

PLANNING STAFF REPORT

SUBJECT: Pursuant to Section 55(1)(a) of the Community Planning Act (C-19), and section 6.2.2 of the Village of Blackville Rural Plan (By-Law No. 57), an application has been submitted by David Donahue, to allow:

1. A Similar/compatible use variance to the "Rural Area (RA)" zoning of the Subject Property described as PID 40036436 located at 27 Underwood Dr, Blackville, Rural Community of Miramichi River Valley to enable the development of up to five cottages for short term rental.

PRAC must determine whether the proposed use is sufficiently similar to or compatible with uses permitted in the "Rural Area (RA)" zone in which the Subject Property is situated.

MEETING DATE: April 16th, 2024

AGENDA ITEM: 2024-3-2

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I. APPLICATION OVERVIEW



A Similar/compatible use variance request has been submitted by David Donahue to Planning Services regarding the Subject Property described as PID 40036436 located at 27 Underwood Dr, Blackville in Miramichi River Valley to enable the development of up to five cottages for short term rental, on the Subject Property which is zoned "Rural Area (RA)".

A "use variance" is requested when a land use that is not expressly cited in the list of permitted uses for the zoning of a property but is similar/compatible to one of the permitted uses, is proposed for a property. Planning Services referred to the Community Planning Act (C-19) (CPA) Section 55(1)(a) "use variance", section 6.2.2 of the Blackville Rural Plan (By-Law No. 57) and the amending by-law (By-Law No. 88), to analyze the received "similar/compatible use" application.

