Public Hearing

April 8, 2025
Town Hall Council Chambers
6:30 pm

AGENDA

1. **Call to Order**

2. **Public Hearing**
   LUB Amendment - Re-zoning 106 Orchard Street (R1 to R2)
   a. Overview of re-zoning application – Ning Liang, Development Officer
   b. Comments from Applicant
   c. Public Input
   d. Written Submissions

3. **Adjournment**

Report to PAC – LUB Amendment, rezoning PID 55237994 from R1 to R2	
Prepared by:	Ning Liang, Development Officer/Planner
Subject:	Application for LUB amendment to rezone 106 Orchard Street (PID 55237994) from R1 to R2
Date:	March 4th, 2025
Purpose:	PAC consideration of planning report and recommendation
Recommendation	To amend the zoning map to change the zoning of PID 55237994 from Residential Single Unit (R1) to Residential Two Unit (R2).
Draft Motion	That PAC recommend to Council that 124 Orchard Street (PID 55367528) be rezoned from R1 to R2 and that the application be forwarded to a public hearing.

Part 1: Background

1.1: Project Summary

Property Owner(s)	LIBERTY LODGE INCORPORATED
Civic Address	106 Orchard Street
Designation	Residential
Zone	Single Unit Dwelling (R1)
Subject Properties (shown in red outline)	
Subject Property Area	23,195 sqft

Existing Land Use	Single-unit Dwelling
Adjacent Land Use	Single-unit, semi-detached, and multi-unit dwellings. Western Kings Memorial Health Centre on the west along Orchard Street.

1.2: Location and Site Description

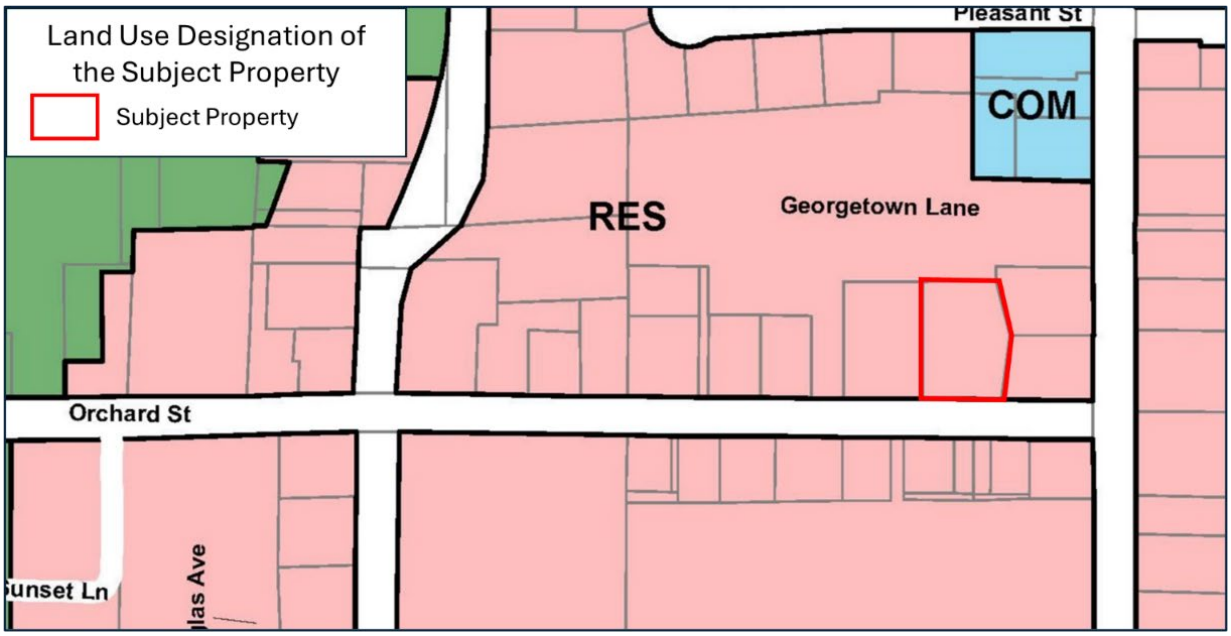
PID 55237994 ("Subject Property") is located on Orchard Street, near the intersection with Commercial Street. It currently has a one-story single-unit dwelling building on the lot. The property is surrounded by a mixture of single-unit, semi-detached, and multi-unit dwellings. Western Kings Memorial Health Centre, the commercial area near the intersection of Commercial Street and South Street, and the Kingston Rail trail are all within a five-minute walking distance (400 metres). Orchard Street does not have sidewalks in the area of the Subject Property.

