1.0 Recommendation

That Planning Advisory Committee recommend that Council:

a) Give first reading to the proposed Amending Development Agreement for "Lot LP-2, Clements Avenue" (PID90217712); and

b) Enter into the proposed amending agreement, which shall be substantially of the same form as set out in **Attachment 1**.

2.0 Report

EXECUTIVE SUMMARY

This report outlines an application to amend the existing Development Agreement for an undeveloped property, legally known as 'Lot LP-2, Clements Avenue', located at the intersection of Forest Street and Clements Avenue. The proposed amendments are designed to permit a revised development concept while shifting the agreement from permitting a single development outcome to regulating key development standards, thereby providing greater flexibility in site design while maintaining the overall planning intent for the site approved by Council in 2022.

Staff are satisfied that the proposed amendments are consistent with the intent of the Municipal Planning Strategy (MPS), comply with the applicable Land Use Bylaw (LUB), and represent sound planning. Staff support the application and recommend that the Planning Advisory Committee forward the proposal to Council to consider entering into the proposed Amending Development Agreement (**Attachment 1**).

BACKGROUND

In 2022, Council entered into a Development Agreement (**Attachment 2**) for the subject property to permit the development of a 23-unit apartment building. Since the agreement was approved, changes in market conditions and the owner's development objectives have resulted in the approved development concept no longer considered economically viable.

2026 APPLICATION

On May 27, 2026, the Town received an application from William McPhail and Susanna Li ("the applicants"), authorized by Lutz Properties Inc., to amend the existing Development Agreement registered against Lot LP-2, Clements Avenue (PID 90217712). The proposed amendments would permit a revised development concept consisting of two two-storey apartment buildings containing up to twenty-four (24) dwelling units.

A key objective of the proposed Amending Development Agreement is to provide greater flexibility by regulating the overall development rather than requiring substantial conformity with a single site layout.

As part of the review, staff and the applicants considered rescinding the existing Development Agreement and replacing it with a new agreement. While that approach would have resulted in a single consolidated document, it was concluded that an amending Development Agreement is more appropriate, as the proposal remains generally consistent with the existing agreement with respect to key items such as density, building height, setbacks and the residential use.

SUBJECT PROPERTY

The subject property is a 0.44-hectare (1.09-acre) vacant lot located at the intersection of Clements Avenue and Forest Street (**Attachment 3**). It is designated Residential, zoned High Density Residential (R-3), and identified as Residential Infill on the Statements of Interest Map of the Municipal Planning Strategy.

Notwithstanding the site-specific development rules of the existing Development Agreement, the underlying R-3 Zone would otherwise permit a residential development of up to eight (8) dwelling units as-of-right, with a maximum building height of 13.72 metres (45 feet).

The site is fully serviced by municipal water and sewer and has frontage on both Clements Avenue and Forest Street classified as a Local Street and Forest Street as an Arterial Street respectively, providing opportunities for access from both streets. The property also benefits from direct access to the adjacent multi-use trail, supporting active transportation.

The surrounding area contains a mix of land uses, including established residential uses to the west and north, open space to the southwest, and commercial/light industrial uses to the south. A vacant, Town-owned lot, directly to the east is zoned for institutional uses. This context makes the site well suited to residential infill and supports the efficient use of existing municipal infrastructure.

PROPOSED AMENDMENTS

Staff have worked with the applicants to prepare the proposed Amending Development Agreement. The proposed amendments shift the Development Agreement from regulating one specific site design to regulating a range of potential development outcomes. Future development would continue to be controlled through maximum density, building height, setbacks, landscaping, parking, and amenity space requirements while allowing greater flexibility in the detailed arrangement of buildings on the site. Staff consider this a more effective and adaptable planning approach that continues to protect neighbouring properties while reducing the need for future amendments.

The conceptual site plan (**Attachment 4**) illustrates one potential development scenario but would no longer form part of the enforceable provisions of the agreement.

For ease of reference, a redlined copy of the existing Development Agreement has been prepared showing all proposed amendments. In addition, Table 1 summarizes the key development standards under the proposed Amending Development Agreement and compares them with the applicant's current development concept.

Figure 1. Comparing post-amendment agreement with the proposed development.