Figure 1: Aerial Image locating subject property outlined in blue

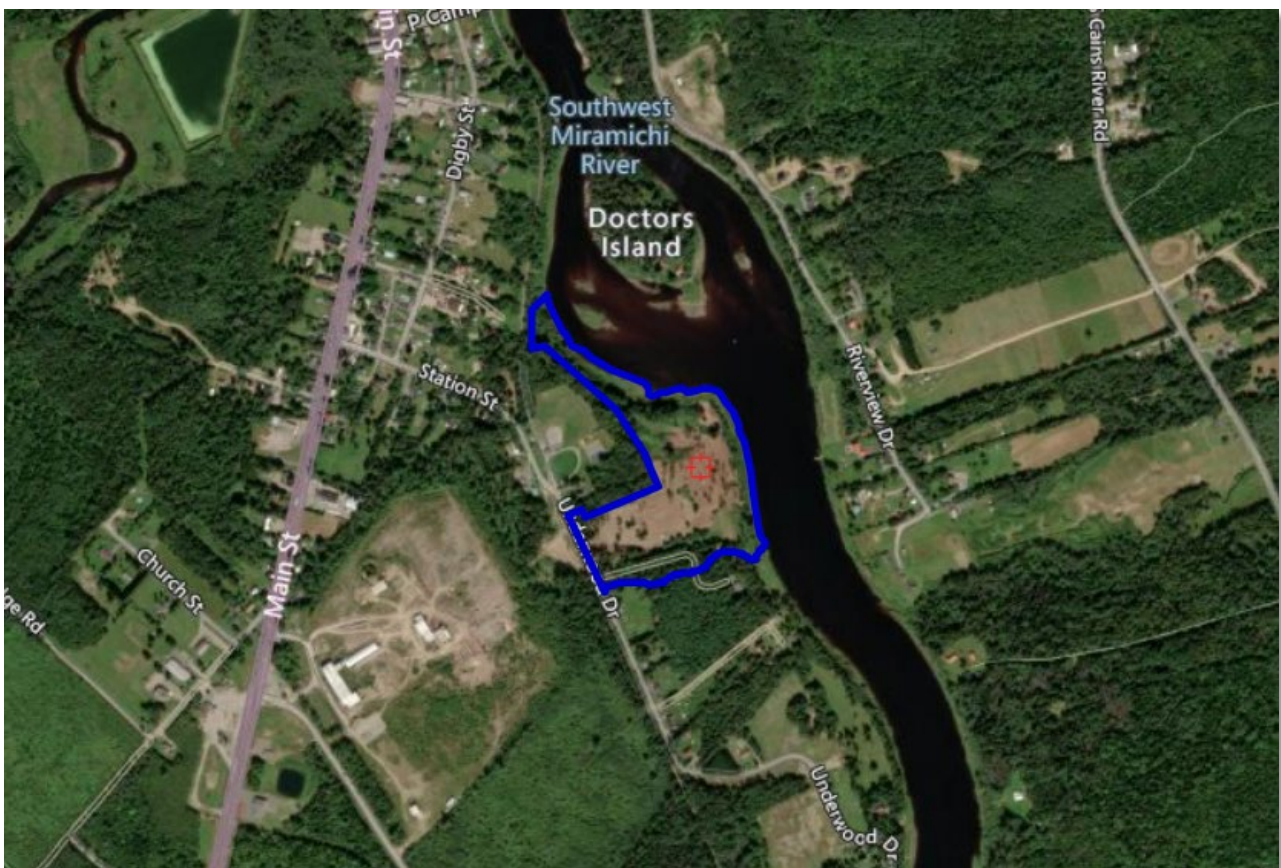


Figure 2: Aerial Image locating subject property outlined in blue.



When considering this application (see overview in table 1 below), PRAC may approve, approve with conditions, or deny the requested variance.

Table 1: David Donahue - Similar/compatible use variance Application Overview

Property Owner/Applicant Details	
Property Owner	David Donahue
Applicant	David Donahue
Subject Properties Details (see attached Subject Properties Map)	
Property Identification Numbers (PID)	40036436
Shape	Irregular
Area	8.6ha
Width	~145m
Depth	~300m
Lot frontage	~145m
Access	Cove lane off Underwood Dr
Services	Unserviced; municipal sewer may be extended
Zoning Details	
Current Zoning	"Rural Area (RA)" "Open Space (OS)"
Future Land Use Designation	N/A
Land Use	
Existing	Recreational Cottage
Proposed Use	Up to five cottages for short term rental

A site plan sketch is included as an attachment to this report. The reader is directed to review the plan in conjunction with the description of the proposed use that follows. Photos of the site and adjacent lands (see Attachment 2) included in this report were taken by Planning Services Staff on April 3rd, 2024.



II. PROPOSED USE

The following list provides a summary of the proposed use of the Subject Property, should the Similar/compatible use variance be approved:

- The Applicant is proposing to build up to five cottages for short term rentals, as a recreational use;
- Access to the proposed development will be via Cove lane (private driveway) off Underwood Dr (public, local street/road);
- The Applicant plans to build the first cottage at an approximate distance of 36.5m from the road, keep all the cottages within 20m and also upgrade the existing Cove Lane; this lane is considered a private driveway, but also serves as the driveway to the adjacent landlocked PID 40388159 via 66' width right of way
- There is an existing recreational cottage on the subject property, under construction.
- The exact size of the cottages is undetermined, but the Applicant has stated that they will be under 625sq ft each.
- The applicant intends to extend the existing municipal sewer line (500+ ft to the north) to service the proposed development. This would need to be arranged with the municipality, likely at the developer's own cost. Otherwise, private sewage servicing (septic) would be required, subject to approval by the NB Technical Inspection Services, Plumbing Inspection Unit.
- Water servicing is to be provided by private well(s). The applicant may require an approval from the NB Department of Environment, depending on the number of wells and expected need for water servicing.

Any potential development would still be subject to the "Rural Area (RA)" regulations and other zoning regulations (along with any potential conditions that PRAC wishes to impose).

III. PLANNING CONSIDERATIONS



A. Legislative authority under Community Planning Act (C-19)

The Community Planning Act (C-19) provides legislative authority that allows for the consideration of a 'use variance'.

Section 55(1)(a) of the Community Planning Act (C-19) states:

"Subject to the terms and conditions it considers fit, the advisory committee or regional service commission may permit:

a) A proposed use of land or a building that is otherwise not permitted under the zoning by-law if, in its opinion, the proposed use is sufficiently similar to or compatible with a use permitted in the by-law for the zone in which the land or building is situated."