The Subject Property is in an area typified by a mixture of R1 and R2 zoning. To its rear is Georgetown Lane, which has a series of duplexes on a private driveway, permitted by development agreement.

The property has no significant environmental features and appears relatively flat. A large park with a baseball field and open space is also located nearby.

1.3: Background

The owner, Jacob Seveorth (Liberty Lodge Incorporated), applied to rezone the Subject Property from R1 to R2 on February 4th, 2025. On the Town GFLUM and Zoning map, the Subject Property is designated as Residential (RES) and zoned Residential Single Unit (R1) (See figure 1&2).



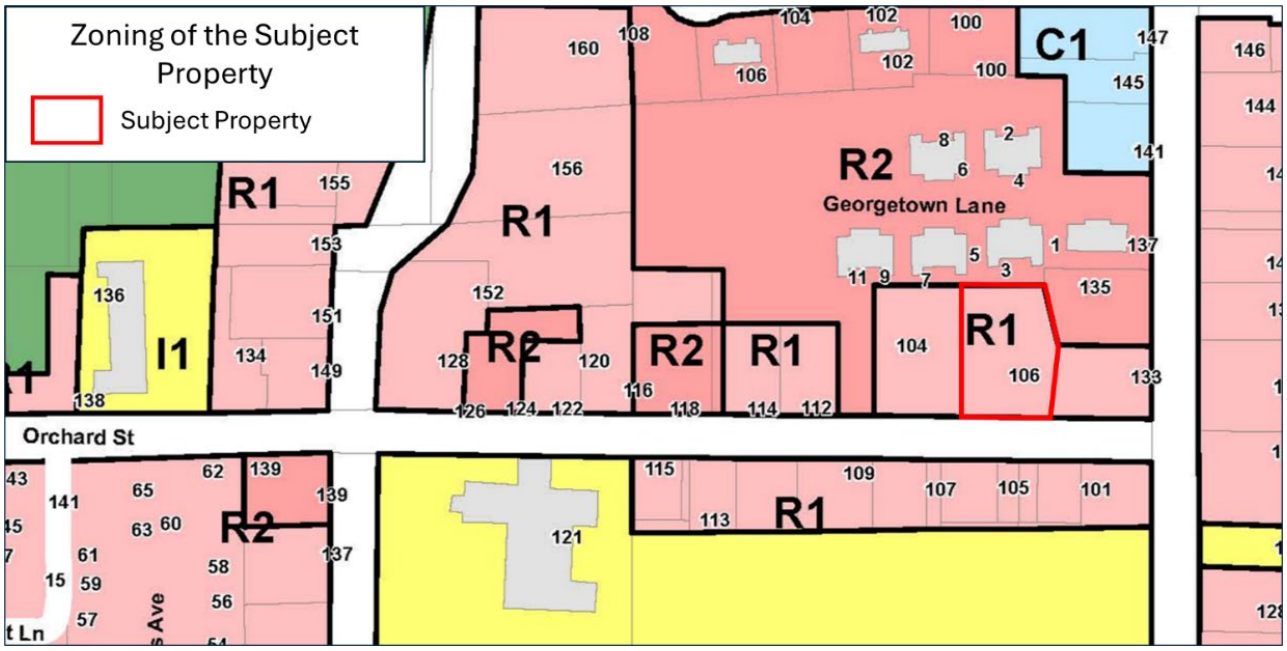


Figure 1 & 2. The land use designation and zoning of the Subject Property on GFLUM & Zoning Map.

