



COUNTY *of* ANNAPOLIS

NATURALLY ROOTED

Upper Clements Area

Secondary Planning Strategy

EFFECTIVE DATE: October 25, 2024

CONTENTS

PART 1 INTRODUCTION – AUTHORITY AND CONTEXT	5
SECTION 1.1 INDIGENOUS LAND ACKNOWLEDGEMENT	5
Policy 1.1 Mi'kmaq Recognition Policy	5
SECTION 1.2 PURPOSE	5
SECTION 1.3 THE PLANNING AREA AND FLUM	5
SECTION 1.4 BACKGROUND	5
SECTION 1.5 CONSULTATION	6
SECTION 1.6 COMPONENTS AND THE LUB	6
SECTION 1.7 LIMITATIONS	6
SECTION 1.8 STATEMENTS OF PROVINCIAL INTEREST	6
SECTION 1.9 ZONES, ZONING AND THE ZONING MAP	6
PART 2 AREA PROFILE	8
SECTION 2.1 HISTORICAL DEVELOPMENT	8
SECTION 2.2 PHYSICAL AND ENVIRONMENTAL CONSIDERATIONS	9
SECTION 2.3 EXISTING LAND USE	9
SECTION 2.4 ISSUES AND OPPORTUNITIES	9
SECTION 2.5 INFRASTRUCTURE	10
PART 3 VISION AND GOALS	12
SECTION 3.1 VISION	12
SECTION 3.2 GOALS	12
PART 4 LAND USE POLICIES	13
SECTION 4.1 LAND USE DESIGNATIONS	13
SECTION 4.2 RESIDENTIAL DESIGNATION	13
Policy 4.1 Upper Clements Residential Zone	14
Policy 4.2 Upper Clements Mixed Use Zone	14
Policy 4.3 Development by Site Plan Approval	14
Policy 4.4 Residential Development Standards	14
Policy 4.5 Residential Rezoning	14
Policy 4.6 Secondary Residential Structure	14
Policy 4.7 Household Livestock in Residential Zones	15
Policy 4.8 Upper Clements Institutional Zone	15
Policy 4.9 Institutional Rezoning	15
SECTION 4.3 CONSERVATION DESIGNATION	15
Policy 4.10 Upper Clements Open Space Zone	16
Policy 4.11 Trails in Other Designations	16
Policy 4.12 Trails for Motored Vehicles	16
Policy 4.13 Parks and Conservation Areas	16
Policy 4.14 Upper Clements Open Space Rezoning	16
Policy 4.15 Upper Clements Agricultural Zone	16
Policy 4.16 Upper Clements Agricultural Zone Subdivision	17
Policy 4.17 Agricultural Marshlands	17
Policy 4.18 Agricultural Development Standards	17
Policy 4.19 Rezoning to the Agricultural Zone	18
Policy 4.20 Rezoning Agricultural Zones to Other Uses	18
SECTION 4.4 COMPREHENSIVE DEVELOPMENT DISTRICT DESIGNATION	18
Policy 4.21 Upper Clements Comprehensive Development District Designation	18
Policy 4.22 Upper Clements Comprehensive Development District Zone	18
Policy 4.23 Development by Development Agreement	19
SECTION 4.5 ENVIRONMENTAL REGULATIONS	19
Policy 4.24 Wetland Protection	20
Policy 4.25 Watercourse Protection	20

UPPER CLEMENTS SECONDARY PLANNING STRATEGY

Policy 4.26 Provisions for Infrastructure and Amenities Abutting Watercourses	20
Policy 4.27 Watercourse Maintenance	21
Policy 4.28 Extreme Slopes	21
Section 4.5.1 Wind Resource Areas	21
Policy 4.29 Wind Turbine Classification	21
Policy 4.30 Mini-scale and Small-scale Turbine Development	21
Policy 4.31 Large-scale Turbine Development	22
SECTION 4.6 INFRASTRUCTURE	22
Policy 4.32 Regulation of Public Streets	22
Policy 4.33 Transit Infrastructure	22
Policy 4.34 Active Transportation Network	22
PART 5 GENERAL DEVELOPMENT STANDARDS	23
SECTION 5.1 SUBDIVISION BYLAW	23
Policy 5.1 Establishment of Subdivision Bylaw	23
Policy 5.2 Compliance of Subdivided Lots with LUB Requirements	23
Policy 5.3 Exceptions to Requirements	23
SECTION 5.2 LAND USE BYLAW	24
Policy 5.4 Establishment of the Land Use Bylaw	24
Policy 5.5 General Provisions	25
Policy 5.6 Additional General Provisions	25
Policy 5.7 Provisions for Existing Lots with no Street Frontage	25
Policy 5.8 Existing Undersized Lots and Existing Buildings	25
Policy 5.9 Buildings on Undersized Lots	26
PART 6 IMPLEMENTATION	27
SECTION 6.1 PLANNING DOCUMENT REVIEW	27
SECTION 6.2 SPS AND LUB REVIEW	27
Policy 6.1 Revising the Plan	27
SECTION 6.3 SPS AMENDMENTS	27
Policy 6.2 Conditions for Amending the SPS	27
SECTION 6.4 LAND USE BYLAW	28
Policy 6.3 Land Use Bylaw Content	28
Policy 6.4 Land Use Bylaw Provisions	29
Section 6.4.1 Amending a LUB	29
Policy 6.5 Criteria for Amending the LUB	29
Policy 6.6 Information Required for Application to Amend the LUB	30
SECTION 6.5 SITE PLAN APPROVAL	31
Policy 6.7 Enabling Site Plan Approval	32
Policy 6.8 Establishing Site Plan Approval Notification Area	32
SECTION 6.6 DEVELOPMENT AGREEMENTS	32
Policy 6.9 Criteria for a Development Agreement	32
Policy 6.10 Development Agreement Terms	33
Section 6.6.2 Information Required for Development Agreement Review	34
Policy 6.11 Information Required for a Development Agreement Application	35
SECTION 6.7 COMPLETENESS OF APPLICATIONS	35
SECTION 6.8 PUBLIC CONSULTATION	35
Policy 6.12 Public Participation Program	36
Policy 6.13 Extending the Public Participation Program	36
SECTION 6.9 COST RECOVERY	37
Policy 6.14 Advertising Costs Associated with Amendments and Variances	37
Policy 6.15 Processing Costs for Amendments and Permits	37
SECTION 6.10 REPEAL	37
APPENDIX A SCHEDULE	38

PART 1 INTRODUCTION – AUTHORITY AND CONTEXT

SECTION 1.1 INDIGENOUS LAND ACKNOWLEDGEMENT

Policy 1.1 Mi'kmaq Recognition Policy

It shall be the policy of Council to acknowledge that the Upper Clements Planning Area is in Mi'kma'ki, the ancestral and traditional territory of the Mi'kmaq People.

SECTION 1.2 PURPOSE

This Secondary Planning Strategy (SPS) for Upper Clements has been prepared according to the provisions of the *Municipal Government Act (MGA)*. It is a legal document that has been adopted as a Bylaw of the Municipality of the County of Annapolis and provides a framework of land use policies to guide all forms of development within the Planning Area. Where land use and development issues are dealt with in this SPS, they shall be implemented by the accompanying Upper Clements Land Use Bylaw (LUB).

SECTION 1.3 THE PLANNING AREA AND FLUM

This SPS applies to all lands within the Upper Clements Planning Area, as defined by Map 1, the Future Land Use Map (FLUM). The area that it covers shall be referred to as the Upper Clements Planning Area or the Planning Area. The FLUM designates all lands within the Upper Clements Planning Area to one of the land use designations identified in **Section 4**, below.

SECTION 1.4 BACKGROUND

The first Upper Clements SPS was adopted in 1988 at the time of the development of the Upper Clements Theme Park. It recognized the influence of the new development and the new opportunities for the area but also sought to preserve, protect, and enhance existing development patterns and looked to minimize potential conflicts between the two.

Two updates to the original plan were adopted on January 28, 1993, and November 25, 1998, based on a 5-year periodic review requirement.