B. Rural Plan (By-Law No. 57 and amending By-Law No. 88)

1. Policies and proposals

The Rural Plan of the former village of Blackville serves as a guide to determine the compliance of future development with the overall objectives of the Blackville community. The Plan is intended to be used by Council, Staff, GMRSC Planning Services and PRAC, developers, businesses, community organizations, and residents to guide day-to-day decisions affecting development. Although the Village of Blackville has been dissolved and the community is now part of the larger Rural Community of Miramichi River Valley, the Rural Plan and amending by-law are still in effect for the former village limits.

After reviewing the amending By-Law No. 88, it doesn't impact on the proposed development and thus the analysis was done using the By-Law No. 57.

The Applicant’s proposal aligns with the following objectives, policies, and proposals from the Rural Plan as per the table below:

Table 2: David Donahue - Project’s alignment with the Rural Plan (By-Law No. 57)

Section 2: VISION, GUIDING PRINCIPLES, AND DEVELOPMENT STRATEGY	
Project’s alignments :	Rural plan (By-law No. 57) excerpts:
<p>The proposed development encourages a diversity of housing by adding a residential recreational use and allowing the proposed use will help better cater to the needs of the growing population and support tourism.</p>	<p>Section 6.2.1: Residential development objective</p> <p>“It shall be an objective of Council:</p> <ul style="list-style-type: none"> • to maintain the integrity of existing neighbourhoods and to protect them from encroachment of incompatible uses; • to encourage, where appropriate, a diversity of housing types;”
<p>The subject property, even though unserviced is large enough to accommodate on-site water services.</p> <p>Tourism-Commercial uses</p> <p>The subject property is located next to the Southwest Miramichi river. Its location makes the proposed use a leverage for tourism and commercial development and thus will contribute to the local economy by offering housing options to tourists.</p>	<p>Section 6.2.1: Residential development proposal</p> <p>RDP – 4</p> <p>“Notwithstanding RDP-3, it is proposed to permit unserviced residential development to occur, provided the site is of sufficient size to accommodate on-site and water and sewer facilities and the subject property meets the requirements of this Plan and the Department of Health and Community Services regulations pertaining to unserviced development.”</p>

Tourism, natural and economic resources

The short-term rental cottages location, landscape and river view will attract tourists who will be able to participate in seasonal activities like fishing and hunting camps resulting in a local economy spin-off and employment opportunities to residents. Also, the use of the landscape for recreational purposes makes it a resource for tourism.

The proposed use is meant for recreational purposes and thus will be mostly used on a seasonal basis. It then can qualify as a development of seasonal dwellings.

Section 6.9 Rural Resource

“[...] These camps (fishing and hunting) are located in the rural area and are generally found adjacent to or in close proximity to the Southwest Miramichi River. These camps provide employment opportunities for area residents as well as resulting in economic spin-offs to the local economy [...].

Section 6.9.3 Rural Resource Development Policies / Proposals

RRDP - 1

“It is the policy of Council to allow the following activities in the rural areas of the Village; uses which utilize relatively few buildings; [...] single unit dwellings; [...] and seasonal dwellings [...].”