The applicant wants to renovate and convert the basement of the building to an additional residential dwelling. The applicant plans for no change to the building footprint and no major alteration to the exterior.

The building will become a two-unit dwelling for rental. The applicant also plans to construct a new driveway that will go around the building and connect to the northwest corner of the building.

Part 2: Discussion

2.1: Policy Review

As stated in the MPS Section 2.3, the Town intends to encourage more residential developments to diversify housing options and promote affordability. The Subject Property is designated Residential, which enables several zones. The MPS allows for the rezoning between residential zones subject to criteria.

MPS Policy R10 enables Council to consider rezoning properties designated as Residential (Res) to R2 to develop two-unit dwellings. The proposed development is also evaluated against the criteria specified in MPS Policy IM7 and meet the lot frontage and lot area requirements of R2 zone.

MPS Policy IM7 establishes the criteria for Council to consider development agreement and rezoning applications. This policies speak to issues such as the adequacy of water and sewer, road network, services, impacts of watercourses, development control regulations and compatibility with the nearby area. Please see Appendix A for all provisions under MPS Policy IM7.

2.2: Policy Analysis

The Subject Property is designated as Residential on the GFLUM. Rezoning the Subject

Property to R2 is eligible for Council's consideration, according to MPS Policy R10.

The Subject Property has a frontage on Orchard St exceeding 120 ft and over half an acre of lot area. It meets the minimum lot frontage and area requirements of the R2 zone and is eligible for being rezoned to R2 according to MPS Policy R10.

Although not a consideration for rezoning, the building on the Subject Property does not meet the minimum side yard setback requirements of R1 or R2 zone. PVSC records indicate that a building permit was issued to the Subject Property for a single unit dwelling with a detached garage on August 16, 2005. The building predates the LUB that came into effect on October 9, 2012, and the non-conforming structure will not be made worse by the development and can be further developed under 5.10 of the LUB. The applicant also plans for no changes to the building footprint.

Staff reviewed the policies of IM-7. No issues of note arose. The Town has sufficient capacity under its ground water assessment (remaining capacity of 171 units as of February 25th, 2025) and there are no concerns about the capacity of the aquifer to support the increase of 1 unit. The Subject Property is at a convenient location. It is in a walkable location and has good vehicular connection to highways.

The main difference between R1 and R2 zoning is that two units are permitted on the site instead of one. The addition of one unit is not a significant change in terms of servicing, traffic or noise. The building will not change in form, according to the applicant, and is compatible with adjacent low density residential development. There are no new anticipated land use conflicts.

The Subject Property can access Highway 1 and 101 through Commercial Street. There are many other multi-unit and semi-detached dwellings in the neighbourhood block between Commercial Street and Brown Street. Staff have no concerns regarding the impacts on watercourses and the adequacy of infrastructure to support the proposed development. The proposed development overall aligns with provisions of MPS Policy IM7.

Part 3: Recommendation

After a review of the applicable policies, the specifics of the site, and the requirements of the applicant, staff recommends amending the Zoning Map of the Land Use Bylaw to change the zoning of 106 Orchard Street (PID 55237994) to Residential Two Unit (R2) Zone.

Part 4: Draft Motion

That PAC recommend to Council that 106 Orchard Street (PID 55237994) be rezoned from R1 to R2 and that the application be forwarded to a public hearing.

Appendix A – Relevant MPS Policies

Policies	Comments & Concerns
MPS Policy R10. It shall be the intention of Council to consider the development of new residential dwellings containing two (2) units, or the conversion of existing single unit dwellings within the Residential Designation by amendment to the Land Use By-Law. In addition to the criteria contained in Policy IM7, Council shall require that the lot meet the minimum lot of frontage and area requirements for the applicable zone.	
(a) Minimum lot of frontage is 80 feet	Subject Property has adequate street frontage exceeding 120
(b) Minimum lot area is 12,000 ft^2	Subject Property has adequate lot area of 23,195 ft^2
MPS Policy IM7 In considering amendments to the Land Use By-law and/or the entering into a Development Agreement, in addition to the criteria set out in various policies of this Strategy, Council shall consider:	
(a) That the proposal is in conformance with the intents of this Strategy and with the requirements of all other Town By-laws and regulations:	Proposal is generally consistent with the Municipal Planning Strategy.
(b) That the proposal is not premature or inappropriate by reasons of:	
(1). The financial capability of the Town to absorb any costs relating to the development	No concerns.
(2). The adequacy of sewer and ground water to support the proposed density of development;	No concerns. Comments from the Public Works department received on February 20, 2025
(3). The adequacy and proximity of school, recreation, and other community facilities;	No concerns. Berwick and District School has the infrastructure capacity to accommodate 432 students. In the year of 2023 – 2024, the school had 295 students enrolled.