The current update considers the redevelopment of the former Upper Clements Theme Park after its closure in 2019 as well as the introduction of a new County-Wide Municipal Planning Strategy and Land Use Bylaw.

SECTION 1.5 CONSULTATION

Like the previous planning documents, this plan and bylaw reflect the community's value system for community-based planning being derived largely from the efforts of a citizen-based working group called the Upper Clement Area Advisory Committee.

Public engagement was conducted twice over the course of this review and public feedback was reported back to the Area Advisory Committee for their consideration.

SECTION 1.6 COMPONENTS AND THE LUB

Further to **Section 1** of this **Part**, where it is stated that the generalized purpose of this plan is to be a framework of Council's policies concerning the development of land within the Planning Area, this plan also contains other land use policies. These policies set development standards that may vary from zone to zone and policies concerning the issuance of municipal development permits. Administrative policies include procedures on amending the SPS and LUB as well as for their review. Also included are policies pertaining to the subdivision of lots along private roads and lots with no frontage and development permit issuance on such lots created. The development control regulations themselves, which implement the policies contained in this SPS, are contained in the separate Upper Clements Land Use Bylaw.

SECTION 1.7 LIMITATIONS

This SPS sets out policies directed toward the attainment of a Vision and specific goals, set out in **Section 3**, below. In adopting these policies, Council does not commit itself to undertaking any of the projects suggested therein. However, Council is prevented from acting in a manner that is inconsistent with or at variance with this Strategy (MGA S. 217).

SECTION 1.8 STATEMENTS OF PROVINCIAL INTEREST

The *Municipal Government Act* requires that planning documents be reasonably consistent with the Provincial Statements of Interest. The five Statements of Interest: drinking water supplies, flood risk areas, protection of agricultural land, infrastructure, and housing. In addition to the Provincial Statements of Interest requirements, this SPS focuses on growth and development in the Upper Clements Planning Area, with specific focus on the development of the former Upper Clements Theme Park.

SECTION 1.9 ZONES, ZONING AND THE ZONING MAP

The purpose of a LUB is to carry out the land use development policies set out in a SPS and to establish a fair and systematic means of development control. This is

accomplished by dividing an area into land use zones. Development applications are considered by way of listing them as a permitted use in a zone or, alternately, a prohibited use.

Where a land use development is considered a permitted use, usually there are specific development conditions that must be fulfilled before a development permit is issued. The LUB accompanying this Upper Clements SPS is called the Upper Clements LUB. Like the FLUM, the Zoning Maps form an integral part of the LUB. The Zoning Maps graphically show the divisions of areas of the Planning Area into zones. The Upper Clements LUB and Zoning Maps set out zones for a range of land use types. The bylaw also includes areas in which development may be permitted in conjunction with other land uses, areas in which land use will be strictly limited, and other areas in which development may be limited or prohibited such as wetlands, watercourses, coastlines, and areas with substantial slopes to protect both unique environmental features and reduce risks to the public.

PART 2 AREA PROFILE

SECTION 2.1 HISTORICAL DEVELOPMENT

The Upper Clements Planning Area has the distinction of being one of the earliest European settled areas of the County. Details of recorded area history state that it was the exploration in 1604 of the Frenchman Demonts and his followers which eventually led to the building of the Habitation just across the Basin from the Upper Clements Planning Area which was among the first permanent settlements in North America.

The Upper Clements Planning Area is comprised of what was the Clements Township. This political partitioning in 1784 resulting from a grant to George Sutherland and two hundred and forty others, mostly German Loyalists who had come to Nova Scotia after the Treaty of Paris was signed in 1783. Original development and the subsequent development patterns of the area were for the most part dependent on water navigation. However, 1787 was the year which substantially marked a change to this era of water transportation when a committee was appointed to lay out a road from Bear River to Allains Creek.

Clementsport, an easily identifiable community in the Planning Area, once known as the Hamlet of Clementsport, evolved as a result of its location at the head of the tide waters of the Moose River and the mouth of the river where it meets the Annapolis River. Clementsport, once a major shipyard construction area, succeeded because of its large tidal mouth which provided sufficient depth to admit the passage of large sailing vessels, many of which were constructed in and around Clementsport. Clementsport's notoriety also flows from the Annapolis Mining Company which was formed and operated within Clementsport for working the valuable iron mines in the area to which many coal sheds, accessory buildings, and a smelting furnace was constructed. However, due to a number of factors, Clementsport fame shifted away and today it largely exists as a residential community.

In addition to the Iron Ore Mine, shipbuilding and milling, other major industries of the area in the early development included farming, lumbering and fishing. Within the fishing industry, the herring fishery was of considerable value with weirs annually erected on the sandbars and flats existing along the Basin. This industry, not confined to Clements Township, extended from Granville as far as Digby. It is interesting to note that recorded deed history of the area continues to reflect the value once placed on the importance of the fishing industry to the area in that the ownership of the area's "flats" had been granted in fee simple to adjoining land owners encompassing land out to the low water mark, a measure initiated to prevent or resolve disputes between rival fishermen and to allow those abutting property owners the fishing privilege within these low water mark areas.

SECTION 2.2 PHYSICAL AND ENVIRONMENTAL CONSIDERATIONS

The Upper Clements Planning Area is situated on the south side of the Annapolis Basin with the lowlands of the Annapolis Valley and extending into the South Mountain and drains to the Annapolis Basin. Along the shoreline of the Annapolis Basin, there is a considerable variety of marine alluvium including salt marshes reclaimed for farmland by the Acadians by means of earth dykes which is some of the best agricultural lands within the County, as is evident by active farming including orchards and dairy farms. In terms of forest use of the Planning Area, the original forest cover has been greatly modified both directly and indirectly by human habitation. The Upper Clements Planning Area woodlands can be characterized as a softwood forest type with mixed softwood and hardwood pockets.

In general, the County lies within a cool humid temperate climatic zone. The weather is variable because of the interaction between the dry continental and cool moist Atlantic air masses. The western end of the County area, including the Planning Area in comparison to the east end of the County exhibits a micro climatic influence which allows for a somewhat wider range of crops, compared to other parts of the County, such as peach orchards and provides an excellent climate for greenhouse operation.

SECTION 2.3 EXISTING LAND USE

Any discussion of the use of land in the Upper Clements area of Annapolis County should be viewed in terms of its place in the development of land use patterns in the County as a whole. Like the majority of Annapolis County, the linear development pattern along the existing roadways is commonplace in the Upper Clements Planning Area, predominantly following the Annapolis Basin. The Hamlet of Clementsport, a historic Community, is the main area that boasts a relatively old housing stock, pre-1914 structures, with a fair degree of summer cottages along with a somewhat limited commercial base.

Commercial development, as with agricultural development, though scattered throughout the Planning Area is somewhat concentrated in the area along Highway #1 from Allains Creek to the Dugway Road intersection, but overall, the Upper Clements Planning Area can be characterized as lacking any significant amount of industrial development as well as a nodal commercial base. Some of the significant historic areas or structures within the Planning Area include the Goat Island Baptist Church in Upper Clements, Old St. Edwards Church, the cemetery in Clementsport, and the Grist Mill Historic Site on the Dugway Road.

SECTION 2.4 ISSUES AND OPPORTUNITIES

The Upper Clements Planning Area can be characterized as having seen little in the way of major development in the twentieth century in terms of both its population base and housing stock. Because of the delineation of the Planning Area boundary,

it is difficult to accurately estimate the area's population, age structure or projection. However, population statistics compiled by Statistics Canada, lists the Upper Clements Planning Area as Annapolis Census Subdivision Area "A" comprising of the whole of Enumeration Area Number 202 and a portion of Enumeration Area 201. Based on the assumption of Enumeration Area divisioning the Upper Clements Planning Area, in 1996 supported a population base of some 720 persons using a cross-matching tabulation of total dwelling units (277) and factoring an average of 2.6 persons per dwelling. However, this formulation may be somewhat skewed in that it factors seasonal dwellings as permanent. More realistically, it can be assumed that the Upper Clements Planning Area supports a year-round base of some 687 persons.

