



NOTICE OF ADOPTION

Second Reading and Adoption of the By-law to Amend the Land Use By-law 25-03 and 25-04 took place on Monday, May 26th, 2025.

The purpose of the adopted By-laws are:

By-law to Amend the Land Use By-law 25-03

- to rezone PID 25182171, 15518 Highway 6, Upper Malagash from the Agriculture (AG) Zone to the Country Commercial (CCou) Zone.

By-law to Amend the Land Use By-law 25-04

- to rezone PID 25350869, the property between 148 Blue Sea Road and Golden Brook, Malagash Centre from the Agriculture (AG) Zone to the Residential Recreation (RRec) Zone.

Any aggrieved person, the Provincial Director of Planning, or the Council of any adjoining municipality may, within fourteen days of the publishing of this notice, appeal to the Nova Scotia Utility and Review Board (1-855-442-4448 / board@novascotia.ca) in accordance with the provision of the Municipal Government Act.

Amanda Janes-Kinnear
Deputy Clerk



COUNCIL MEETING

SECOND READING

Date: May 26th, 2025

TO: Mayor Gilroy and Council

FROM: Glen Boone, Director of Development and Planning

DATE: May 23rd, 2025

SUBJECT: **Second Reading - By-law to Amend the Land Use By-law 25-04 to rezone PID 25350869 the property between 148 Blue Sea Rd. and Golden Brook, Malagash Centre from the Agriculture (AG) Zone to the Residential Recreation (RRec) Zone.**

ORIGIN: On February 26, 2025, planning staff received an application to rezone PID 25350869 (the “subject property”), between 148 Blue Sea Road and Golden Brook, Malagash Centre to support the creation of residential building lots.

PID	Location	Current Zone	Current Use	Proposed Zone	Proposed Use
25350869	Malagash Centre	Agriculture (AG) Zone	Vacant (wooded)	Residential Recreation (RRec) Zone	Residential Building Lots

LEGISLATIVE AUTHORITY: MGA PART VIII PLANNING AND DEVELOPMENT

MGA Section 205: Requirements for Adoption of Planning Documents

MPS Policy 5-35 Council shall consider proposals to rezone lands in the Resource designation to any other zone permitted in that designation. Council shall not approve a rezoning unless council is satisfied;

- (a) If the proposed zone is the Highway Commercial Zone, the lands are located at an interchange of Highway 104;*
- (b) If the proposed change is not prohibited by any other policy in this Plan;*
- (c) The purpose of the proposed zone as described in the respective policy creating that zone, is consistent with the location and characteristics of the lands and with the proposed use of the lands*
- (cA) the proposal is not premature due to impacts on wildlife corridors or due to the presence of geohazards; and*
- (d) The proposal meets the general criteria for amending the land use bylaw, set out in Policy 6-19.*

RECOMMENDATION: THAT Council approve Second Reading of the By-law to Amend the Land Use By-law 25-04 to rezone PID 25350869, between 148 Blue Sea Rd. and Golden Brook, Malagash Centre from Agriculture (AG) Zone to Residential Recreation (RRec) Zone.

BACKGROUND: The subject property is approximately 6 acres of wooded land on Blue Sea Rd., Malagash Centre. The property was zoned Agriculture in the initial zoning assignment in 2018, based on soil profiles within the area and past land uses. A review of historic aerial photos show that the subject property was used as active farmland in 1970. Prior to being used as active farmland, the subject property was used as a cheese factory between the years of 1828 and 1929. Today, the subject property is vacant and wooded. The community surrounding the subject property is largely used for residential, recreational and tourism purposes. There are no agriculture activities currently existing in the general vicinity of the subject properties.

The property owner is looking to subdivide the subject property to create roughly 5 lots, each approximately 6000sqm in area. Currently, the subject property is zoned AG. Currently, the required setbacks for AG lots is 6m from all property lines for single unit dwellings, but accessory structures would be required to be 12m from the rear and side setback. The Property owner has requested to rezone the subject property to RRec zone to reduce the required side and rear setbacks for all accessory structures on the lots and to ensure the intended use aligns with the intent of the assigned zoning.

Should Council approve the rezoning, the required setbacks would change, permitting a side and rear setback of 8m as opposed to 12m for accessory structures. The AG setbacks are significantly larger than the setback of the RRec zone for the purpose of accommodating separation distances required for agricultural uses. The larger lot sizes are also used as a means of discouraging residential subdivision development. The nature of the proposal would directly contradict the intent of the AG zone, therefore staff recommend rezoning the land. This would provide the future property owners with more options regarding the placement of structures on the lot. The proposed rezoning would also ensure that the future use of the land aligns with the intent of the assigned zone.

DISCUSSION: Being zoned AG, the subject properties would not require the rezoning to enable the proposed development. The Property owner intends to create approximately 5 lots of 6000sqm. The minimum lot size for AG lots is 4000sqm, therefore the subdivision is eligible for approval, with or without the rezoning. Each newly created lot would permit, by-right, a single unit dwelling. The applicant is requesting a rezoning to provide future property owners with smaller setbacks, giving more options in structure placement on each lot.

Since the land is not active farmland, the purpose of zoning the lot AG in the initial zone assignment of 2018, would be to mark the land as reserve agricultural land. However, due to surrounding context, the subject property would not be an ideal property to prioritize as reserve AG land. Malagash Centre is not an area with agricultural activities. Despite being zoned AG, most of the surrounding properties are used for residential, tourism, and/or recreation purposes.

Policy 54-25 (see Attachment C) of the MPS aims to reduce the fragmentation of productive farmlands. Rezoning the subject properties would not create any fragmentation of reserve farmland, because much of the nearby properties have already been developed and would likely not be able to be returned to productive agricultural lands.



COUNCIL MEETING

SECOND READING

Date: May 26th, 2025

FINANCIAL IMPLICATIONS: The proposed development would create new, taxable lots. Additionally, the increase in development in the area would support tourism activities and naturally stimulates the local economy.

ENVIRONMENTAL IMPLICATIONS: None specific to the property has been identified at this time. The subject property does not have access to Municipal Wastewater services, DOE approval for an On-site Sewage System is required for each lot, at the permitting stage.

Any lots fronting the Golden Brook, must adhere to the environment regulations and requirements of the LUB under Section 4.16 which requires a 15m buffer for all structures from the ordinary highwater mark.

COMMUNITY ENGAGEMENT: On April 23, 2025 a Public Hearing for the proposed amendment was duly held. Public notification for the public hearing was posted on the municipal website on April 9th, two weeks prior to the scheduled hearing date. Furthermore, a notice for the public hearing was placed in the Herald on April 12, and a Planning Notice sign was posted on the subject property on April 23.

At the Public Hearing, no representatives from the public spoke to Council. The applicant was present at the hearing and spoke to Council on the intention behind the proposed development. Prior to the hearing, staff received a call from a member of the public inquiring to the status of the application and questions regarding the impact of the proposed development on existing adjacent property lines. All concerns appeared to be addressed.

Following the Public Hearing, staff received one additional call from the adjacent property owner (PID 25179862) to the rear of the subject property. Concerns presented to staff included ensuring the watercourse/shoreline buffer is maintained along the brook. Their desire to see trees maintained as much as possible and wildlife in the area is not undermined. They also inquired about the setbacks for the proposed zone. Setbacks from the rear property line will increase with the zoning change for single unit dwellings, and decrease slightly for accessory structures so they were pleased with that.

