

REPORT NO: 001-2025
RURAL MUNICIPALITY OF WEST RIVER

Report For	Planning Board, Rural Municipality of West River
Report Type	Preliminary
Prepared by	Mirko Terrazas, DO
Reviewed by	Susan Morse, CAO
Date	February 7th, 2025
Application No.	WR-0240
Applicant	Daniel W MacIsaac
Property Identification Number (PID)	681239
Location	Cumberland, Rte. 19
Existing Zone	Rural Area (RA)
Planning Authority	Rural Municipality of West River <i>pursuant to 2022 Official Plan & 2022 Land Use Bylaw (Bylaw #2022-04) as approved by</i> Minister of Housing, Land, and Communities, government of Prince Edward Island on July 20, 2023
Subject	Application for Rezoning PID # 681239 from Rural Area (RA) to Rural Residential (RR) on Rte. 19, Cumberland, for the purpose of subdividing the parcel into 11 residential lots.

BACKGROUND SUMMARY

An application to rezone a parcel of land, PID # 681239, located at the end of Cumberland Line Rd and Rte. 19, Cumberland has been submitted to the Rural Municipality of West River. The application has been submitted concurrently with a subdivision application for 11 lots on the subject parcel. The applicant applied to rezone his property from Rural Area (RA) to Rural Residential (RR) zone so that they could eventually be allowed to subdivide the subject parcel into 11 lots for residential development (appendix 1).

The current Land Use Bylaw # 2022-04 does not permit such subdivision of lots in the Rural Area zone. Subsection 13.5 (1) of the Land Use Bylaw states that “Within a Rural Area Zone, subdivisions shall be restricted to existing parcels only and no person shall be permitted to subdivide more than four (4) lots, no more than two (2) of which may be approved for uses other than residential uses or resource-related uses.” However, there is no explicit restriction to subdivide existing parcels in Rural Residential. Hence, the applicant applied to re-zone the parcel (PID #681239) from Rural Area (RA) to Rural residential (RR).

This rezoning application involves changes to the Rural Municipality of West River’s Future Land Use Map and Zoning Map, and hence also involves an amendment to the Rural Municipality of West River 2022 Official Plan, which may be considered concurrently.

TECHNICAL INFORMATION

Information provided by the applicant included the application form, and preliminary site map.

OTHER DISCLOSURE

No other disclosure has been made by the applicant in their application.

REZONING PROCESS

The proposed rezoning would require amendment to the zoning map. Subsection 12.1(2) of the Land Use Bylaw, states than “A change to either the text of this Bylaw or the Zoning Map is an amendment, and any amendment shall be consistent with the policies of the Official Plan.”

Hence, in accordance with Subsection 12.4(b)(ii) of the Land Use Bylaw, written notice will be provided to property owners wholly or partially within 153 m (502 ft) of all boundaries of the subject property where the property is the subject of the meeting for an amendment to the Official Plan or the Bylaw, including a change in zoning or site-specific amendments. Moreover, according to

Subsection 12.2. 2 (b) a public meeting is required to receive comments on the proposed site-specific amendment use in accordance with the requirements of Subsection 12.4.

Now, in accordance with Subsection 12.3.3. “Following the public meeting, Planning Board shall consider the feedback received from the public by way of written responses and comments made at the public meeting. The applicant may be provided with another opportunity to present to the Planning Board to answer any further questions that may have arisen at or following the public meeting. The Planning Board shall make a recommendation to the Council on the application.”

Following the public meeting and after having considered the recommendation of the Planning Board, Council shall formulate a decision on the proposed amendment. The council shall have the authority to determine whether an amendment request is approved, modified, or denied in accordance with the procedures established under the Planning Act.

Amendments to the Official Plan or the Land Use Bylaw approved by the Council also require approval by the province’s minister responsible for administering the Planning Act or any successive legislation. No development permits or subdivisions related to a proposed amendment shall be approved until the approval of the Minister responsible for administering the Planning Act or any successor legislation has been granted for the necessary amendments.

