therefore, suggest that restrictions and limitations on such use continue to be appropriate. This does not prevent or limit the opening of further accommodation options in the commercial areas of town because such businesses could be permitted under the category of “fixed-roof accommodations”, with no restrictions, regardless of whether they choose to advertise on Airbnb or not.

We do, however, think there is some merit in revisiting the provisions for B&Bs. The draft Bylaw approach to B&Bs is an evolution from the “tourist home” provisions in the current Bylaw, which allow three sleeping units in the main building and an additional sleeping unit in an accessory building (for a total of four sleeping units on a lot). The draft Bylaw keeps the same density of permitted sleeping units, with the key difference being that the draft “B&B” definition includes the requirement for a resident manager or owner, whereas the existing “tourist home” definition does not. With the resident owner/manager requirement, there

may be some merit to increasing the number of permitted sleeping units, since there is an owner or staff on site to address any disturbances that may impact the surrounding community. Indeed, six sleeping units is used in the Town of Lunenburg and is a common threshold in many communities in Nova Scotia.

Additionally, there is some merit in removing the cap on B&B sleeping units altogether in the commercial zones, since these zones permit other types of accommodations with no limits on the number of sleeping units.

The Steering Committee could:

1. **Direct UPLAND to maintain the current approach to accommodations in the draft**
2. **Direct UPLAND to increase the number of permitted sleeping units for B&Bs**
3. **Direct UPLAND to loosen the restrictions on STRs in commercial zones**



## 2.4 Environment

### Current Draft Approach

The current draft documents include text recognizing the value residents of Mahone Bay place on the environment, as well as a number of policy and regulatory approaches to protecting the natural environment and protecting development from the natural environment.

These approaches include:

- The creation of a Conservation Zone to protect sensitive environments from development;
- Including policy support for the development of a Tree Bylaw (4-39 in the draft Plan);
- Implementing maximum lot coverage requirements in residential zones;
- Including policy support for the development of a Stormwater Management Bylaw (4-40 in the draft Plan);
- Expanding the watercourse buffer from 8.0 metres to 10.0 metres;
- Including clear permissions and provisions for solar collectors and electrical vehicle charging on an accessory scale and as the main use of land; and
- Implementing a minimum vertical elevation for habitable areas, mechanical equipment, and hazardous materials for coastal development (s5.11 of the draft Bylaw)

### Feedback

There was widespread support for the policy direction in the draft MPS and LUB regarding the environment. We heard from a few residents that they would like to see a more rigorous approach taken when it comes to development in floodplains. They cited a recent CBCL study as the basis for this request and they also communicated a desire to see the findings from this study implemented in more Town policies.

Coastal issues also featured prominently in the feedback submitted, with some residents wanting to see more policy that addresses the

impacts of climate change and sea level rise. We heard from one resident that they would like to see support for living shoreline solutions and either outwardly prohibiting, or at least discouraging, the use of armoured rock walls due to their damaging impacts on surrounding properties. We also heard a call for prioritizing adaptation strategies over mitigation tactics and an overall desire to see the Town take decisive action on climate change.

Also relating to water and impacts on surrounding properties, we heard from some residents that they would like to see the MPS and LUB do more to address stormwater drainage in the Town and encourage or require property owners to mitigate runoff onto neighbouring properties. There is acknowledgment of the changes around maximum lot coverage to help mitigate the issue, but we also heard from one resident that the proposed maximum lot coverage for residential zones could pose challenges for those wishing to put an addition on their dwelling and are facing the constraints of small lot size. We heard from another that they wish to see maximum lot coverage extended to other land use zones as well, to further address stormwater concerns.

We heard from some about the need for more stringent policies and regulations to protect the environment in Mahone Bay. Some wish to see a "Sensitive Environment Zone" that provides some indication of where development should not occur. There was also some concern raised about the caveat that the Town can develop in the Conservation Zone, with some residents feeling this is in direct conflict with the purpose of the designation.

