

# DECISION/DIRECTION NOTE

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**Title:** 130 Aberdeen Avenue, Approval, MPA1900006

**Date Prepared:** August 30, 2022

**Report To:** Regular Meeting of Council

**Councillor and Role:** Councillor Ian Froude, Planning

**Ward:** Ward 1

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## **Decision/Direction Required:**

Following the 30-day period for the required paper-based commissioner's public hearing, Council can proceed with the final steps in the amendment process for Envision St. John's Municipal Plan Amendment Number 2, 2022, and Envision St. John's Development Regulations Amendment Number 3, 2022, concerning a development at 130 Aberdeen Avenue.

## **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 2 (A2) and Residential 3 (R3) Zones for the purpose of a residential subdivision with a mix of housing types. A Municipal Plan amendment is also required.

The 4.781 hectares of vacant land is at the end of Aberdeen Avenue, with the large Walmart store east of the property and other commercial businesses opposite the property along Aberdeen Avenue and White Rose Drive. Outer Cove Brook runs north of the property and is zoned Open Space (O). The land is in the general vicinity of St. John's International Airport and is on the approaches of one of the runways, where there are Noise Exposure Forecast (NEF) lines to model aircraft engine noise. Under the Envision St. John's Municipal Plan, the property is designated Commercial and therefore a Municipal Plan amendment is required to redesignate the property as Residential in order to consider residential zones. Additional information on the application can be found in the attached amendment package. Note, the attached site plan is conceptual -- additional work is required at the development approval stage, including a traffic study, snow storage plan, stormwater management plan and completion of the city-wide 2021 Wetland Study Phase 2A. The layout may change at the development approval stage, but the housing forms will likely remain the same.

## Changes to the amendment following adoption

In the Decision Note to Council dated November 1, 2021, staff recommended to expand the Open Space Zone alongside the subject property to include parts of the current floodplain buffer and wetland buffer. The applicant was required to complete a floodplain analysis, which was not finalized at the time of adoption. The study is now done and the results of the floodplain and floodplain buffer adjacent to land at 130 Aberdeen Avenue have been

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incorporated into the attached maps. Therefore, Envision St. John's Municipal Plan Amendment Number 2, 2022 and Envision St. John's Development Regulations Amendment Number 3, 3033 are recommended for approval with the following changes since adoption:

- Revise the area to be redesignated from the Commercial Land Use District to the Open Space Land Use District to reflect the most recent floodplain and floodplain buffer.
- Revise the area to be rezoned from the Commercial Regional (CR) Zone to the Open Space (O) Zone to reflect the most recent floodplain and floodplain buffer.
- Update Map 5 in the Envision St. John's Development Regulations Appendix C to incorporate the updated floodplain and floodplain buffer adjacent to 130 Aberdeen Avenue.

The subject property and surrounding area will also be analysed in the city-wide 2021 Wetland Study Phase 2A. The results of that study may affect this proposed development at the development approval stage, in particular the lots which back onto Outer Cove Brook. The applicant has been advised of the Council directive to defer applications adjacent to wetlands until completion of the Phase 2A study.

#### Paper Public Hearing and Commissioner's Report

At its June 13, 2022 Regular Meeting, Council adopted the amendments. In addition to the paper-based hearing, Council set July 6, 2022, for a virtual session for those who wished to speak with the commissioner, the applicant, and/or City staff. In accordance with the Province's Covid-19 protocol for public hearings at the time, the City allowed at least 30 days for written submissions, which are then considered in the Commissioner's Report.

The Commissioner's Report is attached for Council's review and consideration. The Commissioner recommended the following:

*That Council adopt the proposed change of use and re-zoning with the following requirements:*

- 1) *More detailed acoustic studies and detailed design be required with specific proven noise mitigation designs being included and required. Testing of mock ups of the proposed designs might be a consideration.*
- 2) *A method be found to ensure appropriate level of awareness of prospective buyers of the presence of the flight path in clear honest terms and such transparent advisories make their way into purchase and sales agreements now and in the future, not unlike the required UFFI insulation declaration that has been required in real estate transactions for many years.*
- 3) *Public transit be routed into the development.*
- 4) *Pocket parks be included.*