ASSESSMENT

Subsection 12.3(4) of the Land Use Bylaw # 2022-04 establishes criteria to be considered by the Council and Planning Board when reviewing applications for Official Plan and Bylaw amendments. These include: conformity with the Official Plan; conformity with all requirements of the Land Use Bylaw: suitability of the site for the proposed development; compatibility of the proposed development with surrounding land uses, including both existing and future uses as per the Zoning Map; any comments from residents or other interested persons; adequacy of existing water supply, wastewater treatment and disposal systems, streets, stormwater management, and parks and parkland for accommodating the development, and any projected infrastructure requirements; impacts from the development on pedestrian and vehicular access and safety, and on public safety generally; compatibility of the development with environmental systems; impact on the Municipality’s finances and budgets; and other planning matters as considered relevant by the Planning Board or Council. A detailed assessment begins on the following page.

CRITERIA	COMPLIANCE	NOTES
As per Land Use Bylaw #2022-04 Subsection 12.3(4)		
a) Conformity with the Official Plan	Weighing required	Some aspects of this application do confirm with the Official Plan, while others do not.
Economic Objectives and Policies	COMPLIANCE	NOTES
RU-1: Designation and Zoning It shall be the policy of Council to protect agricultural and other resource-related land uses from the intrusion of conflicting land uses. Further, the largescale conversion of primary resource lands into non-resource uses will be discouraged by identifying and designating areas primarily for agricultural and resource uses, along with compatible rural land uses.	Inconsistent	The developer wants to rezone 14.4 Acres from Rural Area (RA) to Rural Residential (RR). The Official Plan and Future Land Use Map shows the existing use of land as Rural Area, with no indication to change to Rural Residential Use.
RU-2: Protection for Agricultural and Other Resource Uses It shall be the policy of Council to promote the overall protection of resource lands and activities and to manage the level of un-serviced development within the Municipality, with the exception of areas identified as community nodes, through limits on the creation of new parcels based on the permitted uses within each zone.	Inconsistent	The Property was covered by Forestry for the last 10 years, and it was strongly affected by Fiona's Disaster. The owner cut damaged trees, and contracted a construction company to haul debris away, which meant according to him a significant investment to move forward with the rezoning of the property.
RU-2 Continued: It shall further be the policy of Council to support the rights of farmers in the Municipality to conduct appropriate farming practices without harassment and, while recognizing that the Municipality has no direct role in the regulation of agricultural practices such as spraying, crop rotation, cultivation methods, and fencing of livestock, to work with the farming community and the Province to encourage responsible agriculture and forestry practices and to foster a better level of understanding between residents and farmers.	N/A	As Above
RU-3: Subdivision of Primary Resource Land It shall be the policy of Council to limit the number of parcels that can be severed from primary resource land or other parcels in the Rural Area (RA) Zone and to require lots of a larger size to minimize and discourage the fragmentation of primary resource activities and to promote development patterns more suitable to a rural landscape.	Inconsistent	The Developer is proposing to subdivide the whole parcel, that used to be forestry which is currently zoned Rural Area and turn into 11 Residential Lots with a Public Road in a Rural Residential zone.