There was a call from one resident to revisit some of the environmental definitions in the draft documents. One such example was "watercourses" and that this should explicitly define what a "wetland" is, or should include "wetlands" as a separate definition that includes landscape features like intermittent streams and

vernal pools. The exclusion of the ocean from the definition of watercourses was noted and there was a desire to understand both why that would be, as well as the impact that this would have on protection of salt marshes.

### **Potential Policy Direction**

There are multiple facets to the discussion of environmental provisions so we have separated them for the purposes of discussion.

### **Flooding and Coastal Development**

The draft documents include limitations on development within the coastal elevation (where sea level rise and storm surge is a risk) identified in the CBCL report referenced in the public feedback. Beyond that, the contents of the CBCL report primarily deal with specific infrastructure investments to address coastal risks, which are beyond the scope of planning documents.

Additionally, municipalities have no authority under the *Municipal Government Act* to regulate armour rock or to require “living shoreline” approaches to coastal protection.

### **Stormwater Drainage**

The two main ways that development planning in Nova Scotia can address stormwater runoff are to regulate grading and to limit lot coverage to reduce the amount of land that is covered by impermeable roofs.

The draft documents include lot coverage limits in the residential zones. These could be expanded to other zones, or be made stricter. However, lot coverage limits must be balanced with other planning goals. For example, strictly limiting lot coverage limits the overall density of development, which can be to the detriment of housing affordability, walkability, community character, and efficient servicing. In particular, commercial areas of town depend on being densely packed, with high lot coverages, to provide a “main street” environment that is pleasing to browse as a pedestrian. It is also important to note that lot coverage limits only apply to roofed structures, and the Town has

limited ability to control other impermeable surfaces that contribute to stormwater runoff, such as paved parking lots.

Controlling stormwater flow can be done to some degree through lot grading and stormwater management plans at the time of development. However, the ability to manage stormwater on a lot-by-lot basis is somewhat limited because of the limited size of lots and because infrastructure for conveying stormwater extends beyond individual lot boundaries. The ideal time to appropriately plan for stormwater is during subdivision when new central infrastructure is being developed. In other words, good stormwater management policy depends on a holistic approach that marries appropriate grades on individual lots with well-designed conveyance and infiltration systems. As a result, we recommend a separate stormwater management bylaw rather than a piecemeal approach, and the draft Plan includes policy support for such a bylaw.

The Steering Committee could:

- 1. Direct UPLAND to maintain the current draft approach to stormwater management.**
- 2. Direct UPLAND to require grading plans for new development.**
- 3. Direct UPLAND to reduce the amount of lot coverage permitted in residential zones.**
- 4. Direct UPLAND to include lot coverage limits in other zones.**

### **Conservation Zone**

The Conservation Zone is intended to fill the role of a “sensitive environment zone”, and as a result is quite restrictive - the only use permitted in this zone is “permanent or temporary structures owned or installed by the Town”. This use is specifically included to enable the Town to install any infrastructure it deems necessary, such as boardwalks, fences, water control structures, interpretive kiosks, etc.



The Steering Committee could:

1. **Direct UPLAND to maintain the Conservation Zone as drafted.**
2. **Direct UPLAND to remove “permitted or temporary structures owned or installed by the Town” from the list of uses permitted in the Conservation Zone.**

### **Watercourse Definitions**

The use of “watercourse” in the draft Bylaw is solely in regard to the watercourse buffer as it applies to watercourses identified on Schedule ‘C’. The ocean has been specifically excluded from the definition to make it clear that the watercourse setback does not apply to the ocean.

Salt marshes occur below the ordinary high water mark and are therefore subject to provincial control rather than anything that might be in municipal planning regulations.

Additionally, we believe there is no need to further refine the definition of watercourse, since watercourses to which the regulations apply are specifically identified on Schedule ‘C’ - applicants and the Development Officer do not need to depend on a thorough definition of “watercourse” to identify the areas where the buffer applies.



## 2.5 Open Shoreline Zone

### Current Draft Approach

The current draft Bylaw includes the Open Shoreline Zone along most of the harbour's edge, excepting the commercial core area and the parking lot for industrial property opposite the end of Fauxburg Road. This zone is very restrictive, and limits permitted uses to home-based businesses (for the existing dwellings in this zone), commercial parking lots, parks and playgrounds, and conservation uses.