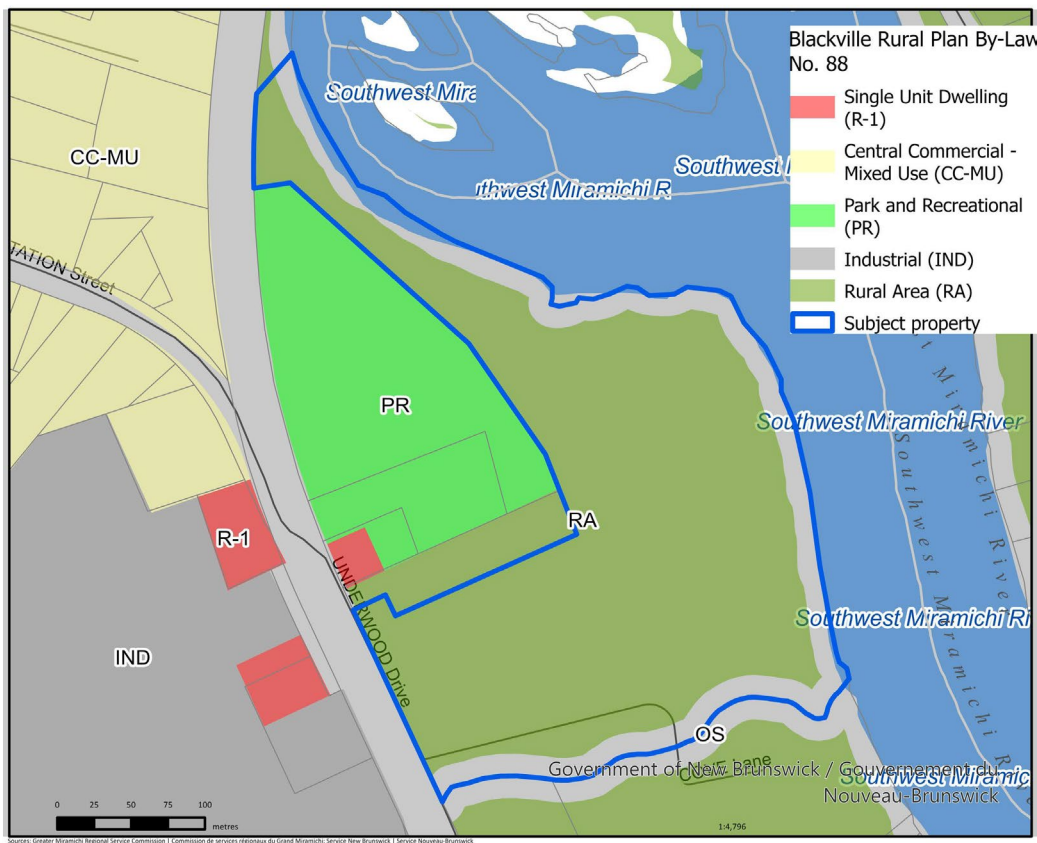
RRDP - 3

It is proposed to allow seasonal dwellings to be located in the rural areas provided the location is suitable for on-site sewerage disposal as per the Department of Health and Community Services standards and all structures are located a minimum of 15 meters (50 feet) from the riverbank.

2. Land Uses

The applicable site development regulations are contained in the Rural Plan (By-law No. 57), which includes several general provisions that apply to development in all areas of the Community and provisions that are specific to the zoning of the Subject Property (e.g., permitted uses, setbacks, landscaping and screening requirements, size restrictions, etc.). The Rural plan By-law also contains regulations that apply specifically to other site elements like driveway access, parking, loading, and signage.

Figure 3: Village of Blackville Rural Plan (By-Law No. 57) - Land Uses Map



As per the Village of Blackville Rural Plan (By-Law No. 57)): The subject property is zoned mainly as "Rural Area (RA)".

The "Rural Area (RA)" zone allows for residential uses:

- One of the following main uses:
 - a single unit dwelling;
 - a seasonal dwelling;
 - a mini-home or mobile home;
 - a mini-home or mobile home park.
- One of the following secondary uses:

- a boarding house, rooming house or tourist home
- a home occupation
- a home business
- a private stable
- a roadside stand for the sale of agricultural produce
- a garden centre
- a bed and breakfast / tourist home
- a neighbourhood daycare centre
- a residential care facility

The “Rural Area” allows only one single unit/seasonal dwelling as a main use. The proposed cottages are not permitted under the current "Rural Area (RA)" zoning of the Subject Property (for both a main or secondary use).

The proposed use is very similar to a bed & breakfast/ tourist home or a boarding or rooming house.

As per the definitions in the Rural Plan, **a bed & breakfast/ tourist home** means “a single detached dwelling in which there is a resident owner or resident manager who provides overnight accommodation and meals (usually breakfast, but occasionally other meals as well) for the traveling public, notably tourists.”