Because population projections tend to be based on past trends, it is virtually impossible to predict population growth or a change in the population of an area accurately. However, based on more recent performances of dynamics of the Planning Area it can easily be argued that the area will remain stable in terms of population growth or change. Consequently, it is unlikely that the Planning Area will experience any dramatic surge or upswing in either commercial or industrial development.

Therefore, in terms of plan development, it is anticipated that this plan will remain stable over the next five years, until the required review period. However, given this plan is flexible enough to deal with some growth, should a dramatic surge in construction activity or a major employment change occur, Council may wish to the review this Strategy prior to the mandatory five-year review period to ensure adequate development control mechanisms are in place. It is also desirable that the community-based Upper Clements Area Advisory Committee continue to function as an area subcommittee of the Annapolis County Planning Advisory Committee to review and monitor new developments, trends, or changes within the Planning Area, in addition to solely reacting to requested land use bylaw text or map amendments.

SECTION 2.5 INFRASTRUCTURE

Roads, water and wastewater systems, solid waste management facilities, and community facilities are all critical elements that shape and support communities. Roads are vital to rural residents since they connect the countryside to services and markets and rural residents to each other. In many respects, however, the preservation of rural environments depends on the ability to manage development to avoid the need for extensive supporting infrastructure.

Within the planning area, the former Upper Clements Park contains the only wastewater treatment facility, and the system is old and in need of replacement. Most of the planning area, however, is rural. While there are pockets of commercial development featuring a variety of local stores, tourism-related businesses, and businesses that complement agriculture and other rural activities, these uses, and residential uses rely on their own private infrastructure to obtain water and dispose

wastewater. The preservation of rural character requires the maintenance of private water and wastewater systems. Development must be maintained at density levels that will ensure septic systems can absorb and treat waste over the long-term without jeopardizing on-site water quality.

With regards to transportation, there are a mix of public and private roads within the Planning Area. Public transit services are available through Kings Transit Authority (KTA), which operates routes serving Kings, Annapolis and Digby Counties. KTA offers routes between Bridgetown and Greenwood, Bridgetown and Cornwallis Park, and Cornwallis Park and Weymouth. The full network covers the area from Grand Pre in Kings County to Weymouth in Digby County within the Highway 101/Highway 1 corridor.

Active transportation has potential to grow in the Planning Area. The primary active transportation route is the former Dominion Rail line which extends across the planning area from Clementsport to Annapolis Royal. Currently, this section is an unmaintained trail built on the former rail bed and features moderate slopes and comfortable surfaces, facilitating active non-motorized transportation.

PART 3 VISION AND GOALS

SECTION 3.1 VISION

Based on input from Upper Clements community members through the Upper Clements Area Planning Survey and reviewed by the Upper Clements Area Advisory Committee, the following Visioning Statement was created:

Upper Clements is a healthy, vibrant, and inclusive community which strives to preserve the unique natural landscape, work towards self-sufficiency, and provide sufficient recreation and education opportunities to support a high quality of life for its residents.

SECTION 3.2 GOALS

To direct this SPS, Council has adopted specific goals. These goals articulate the desired future; set the direction; focus of the Planning Area development; and act as a guide for daily decision-making with respect to budgeting, projects, and program evaluation. Specific goals of this SPS include:

- **G-1** Preserve and protect Upper Clements area's unique natural landscape, including green areas, wetlands, and farmlands.
- **G-2** Encourage local agriculture, community gardens, and renewable energy initiatives to enhance food security, reduce reliance on external resources, and minimize environmental impact.
- **G-3** Ensure sufficient recreational and educational opportunities for residents of the Upper Clements area, through the development and maintenance of parks, trails, and community spaces.
- **G-4** Achieve a balanced approach to development that respects the rural character and low-density nature of the Upper Clements area with respectful commercial development, while promoting housing density in key areas that complement the existing landscape and infrastructure.
- **G-5** Foster an inclusive and engaged community through public participation in decision-making processes, promoting diversity in housing options, and ensuring access to public amenities and services for all residents. Strive to create a community that is welcoming, supportive, and responsive to the needs of its diverse population.

PART 4 LAND USE POLICIES

SECTION 4.1 LAND USE DESIGNATIONS

The SPS sets policies for the development and protection of land use in the Upper Clements Planning Area. The application of policies is guided by land use designations illustrated on the FLUM (Map 1) of this SPS. Future land use designations indicate the predominant established land use in the designated area or the land use considered most appropriate for that area. Where land use designations reflect use different from the current use, the selected designation is based on the inherent characteristics of the property such as slope, environmental features, road access, and access to community facilities. It may also be influenced by land uses on adjacent lands and on the declared intentions of landowners.

The following designations have been applied on the FLUM to areas predominantly used or appropriate for future use in the land use category designated:

1. **Residential** – The Residential Designation includes low density residential, mixed-use, and institutional uses.
2. **Conservation** – The Strategy supports measures to address sensitive environmental features that may also present hazards if developed. The Conservation Designation is applied to watercourses, coastal zones, and steeply sloped lands where structures may be subject to instability, flooding, or inundation, and where structures may, in turn, pose threats such as promotion of stormwater runoff or reduction of wildlife habitat. High quality agricultural lands are considered in this Plan and the Agricultural Zone has been applied to protect valuable soils for future agricultural activities.
3. **Comprehensive Development** – The Comprehensive Development Designation utilizes development agreements to ensure that community design principles are applied to prospective developments at the former Upper Clements Theme Park site.

SECTION 4.2 RESIDENTIAL DESIGNATION

While residential uses predominate the Upper Clements Planning Area, there is also a mix of highway-oriented commercial uses, farms and farmsteads, resource-based industries, and community facilities. Recognizing the mixed-use nature of the Planning Area, it is largely designated Residential to accommodate the common mixture of low-to-medium density residential development as well as agriculture and compatible commercial uses. Coastal areas where fisheries uses are found, as well as undeveloped and resource lands, are also included in the Residential designation.

Policy 4.1 Upper Clements Residential Zone

It is the policy of Council to establish an Upper Clements Residential (UCR1) Zone in the Upper Clements Area LUB to permit residential structures containing no more than two dwelling units.

Policy 4.2 Upper Clements Mixed Use Zone

It is the policy of Council to establish an Upper Clements Mixed Use (UCR2) Zone in the Upper Clements LUB to permit all residential uses in the Upper Clements Residential (UCR1) Zone as well as residential structures containing three or more dwelling units, land lease communities, and a range of commercial, industrial, and institutional uses suitable to rural environments.

Policy 4.3 Development by Site Plan Approval

Notwithstanding the policies contained in this Part, it is the policy of Council to consider the following developments within the Residential Designation only by Site Plan Agreement:

- (a) Land lease communities in the Upper Clements Mixed Use (UCR2) Zone;
- (b) A second multi-unit residential structure in the Upper Clements Mixed Use (UCR2) Zone;

Policy 4.4 Residential Development Standards

It is the policy of Council to establish standards to regulate lot size, yard requirements, building height, the dimensions and permitted locations of accessory buildings, and such other standards as may be deemed appropriate to ensure the quality and compatibility of residential structures.

Policy 4.5 Residential Rezoning

It is the policy of Council to consider rezoning properties to specifically residential zones in accordance with the evaluative criteria set out in **Policy 6.5** and only where the existing or planned use conforms reasonably to the proposed residential zoning category and where the road network is designed and has capacity to accommodate anticipated traffic, and where municipal services with sufficient capacity are available or onsite servicing can be provided to support expected water and wastewater requirements of the maximum level of potential development.

Policy 4.6 Secondary Residential Structure

It is the policy of Council to consider the development of a second residential structure on a lot in the Upper Clements Residential (UCR1) zone provided the

proposed structure contains no more than one dwelling unit and is clearly secondary to the original residential use.

Policy 4.7 Household Livestock in Residential Zones

It is the policy of Council to permit the keeping of a limited number of animals defined as household livestock in the Upper Clements Residential (UCR1) and Upper Clements Mixed Use (UCR2) Zones.

