



**Town of Amherst
Planning Advisory Committee Meeting**

Agenda

Date: **Monday, November 5, 2018**
Time: **5:00 pm**
Location: **Council Chambers, Town Hall**

	Pages
1. Call to Order (5:00p.m.)	
1.1 Approval of Agenda	
1.2 Approval of Minutes - 20181001	1 - 6
2. Public Participation Opportunity - Amendments to the Land Use Bylaw for Cannabis-related Land Uses (5:05p.m.)	
2.1 Staff Report Presentation	7 - 15
2.2 Committee Questions	
2.3 Public Questions & Comments	
3. Motion to Conclude the Public Participation Opportunity and Return to the Regular Planning Advisory Committee Meeting (5:30p.m.)	
4. 196 East Victoria Street (5:35p.m.)	16 - 38
4.1 Staff Report Presentation	
4.2 Committee Questions	
4.3 Owner Questions & Comments	
4.4 Committee Questions for the Owner	
5. Adjournment (6:00p.m.)	

Town of Amherst

Planning Advisory Committee

Minutes

Date of Meeting: Monday, October 1, 2018
Location: Council Chambers, Town Hall

Members Present: Deputy Mayor Sheila Christie
Councillor Terry Rhindress (Vice Chair)
Citizen Appointee Gordon Goodwin

Members Absent: Citizen Appointee Ronald Wilson

Staff Present: Manager of Planning and Strategic
Priorities, Andrew Fisher
Municipal Clerk Kimberlee Jones
Admin Assistant Emily Wainwright

1. Call to Order

Vice-Chair called the meeting to order at 4:31 p.m.

1.1. Approval of Agenda

Moved By: Deputy Mayor Christie
Seconded By: Councillor MacKenzie
That the agenda be approved.

Motion Carried

1.2. Approval of Minutes

Moved By: Deputy Mayor Christie
Seconded By: Councillor MacKenzie
That the minutes of the September 11, 2018 PAC meeting be approved.

Motion Carried

2. **Motion to go In-Camera**

**Moved By: Deputy Mayor Christie
Seconded By: Councillor MacKenzie
That the Committee go In-Camera.**

Motion Carried

Motion to go Back to Open Session

**Moved By: Deputy Mayor Christie
Seconded By: Councillor MacKenzie
That the Committee go back to Open Session.**

Motion Carried

3. **LUB Amendment to Allow the Keeping of Chickens**

3.1 Staff Report

Mr. Fisher reviewed his report as included as part of the agenda package. Mr. Fisher also wanted to make the Committee aware that at the September 11, 2018 PAC meeting, he had misread and therefore incorrectly reported on the livestock and related setbacks allowed in Cumberland County.

3.2 Committee Questions

Deputy Mayor Christie stated that she felt that 3 meters does not seem far enough for the set backs, and asked staff how they found that number. Mr. Fisher replied that they took the most restrictive requirements, taken from Fredericton and Moncton, and conversations with those jurisdictions have not had any issues with these setbacks.

Councillor MacKenzie asked who is going to police this, will there be inspectors going out once a month? Mr. Fisher responded that this report is in regard to land use bylaw issues, if someone comes in and says they want chickens, they would have to apply for a development permit, supply staff with setbacks, etc. Keeping chickens will be a day-to-day thing, and it does go beyond land use planning. It also dips into animal welfare; it sort of goes beyond the knowledge of the Town and what the Town currently has capacity to do. Councillor MacKenzie followed up asking if Sackville allows chickens. Mr. Fisher replied no, Sackville does not permit them, but Wolfville does, who have similar restrictions to the County.

Citizen Appointee Goodwin also asked if there were neighbours complaining that someone was not looking after their chickens, how do we police that? Mr. Fisher responded with that it would be difficult to answer at the moment, that may be a question for the SPCA.

4. Public Participation Opportunity – LUB Amendment to Allow the Keeping of Chickens

4.1 Staff Report

Mr. Fisher reviewed his report as included as part of the agenda package

4.2 Committee Questions

Deputy Mayor Christie stated that she believed there will be some issues with bylaw enforcement and asked if those issues would come through the Committee. Mr., Fisher responded that from a planning and development standpoint, we would look at the size of the coop, and the screening and fencing, and then a development permit may be issued. But the day-to-day health of the chicken would not be part of planning, it may be more.

Citizen Appointee Goodwin asked if someone were to submit an application, how will we measure the size of the lot. Would it need to be measured by a licensed surveyor to make sure it has met the size requirements? Mr. Fisher responded that like any other development, there is supporting documentation that we would request. If the lot was exactly one acre, or close, we would have the option to bring in a surveyor to confirm the size of the lot.

4.3 Public Questions & Comments

Prior to hearing questions and comments from the public, Municipal Clerk Kimberlee Jones read 5 written submissions. Submissions included those from Leslie Harder, Darrell Jones, Jeff Smith, Denise Allan, and Darlene Arsenault.

John Hudson, Durley Street Amherst. I have lived there for 6 years now, and what drives the interest in urban chickens at this time. Thank you.

Ed Childs, I am not against this bylaw of chickens, I am disappointed in the report saying that there are more issues than land use. My list of concerns includes that 6 is too many, coop requirements need to be spelled out, they need a chicken run and not to be stuck in a building, with the amount of manure on the property you gave no way to dispose of it, and the disposal of dead chickens, you can't slaughter on the property which you said, you'll need yearly inspections of chickens by a veterinarian as they carry disease that can spread to humans, you haven't dealt with the feeding requirements, chickens should be banded. You should get a band for each chicken with a number on it so if one gets away you know whose chicken it is. There should be noise restrictions for chickens, because they are noisy. The number of chickens should be related to space. You haven't addressed any enforcement capability at all, you can't say it doesn't cover your area. What if the bylaw is not followed, who is going to follow up on it, you need someone working full time on it. Can you fix the screen over there so the public can read it and not stretch our necks – put it over there. Fencing - you

didn't say the height – it's way too low for the height, and I have done quite a bit of research out West. Have a good time with chickens, if they come in my area I know a good fox. Who is going to enforce this and what are the penalties. You are just creating yourself more problems.

Elaine Hudson, Durley Street Amherst, there is absolutely no control of people complying. We already have chickens on Durley Street and they run onto the street. I have reported it, and nothing has been done. We already have bylaws that are not being adhered to. If you don't have one, get one. If we don't have bylaws, fine. I'm greatly concerned that compliance is an issue and it is paramount to address it.

Todd Vance, 30 Townshend Avenue, I think you are creating a problem we don't have right now. I haven't heard anything on policing or stench. We are taxed high enough, I would like to see more things cut rather than added, to cut taxes. If I wanted to live on a farm, I would move out there.

Denise Allan, I think you're making a big issue out of something not big. We already have nuisance animals. We have racoons and skunks in our yard, dogs and cats, and I live with it, I don't care. I think if people want to have chickens, if people want to have health food for their family, I don't think that's a big deal. 6 chicken? Why not 10? There're dogs running around. It is not a smell issue, it can go in the compost. I think it's getting blown out of proportion.

Leslie Childs, Durley Street, if you're going to make a bylaw, make sure the bylaw officer comes around and enforces it. Deeply concerned about lack of provision for enforcement.

Jill Brewster and Jeff Brewster. Jill Brewster, we're probably the reason why everyone is here right now. We moved here from Saint John and were interested in having some chickens. Maybe we jumped the gun in purchasing and creating a coop. We purchased some babies, not knowing the gender, and once we found out we had roosters, we got rid of them as soon as we could. It turned into and issues, and we are interested in the urban chicken trend happening across Canada right now. I agree with the recommendations with being strict with what people are allowed to do. I would be disappointed if a Town would be discouraging people from an extremely positive thing. I think that if we all live here, and all pay our taxes we have a say. Jeff Brewster, I agree with everything she said, that it's becoming a bigger deal than what it really is. I would challenge anyone who can detect the smell of 6 hens. I have the understanding of chickens and other animals, and how they operate. I challenge if you can really hear or smell that. I agree that roosters should not be kept on property in the Town. In regard to the disposal of waste, the waste of 6 hens wouldn't produce enough waste to fill one of our Town compost bins, and if there was a death in the coop – compost bin.

Nolan Black, 28 Brownell Avenue, I think its being made into a bigger deal than it needs to be. They make a lot less noise and mess than neighbour's cats. As far

as enforcement goes, the Town doesn't do annual inspections if you're dealing with your dogs or kids to make sure they're being fed. I don't support Option B (lot size), as long as you meet the set back requirements. It is being blown out of proportion.