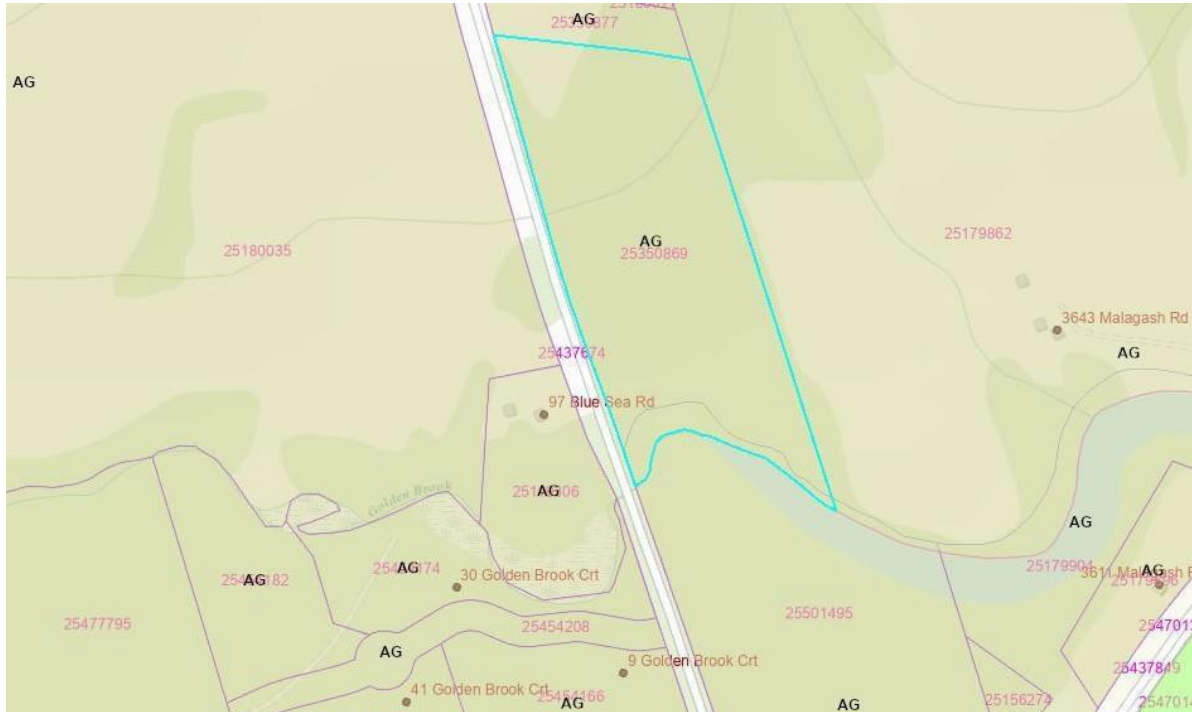
ALTERNATIVES:

- Council can defer the issue to a later date.
- Request further information or reject the proposed amendment based on conflict with a policy in the Municipal Planning Strategy.

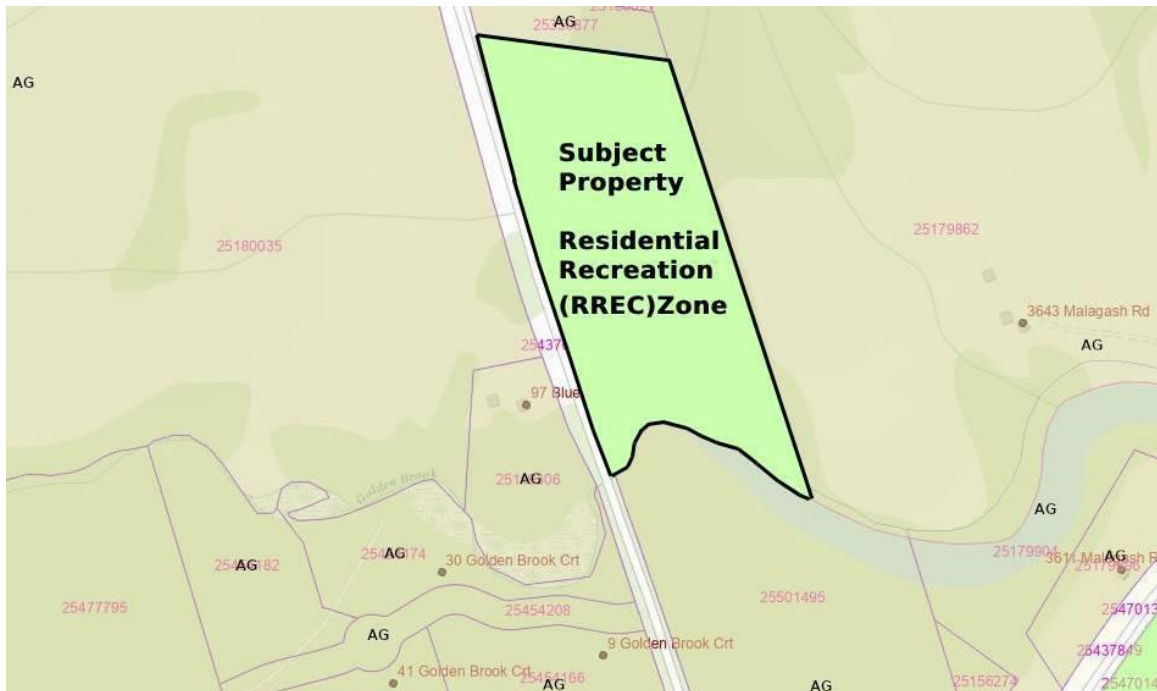
ATTACHMENTS:

Attachment A: Zoning Map Change
Attachment B: Agriculture Zoned Land Context Map
Attachment C: Aerial and Street Images
Attachment D: Concept site plan
Attachment E: Policy Review