Conformity with the Official Plan Physical Objectives and Policies	COMPLIANCE	NOTES
<p>PHY-3: Ribbon and Strip Development It shall be the policy of Council to limit further development of residential properties along major roadways to limit ribbon development and the fragmentation of resource uses. The clustering of new lots and the creation of new subdivision roads will be promoted to service new lots and minimize the number of direct accesses along major roadways.</p>	<p>Generally Consistent</p>	<p>The proposed residential development on proposed 11 lot subdivision will be alongside its own Subdivision Road.</p>
<p>PHY-4: Community Nodes It shall be the policy of Council to identify community nodes where a larger mix of uses, services, and amenities might be encouraged to locate and develop over time</p>	<p>Inconsistent</p>	<p>The location of the proposed subdivision is neither a community node as per the current Official Plan nor is it intended to be as such as per the Future Land Use Map.</p>
<p>PHY-5: Development Constrains It shall be the policy of Council to identify and manage uses in hazard areas and other areas subject to development constraints, including Environmentally vulnerable or sensitive areas in the Municipality such as wetlands, watercourses, environmental buffers, coastal areas, and wellfields, in order to ensure the protection of the natural environment, people, and property.</p>	<p>Consistent</p>	<p>The Average Coastal Erosion Rate for this property is 10 cm/year which is considered low risk. Coastal erosion hazard classification is considered low. The property falls entirely in the minimal flood hazard zone. The highest point of elevation of this property is approximately 34m and the lowest elevation is roughly 6m at the shoreline.</p>
<p>PHY-6: Development Subject to Flood Risk It shall be the policy of Council to ensure that all subdivision or development of areas adjacent to coastal areas, watercourses, and wetlands meet standards necessary to mitigate risks associated with coastal or riverine erosion and flooding due to current or future storm surges and projected sea level rise due to climate change, and that those standards are updated as new data and information is made available to the Municipality.</p>	<p>Generally Consistent</p>	<p>A storm-water management assessment will be required in the subdivision-phase, as well as approval from the Department of Transportation if the Subdivision Road complies with the minimum Standards.</p> <p>A report from the Department of Environment, energy and Climate Action was received indicating that at least a 15-meter buffer zone adjacent to the watercourse located near the south boundary of the property will be required for a 11 lot Subdivision. Almost all the proposed lots are above the minimum altitude above sea level to avoid Flood Risk, which means a Minimal Flood Hazard.</p>

Conformity with the Official Plan Social Objectives and Policies	COMPLIANCE	NOTES
<p>R-1: Designation and Zoning It shall be the policy of Council to designate sufficient residential land to accommodate the projected housing needs in the Municipality during the Official Plan period. Residential development shall be permitted in the Rural Area, Rural Residential, and Commercial Industrial zones. It shall be the policy of Council to zone existing residential lots of less than 2 acres as Rural Residential, and new multi-lot (five lots or more) residential subdivisions may only proceed via bylaw amendment (rezoning) applications where larger subdivisions are not permitted in the existing zone. It shall further be the policy of Council to permit only limited residential developments in the Rural Area zone, using the Rural Residential zone to direct multi-lot subdivisions to locations where they are less likely to create conflicts with established farming operations, where the site is appropriate for long term on-site services, and where the safety and efficiency of the road network will not be negatively affected.</p>	Weighing required	The proposed development will have a Subdivision Road to access Rte.19, and a private onsite water and sewer system that service each lot. The land is close to residential lots, as well as agricultural land.
<p>R-2: Density and Housing Variety It shall be the policy of Council to support duplex, semi-detached, and small-scale multi-unit dwellings, as well as seniors housing, where appropriate, and to enable the development of innovative and diverse housing forms where shared systems are provided in order to attract new residents, address the needs of young families, seniors, and seasonal workers, and provide affordable home ownership options.</p>	Inconsistent	The applicant is offering a year-round single-family dwelling in 11 lots, with a minimum size of 1 acre for each lot.
<p>R-4: Residential Development Standards It shall be the policy of Council to establish matters to be considered for all new residential subdivisions and dwellings in terms of design, site planning, landscaping, and physical appearance that stress safety, efficiency, and fostering of a healthy lifestyle. Council shall promote shared services and require appropriate lot sizes and subdivision design to meet the needs of developments supported by on-site services.</p>	Consistent	Lot area sizes of the Subdivision are above the minimum one-acre area, as well as the minimum frontage. The new road will comply with the Act Regulations. However, on site services support has not been submitted at this stage of the application process.

