



## PLANNING STAFF REPORT

**SUBJECT:** *Northumberland Co-operative Subdivision - Plan 2024-1, 1st Amendment - Railway Avenue - City of Miramichi - Parish of Newcastle*

**MEETING DATE:** March 25<sup>th</sup>, 2025

Pursuant to subsections 88(1) and 88(4)(a) of the *Community Planning Act* (c.19), the laying out of public streets and land for public purposes in a subdivision shall be assented to by municipal council, but the recommendation of the regional service commission (through PRAC) is first required in order to receive assent.

### Application Overview

The application of *Northumberland Co-operative Subdivision - Plan 2024-1, 1st Amendment - Railway Avenue - City of Miramichi - Parish of Newcastle* was submitted by Randy Waye of T.G. Williston Surveys Ltd., representing Habitat for Humanity New Brunswick Inc., the property owner. The property, bearing PID 40554057, is located along the Northwesterly side of Railway Avenue in the former Town of Newcastle section of the City of Miramichi.

The subdivision plan is an amendment of registered subdivision plan 45179570 in which Lot 2024-1 was created to be conveyed to the current owner for future residential development. This current application proposes to subdivide Lot 2024-1 to create a public access widening, a new public access, lots 2025-1 to 2025-9 for residential purposes, Parcel 2025-A to be used as a stormwater retention pond, and Parcel 2025-B to be designated as land for public purposes. The subject property is currently vacant, but there is a municipal easement that runs along the upper portion of the Northeast boundary for a stormwater line. Municipal water and sanitary services are available from Railway Avenue and another water line runs along the Northwest boundary of Lot 2024-1.

The property is zoned Residential Low Density (R-2) which permits the proposed development of single-unit and semi-detached dwellings – the intended forms of future development.

### Planning Considerations

Since this application is creating public accesses and land for public purposes, the subdivision plan is being assented as per Section 88(1) of the *Community Planning Act* (c.19) that states “...approval of the plan by the development officer shall not be given until the plan has been assented to by the council.” Also, the Planning Review and Adjustment Committee (PRAC) of the Greater Miramichi Service Commission must recommend the location of the new street, the street widening, and the

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land for public purposes to council for assent as per Section 88(4) of the Act which states “An assent under this section shall not be given until a) subject to subsection (8), the advisory committee or regional service commission has recommended the location of the streets referred to in subsection (1) or (2) or the land for public purposes referred to in subsection (1) or (3), or both...”.

The 9.942-metre-wide parcel being added to Railway Avenue, designated “Local” as per Schedule D of the *City of Miramichi Municipal Plan By-law No. 109*, will widen it to 20 metres to meet the designation requirement as per Section 8.3(c) of the *City of Miramichi Subdivision By-law No. 127*. As for the new public access (Northumberland Way), it will measure 20 metres in width and end with a temporary cul-de-sac with an 18-metre radius turnaround as required by Section 8.1 of the subdivision by-law. The proposed name for the new street was initially Miramichi Lane but has been changed to Northumberland Way after reflection to avoid any confusion with an existing public access named Miramichi Avenue and to follow guidance from the City’s Naming Policy For Streets & Civic Facilities which encourages uniqueness in names. The name is to be approved by Council during assent.

The proposed access measures about 195 metres in length which is very close to the 200-metre limit for cul-de-sac streets (Section 8.1 of the subdivision by-law). Further extension of the access through the remnant is possible in the future, but it will need to create future side streets or connect with the future street to the Northwest so as to create street blocks. Such extension would need to be presented to a planning committee for recommendation.

Also, as per Section 9.1 of the subdivision by-law, land for public purposes (Parcel 2025-B) is being set aside since the subdivision plan is creating more than two lots fronting on a new public access. This land could be modified during phase two of the development as the turnaround would be replaced by the street extension or be exchanged for a sum of money in the matter of eight per cent (8%) of the market value of subdivided land paid to the City (Section 9.2 of the subdivision by-law).

Every lot meets the required frontage, width, and area minimums of the R-2 zoning regulations, including the proposed lots to have semi-detached dwellings (Section 3.4.16 of the *City of Miramichi Zoning By-law No. 110*). The semi-detached lots have a width of 14 metres, although the zoning by-law permits a minimum width of 9 metres. Additionally, a subdivision assessment report (soil test) is not required considering that the proposed development will be serviced by municipal sewer.

