

2026-01-09

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Re: Expert Planning Opinion for IRAC Appeal LA24-010 (Judy Shaw v. Rural Municipality of West River)

Decision under appeal: Adoption of Bylaw #2024-02 (Official Plan amendment) and Bylaw #2024-03 (Land Use Bylaw amendment) for PID 818500, Shaw's Wharf Road, St Catherines, PEI

1. Introduction and expert credentials

I have been retained to provide independent planning opinion evidence to assist IRAC in the appeal identified above, including an opinion on whether Council's decision is supported by sound planning principles. Where this report references legislation, it is solely to describe the planning process context and is not an opinion on legal interpretation

I am a professional land use planner with extensive experience in administering Municipal Planning Strategies/Official Plans and Land Use Bylaw for a variety of municipal units. I have been the lead author or senior reviewer on several Plan documents for municipalities, most recently the Municipality of the District of Shelburne in Nova. My expertise lies in rural and remote planning, agricultural planning and house. . A summary of my qualifications and experience is provided in Appendix A (Curriculum Vitae).

2. Expert independence and duty to IRAC

My role is to provide independent planning evidence to assist IRAC. I understand that my duty is to IRAC, not to the party retaining me. I have executed an Acknowledgement of Expert's Duty (Appendix B1).

I am not a lawyer and I am not providing legal advice. Where I refer to legislation or statutory procedure, I do so only to describe the planning process requirements that are relevant to IRAC's evaluation.

3. Scope of retainer and questions addressed

Based on the record provided to me, the issues in this appeal relate to amendments to the Municipality's Official Plan and Land Use Bylaw to change the Future Land Use Map designation

and zoning of PID 818500 from Rural Area to Rural Residential, in connection with a proposed 13-lot residential subdivision.

This opinion is based on the understanding that Bylaw #2024-02 (Official Plan Amendment) is itself subject to appeal before the Commission, alongside Bylaw #2024-03 (Land Use Bylaw Amendment). I accept that advice for the purposes of this planning opinion. This is material to the planning analysis because the Commission must evaluate the planning merit of the Official Plan amendment itself, rather than treating it as a final cure for policy inconsistency.

The questions I was asked to address are:

- What decision is under appeal, and what planning instruments and criteria govern that decision?
- Was the process for the bylaw amendments carried out in a manner that meets the procedural requirements and procedural fairness expectations relevant to IRAC's Step 1 analysis?
- On the merits, is the decision supported by sound planning principles and grounded in the applicable Official Plan and Land Use Bylaw, relevant to IRAC's Step 2 analysis?
- What evidence in the record should IRAC give the most weight to, and what gaps in the record should be noted?

4. Documents and information reviewed

I was provided a compiled record titled "Documents Provided to Expert - Chrystal Fuller - December 5 2025" (the Record). Key documents reviewed include:

- Notice of Appeal dated 14 May 2024 (Record PDF p.5).
- Municipal response dated 12 June 2024 (Record PDF p.15).
- Applications WR-0040 and WR-0041 and supporting materials (Record PDF pp.353-370).
- Public meeting notice and newspaper advertisement (Record PDF pp.119-120).
- Planning Board public meeting minutes dated 29 February 2024 (Record PDF p.122).
- Planning Board resolution dated 12 March 2024 (Record PDF pp.136-137).
- Council meeting minutes: 19 March 2024 (first reading) and 25 April 2024 (adoption) (Record PDF pp.139 and 168).
- Planning Report prepared by the Development Officer dated 9 March 2024 (Record PDF pp.420-454).
- EastTech Engineering Site Suitability Assessment dated 25 May 2022 (Record PDF pp.388-399).
- Bylaw #2024-02 and Bylaw #2024-03 (Record PDF pp.544-549).
- Rural Municipality of West River Official Plan (Record PDF pp.610-621 for relevant policies).

- Rural Municipality of West River Land Use Bylaw #2022-04 (Record PDF pp.241-275 and 327-330 for relevant provisions).
- Planning Act excerpts included in the Record (Record PDF pp.213-214).

A complete list of documents reviewed is set out in Appendix B.

5. Assumptions, limitations, and methodology

This opinion is based only on the Record provided to me and other cited documents. If I rely on other data, it is listed in Appendix B. Where information that would normally be expected in a planning appeal record is missing, I identify it as a gap in the record provided to me.

Methodology:

- Reviewed the procedural steps evidenced in the Record against the amendment process described in the Planning Act excerpts and the Land Use Bylaw amendment provisions.
- Reviewed the Official Plan's Rural Area and Rural Residential policies, and the Future Land Use Map intent, as they relate to the subject property.
- Reviewed the Land Use Bylaw's Rural Area and Rural Residential zone purposes and the bylaw amendment criteria in subsection 12.3(4).
- Assessed the planning evidence in the Record, including the Development Officer's Planning Report, the site suitability report, and public input, to form an independent planning opinion.

6. Expert attestation

I confirm that I have prepared this opinion independently, and that it represents my professional planning opinion based on the Record provided to me. I understand that IRAC may rely on this opinion as expert evidence.

Based on the Record provided to me, and on the premise that both the Official Plan amendment and the Land Use Bylaw amendment are appealable, my opinion is that Council's decision to adopt Bylaw #2024-02 and Bylaw #2024-03 for PID 818500 was unsound and contrary to good planning principles.

