

To: Planning Advisory Committee (PAC)
Municipality of the District of Yarmouth (MODY)
Submitted by: Madelyn LeMay, LPP, MCIP
Date: March 17, 2026 PAC Meeting
Subject: LUB Amendments: Site Plan Agreements in Lakeside Residential (LR) Zone
Recommendation Report to PAC

1.0 LEGISLATIVE AUTHORITY

Municipal Government Act Section 232

2.0 RECOMMENDATION

Should PAC wish to recommend providing exemptions to the developments subject to site plan agreement in the Lakeside Residential (LR) Zone, the following motion would be appropriate:

...that Council give First Reading and hold a public hearing to amend the Land Use By-law regarding site plan agreements in the Lakeside Residential (LR) Zone as shown in Appendix E of the report to PAC dated March 17, 2026.

3.0 BACKGROUND

MGA and MPS

The Municipal Government Act in Sections 231 and 232 enables a municipality to include the use and content of site plan agreements within its planning documents (Appendix A).

The present Municipal Planning Strategy (MPS) for the Municipality of the District of Yarmouth (MODY) provides background and policy regarding the use of site plan agreements (Appendix B). Site plan agreements are an approval process intended to allow a middle ground between the minimal process for a development officer approving a development permit and the more stringent process by which Council may consider a development agreement. Approval of site plan agreements is within the Development Officer's authority, and just as with variances, the decision of the Development Officer may be appealed to Council.

The Land Use By-law (LUB) for MODY (Appendix C) requires site plan agreements for some uses in nearly every zone, and establishes ten (10) sets of criteria for ten (10) different classes of uses. No exemptions are identified.

All dwellings in the Lakeside Residential (LR) Zone require a site plan agreement

in order to build or locate a dwelling. The criteria established for a site plan agreement for a dwelling are fairly stringent since the intent is to protect the lakes within MODY. For example, the criteria requires that the site plan be prepared *“under the stamp of a professional architect, planner, engineer, or surveyor”*.

4.0 NEED FOR AMENDMENT

Issues have become apparent recently with individuals wishing to add a small deck or porch to an existing dwelling within the Lakeside Residential (LR) Zone. Although the MGA is clear in subsection 231 (3) that exemptions are possible *“the class of use is exempt from site-plan approval as set out in the land-use by-law and the development is otherwise consistent with the requirements of the land-use by-law.”* No exemptions have been established.

After responding to inquiries and applicants and considering the usual likely applications for the building season, development control staff have identified two categories of development which should be exempt from the requirements for site plan agreements:

- additions which are less than 28 m² (300 sq ft) in area made to an existing main or accessory structure. This would include items such as a new laundry room, porch, deck or additional bedroom
- new structures which are less than 28 m² (300 sq ft.) in area and accessory to an existing main structure. This would include sheds and single-car garages.

The existing criteria are more stringent than warranted for relatively small developments.

Council’s main intent appears to be to provide protection to the watercourse. As a result, any exemptions should specify that all construction be outside the 15m watercourse buffer required in the Lakeside Residential (LR) Zone.

Section 4.3.5 of the MPS emphasizes Council’s efforts to reduce light pollution and protect the *“Starlight Preserve”* designation. Since lighting related to development in the Lakeside Residential (LR) Zone is controlled only through the site plan agreement process, development exempt from the process would not be subject to the lighting regulation. A clause has been added to the exemptions to ensure that the same lighting standard applies to exempt developments as to developments permitted through the site plan approval process.

The proposed amendments to add exemptions to site plan agreement requirements are in Appendix D and E.

5.0 DOCUMENT REVIEW

5.1 Statements of Provincial Interest

The Province of Nova Scotia has five (5) Statements of Provincial Interests (SoPI) which form part of the Municipal Government Act and provide municipalities with guidance on specific aspects of development in the Province: drinking water, flood risk areas, agricultural land, infrastructure and housing. These proposed LUB amendments do not have impact on and are not impacted by any of the matters discussed in the SoPI.