An invitation to comment on the application was sent to the City of Miramichi departments of Engineering and Public Works. Both departments had no comments to provide as they were already aware of the application and had communicated with the property owner regarding municipal water, sanitary, and stormwater services, and other requirements in relation to the departments. However, no confirmation was made as to the implementation of these requirements (Section 10.1 of the subdivision by-law).

Because the property is located within 300 metres of the railway, the Canadian National Railway Company often makes recommendations regarding development therefrom. A copy of these recommendations is joined with the attachments. This information has been shared with the property owner by e-mail on March 19, 2025.

The hydrographic network webmapping from the Department of Natural Resources and Energy Development (DNRED) identifies no presence of watercourse. The wetland webmapping from the

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Department of Environment and Local Government (DELG) shows no presence of wetland either. However, should the presence of wetland or watercourses on the property be identified in-person, any alteration taking place within 30 metres of these may require a permit under the Watercourse and Wetland Alteration Regulation (Reg 90-80) as per subsection 15(2) of the *NB Clean Water Act*.

Neighbouring property owners were not notified by letter of this application since no variances are involved (Planning Review and Adjustment Committee By-law, Appendix A, Responsibility). The public however does have access to the PRAC meeting agenda and can attend said meeting. Note that assent of this subdivision will take place during a public Council meeting.

### **Staff Recommendation**

It is recommended that the Planning Review and Adjustment Committee (PRAC) of the Greater Miramichi Service Commission recommends the location of the street parcels being the Railway Avenue widening and the Northumberland Way addition, and the land for public purposes as identified in the *Northumberland Co-operative Subdivision - Plan 2024-1, 1st Amendment - Railway Avenue - City of Miramichi - Parish of Newcastle* as per Section 88(4)(a) of the *Community Planning Act* (c.19), and for the final plan to receive assent of council as per Section 88(1) of said Act, subject to:

- sanitary sewers, storm sewers, water services, street lighting, streets, curbs, parkland and sidewalks be to the satisfaction of the City Engineer and designed and built to servicing standards as prescribed by resolution of Council;
- plans and profiles of services be prepared to the satisfaction of the City Engineer and as-built plans be provided to the City Engineer upon completion of the work; and
- the street having a maximum grade of eight percent (8%).

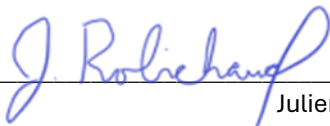
It is also recommended that the City of Miramichi amend Schedule D: Road Hierarchy and Designations of the City of Miramichi Municipal Plan (By-law No. 109) to add the new street to the schedule.

### **Attachments**

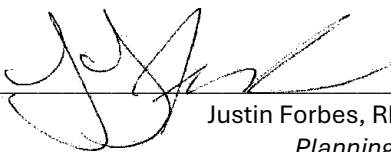
1. Property Location Map
2. Tentative Subdivision Plan
3. *Community Planning Act* (c.19) sections 88(1) and 88(4)(a)
4. CNR Recommendations