Main findings (planning):

- 1) The decisions under appeal are Council's adoption, on 25 April 2024, of Bylaw #2024-02 (Official Plan Amendment) and Bylaw #2024-03 (Land Use Bylaw Amendment) to redesignate and rezone PID 818500 from Rural Area to Rural Residential to facilitate a 13-

lot residential subdivision (Record PDF p.168 and pp.544-549).

- 2) The Development Officer's Planning Report includes a policy consistency table that identifies the application as inconsistent with Policy RU-1 (Designation and Zoning) and Policy PHY-4 (Community Nodes), and identifies insufficient information in relation to Policies PHY-5 and PHY-6 (Record PDF p.423).
- 3) Policy RU-1 states that Council will protect agricultural and other resource-related land uses from the intrusion of conflicting land uses and that large-scale conversion of primary resource lands into non-resource uses will be discouraged (Official Plan, p.19). On this record, there is no agricultural impact assessment, land evaluation and site assessment, or comparable evidence justifying removal of this parcel from the Rural Area designation for a multi-lot rural residential subdivision.
- 4) The Official Plan's growth management approach relies on Community Nodes. The Plan states that Future Community Nodes are indicated on the Future Land Use Map but shall not be zoned for more intensive uses until such time as development of those areas is probable (Official Plan, p.49). The Planning Report confirms the subject property is outside a Community Node and is not intended to be a Community Node, yet the approvals enable a 13-lot subdivision outside the node framework (Record PDF p.423).
- 5) Staff identified insufficient information on development constraints and flood risk policy directions (Policies PHY-5 and PHY-6) (Official Plan, p.27). In my opinion, a Rural Residential redesignation is a policy-level decision that presumes basic suitability for residential density. Approving the redesignation without resolving staff-identified information gaps was premature.
- 6) The Official Plan's Rural Area policies emphasise maintenance of rural character and support for agriculture and primary resources, while Rural Residential is intended for low-density residential development in suitable areas (Record PDF pp.610-621).
- 7) The Development Officer's Planning Report includes these identified inconsistencies and information gaps, but ultimately recommends approval. In my opinion, the presence of those inconsistencies and unresolved information gaps is material to the Commission's Step 2 analysis of whether the Official Plan amendment and rezoning are supported by sound planning principles (Record PDF p.423 and surrounding pages).

8. Main report

8.1 Information and limitations

This report addresses only what is evidenced in the Record and other cited documents and information sources. I did not conduct independent site visits, interviews, or new technical analysis. I have structured this opinion using the two-step approach described in the instructions.

8.2 Procedural chronology

Date	Procedural step (as evidenced)	Record citation
25 May 2022	Site Suitability Assessment prepared by EastTech Engineering for proposed subdivision on PID 818500.	Record PDF pp.388-399
Sept 2023	Applications WR-0040 (rezoning) and WR-0041 (subdivision) filed; applicant identified as Sterling Buchanan.	Record PDF pp.353-370 and p.420
9 Jan 2024	Planning Board Committee meeting includes materials related to the rezoning request (agenda and minutes excerpt).	Record PDF p.110
20 Feb 2024	Public meeting notice issued for a public meeting to consider amendments to the Official Plan and Land Use Bylaw for PID 818500.	Record PDF pp.119-120
21 Feb 2024	Newspaper advertisement published for the public meeting.	Record PDF p.120
29 Feb 2024	Planning Board public meeting held; public	Record PDF p.122 and p.418

	comments recorded.	
8 Mar 2024	Planning Board resolution indicates feedback was gathered until 8 March 2024 at 6:00 pm.	Record PDF p.136
9 Mar 2024	Development Officer final Planning Report prepared.	Record PDF pp.420-454
12 Mar 2024	Planning Board passes Motion No. 2024-02 recommending approval and that OP and LUB amendments be prepared and approved.	Record PDF pp.136-137
19 Mar 2024	Council first reading carried for Bylaw #2024-03 (LUB amendment) and Bylaw #2024-02 (OP amendment).	Record PDF p.139
25 Apr 2024	Council motion carried to pass and adopt Bylaw #2024-03 and Bylaw #2024-02.	Record PDF p.168
14 May 2024	Notice of Appeal signed by Judy Shaw.	Record PDF p.5
15 May 2024	IRAC receives the appeal (appeal file LA24-010).	Record PDF p.5
12 Jun 2024	Municipality files written response.	Record PDF p.15

8.3 IRAC Step 1: Proper process and procedural fairness

This section addresses whether the procedural steps evidenced in the Record show a proper process and procedural fairness for the adoption of bylaw amendments affecting PID 818500.

8.3.1 Notice and opportunity to be heard

The Record includes a written public meeting notice dated 20 February 2024 and a newspaper advertisement dated 21 February 2024 for a public meeting held 29 February 2024 (Record PDF pp.119-120). The Planning Board public meeting minutes confirm the meeting occurred and record questions and comments from the public, including the appellant (Record PDF pp.122 and 418).

8.3.2 Conduct of the public meeting and consideration of submissions

The Planning Board resolution records that the public meeting was held on 29 February 2024 and that feedback was gathered until 8 March 2024 at 6:00 pm (Record PDF p.136). The Land Use Bylaw states that, following the public meeting, the Planning Board shall consider the feedback and make a recommendation to Council (Record PDF p.328). The Planning Board passed a resolution on 12 March 2024 recommending approval (Record PDF pp.136-137).