Policy 4.8 Upper Clements Institutional Zone

It is the policy of Council to establish an Upper Clements Institutional (UCI) Zone in the Upper Clements LUB suitable to permit community and/or cultural centres, educational uses, fire and emergency services, food banks, libraries, museums, and visitor information centres and similar uses owned or operated by government and not-for-profit organizations.

Policy 4.9 Institutional Rezoning

It is the policy of Council to consider rezoning properties in accordance with the evaluative criteria set out in **Policy 6.5** to the Upper Clements Institutional (UCI) zone only where existing or planned land use conforms reasonably to the proposed zoning category, where the road network is designed and has capacity to accommodate anticipated traffic, and where municipal services with sufficient capacity are available or onsite servicing can be provided to support expected water and wastewater requirements of the maximum level of potential development.

SECTION 4.3 CONSERVATION DESIGNATION

The Conservation designation includes policies designed to direct development and provide effective protection of parks and recreation as well as agricultural lands in the planning area.

The Upper Clements Open Space (UCOS) zone is applied to public parks and recreation facilities owned and managed by the Municipality, province, and the federal governments.

The Upper Clements Agricultural (UCAG) zone has been applied to lands identified as high-quality agricultural areas, through the Canadian Land Inventory (CLI) Soil Classification Maps, and COGS's Agricultural Land Identification Program (ALIP) data, as well as land identified under the Provincial Agricultural Marshland Conservation Act. The designation is intended to protect and preserve agricultural land. Policies are therefore included to reduce potential land use conflicts that may infringe on agricultural operations and prohibit the removal of topsoil, which is critical to the maintenance of agricultural land.

Policy 4.10 Upper Clements Open Space Zone

It is the policy of Council to establish an Upper Clements Open Space (UCOS) Zone to accommodate publicly accessible parks, trails, and open space areas.

Policy 4.11 Trails in Other Designations

Notwithstanding the foregoing Recreation policies, it is the policy of Council to permit publicly accessible trails for non-motorized modes of transportation in all land use designations.

Policy 4.12 Trails for Motored Vehicles

It is the policy of Council to consider allowing appropriate motorized modes of transportation on publicly accessible trails, based on consideration of a Trails Use Impact Assessment Report prepared and signed by a qualified professional at the expense of a person or group advocating the use of such vehicles. The report shall address the vehicle types to be considered; the required surface and dimensions of the trail that will accommodate them; the commitment of individuals and groups supportive of including motorized users; and the impact of motorized users on other trail users and adjacent property owners, particularly residential and agricultural land uses.

Policy 4.13 Parks and Conservation Areas

It is the policy of Council to protect and preserve lands with natural and cultural heritage value over the long term through support and/or partnership with not-for-profit organizations and senior government initiatives to recognize, preserve, and, where appropriate and financially feasible, to acquire and/or manage culturally, historically, or environmentally valuable sites for the benefit of the public.

Policy 4.14 Upper Clements Open Space Rezoning

It shall be the policy of Council to consider rezoning properties in accordance with the evaluative criteria set out in **Policy 6.5** to the Upper Clements Open Space (UCOS) zone only where existing or planned land use conforms reasonably to the proposed zoning category, where the road network is designed and has capacity to accommodate anticipated traffic, and where municipal services with sufficient capacity are available or onsite servicing can be provided to support expected water and wastewater requirements of the maximum level of potential development.

Policy 4.15 Upper Clements Agricultural Zone

It is the policy of Council to establish an Upper Clements Agricultural (UCAG) Zone in the Upper Clements LUB primarily to designate lands protected under this zone to permit all uses related to primary agricultural production as part of a farm

operation, such as but not limited to agriculture, animal and poultry husbandry, apiculture, dairying, equine farms, floriculture, horticulture, and pasturage.

Secondary agricultural uses would include primary forestry uses, as well as a single farm residence containing no more than two dwelling units, and additional land uses compatible with farm operations that will not diminish the production capacity of farms but will allow the generation of additional income streams to support agricultural operations including operation of a farmstead as a bed and breakfast, operation, or the incorporation of counselling offices; farm markets; micro-breweries and distilleries; veterinary offices and clinics; and arts, craft, and custom workshops in farm buildings or separate structures on the agricultural property.

Policy 4.16 Upper Clements Agricultural Zone Subdivision

It is the policy of Council to limit the subdivision of any area of land in the Upper Clements Agricultural (UCAG) Zone to a maximum of two lots during a calendar year.

Policy 4.17 Agricultural Marshlands

It is the policy of Council to identify dykelands and other recovered marshlands on the zoning map and include them in the Upper Clements Agricultural (UCAG) Zone except where current land uses and structures would not be permitted in the Upper Clements Agricultural (UCAG) Zone in which case the zone to be applied shall reflect those current land uses and structures.

On all lands identified as protected marshland, development is not permitted unless enabled under the Act for the Conservation of Agricultural Marshland. Any new buildings or additions that are permitted shall be floodproofed and the placing of fill and the alteration of topography will be restricted. Residential institutions and any use associated with the warehousing, or the production of hazardous materials shall not be permitted. It is, furthermore, the policy of Council to support dyke maintenance and improvement programs conducted by or under the supervision of the Nova Scotia Department of Agriculture and Marketing and to control the placing of fill and the alteration of topography on all lands designated as dykeland or marshland.

Policy 4.18 Agricultural Development Standards

It is the policy of Council to establish standards to regulate lot size, yard requirements, building height, the dimensions and permitted locations of accessory buildings, and such other standards as may be deemed appropriate to ensure the quality and compatibility of residential structures.

Policy 4.19 Rezoning to the Agricultural Zone

It is the policy of Council to consider rezoning properties to the Upper Clements Agricultural (AG) Zone on request of any landowner who can demonstrate their ability and intention to construct one or more buildings permitted in the Agricultural (AG) Zone and/or to cultivate crops or pasture animals and in accordance with the evaluation criteria set out in **Policy 6.5**.

Policy 4.20 Rezoning Agricultural Zones to Other Uses

It is the policy of Council to consider rezoning property in an Upper Clements Agricultural (AG) Zone to another use only where the landowner can demonstrate the land in question is not suitable for agriculture because of inadequate soil quality or another cause that renders it unsuitable for cultivation or pasture, or where the such rezoning will bring clear benefits to the wider community and the municipality such as may occur when land is positioned within or next to areas of urban development.

SECTION 4.4 COMPREHENSIVE DEVELOPMENT DISTRICT DESIGNATION

The Upper Clements Comprehensive Development District (UCCDD) designation is established to promote orderly and sustainable development within the former Upper Clements Park area while accommodating a variety of land uses, fostering economic growth, and enhancing the quality of life for residents and businesses. The CDD encompasses PIDs 05094297 and a portion of 05304084, as depicted on the Future Land Use Map.

Policy 4.21 Upper Clements Comprehensive Development District Designation

It is the policy of Council to designate those areas shown on Map 1, the Future Land Use Map, as the Upper Clements Comprehensive Development District and to regulate all development in this area by Development Agreement.

Policy 4.22 Upper Clements Comprehensive Development District Zone

It is the policy of Council to include in the Land Use Bylaw an Upper Clements Comprehensive Development District (UCCDD) Zone. This zone shall permit a variety of residential types, as well as appropriately scaled commercial uses within comprehensively planned development.

Policy 4.23 Development by Development Agreement

It is the policy of Council that all development within the Upper Clements Comprehensive Development District Zone to be considered only by Development Agreement. When considering approval of a Development Agreement for lands within the Upper Clements Comprehensive Development District Zone Council shall consider:

- (a) The provision for and/or integration of domestic water, wastewater and storm water into municipal systems where available;
- (b) The provision for and integration of collector and local road systems into the existing road network;
- (c) Criteria contained in **Policy 6.9**, the General Criteria for Development Agreements.