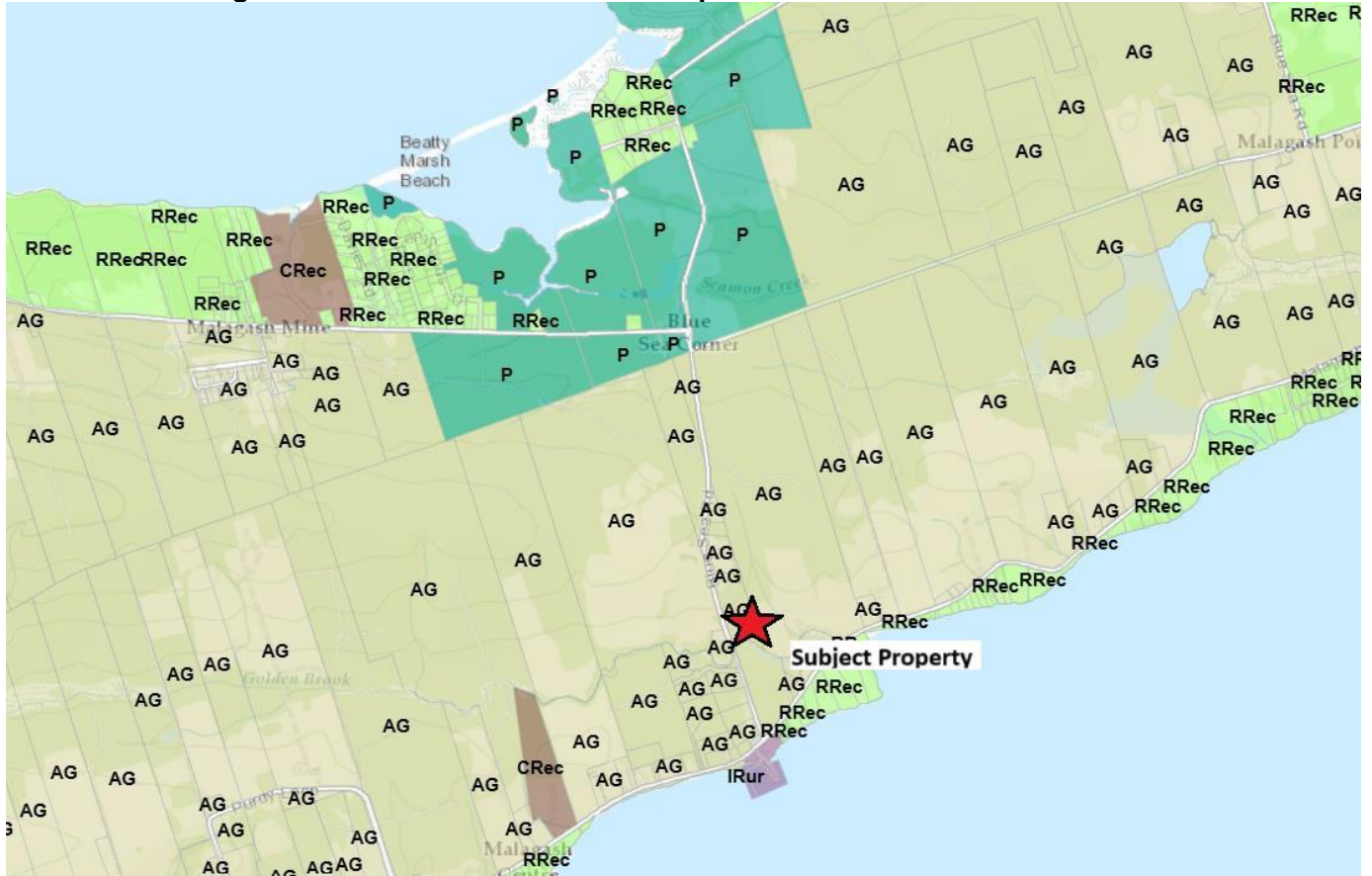
Attachment A: Zoning Map Change



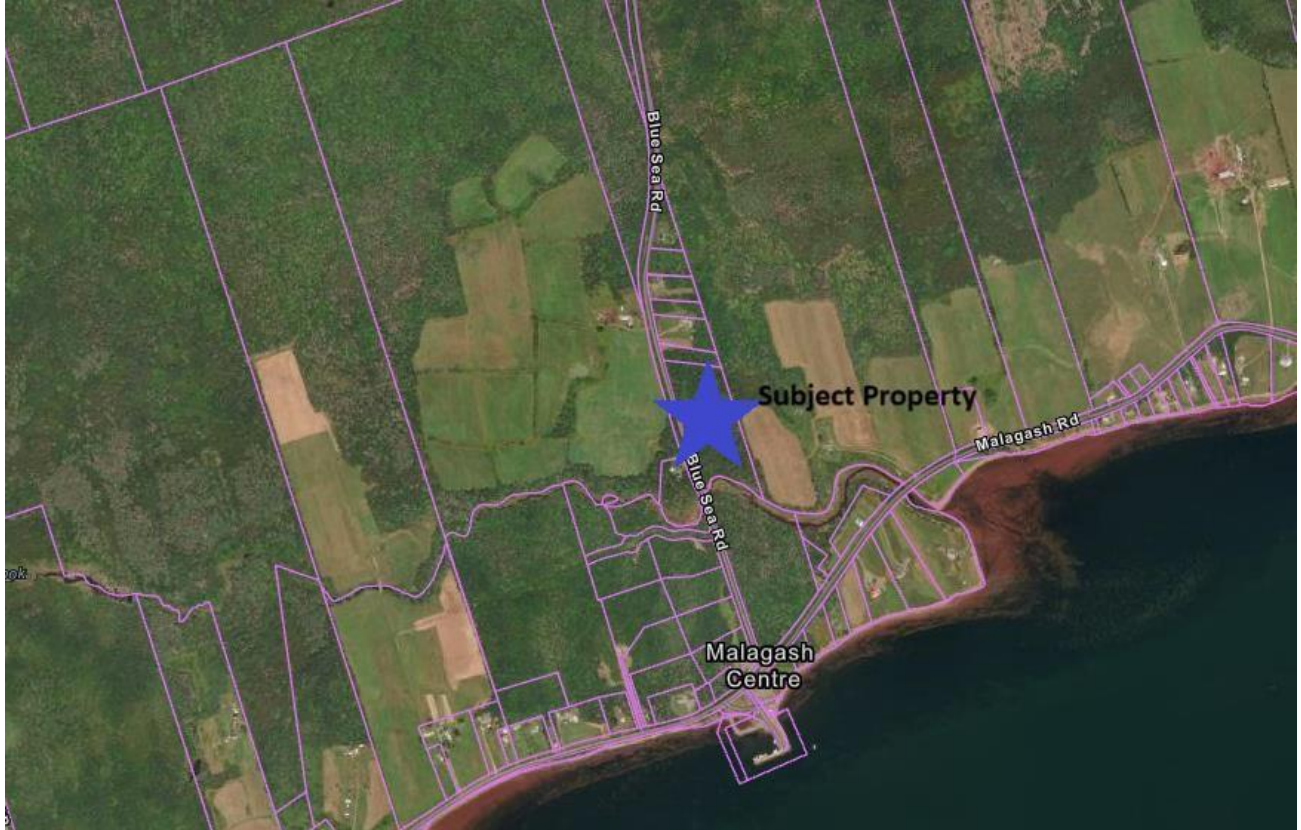
Changes to



Attachment B: Agriculture Zoned Land Context Map



Attachment C: Aerial and Street Images





Attachment E: Policy Review

<p>MPS Policy 5-24 Council shall, on Schedule A, the Future Land Use Map, permit the following in zones within the Resource designation.</p> <p>(a) Agriculture (AG) Zone (h.1) Residential Recreation (RRec) Zone</p>
<p>Comment: Since both zones are permitted within the Resource designation, there is no requirement for an MPS change.</p>

<p>LUB 11.6.1 The Residential Recreation (RRec) zone is intended to permit lower density residential uses on existing public roads and on existing new private roads, and to address environmental constraints and concerns in areas that are attractive to recreational development.</p>
<p>Comment The applicant has requested the rezoning for the purpose of creating residential lots. The proposed use of land aligns better with the Residential Recreation zone than the currently assigned zone, Agriculture (AG).</p>

<p>MPS Policy 5-35 Council shall consider proposals to rezone lands in the Resource designation to any other zone permitted in that designation. Council shall not approve the rezoning unless council is satisfied.</p>	
Requirement	Comment
<i>(a) if the proposed zone is the Highway Commercial Zone, the lands are located at an interchange of Highway 104.</i>	Not applicable
<i>(b) The proposed change is not prohibited by any other policy in this plan.</i>	No
<i>(c) the purpose of the proposed zone is consistent with the location and the characteristics of the lands;</i>	Yes
<i>(cA) the proposal is not premature due to impacts on wildlife corridors or due to the presence of geohazards</i>	No anticipated impacts
<i>(d) The Proposal meet the general criteria for amending the Land Use Bylaw, set out in Policy -19</i>	See Below

<p>MPS 6-19 Council shall not amend the Land Use Bylaw or approve a development agreement unless Council is satisfied the proposal;</p>	
Requirement:	Comment:
<i>(a) Is consistent with the intent of this Municipal Planning Strategy</i>	Yes
<i>(b) Does not conflict with any Municipal or Provincial Programs, by-laws, or regulations in effect in the Municipality.</i>	Does not conflict
<i>(c) Is not premature or inappropriate due to:</i>	
<i>(i) The ability of the Municipality to absorb the public costs</i>	No public costs associated