8.3.3 Bias, predetermination, and reasons on the record

I did not find evidence in the Record provided to me that would support a planning opinion of bias or predetermination. The Record includes staff planning analysis, a public meeting record, a Planning Board recommendation, and Council motions (Record PDF pp.420-454, 122, 136-139, and 168).

Record gap: The Record does not include a written Council decision letter with reasons. Council minutes record motions and outcomes, but do not include a detailed statement of reasons for the bylaw amendments (Record PDF pp.139 and 168). Without the reasons for the approval, it is difficult to follow Council's reasoning and fully understand how the final decision was made.

8.3.4 Compliance with Land Use Bylaw amendment process steps

The Land Use Bylaw describes the amendment process, including Planning Board review, a public meeting, Planning Board recommendation, and Council readings and adoption (Record PDF pp.327-330). The Record includes evidence of these steps occurring for PID 818500 (Record PDF pp.119-122, 136-139, and 168).

8.4 IRAC Step 2: Merit and sound planning principles

Sound planning principles provide the foundation for evaluating land use decisions in a consistent, transparent, and defensible manner. In a practical sense, they are the "rules of good judgement" that help decision-makers apply policies and regulations fairly, particularly when the applicable wording leaves room for interpretation or when a decision involves balancing competing objectives. In an appeal context, these principles also help explain why a decision either does, or does not, reasonably advance the intent of the planning framework.

Sound land use planning in rural and agricultural contexts is grounded in a well-established set of principles that seek to balance private development interests with the broader public interest.

Canadian planning practice, as articulated by the Canadian Institute of Planners and reflected through provincial and municipal planning frameworks, consistently emphasizes sustainable development, orderly growth, and evidence-informed decision-making.¹ These principles start from a simple reality: land is finite, and land use decisions have long-term consequences that can be difficult or impossible to reverse. As a result, sound planning focuses on long-range social, environmental, and economic outcomes, rather than short-term gains or project-by-project pressures.

In rural areas, these principles take on heightened importance due to the presence of primary resource lands, reliance on on-site services, and the close interface between residential, agricultural, and environmental uses. Farmland protection, minimization of land use conflict, and the prevention of scattered rural residential development are long-standing objectives of Canadian rural planning policy. These objectives are intended to maintain the viability of agriculture, protect food security, reduce conflicts between farm and non-farm uses, and avoid inefficient patterns of development that strain infrastructure and degrade rural character. Official Plans in Prince Edward Island, including the Rural Municipality of West River Official Plan, expressly reflect these principles by prioritizing the protection of primary resource areas, directing growth in an orderly manner, and limiting development in environmentally sensitive or high-risk areas.

Environmental stewardship and climate resilience further inform contemporary planning decisions, particularly in jurisdictions such as Prince Edward Island where groundwater protection, coastal erosion, flooding, and climate change impacts are material planning considerations. Canadian planning policy increasingly applies a precautionary approach, recognizing that a lack of full scientific certainty should not delay action where there is a reasonable risk of environmental harm. Together, these principles establish a clear framework against which planning decisions are to be evaluated: development must be consistent with the Official Plan, supported by sound planning rationale and evidence, and demonstrably aligned with the long-term public interest rather than incremental or cumulative erosion of rural land use objectives.

In professional planning practice, sound planning principles emphasize context, proportionality, and the public interest. They require that development be evaluated not in isolation, but in relation to its surroundings, its cumulative effects, and its implications for how an area functions over time. Concepts such as compatibility, pattern of development, and land use relationships are therefore not abstract ideals, but practical tools used to assess whether a proposal

¹ CIP is the national organization that represents planners and provides a variety of resources to inform planning professional planning practice. <https://www.cip-icu.ca/resource-library/>

contributes to, or detracts from, an orderly and coherent planning outcome.

Compatibility is a central consideration in determining whether a planning decision reflects sound planning principles and constitutes orderly development. In IRAC decisions, compatibility is routinely examined as part of assessing whether a proposal is consistent with the intent of applicable planning instruments and whether it appropriately balances private development interests with the broader public interest. A development that is compatible is one that fits within its context in a manner that supports coherent land use planning, avoids undue conflict, and does not introduce impacts that are disproportionate to the surrounding area.

In Canadian planning practice, compatibility is commonly assessed through the lens of the existing and intended pattern of development. Pattern of development refers to the spatial and functional arrangement of land uses, buildings, and infrastructure that collectively describe how an area has developed and how it is expected to function over time. This includes the scale, form, density, and intensity of development, as well as the relationships between uses, transportation networks, servicing approaches, and prevailing rural or resource-based activities.

Although the term “pattern of development” is not always expressly defined in legislation or land use bylaws, it is a well-recognised professional planning concept. Planning theory, including the work of Christopher Alexander, treats development patterns as integrated systems rather than isolated or interchangeable land uses.² In rural areas, these systems often reflect established relationships between agriculture or forestry, seasonal and permanent residences, rural roads, recreational uses, and supporting infrastructure. More intensive or urban-style development may occur in limited circumstances, but such development typically remains subordinate to, rather than transformative of, the broader pattern.

Assessing compatibility therefore involves more than confirming whether a proposed use is permitted in a zoning category. It requires an evaluation of whether the proposal maintains or reasonably extends the established and intended pattern of development, or whether it introduces a scale, form, or intensity of development that would alter the planning framework of the area in a way that is inconsistent with orderly development. This analysis provides the foundation for evaluating the proposal under section 8.4.0.