(4). The adequacy of road networks adjacent to, or leading to the development;	No concerns.
(5). The potential for the contamination of watercourses or the creation of erosion or sedimentation	No known impact identified
(6). The potential for damage to or destruction of historical buildings and site;	N/A
(c) That controls are contained in a Land Use By-law or a Development Agreement so as to reduce conflict between the development and any other adjacent or nearby land use by reason of:	
(1). Type of use;	Proposed converted dwelling with two units.
(2). Emissions including air and water pollutants and noise	Subject to LUB regulations
(3). Height, bulk and lot coverage of proposed building	Subject to LUB regulations, no changes to the building exterior and footprint
(4). Traffic generation, access to and egress from the site, and parking;	Subject to LUB regulations
(5). Open storage	Subject to LUB regulations
(6). signs	Subject to LUB regulations
(7). similar matters of planning concern;	Subject to LUB regulations
(d) The suitability and development costs of the proposed site in terms of steepness of grades, soil and geological conditions, marshes, swamps, or bogs and proximity of highway ramps, railway rights-of-way and other nuisance factors;	No issue identified. The proposed development is an internal conversion to renovate the basement to create an additional residential unit.
(e) That provision is made for buffering, landscaping, screening and access control to reduce potential incompatibility with adjacent land uses and traffic;	Subject to LUB regulations
(f) That the development is located so as not obstruct any natural drainage channels or watercourses	No concerns. No plans increase the building footprint.

106 Orchard Street
LUB Amendment Application

Public Hearing Presentation

106 Orchard Street (PID 55237994)

Rezoning Application from R1 to R2

TOWN OF berwick

Prepared by:

brighter community
PLANNING & CONSULTING

The Application

Address	106 Orchard Street
PID Number	55237994
Applicant	Jacob Seyforth (Liberty Lodge Incorporated)
Date received	February 04, 2025
Application	Rezone the property from R1 to R2
Current Use	A single-unit dwelling for rental
Proposed development	Convert the basement to a dwelling unit for rental. Building footprint will remain the same

