

# DECISION/DIRECTION NOTE

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**Title:** 130 Aberdeen Avenue, MPA1900006

**Date Prepared:** March 29, 2021

**Report To:** Committee of the Whole

**Councillor and Role:** Councillor Maggie Burton, Planning & Development

**Ward:** Ward 1

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## **Decision/Direction Required:**

To consider a rezoning application for land at 130 Aberdeen Avenue from the Commercial Regional (CR) Zone to the Apartment Medium Density (A2) Zone and Residential High Density (R3) Zones to accommodate a residential development consisting of single detached dwellings, semi-detached dwellings, townhouses and apartment buildings.

## **Discussion – Background and Current Status:**

The City has received an application to rezone land at 130 Aberdeen Avenue from the Commercial Regional (CR) Zone to the Apartment Medium Density (A2) and Residential High Density (R3) Zones for the purpose of a residential subdivision with a mix of housing types. A Municipal Plan amendment is also required. This application is still being reviewed by staff but is being brought to Council before the review is finished; Council's decision may affect the design of the proposed development.

When the application was received, it was referred to the St. John's International Airport Authority (SJIAA) for comment. Generally, the Airport Authority reviews applications with respect to building height, location within the Noise Exposure Forecast (NEF) system, and sometimes building materials (some materials can affect air navigation by radar). Transport Canada uses the NEF system to evaluate noise impacts; it includes factors such as the number of aircraft movements, types of aircraft, runways used, and the glide and approach paths. The higher the NEF number, the louder the noise. The aim is to ensure that land uses which are sensitive to airport noise, such as residential uses where people could be awakened by noise) are kept away from the airport.

For the proposed development at 130 Aberdeen Avenue, there were no concerns from the Airport Authority with respect to the building heights, but they did express concern with airport noise. According to their most recent NEF maps (attached), the proposed development is bisected by the 30 NEF line and they assert that new residential development is not suitable above 30 NEF. They recommended that the developer rearrange the site plan to keep residential uses on the low side of the 30 NEF line. The Airport Authority recommends following their map showing the ultimate NEF lines. Even if it is 30+ years in the future, the building would still be there when the ultimate NEF comes to pass.

# ST. JOHN'S

This ultimate NEF map differs from the NEF map used in the St. John's Development Regulations, which is based on the 1996 map in the St. John's Urban Region Regional Plan. The City also uses the airport policies in the Regional Plan. Relevant sections of the Regional Plan are attached for Council's reference.

The Province's Regional Plan recognizes that aircraft and helicopter movements are noisy and aims to minimize their adverse impacts. The Plan sets minimum requirements for development, limits new residential uses to areas outside (or lower than) the 35 NEF line, and recommends that any residential development between 30 and 35 NEF have sufficient sound insulation. The Regional Plan's NEF map is from 1996 and has not been updated. Using these lines, the proposed rezoning at 130 Aberdeen Avenue would fall between the 25 and 30 NEF lines and thus would be permitted under the Regional Plan.

In addition to the NEF map in the Regional Plan being older than the one used and recommended by the Airport Authority, their policies are also different. The Regional Plan recommends that new residential uses can proceed between the 30 and 35 NEF lines, subject to sufficient noise insulation, but Transport Canada recommends against new residential development above 30 NEF. If the responsible authority (in this case, the City) chooses to proceed contrary to Transport Canada's recommendation, then Transport Canada advises that:

- a) appropriate acoustic insulation features must be considered, and
- b) a noise impact assessment study must be completed. Further, the developer should be required to inform all prospective tenants or purchasers that airport noise (creating annoyance and interfering with speech) is a problem at 30 NEF and is very significant by 35 NEF.

The requirement for noise insulation for residential developments between 30 and 35 NEF is similar to the policy of the Regional Plan, though it is against Transport Canada's recommendation.