From a land use compatibility perspective, ribbon development introduces residential uses directly into active agricultural landscapes, creating a persistent interface between non-farm residents and routine farm operations. Normal agricultural activities commonly involve noise, dust, odours, night-time operations, and the application of agricultural inputs. Planning

² Christopher Alexander, Sara Ishikawa, and Murray Silverstein, with Max Jacobson, Ingrid Fiksdahl-King, and Shlomo Angel, *A Pattern Language: Towns, Buildings, Construction* (New York: Oxford University Press, 1977) – This work is an often sourced work that help understand land use patterns.

experience consistently shows that this interface generates land use conflict, increased complaints, and pressure for regulatory controls that restrict normal farm practices. Over time, these pressures effectively reduce the functional agricultural area, even where land remains nominally designated or zoned for agricultural use.

Sound planning principles also require consideration of cumulative effects. The incremental conversion of multiple parcels from agricultural to non-farm residential use can collectively undermine the long-term viability of agriculture and related rural industries. These cumulative impacts extend beyond agriculture alone, affecting other sectors such as tourism that depend on open landscapes, working farmland, and a coherent rural character. Once established, this pattern of land use change is difficult to reverse and can result in a gradual but permanent shift away from the rural planning objectives that the planning framework is intended to support.

The following sections reflect these planning approaches when considering the specific policies guiding this development proposal

8.4.0 Effect of appealability of the Official Plan amendment on planning merit

A site-specific Official Plan amendment is a policy choice that must be justified against the Official Plan's objectives, its internal consistency, and the evidence on the record. The Commission must therefore look behind the map change and assess whether Council had a reasonable planning basis to redesignate this parcel to Rural Residential.

In my opinion, the Official Plan amendment is not intended to cure inconsistency unless the amendment itself is sound planning. Otherwise, the test becomes circular: the map was changed because Council voted to change it. That approach undermines the integrity and predictability of the Official Plan.

This section considers whether Council's decision to redesignate and rezone PID 818500 from Rural Area to Rural Residential is supported by sound planning principles and grounded in the Official Plan and Land Use Bylaw.

8.4.1 Applicable planning instruments and decision criteria

The subject property is PID 818500 on Shaw's Wharf Road, St Catherines (Record PDF p.420). The Planning Report states the property was zoned Rural Area at the time of application (Record PDF p.420).

Land Use Bylaw purposes:

- Rural Area Zone purpose: "to support the primary resource sectors, retain the natural beauty and rural character of the area, and to retain the low-density uses of land" (Record PDF p.267).

- Rural Residential Zone purpose: “to permit residential developments featuring multiple lots, as well as limited accessory uses” (Record PDF p.270).

The Land Use Bylaw amendment criteria in subsection 12.3(4) require Planning Board and Council to consider criteria including consistency with the Official Plan, effects on surrounding area, compatibility, public health and safety, and infrastructure (Record PDF p.330).

8.4.2 Description of the proposal and what the amendments do

The Planning Report states that the applicant seeks to rezone PID 818500 from Rural Area (RA) to Rural Residential (RR) for the purpose of subdividing the parcel into 13 residential lots (Record PDF pp.420-421).

Bylaw #2024-02 amends the Official Plan by changing Schedule A (Future Land Use Map) for PID 818500 from Rural Area to Rural Residential (Record PDF p.544). Bylaw #2024-03 amends Schedule A (Zoning Map) of the Land Use Bylaw by changing PID 818500 from Rural Area to Rural Residential (Record PDF p.546).

8.4.3 Official Plan policy context: Rural Area and Rural Residential

The Official Plan states that the subject property is within the Rural Area designation and that this designation recognises and supports primary resource industries and seeks to preserve rural character and the environment (Record PDF p.610). It further states that Council “shall carefully evaluate development proposals within the Rural Area designation based on the below policies to ensure that the rural character and environmental quality are maintained” (Record PDF p.610). As discussed above, this maintenance of rural character is in large part based on the preservation of agricultural land to support historical land use patterns.

Understanding the data is necessary when making planning decisions and provides important context. PEI is losing farmland at an unsustainable rate.³ Between 2016 and 2021 the total farm area declined by 12.3 % and over the long term the province has lost roughly one-fifth of its farmland.⁴ Fragmentation reduces farm efficiency and increases conflict. Ribbon development along rural roads have long been recognized as a problem that consumes farmland and scenic views and produces car-dependent sprawl.⁵ Tourism, which contributes roughly 6 % of PEI’s GDP and supports thousands of jobs, depends on the rural landscapes threatened by scattered subdivisions.⁶ Given these factors, allowing the rezoning may have cumulative harmful effects on

³ The State of the Island report provides an overview of the state of agricultural decline.

<https://www.princeedwardisland.ca/en/information/housing-land-and-communities/state-of-the-island-report>

⁴ <https://www150.statcan.gc.ca/n1/pub/96-325-x/2021001/article/00002-eng.htm>

⁵ Now Is The Time: Final Report of the Land Matters Advisory Committee, July 2021 discussed impacts of ribbon development as long-standing land use problems and the loss of agriculture and scenic views .

⁶ <https://www.princeedwardisland.ca/en/news/prince-edward-island-achieves-a-record-year-for-tourism>

environmental protection, agricultural viability, public infrastructure costs and the Island's tourism economy.

The Official Plan's Rural Residential designation is intended to permit low-density residential development and provide for residential growth outside of built-up areas, with attention to compatibility and environmental constraints (Record PDF p.618). The Plan also includes policies for Rural Residential areas that emphasise environmental suitability and servicing feasibility (Record PDF pp.618-621).