Conformity with the Official Plan Recreational Policies	COMPLIANCE	NOTES
PR-3: Public Access in Coastal Areas It shall be the policy of Council to pursue opportunities to protect public access to the shoreline and to the natural environment.		The applicant will have to provide land for the municipality for an open space area with a total of 10% of the lot subdivision area (approx. 1.44 acres). The proposal shows an open space area of 0.54 Acres on the Eastern part (access to the beach), and a 0.75 Acres in the Southern area that includes the buffer zone.
Conformity with the Official Plan Environmental Objectives and Policies	COMPLIANCE	NOTES
EN-3: Surface Water It shall be the policy of Council to protect and enhance the quality of streams, ponds, wetlands, and rivers within the Municipality and to work with our neighbours, watershed groups and volunteers, and the province to protect the local watershed systems in accordance with the province's regulations.	Consistent	A report from the Department of Environment, energy and Climate Action was received indicating that at least a 15-meter buffer zone adjacent to the watercourse. Development has also to comply with the minimum rear setback for the zone.
EN-3: Stormwater Management It shall be the policy of Council to work closely with the province's responsible department to ensure that stormwater run-off is managed in a manner that is cost-effective and environmentally sensitive, and which minimizes risks to public health and safety and to private property. Wherever appropriate, it shall be the policy of Council to protect and enhance the existing surface water drainage system in the Municipality, and to upgrade its capacity to handle stormwater run-off.	Insufficient information	The information on stormwater management on the proposed subdivision has not yet been provided by the applicant. This information will be required at the subdivision's stage of approval.
EN-5: On-Site Sewage Treatment Systems It shall be the policy of Council to continue to support the long-term sustainability and effectiveness of high quality, well maintained on-site wastewater treatment systems.	Insufficient information	The information for On-site Sewage Treatment Systems has not yet been provided by the applicant. This information will be required at the subdivision's stage of approval.
EN-7: Vegetation It shall be the policy of Council to encourage the protection of trees, particularly in areas adjacent to streams and wetlands, and to generally encourage the preservation and planting of trees in the Municipality. Council shall also encourage protection of natural vegetation and landscaping activities that beautify the Municipality, maintain biological diversity, and add soil and coastal stabilisation.	Inconsistent	Part of the land was cleared up to provide access, as well as affected by Fiona's disaster.

Conformity with the Official Plan continued As per Land Use Bylaw #2022-04 Subsection 12.3(4)	COMPLIANCE	NOTES
b) conformity with all requirements of this Bylaw.	Generally consistent	The proposed concept plan of single-family dwellings for the proposed property to be rezoned is a permitted use in Rural Residential Zone.
c) suitability of the site for the proposed development.	Insufficient information	A Site Suitability Test (Perc Test) is pending, to determine the Category of Soil that the Lots will have, to ensure good quality of drainage soil to install sewage systems, access to the lots will be provided by a public road and with common areas.
d) compatibility of the proposed development with surrounding land uses, including both existing and projected uses as Per the Zoning Map	Weighing required	The proposed property is located close to an existing residential zone, as well as a Rural Area Zone. The Official Plan and Future Land Use Map shows the existing use of land as Agricultural, with no indication to change to Residential Use.
e) any comments from residents or other interested people.	Insufficient information	A public meeting was not held yet nor received public feedback.
f) adequacy of existing water supply, wastewater treatment and disposal systems, streets, stormwater management, parks and parkland for accommodating the development, and any projected infrastructure requirements.	Insufficient information	The proposed subdivision will be serviced by a subdivision public road and a proposed new street, and private onsite water and sewer system will be installed, a stormwater management plan will be provided at the stage of subdivision, and parkland to accommodate the development will be provided by the Developer.
g) impacts from the development on pedestrian/vehicular access and safety, and on public safety generally.	Weighing required	<p>The proposed subdivision would be required to be reviewed by the Department of Transportation for vehicular and safe access</p> <p>The province would have to be willing to take on the new street. However, a new subdivision street is being proposed for the new lots, reducing the number of potential lots being subdivided with separate access along more general routes.</p>