### Feedback

We heard some comments about the Open Shoreline Zone and the desire to see this zone approached as an "adaptation zone" referencing its importance for rising sea levels and mitigating the impacts of climate change. There is a desire to see vegetation in this zone protected to prevent erosion and for all development to be prohibited with the exception of infrastructure related to climate change adaptation.

There was a comment about the draft allowing commercial parking lots as a permitted use with a site plan in this zone. It was felt that this use is not in keeping with the intent of the zone and should be removed.

### Potential Policy Direction

The context text for this zone in the draft Municipal Planning Strategy does reference climate change and sea level rise (ss4.9.3); however, this can be strengthened in the next draft.

There is, however, no ability under the *Municipal Government Act* to prevent the clearing of vegetation except in relation to development. The only development permitted in this zone is conservation uses, parks and playgrounds, and commercial parking lots. The latter is permitted by site plan approval, which is an excellent tool for maintaining vegetation because it includes a site plan as part of the permitting record, and that site plan can provide a clear record of

where vegetation is supposed to exist to help inform future enforcement efforts. If parking lots are maintained as a use permitted in the Open Shoreline Zone then the site plan criteria could be strengthened in regard to vegetation preservation. Similarly, other uses in this zone could require site plan approval so that they too were subject to stronger tools for vegetation preservation. We must be clear, however, that the planning tools available under the Act do not enable the Town to limit vegetation clearing prior to development; land owners can clear the land before applying for a permit.

Commercial parking lots are permitted within this zone in recognition of the extensive parking lots already existing in this zone. If this use is removed from the Open Shoreline Zone, the existing parking lots would be permitted to continue but would become "non-conforming"; if they ever ceased to operate for a period of more than 12 months they would not be permitted to re-commence.

The Steering Committee could:

1. **Direct UPLAND to maintain the current approach to the Open Shoreline Zone**
2. **Direct UPLAND to remove commercial parking lots from the uses permitted in the Open Shoreline Zone**
3. **Direct UPLAND to continue commercial parking lots in the Open Shoreline Zone, but strengthen the site plan approval criteria as they relate to vegetation removal**
4. **Direct UPLAND to require site plan approval for parks and playgrounds and/or conservation uses in the Open Shoreline Zone**

## 2.6 Parking

### **Current Draft Approach**

In general, the draft Land Use Bylaw loosens parking requirements compared to the existing Bylaw. A new “parking exemption overlay” removes parking requirements from properties on the harbour side of Main Street, from the Cenotaph to the marina.

Outside of this area, parking is required (part 6 of draft LUB) but the number of spaces is typically reduced compared to the existing Bylaw. For example, parking requirements for dwellings has been reduced from 1.5 spaces per unit to 1.25 spaces per unit for multi-unit dwellings and 1 space per unit for smaller dwellings. Retail stores have been reduced from 1 space per 18.5 square metres of floor area to 1 space per 30 square metres of floor area.

The draft Bylaw also implements minimum bicycle parking requirements in the commercial zones and Institutional Zone (s6.8) and enables additional bicycle parking to be provided in lieu of automobile parking (s6.9). The latter enables up to 3 automobile parking spaces or 10% of the required automobile parking, whichever is larger, to be avoided.

The draft also exempts registered heritage properties from requiring parking (s4.8).

### **Feedback**

Parking was a hot topic during the draft engagement, particularly as it relates to commercial development and tourism, but also for some residential developments, such as multi-units.

Although the parking exemption overlay received support, some felt that it should be extended to include properties on both sides of Main Street, not just those on the harbour side. Some feel that the current approach is unfair and places additional pressure on the inland businesses on Main Street to meet the

parking needs. Many in the tourism and business community advocated for the removal of minimum parking requirements for commercial properties, citing it as a barrier for economic development in the town. Many pointed to the Town of Lunenburg’s approach, which removed parking minimums in Old Town, as a potential alternative. This was not universally supported by residents, with some pointing out that when businesses provide parking it is beneficial to that business, making it easier to access. Others raised concerns about relying on street parking to fill the need since it creates challenges for pedestrians and traffic flow during the peak season. Those residents who do not support the widespread removal of parking minimums do acknowledge the need to strike a balance between business-provided parking and publicly available options.