8.4.3.1 Primary resource protection (Policy RU-1)

Policy RU-1 states that Council will protect agricultural and other resource-related land uses from the intrusion of conflicting land uses and that large-scale conversion of primary resource lands into non-resource uses will be discouraged (Official Plan, p.19).

The Development Officer's Planning Report policy consistency table identifies the application as inconsistent with Policy RU-1, noting the proposal would rezone approximately 34 acres from Rural Area to Rural Residential and that the land has been used for agricultural purposes (Record PDF p.423).

In my opinion, where staff identify inconsistency with a mandatory resource protection policy, Council must demonstrate a clear planning rationale and evidence base for conversion. On the record provided to me, I did not find an agricultural impact assessment, land capability evaluation, or comparable evidence that would normally support a site-specific redesignation for a multi-lot rural residential subdivision. Council's decision is not based on sound planning principles to analyze and address issues as cumulative impacts of the conversion of agricultural land, land use compatibility issues created by agricultural activities occur next to residential development as outlined earlier in this report.

8.4.3.2 Growth management and Community Nodes (Policy PHY-4 and Future Land Use Map direction)

In my opinion, it is reasonable planning practice to address detailed stormwater management, subdivision design, and servicing at the subdivision stage. However, where Council is asked to approve a policy-level redesignation to Rural Residential, the record should contain sufficient baseline information to determine that the land is generally suitable for that designation. In this case, staff identified insufficient information on coastal hazard and related constraints at the time of decision (Record PDF p.423).

The Planning Report identifies the application as inconsistent with Policy PHY-4, stating that the location of the proposed subdivision is neither a Community Node under the current Official Plan nor intended to be as such as per the Future Land Use Map (Record PDF p.423).

In my opinion, enabling policy and zoning outside the Community Node framework contradicts

to permit residential development at the proposed density is not consistent with the Plan's growth management strategy and risks setting a precedent for dispersed rural residential subdivision beyond the areas the Plan intended to accommodate more intensive residential development.

The record does not include an agricultural impact assessment or comparable evaluation of primary resource conversion implications for this parcel. In my opinion, this missing evidence is material, given Policy RU-1 and the staff finding of inconsistency, and it weakens the planning basis for the Official Plan amendment and rezoning.

Policy PHY-5 requires development to account for hazard areas and other constraints. Policy PHY-6 directs that subdivision or development adjacent to coastal areas and water-related features must meet standards necessary to mitigate risks associated with erosion and flooding, including storm surges and sea level rise (Official Plan, p.27).

The Planning Report policy table identifies insufficient information in relation to Policies PHY-5 and PHY-6, specifically noting a lack of information on coastal hazard assessment (Record PDF p.423).

In my opinion, while detailed stormwater design and subdivision engineering can reasonably be addressed at a later stage, the policy decision to redesignate land to Rural Residential should not proceed where staff have identified insufficient information to determine basic suitability for residential density in principle, particularly with coastal hazard and flood risk considerations. To apply sound planning principles requires data driven decision making. Given the lack of data related to agricultural land conversation and coastal hazards, sound planning is weakened and difficult to achieve and therefore, the decision of Council is not consistent with sound planning principles.

8.4.4 Existing and intended pattern of development

Sound planning requires that a redesignation and rezoning be considered in light of both the existing and intended pattern of development established by the Official Plan. The Planning Report states that the current Land Use Bylaw does not permit a 13-lot subdivision in the Rural Area zone and identifies that, within a Rural Area Zone, subdivisions are restricted to existing parcels with a maximum of 4 lots (Record PDF pp.421 and 435).

The Record includes public input reflecting both support for growth and concerns about changing viewsapes and agricultural use (Record PDF p.418). In my opinion, the key planning question for the pattern of development is whether the Official Plan intended this location to transition from rural resource-oriented use to rural residential subdivision form, and whether that transition can occur without undermining the Plan's rural area objectives. In my opinion, the OP relies on Growth Nodes for more intensive development and therefore, the decision of Council to

change the designation and zoning is not consistent with sound planning or the intent of its own Planning documents.

8.4.5 Site suitability, infrastructure, and servicing

The Planning Report references the EastTech Engineering site suitability assessment and discusses on-site wastewater and stormwater considerations (Record PDF pp.420-454). The Municipal response notes that there has not yet been a development permit decision to construct residential dwellings on PID 818500 and frames some concerns as relating more to future development than to the rezoning itself (Record PDF p.15).

In my opinion, it is reasonable planning practice to address some matters at the policy and zoning stage and reserve detailed design matters for subdivision approval, but only if the rezoning decision is supported by sufficient evidence that the land can accommodate the intended use in principle. The Planning Report acknowledges that the Planning Act and the Land Use Bylaw do not permit conditions for subdivision or development at the rezoning stage, but that site capability remains a consideration in deciding whether a zoning change is appropriate (Record PDF pp.420-454).

8.4.6 Agricultural land and resource considerations

Public input at the public meeting included concerns that the land is agricultural, including comments by the appellant referencing a potato field and agricultural land (Record PDF p.418). The Planning Report also addresses the rural context and includes discussion relevant to soil capability. (Record PDF pp.420-454).