Darlene Arsenault, when I first read this, I did not want them, but then I researched them. I'm not disagreeable anymore other than the enforcement does have to happen. Everything we have done in this Town gets extreme. Someone always pushes the buttons. Not that I have done this, I have changed my opinion. When I looked at Moncton and Vancouver, they all allowed 4 hens. I wanted to come out and admit I was wrong. They can attract rats, mice, lice, disease, skunks, that's what I Googled. If people take care of them, we won't have these problems. I agree with it, as long as it's enforced. It needs to be included, there has to be some kind of spot where it needs to be. Be fair; and since there's no roosters, I'm happy. There are chickens right now next to me, and I don't smell them.

Being no further speakers, the Public Participation Opportunity closed.

4.4 Recommendation

Move By: Deputy Mayor Christie

Seconded By: Councillor MacKenzie

That the Planning Advisory Committee recommend that Council not amend the Land Use Bylaw to allow chickens.

5. Staff Reports / Presentations

5.1 Discussion Item – Amendments to the LUB for Cannabis-related Land Uses

Mr. Fisher reviewed his report as included as part of the agenda package.

5.1.1 Committee Questions

Councillor MacKenzie asked, if this goes through, will the business at the old jail have to be shut down. Mr., Fisher responded that he believes they are doing that with medical marijuana. If you have a license to use, you are also allowed to grow, or you're allowed to assign that under someone else. My understanding of the Cannabis Act is that you can't grow for someone else at all. Councillor MacKenzie added that he doesn't want to see them shut down because they spent a lot of money here.

Deputy Mayor Christie stated that she believes there needs to be a conversation on retail spaces.

Vice-Chair Rhindress was wondering about bigger cities allowing edibles. Mr. Fisher replied that they are illegal right now. They will need to pass legislation to allow edibles.

5.2 Discussion Item – Signage Review

Mr. Fisher reviewed his report as included as part of the agenda package.

5.2.1 Committee Questions

Deputy Mayor Christie commented that she thinks it would be great for the Town to continue with the same look and feel as the County when coming in on LaPlanche Street, and to have uniformity. Something similar to the Malagash sign, where they show the different businesses. The Irving lot on LaPlanche Street would be a great spot, or by Robbs ball field. There may be a possibility of extending the downtown core, and the reason is because there is one big billboard sign that is now allowable because it was moved a few feet. There may also be a need to do away with political sign, or only being permitted in certain areas. I think this needs to be revisited.

Councillor MacKenzie agreed with Deputy Mayor Christie. He mentioned that Birkinshaw's just won an award and they can't really display that. These signs may draw business in to that place in particular.

Citizen Appointee Goodwin added that he agrees with a sign near Robbs, but advertising for one a couple businesses may be difficult, as one person may be left out of the group.

Mr. Fisher stated that in terms of entrance signage, those are not really something the land use bylaw would address. Extending the uniform signage from the County until at least the entrance of Town, that can be done outside of the land use bylaw as there are already provisions in place. I could do some research and see if other municipalities have, if any, control that they impose for election signs.

6. Adjournment

Deputy Mayor Christie motioned to adjourn the meeting at 6:26 p.m

Motion Carried

Kimberlee Jones, Municipal Clerk

Vice Chairman Terry Rhindress

To: Planning Advisory Committee
From: Andrew Fisher, Manager of Planning & Strategic Initiatives
Date: November 5, 2018
Subject: **Amendments to the Land Use Bylaw for Cannabis-related land uses.**

Introduction

At its Committee of the Whole meeting September 17th, Council passed the following motion:
That staff be directed to refer to the Planning Advisory Committee potential planning document amendments that would define licensed production facilities, permit such facilities in industrial zones with minimum setbacks from residential and other sensitive land uses, and define cannabis retail sales and cannabis lounges

The purpose of this memo is to introduce potential amendments to the Town's planning documents to address the Federal Government's *Cannabis Act*, that took effect October 17, 2018. The *Act* provides a legal framework for the production, distribution, sale, and possession of cannabis for medical and recreational purposes. At the same time, the Provincial Government's *Cannabis Control Act* regulates cannabis distribution and retail sales, and amends the *Smoke-Free Places Act* to control smoking cannabis in public places. Part of the role for Municipal Governments is to regulate where cannabis-related uses are appropriate.

The content and direction provided in this report generally reflects the approach of the Halifax Regional Municipality (HRM). HRM's approach has been to look at amendments to their planning documents to direct licensed production facilities to industrial zones, and define cannabis-related uses (retail and consumption venues) such that they are explicitly prohibited.

Municipal Governments are also responsible for other issues, including but not limited to, cannabis consumption, household cultivation, and enforcement. These issues are being considered separately within a nuisance bylaw.

BACKGROUND

Cannabis Act

Replacing the Access to Cannabis for Medical Purposes Regulations (ACMPR), the *Cannabis Act* allows the cultivation, by a person or persons 18 years and older, of up to 4 cannabis plants per dwelling-house. Sales by individuals is prohibited. Beyond 4 plants, the *Act* restricts cultivation to licensed Production Facilities.

Production Facilities

The *Cannabis Act* regulations include licensing for both large-scale ("standard") and small-scale ("micro") cultivation and processing facilities, and authorizes associated activities such as analytical testing, import/export and research. Licenses would be granted to individuals or

organizations and holding multiple licenses would allow multiple activities to be conducted on one site (i.e. both cultivation and processing). Like the existing licensing requirements under the ACMPR, the Cannabis Act will regulate matters such as required notice to local authorities, physical and personnel security, and good production practices. The regulations would, in part:

- prohibit any licensed activity in a dwelling;
- permit both indoor and outdoor cultivation, but permit only indoor storage and processing;
- require reasonable measures to prevent the escape of odours and pollen from indoor areas; and,
- require physical and personnel security requirements, such as securing the perimeter to prevent unauthorized access with physical barriers and restricting who can access areas where cannabis is present.

Cannabis production is a new and rapidly growing industry with the potential for significant economic impact. Statistics Canada estimated that Canadians spent \$5.6 billion on cannabis for medical and non-medical purposes in 2017. Of the cannabis consumed in 2017 only 10.7% was obtained legally. Under the current licensing regime there are 111 licensed producers authorized by Health Canada, including three in Nova Scotia, an increase from 44 licensed producers in May 2017.¹ As the cannabis industry shifts to reflect the legalization of recreational cannabis it appears likely that the number of production facilities will continue to rise. From an economic development perspective, consideration should be given to where such facilities may be accommodated within the town boundary.

Retail Sales and Consumption Venues

The *Cannabis Act* provides that provinces may take responsibility for distribution and retail sales of cannabis. In anticipation of the *Cannabis Act*, the Province of Nova Scotia adopted the *Cannabis Control Act* on April 18, 2018, to provide for the Regulation and Sale of Cannabis. Portions of the *Cannabis Control Act* came into effect when the *Cannabis Act* was proclaimed on October 17, 2018. The *Cannabis Control Act* will permit retail sales of cannabis and cannabis products through the Nova Scotia Liquor Corporation (NSLC), and amend the *Smoke-free Places Act* to control the public smoking of cannabis. No exemption for cannabis consumption lounges or venues has been proposed. The federal government has indicated that cannabis edible products and concentrates will be legal for sale approximately one year after the *Cannabis Act* has come into force, and the provincial government has not yet proposed additional legislation regarding public consumption of these products. Distribution and sales of medicinal cannabis from a storefront (i.e. dispensaries and compassion clubs) are currently prohibited under federal legislation, and have not been proposed to be legalized by provincial legislation when the *Cannabis Act* comes into effect.

¹“Provincial and Territorial Cannabis Economic Accounts, 2017”, available: <https://www150.statcan.gc.ca/n1/daily-quotidien/180430/dq180430b-eng.pdf>

Municipal Planning Documents

As cannabis-related land uses are relatively new, cannabis production, retail sales and consumption venues are not specifically addressed in the Town's planning documents. From a land use perspective, cannabis production facilities are similar in nature to manufacturing or agricultural processing facilities, with strict federal security requirements that tend to push them to an industrial setting.

Sales and distribution of cannabis from a storefront is currently prohibited under federal legislation. Selling cannabis-related paraphernalia (pipes, vaporizers, etc.) is considered a retail use and permitted in commercial zones. Businesses specializing in cannabis-related advice, counselling, or advocacy are generally considered an office use and would also be permitted in commercial zones.

Amendments to Planning Documents

The approach being considered by HRM is to amend planning documents to accommodate production facilities in industrial zones and mixed-use zones that permit industrial uses. The city is also looking at definitions for cannabis-related uses including retail sales and consumption venues to provide clarity within the regulations.

Cannabis Production Facilities

HRM staff have proposed that the following definition of "Cannabis Production Facility" be added to their LUBs:

CANNABIS PRODUCTION FACILITY means premises used or occupied by a person or organization licensed by the Government of Canada for the production of cannabis or cannabis products,

- (a) including
 - (i) where cannabis or any of its derivatives, such as resin or oils, is grown, cultivated, harvested, manufactured, processed, packaged, or labelled, and
 - (ii) associated activities permitted by the federal license, such as research and development, storage, and destruction, and
- (b) excluding
 - (i) industrial hemp, and
 - (ii) premises used for personal production permitted by federal legislation.