Some residents noted that those businesses that do have their own parking lots, especially those on Main Street with parking in behind, are unfairly providing parking for neighbouring businesses, with some visitors utilizing the parking lots without patronizing the business who own/operate the parking lot.

Parking for buses was also seen as an issue in the town, and one that has the potential to impact the business community. Many residents wish to see designated parking for buses in Mahone Bay to ensure that they continue to visit the community. We heard reference to a Transportation Study done a few years ago that identified space behind the new school as an option to accommodate this, but there is a desire to see a formal approach adopted.

There was some concern around parking requirements for multi-units as well, with some citing small and/or awkward lot dimensions as a possible obstacle for adding density to the community. One resident felt that the current options available for meeting the parking requirements are limiting and could cause challenges for development of housing that is needed in the town.

Bike parking was also discussed during the engagement period, with many residents wanting to see more bike parking added to accommodate the large number of cyclists that visit the town on the weekend. Some feel that bike parking takes up too much space in the parking lots along Edgewater Street and wish to see other designated bike parking sites identified.

In general, we heard a call for more Town-provided, off-street parking and for better marketing/advertising of that parking to alleviate the demand for on-street parking. Some felt that parking should be removed, at least from one side of the street, on Main Street to improve the flow of traffic and pedestrian safety.

### **Potential Policy Direction**

Parking policy can be challenging. Ultimately, the goal is to establish enough parking to reduce impacts on the public realm (e.g. impacts caused by “overflow” to residential neighbourhoods), while not requiring so much parking that the character of the community is impacted or that the cost or space requirements of meeting parking requirements prevents positive development. The draft documents attempt to do this by requiring parking, but reducing the amount required, allowing bicycle parking in lieu, and having exemptions for registered heritage properties and on a portion of Main Street.

In reviewing the drafts in regard to parking, the Steering Committee could take a number of approaches (which are not necessarily mutually-exclusive):

- 1. Direct UPLAND to maintain the current draft approach.**
- 2. Direct UPLAND to eliminate parking requirements for some or all uses.**

We believe the context in Mahone Bay is different from the Town of Lunenburg and warrants its own approach to parking. Old Town Lunenburg includes extensive on-street parking, properties are smaller, and the new planning documents were part of a larger

strategic process that included thinking about a municipal parking plan. In contrast, some commercial areas of Mahone Bay have no on-street parking and properties are generally larger. We do not recommend eliminating parking requirements in Mahone Bay.

- 3. Direct UPLAND to expand the Parking Exemption Overlay.** We believe there is some merit in this request. There are a number of other properties in the commercial core of Mahone Bay that are constrained by size and existing building placement, and are located in close proximity to public parking lots or on-street parking. In particular, we believe that the south side of Main Street from civic 488 to civic 530 is a good candidate area. Outside of this area, properties are larger and/or are not located adjacent to other options for parking.
- 4. Direct UPLAND to increase the scope of bicycle parking exemption.** One way to provide parking alternatives for businesses would be to increase the number of automobile parking spaces that can be eliminated by providing bicycle parking. Currently, for example, a retail store with up to 90 square metres (970 square feet) in floor area could completely avoid the required automobile parking by providing 14 bicycle parking spaces (2 required, plus 12 in-lieu of automobile parking). An increase in the maximum allowance for in-lieu parking would enable larger businesses to completely eliminate automobile parking. However, we do caution that this needs to be balanced with the need to accommodate automobiles; while bicycle ridership is growing, it still remains secondary to automobile travel in Mahone Bay.
- 5. Direct UPLAND to refine the number of required automobile parking spaces.** The draft Bylaw generally reduces parking requirements compared to the existing Bylaw. Per the review undertaken by the Mahone Bay Tourism and Chamber of Commerce in their submission, and our work on other planning documents, the

standards set in the draft are in line or more flexible compared to other Nova Scotian municipalities that require parking. The draft standards could be further loosened if desired; however, our recommendation would be to promote the other alternatives to providing automobile parking (bicycle parking and heritage registration) rather than reduce standards further.



