



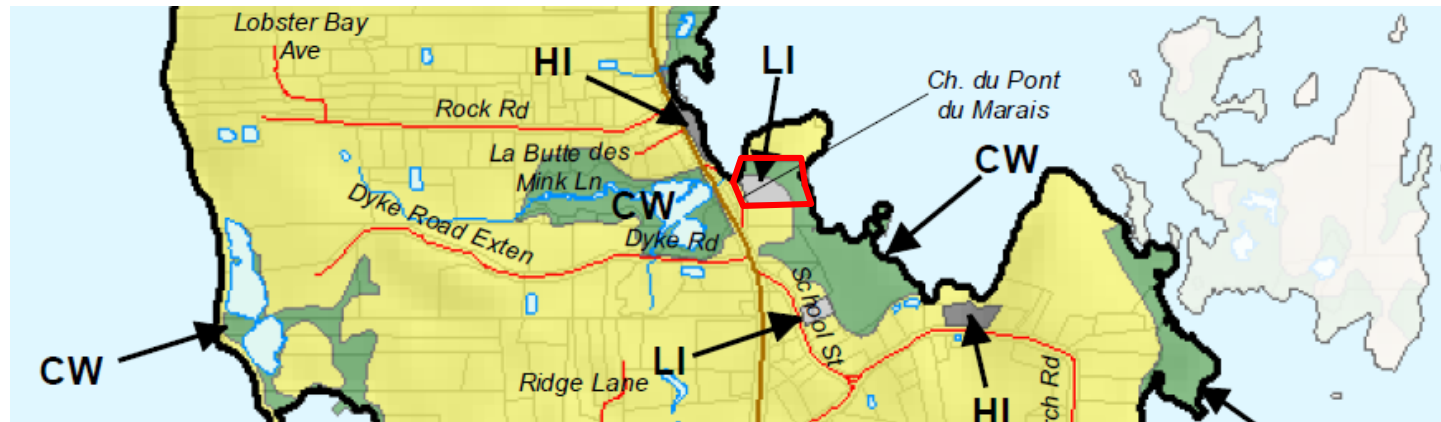
PLANNING ADVISORY COMMITTEE MEETING

Development Agreement Application for an Evening Patio
Use by Boatskeg Distilling Co, Middle West Pubnico