5.2 MCCAP

As text amendments which affect only site plan agreements for minor structures located in the Lakeshore Residential (LR) Zone, and outside the required watercourse buffer, these amendments have not been examined in relation to the Municipal Climate Change Action Plan (MCCAP).

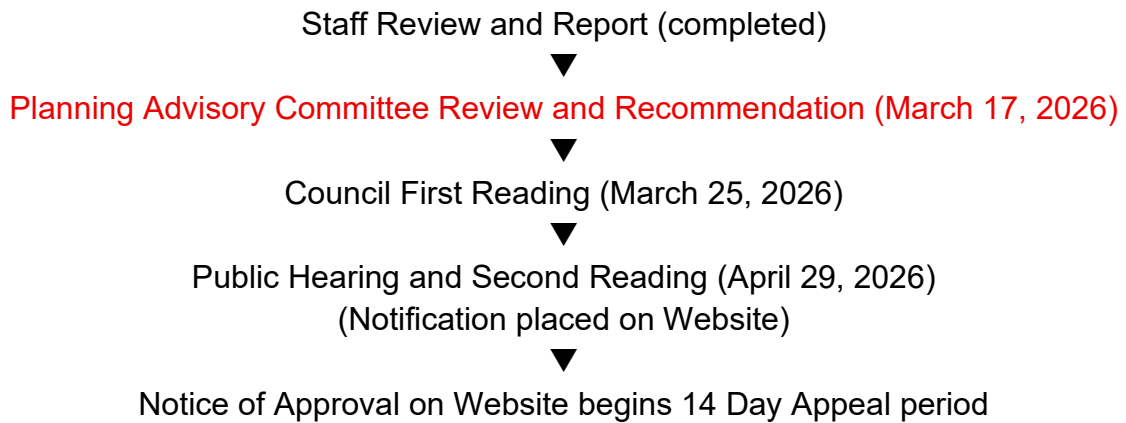
5.3 MPS: Amendment Policies

The MPS is silent regarding text amendments to the LUB. The Background section of the MPS regarding Site Plan Criteria mentions flexibility, but none is provided in the LUB. There is nothing within the LUB that would allow flexibility regarding site plan requirements unless exemptions are provided within the LUB.

6.0 CONCLUSION AND NEXT STEPS

The proposed amendments have been considered within the context of the general policies of the MPS and the specific policy regarding site plan agreements. The proposed amendments are consistent with the intent, objectives and policies of the MPS, and as a result, it is reasonable for Council to consider the LUB amendments.

The process to complete the proposed amendments is:



7.0 FINANCIAL IMPLICATIONS

There are no financial implications to the Municipality related to the proposed amendments.

8.0 ALTERNATIVES

PAC may recommend that Council:

- hold First Reading and authorize a Public Hearing followed by Second Reading, in order to approve the LUB amendments as proposed or as specifically revised by direction of PAC; or
- provide alternative direction such as requesting further information on a specific topic.

9.0 APPENDICES

- Appendix A MGA Material
- Appendix B MPS Material
- Appendix C LUB Material
- Appendix D Proposed Amendments
- Appendix E Proposed Amendments (formal)

Report Prepared by: Madelyn LeMay, LPP, MCIP

Report Reviewed by Victoria Brooks, CAO

APPENDIX A
Taken from the MGA March 7, 2026

Site-plan approval

- 231 (1)** Where a municipal planning strategy so provides, a land-use by-law shall identify
- (a) the use that is subject to site-plan approval;
 - (b) the area where site-plan approval applies;
 - (c) the matters that are subject to site-plan approval;
 - (d) those provisions of the land-use by-law that may be varied by a site-plan approval;
 - (e) the criteria the development officer shall consider prior to granting site-plan approval;
 - (ea) the notification area;
 - (f) the form and content of an application for site-plan approval.
- (2)** *repealed 2003, c. 9 s. 61.*
- (3)** No development permit shall be issued for a development in a site-plan approval area unless
- (a) the class of use is exempt from site-plan approval as set out in the land-use by-law and the development is otherwise consistent with the requirements of the land-use by-law; or
 - (b) the development officer has approved an application for site-plan approval and the development is otherwise consistent with the requirements of the land-use by-law.