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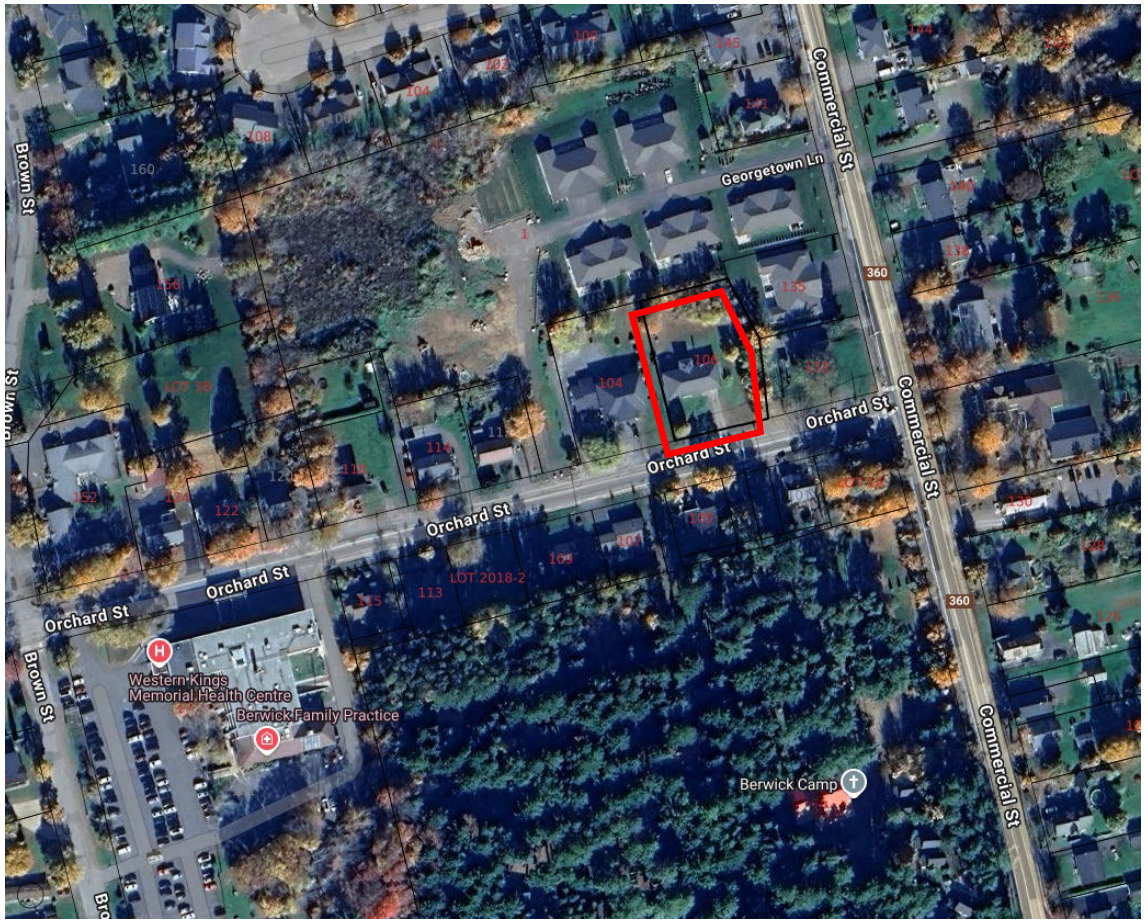
Property Information

Address	106 Orchard Street
PID Number	55237994
Lot Area	23,195 sqft / 0.53 acre
Owner	LIBERTY LODGE INCORPORATED
Designation	Residential (Res)
Zoning	R1 Single Unit Dwelling
Surrounding	Single-unit, semi-detached, and multi-unit dwellings. Western Kings Memorial Health Centre, Berwick Church Camp