The definition reflects the language of the *Cannabis Act* regulations, with exemptions for industrial hemp and personal production. Industrial hemp can be grown as a typical agricultural crop and does not require the same regulations as cannabis production facilities. Personal production refers to provisions of the *Cannabis Act* which would allow up to four plants to be grown by an individual, not subject to licensing.

HRM staff have proposed the following LUB amendment for production facilities in Industrial Zones that establish a minimum setback of 70 metres from residential and other sensitive uses. A sample LUB amendment is as follows:

CANNABIS PRODUCTION FACILITIES

Where a lot containing a cannabis production facility abuts a lot

- (i) zoned or used for residential purposes, or
- (ii) that is used for a daycare, community centre, school, religious institution, public park or playground,

such facility, including any building or outdoor area used as a cannabis production facility, shall be set back a minimum 230 feet (70 metres) from the abutting lot line.

The attached map estimates the areas of town remaining when the 70 metre buffer is applied to residential and other sensitive uses. Most of the industrial park, South Albion, Robert Angus Drive, and the inner area of the former ENHEAT site remain.

Cannabis Retail Sales and Consumption Venues

As noted previously, the Province of Nova Scotia intends to conduct retail sales of cannabis through the NSLC, and online. No legislation permitting private retail sales from storefronts other than the NSLC, nor cannabis consumption lounges has been introduced in Nova Scotia. Given the above considerations, with regard to cannabis retail sales and consumption venues HRM is proposing to add the following definitions to their LUBs:

CANNABIS LOUNGE means premises where the primary purpose of the facility is the consumption of cannabis, cannabis products or any of its derivatives such as oils or edible products. A cannabis lounge may or may not include cannabis retail sales.

CANNABIS RETAIL SALES means premises used for the retail sale of cannabis, cannabis products or any of its derivatives, such as oils or edible products, to the general public.

MPS Amendments

HRM staff have proposed MPS amendments intended to clarify the Municipality's position on cannabis-related land uses. In review of these amendments, Town staff do not feel they are needed or appropriate for the Amherst context. However, it may be appropriate to allow licensed production facilities in location less than 70 metres from residential and sensitive uses, possibly by development agreement (DA). In this case, MPS amendments to allow for consideration by DA would be required.

Relevant Policy

Any planning document amendment must conform to the policies of the MPS. In this case Policy A-5 *Amendment Criteria* is the relevant most relevant.

A-5 It shall be the intention of Council, when considering an amendment to this or any other planning document, including the entering into or amendment of a development agreement, to consider the following matters, in addition to all other criteria set out in the various policies of this planning strategy:

- (a) That the proposal conforms to the general intent of this plan and all other municipal bylaws and regulations.
- (b) That the proposal is not premature or inappropriate by reason of:
 - (i) the financial capability of the Town to absorb any costs relating to the development;
 - (ii) the adequacy of municipal water, sanitary sewer and storm sewer services;
 - (iii) the adequacy of road networks, in, adjacent to, or leading to the development;
- (c) That consideration is given to the extent to which the proposed type of development might conflict with any adjacent or nearby land uses by reason of:
 - (i) type of use;
 - (ii) height, bulk and lot coverage of any proposed building;
 - (iii) parking, traffic generation, access to and egress from the site;
 - (iv) any other matter of planning concern outlined in this strategy.

Within Policy A-5, subsection (c) is most relevant. The attached draft amendments are intended to address potential land use conflicts by requiring a minimum 70 metre setback from other 'sensitive' land uses. Cannabis lounges and retail sales are restricted to those operated by the NSLC. As impact of the legalized cannabis is better understood going forward further changes to planning documents may be warranted.

Conclusion

Amending the town's Land Use Bylaw to address cannabis-related land uses in a manner similar to HRM's approach appears reasonable. The attached draft LUB amendments reflect HRM's approach by using similar wording inserted in the various sections of the Amherst LUB.

MOTION OPTIONS:

- Option One: I move that the Planning Advisory Committee recommend that Council amend the Land Use Bylaw to regulate cannabis-related uses as shown in the Attachment.
- Option Two: I move that the Planning Advisory Committee defer a recommendation to Council and request that staff provide more information or changes to the draft amendments.
- Option Three: I move that the Planning Advisory Committee recommend that Council **not** amend the Land Use Bylaw to regulate cannabis-related uses.

STAFF RECOMMENDATION: Option One.

Attachment

Town of Amherst

By-Law P-2-XX to amend the Land Use By-Law, P-2

1. This is a by-law to amend the Land Use By-Law of the Town of Amherst with respect to the matter of regulating cannabis-related uses.
2. In the Land Use By-law *Section 1.0 Definitions*, add section 17a that provides a definition for *Cannabis Production Facility*, add section 17b that provides a definition for *Cannabis Lounge*, and add section 17c that provides a definition for *Cannabis Retail Sales*.

17(a) **Cannabis Lounge** means premises where the primary purpose of the facility is the consumption of cannabis, cannabis products or any of its derivatives such as oils or edible products. A cannabis lounge may or may not include cannabis retail sales.

17(b) **Cannabis Production Facility** means premises used or occupied by a person or organization licensed by the Government of Canada for the production of cannabis or cannabis products,

(a) including

(i) where cannabis or any of its derivatives, such as resin or oils, is grown, cultivated, harvested, manufactured, processed, packaged, or labelled, and

(ii) associated activities permitted by the federal license, such as research and development, storage, and destruction, and

(b) excluding

(i) industrial hemp, and

(ii) premises used for personal production permitted by federal legislation.

17(c) **Cannabis Retail Sales** means premises used for the retail sale of cannabis, cannabis products or any of its derivatives, such as oils or edible products, to the general public.

3. In the Land Use By-law, Section 8.0 General Provisions for Commercial Zones add section 8.1.4 as follows:

8.1.4 Cannabis-Related Uses

Notwithstanding any other provision in this Bylaw, cannabis retail sales and cannabis lounges are only permitted if such facilities are operated by the Nova Scotia Liquor Commission (NSLC).

4. In the Land Use By-law, Section 8.2.1 Highway Commercial Zone Uses Permitted, add *Cannabis Lounges and Cannabis Retail Sales subject to section 8.1.4* to the list of permitted uses after the words '*Business and Professional Offices*', and before the words '*Commercial Recreation Centres*'.

5. In the Land Use By-law, Section 8.3.1 Downtown Zone Uses Permitted, add **Cannabis Lounges and Cannabis Retail Sales subject to section 8.1.4** to the list of permitted uses after the words '*Business and Professional Offices*', and before the words '*Commercial Recreation Centres*'.
6. In the Land Use By-law, Section 9.1 *Industrial Zone Uses Permitted*, add Cannabis Production Facility to the list of permitted uses

9.1 Industrial Zone Uses Permitted

The following uses shall be permitted in the Industrial Zone:

- Any manufacturing, industrial, assembly or warehousing operation
- Any activity connected with the automotive trade, excluding salvage yards
- Boat and Marine Supplies and Sales
- Building supply and equipment depots including the bulk storage of sand or gravel
- Railway uses
- Recycling Collection and Storage Facilities, excluding salvage yards
- Retail and office uses incidental to the main industrial use

Cannabis Production Facility, subject to section 9.6

7. In the Land Use By-law, add section 9.6 regarding Cannabis Production Facilities:

9.6 Cannabis Production Facilities

Where a lot containing a cannabis production facility abuts a lot

- (i) zoned or used for residential purposes, or
- (ii) that is used for a daycare, community centre, school, religious institution, public park or playground,

such facility, including any building or outdoor area used as a cannabis production facility, shall be set back a minimum 230 feet (70 metres) from the abutting lot line.

Clerk's Annotation for Official By-Law Book

Date of First Reading:
 Date of Notice of Intent to Consider:
 Date of Second Reading:
 Date of Advertisement/Notice of Publication (to be published following Ministerial approval)
 Date of mailing to Minister a certified copy:

I certify that this **By-Law P-X, a By-Law to Amend the Land Use By-Law**, was adopted by Council and published as indicated above.

Gregory D. Herrett, CA
Chief Administrative Officer

Date

*Effective Date of the By-Law unless otherwise specified in the text of the By-Law.



To: Planning Advisory Committee
From: Marc Buske, Dangerous & Unsightly Premises Administration
Date: November 5, 2018
Re: Recommendation for Demolition

Re: PID # 250304422, 196 East Victoria Street, Amherst, NS

Issue

Many complaints on this property over the years have been received. This property poses an immediate and real threat to not only the inhabitants of the structure but also to the general public. The stability of the structure is a significant risk due to factors such as lack of overall maintenance, weight load on structure due to extreme hoarding, and electrical hazards throughout the building. The Town has carried out work several times to cleanup around and inside the building. The buildings show signs inside and out of extreme hoarding and signs of potential fire hazards and potential collapse of columns and portico.