Conformity with the Official Plan continued As per Land Use Bylaw #2022-04 Subsection 12.3(4)	COMPLIANCE	NOTES
h) compatibility of the development with environmental systems	Consistent	The Development will have an open space area, a buffer zone to protect the coastal area, and a low-density development residency to reduce future impacts to air, soil, and water components of the environmental systems.
i) impact on Municipal finances and budgets	Consistent	It is anticipated this development would have a limited impact on the municipal budget, except for an increase in parkland and a moderate increase in tax revenues from the associated development over time.
Considerations for Site-Specific Amendments under Subsection 12.2.1 of the Land Use Bylaw		
a. the proposed site-specific amendment is not contrary to the Official Plan. If an application is contrary to the policies in the Official Plan, an application to amend the Official Plan must be filed in conjunction with the application to amend the Bylaw.	Not applicable	
b. the proposed use of land or a building that is otherwise not permitted in a zone is sufficiently similar to or compatible with the permitted uses in that zone; and	Not applicable	
c. the proposed use does not undermine the overall integrity of the zone, is in the public interest, and is consistent overall with sound planning principles.	Not applicable	
Considerations for Special Planning Area under Subsection 13.6.1 of the Land Use Bylaw		
In the areas subject to the Cornwall Region Special Planning Area, the requirements of clause 63(10)(d) of the Subdivision and Development Regulations shall apply. (See Schedule F)	Not applicable	

RECOMMENDATION

Considering all the aspects described in the assessment above. It is recommended that the application to rezone PID # 681239, located at Cumberland Rte. 19, Cumberland, from Rural Area (RA) to Rural Residential (RR) for the purpose of subdividing the parcel into 11 lots, be recommended from Planning Board to Council for approval.

APPENDIX 1 CURRENT ZONE AND USE OF PID 681239

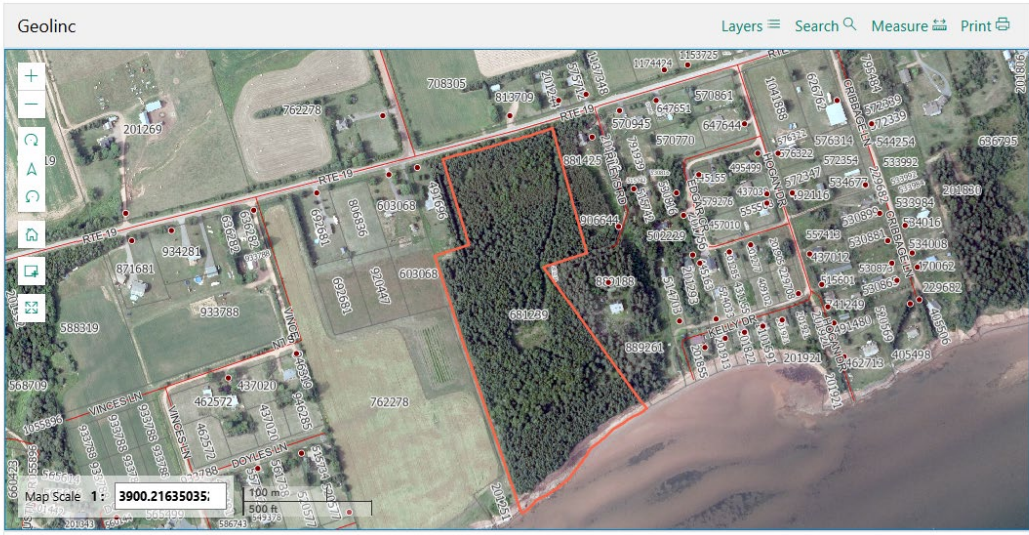
The Rural Municipality of West River

July 21, 2022

Map Index: D5



Geolinc Plus Property Map



APPENDIX 2 - PROPOSAL



APPENDIX 2 -PROPOSAL CONTINUED



APPENDIX 3 SPECIAL PLANNING AREA