<i>related to the project.</i>	with the project
(ii) <i>Impacts on existing drinking water supplies, both private and public.</i>	No anticipated impacts to the drinking water supplies
(iii) <i>the adequacy of central water and sewage services or, where such services are not available, the suitability of the site to accommodate on-site water and sewage services</i>	Site is eligible for On-site Sewage Disposal System (OSS) from DOE will be confirmed at the permitting stage.
(iv) <i>The creation of any excessive traffic hazards or congestion on road, cycling, and pedestrian networks within, adjacent to, or leading to the proposal</i>	No anticipated excessive traffic hazards created
(v) <i>The adequacy of fire protective services and equipment;</i>	Subject property has a <29.5min travel time from the Wallace Fire Hall, the nearest firehall.
(vi) <i>The adequacy and proximity of schools and other community facilities.</i>	Not applicable
(vii) <i>The creation of a new or worsening of a known pollution problem in the area, including, but not limited to, soil erosion and siltation of watercourses.</i>	No known pollution problems in the area.
(viii) <i>The potential to create flooding or serious drainage issues including within the proposal site and in nearby areas</i>	No anticipated flooding or drainage issues.
(ix) <i>Impacts on sensitive environments, as identified on Schedule B</i>	Not on Schedule B
(ixA) <i>Impacts on wildlife corridors</i>	No impacts
(x) <i>Impacts on known habitat for species at risk</i>	No impacts
(xA) <i>risks presented by geohazards</i>	No risks present
(xi) <i>the suitability of the site in terms of grades, soil and geological conditions, the location of watercourses and wetlands, and proximity to utility right-of-way</i>	Site is suitable, watercourse/shoreline buffers from the Golden Brook shall be required as per LUB.
(xii) <i>negative impacts on the viability of existing businesses in the surrounding community, including, but not limited to, the risk of land use conflicts that could place limits on existing operational procedures.</i>	No negative impacts anticipated.



COUNCIL MEETING

PUBLIC HEARING

Date: April 23, 2025

TO: Mayor Gilroy and Council

FROM: Glen Boone, Director of Development and Planning

DATE: March 27, 2025

SUBJECT: Public Hearing - By-law to Amend the Land Use By-law 25-04 to rezone the property between 148 Blue Sea Rd. and Golden Brook (PID 25350869) Malagash Centre from the Agriculture (AG) Zone to the Residential Recreation (RRec) Zone.

ORIGIN: On February 26, 2025, planning staff received an application to rezone PID 25350869 (the “subject property”), between 148 Blue Sea Road and Golden Brook, Malagash Centre to support the creation of residential building lots.

PID	Location	Current Zone	Current Use	Proposed Zone	Proposed Use
25350869	Malagash Centre	Agriculture (AG) Zone	Vacant (wooded)	Residential Recreation (RRec) Zone	Residential Building Lots

LEGISLATIVE AUTHORITY: MGA PART VIII PLANNING AND DEVELOPMENT

MGA Section 205: Requirements for Adoption of Planning Documents

MPS Policy 5-35 Council shall consider proposals to rezone lands in the Resource designation to any other zone permitted in that designation. Council shall not approve a rezoning unless council is satisfied;

- (a) If the proposed zone is the Highway Commercial Zone, the lands are located at an interchange of Highway 104;*
- (b) If the proposed change is not prohibited by any other policy in this Plan;*
- (c) The purpose of the proposed zone as described in the respective policy creating that zone, is consistent with the location and characteristics of the lands and with the proposed use of the lands*
- (cA) the proposal is not premature due to impacts on wildlife corridors or due to the presence of geohazards; and*
- (d) The proposal meets the general criteria for amending the land use bylaw, set out in Policy 6-19.*

RECOMMENDATION: No motions to be considered at the Public Hearing stage.



COUNCIL MEETING

PUBLIC HEARING

Date: April 23, 2025

BACKGROUND: The subject property is approximately 6 acres of wooded land on Blue Sea Rd, Malagash Centre. The property was zoned Agriculture in the initial zoning assignment in 2018, based on soil profiles within the area and past land uses. A review of historic aerial photos show that the subject property was used as active farmland in 1970. Prior to being used as active farmland, the subject property was used as a cheese factory between the years of 1828 and 1929. Today, the subject property is vacant and wooded. The community surrounding the subject property is largely used for residential, recreational and tourism purposes. There are no agriculture activities currently existing in the general vicinity of the subject properties.

The property owner is looking to subdivide the subject property to create roughly 5 lots, each approximately 6000sqm in area. Currently, the subject property is zoned AG which, based on the applicants intended use, would require a 6m setback from the front property line and 12m setback from all other property lines. The Property owner has requested to rezone the subject property to RRec zone to reduce the required setbacks of the subdivided lots and to ensure the intended use aligns with the intent of the assigned zoning.

Should Council approve the rezoning, the required setbacks would change, permitting a side and rear setback of 6m as opposed to 12m. The AG setbacks are significantly larger than the setback of the RRec zone for the purpose of accommodating separation distances required for agricultural uses. The larger lot sizes are also used as a means of discouraging residential subdivision development. The nature of the proposal would directly contradict the intent of the AG zone, therefore staff recommend rezoning the land. This would provide the future property owners with more options regarding the placement of structures on the lot. The proposed rezoning would also ensure that the future use of the land aligns with the intent of the assigned zone.

DISCUSSION:

Being zoned AG, the subject properties would not require the rezoning to enable the proposed development. The Property owner intends to create approximately 5 lots of 6000sqm. The minimum lot size for AG lots is 4000sqm, therefore the subdivision is eligible for approval, with or without the rezoning. Each newly created lot would be permitted by-right, a single unit dwelling. The applicant is requesting a rezoning to provide future property owners with smaller setbacks, giving more options in structure placement on each lot.

Since the land is not active farmland, the purpose of zoning the lot AG in the initial zone assignment of 2018, would be to mark the land as reserve agricultural land. However, due to surrounding context, the subject property would not be an ideal property to prioritize as reserve AG land. Malagash Centre is not an area with agricultural activities. Despite being zoned AG, most of the surrounding properties are used for residential, tourism, and/or recreation purposes.

Policy 54-25 (See Attachment C) of the MPS aims to reduce the fragmentation of productive farmlands. Rezoning the subject properties would not create any fragmentation of reserve farmland, because much of the nearby properties have already been developed and would likely not be able to be returned to productive agricultural lands.



COUNCIL MEETING

PUBLIC HEARING

Date: April 23, 2025

FINANCIAL IMPLICATIONS: The proposed development would create new, taxable lots. Additionally, the increase in development in the area would support tourism activities and naturally stimulates the local economy.

ENVIRONMENTAL IMPLICATIONS: None specific to the property has been identified at this time. The subject property does not have access to Municipal Wastewater services, DOE approval for an On-site Sewage System is required for each lot, at the permitting stage.

Any lots fronting the Golden Brook, will have to adhere to the environment regulations and requirements of the LUB under Section XXX

COMMUNITY ENGAGEMENT: This Public Hearing was advertised in accordance with Section 206 of the MGA. Public notification for a public hearing was posted on the Municipal Website, April 9th, two weeks prior to the scheduled hearing date. Furthermore, a notice for the public hearing was placed in the Casket for April 12, and a Planning Notice sign was posted on the subject property.

ALTERNATIVES:

- Council can defer the issue to a later date,
- request further information or reject the proposed amendment based on conflict with a policy in the Municipal Planning Strategy.