History

2013

July 8, 2013

Received a complaint about the above property.

July 9, 2013

- 1 - Letter was sent out to complainant and owner.
- 2 - Owner was asked to clean up around his property by August 31, 2013.

September 4, 2013

An order to clean up the site was placed on the property.

October 7, 2013

4 vehicles were towed from the property on this date.

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October 8, 2013

A letter was sent to the property owner informing him of the cost to remove the 4 vehicles and the cost will be charged to his tax account.

October 17, 2013

The administrator went to the property with a contractor on this date to clean up the property. Work was not completed as the owner would not let them on his property.

October 18, 2013

A summary offence ticket was issued and delivered by Camille J. LeBlanc.

October 31, 2013

A second summary offence ticket was issued and delivered by Camille J. LeBlanc.

2014

January 21, 2014

Letter sent to owner stating that a SOT ticket was issued on the property.

February 19, 2014

- 1 – The SOT ticket was returned on this date as unclaimed.
- 2 – Second SOT ticket was issued.

February 24, 2014

The SOT ticket was withdrawn from the courts by Solicitor.

March 3, 2014

Camille J LeBlanc was hired to serve a SOT ticket to the property owner.

July 11, 2014

- 1 – Site visit by the Town.
- 2 – Letter sent to property owner asking him to clean up the yard of rubbish or junk.
- 3 – SOT ticket issued.

July 21, 2014

- 1 -A contractor was hired to remove the items in the driveway and on the lawn.
- 2 -A letter was sent to the home owner stating the work that had been completed and where he could pick up the stored items.

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July 30, 2014

- 1 – Letter sent to owner stating that the property is no longer dangerous or unsightly.
- 2 – The property owner received a letter stating the work that was completed and the price that was going to be added to the property tax account.

August 8, 2014

Letter sent to property owner stating that the property was deemed unsightly and the owner will have until August 12, 2014 to clean his yard up of junk, rubbish.

September 2, 2014

- 1 - The work has been completed by owner.
- 2 – the dwelling has had no significant repairs done since a previous file was opened July 9, 2013. The file will remain open until work is completed.

September 11, 2014

Site visit to the property by the administrator. No improvements have been made. There appears to be a large amount of debris or garbage inside the dwelling that can be seen from the back steps.

2015

April 24, 2015

- 1 - Site visit on this date. No improvements have been made on the dwelling.
- 2 – Large amount of what appears to be garbage and debris, rubbish and other items are being stored inside the dwelling.
- 3 – The dwelling must be inspected by the Building Official, the Fire Inspector and also the Unsightly and Dangerous Administrator to determine if the dwelling is fit for human habitation.
- 4 – Letter sent to the property owner stating the Town of Amherst is requesting access into the dwelling to assess the interior condition and determine if it is fit for human habitation. This will happen on Thursday, May 14.

May 12, 2015

2nd notice to enter Dwelling posted.

May 14, 2015

- 1 - The Unsightly and Dangerous Administrator, Chief Building Official, Fire Chief, and two Town Police officers enter the dwelling.
- 2 – The property owner was on site and allowed access to the dwelling.
- 3 – An inspection was completed and the following issues:

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- 1) Exterior supports for the roof and second floor at the front of the dwelling are in a state of disrepair and signs of structural failure are visible, the eaves have deteriorated to allow birds to live within the eaves.
 - 2) The Fire load at the basement level due to the accumulation of goods is high.
 - 3) The fire load on 1st and 2nd floors due to the accumulation of goods is extreme, which in the event of a fire would be disastrous for the owner and emergency responders.
 - 4) Several cats are living there for the most part unattended, throughout the dwelling visible signs of rat droppings were seen.
 - 5) The dwelling, as it stands now, is at a high risk for vandalism and a potential safety threat to the neighbouring properties.

 - 6) The front and rear decks appear to be structurally unsafe and are not supported properly.
 - 7) The odours from animal droppings were bad, and ammonia levels high on 1st and 2nd floors.
 - 8) Some access routes were blocked by an extreme accumulation of goods, and all others restricted to a point where exiting would be extremely difficult, especially in an emergency.

4 – An order was placed on the property stating:

- 1) Remove the debris, rubbish and garbage and contents inside the dwelling, to ensure safe passage from room to room and to exits. There are excessive amounts of items that must be removed.
- 2) Remove contents from the exterior of the dwelling and place in storage or remove from site.
- 3) Make repairs to the roof to provide weather protection, to the soffit and fascia to prevent wildlife penetration, and paint as needed.
- 4) Make repairs to the front pillars and overhangs to support with proper permanent supports or remove completely, make repairs to the front porch area to rebuild or remove completely.
- 5) Make repairs to the back deck to provide proper support, safe walking surface, proper rail and guards and steps or remove completely.

All work must be completed by June 9, 2015

May 21, 2015

Order to Vacate and Close was issued on this date by the Municipal Fire Inspector and Deputy Fire Marshal.

June 12, 2015

Letter sent to property owner stating The Planning Advisory Committee granted an “adjournment” to allow the property owner time to first focus on the clean-up of the dwelling and then to present a plan to the Administrator to make repairs of the exterior. The clean-up date of June 19, 2015 date was not changed.

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July 09, 2015

Town of Amherst Planning Advisory Committee meeting to discuss what the next steps with the above property. It was determined that they would hire an engineer to assess the structure and develop a plan on what to do and a cost estimate. The clean up is still a go.

August 7, 2015

A contractor was hired and a date of August 18th, 2015 was set for the clean up.

August 18, 2015

Two vehicles were moved from the drive way to the side yard by a towing service. Two garbage bins were dropped off this date.

August 19, 2015

1 - Started the clean up the outside and removal of back deck. Inside the dwelling they started clean the front entry and proceeded to the hallway downstairs and then into the far room at the end of the hall. They then continued in the front two rooms. Then proceeded down the hall leading to the kitchen partially completing it and the room off the hall was also cleaned out enough to provide access and freedom to move. The stairs leading to upstairs was cleaned off and then the middle landing was reorganized upstairs.

2 - All furniture was left in the dwelling. The outside cleanup was completed along with the deck removal.

August 24, 2015

Received a letter from Creighton Shatford Hirbour Lawyers. Stating the best course of action would be for the Town of Amherst would be to have an engineer price out the difference in the cost of cleanup, make a decision on receipt of some and finish the cleanup of the property.

August 25, 2015

Order was posted to enter dwelling to complete clean-up of interior.

August 27, 2015

Started the second round of clean up.

- 1) Cleaning the kitchen and the back room
- 2) The laundry/downstairs bathroom was cleaned
- 3) The basement stairs and the middle stairs to the upstairs was completed along with the rest of the hallway downstairs.
- 4) The upstairs hallways were completed along with the entry to each of the rooms upstairs and a clean-up of the landing at the top of the stairs was completed.

The areas not completed are the following:

- 1) The bedrooms upstairs are completed so that you can easily enter and leave the doorway.
- 2) The bathrooms upstairs were completed except for some clothes at the end of the room.
- 3) Basement was not touched, but the stairs were cleaned off.

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- 4) The 3rd level, which appears to be fine in its current state and is not part of the required clean-up.

September 3, 2015

Sent letter to property owner with the total amount added to his property tax account, with a breakdown of the work completed.

September 8, 2015

Letter send Department of Health and Wellness concerning the wellbeing of the property owner.

September 30, 2015

1 - Order placed on the property to clean-up and remove garbage and debris from around the property. October 6, 2015 will be the date to complete the work.

2 – There was a meeting with the administrator and a P.Eng to go over improvement for dwelling. The items discussed were the two front overhangs, pillars and the roof system improvements.

October 6, 2015

A letter was sent to the property owner stating that the property is no longer considered to be dangerous or unsightly in regards to the garbage and debris.

October 9, 2015

1 - Fire Chief Greg Jones called and said order was lifted to vacate the property. The property owner can move back in.

2 – Letter send from Jong H. Baxter, P.Eng. with the quotes:

1) Is to replace foundation elements under the overhanging roofs and structural integrity without going all of the way in completing the finishes and decorative work.
Cost of \$ 21,000.

2) Is to remove the roof overhang above the existing pillars so that no support is required their while supporting the overhanging roof section over the front door and repairing the 2nd storey deck above this. Cost of \$ 17,400

2016

May 17, 2016

Site visit on this date no significant improvements have been made to dwelling. Administrator will meet with the director to determine the next course of action.



September 9, 2016

A letter was sent to the property owner stating that no significant improvements have been completed on the property and that the Town of Amherst will proceed with hiring a contractor to complete the work.

May 25, 2017

Complaint was put into Town hall about this property.