## 2.7 Commercial Zoning

### *Current Draft Approach*

The draft LUB consolidates commercial zoning into two zones, the Commercial Core Zone and the Commercial General Zone. These zones are applied to existing commercial properties (i.e. properties were not “pre-zoned”) for commercial purposes.

The draft Municipal Planning Strategy includes a Commercial Designation on the Future Land Use Map that indicates areas where Council can entertain a request to rezone a property for commercial purposes. Outside of the Commercial Designation anyone seeking to rezone for commercial purposes would also need to request an amendment to the Municipal Planning Strategy; a process that is more involved and time consuming. The draft Future Land Use Map only includes the Commercial Designation on properties that are zoned commercially; in other words, all future commercial expansion would require amendments to the Municipal Planning Strategy.

### *Feedback*

We heard from some in the tourism and business sectors that they would like to see the Commercial Core Zone expanded further down the western end of Main Street to the town boundary, and possibly further up Edgewater Street as well. These areas were identified as locations where commercial expansion is taking place and there is a desire to see the zoning reflective of the changing nature of these areas. Some business owners cited concerns around inflation of commercial property values if a piecemeal approach is taken and the overall availability of commercial property in the town is limited.

### *Potential Policy Direction*

Currently, the draft planning documents do not contemplate commercial expansion; any such expansion would require an amendment to the Plan. There is some merit to being proactive and planning for areas where commercial development is encouraged to grow, rather than being reactive to piecemeal commercial expansion.

In reviewing the drafts in regard to commercial zoning, the Steering Committee could take a number of approaches:

- 1. Direct UPLAND to expand the Commercial Designation on the Future Land Use Map.** This approach would “pre-identify” areas where Council could easily consider requests to rezone for commercial purposes. This would communicate future commercial intent, but would not immediately expand commercial opportunity. Property owners would still need to go through the rezoning process.
- 2. Direct UPLAND to expand commercial zoning on the Zoning Map.** This approach would “pre-zone” lands for commercial purposes. Commercial expansion could occur to these properties without any additional process beyond obtaining a development permit.
- 3. Direct UPLAND to maintain the current draft approach to commercial zoning.**

## 2.8 Indigenous History & Development

### Current Draft Approach

The draft Municipal Planning Strategy includes a land acknowledgement at the beginning, along with an expanded history section (s1.2) that includes Indigenous history.

The draft documents also include context and policy (Policy 4-79) recognizing the inherent colonial nature of land use planning and architectural control, and enabling Council to exempt Indigenous developments from the Architectural Control Area standards via the development agreement process.

### Feedback

It was noted that while the inclusion of the land acknowledgment is a step in the right direction, the section about Indigenous developments being exempt from the Architectural Control Areas was seen as confusing, and because there is no reference to it in the draft Bylaw, it was felt that this is lacking clarity in its practical application.

There was also a desire to see archaeological assessments required for new developments to ensure they are not disturbing Mi'kmaw burial grounds or other significant cultural features.

### Potential Policy Direction

The draft Bylaw does reference the Indigenous exemption policy, since a reference to uses permitted by development agreement is required in the Land Use Bylaw in order for the Development Officer to grant development permits for land subject to a development agreement. This is done in Subsection 5.5.18 of the draft Bylaw (Architectural Control Exemptions). However, this subsection simply references the policy number rather than the specific topic, so we can expand the text here to

explain that one of those policies is in regard to Indigenous development.

Mi'kmaw burial grounds and other archaeological resources in Nova Scotia are protected by the *Special Places Protection Act*. This act enables the Minister to designate Protected Sites. No person may excavate or alter a Protected Site without a permit. However, even outside Protected Sites no person may, "knowingly destroy, desecrate, deface or alter archaeological or historical remains or a palaeontological site". While there is some risk that development excavations could *unknowingly* damage archaeological resources, under the *Special Places Protection Act* as soon as a developer is aware of archaeological resources on a site they must engage an archaeologist who can hold a heritage research permit to investigate the site and oversee further excavations.