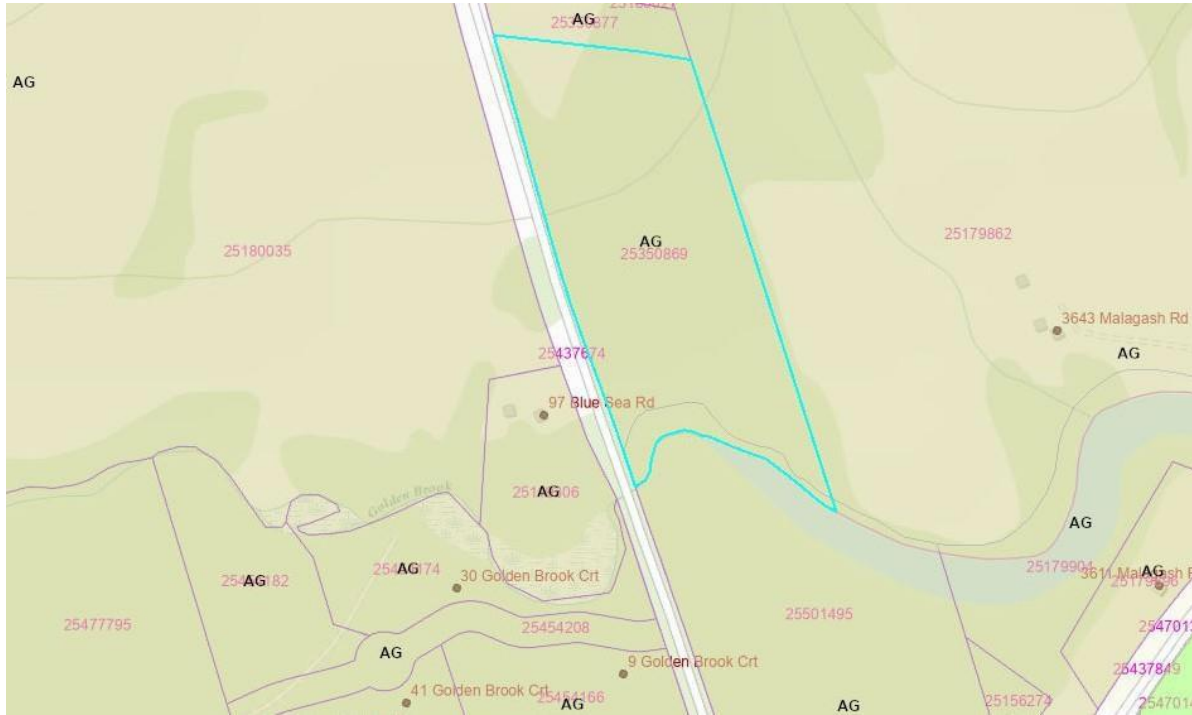
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Attachment A: Zoning Map Change
Attachment B: Agriculture Zoned Land Context Map
Attachment B: Aerial and Street Images
Attachment C: Policy Review

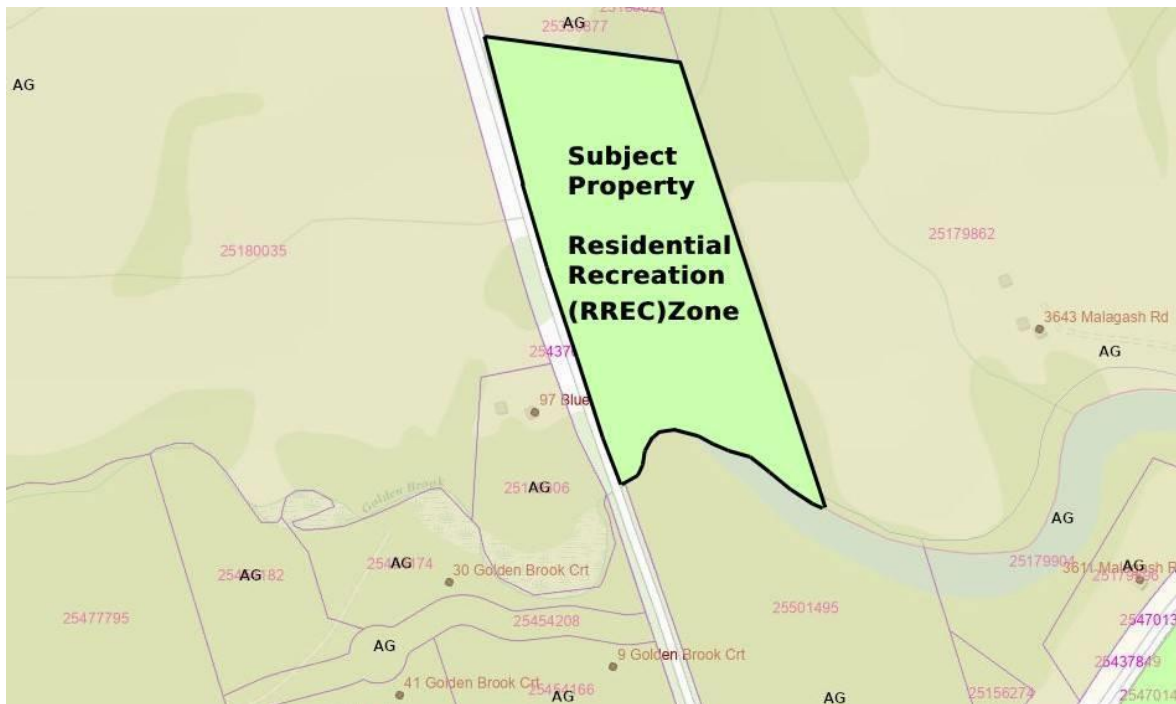
Report prepared by: Kira Norgren, Municipal Planner