2018

January 19, 2018

Posted "Notice to enter dwelling" on the property today.
Mailed owner "Notice to enter dwelling" by register mail today.
Hire Mr. Leblanc to sever the "Notice to enter the dwelling" to the property owner.
Took picture of the posted Notice.

January 23, 2018

Drove by the property today. There were no foot prints in the new snow. The "Order" was removed from the door by someone.

January 24, 2018

1 - Entered the property on this day with two Cumberland building inspectors David Buell and Monty Maddison and one APD Sgt Kevin Girouard, Mr. Wells was there as well and let us into the dwelling. Mr. Wells was pleasant to deal with.
2 - The dwelling is filled with items again and there is only a path to get from room to room.
3 - The Building inspectors will provide me with a report on the structure.
4- E-mail the Amherst Fire Chief to have a fire inspection on the dwelling as there are portable heater, extension chords and open wiring through out the building so the Furness does not work. There is an extremely high fire load in dwelling.

Discussion

Mr. Buell's report indicated:

1 - front columns in severe need of attention and in imminent threat of failure.
2 - Front portico in severe need of attention and in imminent threat of failure.
3 - Side columns and roof in severe need of attention and in imminent threat of failure.
4 - front and side steps, stairs, rails and guards, in severe need of attention and in imminent threat of failure.

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- 5 – exposed soffit and roofing
 - 6 – exposed and compromised foundation at rear and to side of structure.
 - 7 – unpermitted work (uncompleted) carried out in the basement, breaching foundation wall.
 - 8 – compromised electrical system throughout
 - 9 – exposed electrical throughout
 - 10 – compromised and modified plumbing throughout
 - 11 – evidence of structural rot in the basement
 - 12 – structural failure of the attic floor and roof in at least two locations
 - 13 – illegal storage throughout the structure posing an imminent fire hazard
 - 14 – open flame heaters operating while unoccupied
 - 15 – illegal use of extension cords rampant throughout structure to the extent that they are uncountable under current conditions
 - 16 – significant signs of possible mould growth.
 - 17 – water accumulation and standing water in the basement
 - 18 – various signs of possible structural failure throughout the structure.

It was Mr. Buell's opinion that this structure poses an immediate and real threat to not only the inhabitants of the structure but also to the general public. The outside requires immediate attention and at the very least should be made secure from trespassing in the event of structural failure. The inside shows signs of many fire concerns compounded by the extreme hoarding apparent at the time of the visit.

The large shed at the end of the driveway is also structurally compromised and should be removed.

I would recommend immediate action be taken to secure the public and inhabitants of this property.

Recommendation

- 1 - The main building and shed at 196 East Victoria Street be demolished.
- 2 - The property owner be instructed that he has 30 days from the PAC meeting to remove the contents, demolish the buildings and backfill the foundation at his expense.
- 3 - Failure to comply within that 30 days will result in the Town completing the work, which will include sending all demolition material and contents to the landfill. Costs of the work will be charged to the owner's property tax account.

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Emily Wainwright

From: David Buell <dbuell@cumberlandcounty.ns.ca>
Sent: January 31, 2018 4:00 PM
To: Marc Buske
Cc: Jason MacDonald
Subject: RE: visit to 196 Victoria St

Marc,

RE: site visit and inspection at 196 Victoria Street, Amherst.

I thought it prudent to address the concerns I have regarding safety and health, after visiting the above noted property, sooner then later.

I have noted the following points:

- 1 - front columns in severe need of attention and in imminent threat of failure.
- 2 - Front portico in severe need of attention and in imminent threat of failure.
- 3 – Side columns and roof in severe need of attention and in imminent threat of failure.
- 4 – front and side steps, stairs, rails and guards, in severe need of attention and in imminent threat of failure.
- 5 – exposed soffit and roofing
- 6 – exposed and compromised foundation at rear and to side of structure.
- 7 – unpermitted work (uncompleted) carried out in the basement, breaching foundation wall.
- 8 – compromised electrical system throughout
- 9 – exposed electrical throughout
- 10 – compromised and modified plumbing throughout
- 11 – evidence of structural rot in the basement
- 12 – structural failure of the attic floor and roof in at least two locations
- 13 – illegal storage throughout the structure posing an imminent fire hazard
- 14 – open flame heaters operating while unoccupied
- 15 – illegal use of extension cords rampant throughout structure to the extent that they are uncountable under current conditions
- 16 – significant signs of possible mould growth.
- 17 – water accumulation and standing water in the basement
- 18 – various signs of possible structural failure throughout the structure.

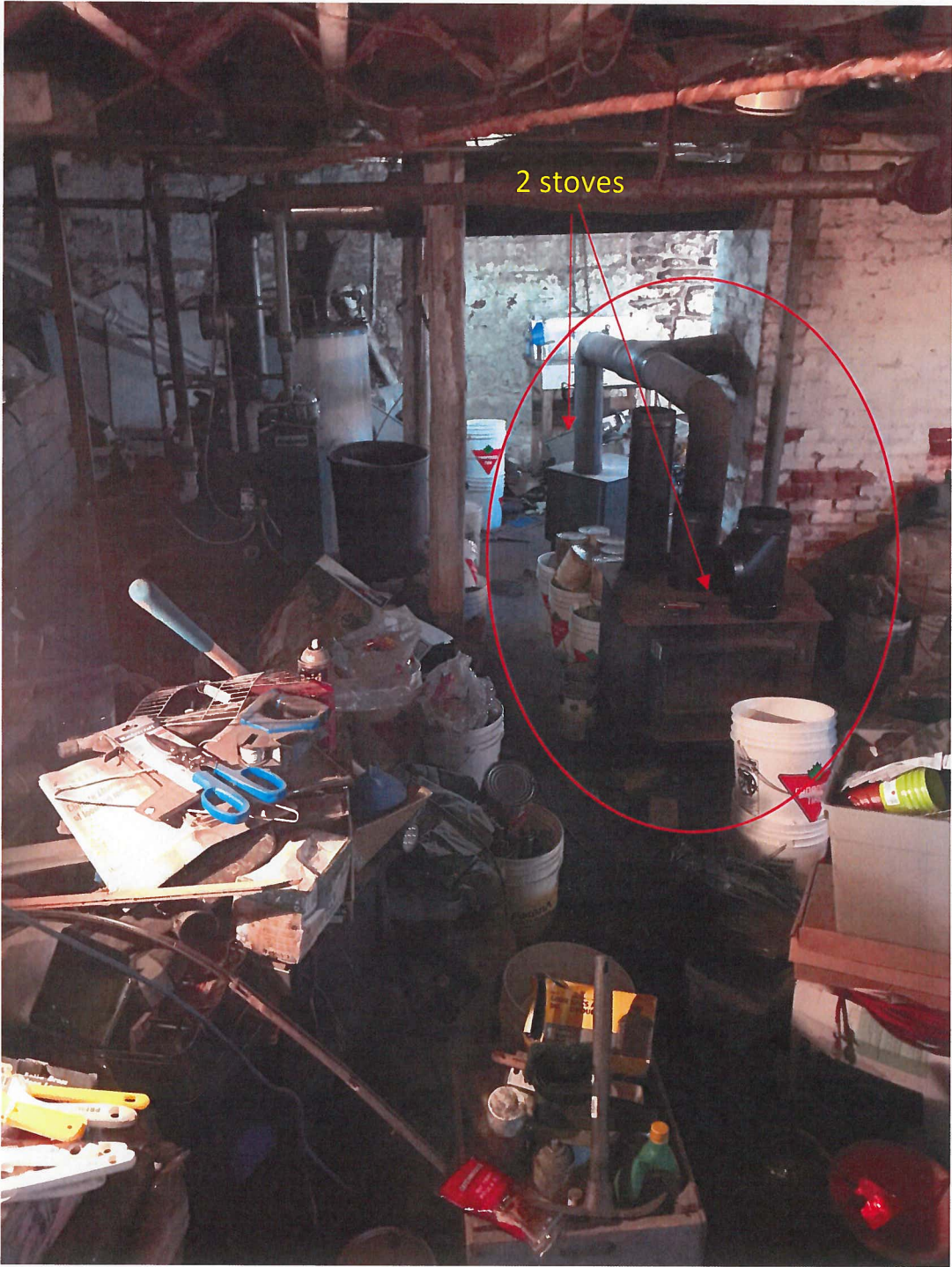
It is my professional opinion that this structure posses an immediate and real threat to not only the inhabitants of the structure but also to the general public. The outside requires immediate attention and at the very least should be made secure from trespassing in the event of structural failure. The inside shows signs of many fire concerns compounded by the extreme hoarding apparent at the time of the visit.