APPENDIX B

Taken from the MPS March 4, 2026

6.5 Site Plan Agreements

6.5.1 Site Plan Agreements

Site plan approval is a development approval process in which applicants must meet an additional set of criteria set out in the Land Use By-law. Unlike standard development permitting, these criteria are not necessarily numerical in nature, and can involve a negotiation between the applicant and the Development Officer to determine compliance with these criteria. The outcome of site plan approval is a site plan agreement. This tool is useful for approvals that might require an additional level of oversight or flexibility in the ways impacts on neighbours are reduced, but that do not necessarily need to go through the complex and time-consuming process required for a development agreement.

Policy 6-19 *Council shall, through the Land Use By-law, use site plan approval as the tool for reviewing developments that require some additional oversight or where there is benefit to providing flexibility in the ways land use controls are implemented.*

Policy 6-20 *Council shall, through the Land Use By-law, establish a notification area of 152 metres for site plan agreements involving small-scale wind turbine generators and 30 metres for all other site plan agreements.*

.....
Policy 4-18 *Council shall, through the Land Use By-law, require stormwater management plans for any use permitted by site plan approval.*
.....

Policy 5-47 *Council shall, through the Land Use By-law, establish the Lakeside Residential Zone to apply to lands within the Lakeside Residential Designation, to give priority to sustainable residential development. Boarding houses, dwellings with one or two units, small options homes, and special care homes shall be permitted only by site plan approval.*

APPENDIX C

Taken from the LUB March 4, 2026

- 5.7.1 Some *zones* of this Land Use By-law permit certain uses only by *site plan approval*. Unless specifically addressed in a different manner by the applicable criteria of Chapter 31, all other applicable criteria of this Land Use By-law shall still apply to any *development* proposed and undertaken through *site plan approval*.

Application Requirements

- 5.7.2 In addition to the requirements of Section 5.4, applications for *site plan approval* shall meet the following requirements:
- (a) the site plan shall be fully and accurately dimensioned and shall be made under the stamp of a professional architect, planner, engineer, or surveyor licensed to practice in Nova Scotia.
 - (b) the application shall be accompanied by a written rationale and any necessary supporting illustrations addressing each of the applicable criteria outlined in Chapter 31.
 - (c) the application shall be accompanied by a fee, in the amount identified in the fee table established by *Council*, for advertising and notification costs.

Site Plan Approval Review

- 5.7.3 The *Development Officer* shall review applications for new *developments* permitted by *site plan approval*, and amendments to existing *site plan approvals*, against all applicable criteria of this Land Use By-law and the applicable criteria in Chapter 31.
- 5.7.4 *Council* may, by resolution, establish a committee or designate an existing committee to advise the *Development Officer* on qualitative matters related to the *site plan approval* criteria of Chapter 31 prior to the *Development Officer* granting or refusing approval.

Notification

- 5.7.5 Where the *Development Officer* has granted a *site plan approval*, notification of the approval shall be served upon all assessed property owners of all properties that lie within the following distances:
- (a) 152 metres of the property subject to the *site plan approval* for *small-scale wind turbine* development; or
 - (b) 30 metres of the property subject to the approval for all other *site plan approvals*.

Appeal of Site Plan Approval

- 5.7.6 Appeals of the *Development Officer's* decision regarding a *site plan approval* request may be made to *Council*, as provided for by Subsection 232(2) of the *Municipal Government Act*.
-

25.4.1 The following uses are permitted by site plan approval in the Lakeside Residential Zone subject to the site plan approval criteria of Chapter 31 of this By-law:

- (a) Boarding / Rooming Houses
- (b) Dwellings - 1 or 2 dwelling units per lot
- (c) Expansion of non-conforming uses
- (cA) Non-Primary Residence STRs (CHG-4-74A)
- (d) Small options homes
- (e) Special Care Homes
- (f) Small-scale Wind Turbine Generators

Criteria:

31.1 Dwellings Within the Lakeside Residential Zone

31.1.1 Where *dwellings, boarding/rooming houses, non-primary residence STRs (CHG-4-74A), small options homes, and special care homes* are permitted within the Lakeside Residential Zone by *site plan approval*, the *Development Officer* shall approve a site plan agreement where the requirements of this Land Use By-law and the following matters have been addressed:

- (a) the *development* shall not have significant negative impacts on any known species-at-risk habitat within the property;
- (b) the proponent shall provide a stormwater management plan, subject to the requirements of Section 5.5;
- (c) the proponent shall provide a site plan including the following:
 - i. property boundary and any shorelines;
 - ii. any *watercourses*, wetlands, or slopes over 20%;
 - iii. any sand dunes;
 - iv. *existing* riparian buffer;
 - v. any areas to be maintained as natural vegetation;
 - vi. any *existing* or proposed landscaping or lawns;
 - vii. any areas that may be cleared or partially cleared of vegetation;
 - viii. any *existing* or proposed *driveways*;
 - ix. *main building* envelope;
 - x. any *accessory buildings*; and
 - xi. information on any species-at-risk habitat.
- (d) lighting
 - i. all exterior lighting shall be of a full cut-off type and shall not emit light above the horizontal.

APPENDIX D

Proposed Amendments

Note: *coloured text* and text with ~~strikeout~~ indicates a change from the present LUB and is provided only for the convenience of the reader. Additions are in *blue*.

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 - iii. any sand dunes;
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 - vi. any *existing* or proposed landscaping or lawns;
 - vii. any areas that may be cleared or partially cleared of vegetation;
 - viii. any *existing* or proposed *driveways*;
 - ix. *main building* envelope;

- x. any *accessory buildings*; and
 - xi. information on any species-at-risk habitat.
- (d) lighting
- i. all exterior lighting shall be of a full cut-off type and shall not emit light above the horizontal.

31.1.2 Exemptions from Site Plan Agreement

- (a) The following structures are exempt from site plan agreement provided all construction is located outside the 15m watercourse buffer required in the Lakeshore Residential (LR) Zone:
 - (i) additions to a main or accessory building existing as of June 26, 2025, (the effective date of this LUB), located in the Lakeside Residential (LR) Zone, provided such addition is not greater than 28 m². in area; and
 - (ii) buildings accessory to a main building existing as of June 26, 2025, (the effective date of this LUB), located in the Lakeside Residential (LR) Zone, provided the accessory building is not greater than 28 m². in area.
- (b) any lighting associated with development permitted in clause (a) shall be of a full cut-off type and shall not emit light above the horizontal.

APPENDIX E

Purpose:

Text amendments to the Land Use By-law to exempt certain uses from site plan agreement requirements in the Lakeside Residential (LR) Zone.

Amend the text of the Land Use By-law of the Municipality of the District of Yarmouth as follows

1. Immediately following subsection 31.1.1 add subsection 31.1.2 as follows:

31.1.2 Exemptions from Site Plan Agreement

The following structures are exempt from site plan agreement provided all construction is located outside the 15m watercourse buffer required in the Lakeshore Residential (LR) Zone:

- (a) *additions to a main or accessory building existing as of June 26, 2025, (the effective date of this LUB), located in the Lakeside Residential (LR) Zone, provided such addition is not greater than 28 m². in area; and*
- (b) *buildings accessory to a main building existing as of June 26, 2025, (the effective date of this LUB), located in the Lakeside Residential (LR) Zone, provided the accessory building is not greater than 28 m². in area.*

so that Section 31.1 reads as follows:

31.1 Dwellings Within the Lakeside Residential Zone

31.1.1 Where *dwellings, boarding/rooming houses, non-primary residence STRs (CHG-4-74A), small options homes, and special care homes* are permitted within the Lakeside Residential Zone by *site plan approval*, the *Development Officer* shall approve a site plan agreement where the requirements of this Land Use By-law and the following matters have been addressed:

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- (c) the proponent shall provide a site plan including the following:
 - i. property boundary and any shorelines;
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- iv. *existing* riparian buffer;
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