SECTION 4.5 ENVIRONMENTAL REGULATIONS

Effective environmental management begins by identifying all areas of the land base that are deemed to be sensitive, valued, and hazardous, and precluding those lands from development. In this manner, certainty is provided to the community as to what lands are available for site and building development. Management of the environment also entails the development and implementation of regulations, standards, and requirements to preserve the identified natural assets, and to ensure the integrity of all current and new site and building developments will provide for the life safety of all new residents.

Environmental features are integrated with many land uses so that it is not appropriate or sufficient to designate lands specifically to protect the environment. While zoning requirements such as lot area minimums, setbacks, and landscaping requirements can protect the environment by ensuring land is preserved for the growth of natural vegetation that will stabilize soils and reduce stormwater runoff, some particularly sensitive environmental features need to be directly addressed. These largely deal with the management and protection of water whether in wetlands, streams, lakes, or coastlines. Water must be protected from pollution that may compromise it as habitat for flora and fauna, and for the benefit of people who use it for recreation and consume it in a variety of ways, including drinking.

The Province of Nova Scotia has taken the lead in several areas of environmental concern. The Province adopted stringent measures to restrict development in wetlands. Under established Provincial regulations, no development can be undertaken in a wetland greater than 100 m² in area unless the wetland is replaced by constructed or preserved wetlands at a ratio of 2:1.

Management of the coastline entails particular attention for the Upper Clements Planning Area. The formerly proposed Nova Scotia *Coastal Protection Act* had recommended that all new buildings be located at least 100 metres (328 feet) from the ocean to reduce storm damage to buildings and to mitigate coastal erosion.

While the proposed Regulations to support the Act were not have proclaimed by the Province, this Secondary Planning Strategy outlines that the construction of any proposed new building or the modification/change of use of an existing structure situated within 30 metres of the ordinary high water mark of the ocean be required to engage a qualified professional to certify that the building will not be at risk of damage from sea level rise, coastal flooding, storm surges and coastal erosion. With our changing climate, it is prudent to take a cautionary approach in issuing building permits for developments near ocean waters.

Other important environmental considerations include areas dealing with substantial slopes, which are often valued aesthetically in themselves and for the views of other areas they may afford, but which may be more erodible than other lands and can be dangerous on which to build. We have also included under the Environmental heading, wind developments and water supply areas. Under the County-Wide Municipal Planning Strategy, wind developments are restricted to specific locations that offer exposure to appropriate wind regimes and are separated from established land uses with which they may be considered incompatible.

Policy 4.24 Wetland Protection

It is the policy of Council to ensure that Province of Nova Scotia regulations pertaining to the preservation of wetlands are observed and shall require applicants for development permits to verify the existence and extent of any wetland on the development property.

Policy 4.25 Watercourse Protection

It is the policy of Council to prohibit through the Upper Clements LUB the erection of any building or structure, other than wharves, boat houses, bridges, personal fishing uses, and government authorized private or public utilities within 15 metres (50 ft.) of an interior watercourse and 30 metres (98 ft.) of a coastal watercourse.

For clarification, the separation distance or setback shall be measured from the edge, meaning the ordinary highwater mark of the watercourse and the watercourse setback distance can be defined as being part of any side, rear, or front yard with the intention that the developer retain as much of the natural vegetation in the watercourse setback distance buffer strip as possible.

Policy 4.26 Provisions for Infrastructure and Amenities Abutting Watercourses

It is the policy of Council to permit within 15 metres (50 ft.) of a watercourse, bridges, boardwalks, walkways, and trails for non-motorized modes of transportation; fences, public road crossings, driveway crossings, wastewater, storm, and water infrastructure; marine dependent uses; fisheries uses; boat ramps; wharfs; small-scale accessory buildings or structures and attached decks; conservation uses, parks on public lands; and historical sites and monuments.

Policy 4.27 Watercourse Maintenance

It is the policy of Council to prohibit alteration of land levels or the removal of vegetation within 15 metres (50 ft.) of a watercourse other than trimming and pruning of trees, removal of fallen or dead vegetation, and other maintenance that may be required to protect people and animals, and ensure the preservation of natural habitat and flow within the watercourse or to develop or maintain any of the permitted land uses identified in **Policy 4.26**.

Policy 4.28 Extreme Slopes

It is the policy of Council to prohibit development on or within 15 metres (50 ft.) of lands with a slope of 30% or greater.

Section 4.5.1 Wind Resource Areas

Wind Resource Areas have been identified in four locations within Annapolis County suitable for large-scale wind turbine development that are reasonably separated from existing developed areas and enjoy good regular exposure to wind. They are all on the peninsula on the north side of the Annapolis River and are generally elevated. Large-scale wind turbines are a prohibited use in the Planning Area and their definition is provided below only for reference.

Policy 4.29 Wind Turbine Classification

It is the policy of Council to classify wind turbines into the following categories, and to recognize these categories in the UCLUB as the basis for regulating wind turbines:

- (a) Mini-scale Wind Turbines – a wind power turbine with a nameplate capacity of less than 25 kilowatts, but not less than 1 kilowatt
- (b) Small-scale Wind Turbines – a wind power turbine with a nameplate capacity equal to or less than 100 kilowatts, but not less than 25 kilowatts
- (c) Large-scale Wind Turbines – a wind power turbine with a nameplate capacity of greater than 100 kilowatts

Policy 4.30 Mini-scale and Small-scale Turbine Development

It is the policy of Council to permit mini-scale and small-scale wind turbines in all zones in the Planning Area subject to regulations provided for each wind turbine type in the Upper Clements Land Use Bylaw.

Policy 4.31 Large-scale Turbine Development

It is the policy of Council to permit large-scale wind turbines only in Wind Resource Areas subject to regulations provided for large-scale wind turbines in the Annapolis County Land Use Bylaw.

SECTION 4.6 INFRASTRUCTURE

While developers are responsible to build local roads, water, wastewater, and stormwater systems required to service new subdivisions, infrastructure when transferred to the Municipality following construction requires ongoing expenditure for operations and maintenance at the expense of the County. It may also require complementary expenditure on community facilities such as schools, trails, parks, and recreation facilities that municipal governments may have to build or otherwise support.

Reducing these costs is an important goal of this SPS. It can be achieved by managing development so as to avoid the unnecessary expansion of service networks. While agriculture, forestry, and similar resource-based rural activities typically require extensive use of land, residential, business, and institutional development can be more efficiently developed and managed if it is concentrated in nodes or limited corridors where the length of roads and underground services can be minimized.

Policy 4.32 Regulation of Public Streets

It is the policy of Council to regulate the development of municipal public streets through the Annapolis County Subdivision Bylaw and permit the development of new municipal public streets on lands within the Upper Clements Planning Area, within a one-kilometre radius of another County-owned municipal public street.

Policy 4.33 Transit Infrastructure

It is the policy of Council to work with and support Kings Transit Authority to enhance transit service through the expansion of routes and increased frequency of service and addition of bus shelters and other supporting infrastructure that will encourage transit ridership, where economically practical.

Policy 4.34 Active Transportation Network

It is the policy of Council to encourage the development of sidewalks and trails for non-motorized modes of transportation and the provision of cycling lanes along Highway 1.

PART 5 GENERAL DEVELOPMENT STANDARDS

The topics that are to be addressed in this section concern policies governing the subdivision of land, development on public or private roads, development of land under certain existing conditions that ordinarily would not meet the requirements of a LUB, general requirement provisions for all zones (such as parking, signage, home occupations, etc.) and the procedures governing the application of minor variances.

SECTION 5.1 SUBDIVISION BYLAW

The Annapolis County Subdivision Bylaw regulates the subdivision of land and sets out standards for the construction of new roads and the installation of water and sewer services in serviced areas. When subdividing land, a developer is required to provide a 5% dedication of land to the County for park and open space purposes or in lieu of land, a cash equivalent. In addition, the Subdivision Bylaw requires developers to pay for the construction of any new roads and the installation of water and sewer services.

The Subdivision Bylaw has an important role to implement SPS policies encouraging the concentration of development in serviced areas. At the same time, the Bylaw requires the flexibility to address the traditional lotting fabric that characterizes much of the rural area covered by this Plan.