Report Prepared On: Thursday, March 20, 2025

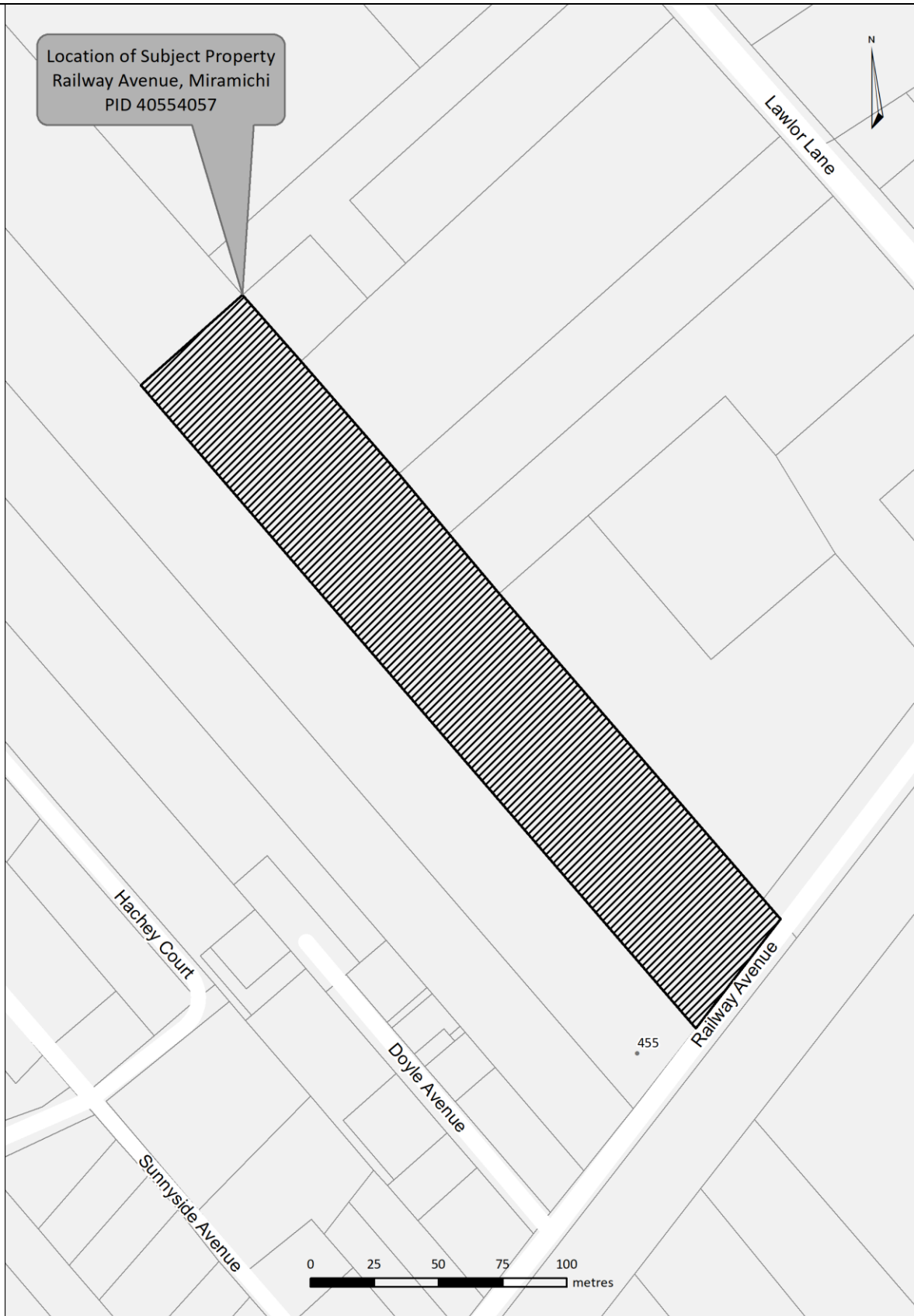
Report Prepared by:

  
Julien Robichaud  
Development Officer

Report Reviewed and Approved by:

  
Justin Forbes, RPP, MCIP  
Planning Director

## ATTACHMENT 1 - PROPERTY LOCATION MAP



Sources: Greater Miramichi Regional Service Commission | Commission de services régionaux du Grand Miramichi; Service New Brunswick | Service Nouveau-Brunswick  
Drawn by | tracé par Julien Robichaud 2025-03-11





## ATTACHMENT 3 - COMMUNITY PLANNING ACT (C.19) SECTIONS 88(1) AND 88(4)(A)

*Community Planning Act*

*2017, c.19*

(a) in the Crown, or

a) soit la Couronne;

(b) in the public utility indicated on the face of the plan.

b) soit l'entreprise de services publics indiquée au recto du plan.

87(7) For the purposes of paragraphs (6)(b) and 88(7)(b), "public utility" means a person owning, operating, managing or controlling an undertaking for the supply of electricity, gas or telephone service.

87(7) Pour l'application des alinéas (6)b) et 88(7)b), le terme « entreprise de services publics » s'entend de la personne qui est propriétaire d'une entreprise fournissant de l'électricité, du gaz ou un service téléphonique ou qui l'exploite, la gère ou la contrôle.