There are two ways in which Council can approach the current rezoning request:

1. Consider rezoning the entire property for residential use. This is the applicant's request. Should Council decide on this direction, staff recommend that the applicant be required to provide sufficient sound insulation as proposed in the attached Aircraft Noise Feasibility Assessment prepared for the applicant.
2. Consider rezoning only the portion of the property that is below the 30 NEF line. This would require the applicant to redesign the development. The portion between 30 and 35 NEF would remain in the Commercial Regional (CR) Zone where airport noise is less of a concern.

Given that the St. John's Development Regulations and the Province's Regional Plan would allow the proposed development; given that the applicant has prepared an Aircraft Noise Feasibility Assessment for Council's consideration; and given that, should the NEF map be updated, the proposed noise insulation would fall in line with the Regional Plan policies and the cautionary recommendation from Transport Canada - it is recommended that Council consider rezoning the entire property for residential use. Should Council consider rezoning the entire

property, the application would be advertised once the staff review is complete and staff confirm that the proposed development meets City regulations and policies. Some revisions to the attached site plan may be required.

Staff recognize the important economic role of the Airport regionally and provincially, including its need to operate 24 hours a day. There are many Canadian airports where overnight operations are not allowed due to the presence of residential areas close by. With the geographic location of St. John's at the extreme east of Canada, the airlines start their day very early so that aircraft move westward across the country. Also, some flights end their run in St. John's well after midnight. Years ago, the Airport Authority advised the City that any threat to 24-hour operation would challenge the Airport's ability to meet the needs of the airlines.

Therefore, staff recommend that the City work with the Airport Authority and the Province in determining the best approach to update the NEF map and policies. Engine and airframe technology and changing flight schedules affect the NEF lines and can change over time. Using a map from 1996 is not appropriate when there are updated maps. As the Airport grows, we must keep our policies up to date. Staff also recommend deferring any further applications to rezone properties to residential use within the 30 NEF line until Council decides on any new policy. Areas already zoned for residential use would not be affected by this. As shown on the attached map, these are areas currently zoned Commercial Regional (CR), Industrial General (IG), Agricultural (AG), Rural, and other non-residential zones.

**Key Considerations/Implications:**

1. Budget/Financial Implications: Not applicable.
2. Partners or Other Stakeholders: Neighbouring property owners and residents; the St. John's International Airport Authority; and the NL Department of Environment, Climate Change and Municipalities (for the Regional Plan).
3. Alignment with Strategic Directions/Adopted Plans:  
*St. John's Strategic Plan 2019-2029 - A Sustainable City – Plan for land use and preserve and enhance the natural and built environment where we live.*
4. Legal or Policy Implications: Map amendments to the St. John's Municipal Plan and Development Regulations are required.
5. Privacy Implications: Not applicable.
6. Engagement and Communications Considerations: Should Council decide to consider the rezoning, following staff review the application will be advertised in *The Telegram* newspaper and on the City's website, and notices will be mailed to property owners within 150 metres of the application site.
7. Human Resource Implications: Not applicable.

8. Procurement Implications: Not applicable.
9. Information Technology Implications: Not applicable.
10. Other Implications: Not applicable.

**Recommendation:**

That Council:

- 1) consider rezoning the property at 130 Aberdeen Avenue from the Commercial Regional (CR) Zone to the Apartment Medium Density (A2) and Residential High Density (R3) Zones to allow a residential development containing single detached dwellings, semi-detached dwellings, townhouses and apartment buildings; and following staff review, advertise the application for public review and comment;
- 2) direct staff to work with the St. John's International Airport Authority and the Province to determine the best approach to update the airport noise (NEF) maps and policies and bring back recommendations to Council; and
- 3) defer any future rezoning applications for new residential development within the 30 NEF line until Council makes a decision on new NEF maps and policies.

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**Approved by: Ken O'Brien, MCIP, Chief Municipal Planner**

**Report Approval Details**

Document Title:	130 Aberdeen Avenue, MPA1900006.docx
Attachments:	- 130 Aberdeen Avenue - COTW Attachments(compressed).pdf
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This report and all of its attachments were approved and signed as outlined below:

**Ken O'Brien - Mar 30, 2021 - 5:28 PM**

**Jason Sinyard - Mar 31, 2021 - 1:05 PM**