Policy 5.1 Establishment of Subdivision Bylaw

It is the policy of Council to maintain the Annapolis County Subdivision Bylaw for the Upper Clements Planning Area to set out regulations for the subdivision of land including standards for road construction and the installation of services, open space dedication, cash in lieu of land dedication, and other requirements in accordance with the permissive content provisions for subdivision of land in Part 9 of the *MGA*.

Policy 5.2 Compliance of Subdivided Lots with LUB Requirements

It is the policy of Council to require that all new lots subdivided in the Upper Clements Planning Area abut a public or private street, road, or highway and meet the area and frontage requirements provided in the Upper Clements LUB for the zone in which the property to be subdivided is located.

Policy 5.3 Exceptions to Requirements

It is the policy of Council to permit the approval of lots that do not meet all requirements of the LUB and/or the Subdivision Bylaw, including provisions in the

Upper Clements LUB to allow for the issuance of development permits for the development of lots subdivided in the following circumstances:

- (a) Where a lot legally in existence on or before the effective date of the Subdivision Bylaw contains two or more existing main buildings and the owner wishes to rationalize an existing situation by creating a separate lot for each building, provided that each new lot meets the requirements of Nova Scotia Environment and Climate Change, and Public Works, and contains at least one main building and retains a minimum of 12.2 metres (40 feet) of frontage along a public or private street, road, or highway.
- (b) Where a lot with 40 metres (200 feet) of lot frontage was legally in existence on or before the effective date of the Subdivision Bylaw, but is lacking the frontage required for two lots in the applicable zoning category, and the owner wishes to subdivide the lot to allow a new flag lot to be created, provided the lot has sufficient area to meet all other bylaw requirements including minimum lot areas and yard setbacks with access to the street via a minimum 12.2-metre (40-foot) strip for driveway access.
- (c) Where a maximum of two lots will be created that both have 90% or more of the required minimums for lot area and frontage.
- (d) Where a development component of a permanent nature such as a structure, driveway, well, or septic tank is encroaching in or on an abutting property, the lots affected may be subdivided to the extent necessary and practical to remove the encroachment.

SECTION 5.2 LAND USE BYLAW

The LUB, as stated previously, will implement the land use intent of this SPS. While the primary purpose of the Bylaw will be to identify and apply zones, it will also contain additional requirements that shall apply to more than one land use or to all land uses pursuant to the policies of this SPS. It must also, like the Subdivision Bylaw, have the flexibility to address situations where past subdivision and construction does not satisfy LUB requirements, but where Council wishes to preserve existing uses and structures and permit their continuation and, where appropriate, change and expansion.

Policy 5.4 Establishment of the Land Use Bylaw

It is the policy of Council to create and maintain a Land Use Bylaw or LUB that will implement the land use policies of this SPS through the identification of zones for specific land uses and adoption of standards for construction of those land uses.

Policy 5.5 General Provisions

It is the policy of Council to include in the LUB a section titled “General Provisions for All Zones” that sets out the development standards, relating to matters such as parking and loading; accessory uses and structures; lighting; signage; permitted encroachments into yards, and home occupations among other matters.

Policy 5.6 Additional General Provisions

Additional standards in the “General Provisions for All Zones” section of the LUB shall include:

- (a) Provisions respecting temporary buildings (e.g., construction huts), temporary uses and special occasions, such as fairs, that shall not require a development permit but shall be subject to time restrictions;
- (b) Provisions respecting illumination from lights such that it is directed away from abutting lots for privacy and to prevent nuisance situations;
- (c) Provisions with respect to accessory buildings including lot coverage provisions to ensure a subordinate relationship to the main use;
- (d) Provisions with respect to permitted encroachments into yards to allow for some architectural flexibility and to allow wheelchair access;
- (e) Provisions with respect to traffic movement for vehicular and pedestrian safety reasons including development in corner vision triangles;
- (f) Provisions to permit the development of government authorized, private or public, operated utilities within any zone or within the watercourse setback; and
- (g) Provisions to permit the keeping of agricultural animals as a primary use or as an accessory use to an existing residential use.

Policy 5.7 Provisions for Existing Lots with no Street Frontage

It is the policy of Council to include provisions in the Upper Clements LUB to allow the reasonable use of a lot legally existing on or before the effective date of the Upper Clements LUB coming into force that does not meet the required lot frontage on a municipal or provincial public street or highway or private road, provided that all other applicable sections of the LUB are met.

Policy 5.8 Existing Undersized Lots and Existing Buildings

It is the policy of Council to include provisions in the Upper Clements LUB to allow a lot legally existing on or before the effective date of the Upper Clements LUB coming into force that has less than the minimum frontage or area or both required by the LUB, or has been subdivided in accordance with **Policy 5.3** to be used for a purpose permitted in the zone in which it is located.

Policy 5.9 Buildings on Undersized Lots

It is the policy of Council to include provisions in the Upper Clements LUB to allow a building legally erected on a lot on or before the effective date of the Upper Clements LUB coming into force that does not meet the requirements of the LUB respecting lot area, frontage, or setbacks to be enlarged, reconstructed, repaired, or renovated, except as provided for in other policies of the SPS.

PART 6 IMPLEMENTATION

Policies in this part establish procedures for reviewing, amending, and applying the SPS and LUB, including public consultation procedures.

SECTION 6.1 PLANNING DOCUMENT REVIEW

While Council does make provisions in every plan to consider policy changes and amendment requests to its planning documents, Section 214 (2) of the *Municipal Government Act* requires a Municipality to include policies in their planning documents on how it intends to review a SPS and LUB.

SECTION 6.2 SPS AND LUB REVIEW

It is the intention of Council to commence a review of the Upper Clements SPS and the Upper Clements LUB ten years after the effective date to ensure that these planning documents remain consistent with the planning and development control needs of the Planning Area. The County-Wide Municipal Planning Strategy provides policy direction with respect to altering Secondary Planning Area boundaries (**County-Wide MPS Policy 7.1.2.2**).

Policy 6.1 Revising the Plan

It is the policy of Council to commence review within ten years of the date of adoption of this SPS to meet the requirements of the MGA.

SECTION 6.3 SPS AMENDMENTS

A SPS, by its very virtue of being a strategy, is a document that should evolve with changing circumstances. As such, this Plan may need to be amended from time to time where Council may wish to change or clarify policy intent. Council shall assess the need for such amendments and shall not be obliged to consider any amendment to this SPS that is not justified by the stated Conditions for Amendment.

Policy 6.2 Conditions for Amending the SPS

It is the policy of Council to amend this Plan where any of the following occurs:

1. A change to the intent of one or more SPS policies.
2. A change to the Upper Clements FLUM.
3. Where the plan conflicts with a Provincial Government land use policy or regulation.

4. Where a requested amendment to the LUB conflicts with this Plan and there are valid reasons for the amendment to address the conflict.

SECTION 6.4 LAND USE BYLAW

The Upper Clements LUB is the principal mechanism by which the land use policies of this SPS are implemented and, as such, the LUB defines applicable land use zones, permitted uses, and development standards that reflect the policies of this Plan. Development standards may vary according to the use, zone, and location.

The common theme throughout the LUB is that Council has set appropriate development standards that aim to maintain sufficient control to ensure good quality, compatible development within the Upper Clements Planning Area; however, the need may arise to change bylaw provisions and standards in response to changing conditions and opportunities either within the context of established SPS policy or pursuant to amended SPS policy.

Applications for a LUB amendment, whether a rezoning or a text amendment, require careful consideration of the circumstances surrounding the request and Council has established policy below setting out criteria for such consideration. To ensure Council's informed consideration, it is incumbent on the applicant to supply adequate information to Council so as Council can adequately evaluate the application.

Policy 6.3 Land Use Bylaw Content

It is the policy of Council that the Upper Clements LUB shall state in text, the permitted or prohibited uses and development standards, while identifying on the Zoning Map the division of land into zones. These regulations and zones shall be generally compatible with the policies of the Upper Clements SPS. The Zoning Map, appended as Appendix A to the LUB, shall represent the geographical extent of all zones in the Planning Area and the following zones shall be established in the LUB:

- Upper Clements Residential (UCR1) Zone
- Upper Clements Mixed-Use Zone (UCR2) Zone
- Upper Clements Comprehensive Development District (UCCDD) Zone
- Upper Clements Institutional (UCI) Zone
- Upper Clements Open Space (UCOS) Zone
- Upper Clements Agricultural (UCAG) Zone.