Across Canada, agricultural land capability is commonly evaluated using the Canada Land Inventory (CLI) agricultural capability system. CLI classes reflect the degree of limitation for agriculture, based on the combined effects of climate and soil characteristics, and are typically further refined through "subclasses" that identify the dominant limiting factors (for example, excess water, stoniness, or soil moisture deficiency).

To understand the soil classification, I referred to the additional mapping that is publicly available. The PEI Information Mapping uses GIS to map a number of physical factors related to land on PEI, including the soil. It shows the soil capacity for a portion to be class 2 and for another portion to be class 4.⁷ There is no class 1 soils in Atlantic Canada⁸ and many

⁷ [https://www.arcgis.com/apps/instant/sidebar/index.html?appid=a28e65a23d4843548b4a9d16df740754#:~:text=Soil%20%2D%20Soil%20Survey%20of,PEI%20Department%20of%20Agriculture%20\(1994\).](https://www.arcgis.com/apps/instant/sidebar/index.html?appid=a28e65a23d4843548b4a9d16df740754#:~:text=Soil%20%2D%20Soil%20Survey%20of,PEI%20Department%20of%20Agriculture%20(1994).)

⁸ [Environment Canada \(Lands Directorate\). Land Capability for Agriculture: Canada Land Inventory. A Preliminary Report \(CLI Report No. 10\), April 1976 \(reprinted 1977/1978\). P 16](#)

jurisdictions prioritize high capability soils (often Classes 1-3) for protection.⁹

Record gap: The Record provided to me does not include a dedicated agricultural impact analysis or a clear statement of how Council weighed the Official Plan's Rural Area policies intended to support primary resources against the Rural Residential objectives. This matters to IRAC Step 2 because the Official Plan's Rural Area designation is explicitly tied to primary resources and maintaining rural character (Record PDF p.610).

Sound planning approaches should include the evaluation of the land for agricultural suitability and the CLI - Agriculture is an accepted and widely used methodology to help inform land use decisions. However, the Record provided to me does not include a mapped excerpt or other evidentiary output confirming the CLI capability classes for PID 818500. As a result, I cannot verify, on the Record alone, whether the site includes higher capability soils that would typically warrant greater caution before conversion to non-resource residential use.

8.4.7 Evidence IRAC should give weight to

- Development Officer Planning Report (9 March 2024): Municipality's primary planning rationale that addresses policy context and recommendations (Record PDF pp.420-454).
- Planning Board public meeting minutes and collected public comments: demonstrates what concerns and support were raised (Record PDF pp.122 and 418).
- IRAC Step 1 (process): Based on the Record provided to me, the Municipality appears to have followed the core procedural steps for bylaw amendments, including public notice, a public meeting, Planning Board recommendation, and Council readings and adoption.
- IRAC Step 2 (merits): On the premise that the Official Plan amendment is appealable, the Commission must evaluate whether the redesignation itself is sound planning. In my opinion, the record supports the conclusion that the redesignation and rezoning are unsound because they conflict with Policy RU-1 (discouraging large-scale conversion of primary resource lands), conflict with the Community Node growth management direction, and were approved despite staff-identified insufficient information on coastal hazard and flood risk policy directions (Record PDF p.423; Official Plan pp.19, 27, and 49).

8.5 Response to main issues raised by the parties (as evidenced in the Record)

The Notice of Appeal includes grounds related to: (1) policy inconsistency, (2) iconic views and tourism value, and (3) stormwater, wildlife (osprey), and septic systems (Record PDF pp.5-6). The

⁹ The Municipality of the County of Kings in Nova Scotia uses the CLI system to help inform its agricultural preservation policies. See Policy 3.4.11 for example <https://www.countyofkings.ca/residents/services/planning/mps.aspx>

Municipality's response argues that several concerns relate to hypothetical future development and notes that no development permit has yet been issued to construct dwellings (Record PDF p.15).

In my planning opinion:

- Policy consistency: The core issue is whether redesignation and rezoning align with the Official Plan's Rural Area objectives and intended Rural Residential growth pattern. The Planning Report provides rationale, but Council's reasons are not fully stated in the Record (Record PDF pp.420-454 and Council minutes at pp.139 and 168).
- Iconic views and tourism: The Record contains public meeting comments about views and slope and the appellant's concern about views (Record PDF p.418). The Record does not include a formal viewshed or visual impact analysis. Whether that is required at the bylaw stage is a planning judgement, but the absence should be acknowledged.

8.6 Conclusion

IRAC Step 1 (process): Based on the Record provided to me, the Municipality appears to have followed the core procedural steps for bylaw amendments, including public notice, a public meeting, Planning Board recommendation, and Council readings and adoption. A gap remains in the Record provided to me regarding proof of notice for the Council meetings and confirmation of the provincial approval date on the bylaws (Record PDF pp.213-214 and p.544).

IRAC Step 2 (merits): On the premise that the Official Plan amendment is appealable, the Commission must evaluate whether the redesignation itself is sound planning. In my opinion, the record supports the conclusion that the redesignation and rezoning are unsound because: (a) the Development Officer's policy consistency table identifies the application as inconsistent with Policy RU-1 (Designation and Zoning) and inconsistent with Policy PHY-4 (Community Nodes), and identifies insufficient information in relation to Policies PHY-5 and PHY-6 (Record PDF p.423); (b) Policy RU-1 discourages large-scale conversion of primary resource lands into non-resource uses (Official Plan, p.19), yet the record does not contain an agricultural impact assessment or comparable evidence to justify redesignating this parcel for a 13-lot subdivision; (c) the Planning Report states the proposal is neither a Community Node nor intended to be as such (Record PDF p.423), which contradicts the Plan's growth management approach; and (d) the approvals proceeded despite a staff-identified information gap about coastal hazard assessment and related constraints (Record PDF p.423), which is material to a policy-level Rural Residential designation decision.