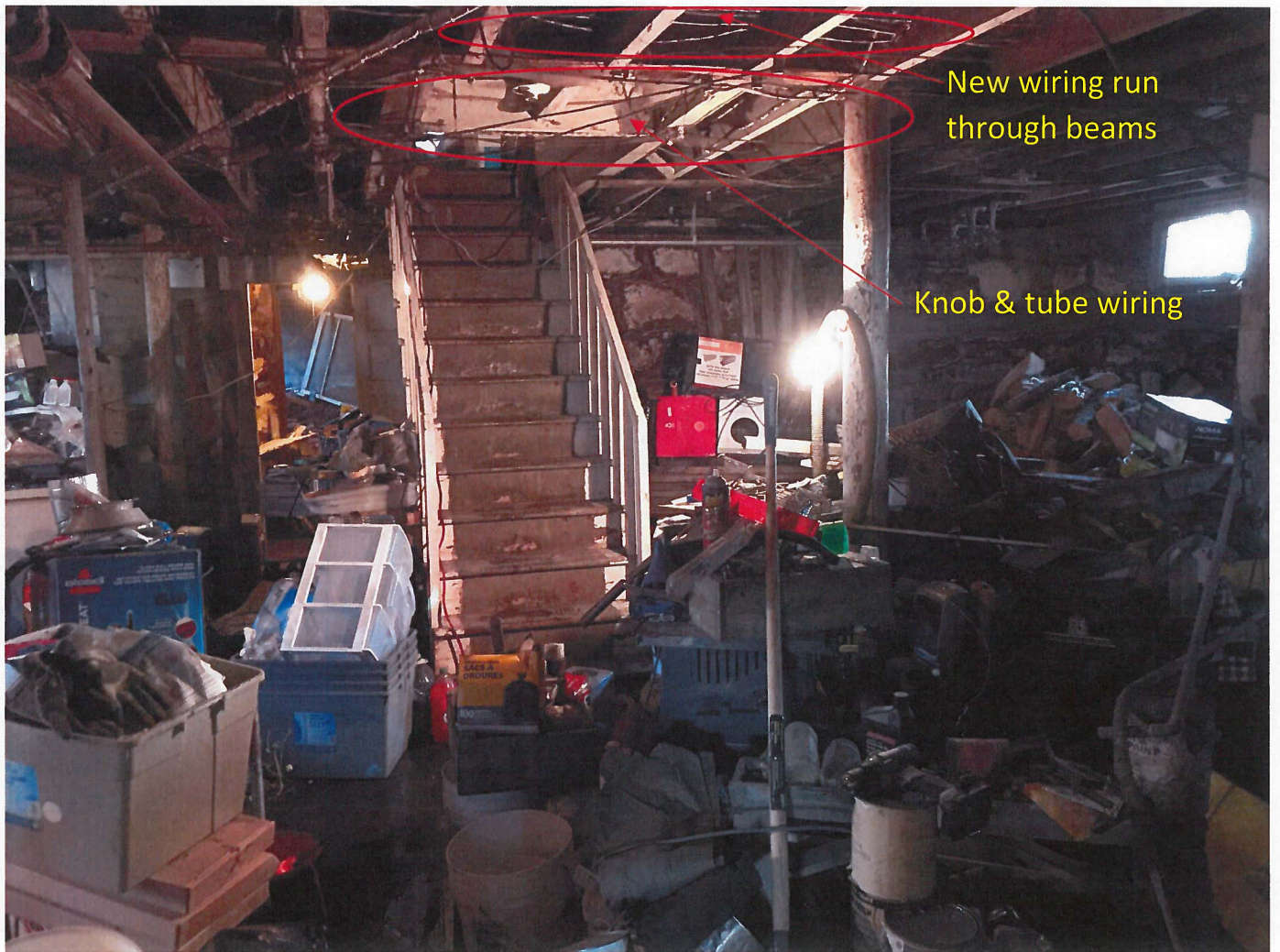
I would recommend immediate action be taken to secure the public and inhabitants of this property.