87(8) If the requirements of subparagraph (2)(b)(i) have been satisfied in respect of a water or sanitary sewer system, or both, and certified under paragraph (2)(d),

87(8) S'il a été satisfait aux exigences du sous-alinéa (2)b)(i) concernant un réseau de distribution d'eau ou un réseau d'égouts pour eaux usées, ou les deux, la conformité étant certifiée tel que le prévoit l'alinéa (2)d) :

(a) the Minister shall file in the land registration office a document signed by the Minister stating that the Minister accepts on behalf of the Crown the system as certified, and

a) le ministre dépose au bureau d'enregistrement des biens-fonds un document revêtu de sa signature et déclarant qu'il accepte pour le compte de la Couronne le réseau dont la conformité est certifiée;

(b) on the filing of the document in the land registration office, the system as certified, together with the land on or within which the system was installed, as shown on the plan referred to in the document, vests in the Crown as represented by the Minister, free from any lien or encumbrance, whenever created, but this paragraph shall be deemed not to affect the administration and control of land that is vested in the Crown under subsection (5) as a highway or for highway purposes.

b) ce réseau ainsi que le terrain sur lequel ou dans les limites duquel il a été installé, tel qu'il est indiqué sur le plan visé dans le document, sont, au moment du dépôt du document au bureau d'enregistrement des biens-fonds, dévolus à la Couronne représentée par le ministre, libres de tout privilège ou grèvement, indépendamment de leur date de constitution, toutefois, le présent alinéa est réputé ne pas viser l'administration et le contrôle de tout terrain qui lui est dévolu conformément au paragraphe (5) à titre de route ou à des fins de voirie.

87(9) A document referred to in subsection (8) shall be received and filed by the registrar without acknowledgment or proof of the signature of the Minister and, on filing in the land registration office, the registrar shall endorse on the plan referred to in the document that the document was filed.

87(9) Le registrateur reçoit le document visé au paragraphe (8), puis le dépose sans qu'il y ait besoin d'attester ou de prouver l'authenticité de la signature du ministre, et, au moment du dépôt au bureau d'enregistrement des biens-fonds, porte mention de ce dépôt sur le plan visé dans le document.

2020, c.25, s.29; 2021, c.44, s.1; 2022, c.56, s.1; 2023, c.40, s.15

2020, ch. 25, art. 29; 2021, ch. 44, art. 1; 2022, ch. 56, art. 1; 2023, ch. 40, art. 15

### Approval of subdivision plan for streets and land for public purposes

### Approbation des plans de lotissement pour rues et terrains d'utilité publique

2021, c.44, s.1

2021, ch. 44, art. 1

88(1) If a subdivision plan of land in a municipality provides for the laying out of public or future streets or the setting aside of land for public purposes, approval of the plan by the development officer shall not be given until the plan has been assented to by the council.

88(1) Si le plan de lotissement d'un terrain situé dans une municipalité prévoit le tracé de rues publiques ou futures ou la mise de côté de terrains à des fins d'utilité publique, son approbation émanant de l'agent

d'aménagement ne peut être accordée tant que le plan n'a pas reçu l'assentiment du conseil.

88(1.1) Subsection (1) does not apply to the laying out of public or future streets referred to in subsection 87(1.1).

88(1.1) Le paragraphe (1) ne s'applique pas au tracé de rues publiques ou futures visé au paragraphe 87(1.1).

88(2) If a subdivision plan in a rural community that has made a by-law under section 10 of the *Local Governance Act* with respect to the service of roads and streets provides for the laying out of public or future streets, approval of the plan by the development officer shall not be given until the plan has been assented to by the rural community council.

88(2) Lorsque le plan de lotissement d'un terrain situé dans une communauté rurale qui a pris un arrêté relative-ment à la voirie en vertu de l'article 10 de la *Loi sur la gouvernance locale* prévoit le tracé de rues publiques ou futures, son approbation émanant de l'agent d'aménage-ment ne peut être accordée tant que le plan n'a pas reçu l'assentiment du conseil de la communauté rurale.

88(3) If a subdivision plan in a rural community pro-vides for the setting aside of land for public purposes, approval of the plan by the development officer shall not be given until the plan has been assented to by the rural community council.

88(3) Lorsque le plan de lotissement d'un terrain situé dans une communauté rurale prévoit la mise de côté de terrains à des fins d'utilité publique, son approbation émanant de l'agent d'aménagement ne peut être accor-dée tant que le plan n'a pas reçu l'assentiment du conseil de la communauté rurale.