Sincerely,

A handwritten signature in blue ink that reads "Chr Fuller".

Chrystal Fuller, LPP, MCIP

Brighter Community Planning & Consulting

Appendix A: Curriculum Vitae

Employment History

- Principal, (Brighter Community Planning and Consulting) 2018-Present**
Duties: Owner and operator of a community development firm providing expertise regarding land use planning, facilitation and strategic planning services to the private sector, government and community organizations.
- Director of Community Development (Town of Wolfville) 2013-2017**
Duties: This evolving role started as the Senior Planner for the Town of Wolfville in 2013. The position progressed to that of Director of Planning and then ultimately, I was responsible for the Community Development Department. Responsibilities included overseeing recreation, planning, development control (appointment as Development Officer), economic development, tourism, bylaw enforcement, dangerous and unsightly administrator. Responsible for policy development, budget development, managing departmental staff, external communication, and being a member of the Senior Management Team.
- Director of Planning and Development (Armco Capital Inc, Halifax) 2011-2013**
Duties: To act as project manager for all land development projects, ensuring completion on time and on budget; to prepare yearly capital budgets; liaise with Councils in jurisdictions where the company had projects; manage land development construction projects; manage contractors and associated contracts; provide accountability reports to President and shareholders; ensure regulatory compliance with municipal requirements; prepare planning applications for approval by Councils.
- Managing Director (Annapolis District Planning Commission) 6-month contract 2010-2011**
Duties: To manage departmental human resources and supervise 4 staff; to provide and oversee the planning advice given to 3 Councils and Planning Advisory Committee; communicate with the public and with Council on planning matters; to manage the development and maintenance of the GIS system; to administer the organization in a financially responsible manner; to act as a Development Officer.
- Manager of Planning (Municipality of Kings, NS) 2005-2010**
Duties: To manage departmental human resources and supervise six staff members; participate in management meetings; prepare and manage work plans for the department; to provide and oversee the planning advice given to Council and Planning Advisory Committee; communicate with the public and with Council on planning matters; to manage the development and maintenance of the GIS system; to review all planning reports prepared by the planners; to complete special projects as assigned.
- Director of Planning and Lands/Development Officer (City of Iqaluit, NU) 2001-2004**
Duties: To develop and manage the capital and operational budgets of the department; act as Development Officer; provide professional planning advice to Council and Planning committee; manage over 1300 municipal properties; liaise with senior levels of government; act as member of senior management team; supervise staff; liaise with the public through public consultations; implement

development agreements; review subdivision applications; plan land development; manage consultants; enforce zoning by-laws.

Community Development Officer (Nunavut Housing Corp, Iqaluit, NU) 1998-2001

Duties: To administer public housing in 13 communities; capacity building activities with local boards and staff; manage and support homeownership programs in the region; assist in policy development for housing programs; act as local implementation agency for CMHC programs; present the Corporate position at public meetings; provide individual support to new homeowners; assist with securing financing for housing; draft briefing notes for Ministerial review.

Economic Development Officer (Brunswick Street United Church, Halifax, NS) 1997-1998

Duties: To develop a small business option for hard-to-employ men; secure funding and develop partnerships for the implementation of the business; give workshops in employment skill training; communicate projects to the community.

Expert Testimony and Briefs

Expert Witness Bear Lake Wind, NSARB 133 (CANLII)	2026
Expert Witness, Nick Bentley, NSARB 68 (CANLII)	2025
Expert Witness, Tom Lavers (3054226 Nova Scotia Ltd.) NSARB 2 (CANLII)	2025
Expert Opinion, New London Subdivision	2024
Expert Witness Marchand Developments, NSARB 34 (CanLII)	2024
Expert Witness, Leslie Carrie NSARB 69 (CANLII)	2024
Expert Witness, Brison Developments Ltd. NSARB 81 (CANLII)	2024
Expert Witness Wolfson v. Wolfson, NSSC 260 (CanLII)	2021
Beardsley v. Kings (County) NSARB 6 (CANLII)	2010

Municipal Planning Experience

Three Miles Plains DA (Portucana Construction – Present)
Panuke Road DA (Marchand Homes – Present)
Commercial Kent Lands DA (Kent Building Supplies – 2024)
Hantsport Rezoning (Tom Lavers – 2024)
Irven Drive DA (Brison Developments – 2024)
Old Halifax Road Rezoning (Brison Developments – 2024)
Wentworth DA for multi-unit development (FH Construction – 2023)
Payzant Drive 8 Storey Building (Brison Development-2023)
Crossing Community Centre (Brison - 2023)
Payzant Drive – Multi-Family Building DA (Brison Developments – 2021)
Cole Drive DA (Mainland South Investments – 2021)

Plan Review

- Municipality of the District of Shelburne, NS (2025)
- Town of Berwick, NS (2024)
- Abram Village, PEI (2022)