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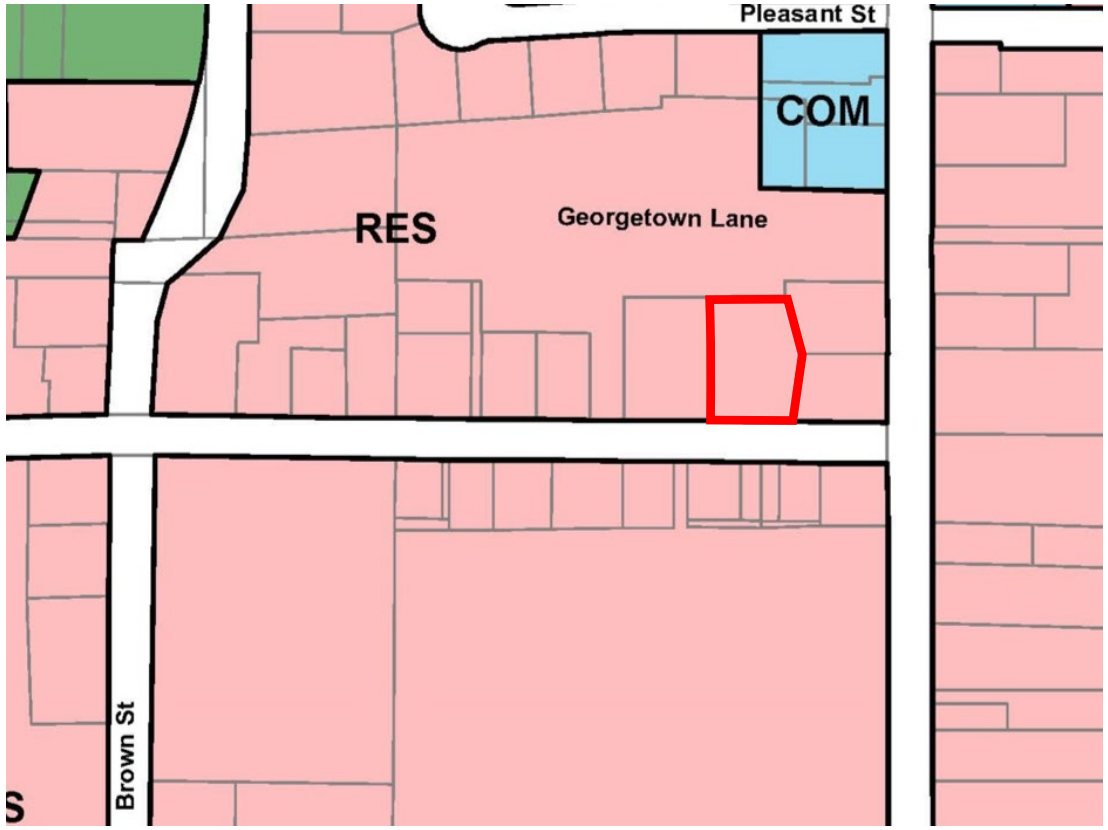
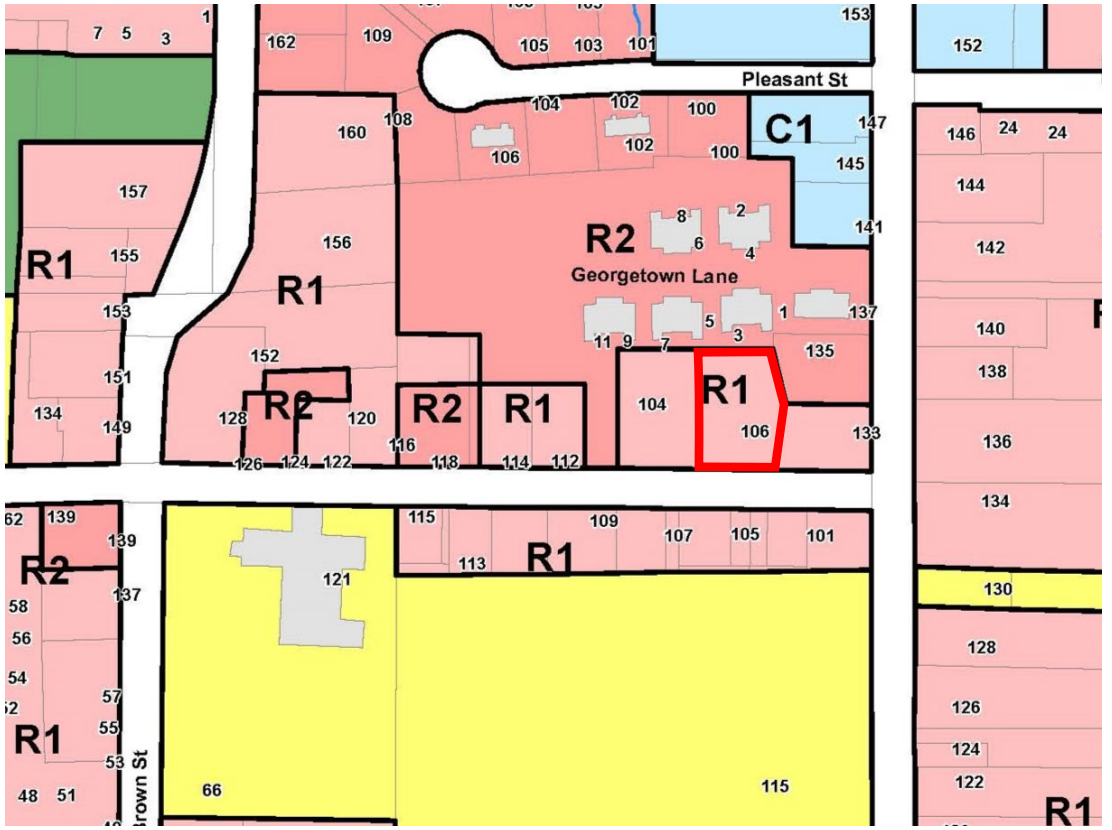
Property Information