Report approved by: Glen Boone, Director of Development and Planning

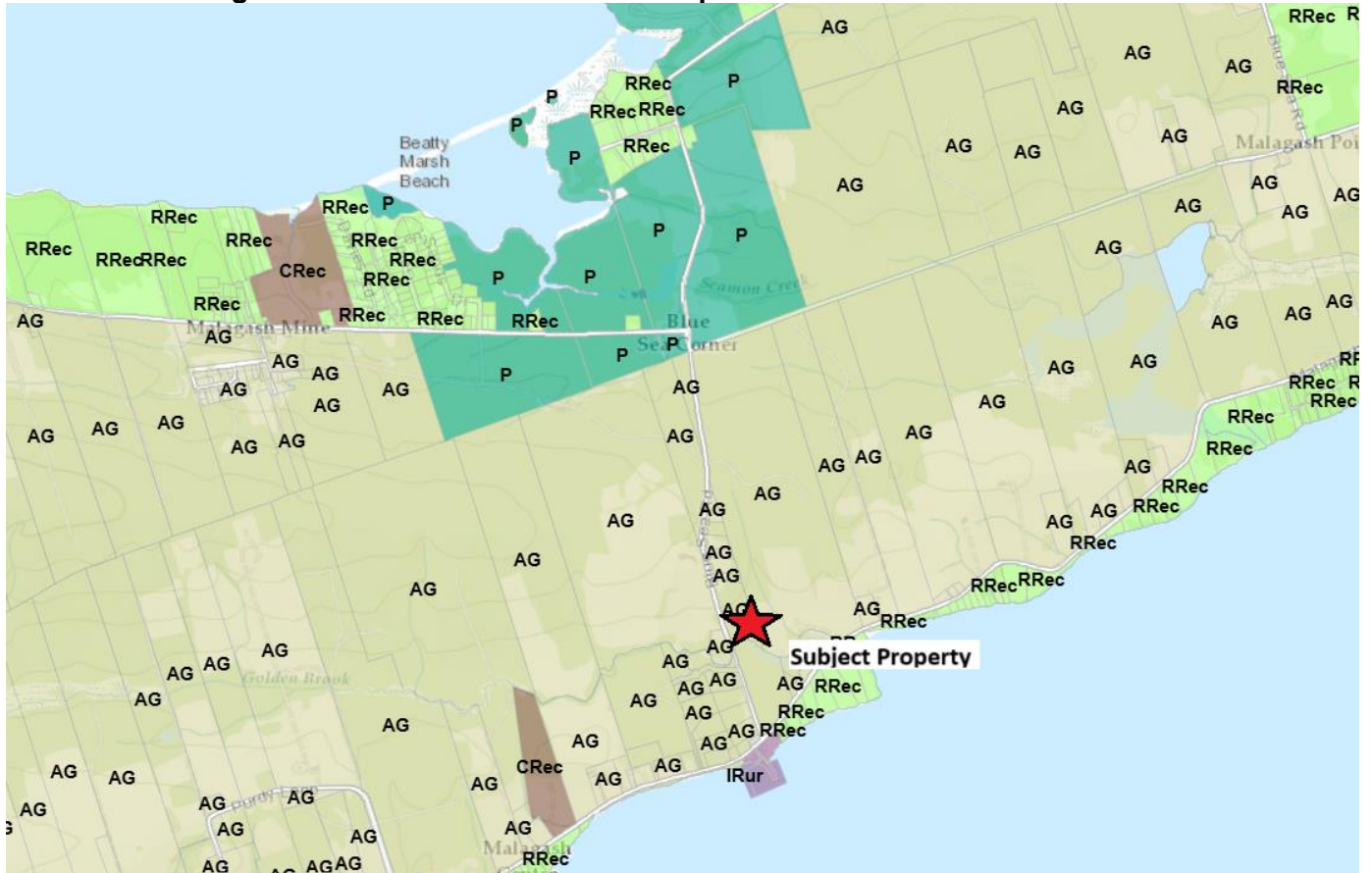
Attachment A: Zoning Map Change



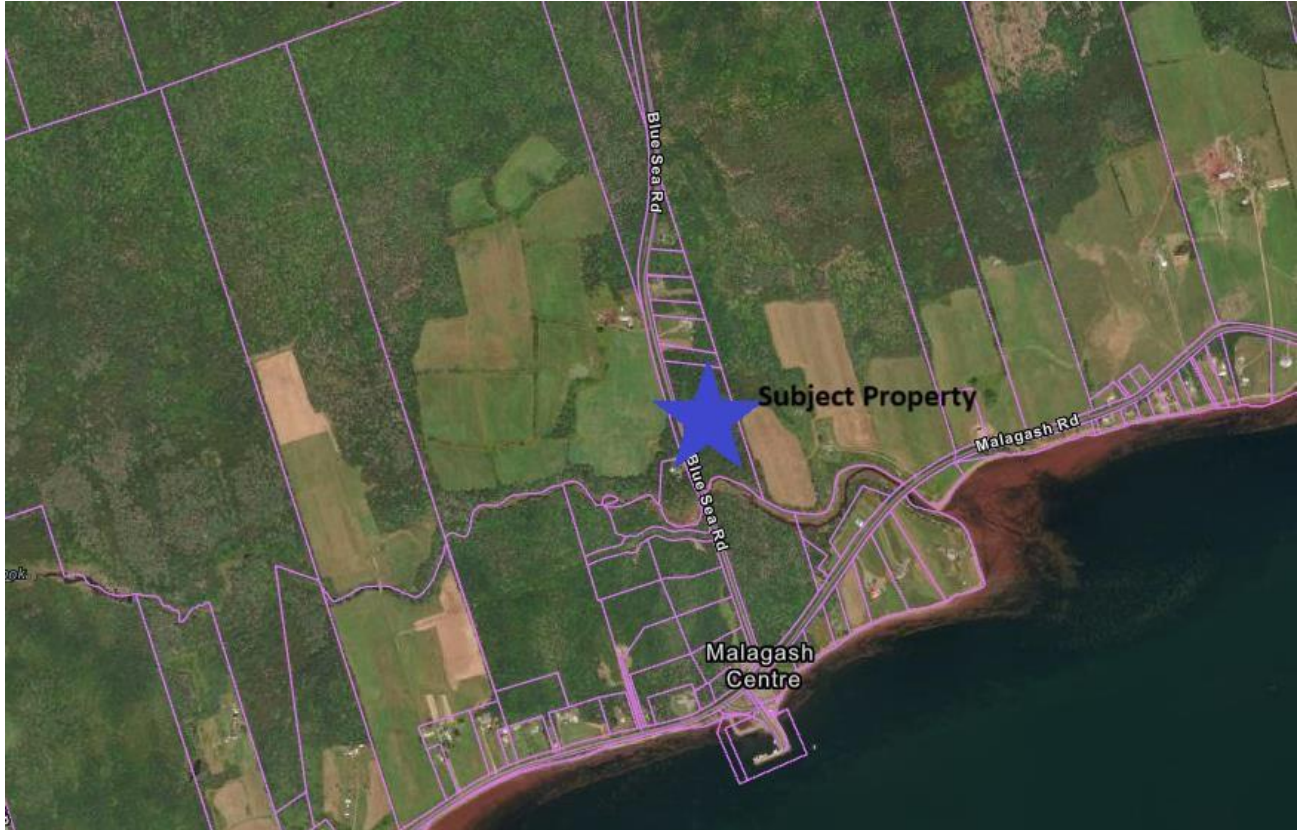
Changes to



Attachment B: Agriculture Zoned Land Context Map



Attachment C: Aerial and Street Images





Attachment C: Policy Review

<p>MPS Policy 5-24 Council shall, on Schedule A, the Future Land Use Map, permit the following in zones within the Resource designation.</p> <p>(a) Agriculture (AG) Zone (h.1) Residential Recreation (RRec) Zone</p>
<p>Comment: Since both zones are permitted within the Resource designation, there is no requirement for an MPS change.</p>

<p>LUB 11.6.1 The Residential Recreation (RRec) zone is intended to permit lower density residential uses on existing public roads and on existing new private roads, and to address environmental constraints and concerns in areas that are attractive to recreational development.</p>
<p>Comment The applicant has requested the rezoning for the purpose of creating residential lots. The proposed use of land aligns better with the Residential Recreation zone than the currently assigned zone, Agriculture (AG).</p>

<p>MPS Policy 5-35 Council shall consider proposals to rezone lands in the Resource designation to any other zone permitted in that designation. Council shall not approve the rezoning unless council is satisfied.</p>	
Requirement	Comment
<i>(a) if the proposed zone is the Highway Commercial Zone, the lands are located at an interchange of Highway 104.</i>	Not applicable
<i>(b) The proposed change is not prohibited by any other policy in this plan.</i>	No
<i>(c) the purpose of the proposed zone is consistent with the location and the characteristics of the lands;</i>	Yes
<i>(cA) the proposal is not premature due to impacts on wildlife corridors or due to the presence of geohazards</i>	No anticipated impacts
<i>(d) The Proposal meet the general criteria for amending the Land Use Bylaw, set out in Policy -19</i>	See Below

<p>MPS 6-19 Council shall not amend the Land Use Bylaw or approve a development agreement unless Council is satisfied the proposal;</p>	
Requirement:	Comment:
<i>(a) Is consistent with the intent of this Municipal Planning Strategy</i>	Yes
<i>(b) Does not conflict with any Municipal or Provincial Programs, by-laws, or regulations in effect in the Municipality.</i>	Does not conflict
<i>(c) Is not premature or inappropriate due to:</i>	
<i>(i) The ability of the Municipality to absorb the public costs</i>	No public costs associated

	<i>related to the project.</i>	with the project
(ii)	<i>Impacts on existing drinking water supplies, both private and public.</i>	No anticipated impacts to the drinking water supplies
(iii)	<i>the adequacy of central water and sewage services or, where such services are not available, the suitability of the site to accommodate on-site water and sewage services</i>	Site is eligible for On-site Sewage Disposal System (OSS) from DOE will be confirmed at the permitting stage.
(iv)	<i>The creation of any excessive traffic hazards or congestion on road, cycling, and pedestrian networks within, adjacent to, or leading to the proposal</i>	No anticipated excessive traffic hazards created
(v)	<i>The adequacy of fire protective services and equipment;</i>	Subject property has a <29.5min travel time from the Wallace Fire Hall, the nearest firehall.
(vi)	<i>The adequacy and proximity of schools and other community facilities.</i>	Not applicable
(vii)	<i>The creation of a new or worsening of a known pollution problem in the area, including, but not limited to, soil erosion and siltation of watercourses.</i>	No known pollution problems in the area.
(viii)	<i>The potential to create flooding or serious drainage issues including within the proposal site and in nearby areas</i>	No anticipated flooding or drainage issues.
(ix)	<i>Impacts on sensitive environments, as identified on Schedule B</i>	Not on Schedule B
(ixA)	<i>Impacts on wildlife corridors</i>	No impacts
(x)	<i>Impacts on known habitat for species at risk</i>	No impacts
(xA)	<i>risks presented by geohazards</i>	No risks present
(xi)	<i>the suitability of the site in terms of grades, soil and geological conditions, the location of watercourses and wetlands, and proximity to utility right-of-way</i>	Site is suitable, watercourse/shoreline buffers from the Golden Brook shall be required as per LUB.
(xii)	<i>negative impacts on the viability of existing businesses in the surrounding community, including, but not limited to, the risk of land use conflicts that could place limits on existing operational procedures.</i>	No negative impacts anticipated.