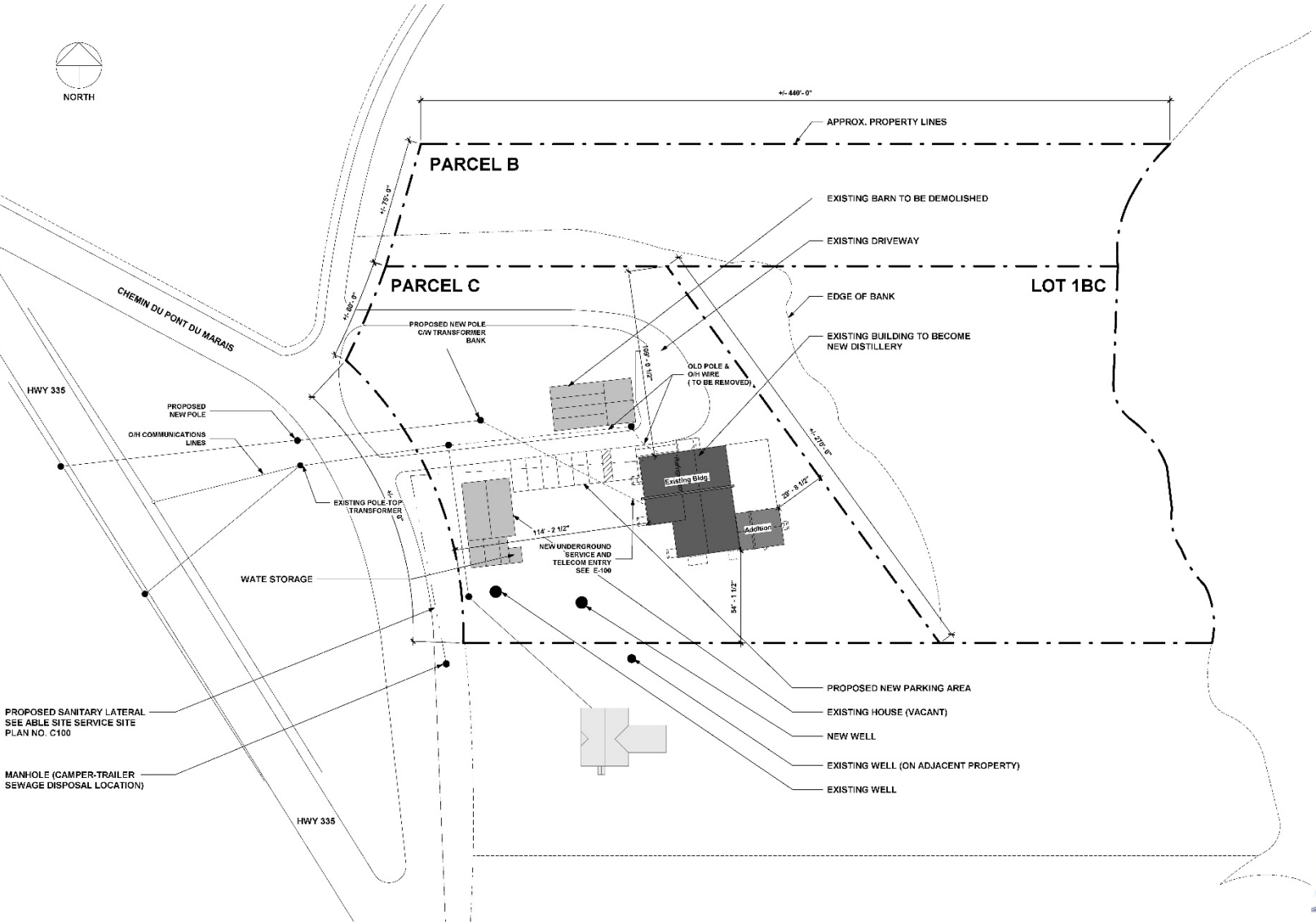
July 15, 2021

Area Zoning

- The subject property is split-zoned Light Industrial (LI) above the ordinary high-water mark and Coastal Wetland (CW) below the ordinary high-water mark.
- Adjacent properties are majority split-zoned Mixed Use (MU) above the ordinary high-water mark and Coastal Wetlands (CW) below the ordinary high-water mark.
- Additional nearby properties are zoned Heavy Industrial (HI) Zone and Light Industrial (LI) Zone.



Application Details



Policy Considerations

Municipal Planning Strategy Policy

- A detailed table of the evaluative criteria from the enabling MPS policies and corresponding comments from Staff is attached as Appendix B.
- Existing policies in the MPS allow Council to consider this development agreement without needing amendments to Municipal Planning Strategy. The development agreement of the subject site is enabled by Policy 4.5.11 of the MPS.
- As indicated in the *Municipal Government Act*, there is a right of appeal option for approval or refusal of the development agreement.

Why is an Amendment Necessary?

- Evening patio uses where food and beverages are served between 9pm-9am require a development agreement.

Discussion

- Evening patio uses can generate land use conflicts with adjacent residential properties due to generation of noise. To assist in mitigating potential issues, the draft development agreement has a number of stipulations proposed under s. 3.1.1:
 - a) All uses permitted in the underlying zoning, as per the requirements of the Municipality of the District of Argyle Land Use Bylaw, as amended from time to time, in addition to any other uses permitted by this agreement; and
 - b) The developer shall be permitted to install a patio having a maximum area of 120 square metres. The following matters shall apply to the use of the patio:**
 - i. The patio may be used to serve patrons alcohol with or without food;**
 - ii. The hours of operation for the patio shall be between 8:30am until 12:00 (midnight), and additionally, from midnight to 2:00am on Saturdays, Sundays, July 2nd, and January 2nd;**
 - iii. No live entertainment shall be permitted on the patio;**
 - iv. Background music shall be permitted on the patio at a volume that will not disturb surrounding residential uses.**
 - c) other uses, signage, parking or loading areas accessory to the principal use as per the requirements of the Municipality of the District of Argyle Land Use Bylaw, as amended from time to time.

Discussion, cont.

If operations are problematic, and a number of complaints received, the proposed draft development agreement contains provisions where it may be discharged, and any development permits revoked without the concurrence of the property owner, as indicated below:

3.2.2 The Development Officer, at their discretion, may revoke a development permit pursuant to this agreement if:

- a) the development is not in accordance with:
 - i. the Land Use Bylaw where not varied by this agreement,
 - ii. this agreement, or
 - iii. the plans associated with the approved development permit.
- a) the permit was issued based on incorrect information provided by the applicant when applying for a development permit; or
- b) the permit was issued in error; or
- c) continued complaints and matters of non-compliance arise due to noise generation related from the operation of the outdoor patio use.

Public Engagement

- Staff will comply with the Public Participation Policies of the MPS
- As per Section 206 of the *Municipal Government Act*, a public hearing is required for Development Agreement application to hear input from the community
- An advertisement outlining the application and indicating that it had been received and notifying the public of the public hearing will be placed into *VanGuard*
- The public is encouraged to request additional information and clarification leading up to the public hearing if they have questions
- A sign will be placed on the subject property on notifying residents that an application has been received

Next Steps

- Staff will continue to review the proposal as public feedback is received
 - Council will schedule a Public Hearing
 - Public hearing mailout notices will be sent to property owners within 152 metres of the subject property
 - Notice of Public Hearing advertisement put in the Vanguard two weeks prior to the Public Hearing
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- Process is as follows:



Recommendation

- That the Planning Advisory Committee recommend to Council to give initial consideration to the Development Agreement Application of the subject site to allow for an evening patio use to operate between 9pm-9am. Note that the terms of the development agreement will determine the permitted duration which may be used during this period.

Recommended Motion

That the Planning Advisory Committee recommend that Council:

- give first reading to consider approval of a development agreement to allow for an evening patio use to operate between 9pm-9am on PID 90078452;
- proceed to a public hearing without a second meeting of planning advisory committee unless substantial comments are received from the public; and
- authorize staff to schedule a public hearing for the application.



Thank You