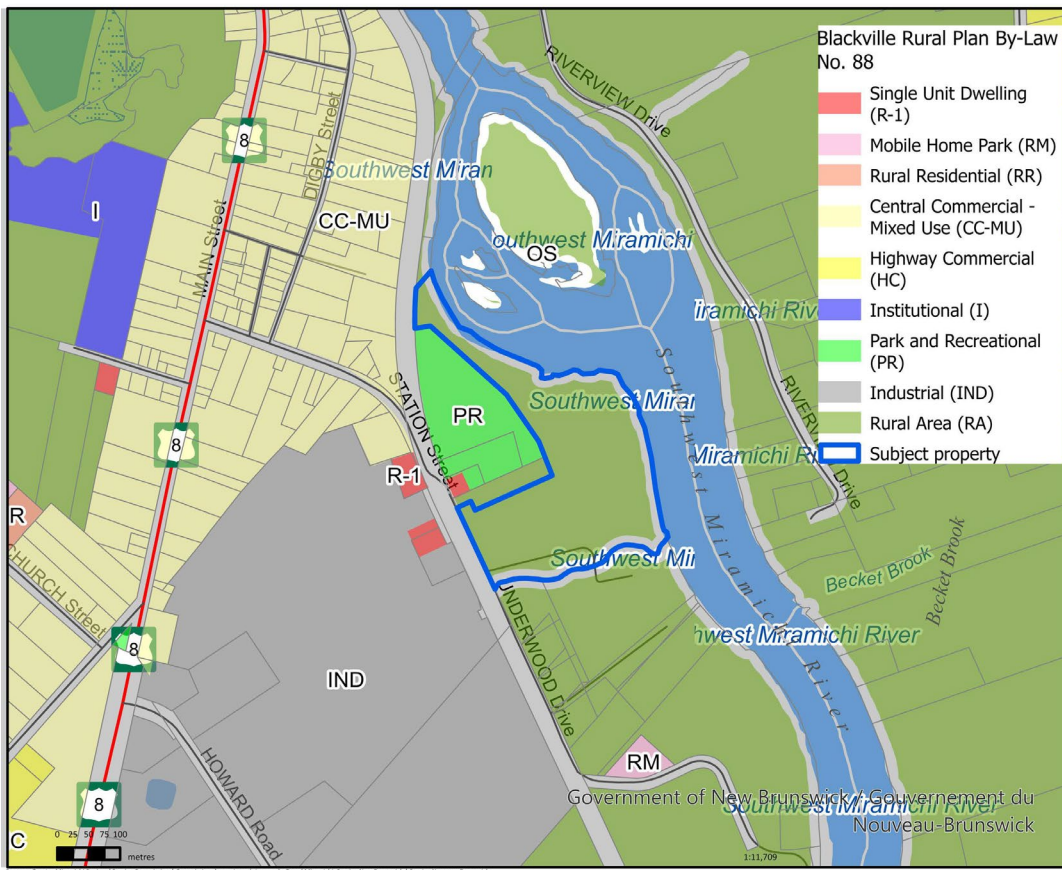
And **a boarding or rooming house** means “a dwelling in which the proprietor supplies either room or room and board, for monetary gain, to more than three persons, exclusive of the owner of the building or members of his family.”

Additionally, the cottages are very similar to a single unit dwelling or seasonal dwelling, although multiple are proposed. Overall, with the actual characteristics of the proposed development, it is very compatible with the permitted uses in the zone under the Rural Plan.

3. Neighbourhood Character and Impact

The subject property is located in the neighbourhood of Blackville in Miramichi River Valley.

Figure 4: Village of Blackville Rural Plan (By-Law No. 57) - Surrounding Land Uses



The following points summarize land use activities in the area:

- The surrounding area (radius of 500m) is a mix of these zones:
 - Park and Recreational (PR);
 - Single Unit Dwelling (R-1): minority areas;
 - Central Commercial - Mixed Use (CC-MU): densely built compared to the other surrounding zones;
 - Industrial (IND);
 - Rural Area (RA) (mainly on the east and south sides of the subject property with a few built structures);
- The Cove Lane goes off Underwood Dr (local road) and crosses a portion of the subject property on the south;
- The only use next to the subject property within a radius of 500m is the Blackville Ball Park with a basketball court (which will be very beneficial to the tourists renting the cottages while visiting);
- The subject property is located at ~600m from the main street/route 8 (which is an important transport corridor with several commercial uses along it)

- To the east of the Subject Property is the Southwest Miramichi River and Doctors Island.
- Some single unit dwellings and recreational uses (cottages/cabins) are located nearby.
- The NB Trail is located immediately across Underwood Dr, providing further tourism opportunities.

