

# Planning Report

**To:** Planning Advisory Committee, Town of Stewiacke

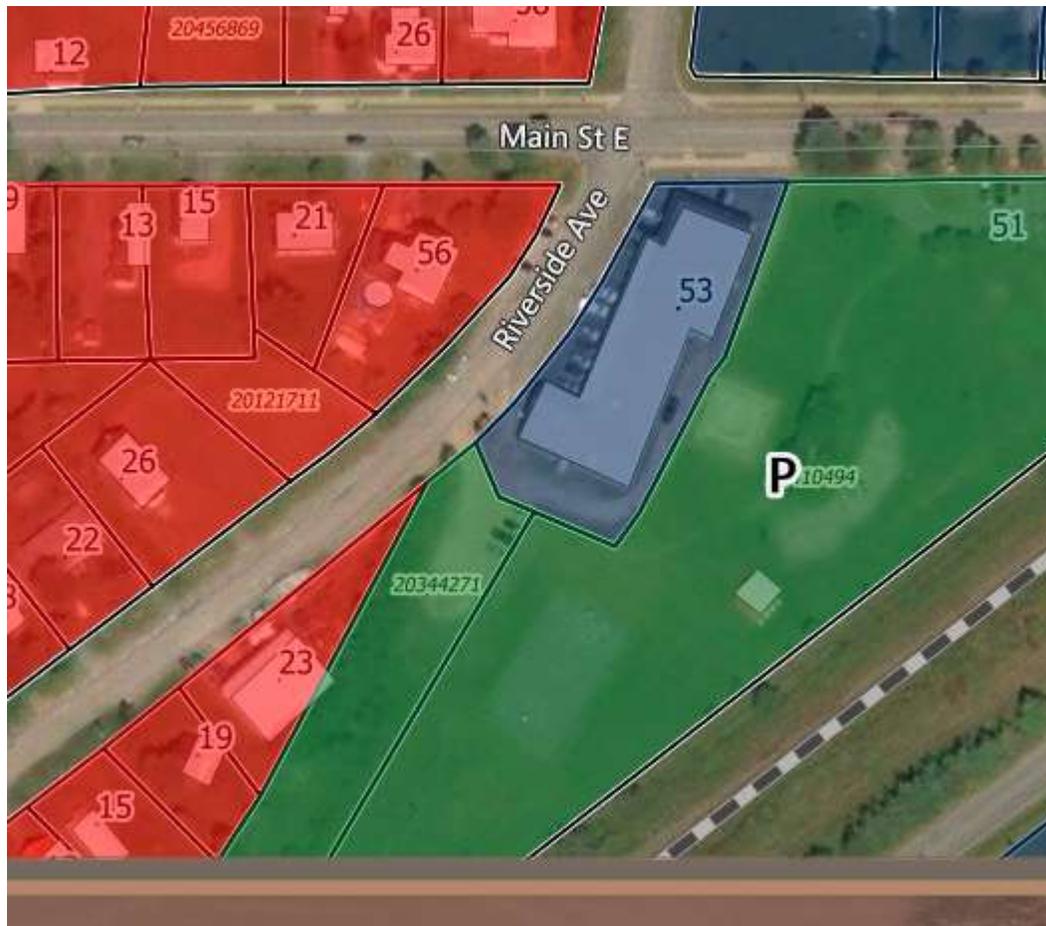
**From:** Grant Cooke, Planner

**Date:** February 20, 2019

**Subject:** Garage on Riverside Avenue

## Background:

When the planning documents were reviewed and adopted in 2010, the garage at 23 Riverside Avenue was zoned General Residential (R-2). The map below shows the property.



I believe the reason for the R-2 zoning was because the garage had not operated as a service station for some time and it was thought the use had been discontinued. Since

the property is on a mainly residential street the R-2 zoning would be conducive to the redevelopment of the site for residential uses.

It has recently come to light that, although the property had not for years been a service station selling gas, it had been used and is still being used for repairing motor vehicles.

On February 7, 2019 the owner, Mary Jane MacDonald, submitted the following information:

“The garage on Riverside Avenue is not nor has never been vacant.

The power has never been disconnected from this location.

It was used continuously by my husband, Leonard McDonald, to repair vehicles until his death in March of 2016.

It has been used since by friends and family in the same capacity.

I have been charged commercial taxes on this building since we purchased it, this did not change with the zoning so I had no knowledge of this happening.”

As required by the *Municipal Government Act* towns must give notice of any change in zoning or any other change to the planning documents.

There was notice given in 2010 that the Town was considering new planning documents and at least two public meetings were advertised to hear comments. But it is understandable that many town residents would not have been aware of exactly what the changes were about and did not attend the meetings. For this current review the Planning Advisory Committee (PAC) is planning a much more informative process to let people know what is being proposed.

Mary Jane MacDonald has requested that a commercial zone be reapplied to the property. I understand she may have a buyer for the property who wishes to use the property as a vehicle repair shop.

## **Options**

### **Legal Non-Conforming Use**

One option is that the property could continue to be zoned R-2 and the vehicle repair use could be considered a legal non conforming use.

A legal non conforming status means the use can continue for an indefinite period of time until such time as the building is demolished or there is evidence (such as the power being disconnected) that the use has been discontinued for six months or longer.

I have discussed with the owner a possible advantage of keeping the property in the R-2 Zone. If at some point in time there was a proposal to construct dwelling units on the

property (possibly by converting the building) a rezoning back to the R-2 Zone would not be necessary.

### **Rezoning to the Downtown Commercial (C-1) Zone**

I believe that had the owner of the garage known about the proposed change in zoning back in 2010 they would have indicated to the PAC that the garage was still being used for vehicle repair and there was no intention of discontinuing this use. With this information the retention of a commercial zone on the property would have been a reasonable decision of the PAC of the time.

The predominant commercial zone in this area of the Town is the Downtown Commercial (C-1) Zone. The C-1 Zone permits all commercial uses with the following exceptions, as follows:

#### **9.1.1 Uses Not Permitted**

*Notwithstanding 9.1.1 above, the following commercial uses are not permitted in the C-1 Zone:*

- *automobile service stations*
- *automobile sales, renting, and leasing*
- *hotels and motels*
- *farm implement sales*
- *self storage facility*

The owner has indicated that there is no proposal to use of the property other than for vehicle repair. This use can continue as a legal non-conforming use. If in future another commercial use is proposed it would be permitted subject to the above list of prohibited uses.

### **Rezoning to the Highway Commercial (C-2) Zone**

The other commercial zone in Stewiacke is the Highway Commercial (C-2) Zone. This zone permits a wide range of commercial uses including the uses prohibited in the C-1 Zone. If the site were to be rezoned to C-2 there would be nothing to prevent a change to a more intense commercial which would not be consistent with the long range view of the downtown.

In conclusion if the owner still would like a commercial zone to apply to the property I believe the Downtown Commercial (C-2) Zone is the more appropriate one. If the owner is satisfied to keep the R-2 Zone but have the vehicle repair use continue there is no action required by the PAC or Council.