Staff agree with the Commissioner's recommendation to approve the two amendments, as amended above. With respect to the Commissioner's recommendations:

- 1) During review and release of the attached amendments, the Province also recommended that between the 2021 NEF-Ultimate 30 and 35, Council should require:

- a. that appropriate acoustic insulation features be incorporated into the buildings to mitigate noise impacts from aircraft;
- b. a noise impact assessment be prepared showing that the development is not incompatible with aircraft noise;
- c. and the developer inform all tenants or purchasers, in writing, of the noise impacts associated with aircraft activity which may cause annoyance. In the opinion of the Local Governance and Land Use Planning Division, application of the 2021 NEF-Ultimate and requiring acoustic insulation in the buildings above the 2021 NEF-Ultimate 30 with respect to this development may help mitigate aircraft noise, protect future residents, reduce complaints and minimize land use conflict and incompatibility.

The applicant prepared a preliminary noise assessment at the rezoning stage. Given the Commissioner's recommendation, as well as recommendation from the Province (which align with recommendations from Transport Canada), it is recommended that a detailed assessment of the acoustic insulation requirements be completed at the development approval stage. This was also recommended in the applicant's preliminary noise assessment.

- 2) Staff will ask the developer to inform perspective buyers of the noise impacts associated with aircraft activity.
- 3) The development will require a Transportation Impact Study at the development approval stage, which may change the overall layout of the development. Staff will review considerations for public transit at that time.
- 4) The Parks Division has reviewed the proposed development and recommended to not accept open space land in this development. All new developments are reviewed using the City's Open Space Master Plan, which guides the development of parks, playgrounds, trails and open spaces for the community and region.

If the attached amendments are approved by Council, they will be forwarded to the NL Department of Municipal and Provincial Affairs for registration. This will conclude the municipal amendment process for this site.

### **Key Considerations/Implications:**

1. Budget/Financial Implications: Not applicable.
2. Partners or Other Stakeholders: Neighbour residents and property owners; St. John's International Airport Authority.
3. Alignment with Strategic Directions:

A Sustainable City: Plan for land use and preserve and enhance the natural and built environment where we live.

A Sustainable City: Facilitate and create the conditions that drive the economy by being business and industry friendly; and being a location of choice for residents, businesses and visitors.

4. Alignment with Adopted Plans: Envision St. John's Municipal Plan and Development Regulations.
5. Accessibility and Inclusion: Creating a safe, accessible transit network within this neighbourhood has been reviewed at the rezoning stage and will be further evaluated at the development approval stage.
6. Legal or Policy Implications: Amendments to the Envision St. John's Municipal Plan and Development Regulations are required.
7. Privacy Implications: Not applicable.
8. Engagement and Communications Considerations: Not applicable.
9. Human Resource Implications: Not applicable.
10. Procurement Implications: Not applicable.
11. Information Technology Implications: Not applicable.
12. Other Implications: Not applicable.

**Recommendation:**

That Council:

- 1) approve the attached resolutions for Envision St. John's Municipal Plan Amendment Number 2, 2022 and Envision St. John's Development Regulations Number 3, 2022, as amended, regarding land at 130 Aberdeen Avenue;
- 2) require that a detailed assessment of the acoustic insulation requirements be completed at the development approval stage, and appropriate acoustic insulation features be incorporated into the buildings to mitigate noise impacts from aircraft;
- 3) ask the developer to inform perspective buyers, in writing, of the noise impacts associated with aircraft activity which may cause annoyance.

**Prepared by: Ann-Marie Cashin, MCIP, Planner III – Urban Design & Heritage**

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

**Report Approval Details**

Document Title:	130 Aberdeen Avenue, Approval, MPA1900006.docx
Attachments:	- Commissioner's Report 130 Aberdeen Ave_redacted.pdf - 130 Aberdeen Avenue - Approval Attachments.pdf
Final Approval Date:	Aug 31, 2022

This report and all of its attachments were approved and signed as outlined below:

**Ken O'Brien - Aug 31, 2022 - 3:43 PM**

**Jason Sinyard - Aug 31, 2022 - 4:07 PM**