Policy 6.4 Land Use Bylaw Provisions

It is the policy of Council to regulate the use and development of land, buildings and structures in the LUB. This LUB shall also contain provisions, regulations, and development standards, which may vary according to the use, zone and location, including but not limited to:

1. Requirements for municipal development permits and the submission of supporting documentation.
2. Listing of permitted or prohibited uses in a zone.
3. Permitting multiple uses, buildings, or structures to be developed on a lot and provisions with respect to permitting multiple uses to be developed within a building.
4. Regulate the location of buildings and structures relative to other buildings and structures.
5. Regulate the location of buildings and structures relative to public roads and watercourses.
6. Regulate the location of buildings and structures relative to property boundaries, allowing for a waiving of setbacks of common boundaries where the properties under consideration are owned by the same person.
7. Regulate the height of buildings or structures.
8. Regulate or prohibit the placing of signage on buildings, structures or property.
9. Nonconforming uses of land, nonconforming structures and nonconforming uses in a structure.
10. The regulation of main buildings and structures and accessory buildings and structures on a lot.
11. The regulation of mini-scale wind turbines, small-scale wind turbines and large-scale wind turbines.

Section 6.4.1 Amending a LUB

Council may entertain application to amend this SPS and LUB and what additional information must be submitted. However, there may be instances where Council may wish to entertain amendments to the LUB concerning the requirements established in the LUB.

Policy 6.5 Criteria for Amending the LUB

In considering an application for an amendment to the LUB, Council shall ensure that the amendment is in conformity with the intent and policies of this Plan, the requirements of the *Municipal Government Act*, and the LUB.

It shall be the policy of Council to not amend the Land Use Bylaw or approve a development agreement unless Council is satisfied that:

1. The proposal is not premature or inappropriate due to the financial capability of the Municipality to absorb any public costs relating to the

development.

2. The proposal not being consistent with the remaining requirements of the LUB.
3. The extent to which development might conflict with any adjacent or nearby land uses, buildings or structures by reason of the type of use proposed, the compatibility of its design; the impact of height, bulk and lot coverage of proposed buildings or structures; and the impact of nuisance factors from the proposed development such as illumination, flicker, noise, vibration, shadows, dust, odors, and other safety concerns related to the development.
4. The adequacy of road networks, in, adjacent to, or leading to the development, the adequacy of provisions for vehicle access to and from the site, and the adequacy of provisions for on and off-site parking and loading areas.
5. The adequacy of physical site conditions for, and the provision of, on-site sewage disposal, water and storm water management, where not connected to a municipal system.
6. The adequacy of municipal services with regard to the demand the proposed development will have on the municipal storm water system, sanitary sewer system and water system.
7. The presence of significant natural features, or buildings, or sites of historical or architectural significance.
8. The suitability of the proposed site in terms of steepness of grades, soil, geological conditions, and the potential for the creation of erosion or sedimentation.
9. The potential impact of the development on watercourses, protected wetlands, other sensitive habitats, and on endangered species in the area of the proposed site.
10. The proposal not meeting the requirements of any other applicable municipal, provincial, federal, government or First Nations department, authority, board, or agency and not having been granted a permit, license, authorization, or approval of any other applicable provincial or federal government department, authority, board, tribunal, or agency.

Policy 6.6 Information Required for Application to Amend the LUB

It is a policy of Council to require that any or all the following information be submitted by the applicant in text, map, photographic, or electronic form to explain and support applications for LUB amendments:

1. Information as to the physical and environmental characteristics of the proposed site, including information regarding topography, contours, elevations, dimensions, natural drainage, soils, geological features, watercourses, wetlands, swamps, marshes, fens or bogs, existing vegetative cover, and vegetative cover to be retained.
2. Information as to the lot area, dimensions, ownership, and location of the property.
3. Information as to the proposed location, height, color, dimensions, nameplate capacity, and use of all existing and/or proposed buildings or structures to be built, erected or altered on the site.
4. Information as to the adequacy of the proposed provisions of central piped services for servicing with water and sewage disposal and site drainage, and storm water management.
5. Information, where central piped services are not to be provided, as to the adequacy of physical site conditions for on-site sewage, water, and storm water management.
6. Information as to the adequacy of the proposed access to and from the lands and estimated traffic flows to be generated by the proposed development, as well as parking and loading provisions.
7. Information as to intended hours of operation, outdoor storage and/or display, and commercial signage.
8. Information as to mitigation of the impact of nuisance factors such as illumination, flicker, noise, vibration, shadows, dust, odors and other safety concerns related to the development.
9. Information as to the separation distance of the development from other buildings or structures, setback distance from public roads, watercourses, and property boundaries, and buffering between the proposed development and adjacent buildings, structures, and properties.
10. Information as to the presence of significant natural features or buildings or sites of historical or archaeological significance.
11. Information as to the presence of sensitive habitat or endangered species on the site of the proposed development.
12. Copies of permits, licenses, authorizations, or approvals from any other applicable provincial or federal government, First Nations department, authority, board, tribunal, or agency approving the design and operation of the proposed use, building, structure, or project.
13. A suitability study specified by the Municipality to justify the requested amendment.

SECTION 6.5 SITE PLAN APPROVAL

Site plan approval is a development approval process in which applicants must meet an additional set of criteria set out in the Land Use Bylaw. Unlike standard development permitting, these criteria can involve a negotiation between the applicant and the Development Officer to determine overall compliance. The outcome of site plan approval is a site plan agreement.

This tool is useful for approvals that might require an additional level of oversight or flexibility in the ways impacts on neighbours are reduced, but that do not necessarily need to go through the complex and time-consuming process required for a development agreement. These site-plans are specific to the property and continue to apply in the event the property is sold unless discharged by Council.

Policy 6.7 Enabling Site Plan Approval

It is a policy of Council to, through the Land Use Bylaw, use site plan approval as the tool for reviewing developments that require some additional oversight or where there is a benefit to providing flexibility in the ways land use controls are implemented.

Policy 6.8 Establishing Site Plan Approval Notification Area

It is a policy of Council to, through the Land Use Bylaw, establish a notification area of 30 metres for the approval of site plan agreements on lots one (1) hectare or less in area and 100 metres for the approval of site plan agreements on lots greater than 1 hectare in area.

SECTION 6.6 DEVELOPMENT AGREEMENTS

Development agreements provide a flexible approach to approving development applications through structured negotiation between Council and the development proponent. A development agreement is a formal written agreement between Council and a developer and as such is binding on both parties.

As provided for through the provisions of the Municipal Government Act, where a Council intends to regulate development by way of a development agreement, a municipal planning strategy is required to establish policy with regard to the types of development to be considered by development agreement; those items that may form a part of the development agreement; and evaluation of criteria that Council shall consider prior to entering into a development agreement.

Policies establishing the types of development subject to development agreements are found in the land use sections of this Upper Clements SPS and are implemented by the Upper Clements Land Use Bylaw, while items to be included in a development agreement and evaluative criteria are summarized below.