Land Use Designation - Res



Zoning – R1

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Site Condition

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Site Condition

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Site Surrounding

Policy Review – Policy R10

- Rezoning to R2: MPS Policy R10
  - Consider **MPS Policy IM7** and minimum lot frontage and area **requirements of R2 zone.**

R10 It shall be the intention of Council to consider the development of new residential dwellings containing two (2) units, or the conversion of existing single unit dwellings within the ***Residential Designation*** *by amendment to the Land Use By-law. In addition to the criteria contained in* ***Policy IM7****, Council shall require that* ***the lot meet the minimum lot frontage and area requirements for the applicable zone****.*

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Policy Review – Policy IM7

- Discretion for LUB Amendments: MPS Policy IM7
  - Conform with the MPS and LUB intents
  - Adequacy of sewer and groundwater
  - Access to school and recreation facilities
  - Adequacy of road network
  - Impacts on watercourses
  - Development control
  - Not to damage historical buildings
  - Site suitability, geological
  - Buffering and landscaping
  - Not to obstruct natural drainages or watercourses

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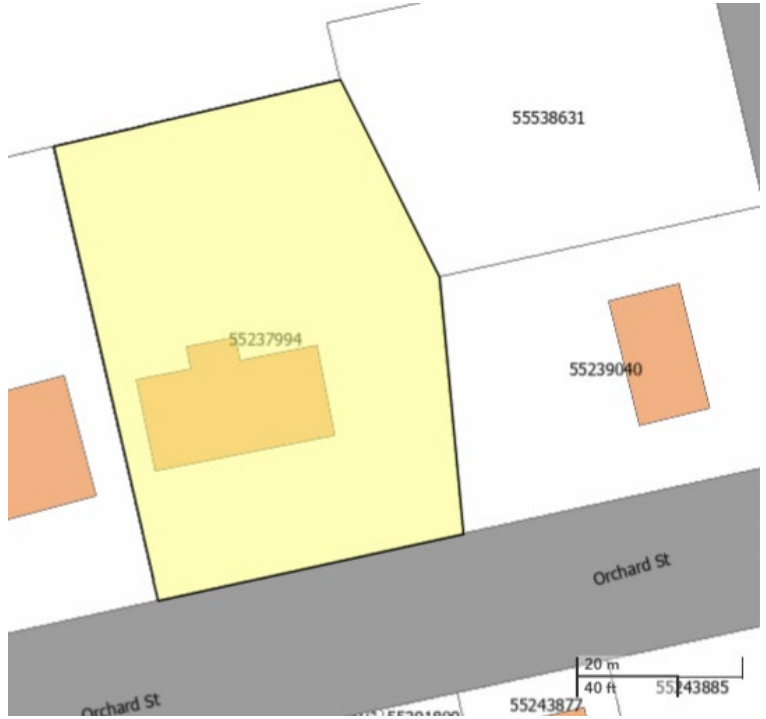
Policy Review – R2 Regulations

- R2 minimum lot area & frontage – LUB Section 6.3.2
  - Minimum lot area: 557 sqm / 6,000 sqft per unit
  - Minimum lot frontage: 12.19 metres / 40 feet per unit

- Property Online Record:

PID 55237994	
Lot Area	23,195 square feet
Frontage on Orchard St	121.75 feet



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Policy Analysis – Policy IM-7

• Conform with the MPS & LUB intents	Application aligns with MPS provisions meet the R2 zone regulations.
• Adequacy of sewer and groundwater	No known concern.
• Access to school and recreation facilities	Recreation facilities available nearby. Berwick and District School is at 68% capacity in 2024.
• Adequacy of road network	No concerns.
• Impacts on watercourses	No concerns.
• Development control	Subject to R2 zone minimum lot frontage and area requirements

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