Requirements	**Proposed Amending Agreement**	**Intended Development**
Use	R-3 uses, including multiple-unit buildings exceeding 8 units	Two (2) multi-unit residential buildings
Density	33 units (75 units per ha / 30 per ac)	24 units (55 units per ha / 23 per ac)
Number of Main Building	No maximum	Two main buildings
Building Height	Main buildings: 13.72 m / 45 ft; any main building within 12.2 m / 40 ft of the northern boundary is limited to 9.14 m / 30 ft in height Accessory buildings: 4.6 metres / 15 ft (per 2016 Land Use Bylaw)	Two-storey main buildings
Parking	One parking space per dwelling unit	One parking space per dwelling unit The conceptual plan complies with the parking requirements and allows flexibility for future site modifications
Vehicular & Pedestrian Access	Vehicular access to be approved at the Development Permit stage. Each main building requires a direct ped connection to a public street	Main access onto Clements Av
Setbacks	Min. 6.1m/20ft to the front and rear lot lines & to another main building Min. 7.6m/25 ft to the north lot line	The conceptual layout complies with the proposed setback requirements
Landscaping & Amenity	Min. 30% of the lot area shall be landscaped. A mix of permeable and non-permeable landscaping permitted Min. $5m^2$ / $54ft^2$ of public or private amenity space (include landscaped area) per unit shall be provided One tree per dwelling unit	To be reviewed at the Development Permit stage
Accessory Building	Max. two (2) accessory buildings per main building	N/A at this time

FUTURE PLANNING FRAMEWORK – NEW MPS/LUB

The Town is currently completing a comprehensive review of its Municipal Planning Strategy and Land Use Bylaw. Council gave First Reading to the draft planning documents on June 18, 2026, and staff anticipate their adoption later this year.

Under the current draft, the subject property would be designated Residential and zoned Housing 3 (H-3). The new H-3 Zone would permit greater residential density through the Site Plan Approval process than is contemplated by the proposed Amending Development Agreement, with developments of up to 50 units per acre (125 units per hectare).

Accordingly, the proposed Amending Development Agreement provides an approval pathway under the current planning framework while preserving the owner's ability to pursue future development approvals under any planning documents subsequently adopted by Council. The agreement also includes a provision requiring a Development Permit or Building Permit application to be submitted within three years of its execution, failing which the agreement becomes void.

In addition, nothing in the proposed Amending Development Agreement prevents the owner from applying to discharge the agreement in the future and pursuing development under the applicable provisions of the Land Use Bylaw in effect at that time.

3.0 Relevant Policy

The proposal is consistent with the intent of the Municipal Planning Strategy, which encourages residential infill on serviced lands, supports a range of housing types to meet community needs, promotes the efficient use of existing municipal infrastructure, and authorizes the use of Development Agreements to address site-specific planning matters while ensuring compatibility with surrounding development.

Due to the relatively prescriptive nature of the existing Development Agreement and associated site plan, the applicant's revised development concept cannot be accommodated under the current agreement. Section 14 of the existing Development Agreement, together with the applicable provisions of the Municipal Government Act, authorizes Council to amend the agreement by entering into an Amending Development Agreement following a Public Hearing.

4.0 Strategic Relevance

The application supports Council’s broader objectives of facilitating residential development and increasing housing opportunities in Yarmouth. The proposal would continue to allow for an efficient use of the site while maintaining the key planning objectives of the existing Development Agreement.

The application also advances Council’s commitment to transparent decision making through a public review process that includes public notification, Planning Advisory Committee review, and a Public Hearing before Council.

5.0 Desired Outcomes

Approve staff recommendation as outlined in Section 1 of this report.

6.0 Response

a. Approve: PAC recommend to Council to hold First Reading and schedule a Public Hearing for the application.

b. Reject: PAC recommend that Council refuse the application.

c. Other: PAC provide alternative directions to either staff or Council, including requesting further information on particular topics of the application, and amendments to proposed amendments.

7.0 General Implications of Recommendation

The recommendation supports the Town's objectives of encouraging residential infill, increasing housing supply, and making efficient use of existing municipal infrastructure.

7.1 Organizational and Financial Implications

The proposed Amending Development Agreement has no immediate financial implications for the Town. The subject property is fully serviced by existing municipal infrastructure and any future development will be subject to the Town's standard Development Permit, Building Permit, engineering, and inspection processes.

8.0 Equity, Diversity, and Inclusion

Increasing the supply and variety of housing contributes to a more inclusive community by providing housing opportunities for residents with diverse needs and household types.

9.0 Follow-Up Actions

Should the PAC forward the application to Council, a Public Hearing of Council would be advertised on a Town's website and social media platforms. In accordance with the Municipal Government Act, notification letters would be also mailed out to adjacent landowners prior to Public Hearing.

Submitted By:
Ning Liang – Planner / Development Officer
Martin Beck – Director of Planning & Development

Attachments

ATTACHMENT 1	Proposed Amending Development Agreement
ATTACHMENT 2	2022 Development Agreement
ATTACHMENT 3	Site Location & Zoning
ATTACHMENT 4	Conceptual Site Plan