NOTICE OF PUBLIC HEARINGS

A Public Hearing for the By-law to Amend the Land Use By-law 25-03 and for 25-04 for the Municipality of Cumberland will be held

4:00 pm, Wednesday, April 23, 2025

in the Council Chambers of the Upper Nappan Service Centre.

Note that this meeting may be rescheduled or conducted online, visit cumberlandcounty.ns.ca to verify meeting schedule.

The purpose of the proposed amendments are as follows:

By-law to Amend the Land Use By-law 25-03

- to rezone 15518 Highway 6, Upper Malagash (PID 25182171) from the Agriculture (AG) Zone to the Country Commercial (CCou) Zone.

By-law to Amend the Land Use By-law 25-04

- to rezone the property between 148 Blue Sea Road and Golden Brook, Malagash Centre (PID 25350869) from the Agriculture (AG) Zone to the Residential Recreation (RRec) Zone.

Hearing documents can be viewed at plancumberland.ca/hearings or by contacting our office at 902-667-1142. Public Hearings are open to the public. You may participate by submitting comments by email to: Planning@cumberlandcounty.ns.ca or by mail to: Planning Dept, Upper Nappan Service Centre, 1395 Blair Lake Rd, Upper Nappan, NS B4H 3Y4



COUNCIL MEETING

FIRST READING

Date: March 26, 2025

TO: Mayor Gilroy and Council

FROM: Glen Boone, Director of Development and Planning

DATE: March 18, 2025

SUBJECT: First Reading - By-law to Amend the Land Use By-law 25-04 to rezone the property between 148 Bea Sea Rd. and Golden Brook (PID 25350869) Malagash Centre from the Agriculture (AG) Zone to the Residential Recreation (RRec) Zone.

ORIGIN: On February 26, 2025, planning staff received an application to rezone PID 25350869 (the “subject property”), between 148 Blue Sea Road and Golden Brook, Malagash Centre to support the creation of residential building lots.

PID	Location	Current Zone	Current Use	Proposed Zone	Proposed Use
25350869	Malagash Centre	Agriculture (AG) Zone	Vacant (wooded)	Residential Recreation (RRec) Zone	Residential Building Lots

LEGISLATIVE AUTHORITY: MGA PART VIII PLANNING AND DEVELOPMENT

MGA Section 205: Requirements for Adoption of Planning Documents

MPS Policy 5-35 Council shall consider proposals to rezone lands in the Resource designation to any other zone permitted in that designation. Council shall not approve a rezoning unless council is satisfied;

- (a) If the proposed zone is the Highway Commercial Zone, the lands are located at an interchange of Highway 104;*
- (b) If the proposed change is not prohibited by any other policy in this Plan;*
- (c) The purpose of the proposed zone as described in the respective policy creating that zone, is consistent with the location and characteristics of the lands and with the proposed use of the lands*
- (cA) the proposal is not premature due to impacts on wildlife corridors or due to the presence of geohazards; and*
- (d) The proposal meets the general criteria for amending the land use bylaw, set out in Policy 6-19.*

RECOMMENDATION: THAT Council approve First Reading of the By-law to Amend the Land Use By-law 25-04 to rezone PID 25350869, between 148 Blue Sea Rd. and Golden Brook, Malagash Centre from Agriculture (AG) Zone to Residential Recreation (RRec) Zone AND to schedule a Public Hearing for the proposed amendment.



COUNCIL MEETING

FIRST READING

Date: March 26, 2025

BACKGROUND: The subject property is approximately 6 acres of wooded land on Blue Sea Rd, Malagash Centre. The property was zoned Agriculture in the initial zoning assignment in 2018, based on soil profiles within the area and past land uses. A review of historic aerial photos show that the subject property was used as active farmland in 1970. Prior to being used as active farmland, the subject property was used as a cheese factory between the years of 1828 and 1929. Today, the subject property is vacant and wooded. The community surrounding the subject property is largely used for residential, recreational and tourism purposes. There are no agriculture activities currently existing in the general vicinity of the subject properties.

The property owner is looking to subdivide the subject property to create roughly 5 lots, each approximately 6000sqm in area. Currently, the subject property is zoned AG which, based on the applicants intended use, would require a 6m setback from the front property line and 12m setback from all other property lines. The Property owner has requested to rezone the subject property to RRec zone to reduce the required setbacks of the subdivided lots and to ensure the intended use aligns with the intent of the assigned zoning.

Should Council approve the rezoning, the required setbacks would change, permitting a side and rear setback of 6m as opposed to 12m. The AG setbacks are significantly larger than the setback of the RRec zone for the purpose of accommodating separation distances required for agricultural uses. The larger lot sizes are also used as a means of discouraging residential subdivision development. The nature of the proposal would directly contradict the intent of the AG zone, therefore staff recommend rezoning the land. This would provide the future property owners with more options regarding the placement of structures on the lot. The proposed rezoning would also ensure that the future use of the land aligns with the intent of the assigned zone.

DISCUSSION:

Being zoned AG, the subject properties would not require the rezoning to enable the proposed development. The Property owner intends to create approximately 5 lots of 6000sqm. The minimum lot size for AG lots is 4000sqm, therefore the subdivision is eligible for approval, with or without the rezoning. Each newly created lot would be permitted by-right, a single unit dwelling. The applicant is requesting a rezoning to provide future property owners with smaller setbacks, giving more options in structure placement on each lot.

Since the land is not active farmland, the purpose of zoning the lot AG in the initial zone assignment of 2018, would be to mark the land as reserve agricultural land. However, due to surrounding context, the subject property would not be an ideal property to prioritize as reserve AG land. Center Malagash is not an area with agricultural activities. Despite being zoned AG, most of the surrounding properties are used for residential, tourism, and/or recreation purposes.

Policy 54-25 (See Attachment C) of the MPS aims to reduce the fragmentation of productive farmlands. Rezoning the subject properties would not create any fragmentation of reserve farmland, because much of the nearby properties have already been developed and would likely not be able to be returned to productive agricultural lands.



COUNCIL MEETING

FIRST READING

Date: March 26, 2025

FINANCIAL IMPLICATIONS: The proposed development would create new, taxable lots. Additionally, the increase in development in the area supports tourism activities and naturally stimulates the local economy.

ENVIRONMENTAL IMPLICATIONS: None have been identified at this time. The subject property does not have access to Municipal Wastewater services, DOE approval for an on-site Sewage System is required for each lot, at the permitting stage.

COMMUNITY ENGAGEMENT: If Council chooses, a Public Hearing on the proposed amendment can be scheduled and held. In accordance with Section 206 of the MGA, public notification for a public hearing will be posted on the Municipal Website, two weeks prior to the scheduled hearing date. Furthermore, a notice for the public hearing will be placed in a locally circulated newspaper and a Planning Notice sign will be posted on the subject property.