Considering the characteristics of the surrounding area described above and the existing patterns of zoning and land use, it is the opinion of the Planning Staff that the land use impact of the proposed use would be very similar to that of a bed & breakfast/ tourist home and/or a boarding or rooming house use which are permitted secondary uses in the “Rural (RA)” zone.

The use can also be considered very compatible with most of the other permitted and existing uses in the zone.

Additionally, the proposed development will only slightly increase the actual level of activity on the subject property and its surroundings) and the volume of traffic in the area.

4. Site development regulations and considerations

Table 3: David Donahue - Zoning regulations (By-Law No. 57)

Unserviced lot with a Residential use within the Rural Area (RA)”	Requirements
Front or flankage yard	15.2 meters (49.9 ft)
Minimum side yard	7.0 meters (23 ft)
Minimum rear yard	7.0 meters (23 ft)
Minimum lot depth	38 meters (125 ft)
Minimum lot frontage	54 meters (180 ft)
Maximum height of main building	8.5 meters (28 ft)

Additionally, “no accessory building or structure may:

- (a) exceed 11 metres (36 ft) in height;
- (b) be placed erected or altered so that it is:
 - except in the case of an agricultural or forestry use, within the front yard

- of the main building or structure;
- in the case of an agricultural or forestry use, within 7.6 metres (25 ft) of a street line;
- within a distance of side or rear lot line of the greater of 3 metres (10 ft) or one half the height of the building or structure.”

Even though the proposed use is similar to a bed & breakfast/ tourist home, the requirements mentioned above do not apply to the proposed development. With the proposed development concept and based on the large size of the property, the proposed use seems to be compliant with the required zoning regulations of the “Rural Area (RA)” zone. In case the variance is approved, the Applicant will have to provide (to the Development Officer) a detailed site plan when applying for a Building/Development Permit for a further analysis to fully assess the compliance of the proposed development with the regulations.

Under paragraph 55(1)(a) of the CPA, the PRAC is empowered to permit, subject to terms and conditions, “a proposed use of land or a building that is otherwise not permitted under the zoning by-law if, in its opinion, the proposed use is sufficiently similar to or compatible with a use permitted in the by-law for the zone in which the land or building is situated”.

The questions to be considered by the PRAC are:

1. Whether or not the proposed use is “similar to” a use permitted in the zone.
2. Whether or not the proposed use is “compatible with” other permitted (in the “Rural Area (RA)” zone) and existing uses.

5. Views of the public

Property owners within 30 meters of the Subject Property were sent written notification of the Similar/compatible use variance request, along with details of the PRAC meeting. To date, no comments have been received from adjacent or other property owners, besides an informational phone call from one neighbour.

6. Departmental and Agency Comments

The CAO/Clerk and Mayor of the Rural Community of Miramichi River Valley were notified of this application and asked to provide comments. To date, no comments have been received.

IV. STAFF RECOMMENDATION



It is recommended that the Planning Review and Adjustment Committee, pursuant to Section 55(1)(b) of the *Community Planning Act*, approve the density variance to the Rural Plan (By-law No. 57) for the Subject Property described as PID 40036436, located at 27 Underwood Dr, Blackville, Rural Community of Miramichi River Valley to allow for the development of up to five cottages on the property for short term rental.

- Report prepared on: **April 10th, 2024.**
- Report Prepared by:

Nic O'Dette, RPP, MCIP
Planning Services Manager

Signed on: April 10th, 2024

Nic O'Dette

Nahyssa Rose Rabé Harou, B.Sc.
Planner

Signed on: April 10th, 2024

Nahyssa Rose Rabé Harou

Report Reviewed and Approved By:

Wilson Bell, RPP, MCIP
CEO/Planning Director

Signed on: April 10th, 2024

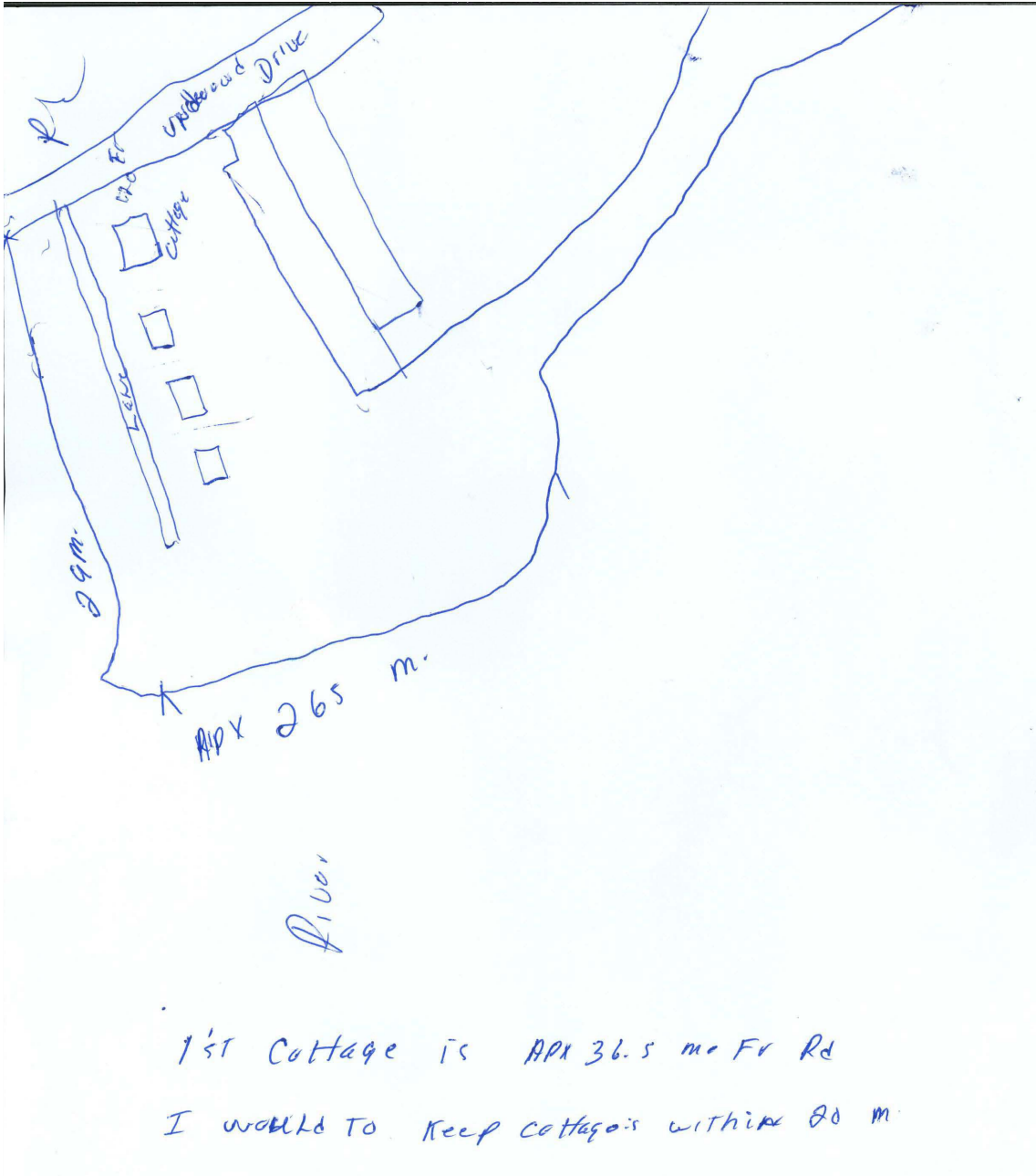
Wilson Bell



I. ATTACHMENTS

1. Applicant's Submission Documents

a. Site plan



2. Site Photos

a. Photo 1: view of the property and existing cottage (looking west)



b. Photo 2: view looking south along Underwood Dr



c. Photo 3: view of the ATV club park across the street from Subject Property



d. Photo 4: view looking north along Underwood Dr



e. Photo 5: view looking northwest into subject property