Relevant Professional Development

- Presenter at API Conference (Surviving and Thriving in Legal and Quasi-Judicial Settings) – 2025
- Presenter - Nunavut Association of Municipalities Conference – 2025
- Panellist – Nunavut Housing Forum - 2025
- Attendee – Lands for Homes Workshop to Support Affordable Housing - 2025
- Presenter – Nunavut Housing Forum - 2022
- Presenter - Community Engagement – Mining Society of NS- 2019
- Course-Community Engagement in the Mining Industry – PDAC - 2019
- Presenter at API conference on the links between recreation and planning
- Fellowship- NS Gov Labs – social innovation for supporting aging population (2019) • Fire Inside Peer Leadership – 2018
- Organizer/Facilitator/Subject Matter Expert – Housing Symposium – Town of Wolfville 2017
- Presenter – Ontario Town and Gown Association Symposium – May 2016 (“Small Towns and Universities”)
- Summit on Consultation and Engagement (2015 and 2013)
- Course - Business Retention and Expansion – University of Calgary– 2016
- Form Based Code On-line Courses -2016, 2017
- Emergency Management Training Courses 100 and 200- 2016
- Labour Dispute Training - 2015
- Presenter – API – June 2014 (“The Link between Planning and Health”)
- Presenter – MPAL Conference (“The Link Between Planning and Health”)
- Attendee- “Pathways to Thriving Communities”- September 2014
- Become a Master Negotiator – Dalhousie School of Continuing Education – February 2012

Education

Bachelor of Environmental Planning Nova Scotia College of Art and Design – Halifax, NS	1997
Bachelor of Political Science Carleton University – Ottawa, Ontario	1991

Professional Affiliations

Full Member – Canadian Institute of Planners	1999-2026
Full Member – Licenced Professional Planners Association of Nova Scotia (LPPANS)	2004-2026
Associated Member – PEI Professional Planners	2021-2026
Member - International Association of Public Participation	2017-2026
Member – PDAC	2019-2024
Member – International Right-of- Way Association	2018-2019
Member – Economic Development Association of Canada	2016-2017
Member – International Town and Gown Association	2015-2017

Relevant Volunteer Work

Past Chair- Landing Strong	2018-2022
Board Member and Planning Committee Member– Develop NS	2019-2021
CESO Volunteer	2015-2023
Member of MGA Review Committee	2015-2016
Past Vice-President – LPPANS	2009-2011
Council Member – Atlantic Planning Institute	2009-2011

Appendix B: Full list of documents reviewed (with page ranges)

B1. Executed Acknowledgement of Expert's Duty dated 5 December 2025 (separate file provided).

B2. Documents Provided to Expert - Chrystal Fuller - December 5 2025 (Record), PDF pages 1-649.

B3. Official Plan and Land Use Bylaw excerpts and Planning Act excerpts embedded within the Record (see Record PDF pp.213-214, 241-275, 327-330, and 610-621).

Other referenced documents and sources:

- 1 Canadian Institute of Planners Reference Library <https://www.cip-icu.ca/resource-library/>
- 2 Christopher Alexander, Sara Ishikawa, and Murray Silverstein, with Max Jacobson, Ingrid Fiksdahl-King, and Shlomo Angel, A Pattern Language: Towns, Buildings, Construction (New York: Oxford University Press, 1977) -
- 3 The State of the Island <https://www.princeedwardisland.ca/en/information/housing-land-and-communities/state-of-the-island-report>
- 4 <https://www150.statcan.gc.ca/n1/pub/96-325-x/2021001/article/00002-eng.htm>
- 5 Now Is The Time: Final Report of the Land Matters Advisory Committee, July 2021.
- 6 <https://www.princeedwardisland.ca/en/news/prince-edward-island-achieves-a-record-year-for-tourism>
- 7 [https://www.arcgis.com/apps/instant/sidebar/index.html?appid=a28e65a23d4843548b4a9d16df740754#:~:text=Soil%20%2D%20Soil%20Survey%20of,PEI%20Department%20of%20Agriculture%20\(1994\).](https://www.arcgis.com/apps/instant/sidebar/index.html?appid=a28e65a23d4843548b4a9d16df740754#:~:text=Soil%20%2D%20Soil%20Survey%20of,PEI%20Department%20of%20Agriculture%20(1994).)
- 8 Environment Canada (Lands Directorate). Land Capability for Agriculture: Canada Land Inventory, A Preliminary Report (CLI Report No. 10), April 1976 (reprinted 1977/1978). P 16
- 9 <https://www.countyofkings.ca/residents/services/planning/mps.aspx>

Appendix C: Record gaps and suggested follow-ups

The following items are gaps in the record provided to me. Each could be material to IRAC's two-step analysis.

Gap in the record provided to me	Why it matters to IRAC (Step 1 or Step 2)	Document that would resolve it
<i>Council reasons document explaining how subsection 12.3(4) criteria and Official Plan policies were applied.</i>	Step 1 and Step 2: reasons assist IRAC to understand decision-making and policy application.	Written decision letter, Council report, or minutes capturing reasons and findings.
<i>Agricultural impact analysis or clearer evidence of how primary resource objectives were weighed.</i>	Step 2: central to consistency with Rural Area objectives and sound planning principles.	Agricultural land capability mapping and resource impact analysis for the site.
<i>Viewshed or visual impact analysis for the 'iconic view' concerns.</i>	Step 2: informs compatibility, rural character, and tourism considerations where raised.	Visual impact assessment or photo-simulations from key viewpoints.
<i>Updated status of subdivision approval (if any decision has occurred after rezoning).</i>	Step 2 and remedy: clarifies whether later decisions addressed technical matters.	Subdivision decision, conditions, or development permit decisions, if issued.