ALTERNATIVES: Council can defer the issue to a later date, request further information or reject the proposed amendment based on conflict with a policy in the Municipal Planning Strategy.

ATTACHMENTS:

Attachment A: Zoning Map Change

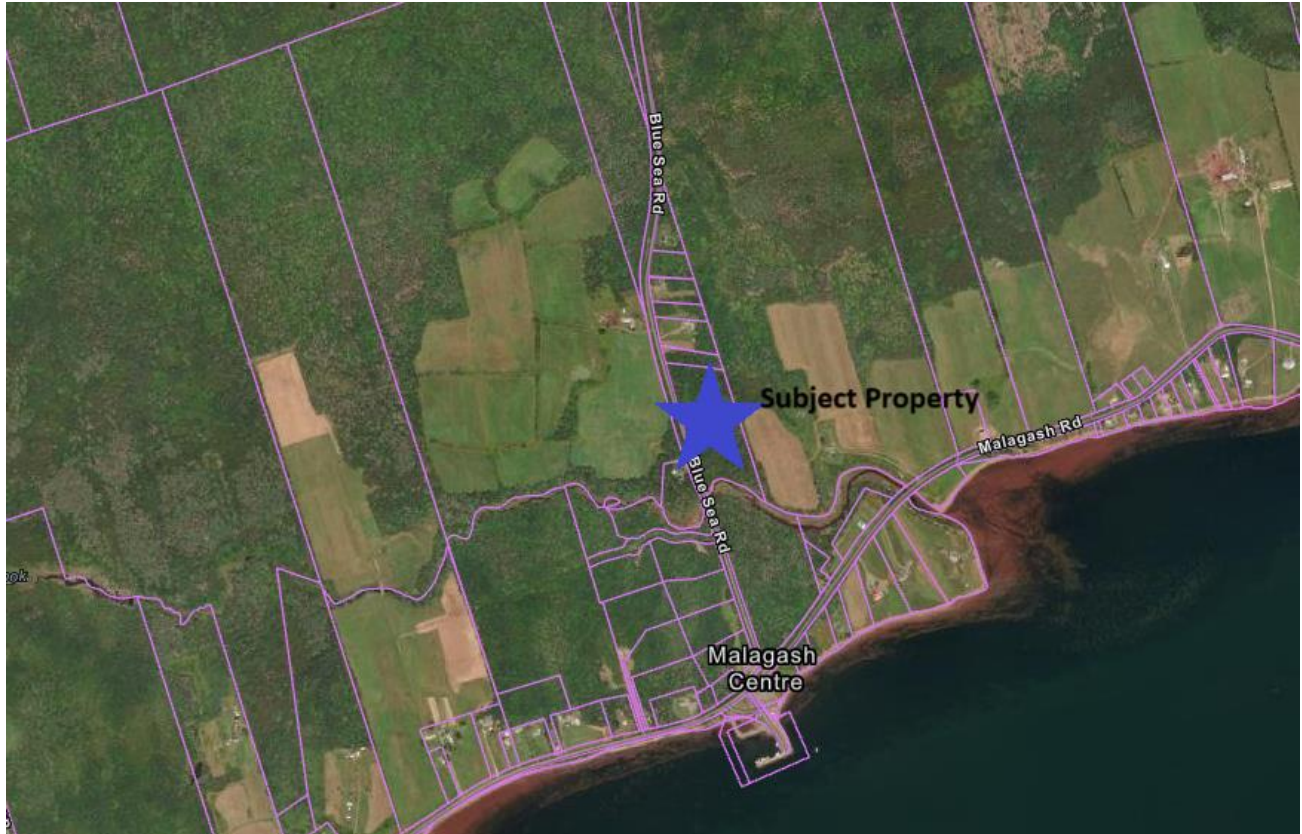
Attachment B: Aerial Image

Attachment C: Policy Review

Report prepared by: Kira Norgren, Municipal Planner

Report approved by: Glen Boone, Director of Development and Planning

Attachment B: Aerial Image



Attachment C: Policy Review

<p>MPS Policy 5-24 Council shall, on Schedule A, the Future Land Use Map, permit the following in zones within the Resource designation.</p> <p>(a) Agriculture (AG) Zone (h.1) Residential Recreation (RRec) Zone</p>
<p>Comment: Since both zones are permitted within the Resource designation, there is no requirement for an MPS change.</p>

<p>LUB 11.6.1 The Residential Recreation (RRec) zone is intended to permit lower density residential uses on existing public roads and on existing new private roads, and to address environmental constraints and concerns in areas that are attractive to recreational development.</p>
<p>Comment The applicant has requested the rezoning for the purpose of creating residential lots. The proposed use of land aligns better with the Residential Recreation zone than the currently assigned zone, Agriculture (AG).</p>

<p>MPS Policy 5-35 Council shall consider proposals to rezone lands in the Resource designation to any other zone permitted in that designation. Council shall not approve the rezoning unless council is satisfied.</p>	
Requirement	Comment
(a) <i>if the proposed zone is the Highway Commercial Zone, the lands are located at an interchange of Highway 104.</i>	Not applicable
(b) <i>The proposed change is not prohibited by any other policy in this plan.</i>	No
(c) <i>the purpose of the proposed zone is consistent with the location and the characteristics of the lands;</i>	Yes
(cA) <i>the proposal is not premature due to impacts on wildlife corridors or due to the presence of geohazards</i>	No anticipated impacts
(d) <i>The Proposal meet the general criteria for amending the Land Use Bylaw, set out in Policy -19</i>	See Below

<p>MPS 6-19 Council shall not amend the Land Use Bylaw or approve a development agreement unless Council is satisfied the proposal;</p>	
Requirement:	Comment:
(a) <i>Is consistent with the intent of this Municipal Planning Strategy</i>	Yes
(b) <i>Does not conflict with any Municipal or Provincial Programs, by-laws, or regulations in effect in the Municipality.</i>	Does not conflict
(c) <i>Is not premature or inappropriate due to:</i>	
(i) <i>The ability of the Municipality to absorb the public costs</i>	No public costs associated

	<i>related to the project.</i>	with the project
(ii)	<i>Impacts on existing drinking water supplies, both private and public.</i>	No anticipated impacts to the drinking water supplies
(iii)	<i>the adequacy of central water and sewage services or, where such services are not available, the suitability of the site to accommodate on-site water and sewage services</i>	Site is eligible for OSS permitting. OSS approvals from DOE will be confirmed at the permitting stage.
(iv)	<i>The creation of any excessive traffic hazards or congestion on road, cycling, and pedestrian networks within, adjacent to, or leading to the proposal</i>	No anticipated excessive traffic hazards created
(v)	<i>The adequacy of fire protective services and equipment;</i>	Subject property has a <29.5min travel time from the Wallace Fire, the nearest firehall.
(vi)	<i>The adequacy and proximity of schools and other community facilities.</i>	Not applicable
(vii)	<i>The creation of a new or worsening of a known pollution problem in the area, including, but not limited to, soil erosion and siltation of watercourses.</i>	No known pollution problems in the area.
(viii)	<i>The potential to create flooding or serious drainage issues including within the proposal site and in nearby areas</i>	No anticipated flooding or drainage issues.
(ix)	<i>Impacts on sensitive environments, as identified on Schedule B</i>	Not on Schedule B
(ixA)	<i>Impacts on wildlife corridors</i>	No impacts
(x)	<i>Impacts on known habitat for species at risk</i>	No impacts
(xA)	<i>risks presented by geohazards</i>	No risks present
(xi)	<i>the suitability of the site in terms of grades, soil and geological conditions, the location of watercourses and wetlands, and proximity to utility right-of-way</i>	Site is suitable
(xii)	<i>negative impacts on the viability of existing businesses in the surrounding community, including, but not limited to, the risk of land use conflicts that could place limits on existing operational procedures.</i>	No negative impacts anticipated.