Undertaking an archaeological assessment is not a quick nor cheap process. Given the reasonably robust protections under the *Special Places Protection Act*, we do not recommend requiring archeological assessments as a condition of development.

The Steering Committee could:

- 1. Direct UPLAND to continue the current approach of not requiring archaeological assessments.**
- 2. Direct UPLAND to amend the drafts to require archaeological assessments for new developments.**

## 2.9 Specific Suggestions for Zoning Map & Zone Revisions

### Feedback & Discussion

We heard requests for specific changes to the Zoning Map, as well as a few mapping errors in the draft documents:

- The Bay to Bay, Adventure, and Dynamite Trails are coloured as if they are in the Parks & Open Space Zone but are labeled “Conservation”.
  - » The label will be corrected.
- There was a request to review Schedule ‘C’, the Protected Watercourse map because not all watercourses are shown, and because some watercourses that are shown do not seem to exist. It was also noted that Schedule ‘C’ is not referenced in the draft Bylaw.
  - » Schedule ‘C’ intentionally includes only major watercourses.
  - » It does appear that some of the watercourses depicted do not exist. This will be reviewed thoroughly and non-existent watercourses removed.
  - » Schedule ‘C’ is indeed referenced in the draft Bylaw in Section 5.53, Watercourse Buffer.
- There was a request to include the wetland south of the Town’s wastewater treatment lagoons and on neighbouring properties in the Conservation Zone. This area is currently zoned Industrial on the Town’s property and Unserviced on neighbouring properties.
  - » The *Municipal Government Act* places limits on the ability of municipalities to outright prohibit development on private land (which, essentially, the Conservation Zone achieves). However, under Section 220(5)(p) of the Act, prohibition of development is permitted on lands known to be “low-lying, marshy, or unstable.”

The Steering Committee could:

1. **Direct UPLAND to include this wetland in the Conservation Zone.**
2. **Direct UPLAND to maintain the current zoning on this wetland.**

- There was a request to review the boundaries of the Unserviced Zone to include all parcels that are not on Town servicing. PIDs 60373073, 60373065, and 60530607 at the end of Fairmont Street were identified by the property owner as specific properties to consider.
  - » The zoning of these properties is a continuation of the zoning from the existing Bylaw. Changing the zoning on them to Unserviced will by and large reduce development rights; however, since the property owner is requesting this we do not have any particular objection to the change.
    - The Steering Committee could:
      1. **Direct UPLAND to maintain the General Residential Zone on these properties.**
      2. **Direct UPLAND to change the zoning on these properties to Unserviced.**

We also heard specific requests to tweak the uses permitted in certain zones:

- We heard a request to remove “Existing Residential Uses” from the list of uses permitted in the Parks & Open Space Zone
  - » Upon review, there do not appear to be any existing residential uses within the Parks & Open Space Zone. This use can probably be safely removed from the uses permitted in this zone.
    - The Steering Committee could:
      1. **Direct UPLAND to maintain “existing residential uses” as permitted in the Parks & Open Space Zone.**
      2. **Direct UPLAND to remove “existing residential uses” from the list of permitted uses in the Parks & Open Space Zone.**



- We heard a request to add “controlled environment agriculture” (such as large scale greenhouses) to approved uses in the Industrial Zone and Unserviced Zone
- » Currently this would be captured under the definition of “agriculture-related uses”, which require a development agreement in the Unserviced Zone and are not permitted in the Industrial Zone.