88(4) An assent under this section shall not be given until

88(4) L'assentiment que prévoit le présent article ne peut être donné tant que n'ont pas été remplies les condi-tions suivantes :

(a) subject to subsection (8), the advisory commit-tee or regional service commission has recommended the location of the streets referred to in subsection (1) or (2) or the land for public purposes referred to in subsection (1) or (3), or both, as the case may be, or the recommendation has been rejected by a majority of the members of council, and

a) sous réserve du paragraphe (8), le comité consul-tatif ou la commission de services régionaux a recom-mandé l'emplacement ou bien des rues tel que le mentionne le paragraphe (1) ou (2) ou bien des ter-rains d'utilité publique tel que le mentionne le para-graphe (1) ou (3), ou bien des deux, selon le cas, ou cette recommandation a été rejetée par un vote de la majorité des membres du conseil;

(b) paragraph 75(1)(i) has been complied with.

b) l'exigence prescrite à l'alinéa 75(1)i) a été res-pectée.

88(5) The assent shall be certified under the corporate seal of the local government, signed by the clerk and en-dorsed on the face of the subdivision plan.

88(5) Le greffier certifie l'assentiment en le signant et en y apposant le sceau du gouvernement local, cet assen-timent étant porté au recto du plan de lotissement.

88(6) If a subdivision plan has been assented to under this section and approved by the development officer, the land indicated on the plan as being streets or land for public purposes vests, on the filing of the plan in the land registration office, in the local government in the following manner:

88(6) Lorsque le plan de lotissement a reçu l'assenti-ment tel quel le prévoit le présent article ainsi que l'ap-probation émanant de l'agent d'aménagement, les terrains y indiqués comme constituant des rues ou des terrains d'utilité publique sont, au moment du dépôt du plan au bureau d'enregistrement des biens-fonds, ainsi dévolus au gouvernement local :

(a) land indicated on the plan as a public street vests, free from any lien or encumbrances, as a local government street,

a) étant identifiés comme constituant des rues publi-ques, lui sont dévolus à titre de rues du gouvernement local, libres de tout privilège ou grèvement;

## ATTACHMENT 4 - CNR RECOMMENDATIONS

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- The Owner shall engage a consultant to undertake an analysis of noise. Subject to the review of the noise report, the Railway may consider other measures recommended by an approved Noise Consultant.
- Ground-borne vibration transmission to be evaluated in a report through site testing to determine if dwellings within 75 metres of the railway rights-of-way will be impacted by vibration conditions in excess of 0.14 mm/sec RMS between 4 Hz and 200 Hz. The monitoring system should be capable of measuring frequencies between 4 Hz and 200 Hz,  $\pm 3$  dB with an RMS averaging time constant of 1 second. If in excess, isolation measures will be required to ensure living areas do not exceed 0.14 mm/sec RMS on and above the first floor of the dwelling.
- The following clause should be inserted in all development agreements, offers to purchase, and agreements of Purchase and Sale or Lease of each dwelling unit within 300m of the railway right-of-way:

*“Warning: Canadian National Railway Company or its assigns or successors in interest has or have a right-of-way within 300 metres from the land the subject hereof. There may be alterations to or expansions of the railway facilities on such rights-of-way in the future including the possibility that the railway or its assigns or successors as aforesaid may expand its operations, which expansion may affect the living environment of the residents in the vicinity, notwithstanding the inclusion of any noise and vibration attenuating measures in the design of the development and individual dwelling(s). CNR will not be responsible for any complaints or claims arising from use of such facilities and/or operations on, over or under the aforesaid rights-of-way.”*

- The Owner shall through restrictive covenants to be registered on title and all agreements of purchase and sale or lease provide notice to the public that the noise and vibration isolation measures implemented are not to be tampered with or altered and further that the Owner shall have sole responsibility for and shall maintain these measures to the satisfaction of CN.
- The Owner shall enter into an Agreement with CN stipulating how CN's concerns will be resolved and will pay CN's reasonable costs in preparing and negotiating the agreement.
- The Owner shall be required to grant CN an environmental easement for operational noise and vibration emissions, registered against the subject property in favour of CN.