Respectfully

David L Buell, CBO, CFI
Permits & Inspections Supervisor

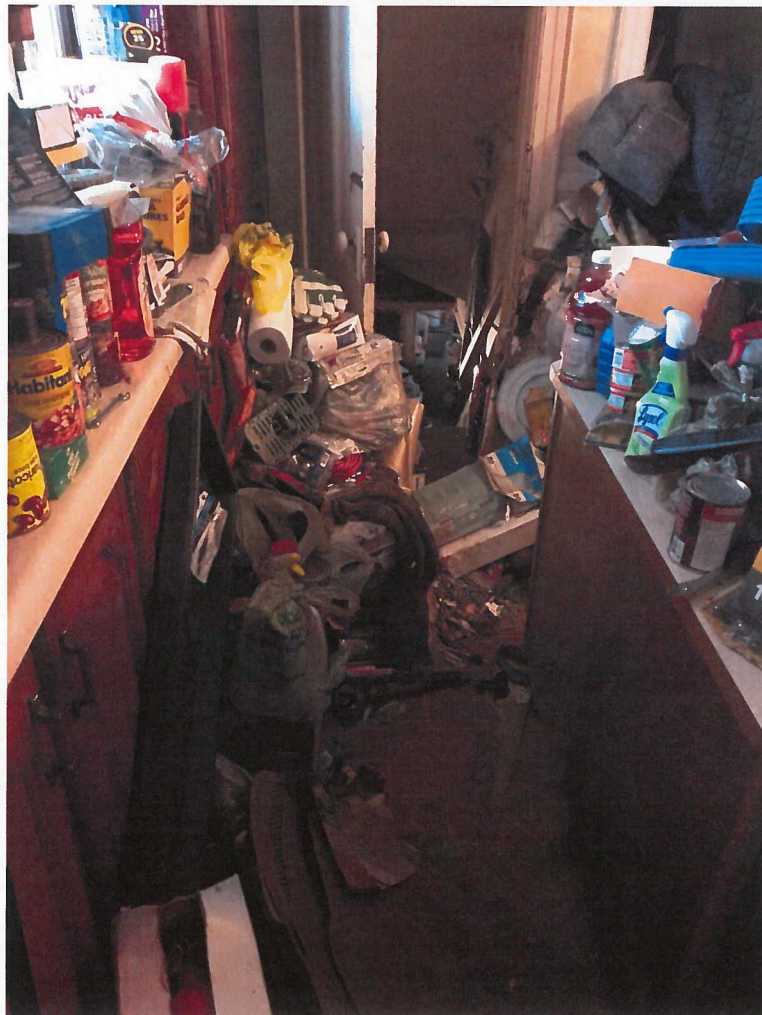






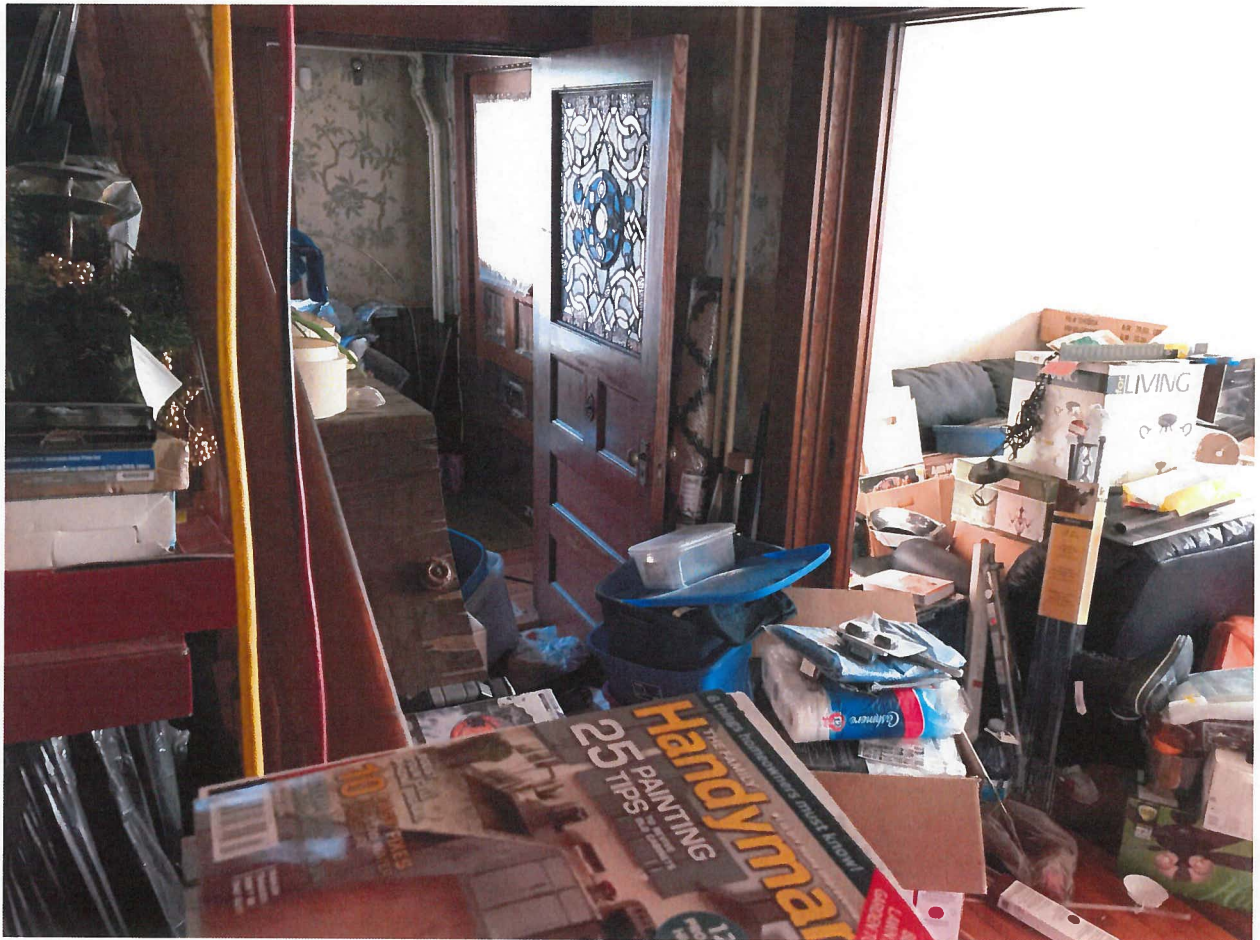
New wiring run through beams

Knob & tube wiring





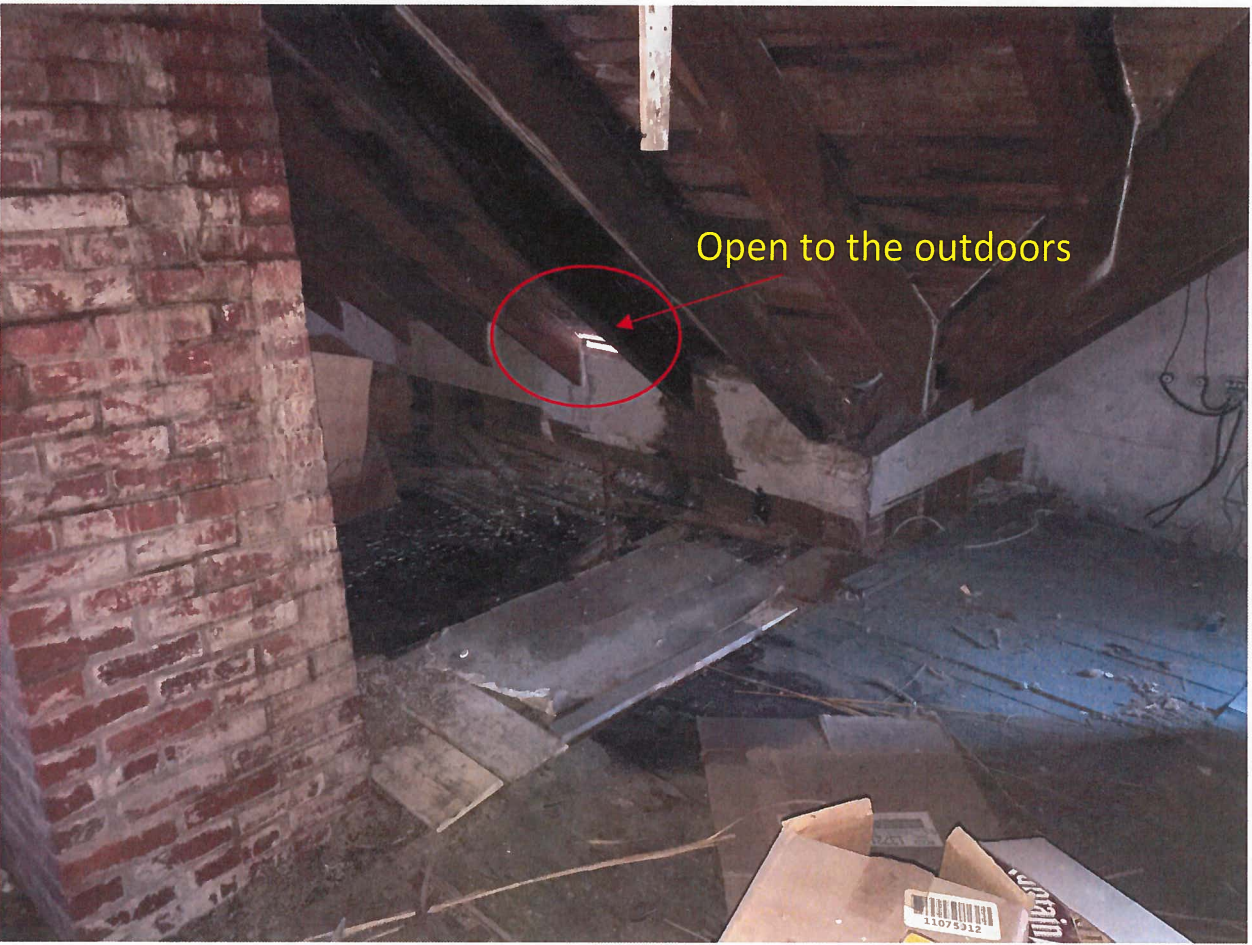


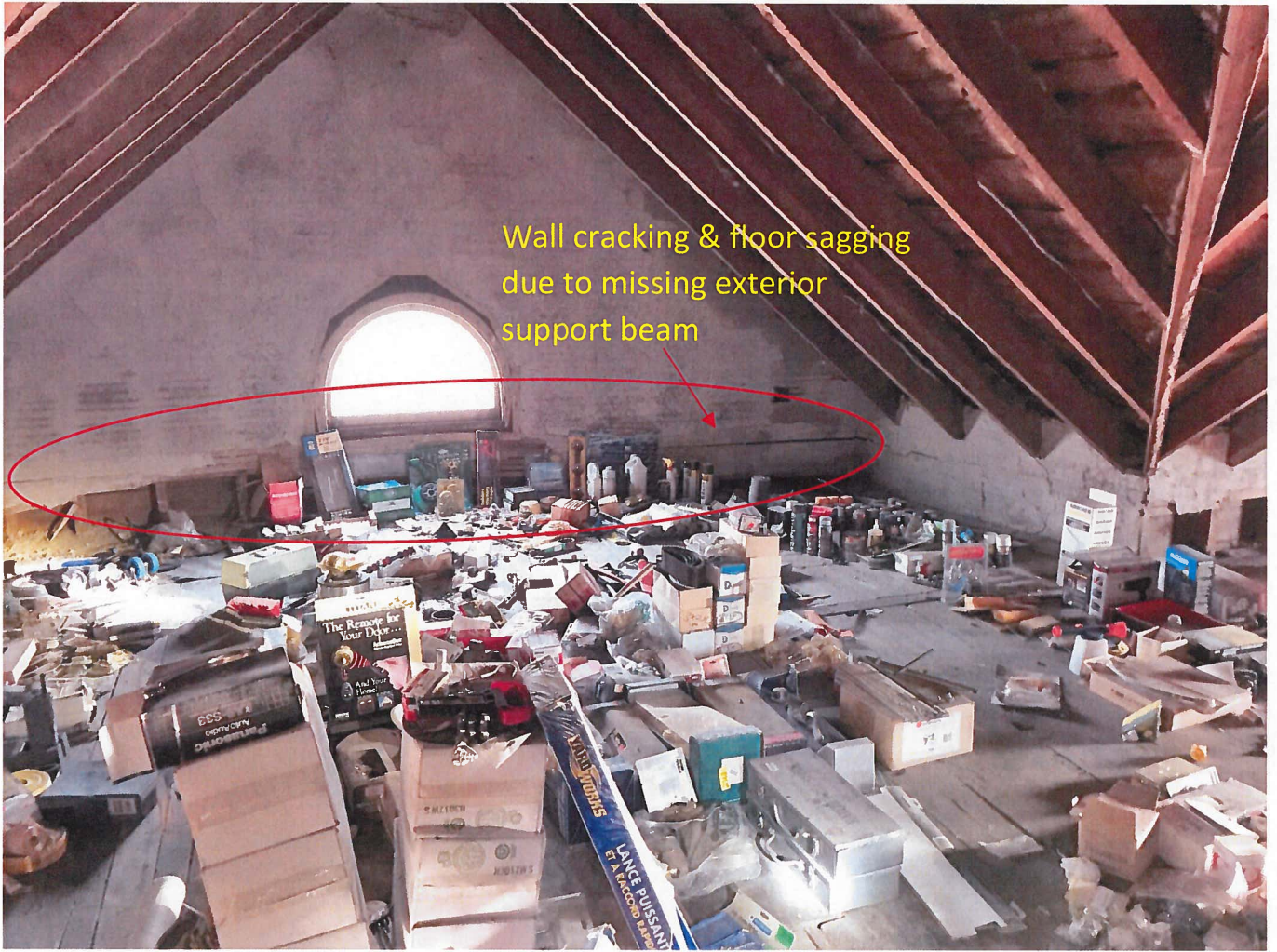


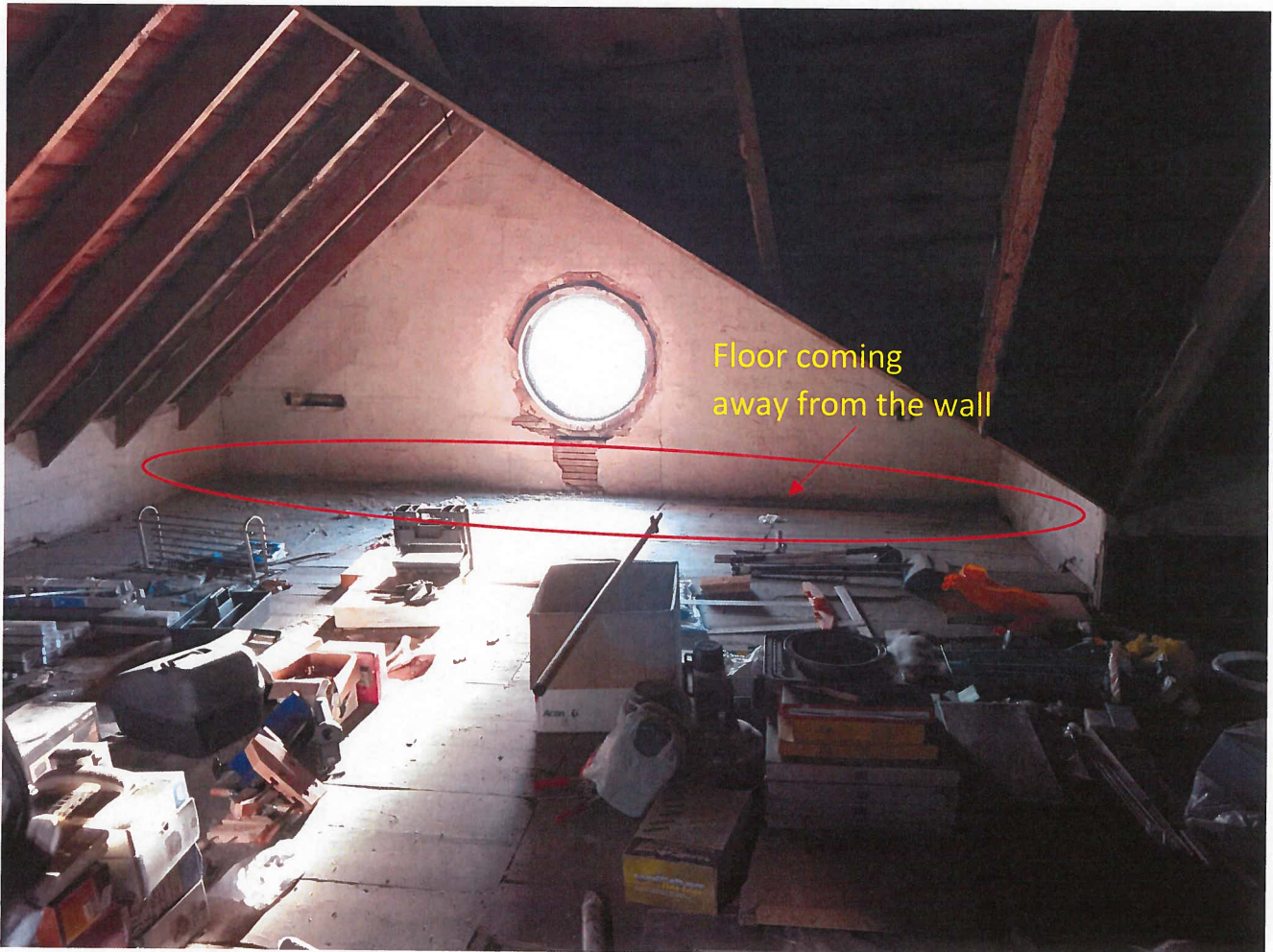
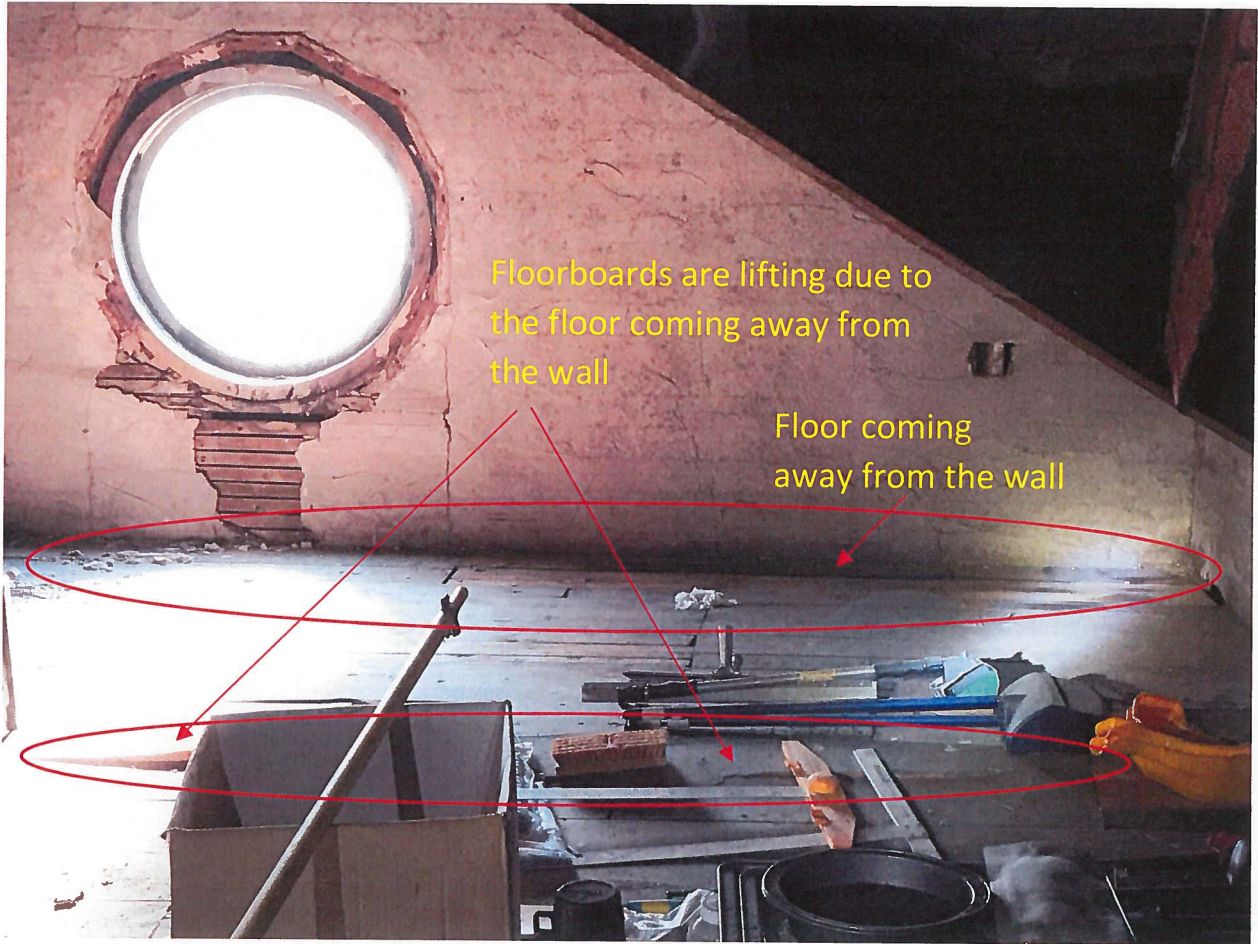












SYNOPSIS

196 East Victoria Street

Various complaints have been received regarding the physical condition of the building located at 196 East Victoria Street. Town staff, as well as a contract Building Official from the Municipality of the County of Cumberland have investigated and determined that this structure poses an immediate and real threat to not only the inhabitants of the structure but also to the general public.

The owner was ordered by the Administrator to provide an engineering assessment of the building on the property, however to date this has not been received and the owner has made no attempt to correspond with the Town on this matter.

Given the historical lack of compliance from the owner of this property, the current state of the buildings, and the likely costs of renovation to bring the buildings into compliance with the Town's Minimum Standards for Residential Occupancies Bylaw, the Administrator is recommending that the buildings be demolished.

MOTION:

That the Planning Advisory Committee order the buildings at 196 East Victoria Street be demolished, and back fill the hole within 30 days from the date of this Committee meeting, with all work to be done by the property owner. Failure by the property owner to do the work will result in the Town completing the work and send all contents of the building to the Cumberland Joint Services Management Authority land fill with all costs charged to the property owner's tax account.