The Steering Committee could:

1. **Direct UPLAND to maintain the current approach to agriculture-related uses.**
2. **Direct UPLAND to permit (as-of-right) agriculture-related uses in the Unserviced Zone and/or Industrial Zone.**
3. **Direct UPLAND to create a new, narrower land use definition for this specific type of agriculture-related use and permit it (as-of-right) in the Unserviced Zone and/or Industrial Zone.**

## 2.10 Provincial Review

### Context

Planning documents within Nova Scotia are required, under the *Municipal Government Act*, to be consistent with five “Statements of Provincial Interest” as well as the Minimum Planning Requirements Regulations and Engagement Program Content Regulations. Formal review for compliance occurs after Council has approved the new planning documents. However, we shared the drafts with Municipal Affairs for a preliminary review to help reduce the risk of the documents being sent back for changes following the formal review process.

### Feedback

By and large, Municipal Affairs found the drafts to be “reasonably consistent” with the Statements of Provincial Interest. However, Municipal Affairs did raise concerns about compliance with required elements under the Engagement Program Content Regulations and a lack of wording to “link” the planning documents to the Town’s Public Engagement Policy.

### Action

We will update the drafts to reference the Public Engagement Policy, to require neighbouring municipality engagement to occur prior to First Reading for any proposed Plan amendments, to provide parameters around how Council will consider comments from neighbouring municipalities, and to require invitations for neighbouring municipality engagement to reference the Statements of Provincial Interest. This should bring the drafts into alignment with provincial requirements.



## Additional Feedback

This section provides a summary of the feedback that the project team received related to topics that are outside the specific scope of land use planning documents in Nova Scotia, or are beyond the powers granted to municipalities through the **Municipal Government Act**. While these items cannot be directly addressed as part of the planning documents, the feedback is still appreciated and important and is included here as a reference for the Municipality in instances where other municipal tools are available to address these comments.

### **Parks & Open Space**

Many in the community spoke favourably about the availability of Parks and Open Space in Mahone Bay. We heard that access to the many trails, parks, and other recreation facilities is a great contributor to the quality of life of residents, as well as a big draw for young families. The soccer field was widely viewed as a great community asset and many wish to see it protected long-term. We also heard from a few residents that the Mahone Bay Pool is a cherished community asset and they would like to see continued investment in the facility.

We heard from Nova Scotia Public Health ('NSPH') that they would encourage the Town to ensure all future parks and recreation developments meet accessibility standards and aim to be inclusive and equitable spaces. They also suggested exploring the opportunity to develop a sponsorship policy, like the one

developed in the Town of Lunenburg.

NSPH also advocated for the implementation of a bylaw to restrict the use of cannabis, alcohol, tobacco, and vape products in these public parks and open spaces, and to consider expanding the 3-metre setback for advertising and marketing around these areas.

We also heard from residents and advocates that there is a desire to see continued and expanded support for community gardens and food forests in parks and open spaces to encourage food security in Mahone Bay.

### ***Economic Development Committee***

We heard about the desire to reinstate the Economic Development Committee to ensure there is an ongoing dialogue between the business community and the Town and to have their interests represented in Town discussions and decision-making.

### ***Procedural Challenges***

During the engagement we heard about some procedural challenges that residents and business owners have faced when trying to develop their properties. We heard a call for improvements to the permitting process to ensure faster turnaround times. We also heard a call for better and more transparent communication from Town staff and Council.

### ***Noise Bylaw***

We heard some comments about the current draft Noise Bylaw proposed by the Town. Some residents and business owners feel that the Bylaw is unnecessary and too hard to enforce and has the potential to pit neighbour against neighbour. There is some concern about how it would be enforced and the impact it could

have on things like live music at local bars and restaurants. Some feel that noise related issues outside of normal hours should be dealt with by the RCMP, and not the Town.

### ***Road Infrastructure & Traffic Control***

We heard from a few residents about challenging intersections in Mahone Bay. Some mentioned the intersection at the Cenotaph and how difficult it can be for tourists to navigate, but we also heard from others that although the intersection is not standard, people are able to navigate it with little to no issues or collisions.

We also heard that the intersection at Main Street and Pleasant Street is challenging for pedestrians and there is a desire to see some intervention to improve the crossing.

Some residents wish to see the recommendation from the Transportation Plan to turn Fairmont into a one-way street from Main Street to Pleasant Street. We heard that this intervention would both improve the flow of traffic as well as improve safety.



UPLAND