Policy 6.9 Criteria for a Development Agreement

It is the policy of Council that in considering an application for a development agreement, or an application for an amendment to an existing development agreement, that Council shall have regard to the following evaluative criteria, where applicable, to ensure that the agreement or agreement amendment is in conformity with the intent and policies of this Secondary Planning Strategy and the requirements of the Land Use Bylaw. Council shall have regard for the provisions of

Policy 6.10 concerning the content of a proposed development agreement and **Policy 6.11** concerning the provision of information by the applicant:

1. The adequacy and the proximity of the proposed development to recreational and other community facilities;
2. The impact of the proposed development on existing adjacent or nearby land uses in the area with particular regard to the use and size of the structures that are proposed, buffering and landscaping, hours of operation for the proposed use (where applicable) and other similar features of the use and structure in order to minimize any potential land use conflicts with immediately abutting uses;
3. The adequacy of municipal services with particular regard to demands on the municipal storm water system, sanitary sewer systems, water system, fire protection, refuse collection, police protection, existing schools and churches;
4. The adequacy of provisions for on-site sewage disposal and on-site water where not connected to a centralized municipal system;
5. The impact of and the adequacy of the proposed pedestrian and vehicular traffic circulation with particular regard to the traffic that the development will generate and the adequacy of the proposed accesses to and from the site, traffic flows in and around the site in terms of its ability to handle any new traffic and the adequacy of the proposed parking areas;
6. The impact of the proposed development on structures in the immediately abutting lots in terms of such things as height, roof line, setbacks and lot coverage to minimize any potential land use conflicts between the proposed development and structures on abutting properties;
7. The adequacy of the proposed lot to ensure that adequate screening and landscaping can be undertaken to minimize the potential for any land use conflicts with adjacent uses; and,
8. The suitability of the proposed site in terms of steepness of grades, soils and geological conditions, location of watercourses, wetlands such as marshes, fens, swamps and bogs and the proximity to highway ramps, and other nuisance factors.

Policy 6.10 Development Agreement Terms

It is the policy of Council, when considering an application for a development agreement, a site-plan approval application, or an application for an amendment to an existing development agreement or site-plan, that the agreement or amendment agreement may include but is not limited to some or all of the following terms:

1. The specific use and size of a structure, either new or an expansion of an

- existing structure, the minimum lot sizes and accessory uses;
2. Regulating or prohibiting the use of land or the erection or use of structures except for purposes as may be set out in the agreement;
 3. The location of any structure within the development;
 4. The percentage of land area that may be built upon, setbacks and the size of yards, courts or other open spaces;
 5. The external appearance of structures, in particular the compatibility with adjacent structures and uses in terms of architecture and appearance, with respect to, but not limited to, height, roof type, window type, building cladding, and building footprint;
 6. Adequacy of access to and from streets and parking;
 7. Adequacy of the proposed landscaping or buffering of development which may include fencing, vegetation, walkways and lighting and their compatibility with adjacent structures and uses;
 8. Other forms of advertising, open storage and screening, the provision of services and utilities, time limits for the initiation of construction (and may include phased construction);
 9. The hours of operation and the maintenance of the property;
 10. The maximum density of the population within the development; and
 11. Any other matters that may be addressed in a Land Use Bylaw which Council feels is necessary to ensure the compatibility of the development with adjacent uses, structures and areas.

Section 6.6.2 Information Required for Development Agreement Review

To effectively consider development agreement applications, Council will require, where applicable, that the development agreement be accompanied by a site plan or other clear description showing the existing and proposed site characteristics, and existing and proposed developments that shall form part of the agreement. A development agreement shall not require an amendment to the Land Use Bylaw but shall be binding to the property until the agreement or part thereof is discharged by the Council. Information required for evaluation of a proposed development agreement or amendment to an existing development agreement may be required to be submitted in text, map, or photographic form by the applicant pursuant to **Policy 6.11**.

Policy 6.11 Information Required for a Development Agreement Application

It is the policy of Council to require that any or all of the following information be submitted in text, map or photographic form by the applicant with respect to applications for land use bylaw amendments, development agreements or amendments to an existing development agreement:

1. Information as to the physical and environmental characteristics of the proposed site including information regarding topography, contours, elevations, dimensions, natural drainage, soils, existing watercourses, vegetative cover, size and location of the lands;
2. Information as to the location, height, dimensions and use of all buildings or structures proposed to be built or erected on the lands;
3. Information as to the adequacy of the proposed provisions for site drainage and servicing with water supply and sewage disposal or if central piped services are not provided, the adequacy of physical site conditions for private on-site sewer and water systems and storm water management;
4. Information as to the adequacy of the access to and from the lands, estimated traffic flows to be generated and parking provisions;
5. Information as to intended hours of operation, open storage, signs;
6. Information as to provision of appropriate buffering between the proposed development and the adjacent structures and/or uses; and,
7. The presence of significant natural features or historical buildings or sites of historical or archaeological significance.

SECTION 6.7 COMPLETENESS OF APPLICATIONS

Applications for development agreements, site-plan approval, or land use bylaw amendments, whether a rezoning or a text amendment, require careful consideration of the circumstances surrounding the request. The onus falls to the applicant to provide adequate and accurate information to municipal staff to make the case for receiving a development agreement, site-plan approval, or land use bylaw amendment. However, because the complexity of requests varies, the nature of the information that Council will require to assess the request will also vary.

SECTION 6.8 PUBLIC CONSULTATION

It is the opinion of Council that this plan and bylaw are public documents, and the public must be informed of changes to, or the entering into of development agreements and site plan approvals made pursuant to the documents, above and beyond the statutory public hearing as set out in the *Municipal Government Act*.

Policy 6.12 Public Participation Program

It is the policy of Council that a public participation program for LUB text or rezoning amendments and amendments to this SPS shall consist of the following steps:

1. Upon confirming that a complete application has been received, staff will advertise the UCAAC's Public Information Meeting on the Municipal Website (with the advertisement specifying the date, time and place of the public information meeting, the matter to be discussed, the specific property affected, where applicable, and the place where application information is available);
2. A Public Information Meeting will be held as specified in **Policy 6.12(1)**;
3. At the UC Area Advisory Committee Public Information Meeting, members of the public will be afforded an opportunity to speak, ask questions or obtain further information about the application;
4. Referral of the application to the Upper Clements Area Advisory Committee (UCAAC) will allow 14 days for public feedback after the Public Information Meeting;
5. At the Planning Advisory Committee Public Meeting, prior to any discussion among Planning Advisory Committee members, members of the public are to be afforded an opportunity to speak, about the application;
6. At the Planning Advisory Committee Public Meeting, prior to any discussion among Planning Advisory Committee members, written submissions from members of the public are to be acknowledged.

Policy 6.13 Extending the Public Participation Program

It is the policy of Council to extend the public participation program, where Council deems it to be applicable and warranted, in relation to applications for LUB text or rezoning amendments and amendments to this SPS requiring more advertisements or more information in the advertisement or otherwise vary the public information process set out in County of Annapolis policy.

Council may, in any matter, choose to extend the public information process more widely, require the Development Officer to notify all landowners within a minimum 61-metre (200 foot) radius affected area by personal service or regular mail, require more advertisements or more information in the advertisement or otherwise vary the public information process, so long as the minimum set out above is met.

Council, in the case of a LUB amendment or development agreement, or their subsequent amendment which does not require Ministerial approval, allows the

Municipal Clerk to refer the application to the Upper Clements Area Advisory Committee for recommendation to Planning Advisory Committee.

SECTION 6.9 COST RECOVERY

The MGA permits a municipality to recover notification and advertisement costs, as well as processing costs associated with MPS and LUB amendments, variances, and development permits. Costs can be expected to change over time and may also vary in relation to the scope of the application in question.

Policy 6.14 Advertising Costs Associated with Amendments and Variances

It is the policy of Council to include provisions in the LUB regarding an administration deposit fee to cover the cost of advertising for UCSPS and LUB amendments and variances, and the processing costs for notification of affected property owners. As estimated by the Council, the applicant shall deposit to the Municipality an amount sufficient to pay the cost of all advertising and notification with respect to the application. Should the notification or advertising cost be more than the established deposit, the applicant shall be billed for the difference, or if the cost is less than the established deposit, the applicant shall be refunded the difference.

Policy 6.15 Processing Costs for Amendments and Permits

It is the policy of Council to include provisions in the LUB regarding an administrative processing fee to recover costs associated with applications for MPS and LUB amendments, variances, and development permits.

SECTION 6.10 REPEAL

The Upper Clements Area Secondary Planning Strategy, approved by the Minister of Municipal Affairs and Housing effective on November 25, 1998, and amendments thereto, are hereby repealed.

APPENDIX A SCHEDULE

